

AUG 14 1995

Decision 95-08-022 August 11, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Alternative  
Regulatory Frameworks for Local  
Exchange Carriers.

I.87-11-033  
(Filed November 25, 1987)

And Related Matters.

Application 85-01-034  
Application 87-01-002  
I.85-03-078  
Case 86-11-028  
I.87-02-025  
Case 87-07-024

OPINION

ORIGINAL

Summary

Decision (D.) 89-10-031 is modified to explicitly extend the Expedited Application Docket (EAD) procedure to: (1) permit local exchange carriers to request rate flexibility for Category II services; (2) allow Pacific Bell (Pacific) and GTE California (GTEC) to request authority to provide enhanced services, basic service elements (BSEs), and any new services comparable to BSEs which might be offered due to the adopted unbundling principles; and (3) require its use when Pacific or GTE request authority to invest in fiber beyond the feeder system to provide traditional local exchange carrier services.

Background

This is a joint petition of Pacific and GTEC to modify D.89-10-031, 33 CPUC2d 43, our decision establishing a New Regulatory Framework (NRF), by adding an ordering paragraph that would continue the availability of EAD procedures for certain issues specifically identified in the NRF decision. The matter arose because of some confusion in the applicability of EAD under NRF.

The EAD was first started for gas and electric utilities by Resolution ALJ-159 (June 15, 1987) to promote quick adjudications of individual customer contracts. It was applied to the telecommunications utilities in D.88-09-059, 29 CPUC2d 376 (September 28, 1988). Resolution ALJ-161 (April 12, 1989) established a combined EAD for telecommunications and energy utilities on an experimental basis. By its terms it was to last for only one year. The NRF decision (D.89-10-031) specifically made the EAD procedure available for three issues. NRF was issued on October 12, 1989, exactly six months prior to the expiration of the experimental EAD.

The subject matter of EADs has been revisited for gas utilities in D.92-11-052, 46 CPUC2d 444 (November 23, 1992). It has not been renewed for telecommunications utilities. Thus, the question is whether EAD procedures were intended to be used for the specific issues mentioned in the NRF decision for the remaining six months of the experimental period only, or whether the Commission meant to extend EAD procedures indefinitely for these three issues.

Petitioners suggest that the Commission meant to extend the applicability of EAD procedures for these three issues beyond the expiration of the experimental period contained in Resolution ALJ-161. They point to the detailed discussion of these points in the NRF decision and argue that all of the rationale for the decision is equally applicable today. In order to remove any confusion petitioners urge that we modify the NRF decision in a manner contained in their petition.

Copies of the petition for modification were mailed to all parties in NRF. The only protest received was from the Commission's Division of Ratepayer Advocates (DRA). DRA is not opposed to the petition as filed or to the precise language in the petition. DRA agrees that it is unlikely that the Commission would have meant for the procedures adopted in D.89-10-031 to have had effect for only six months. DRA emphasizes that its support for

continued EAD procedure applicability to telecommunications is limited to the three issues mentioned in NRF, and no others. It also indicates that this support is for future matters to be brought under EAD. DRA would oppose any attempt at retroactive application of the modification.

Findings of Fact

1. Resolution ALJ-159 (June 15, 1987) adopted EAD procedures for reviewing and approving contracts between energy utilities and individual customers.

2. D.88-09-059 (September 28, 1988) adopted EAD procedures for certain services of telecommunications utilities.

3. Resolution ALJ-161 (April 12, 1989) revised the EAD as an experimental procedure and included both energy and telecommunications utilities.

4. D.89-10-031 (October 12, 1989) adopted a new regulatory framework for Pacific and GTEC, including the use of the EAD for three specific purposes:

- a. Rate flexibility for Category II services. (Ordering Paragraph 3.)
- b. Enhanced services, basic service elements, and new services comparable to basic service elements which might be offered due to the adopted unbundling principles. (Ordering Paragraph 23.)
- c. Investments in fiber beyond the feeder system to provide traditional local exchange carrier service. (Ordering Paragraph 26.)

5. Resolution ALJ-161, creating the experimental EAD, expired by its own terms on April 12, 1990.

6. Since April 12, 1990, there has been confusion as to whether the EAD was still available under the auspices of D.89-10-031 for the three purposes mentioned or whether its usage for these purposes terminated with the expiration of Resolution ALJ-161.

7. Notice of this Petition for Modification was served on all parties to D.89-10-031.

8. The only protest was from DRA, which does not object to the proposed modification, but wishes it to be strictly limited to the three purposes identified in D.89-10-031 and only to prospective use of the procedure.

Conclusions of Law

1. In the absence of any objection the Petition for Modification of D.89-10-031, extending the applicability of the expedited application procedure for the three purposes mentioned in that decision should be granted.

2. This extension of the expedited application procedure is strictly limited to these three purposes only.

3. The language of the modification should be that proposed in the Petition for Modification and supported by DRA.

ORDER

IT IS ORDERED that Decision 89-10-031 is hereby modified to add the following paragraph:

"30. The technical expiration of the Expedited Application Docket established by Resolution ALJ-161 shall not affect the availability of the Expedited Application Docket procedure for purposes set forth in Ordering Paragraphs 3, 23, and 26."

This order is effective today.

Dated August 11, 1995, at San Francisco, California.

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

*Wesley Franklin*

Acting Executive Director

DANIEL Wm. FESSLER  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
Commissioners