

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T-17327
January 12, 2012**

RESOLUTION

RESOLUTION T-17327. Amendment of Telco Industry Rules Under General Order 96-B Establishes Telco Industry Rule 10-Service Lists for Advice Letter Filings.

SUMMARY

This Resolution amends the Telco Industry Rules established by General Order 96-B; to facilitate opportunities for comment on Advice Letters by interested parties and the public. The proposed Telco Industry Rule 10 will expand the requirements for utilities filing Advice Letters to serve them on:

(1) (i.) Any utility or person requesting such notification from the specific utility filing the advice letter, pursuant to General Rule 4.3 and 7.2; (ii.) other persons or entities as directed by the Director of the Communications Division for particular Advice Letters, (iii.) as required by paragraph 2 of this Industry Rule.

(2) The Commission will host Advice Letter service lists on the Commission's public web site by means of which persons or entities can request to be served with particular categories of Advice Letters filed by all Telecommunications Carriers in the following categories: (i.) Changes in rates, terms and conditions of service, or initiation of new service; (ii.) Eligible Telecommunications Carrier designation requests; (iii.) General Rate Case filings; (iv.) Facility construction filings; (v.) Negotiated Inter Connection Agreements, pursuant to Industry Rule 8.1 and Contracts for Tariffed Services, pursuant to Industry Rule 8.2; (vi.) any Advice Letter not fitting within the preceding categories.

BACKGROUND

Service list rules for Advice Letters (AL) filed by utilities were previously established in General Order (G.O.) 96-A¹ (Rules Governing the Filing and Posting of Scheduled Rates, Rules, and Contracts Relating to Rates, Applicable to Gas, Electric, Telecommunications, Water, Sewer Systems, Pipeline and Heat Utilities). G.O. 96-A, Section III, G² directed that:

Utilities shall furnish a copy of the advice letter, and a copy of each of the related tariff sheets to the following: (1) Competing utilities either privately or publicly owned, (2) Adjacent utilities either privately or publicly owned, (3) Utilities either privately or publicly owned, having requested such notification, (4) Other interested parties having requested such information, (5) In the event of increases, affected customers where practical, (6) In the event that the Utility seeks to enter an agreement with the customers under terms deviating from filed tariffs, the Utility shall provide customer with a copy of the advice letter filing, and notification.

While the processing of Tariff Sheet (TS) and AL filings under G.O. 96-A served the Commission well in the past, these processes were seen as inadequate in light of the increased volume and variety of TS's and AL's being submitted for review in more recent years. In response the Commission defined, clarified and streamlined the Utility Tariff and Advice Letter filing process, by, among other things, implementing new service list rules through D.05-01-032³ (Third Interim Order Adopting Certain Requirements Regarding Advice Letter Filing, Service, Suspension and Disposition) on January 13, 2005. The new rules were set forth in Appendix A to G.O. 96-A as interim rules to enable utilities to distribute their Advice Letters effectively and efficiently. The concept was carried forward when the Commission replaced G.O. 96-A with G.O. 96-B

¹ Approved by Res. No. U-1083, Jan. 2, 1962. Effective March 1, 1962.

² *Rules for Submissions of Tariff Sheets, Notice*

³ Each Utility shall maintain at least one Advice Letter service list, which shall include the postal and e-mail addresses, as appropriate, of all persons on the list. To the extent practical, the Utility shall maintain separate lists for different types of Advice Letters (for example differentiating between water Utility districts, customer classes, or particular services), and shall identify the separate lists at the Utility's Internet site, so that persons may request and receive only those Advice Letters of interest. The Utility shall include on the service list any person who requests such inclusion, and may periodically confirm the desire of any currently listed person to remain on the list. On or before the date when the Utility files an Advice Letter, it shall serve the Advice Letter without charge on all persons listed for that type of Advice Letter.

in D. 07-01-024⁴. See General Rules 4.3⁵ and 4.4⁶ requiring utilities to place on their service list any utilities or persons requesting inclusion, and generally favoring service by the Internet. In the same decision, the Commission also adopted Energy and Water Industry Rules under G.O. 96-B, which provided Industry-specific rules for the service of Advice Letters on additional persons.

As a result of the advent of competition in telecommunications markets, and commensurate regulatory changes, including the adoption of the Uniform Regulatory Framework (URF) in California,⁷ the Commission addressed the Telecommunication Industry Rules in a separate proceeding, and adopted those rules in D.07-09-019 (Opinion Adopting Telecommunications Industry Rules). This decision authorized Telco Industry Rules under G.O. 96-B on September 6, 2007. These Telco Industry Rules did not include any Industry specific rules for the service of AL's on additional persons.

DISCUSSION

The impetus for analysis of AL service lists originated in response to comments CD received. In a letter to the Director of the Communications Division (CD) dated June 16, 2009, an industry group representing Incumbent Local Exchange Carriers (ILEC's) serving rural and remote area's of California, collectively known as the Small ILEC's⁸, expressed concerns about AL service lists. The issue was an AL filing by a competitor of the a Small ILEC seeking Eligible Telecommunications Carrier (ETC) designation in order to access federal Universal Service Fund (USF) funds for LifeLine. The Small ILEC's were not on the service list, and therefore unaware of the filing and unable to submit comments. Further concerns with the current service list process were raised in

⁴ *Fourth Interim Opinion Adopting Remaining General Rules and Industry Rules for Energy and Water as revisions to General Order 96-A*, Jan. 25, 2007.

⁵ *Service Lists*

⁶ *Service by Internet*

⁷ This allowed California's four largest wire line telecommunication carriers greater flexibility in how they charged for voice communication services, products, bundles and promotions

⁸ The Small LEC's are the following carriers: Calaveras Telephone Company (U-1004-C), Cal-Ore Telephone Company (U-1006-C), Ducor Telephone Company (U-1007-C), Foresthill Telephone Company (U-1009-C), Frontier Communications West Coast Inc. (U-1020-C), Happy Valley Telephone Company (U-1010-C), Hornitos Telephone Company (U-1011-C), Kerman Telephone Company (U-1012-C), Pinnacles Telephone Company (U-1013-C), The Ponderosa Telephone Company (U-1014-C), Sierra Telephone Company (U-1016-C), The Siskiyou Telephone Company (U-1017-C), Volcano Telephone Company (U-1019-C), and Winterhaven Telephone Company (U-1021-C).

a letter to the Director of CD dated August 19, 2009, from The Utility Reform Network (TURN). TURN stated:

Following revisions to G.O.96-B, TURN is concerned that consumer advocates are not being notified of important changes to telecommunication services.

After a review of decisions and rulemakings leading up to adoption of G.O.96-B, CD believes that the Commission did not intend for parties of interest to be left off service list notification, but rather sought to streamline the AL service list process. Because of the regulatory changes resulting from URF, Industry and Consumer groups now need more, not less notification. Since the adoption of G.O.96-B, inclusion on service lists must now be requested on a per-carrier basis from each of the over 800 Telecommunication Carriers with CPCN authority. This has resulted in persons or entities with interest in specific telecommunication issues not receiving notice, and being unable to submit protests or responses within the twenty-day period. The amendment proposed in this Resolution will correct the situations where notice currently required by G.O.96-B and Telco Industry Rule 3 has been inadequate. The modification will provide persons and entities the opportunity to comment on AL's filed with CD.

In drafting the proposed amendment to Telco Industry Rules, CD reviewed AL service list requirements of General and Industry rules. CD derived the language requiring service on any Utility or persons requesting notification, from General Rules 4.3 and 7.2. CD derived the language requiring service on other entities or persons as directed by the Director of the Communications Division for particular AL's, from Water Industry Rule 3.3.

To provide for the hosting of AL service lists on the Commission's public web site by AL category, CD drafted a new rule as a result of comments received, on the draft resolution. CD has modified the categories from what was suggested in comments, to ensure that all advice letters fit within one category.

The proposed amendment to the Industry Rules is set forth in Ordering Paragraph Number 1 of this Resolution and immediately below, and will become Telco Industry Rule 10 -Service Lists for Advice Letter Filings.

Industry Rule 10-Service Lists for Advice Letter Filings.

1. When filing any Advice Letter, the utility shall serve it on the following persons:

- i) Any Utility or person requesting such notification from the specific utility filing the advice letter, pursuant to General Rule 4.3 (see also General rule 7.2).
- ii) Other entities or persons as directed by the Director of the Communications Division for particular Advice Letters.
- iii) As required by paragraph 2 of this Industry Rule.

2. The Commission will host service lists on the Commission's public web site by means of which persons or entities can request to be served with particular categories of advice letters filed by all Telecommunication Carriers. Every carrier filing any advice letter shall determine which category from the following lists best apply to the advice letter being filed, and shall serve that advice letter on all parties on the applicable service lists. The service lists will require the name of the entity or person to be served and their e-mail address for service. Persons or entities wishing to be included on a particular service list may sign up on the web site. Instructions for removing or modifying an entry already on the service list will be provided on the web site. It is the responsibility of the person or entity listed on the service list to ensure that each entry is correct. The categories are:

- i) Changes in rates, terms and conditions of service, or initiation of new service.
- ii) Eligible Telecommunications Carrier designation requests.
- iii) General Rate Case filings.
- iv) Facility construction filings.
- v) Negotiated Inter Connection Agreements pursuant to Industry Rule 8.1, and Contracts for Tariffed Services, pursuant to Industry Rule 8.2..
- vi) Any advice letter not fitting within the preceding categories.

The Commission will host service lists for six categories of AL's filed by Telecommunication Carriers on its public site, allowing for inclusion of any person or entity requesting to be served with AL's from all Telecommunication Carriers falling within that category. Persons or entities wishing to modify or remove an entry already on the service list on a service list may do so by following the instructions provided on the web site.

In selecting the categories for the AL service lists, CD chose categories proposed by carriers in comments, with some modifications by CD to ensure that all types of AL

filings would be covered. The first category consists of: changes in rates, terms and conditions of service, or initiation of new service. Each of these has a direct impact on rate payers. The second category is: Eligible Telecommunication Carrier Designation requests. Prior to the issuance of the draft resolution carriers had expressed concern, in a letter to the Director of CD, about a carrier receiving such designation without prior notice to affected carriers. The third category is General Rate Case (GRC) filings. In these GRCs funds are requested from the California High Cost Fund-A, which are paid by ratepayers of all Telecommunication Carriers. The fourth category is: Facility Construction filings which may involve review under PU Section 320 or other Commission statutes or orders and may require public notice.⁹ The fifth category is: Negotiated Inter Connection Agreements and Contracts for Tariffed Services which were chosen from Telco Industry Rules 8.1 and 8.2, respectively. The final category consists of any AL not fitting within the preceding categories. This category ensures a comprehensive category for any AL filings not previously covered. We note that some compliance letters will fit within the first category. Most other compliance letters not fitting within the first category will fall within this last category.

COMMENTS

Public Utilities Code section 311(g)(1) generally requires that a draft Resolution be served on all parties, and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the Resolution. A draft of today's Resolution was distributed for comment to all telecommunication carriers, The Utility Reform Network (TURN) and Utility Consumers Action Network (UCAN).

The Communications Division received timely comments and replies to comments from both carriers and consumer advocacy organizations, in response to Draft Resolution T-17327. That draft Resolution would have required all Telecommunication Carriers to serve all AL's on all adjacent and competing utilities and on UCAN and TURN.

Comments from carriers raised the following contentions about the Draft Resolution:

- The proposed Industry Rule would be an administrative burden to carriers filing Advice Letters, as, among other things, each carrier would have to maintain and update its own service list of adjacent and competing carriers.

⁹ Included within this category are advice letters requesting approval of Construction of overhead distribution facilities along designated Scenic Highways requires pursuant to Public Utilities Code §320.

- The proposed Industry Rule would unnecessarily burden carriers who do not want to receive Advice Letters.
- Clarification of the terms “adjacent” and “competing” utilities is necessary.
- TURN and UCAN should not be named in the General Order.

The Commission has considered the parties comments, and is modifying the originally proposed Industry Rule 10. These changes will enable others to receive service of AL’s filed with the Communications Division, as intended by the original proposal, while eliminating the administrative burden on the carriers. Under Industry Rule 10, as adopted by today’s resolution, the service lists for the various categories of AL’s will be hosted on the Commission’s public web site. This will enable each carrier to easily access the e-mail addresses of those persons and entities who wish to receive AL’s of the kind being filed.

Due to these changes, there is no longer a need to require service on “*adjacent and competing*” utilities. Those utilities wishing to receive service can simply sign up for one or more of the categories. Similarly, since the revised proposed Industry Rule 10 will allow TURN and UCAN a simple method of requesting inclusion on AL’s service lists, they no longer need to be named in the Industry Rule.

General Rule 4.3 encourages (to the extent practical) that utilities shall maintain separate lists for different types of AL’s. (This requirement applies to the service list that each carrier keeps for serving its own advice letters.) The goal of this General Rule is to allow interested persons or entities to receive only the kinds of AL’s they want to know about. The Industry Rule adopted today advances the same goal by creating six service lists, each covering a different category of AL, for persons or entities who want to know about AL’s filed by all Telecommunication Carriers.

CONCLUSION

After comments received from telecommunication carriers and public advocacy organizations, CD conducted an analysis and found that the current procedures for service of telecommunication AL filings under G.O. 96-B are inadequate. The proposed amendment to G.O. 96-B, which is Telco Industry Rule 10, will expand service of telecommunication AL filings in two ways. First, for particular AL's the Director of CD may require notice to other interested parties or utilities. This would be consistent with Industry Rules previously adopted for the Water Industry. Second, the Telco Industry Rule 10 will allow interested persons or entities to sign up to be served with the AL’s of

all Telecommunication Carriers that fall within any of the six categories for which the Commission will host service lists.

In sum, the revised Telco Industry Rule 10 we adopt today, will be an effective and efficient means of resolving an identified service list deficiency, namely that adjacent and competing utilities, and consumer interest groups were not receiving all of the AL's they wanted. The amendment, adding Telco Industry Rule 10 is set forth in Ordering Paragraph No. 1 of this Resolution.

FINDINGS

1. Rules for who should be served with Advice Letters were previously established under General Order 96-A.
2. Rules for who should be served with Advice Letters were amended under General Order 96-B, with Industry-specific rules adopted for the Water and Energy Industries, but not for the Telco Industry.
3. Because of competitive issues raised by the Telecommunications Act of 1996 and the subsequent Universal Regulatory Framework proceeding, Telco Industry Rules were adopted separately. Those separately adopted rules do not contain any requirements as to who is to be served with Telco Advice Letters.
4. The Communications Division received comments from the telecommunication industry and consumer advocacy organizations regarding the lack of notice provided under the current service rules.
5. After completing a review, the Communications Division found inadequacies in the current Telco Industry Rules and issued a draft resolution proposing Telco Industry Rule 10.
6. Comments were timely received within the 15 day comment period, and Replies to Comments were timely received within 5 days following the initial Comment period.
7. In timely comments submitted to T-17327, carriers expressed concerns that the requirement to maintain their own lists of competing and adjacent carriers, as proposed in draft Industry Rule 10, would be an administrative burden.
8. In response to the comments, the Commission is adopting a modified Telco Industry Rule 10 which will impose less of a burden on carriers, and help ensure that those, and only those, who wish to be served with Advice Letters will receive them.
9. The Commission will host six categories of Advice Letter service lists on its public web site. Entities or persons will be able to sign up to be included on any service list category or categories they wish, and will be able to delete or modify their e-mail

address by request to CD. It will be the responsibility of the person or entity to ensure their e-mail address is correct and updated.

10. Each Telecommunication Carrier will be required to serve each Advice Letter not only on those persons or entities on its own service list(s), but also on all persons or entities on the Commission's service list for the applicable category of Advice Letter.

11. Telecommunication Carriers will also be required to serve particular advice letters on additional persons at the direction of the Director of the Communications Division.

THEREFORE, IT IS ORDERED that:

1. The Telco Industry Rules of General Order 96-B are amended to add a new Telco Industry Rule 10, which reads as follows:

Industry Rule 10- Service Lists for Advice Letter Filings.

1. When filing any Advice Letter, the utility shall serve it on the following persons:
 - i) Any Utility or person requesting such notification from the specific utility filing the advice letter, pursuant to General Rule 4.3 (see also General rule 7.2).
 - ii) Other entities or persons as directed by the Director of the Communications Division for particular Advice Letters.
 - iii) As required by paragraph 2 of this Industry Rule.
2. The Commission will host service lists on the Commission's public web site by means of which persons or entities can request to be served with particular categories of advice letters filed by all Telecommunication Carriers. Every carrier filing any advice letter shall determine which categories from the following lists best apply to the advice letter being filed, and shall serve that advice letter on all parties on the applicable service lists. The service lists will require the name of the entity or person to be served and their e-mail address for service. Persons or entities wishing to be included on a particular service list may sign up on the web site. Instructions for removing or modifying an entry already on the service list

will be provided on the web site. It is the responsibility of the person or entity listed on the service list to ensure that each entry is correct. The categories are:

- i) Changes in rates, terms and conditions of service, or initiation of new service.
- ii) Eligible Telecommunications Carrier designation requests.
- iii) General Rate Case filings.
- iv) Facility construction filings.
- v) Negotiated Inter Connection Agreements pursuant to Industry Rule 8.1, and Contracts for Tariffed Services pursuant to Industry Rule 8.2.
- vi) Any advice letter not fitting within the preceding categories.

2. Telecommunications carriers shall comply with Industry Rule 10 no later than 60 days after the adoption of this Resolution.

3. The Commission shall publish the revised Telco Industry Rules on the Commission's Internet site, and serve this Resolution on all Telco carriers.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 12, 2012, the following Commissioners voting favorable thereon:

PAUL CLANON
Executive Director