

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight & Programs Branch**

**RESOLUTION T-17222  
June 9, 2011**

**RESOLUTION**

RESOLUTION T-17222. Amendment of Telco Industry Rules Under General Order 96-B, General Rule 1.4.

Authorizes Telco Industry Rule 10-Service Lists for Advice Letter Filings to the Communications Division.

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**SUMMARY**

This Resolution amends the Telco Industry Rules established by General Order 96-B; to facilitate opportunities for comment by interested parties and the public. The proposed Telco Industry Rule 10 will expand the requirements for utilities filing Advice Letters to include notification through service lists of: (1) competing and adjacent utilities, either publicly or privately held, (2) for particular Advice Letters, the Director of the Communications Division may require that notice be given to other interested parties or utilities (3) to facilitate public comment, The Utility Reform Network and Utility Consumers' Action Network, independent consumer advocacy groups, (4) and other utilities or parties of interest requesting such notice.

**BACKGROUND**

Service list rules for Advice Letters (AL) filed by utilities were originally established in General Order (G.O.) 96-A<sup>1</sup> (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). Under G.O. 96-A, Section III, G<sup>2</sup>:

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<sup>1</sup> Approved by Res. No. U-1083, Jan. 2, 1962. Effective March 1, 1962.

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 and AL's being submitted for review in more recent years. In response the Commission defined, clarified and streamlined the Utility Tariffs and Advice Letter filing process, and by implementing new service list rules for water, and energy industries through D.05-01-032<sup>3</sup> (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 adopted rules 4.3<sup>4</sup> and 4.4<sup>5</sup> provide for Energy or Water utilities to place on their service list any utilities or persons requesting inclusion, and for service by the Internet. The Commission modified G.O. 96-A to incorporate these interim rules as Energy and Water Industry Rules under G.O. 96-B.

As a result of the advent of competition in telecommunications markets, and commensurate regulatory changes, including the adoption of the Uniform Regulatory

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<sup>2</sup> *Rules for Submissions of Tariff Sheets, Notice*

<sup>3</sup> 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.

<sup>4</sup> *Service Lists*

<sup>5</sup> *Service by Internet*

Framework (UFR) in California,<sup>6</sup> the Commission addressed the Telecommunication Industry Rules in a separate proceeding, and modified 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. Telco Industry Rule 3<sup>7</sup> states the Utility:

Must give notice to each affected customer of the advice letter if it requests approval of a Transfer, Withdrawal of Service, or higher rates and charges or more restrictive terms and conditions.

The current Telco Industry Rule 3 provides customer notification for changes in service, billing, rates and charges, withdrawal or transfer of service. Because customers or other parties of interest must now request from the utilities to be placed on service lists for other types of AL filings, the current rules are inadequate and need to be expanded.

## **DISCUSSION**

The impetus for analysis of AL service lists originated in response to comments CD Staff received. In a letter to the Director of CD dated June 16, 2009, an industry group representing Incumbent Local Exchange Carriers (ILEC's) serving rural and remote areas of California, collectively known as the Small ILEC's<sup>8</sup>, 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 a letter to the Director of CD dated August 19, 2009, from The Utility Reform Network (TURN). TURN stated:

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<sup>6</sup> This allowed California's four largest wire line telecommunication carriers greater flexibility in how they charged for voice communication services, products, bundles and promotions

<sup>7</sup> *Notice to Affected Customers*

<sup>8</sup> 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).

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 Staff concludes 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 modification of G.O.96-A, 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 parties or entities with interest in specific telecommunication issues not receiving notice, and being unable to submit protests or comments within the thirty-day period. CD Staff recognizes that not all parties with interest can be included on service lists. The amendment proposed in this Resolution will correct the situations wherein notice currently required by G.O.96-B and Telco Industry Rule 3 has been inadequate. The modification will provide parties of interest and utilities the opportunity to comment on AL's filed with CD.

In the summary of D.07-01-024<sup>9</sup>, page 6, the Commission recognized that:

...aspects of G.O.96-B will need updating from time to time. G.O.96-B provides a simple, generic solution to the updating problem.<sup>10</sup> As needed, Industry Divisions will draft proposed amendments, which the Commission will consider for adoption by Resolution after notice and opportunity for comment. This solution avoids having to open a rulemaking simply to conform part of the Telco Industry Rules to a change in our substantive regulation of an industry.

After implementation of G.O.96-B, the Water and Energy Divisions found there were inadequacies in the service list procedures for notification to parties of interest and other utilities, and sought remedies by updating Industry Rules. In D.07-01-24<sup>11</sup>, Energy

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<sup>9</sup> *Fourth Interim Opinion Adopting Remaining General Rules and Industry Rules for Energy and Water as revisions to General Order 96-A*, Jan. 25, 2007.

<sup>10</sup> In contrast, G.O.96-A was silent regarding how and when it will be updated.

<sup>11</sup> *General Rules, Water & Energy Industry Rules*. Jan. 25, 2007.

and Water Industry Rules specifically address the service of AL's. Energy Rule 3 (5)<sup>12</sup> states:

If the Advice Letter proposes a new product or service, serve all Utilities and other entities that are providing service within the area to be served.

Water Industry Rule 3.3<sup>13</sup> states:

For a particular Advice Letter, the Director of the Water Division may require a Utility to give notice to other persons, or by other means, in addition to those specified by in these Industry Rules.

Water Industry Rule 4.1<sup>14</sup> expands on the service of AL's:

When filing any Advice Letter, the Utility shall serve it on the following persons: (1) customers, developers, municipalities, counties and other governmental agencies, in or partially in the service area(s) affected, who have requested inclusion on the Utility's AL service list (see General Rule 4.3<sup>15</sup>, (2) adjacent Utilities (including for purposes of this Industry Rule, publicly-owned utilities); and (3) other parties of interest of record in a related proceeding or persons having a specific interest in the Advice Letter.

As the current Telco Industry Rules are similarly inadequate for all telecommunication AL's, CD is recommending the proposed amendment.

In drafting the proposed amendment to Telco Industry Rules, CD Staff reviewed AL service list requirements for Water and Energy Divisions, and utilized the same language where applicable: (1) for service list inclusion of adjacent<sup>16</sup> utilities, Water Industry Rule 4.1(2) and Energy Industry Rule 3.5 "adjacent utilities", (2) for service list notification of particular AL's, Water Industry Rule 3.3. (3) for the issue of notice to the

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<sup>12</sup> *Serving Advice Letters*

<sup>13</sup> *Other Required Notice*

<sup>14</sup> *Advice Letters Generally*

<sup>15</sup> *Service Lists*

<sup>16</sup> Due to the large number of telecommunication carriers operating in California unlike in Water and Energy Industries, CD Staff is including "competing" in draft language.

public and consumers with interest in particular AL's, CD Staff sought the opinions of TURN and UCAN on the most effective method of service. Both parties suggested inclusion of their organizations on service lists to further notice to the public. (4) for other utilities or parties of interest requesting to be placed on service lists, from the original General Order 96-A. The proposed amendment is set forth in the ordering paragraph of this Resolution and will be Telco Industry Rule 10-Service Lists for Advice Letter Filings.

In addition to G.O.96-B, General Rules 4.3 & 7.2<sup>17</sup> utilities shall furnish a copy of the AL to the following:

1. Competing and adjacent utilities.
2. For particular Advice Letters, the Director of the Communications Division may require a Utility to give notice to other persons, or by other means.
3. The Utility Reform Network and Utility Consumers Action Network, independent consumer advocacy organizations.
4. Other utilities or parties of interest requesting such notification.

Telecommunication utilities have previously expressed concerns to the Commission regarding the added workload of more extensive service list requirements. CD Staff asserts that since the Commission has provided telecommunication utilities the option of electronic notification via e-mail, the only increased workload incurred will be the compilation of service lists. Once this has been done, a single keystroke will be able to notify the entire service list. CD Staff does not find this procedure to be a burden to telecommunication carriers in requesting the proposed amendment, Telco Industry Rule 10.

### **COMMENTS**

Public Utilities Code section 311(g)(1) 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 Resolutions was distributed for comment to the URF telecommunication carriers, the Small Incumbent Local Exchange Carriers, The Utility Reform Network and Utility Consumers Action Network.

### **CONCLUSION**

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<sup>17</sup> *Serving Advice Letters and Related Documents.*

After comments received from telecommunication carriers and public advocacy organizations, CD staff conducted an analysis and found that the current procedures for notification of telecommunication AL filings under G.O. 96-B are inadequate. Procedures for the filing of Advice Letters under G.O. 96-A had not been updated since 1962. Because of the volume and complexities of utility Advice Letter filings, the Commission modified G.O. 96-A as G.O. 96-B to streamline the process. The Commission also recognized that aspects of G.O. 96-B would need to be updated from time to time and provided a procedure for amendment of G.O. 96-B by Industry Division. Currently, under G.O. 96-B, Telco Industry Rule 3, utilities must give notice to each affected customer of the advice letter if it requests approval of a Transfer, Withdrawal of Service, or higher rates and charges or more restrictive terms and conditions.

The proposed amendment to G.O. 96-B, Telco Industry Rule 10 will expand notification of telecommunication AL filings to include placement on service lists of adjacent and competing utilities, and 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 and Energy Divisions. The proposed amendment would also facilitate notification to the public by including consumer advocacy organizations on service lists, and bring back the ability of utilities or other parties of interest to request placement on service lists as was the case under G.O. 96-A. The proposed amendment, Telco Industry Rule 10 is set forth in the ordering paragraph of this Resolution.

## **FINDINGS**

1. Service list notifications for utilities filing Advice Letters were established under General Order 96-A.
2. Procedures for service list notifications of Advice Letters with the Commission were amended under General Order 96-B.
3. The Water and Energy Divisions identified the need to further expand service list notification, and modified their Industry Rules under General Rule 1.4 of General Order 96-B.
4. Because of competitive issues brought by the Telecommunications Act of 1996 and the subsequent Universal regulatory Framework proceeding, Telco Industry Rules were adopted separately.

5. Under General Order 96-B, Telco Industry Rules 3 specifies that other than changes in service, or an increase in rates, customers or parties of interest in Advice Letter filings must request of a utility to be placed on a service list.
6. The Communications Division received comments from the telecommunication industry and consumer advocacy organizations regarding the lack of notice provided under the current service list rules.
7. After completing a review, Communications Division found inadequacies in the current Telco Industry Rule 3.
8. The Commission has the authority to amend Industry Division Rules under General Rule 1.4 of General Order 96-B, by Resolution, with such modifications as the Commission deems appropriate.
9. The proposed amendments to Industry Rules are consistent with applicable statutes and Commission orders, and are consistent with Advice Letter requirements of the Water and Energy Divisions.
10. The Commission finds that approval be based on the specifics found in this Resolution and the Resolution should not establish a precedent for the contents of future filings or for Commission approval of similar requests.

**THEREFORE, IT IS ORDERED** that:

1. The Telco Industry Rules of General Order 96-B are amended to read:

**Industry Rule 10- Service Lists for Advice Letter Filings.**

When filing any Advice Letter, the Utility shall serve it on the following persons (in addition to General Order 96-B, General Rules 4.3 & 7.2):

- i. Adjacent and competing utilities, publicly or privately owned.
- ii. For particular Advice Letters, the Director of the Communications Division may require a Utility to give notice to other persons, or by other means, in addition to those specified in these Industry Rules.
- iii. The Utility Reform Network, and the Utility Consumers Action Network, independent consumer advocacy organizations.
- iv. Other utilities or interested parties requesting notification.

2. The Executive Director is directed to publish the revised Telco Industry Rules on the Commission's Internet site.

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 \_\_\_\_\_, the following Commissioners voting favorable thereon:

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PAUL CLANON  
Executive Director