

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-257
Administrative Law Judge Division
November 19, 2010

R E S O L U T I O N

RESOLUTION ALJ-257 Adopts General Order 171 Implementing the Provisions of Section 252 of the Telecommunications Act of 1996.

The Telecommunications Act of 1996 (the Act) creates certain obligations and duties of telecommunications carriers in order to encourage competition in the telecommunications market. Section 251 of the Act describes these duties and obligations, including interconnection and access to services and network elements. Section 252 provides that incumbent local exchange carriers must enter into interconnection agreements with other telecommunications carriers. Section 252 of the Act provides specific standards for the approval of these agreements by the state regulatory commission. Under this section of the Act a state commission may assist negotiating parties in reaching agreements through mediation and/or compulsory arbitration.

On July 17, 1996, we adopted Resolution ALJ-167 which provided interim rules governing the procedures to be followed when the Commission has received a request for dispute resolution. We amended those rules on September 20, 1996 in ALJ-168, with further amendments on June 25, 1997 in ALJ-174, on November 18, 1999 in ALJ-178, and on October 5, 2000 in ALJ-181. Today we are placing the rules governing Section 252 of the Telecommunications Act into a General Order, where they will be more readily available to interested parties.

We have revised the rules to clarify the process that various types of telecommunications carriers should use under Section 252(i) to adopt a previously-approved agreement. Also, there are rule changes that clarify matters with respect to applicable ex parte rules, pricing for unbundled network elements in arbitrations, and the applicable service lists to use for arbitrations and for advice letter filings.

We also make other minor modifications to update the rules.

We will continue to honor the principles contained in prior Commission resolutions implementing the provisions of Section 252 of the Act, to the extent they are not inconsistent with the changes adopted today.

The service list used previously for all Section 252 filings has been the “271/ Arbitration” service list in Docket Rulemaking (R.) 93-04-003/Investigation (I.) 93-04-002/R.95-04-043/I.95-04-044. However, the two referenced proceedings have both been closed, and the service lists are out-of-date. Therefore, we have adopted new notice and service processes for Section 252 filings. The notice and service process for arbitrations is different from that for advice letters because while all service in arbitrations is electronic, Rule 4.4 of General Order (GO) 96-B allows for electronic service but does not require it.

For arbitrations, we have established the “Arbitration List Serve.” Any party that wants to receive notice of arbitrations must subscribe to the Arbitration List Serve, since only a subscribed entity may send to the list. The List Serve will be maintained by the members, who are responsible for updating their information annually. Any carrier that wants to file an arbitration request must first subscribe to the Arbitration List Serve and also send its arbitration to the arbitration list upon filing. A filer will still need to file with the Docket Office via efilings. The Arbitration List Serve, which will be used for all filings under these rules until a more focused list is established for a particular arbitration proceeding, may be found on the Commission’s website at <http://www.cpuc.ca.gov/list/wa.exe?A0=ARBITRATION>. Interested parties should subscribe to the Arbitration List Serve within 30 days of the effective date of this resolution.

It should be pointed out that failure to properly serve an application under these rules will result in the application’s rejection. Failure to allow for sufficient time to rehabilitate an improperly served application may result in the agreement’s rejection. We believe that an agreement’s rejection would have the effect of “re-starting the clock” back to the beginning of negotiations. We, therefore, encourage all parties filing documents under these rules to be most attentive to all procedural requirements. The short timelines contained in the Act give us no choice but to interpret all of our rules in a strict manner.

Second, we emphasize, once again, that our Rules of Practice and Procedure (Rule 1.15) provide a method for computing time for determining time limits. With one exception, we intend that our Rule 1.15 will apply to time limits provided in these rules also. The one exception concerns the rule that arbitration hearings will conclude within 10 days of initiation. If the 10th day of a proceeding falls on a weekend then hearings must be completed by the preceding workday. Of course, we also provide in these rules that the

Arbitrator, for good cause, has authority to extend the number of hearing days, but not the overall time limits.

Third, we require that all agreements for Incumbent Local Exchange Carriers, for whom the Commission has adopted unbundled network element (UNE) rates, should reflect those adopted UNE rates in any arbitrated agreements filed with the Commission. The Commission does not intend, as part of an arbitration proceeding, to re-litigate any of the UNE rates previously adopted.

Finally, in Resolution ALJ-167, we ordered Pacific Bell Telephone Company and GTE California Incorporated (GTEC)¹ to submit certain information designed to assist us in managing the expected workflow associated with reviewing these agreements (Resolution ALJ-167 at 3). We find that the volume of arbitration requests is such that there is no longer a need to provide those reports to the Chief Administrative Law Judge.

The process for the service of advice letters relating to interconnection agreements is as follows: we will require all local exchange carriers to set up a separate service list for "Section 252 Interconnection Agreements." Rule 4.3 of GO 96-B states:

To the extent practical, the utility shall maintain separate lists for different types of advice letters...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.

In this way, parties will obtain only those interconnection agreement advice letters for those carriers they are interested in.

Comments on Draft Resolution

The draft resolution of the Administrative Law Judge Division was mailed to the parties in accordance with Public Utilities Code Section 311(g). Comments were filed on October 4, 2010, by AT&T, the California Association of Competitive Telecommunications Companies (CALTEL), and Verizon. Reply Comments were filed on October 8, 2010, by AT&T, CALTEL, TW Telecom of California, LP, and Verizon. Those comments have been taken into account as appropriate, in finalizing this Resolution.

¹ Pacific Bell Telephone Company is currently doing business as AT&T California, and GTEC is known as Verizon California, Inc.

