

Decision 96-10-054 October 25, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Brooks Fiber Communications of Bakersfield (U-5544-C), Brooks Fiber Communications of Fresno (U-5545-C), Brooks Fiber Communications of Sacramento (U-5419-C), Brooks Fiber Communications of San Jose (U-5420-C), and Brooks Fiber Communications of Stockton (U-5546-C) to provide Privacy-Related CLASS Services.

ORIGINAL

Application 96-08-012
 (Filed August 2, 1996)

OPINION

Summary

On August 2, 1996, the Brooks Fiber Communications companies (Brooks Companies)¹ filed a joint application to provide privacy-related Custom Local Access Signaling Services (CLASS) features, including calling party identification (Caller ID) pursuant to our Caller ID decisions, Decision (D.) 92-06-065 (44 CPUC2d 694) and D.92-11-062 (46 CPUC2d 482), and our Competitive Local Carriers Customer Notification and Education Rules for Calling Party Number Passage (D.96-04-049). We dismiss the application.

¹ The Brooks Companies include Brooks Fiber Communications of Bakersfield, Brooks Fiber Communications of Fresno, Brooks Fiber Communications of Sacramento, Brooks Fiber Communications of San Jose, and Brooks Fiber Communications of Stockton.

Decision 96-10-024 October 22, 1996

without prejudice and refer it to our Telecommunications Division for processing as an advice letter. We adopt the policy that, when certain conditions are met by the Competitive Local Carrier (CLC) or a Local Exchange Carrier (LEC), an advice letter is the appropriate process for seeking authority to offer privacy-related CLASS features.

Discussion

In our 1992 Caller ID decisions granting interim authority to Pacific Bell, Contel of California, Inc., and GTE California Inc. to provide certain new privacy-related CLASS features, the Commission adopted certain conditions the applicant utilities needed to meet prior to making the features available to customers. The development, approval, and implementation of a customer notification and education plan (CNEP) was among these conditions. The requirement addresses the customer privacy concerns associated with some CLASS features and ensures that the display of the calling party's number to the call recipient will be the result of the calling party's informed consent.

In an April 1996 decision, D.96-04-049, we adopted rules which apply to CLCs substantially the same notice and education conditions applied to the incumbent carriers as a pre-condition to the passage of calling party number, which enables the offering of privacy-related CLASS features.

In our July 1995 decision adopting initial local competition rules (D.95-07-054), we determined that CLCs seeking to offer new services should file proposed tariffs governing the new

service by advice letter. (Id., slip op., Appendix A, pp. 7, noting Rule 4.B.(4).) At that time we did not specifically address whether the advice letter approach was appropriate for new services with privacy implications. Up to now, all carriers seeking authority to offer privacy-related CLASS features have filed applications pursuant to our 1992 Caller ID decisions. The Brooks Companies' application affords us an opportunity to address when the advice letter approach is appropriate for seeking authority to offer new services with privacy implications. See, for example, (980-10-10.A has

When a ILC or an LEC has an approved CNEP implemented, the Commission's privacy-related concerns associated with certain CLASS features have been addressed, and the Commission's informed consent goal should be achievable. When a new service with privacy implications is tariffed, either directly by the carrier or via a wholesale tariff, the conditions of the Public Utilities Code, governing the filing of tariffs to protect and inform consumers and mitigate anticompetitive behavior, have been met. It appears, therefore, that the public interest is not further advanced by requiring a carrier to file an application, rather than an advice letter, when the carrier has an approved CNEP in place and will offer the privacy-related service via a tariff on file with the Commission. Therefore, when a carrier has an approved CNEP in place and will offer a privacy-related CLASS feature via a tariff on file with the Commission, that carrier may seek authority to offer the

letter advice and whether the advice letter approach was appropriate for new services with privacy implications. See, for example, PU Code §§ 454, 489, 491, and 495.

privacy-related CLASS feature by advice letter filings. As with other new CLC and LEC services and tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, such advice letter filings shall become effective on forty (40) days' notice to the Commission. Because we are adopting this policy for broad application to all CLCs and LECs, we direct the Executive Director to serve this decision on the Caller ID Applications (A.90-11-011/A.90-12-065, and A.91-01-039) service lists, the Local Competition Docket (A.90-04-043/I.95-04-044) service list and on all presently certificated CLCs and LECs.

The Brooks Companies' application meets these two conditions and should therefore be dismissed without prejudice. We will refer it to the Telecommunications Division for processing as an advice letter. The Telecommunications Division staff should inform the Brooks Companies of any amendment or supplementation needed to conform the filing as an advice letter.

Findings of Fact

In D.96-04-049, we adopted rules which require CLCs to develop, seek approval of, and implement a CNEP.

In our decision adopting initial local competition rules (D.95-07-054), we determined that CLCs seeking to offer new services should file proposed tariffs governing the new service by advice letter. (Id., slip op., Appendix A, p. 7; Rule 4.E.(4)). At that time we did not specifically address whether the advice letter approach was appropriate for new services with privacy implications.

See, for example, LU Code 22 424, 484, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

3. When a CLC or an LEC has an approved CNEP implemented, the Commission's privacy-related concerns associated with certain CLASS features have been addressed, and the Commission's informed consent goal should be achievable.

4. When a new service with privacy implications is tariffed, either directly by the carrier or via a wholesale tariff, the conditions of the Public Utilities Code governing the filing of tariffs to protect and inform consumers and mitigate anti-competitive behavior have been met.

5. The Brooks Companies have approved CNEPs in place and seek authority to offer privacy-related CLASS features under tariff on file with this Commission.

Conclusions of Law

10. The public interest is not further advanced by requiring a carrier to file an application, rather than an advice letter, when the carrier has an approved CNEP in place and will offer the privacy-related service via a tariff on file with the Commission.

11. The Brooks Companies' application should be dismissed without prejudice.

Application of Brooks Fiber Communications of Fresno, Brooks Fiber Communications of Sacramento, Brooks Fiber Communications of San Jose, and Brooks Fiber Communications of Stockton to provide Privacy Related CLASS services as an advice letter.

12. The Joint Application of Brooks Fiber Communications of Bakersfield, Brooks Fiber Communications of Fresno, Brooks Fiber

When a CLC or an approved CNEP is implemented, the Commission's privacy-related concerns associated with certain CLASS features have been addressed, and the following is ordered:

IT IS ORDERED that:

1. When a Competitive Local Carrier (CLC) or Local Exchange Carrier (LEC) has an approved customer notification and education plan (CNEP) in place and will offer a privacy-related CLASS feature via a tariff on file with the Commission, that carrier may seek authority to offer the privacy-related CLASS feature by advice letter filing. As with other new CLC services and tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, such advice letter filings shall become effective on forty (40) days' notice to the Commission.

2. The Executive Director shall serve this decision on the Caller ID Applications (A.90-11-011, A.90-12-065, and A.91-01-039) service lists, the Local Competition Docket (R.95-04-043/ I.95-04-044) service list, and on all presently certificated CLCs and LECs.

3. The Telecommunications Division shall process the Joint Application of Brooks Fiber Communications of Bakersfield, Brooks Fiber Communications of Fresno, Brooks Fiber Communications of Sacramento, Brooks Fiber Communications of San Jose, and Brooks Fiber Communications of Stockton to Provide Privacy Related CLASS Services as an advice letter.

4. The Joint Application of Brooks Fiber Communications of Bakersfield, Brooks Fiber Communications of Fresno, Brooks Fiber

Communications of Sacramento, Brooks Fiber Communications of San José, and Brooks Fiber Communications of Stockton to Provide Privacy Related CLASS Services is dismissed without prejudice.

5. This proceeding is closed.

This order is effective today.

Dated October 25, 1996, at Sacramento, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners

Commissioner Daniel Wm. Fessler,
being necessarily absent, did not
participate.