

ALJ/TRP/sid

Decision 98-02-103 February 19, 1998

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service.

Order Instituting Investigation on the Commission's Own Motion Into Competition for Local Exchange Service.

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**ORIGINAL**

R.95-04-043  
(Filed April 26, 1995)

I.95-04-044  
(Filed April 26, 1995)

**ORDER CORRECTING ERROR IN DECISION 98-01-055**

By this decision, we correct Decision (D.) 98-01-055 (the Decision) to resolve an internal inconsistency between the discussion and ordering paragraphs of the Decision. In the Decision, we approved the petitions of various competitive local carriers (CLCs) to provide local exchange service within the territories of Roseville Telephone Company and Citizens Telephone Company. On page 6 of the Decision, starting on line 7, we state:

"Under existing tariff filing rules set forth in General Order (GO) 96-A, CLCs must file tariffs 40 days before they become effective. Thus RTC's request for service of a copy of each CLC's advice letter tariff filing is already adequately addressed through the provisions of GO 96-A which require each utility to serve a copy of its tariff filing on competing utilities, and any other party requesting such notification. RTC may therefore review a CLC's tariff during the 40-day period before it becomes effective and file a protest if it believes the rates are improper. No additional obligations need to be imposed on the CLCs."

The quoted language is in conflict, however, with Ordering Paragraphs (OP) 3 and 4 of the Decision. OP 3a of the Decision, while authorizing CLCs to file tariffs in accordance with GO 96-A, excludes the requirements of Sections IV, V, and VI of GO 96-A. The excluded sections prescribe a 40-day advance tariff filing requirement. Thus, under OP 3a, CLCs are not bound by the 40-day advance tariff filing requirement

of GO 96-A. OP 3a merely provides that tariffs become effective one day after approval by the Telecommunications Division, but specifies no minimum review period before the Telecommunications Division may approve it. Therefore, the text appearing on page 6 must be modified to conform to OP 3a. Consequently, RTC will not be provided with 40 days to review CLCs' proposed tariffs before they become effective under our adopted rules, as previously stated in the Decision.<sup>1</sup>

Nonetheless, we still find no basis to conclude that RTC has justified the need for a 30-day advance review period before the tariffs become effective. We have not established such a requirement for CLCs competing in the Pacific or GTEC service territories, and we have already concluded in D.97-09-115 that the same tariff-filing rules applicable to CLCs serving in the Pacific/GTEC territories should likewise apply in the RTC/CTC territories. D.97-09-115 already addresses the issue of reasonableness of CLC rates by noting that parties have recourse to file a complaint with the Commission in the event they believe that a CLC rate is unfair or unreasonable. We find no new arguments in RTC's protests which would warrant a change from our previously adopted position or additional filing restrictions.

Likewise, as prescribed by OP 4 of the Decision, CLCs are exempt from Section III.G.(1) and (2) of GO 96-A which require service of advice letters on competing and adjacent utilities, unless such utilities have specifically requested such service. The sentence on page 6 which states that CLCs are required to serve competing and adjacent utilities should therefore be amended to reflect the exemption set forth in OP 4. RTC can still request that it be served with copies of a CLC's advice letter filings if it so

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<sup>1</sup> The tariff provisions of OP 3a specifically pertain to the initial entry into service of the CLCs. By contrast, OP 3b addresses notice requirements for subsequent revisions to existing tariffs after the CLC has already begun offering service. The advance notice periods for tariff revisions under OP 3b vary from five days to 40 days, depending on the type of revision involved. Thus, for example, the requirement in OP 3b(4) for a 40-day advice letter notice before new services can become effective refers to the addition of new services to a previously existing tariff of a CLC already offering service. Since this order addresses the initial filing of tariffs by the CLCs granted authority to enter into service, the relevant reference for tariff filing requirements is to OP 3a.

chooses. Likewise, Finding of Fact 5 should likewise be amended to read: "RTC can specifically make a request to any CLC that RTC be served with a copy of the CLC's advice letter filings."

#### **Findings of Fact**

1. The text on page 6 of D. 98-01-055 is in conflict with the ordering paragraphs with respect to the 40-day advance review period for tariff filings and with respect to the requirement to serve all competitors with copies of proposed tariffs.

2. The revised text for page 6 of the Decision as set forth in the ordering paragraph below is consistent with the ordering paragraphs of the Decision.

3. RTC's proposal for a 30-day advance review period before a CLC's tariffs may become effective is unwarranted since we have already concluded in D.97-09-115 that the same tariff filing rules applicable to CLCs serving in the Pacific/GTEC territories should likewise apply in the RTC/CTC territories.

#### **Conclusions of Law**

1. D.98-01-055 should be modified to change the text on page 6 of the Decision to be consistent with the ordering paragraphs of the Decision relating to tariff service and filing requirements.

2. The modifications in the discussion portion of D. 98-01-055 adopted in this order result in consistency between the discussion and the ordering paragraphs in the Decision and require no change in the ordering paragraphs of the Decision.

#### **IT IS ORDERED that:**

1. The discussion starting on page 6, line 7 of the Decision, through the end of the paragraph shall be deleted. The following shall be inserted in lieu of the deleted text:

"RTC has not justified the need for a 30-day advance review period before the tariffs become effective. We have not established such a requirement for CLCs competing in the Pacific or GTEC service territories, and we have already concluded in D.97-09-115 that the same tariff filing rules applicable to CLCs serving in the Pacific/GTEC territories should likewise apply in the RTC/CTC territories. D.97-09-115 already provides that parties have recourse to file a complaint with the Commission in the event they believe that a CLC rate is unfair or unreasonable. We find no new

arguments in RTC's protests which would warrant a change from our previously adopted position or additional filing restrictions."

2. Finding of Fact 5 of D.98-01-055 should be deleted and replaced with the following language: "RTC can specifically make a request to any CLC that RTC be served with a copy of the CLC's advice letter filings."

This order is effective today.

Dated February 19, 1998, at San Francisco, California.

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