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the features available to customers. The development, approval, and implementation of a CNEP was approved by Decision 96-03-011 on March 13, 1996.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE SISKIYOU TELEPHONE COMPANY (UIC 1017 C) for approval of its proposed Customer Notification and Education Plan (CNEP) and authority to offer Caller ID service.

Application 95-09-063, (Filed September 25, 1995)

ORIGINAL

**INTERIM OPINION AUTHORIZING IMPLEMENTATION OF CUSTOMER NOTIFICATION AND EDUCATION PLAN**

On September 25, 1995, Siskiyou Telephone Company (Siskiyou) filed an application seeking authority to offer calling party identification service (Caller ID) and approval of its proposed customer notification and education plan (CNEP). By this decision, Siskiyou's CNEP is approved.

**1. Background**

In our decisions granting interim authority to Pacific Bell, Contel of California, Inc., and GTE California Incorporated to provide certain new privacy-related Custom Local Access Signaling Services (CLASS) features, we adopted certain conditions the applicant utilities needed to meet prior to making provides that carriers with a compelling need for more time may

<sup>1</sup> See Decision (D.) 92-06-065 (44 CPUC 2d 694) and D.92-11-062 (46 CPUC 2d 482), our Caller ID decisions. Privacy-related CLASS features include, for example, Call Return, Call Block, and Caller ID.

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the features available to customers. The development, approval and implementation of a CNEP was among these conditions.

In adopting the CNEP requirement, the Commission "outline(d) the principles, goals, central messages, and methods of the kind of utility customer education plan we believe is essential to fully inform California citizens about the implications of these new services and enable them to protect their rights." Further, the Commission stated that, as a result

of the notification and education plan, there should be a reasonable assurance that the display of the calling party's number to the call recipient will be the result of the calling party's informed consent.<sup>3</sup> With this guidance and specific directives, the applicant utilities were instructed that privacy-related CLASS features were not to be provided until the applicants made a showing, approved by the Commission, indicating compliance with the customer notification and education requirements, adopted in 1992.

On May 4, 1995, the Federal Communications Commission (FCC) adopted *Memorandum Opinion and Order on Reconsideration, Second Reports and Order and Third Notice of Proposed Rulemaking* (Recon Order). In relevant part, the Recon Order requires all local exchange carriers to pass calling party number (CPN) to interconnecting carriers starting December 1, 1995. It also provides that carriers with a compelling need for more time may

<sup>1</sup> See Decision (D.) 92-06-065 (44 CPUC 24 644) and D.92-11-065 (46 CPUC 24 482), our Caller ID decisions. Privacy-related CLASS features (717) and 44 CPUC 24 665-92 Decision 92-06-065 and Caller ID, Block, and Caller ID.

<sup>3</sup> Id.

seek and obtain a waiver from the FCC. Further, FCC regulation like our informed consent threshold, provides that "notification must be effective in informing subscribers how to maintain privacy." The Recon Order supports each state's role in providing carrier notification and education guidelines or requirements. It expressly confirms that "California has exercised considerable discretion to assure that its education programs address unique situations in that state."

As the Commission Advisory and Compliance Division (CACD) stated in its June 22, 1995, data request to all California local exchange carriers, the Commission reads its decisions and the FCC Recon Order as requiring all local exchange carriers to comply with our CNEP requirements prior to passing CPN whether or not those carriers offer Caller ID services. It is against this backdrop that Siskiyou filed its application.

2. Siskiyou's Application and Proposed CNEP

Siskiyou's application was filed September 26, 1995, and calendared October 25, 1995. The written portion of Siskiyou's CNEP consists of 1) an educational notice to be mailed to each customer, 2) a customer ballot regarding call blocking, 3) stickers for the customers to affix to their telephones to remind them of the codes to dial for per call (or "selective") blocking and unblocking, 4) a confirmation notice regarding call

providing Caller ID services. Siskiyou contends such a study is not warranted given the meaningful feedback already obtained in Recon Order, § 83. The December 1, 1995 implementation deadline was subsequently relaxed to June 1, 1996, by an FCC order which ruled on the waiver requests of a number of California carriers.

<sup>5</sup> See 47 C.F.R. § 64.1603.

<sup>6</sup> Recon Order, § 92 (emphasis added).

blocking to be sent to each customer, and 5) a directory white pages notice for publication in Siskiyou's telephone directory. If Siskiyou states that its CNEP varies from the Commission's guidelines in the following three respects:

1. Our Caller ID decisions mandate that for customers having non-published telephone numbers, per line blocking be the default. The FCC had ordered that the default blocking option for all customers who do not affirmatively elect between per call ("selective") and per line ("complete") blocking is to be per call blocking. When Siskiyou filed its CNEP, an appeal by this Commission of the FCC order on blocking was pending. Siskiyou's proposed CNEP complies with the FCC order and the FCC decisions.

2. Our Caller ID decisions mandate that CNEP information be provided in many languages. Siskiyou points out that its service area contains only one significant minority group, the Karuk Tribe, and all members of this group speak English. Siskiyou contends, therefore, that it is not necessary to translate its CNEP materials into other languages.

3. Contrary to the Commission's requirement, Siskiyou's CNEP does not call for conducting a formal market penetration study as a means of demonstrating the effectiveness of its notification and education plans. Our Caller ID decisions mandated a demonstration of the effectiveness of the plan as a precursor to providing Caller ID service. Siskiyou contends such a study is not warranted given the meaningful feedback already obtained in the CNEP development phase and its small customer base. Further, Siskiyou contends that its officers and managers have close daily contact with many customers and will conduct informal measurement of the effectiveness of the CNEP.

Recon Order, 78 (encl. 10/28/83)

On November 22, 1995, the Commission's Division of Ratepayer Advocates (DRA) filed a protest. With respect to the CNEP portion of the application, DRA's concerns center on four issues: (1) the lack of time for Siskiyou to complete its CNEP process and demonstrate that it has effectively educated its customers prior to commencing passage of calling party number; (2) the reliance of Siskiyou on Pacific Bell (Pacific) and US West advertising; (3) the need for Siskiyou to propose a contingency plan to educate its customers in the event California prevails in its appeal of the FCC Caller ID decision, California v. FCC, 9th Circuit No. 94-70197, et al.; and (4) a more formal measurement is needed in order to have an objective indication of the effectiveness of Siskiyou's CNEP.

As stated above, the FCC granted a waiver of the December 1, 1995, deadline to June 1, 1996, which ameliorated part of DRA's concern. In its reply to DRA's protest, Siskiyou states that it plans to coordinate its CNEP implementation with that of Pacific Bell; further that Siskiyou is committed to obtaining an affirmative response from each of its non-published customers, making any need for a default option change contingency plan moot. With regard to Siskiyou's plans for demonstrating to the Commission the effectiveness of its education efforts, Siskiyou merely offers assurances.

Following a meet and confer session ordered by the Administrative Law Judge, a joint case management statement was filed January 26, 1996. In the statement, DRA and Siskiyou recognized that Siskiyou's reply to DRA's protest eliminated all but two of DRA's concerns. Siskiyou agreed to modify its CNEP further, thereby satisfying all of DRA's concerns. Specifically, DRA's principal concerns, measuring the effectiveness of the CNEP, contains the post-hearing order conferred ordering paragraphs.

On November 22, 1995, the Commission's Division of and statewide consistency in message elements, are resolved as follows:

1. The message elements developed and adopted by Pacific Bell are included in Siskiyou's CNEP materials; and

2. After two mailings, Siskiyou will conduct a telephonic educational program directed to all customers who have not responded to the mailings by returning a written ballot, and will try at least three times to reach every customer, assuring Siskiyou's education program approaches 100% effectiveness.

The DRA and Siskiyou stated that they were in agreement that the Commission should issue a decision on the CNEP portion of Siskiyou's request ex parte.

Then on January 31, 1996, the United States Court of Appeals for the Ninth Circuit denied our appeal of the FCC decision.

**2.1 CNEP Development Process**

In Ordering Paragraph (OP) 9 of our final decision establishing CNEP requirements, the Commission lays out the process each applicant utility must undertake to develop its CNEP.

We state: In developing the customer notification and education plan, the applicants shall consult extensively with community and consumer leaders; applicants shall hold workshop(s) which will be open to all those interested, to review and comment on their plan prior to filing; we expect that

U.S. Court of Appeals opinion in California v. FCC, 9th Circuit No. 95-17017, et al. This and all subsequent references to ordering paragraphs refer to Attachment 46 (CPUC 2482-491) which contains the post-rehearing order conformed ordering paragraphs.

applicants will modify their draft to reflect comments received, prior to filing. The plan shall not be implemented until approved by the Commission.

Siskiyou's CNEP was prepared in consultation with its customer communities in Siskiyou and Humboldt Counties. As a result of this consultation, Siskiyou modified its CNEP and then filed it with the Commission.

**2.2 CNEP Content**

Siskiyou's CNEP emphasizes educating customers about the effects of passing CPN, call blocking options, and how the offering of Caller ID will affect them. Attention is paid to educating customers on the importance of privacy and the need for customers to know what their choices are.

**2.2.1 Educational Notice**

Siskiyou's initial notification to its customers will be an educational notice mailed separately from its bills, given feedback from the community consultation meetings. It contains educational material which emphasizes the privacy implications of CPN passage and Caller ID, and informs customers of their blocking choices. It includes a blocking request ballot for the customer to complete and return to the company, making the ordering of blocking options simple.

As stated in our Caller ID decision, such customer messages are to be sources of objective, neutral information and not sales messages. Further, the bill inserts are to include:

1. Notice of the availability of Caller ID and other privacy-related services which may result in the calling party's number being disclosed to the called party.

- whether or not the calling party is a subscriber to such services. (OP 7.a.)
2. Information on the blocking options available to prevent disclosure of the calling party's number. (OP 7.a.)
  3. An indication that customers may call the company's 24-hour toll free number for more information. (OP 7.a and i.)
  4. An indication that customers may call the company in the event of complaints. (OP 7.a and i.)
  5. Notice that customers may contact the Commission's Consumer Affairs Branch regarding complaints that cannot be resolved with the company. (OP 7.a and j.)
  6. An indication that the written message is being provided by the carrier as required by the Commission. (OP 7.f.)
  7. A notation that presently there is no capability to block disclosure of the calling party's number when making "800" or "900" calls. (OP 7.i.)
- Siskiyou's notice complies with these ordering paragraph requirements. The blocking request approach complies with our OP 7.k requirement.
- In conditionally authorizing Pacific to proceed with its CNEP, we required it to send a letter to unlisted/nonpublished customers which would explain the privacy issues associated with CPN passage and the status of blocking choices. We also required Roseville Telephone Company

<sup>1</sup> See Resolution T-15827, December 20, 1995.



(Roseville) to send such a letter. Consistent with our treatment of these companies, we will require Siskiyou in this information, in addition to the educational notice, when it sends the notice to unlisted/nonpublished customers. Siskiyou is reminded that, pursuant to OP 77(d), all utility consumer education efforts are to use the same as long as terminology and be as similar as possible. Therefore, continued consultation with other carriers is warranted. Siskiyou shall submit the educational notice to the Commission's Public Advisor and CACD for prior review and approval. The staff shall expeditiously review the educational notice to ensure the terminology in this customer education effort is as similar as possible to other utilities' CNEP bill inserts and educational materials.

**2.2.2 Media Coverage and Community Outreach**

In our Caller ID decisions and the December 2000 A.S.S. resolution, we emphasized the need to reach consumers with this education campaign through a comprehensive set of media and outreach approaches (OP 77g and 77h, and Resolution, pp 77-8). Siskiyou's CNEP appropriately relies upon the use of local newspaper advertisements, and radio and television broadcasts which originate from Pacific and US West service areas. Siskiyou shall submit its draft advertisement copy to CACD. CACD shall expeditiously review the draft advertisement to ensure the terminology in it is as similar as possible to other utilities' print advertisements. It should include the following information:

We also require carriers to ensure outreach to non-English speaking phone users is conducted. (OP 77g and 77h.) CACD shall expeditiously review the draft to ensure

<sup>10</sup> See D.96-02-012.

Siskiyou has adequately demonstrated that this requirement is not necessary for the community it serves.

2.2.3 Ongoing Education

We recognized in our Caller ID decision that educating consumers about the privacy affects and blocking choices associated with Caller ID and GPN passage needs to be ongoing for as long as the services are offered. Siskiyou's CNEP clearly states how, through the use of a 24-hour number white page directory information, and annual customer notice, it will fulfill its customers' ongoing information needs as required by this Commission. As with other written messages, Siskiyou shall submit draft white pages to CACD and annual notice information to the Public Advisor. The staff shall expeditiously review the drafts to ensure the terminology in them is as similar as possible to other utilities' written ongoing education efforts.

2.2.4 Confirmation Letter

Siskiyou's CNEP includes a proposed confirmation letter. Siskiyou states that it will send each customer a confirmation letter reminding them of the blocking option they selected, that the option was determined by choice and of the right of the subscriber to change the blocking option one time free of charge. However, OP3 requires the utilities to provide in this confirmation letter information on the nature of the available blocking options to which the subscriber might wish to change. Siskiyou's confirmation letter does not include this fourth piece of information. It should include information on the blocking options to which the subscriber might wish to change. Siskiyou shall submit its draft confirmation letter to the CACD. CACD shall expeditiously review the draft to ensure

the terminology in it is as similar as possible to other utilities' confirmation letters and in compliance with our CPN directive here. 2.2.5 (Default Blocking Change)

On February 23, 1996, we decided to appeal the court's decision affirming the FCC opinion that the appropriate blocking default is "selective" blocking. In the event we prevail in our appeal of the U.S. Court of Appeals opinion in California v. FCC, 9th Circuit No. 94-70197, et al., Siskiyou should contact subscribers to nonpublished service to inform each one of the change in default blocking option.

3. CNEP Evaluation

In our Caller ID decision, we state that: "...Caller ID service shall not be provided until the applicant has made a showing, approved by the Commission, that the applicant has notified all of its customers of the nature of the service and the means by which they can protect their privacy, consistent with the provisions of this order. (OP 10.)"

Siskiyou's revised CNEP evaluation described above, in lieu of a penetration study, to demonstrate whether it was successful in reaching its subscribers with CPN, Caller ID, and blocking option information, together with its proposed May 10, 1996, report of results to the Commission should adequately inform the Commission of the CNEP effectiveness.

As we stated in the December 20 resolution, we recognize that, at least initially, 100% customer awareness of Caller ID, the passage of CPN and blocking options is not reasonably attainable. In that resolution, we relied upon the expert opinion of our public education communications

consultant who indicated that initial awareness levels for the CPN passage of 70% aided awareness, 60% volunteered understanding of blocking options, and 30% action (affirmative choice by return of a ballot or order by phone) are reasonably attainable.

We are holding Pacific and Roseville to these awareness levels in determining whether its showing demonstrates adequate notification. We see no reason to treat Siskiyou differently. Therefore, we require Siskiyou to attain these initial awareness levels before CPN is passed or Caller ID service is offered. Siskiyou shall file its report stating its attained awareness levels with the Director of the CACD. If it appears that these awareness levels will not be attained prior to June 1, 1996, the burden shall be on Siskiyou, well in advance of that date and, in any event, no later than May 10, 1996, to explain why the levels cannot be attained, and to provide the Commission with a plan for attaining those levels in a timely manner.

**Findings of Fact**

1. Although DRA filed a protest, DRA and Siskiyou are now in agreement that the Commission should issue a decision on the CNEP portion of Siskiyou's request without first holding hearings.

2. Siskiyou's CNEP emphasizes educating customers on the importance of privacy and the need for customers to know what their choices are.

3. The education notice, media coverage, community outreach, and ongoing education elements of Siskiyou's CNEP comply with the Commission's requirements articulated in the expert opinion of our public education communications

D.92-06-065 (44 CPUC 2d 694) and D.92-11-062 (46 CPUC 2d 482).

4. Siskiyou's customer makeup does not require outreach in languages other than English.

5. In Resolution T-15827 and D:96-02-012, the Commission relied upon the expert opinion of its public education communications consultant who indicated that initial awareness levels for CPN passage of 70% aided awareness, 60% volunteered understanding of blocking options, and 30% action (affirmative choice by return of a ballot or order by phone) are reasonably attainable.

6. Pacific's and Roseville's showing demonstrating the effectiveness of its CNEP will be evaluated on the basis of these awareness levels when the Commission considers whether their showings demonstrate adequate notification.

Conclusions of Law

1. In the event the State prevails in its appeal of the U.S. Court of Appeals opinion in California v. FCC, 9th Circuit No. 94-70197, et al., Siskiyou should contact subscribers to non-published service to inform each one of the change in default blocking option.

2. Siskiyou's confirmation letter should be modified to provide information on the nature of the available blocking options to which the subscriber might wish to change.

3. Siskiyou should attain the following initial awareness levels before the passage of CPN will be allowed and before Caller ID service will be offered: 70% aided awareness, 60% volunteered understanding of blocking options.

0.92-00-002 (44 CPUC 24 (204) and D.02-11-002 (44 CPUC 24 (482)) and 30% action (affirmative choice by return of a ballot or order by phone).

4. If it appears that these awareness levels will not be attained prior to June 1, 1996, the burden should be on Siskiyou, well in advance of that date and, in any event, no later than May 10, 1996, to explain why the levels cannot be attained and to provide the Commission with a plan for attaining those levels in a timely manner.

5. There is no reason to evaluate the effectiveness of Siskiyou's showing demonstrating the effectiveness of its CNEP differently than for Pacific and Roseville.

6. Siskiyou should file a report wherein it demonstrates its attained awareness levels with the Director of CACD.

7. Since the FCC requires the passage of CPN on June 1, 1996, and the notification and education plan must be completed, and the awareness levels demonstrated, prior to the passage of CPN, this decision should be effective immediately.

**INTERIM ORDER**

**IT IS ORDERED that:**

1. Siskiyou Telephone Company (Siskiyou) is authorized to implement its Customer Notification and Education Plan, modified as required above, in consultation with the Public Utilities Commission's (Commission) Advisory and Compliance Division (CACD) and Public Advisor.
2. To ensure the message and terminology in this education effort is as similar as possible to other

utilities' CNEPs, Siskiyou shall submit its education notice to the Public Advisor for review and approval, and its other written messages to the CACD for review and approval.

3. Siskiyou shall file its report stating its attained awareness levels with the Director of CACD. If it appears that the awareness levels identified above will not be attained prior to June 1, 1996, the burden shall be on Siskiyou, well in advance of that date and, in any event, no later than May 10, 1996, to explain why the levels cannot be attained and to provide the Commission with a plan for attaining those levels in a timely manner.

4. In the event that the State of California prevails in its appeal of the U.S. Court of Appeals opinion in California v. FCC 9th Circuit No. 94-70197, et al., Siskiyou shall contact subscribers to non-published service to inform each one of the change in default blocking option.

This order is effective today.

Dated March 13, 1996, at San Francisco, California.

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