

Decision 09-11-015 November 20, 2009

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

Order Instituting Rulemaking on the  
Commission's Own Motion to Assess and Revise  
the Regulation of Telecommunications Utilities.

Rulemaking 05-04-005  
(Filed April 7, 2005)

**DECISION CLOSING DOCKET ON  
COMMISSION'S OWN MOTION**

The first phase of this rulemaking concluded with the Commission's adoption of Decision (D.) 06-08-030, a decision that significantly revised the regulation of large and mid-size telecommunications utilities in California (the Uniform Regulatory Frameworks (URF) Phase I decision). Among other things, the URF Phase I decision found that California's four large and mid-size incumbent local exchange carriers lack significant market power and face effective competition from new voice communication technologies including wireless service providers, cable companies, and computer-based service providers utilizing voice-over-Internet Protocol technology. The URF Phase I decision also eliminated many price restrictions except on basic residential service; made all advice letters effective on one day's notice; eliminated all asymmetric requirements concerning marketing, disclosure, or administrative processes that apply to some carriers and not to others; and eliminated all New Regulatory Framework-specific monitoring reports.

The URF Phase I decision was followed by:

- a. D.07-09-018 which consolidated and closed Rulemaking 98-07-038, adopted procedures for detariffing service offerings and clarified procedures for advice letters;
- b. D.07-09-019 which adopted telecommunications industry rules;
- c. D.08-04-057 which approved with modification Pacific Bell Telephone Company Advice Letters 28800 and 28982;
- d. D.08-09-015 which directed that no additional reports or consumer protection disclosures would be required from regulated carriers and deferred a decision on proposed changes in retail special access pricing;
- e. D.09-04-005 which harmonized the requirements for filing special access price changes among different carrier classes;
- f. D.09-07-004 which modified D.08-09-015 to clarify that Verizon California did not have to file certain Federal Communications Commission (FCC) Automated Reporting Management Information System reports, consistent with treatment given to AT&T California; and
- g. Other decisions issued from time to time throughout the proceeding granting intervenor compensation to various parties, correcting minor errors in prior decisions, and dealing with motions of various parties for modifications of prior decisions, requests for rehearing and other procedural matters.

D.09-09-025, issued September 10, 2009, made the final intervenor compensation award. No other matters are currently pending in this docket nor is it anticipated that any will arise in the foreseeable future. Accordingly, it is appropriate that the docket be closed.

### **Comments on Proposed Decision**

The proposed decision of Commissioner Chong in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and

comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by Verizon California Inc. (Verizon) on November 10, 2009, and no reply comments were filed.

In its comments, Verizon notes that in D.08-09-015, the Commission directed URF incumbent local exchange carriers (ILECs) to continue filing California-specific information in certain FCC Automated Reporting Management Information System (ARMIS) reports, pending the Commission's determination in a new phase of this proceeding whether such reports are necessary.<sup>1</sup> Verizon requests that the Commission specify a procedural vehicle for the parties to utilize at the appropriate time to consider whether such reports are necessary. Although the FCC has granted forbearance of certain ARMIS reports subsequent to our issuance of D.08-09-015, the FCC is continuing to consider whether some form of some ARMIS reports should be required on an

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<sup>1</sup> See Verizon Comments at pp.1-2 citing D.08-09-015, Ordering Paragraph 5(a) (modified by D.09-07-004).

industry-wide basis in the future.<sup>2</sup> Therefore, we do not believe that it is the appropriate time to consider the issue of whether certain ARMIS reporting information is necessary for the Commission to fulfill its statutory objectives. Given that Pub. Util. Code Section 1701.5 directs the Commission to resolve issues raised in a scoping memo generally within 18 months of the date that the scoping memo issued, we will close the proceeding now. However, if in the future a party seeks to have the Commission consider this issue, the party may file a petition for modification of D.08-09-015 on the limited issue of the necessity of the ARMIS reports on which the FCC has granted forbearance, without meeting Rule 16.4(d)'s requirement that the party explain why the petition could not have been presented within one year of the decision. Alternately, a party may also file an application for modification of D.08-09-015 on this issue.

### **Assignment of Proceeding**

Rachelle B. Chong is the assigned Commissioner and Karl J. Bemesderfer is the assigned Administrative Law Judge in this proceeding.

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<sup>2</sup> See *In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements*, . . . WC Docket No. 08-190, WC Docket No. 07-139, WC Docket No. 07-204, WC Docket No. 07-273, WC Docket No. 07-21, Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 08-203 (Sept. 6, 2008); see also *In the Matter of Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. § 160(c), Petition of Verizon for Forbearance under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements*, WC Docket No. 07-204, WC Docket No. 07-273, Memorandum Opinion and Order, FCC 08-271 (Dec. 12, 2008).

### **Findings of Fact**

1. All substantive issues outlined in the scoping memoranda for this rulemaking have been resolved.
2. All intervenor compensation requests have been acted on.
3. No further activity in this docket is anticipated at this time.
4. The Commission has noted that it will consider in a new phase of this proceeding whether California-specific information in certain FCC Automated Reporting Management Information System reports are necessary if the FCC grants forbearance on those reports.
5. The FCC has granted forbearance for certain URF ILECs from filing certain ARMIS reports. The FCC is continuing to consider whether to require certain information on an industry-wide basis.
6. We do not believe it is the appropriate time to consider the issue of whether certain ARMIS reports are necessary, given that the FCC is continuing to consider the issues.

### **Conclusion of Law**

Parties should be able to file a petition for modification of D.08-09-015's directive that they file California-specific information in certain ARMIS reports in the future, without explaining why the petition was not presented within one year of the effective date of D.08-09015.

## **O R D E R**

**IT IS ORDERED** that Rulemaking 05-04-005 is closed effective immediately. In the future, if a party seeks to have the Commission consider the limited issue of the necessity of the Automated Reporting Management Information System reports on which the Federal Communications Commission

has granted forbearance, the party may file a petition for modification of Decision (D.) 08-09-015 of that limited issue, without meeting Rule 16.4(d)'s requirement that the party explain why the petition could not have been presented within one year of the decision. Alternately, a party may also file an application for modification of D.08-09-015.

This order is effective today.

Dated November 20, 2009, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners

