SK1/KJB/vfw 5/02/05

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Establish Consumer Rights and Consumer Protection Rules Applicable to All Telecommunications Utilities.	Rulemaking 00-02-004 (Filed February 3, 2000)

ASSIGNED COMMISSIONER'S RULING

On March 10, 2005, the Assigned Commissioner issued a Ruling ("the March 10 ACR") implementing D.05-01-058 ("Order"), in which the Commission initiated a reexamination of the consumer protection rules set out in new General Order 168 ("Rules") to "address implementation issues, ensure that California's consumer protection structure will be viable and enforceable, and to consider a broader re-examination of policy…." The March 10 ACR established a comment cycle and a prehearing conference to discuss six specific questions related to the scope and schedule of this phase of the proceeding:

(a) Which Rules cause little or no hardship to carriers, are consistent with changing technology, and provide protections to California consumers that do not otherwise exist in current statute or law?

(b) What changes to the Rules are necessary in light of the FCC's March 10, 2005 Truth-in-Billing decision?[1] Identify key issues on jurisdiction related to the Rules.

[1] Re: Truth-In-Billing Format, National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-In-Billing, Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, CC Docket No. 98-170, CG Docket No. 04-208 (Mar. 10, 2005).

(c) To what extent have voluntary actions by carriers, settlements between carriers and attorneys general of other states, or court decisions eliminated the need for any of the Rules?

(d) Consistent with the requirements of PU Code § 321.1[2] we will assess the economic effects or consequences of the Rules through evidentiary hearings. In carrying out this assessment, what factors should we examine and what analytic approaches should we employ?

(e) Are there equally effective but less restrictive alternative approaches to providing consumer protection for telecommunications customers than the detailed regulation of carrier behavior embodied in the Rules?

Comments were received from 15 parties. On April 6, 2005 the prehearing conference was held. 32 parties filed general appearances and the assigned ALJ indicated that those parties, together with state service and information-only parties, would constitute a special service list for this phase of the proceeding.

After consideration of the comments, the Assigned Commissioner proposes to reinstate Parts 1, 4 and 5 of GO 168, together with Rules 13, 14 and 15 of Part 2, as amended and renumbered in the attached document. This Ruling seeks comments on the reinstatement proposal set out herein. Parties are specifically directed to address the following issues:

1. Are the consumer rights listed in Part I, as amended, sufficiently comprehensive to protect and empower consumers or are there additional rights or issues that should be addressed?

[2] In relevant part, § 321.1 says "It is the intent of the Legislature that the commission assess the economic effects or consequences of its decisions as part of each ratemaking, rulemaking, or other proceeding, and that this be accomplished using existing resources and within existing commission structures."

2. Are current laws and regulations, federal or state, including those conferring enforcement authority on the CPUC and/or other government agencies but not including the remaining portions of General Order 168, sufficient to enforce these rights? In responding to this question, parties should be specific as to each of the enumerated rights and support their responses with reference to applicable facts and law.

3. If current laws and regulations are not sufficient to enforce these rights and principles, what are the most cost-effective changes to law or regulation necessary for effective enforcement?

Following consideration of comments filed, if there appear to be issues of material fact in dispute as to changes to existing laws or regulations which may be necessary to enforce these rights, parties may request that these issues be the subject of evidentiary hearings.

Notwithstanding the reinstatement of Parts 1, 4 , 5 and Rules 13, 14 and 15, as amended and proposed herein, parties may offer proposed changes to these provisions for consideration. Proposed changes to these provisions should be included in comments to the reinstatement proposal as set forth in this Ruling.

At the prehearing conference, there was extended discussion of discovery. Much of this discussion centered on the desire of parties to discover consumer complaint data either in the possession of the Commission's Consumer Affairs Bureau or in the files of the carriers. After consideration of the comments, we intend to limit such discovery as follows:

1. Discovery requests for consumer complaint data in possession of the Commission will be treated as public records requests and responded to accordingly.
2. Discovery requests for consumer complaint data in possession of a party will be denied except to the extent that the party of whom the request is made has put its own consumer complaint data in issue by relying on it in pleadings or other formal submissions in this proceeding.

In response to the question in the March 10 ACR regarding evidentiary hearings, parties generally agreed with the proposed schedule in that ACR which defers evidentiary hearings until we have received Opening and Reply Filed Testimony. Several parties indicated their concern that the original proposed schedule did not leave sufficient time for discovery and the writing of briefs. Accordingly, the schedule of this proceeding is revised as follows :

May 31, 2005	Comments on ACR
June 15, 2005	Reply Comments
July 15, 2005	Filed Testimony Due
August 15, 2005	Reply Testimony Due
September 1, 2005	Begin Hearings
September 15, 2005	End Hearings
October 15, 2005	Opening Briefs
October 31, 2005	Reply Briefs
December, 2005	Commission Decision

Therefore, **IT IS RULED** that:

1. Parties shall file and serve comments by May 31, 2005 addressing the following matters:

A. Are the rights enumerated in Part 1 of GO 168, as amended herein, adequately comprehensive to protect and empower consumers?

B. Are existing laws and regulations sufficient to enforce the above-enumerated rights?

C. If existing laws and regulations are not sufficient to enforce the above-enumerated rights, what are the most cost-effective changes necessary for effective enforcement?

2. Discovery requests seeking consumer complaint data addressed to the commission shall be treated as public records requests.

3. Discovery requests addressed to a party seeking consumer complaint data in possession of that party shall be denied except to the extent that the party to whom the request is made has put its own consumer complaint data in issue by relying on it in pleadings or other formal submissions in this proceeding

4. Parties shall file and serve reply comments by June 15, 2005.

Dated May 02, 2005, at San Francisco.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties of which an electronic mail address has been provided; this day served a true copy of the original attached Assigned Commissioner's Ruling of Commissioner Susan Kennedy on all parties of record for proceeding R.00-02-004 or their attorneys of record.

Dated May 2, 2005 at San Francisco, California.

/s/ VANA F. WHITE
Vana F. White

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.

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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.