

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

**Communications Division  
Carrier Oversight & Programs Branch**

**RESOLUTION T-17327  
September 8, 2011**

**RESOLUTION**

RESOLUTION T-17327. Amendment of Telco Industry Rules Under General Order 96-B

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: (i.) adjacent and competing<sup>1</sup> utilities, (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 (iii.) to facilitate public comment, The Utility Reform Network and Utility Consumers' Action Network, independent consumer advocacy organizations, (iv.) and other utilities or parties of interest requesting notification.

**BACKGROUND**

Service list rules for Advice Letters (AL) filed by utilities were originally established in General Order (G.O.) 96-A<sup>2</sup> (Rules Governing the Filing and Posting of Scheduled Rates,

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<sup>1</sup> For the purpose of serving Advice Letters, adjacent utilities are defined as those telecommunication carriers with common Service Territory boundaries. Competing utilities are defined as those telecommunication carriers providing service within the same Service Territory.

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

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>3</sup>:

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 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 Tariff Sheets 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>4</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>5</sup> and 4.4<sup>6</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>3</sup> *Rules for Submissions of Tariff Sheets, Notice*

<sup>4</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>5</sup> *Service Lists*

<sup>6</sup> *Service by Internet*

Framework (URF) in California,<sup>7</sup> 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. Telco Industry Rule 3<sup>8</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.

## 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>9</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 designation in order to access federal Universal Service Fund 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:

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

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<sup>7</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>8</sup> *Notice to Affected Customers*

<sup>9</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).

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 responses within the twenty-day period. 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>10</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>11</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.

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>12</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 providing further notice to the public and consumers with interest in particular AL's, CD Staff sought the opinions of TURN and Utility Consumers' Action Network on the most effective method of service. (4) for other utilities or parties of interest requesting to be placed on service lists, from General Rule 4.3. 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.

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<sup>10</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>11</sup> In contrast, G.O.96-A was silent regarding how and when it will be updated.

<sup>12</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.

In addition to G.O.96-B, General Rules 4.3 & 7.2<sup>13</sup> utilities shall furnish a copy of the AL to the following:

- i. Adjacent and Competing utilities.
- 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.
- iii. The Utility Reform Network and Utility Consumers Action Network, independent consumer advocacy organizations.
- iv. Other utilities or parties of interest requesting 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 all telecommunication carriers, parties of record in R. 05-04-005, The Utility Reform Network and Utility Consumers Action Network.

### **CONCLUSION**

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. 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,

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<sup>13</sup> *Serving Advice Letters and Related Documents.*

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 further notification to the public by including consumer advocacy organizations on service lists. 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. Because of competitive issues raised by the Telecommunications Act of 1996 and the subsequent Universal regulatory Framework proceeding, Telco Industry Rules were adopted separately.
4. 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.
5. After completing a review, Communications Division found inadequacies in the current Telco Industry Rule 3.
6. 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.

**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.
  - 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.
  - iii. The Utility Reform Network, and the Utility Consumers Action Network, independent consumer advocacy organizations.
  - iv. Other utilities or interested parties requesting notification.
2. Industry Rule 10 shall be implemented within 60 days of adoption of this Resolution.
  3. The Commission shall publish the revised Telco Industry Rules on the Commission's Internet site, and to serve this Resolution on all telecommunications 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 September 8, 2011, the following Commissioners voting favorable thereon:

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PAUL CLANON  
Executive Director