

Decision 98-02-009 February 4, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to Consider Adoption of Rules Applicable to Interexchange Carriers for the Transfer of Customers Including Establishing Penalties for Unauthorized Transfer.

ORIGINAL

R.97-08-001
(Filed August 1, 1997)

Investigation on the Commission's Own Motion to Consider Adoption of Rules Applicable to Interexchange Carriers for the Transfer of Customers Including Establishing Penalties for Unauthorized Transfer.

I.97-08-002
(Filed August 1, 1997)

OPINION

Summary

In this decision, we order an audit of all California telephone corporations' compliance with Public Utilities (PU) Code § 2889.5, as revised, by Senate Bill 1140.

Background

Effective January 1, 1997, Senate Bill 1140 modified PU Code § 2889.5 to require that all changes initiated a telephone corporation¹ in residential presubscribed service must be verified by an independent firm prior to implementing a change in service provider. As amended, PU Code § 2889.5 requires a telephone corporation to thoroughly inform the subscriber of the nature and extent of the service being offered and then to specifically establish whether the subscriber intends to make a change in service. If so, the subscriber's decision must be confirmed by an independent third

¹ The statute applies to all telephone corporations which provide telephone service for which the Commission has authorized competition. This definition would currently include all interexchange carriers, all competitive local carriers and all local exchange carriers, as provided in § 2889.5(a)(3)(D).

party verification company. The Bill defines "independent firm" and requires that a verifier's facilities be physically separate from the IEC's and that the verifier not be compensated based on a commission. Compliance with third-party verification is mandatory for all telephone corporations doing business in California.

On February 14, 1997, the Director of the Commission's Telecommunications Division sent a data request to all certificated IECs directing them to provide information regarding their compliance with revised § 2889.5. The Director received responses from fewer than 50% of the certificated carriers.

On August 1, 1997, the Commission initiated a rulemaking and investigation into whether additional rules should be adopted for the transfer of customers by IECs. At the prehearing conference, the parties discussed a proposal to assess current industry practice with regard to transferring customers and, specifically, to survey IECs to obtain information on their verification procedures.

This decision institutes a compliance audit of all telephone corporations included in PU Code § 2889.5, as revised to ensure full implementation of third-party verification.

The primary purpose of the audit is to ensure industry-wide compliance with § 2889.5. A secondary purpose is to evaluate the statute's effectiveness in reducing slamming complaints and to consider what, if any, further actions are necessary to protect consumers' right of choice.

Description of Compliance Audit

The first step of the audit requires each telephone corporation to provide written responses to 21 questions and copies of five verification transcripts. Some questions inquire into the manner of solicitation of customers, both residential and business. The majority of the questions focus on the telephone corporations' verification process and the independence of the verifier from the carrier. Two questions ask about the carrier's practice with regard to employees or sales agents that fail to comply with customer authorization rules.

Each Telephone Corporation Is Required to Respond

The Commission assigns a high priority to enforcement of all public utility laws and regulations which protect the public. A necessary component of such enforcement is obtaining information from regulated firms. The Legislature has provided that the Commission have full access to all telephone corporation verification records, and that such records must be produced upon request. PU Code § 2889.5 (a)(6). All telephone corporations are hereby directed to respond to the compliance audit questions attached to this decision. Failure to comply will result in further actions by the Commission.

Findings of Fact

1. As amended, PU Code § 2889.5 requires that all telephone corporations which provide services for which the Commission has authorized competition, including local exchange carriers, as provided in § 2889.5(a)(3)(D), use third-party verification for all residential presubscribed service transfers.

2. All telephone corporations included in § 2889.5, as amended, IECs must produce verification records upon request of the Commission.

Conclusion of Law

The public interest requires that the Commission assess the rate of compliance with PU Code § 2889.5.

O R D E R

Therefore, IT IS ORDERED that:

1. The attached compliance information request and cover letter with instructions should be mailed to all certificated interexchange carriers, all certificated competitive local exchange carriers, and all local exchange carriers.

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2. All such carriers shall respond to this questionnaire on or before the date stated in the cover letter.

This order is effective today.

Dated February 4, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

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STATE OF CALIFORNIA

PETE WILSON, Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



TO: ALL INTEREXCHANGE CARRIERS, COMPETITIVE LOCAL EXCHANGE CARRIERS AND LOCAL EXCHANGE CARRIERS

Pursuant to California Public Utilities Commission, Decision 98-02-009, you are hereby directed to respond to the questions listed on the enclosed questionnaire. Your response should be addressed to:

Jack Leutza
Director, Telecommunications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

A copy of the response should also be provided to the Commission's Docket Office. Neither of the submittals is a "filing" as defined in the Commission's Rules of Practice and Procedure and compliance with Article 2 of those Rules (relating to copies and service requirements) is not required. Your response must be submitted no later than March 9, 1998.

If you have any questions, please feel free to contact me.

Sincerely,

Jack Leutza
Director
Telecommunications Division

Interexchange Carrier PU Code Section 2889.5 Compliance Questionnaire

1. Name and Address of Carrier
2. U Number
3. Does your firm solicit residential customers?
4. If yes, do you have a independent third-party verifier?
5. When did you implement third party verification?
6. What is the name, address, and telephone number of the verifier?
7. Is the verifier in any way affiliated with your firm?
8. Does the verifier operate from facilities physically separate from your firm?
9. Are the verification agents compensated by (A) hourly wage (B) salary (C) commission?
10. If the verification agents are compensated by commission, please state the basis of that commission.
11. Please provide transcripts of the first five verifications obtained in August 1997.
12. Does your firm solicit customers by (A) door-to-door sales agents (B) telemarketers (C) direct mail (D) general advertising?
13. If your firm has used different means of soliciting customers, what is your PIC dispute rate for each type of solicitation?
14. Does your firm accept authorizations to transfer from anyone other than the subscriber?
15. How does your firm confirm that the subscriber is authorizing the change in service?
16. Does your firm solicit business customers?
17. Do you verify business customer transfers? If so, how?
18. What is your firm's practice for handling a customer transfer that has been disputed by the customer?
19. What was your average monthly PIC dispute rate for specific period 1/1/97 to 12/31/97?
20. What was your average monthly PIC dispute rate for 1/1/96 to 12/31/97?
21. What is your practice with regard to employees or sales agents that do not comply with your rules for customer authorization? What information do you use to ascertain whether an employee or sales agent is not in compliance?

PUBLIC UTILITIES COMMISSION

505 VANNES AVENUE
SAN FRANCISCO, CA 94132-3298



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