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Decision 90-12-102 December 19, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's own)
motion for the purpose of modifying)
existing tariff filing rules for)
telecommunications utilities, other)
than local exchange carriers and)
AT&T-C, and for the purpose of)
addressing other issues concerning)
the regulation of these utilities.)

ORIGINAL

R.85-08-042
(Filed August 21, 1985)

ORDER GRANTING LIMITED REHEARING OF DECISION 90-08-032

MCI Telecommunications Corporation (MCI) and the California Association of Long Distance Telephone Companies (CALTEL) have filed applications for rehearing of Decision (D.) 90-08-032. We have considered each and every allegation raised in those applications, and are of the opinion that sufficient grounds for granting rehearing have been presented. However, we will not order that evidentiary hearings be held at this time, but will order another round of comments and workshops, in order to determine if there are material issues of disputed fact which require such hearings.

D.90-08-032 adopted various changes in the tariff filing rules applicable to nondominant interexchange carriers (NDIECs). While we do not intend that the comments and workshop revisit each and every one of the changes made in that order, we will give the parties an opportunity to address the changes protested in the two applications for rehearing, i.e.:

- (1) notice provisions for rate increases, including the requirement of notice to customers by bill insert or by first class mail, and including the alleged inconsistency in retaining the 1-day notice provision

- for NDIECs with FCC-approved tariffs while applying a new time limit to other NDIECs;
- (2) notice requirements for new service offerings, including the issue of whether "new service offerings" should be more specifically defined, and, if so, whether the definition contained in D.88-12-091 (adopting limited rate flexibility for AT&T) would be appropriate;
 - (3) additional regulations to safeguard customer deposits; and
 - (4) time limits for retention/maintenance of billing records.

Those parties to this proceeding who wish to submit comments shall address the above issues in the context of the changes to the rules which were adopted in D.90-08-032. We do not intend to suspend the adopted rules pending the outcome of the comment/workshop process, although we view them as now having the status of interim rules subject to possible further change; thus parties may also address any problems they are allegedly experiencing in application of the rules by the Commission Advisory and Compliance Division (CACD).

The comments we receive will serve, along with the related portions of D.90-08-032, as the agenda for the workshops we order CACD to hold. After the close of those workshops, CACD shall issue a draft report which will summarize the workshops and will contain recommendations on the issues listed above, based, at least in part, on the results of the workshops. The draft report will be sent to each of the workshop participants for their comments.

Those comments will then be incorporated into a final report which CACD will send to the presiding administrative law judge. We expect the workshops and the final report to provide an adequate record to form the basis for determining whether we need

to hold evidentiary hearings on any of the issues covered by this order.

Parties submitting comments should be cautioned that they should specifically identify any material disputed issues of fact they believe the Commission must resolve through evidentiary hearings. Mere reiteration of arguments previously made will not be sufficient. Parties requesting hearings must explain why hearings are required on these specific issues. All factual assertions must be verified; unverified factual assertions will be given only the weight of argument.

We also caution that CACD's recommendations in both reports, whether they propose retention of the changes in D.90-08-032 or offer another solution, should be fully justified in terms of the specific problem which has arisen, and the need for the particular recommendation. CACD shall also address any problems which the commenters have raised concerning CACD's application of the new rules, and shall provide justification for its practice or shall propose modifications to that practice.

IT IS ORDERED that limited rehearing of D.90-08-032 is granted to the extent provided in the above discussion.

IT IS FURTHER ORDERED that the Executive Director shall mail copies of this order to the parties in this proceeding, who may submit any comments they choose to submit, on the specific issues discussed above, by February 1, 1991.

IT IS FURTHER ORDERED that the Commission Advisory and Compliance Division shall conduct workshops as ordered in the discussion above, by approximately March 15, 1991.

IT IS FURTHER ORDERED that the Commission Advisory and Compliance Division shall issue a draft report summarizing the workshops and making recommendations on the issues, as discussed above. This report shall be mailed to all workshop participants within 30 days of the conclusion of the workshops. Participants

may file comments on the draft report within 15 days of mailing of that report. Such comments will be incorporated into a final report by the Commission Advisory and Compliance Division, which shall be provided to the administrative law judge within 60 days of conclusion of the workshops, approximately May 15, 1991. All comments shall specifically identify any material disputed issues of fact they believe the Commission must resolve through hearings before finally adopting or modifying the rules at issue herein, or before adopting any additional rules which are related to the ones at issue herein. Parties requesting hearings must explain why hearings are required on specific issues. All factual assertions must be verified; unverified factual assertions shall be given only the weight of argument. The subject matter and page limits set forth in Rule 77.3 of the Rules of Practice and Procedure do not apply. Each party shall file an original and 12 copies of its initial comments and comments to the draft workshop report in the Docket Office. Comments shall comply with the applicable rules in Article 2 of the Rules of Practice and Procedure, and shall have a certificate showing service by mail on all parties in R.85-08-042. In its draft and final workshop reports, the Commission Advisory and Compliance Division shall provide full support for its recommendations, whether they propose retention of the changes in D.90-08-032 or offer another solution. The recommendations should be fully justified in terms of the specific problem which has arisen, and the need for the particular recommendation. The reports shall also address any problems which the commenters have raised concerning application of the new rules, and shall provide justification for the Commission Advisory and Compliance Division's practice or shall propose modifications to that practice.

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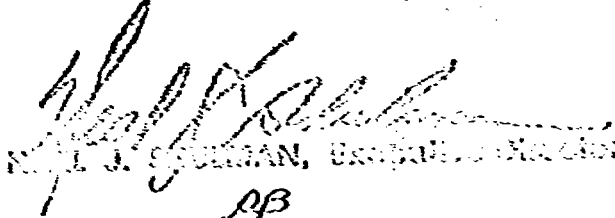
IT IS FURTHER ORDERED that except as provided in this order, rehearing of D.90-08-032 is denied.

This order is effective today.

Dated December 19, 1990 at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEIL J. SPIERMAN, Executive Director
RB