

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement 2-1-1
Dialing in California.

Rulemaking 02-01-025

**SCOPING MEMO AND RULING OF
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

This ruling determines the category, scope, need for hearing, and schedule of this proceeding in accordance with Article 2.5 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure.¹ This ruling follows a prehearing conference (PHC) held on March 8, 2002 in San Francisco, California.

This ruling determines that this is a quasi-legislative² proceeding, for which hearings are not necessary. Consistent with Rulemaking (R.) 02-01-025, filed comments, and statements at the PHC, we delimit the scope of issues for

¹ This ruling's determination of category may be appealed to the Commission in accordance with the procedures in Rule 6.4. All other determinations made by this ruling are final.

² Rule 5(c) defines a "ratesetting" proceeding as one in which the Commission investigates rates for a specifically named utility, or establishes a mechanism that in turn sets the rates for a specifically named utility. "Ratesetting" proceedings include complaints that challenge the reasonableness of rates and charges, past, present, or future. In addition, under Rule 6.1(c), proceedings that do not clearly fit into other categories can be conducted under the rules applicable to the "ratesetting" category unless and until the Commission determines other rules.

this proceeding. The schedule set below anticipates both an interim and a final Commission decision by the fall of 2002. Finally, we note that this schedule is consistent with Section 1 of Senate Bill (SB) 960 (Ch.96-0856), which urges the Commission to establish reasonable periods for the completion of proceedings, and that deadlines not exceed 18 months.

Background

On January 23, 2002, the Commission initiated R.02-01-025, thereby initiating a rulemaking into the implementation of 2-1-1 dialing in the State of California. 2-1-1 is the national abbreviated dialing code designated by the Federal Communications Commission (FCC) to be used to access non-emergency community information and referral providers (Providers).

As required by Rule 6(c)(2), the Commission preliminarily determined in R.02-01-025 that: (1) the category for this proceeding is “quasi-legislative”; (2) there is no need for a formal hearing; (3) that the scope of this proceeding includes all the issues pertaining to the authority, rules and regulations needed to ensure that 2-1-1 dialing is implemented for all Californians in a way that furthers the public interest.³

On February 22, 2002, consistent with the timetable proposed in R.02-01-025, Opening Comments were filed by the Pacific Bell Telephone Company (Pacific) and Verizon California Inc. (Verizon) (filing jointly); by AT&T Communications of California, Inc. (AT&T), WorldCom, Inc. (WorldCom) and XO California, Inc. (XO) (filing jointly); by Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Evans Telephone Company,

³ For a more detailed description of the proposed scope, see R.02-01-025, pp. 7-8.

Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, The Volcano Telephone Company and Winterhaven Telephone Company (collectively the “Small LECs”) (filing jointly); by Roseville Telephone Company (Roseville); by the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN) (filing jointly); by Cox California Telcom, L.L.C. (Cox); and by the California Alliance of Information and Referral Services and the 2-1-1 Statewide Steering Committee (collectively known as “CAIRS”) (filing jointly).

On March 8, 2002, Commissioner Duque and Administrative Law Judge (ALJ) Sullivan presided over a PHC in San Francisco to address the scope of issues in the proceeding and a schedule for resolving them.

On March 29, the Commission received Reply Comments filed by Pacific and Verizon (filing jointly); by AT&T, WorldCom, and XO (filing jointly); by Roseville; by ORA and TURN (filing jointly); by Cox; and by CAIRS.

Category

Rule 6(c)(2) states as follows:

“(2) A Commission order instituting rulemaking, issued after January 1, 1998, shall preliminarily determine the category and need for hearing, and shall attach a preliminary scoping memo. Any person filing a response to an order instituting rulemaking shall state in the response any objections to the order regarding the category, need for hearing, and preliminary scoping memo. At or after the prehearing conference if one is held, the assigned Commissioner shall rule on the category, need for hearing, and scoping memo. If the proceeding is categorized as ratesetting, the ruling shall also designate the principal hearing officer. The ruling, only as to category, is appealable under the procedures in Rule 6.4.”

No party in written or oral statements objected to the preliminary determination that this should be a quasi-legislative proceeding.

Parties voiced a range of positions concerning the preliminary determination that hearings are not necessary. Pacific and Verizon stated that they had no objection to the preliminary determination. CAIRS stated that hearings were not necessary. The Small LECs, Roseville, and Cox did not specifically address this issue. AT&T, WorldCom and XO, filing jointly, object to the preliminary determination that hearings are not necessary, stating that with the available information “its is not possible to reach a decision on the necessity of hearings at this time.”⁴ ORA and TURN, filing jointly, state that they do not oppose the preliminary determination, “but reserve the right to request evidentiary hearings.”⁵

Pursuant to Rule 6(c)(1), we affirm the Commission’s preliminary determination in I.01-06-047 that this is a quasi-legislative proceeding. We also affirm the preliminary determination that hearings are not necessary, but believe that a final determination of the necessity of hearings cannot be made without more information. As the comments of parties make clear, the need for hearings will depend on many factors not yet clear, including the implementation plan and evidence presented.

Scope of Proceeding

R.02-01-025 identified four issues in its preliminary scoping memo. They were:

⁴ AT&T, WorldCom and XO, Opening Comments, p. 11.

⁵ ORA and TURN, Opening Comments, second page in unnumbered filing.

- “1. What authority, if any, does the Commission have to implement 211 dialing and address nonconforming use of the 211 abbreviated dialing code?
- “2. Assuming such authority exists, are the proposed guidelines and application package attached hereto as Appendix A [of R.02-01-025] consistent with the public interest?
- “3. Should the Commission require all local exchange carriers to tariff 211 service? What technical, operational, economic and administrative concerns provide a basis for exempting a local exchange carrier from a requirement to implement 211 dialing? Are there specific local exchange carriers regulated by this Commission that should be exempt from providing 211 dialing?
- “4. What rules and regulations should the Commission adopt to ensure 211 dialing is implemented for all Californians in furtherance of the public interest?”⁶

The scope of the proceeding was a focus of comments made at the PHC and in the opening and reply comments. Several parties requested a technical workshop on the regulatory/cost issues that arise from the design of this service and thereby refine the scope of the issues. In particular, AT&T, WorldCom, XO, Pacific, Verizon, ORA and TURN express support for technical workshops in their reply comments. CAIRS deems it “premature” to schedule a technical workshop and states that it hopes that the need for technical workshops will be minimized or eliminated by its network architecture proposal. This proposal was filed with a motion for inclusion in the record on April 9, 2002. No party opposed technical workshops in its comments or replies.

⁶ R.02-01-125, p. 7.

Based on the discussion at the PHC and our review of the comments, it is clear that a technical workshop is the logical next step for understanding the network issues that affect a utility's provision of this service. We will therefore schedule workshops in this proceeding.

Concerning the proposed scope of the proceeding, parties answered the questions in our preliminary scoping memo and proposed refinements to the statement of outstanding issues. Most parties also made procedural recommendations for resolving the outstanding issues.

Perhaps the most detailed statement of issues and procedural proposal is that contained in the joint reply comments of AT&T, WorldCom and XO. They make the constructive suggestion that the Commission detail a set of issues for the Providers, and a separate set of issues for the utilities (Utilities). For the Providers, they pose the following questions:

- "1. What is the basis for the Commission's jurisdiction to select I&R Providers?
- "2. What qualifications should an applicant for I&R Provider status be required to demonstrate?
- "3. What criteria should the Commission apply to evaluate applicants for I&R Provider status, and how should those criteria be weighted?
- "4. How should the area to be served by each I&R Provider be defined (e.g., by county, by NPA)? What should be the minimum permissible service area?
- "5. What duties should the Commission require of I&R Providers?

“6. What is the appropriate timetable for implementing I&R Provider service via 211 dialing?”⁷

Concerning the Providers, this proceeding has already received comments, largely supportive, of the guidelines and application package contained in Appendix 1 of R.02-01-025. Parties have provided detailed comments and proposals concerning questions 1, 2, 3 and 5. Questions 4 and 6, however, remain open, for they depend on the utility architecture used to implement 211 calling.⁸ Taken together, questions 1-6 define the scope of this proceeding concerning the Providers of information and referral services.

For the Utilities, AT&T, WorldCom and XO propose the following issues:

“7. What should be the operational standards (i.e., switch translation and routing) for end-user access to I&R Providers via 211 dialing (“211 origination service”)?”

“8. What costs will local exchange carriers incur to provide their end-users access to I&R Providers via 211 dialing? What is the appropriate cost recovery mechanism?”

“9. What entity should control the database information required by local exchange carriers to implement access to I&R Providers via 211 dialing?”

“10. Should all local exchange carriers be required to provide 211 origination service? Should local exchange carriers be required to tariff 211 origination service?”

“11. What is the appropriate timetable for local exchange carriers to implement 211 origination service?”

⁷ AT&T, WorldCom and XO, Reply Comments, p. 2.

⁸ Cox strongly supports implementation through a single statewide database operated by a single service provider (Cox, Opening Comments, pp. 10-12).

- “12. What should be the operational standards (i.e., network design and routing) for termination of 211 calls with I&R Providers ("211 termination service")?
- “13. What procedures are appropriate to resolve non-conforming use of the 211 abbreviated dialing code?
- “14. What costs will utilities incur to provide termination for 211 calls? What is the appropriate cost recovery mechanism?
- “15. Should all local exchange carriers be required to provide 211 termination service?
- “16. Should local exchange carriers be required to tariff 211 termination service? Should I&R Providers be able to obtain 211 termination service under contract?”⁹

Based on the PHC, the comments and the replies, several of these issues have already been addressed at length without controversy, while several of these issues remain unanswered. One particular question remains controversial: should this proceeding lead to a tariff or standardized offer for 211 termination service? TURN and ORA specifically support AT&T's request that Pacific “serve its technical 2-1-1 provisioning proposal and proposed tariff upon all parties prior to the date of the workshop . . .”¹⁰ ORA and TURN also oppose a “stand alone advice letter outside of this proceeding.”¹¹ On the other hand, ORA and TURN do not at this time request evidentiary hearings on cost issues nor do they request recategorization of this proceeding as ratesetting.

⁹ AT&T, WorldCom and XO, Reply Comments, pp. 2-3.

¹⁰ ORA and TURN, Reply Comments, p. 1.

¹¹ Ibid., p. 2.

At this time, the scant information available in the record of this proceeding makes it impossible to determine whether the 2-1-1 service, as requested by CAIRS, will constitute a new telecommunications service or will be simply a modification of an existing service, such as 800 call termination. Moreover, it is also unclear whether we will need a single provider serving the entire state, or whether the service and network architecture support provision through a number of regional providers. For this reason, we decline to modify the scope of the issues from the general ones promulgated in R.02-01-025 until completion of a technical workshop that should provide the information needed to answer these questions.

Although we will take no action on the CAIRS Motion to accept its proposed network architecture into the record until parties have a chance to respond to the Motion, CAIRS technical filing can form the basis for a constructive workshop. Moreover, both Pacific and Verizon should prepare a written response to the technical proposal provided by CAIRS and serve it on the parties in this proceeding in advance of the workshop. The workshop should seek to answer Questions 4, 6 and 7-16 to the extent possible and to the extent required by the CAIRS network proposal. The workshop should seek to determine whether the provision of 2-1-1 is a new telecommunications service or simply a repackaging of existing services.

Schedule

Based on the opening comments, discussions at the PHC, and the reply comments, the following schedule is practical.

Event	Date
Rulemaking 02-01-025 Filed	January 23, 2002
Opening Comments Filed	February 22, 2002
Prehearing Conference	March 8, 2002
Reply Comments	March 29, 2002
Scoping Memo Issued	April 30, 2002
Workshop on Utility Issues	May 29-31
Workshop Report on Utility Issues and Provider Issues 4 and 6	July 15, 2002
Draft Interim Decision on Provider Issues 1, 2, 3 and 5	Draft Released on August 6, 2002
Opening Comments on Workshop Report	August 16, 2002
Interim Decision on Provider Issues	September 5, 2002 Commission Meeting Targetted
Reply Comments on Workshop Report, the Need for Hearings, and Requests for Oral Argument before the Commission	September 6, 2002
Ruling Determining Whether Hearings Are Needed	September 20, 2002

The major milestones include three days of workshops in May and a draft interim decision issued in August for consideration in early September.

If no hearings are necessary, then a decision resolving all remaining issues (i.e., those Provider issues not resolved in the interim decision and all Utility issues) will have a targeted mailing date of October 22, 2002. This draft decision would then be eligible for consideration at the Commission meeting of November 21, 2002. If hearings prove necessary, then the September 20, 2002 ruling will provide a schedule to bring the proceeding to a conclusion. In either event, resolution of the issues within the scope of this proceeding will not exceed 18 months from the date of the filing of the rulemaking (January 23, 2002), pursuant to SB 960, Section 1 (Ch.96-0856).

Principal Hearing Officer and Final Oral Argument

Pursuant to Pub. Util. Code § 1701.3, ALJ Sullivan is designated as the principal hearing officer in this application.

As stated in the schedule above, and pursuant to Rule 8(d), parties requesting final oral argument before the Commission should include that request in their reply comments on the Workshop Report.

Service List and Electronic Distribution of Pleadings

The current service list attached to this ruling replaces the prior service list for this proceeding. A current service list for this proceeding is also available on the Commission's web page, www.cpuc.ca.gov. Choose "Proceedings" and then "Service Lists." The service list for this proceeding can be located in the "Index of Service Lists" by scrolling to the proceeding number.

Consistent with the service procedures discussed at the PHC, (per Rule 2.3), all parties are encouraged to distribute all pleadings and testimony in electronic form to those parties that provided an electronic mail address to the Commission. In addition, testimony must be served in a paper format to avoid differences in pagination that can complicate the cross-examination of witnesses. The electronic addresses of all parties to the proceeding can be found in the comma-delimited service list file. Choose the proceeding number and click on "Download Comma-delimited File."

Other Matters

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is as set forth herein.
3. This ruling confirms the Commission's preliminary finding in R.02-01-025 that the category for this proceeding is quasi-legislative and that hearings are not

necessary at this time. This ruling, only as to category, is appealable under the procedures in Rule 6.4.

4. Administrative Law Judge Sullivan is the principal hearing officer in these consolidated applications.

5. The official service list as of this date is attached to this ruling as Appendix A. All submission shall be served on those on the current service list as well as on the Assigned Commissioner and Assigned Administrative Law Judge. Submission to the assigned ALJ and to the service list shall be provided by either electronic mail or hard copy.

6. The *ex parte* rules as set forth in Rule 7(d) of the Commission's Rules of Practice and Procedure apply to this application. They permit communications without restriction and without a reporting requirement.

Dated April 30, 2002, at San Francisco, California

/s/ HENRY M. DUQUE

Henry M. Duque
Commissioner

/s/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan
Administrative Law Judge

APPENDIX A

Service List R.02-01-025

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(END OF APPENDIX A)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated April 30, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.