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Mailed

Decision 98-04-012 April 9, 1998

APR 9 1998

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

Malbour L. Watson, M. D.,

Complainant,

vs.

Pacific Bell, A Pacific Telesis Company,

Defendant.

**ORIGINAL**

Case 97-04-062  
(Filed April 28, 1997)

**ORDER OF DISMISSAL**

**Summary**

In this order, we dismiss the complaint of Malbour L. Watson against Pacific Bell (Pacific) at the request of the complainant. We also commend Watson for identifying a potentially widespread problem regarding the reliability of directory assistance databases.

**Watson's Complaint**

Watson filed this complaint on April 28, 1997. The complaint alleges that late in 1996 or early in 1997 he switched his business local telephone service from Pacific to MCI Telecommunications Corporation (MCI). The complaint further alleges that in late March or early April 1997, a patient informed Watson's secretary that his office was not listed in either of the newly distributed white- or yellow-page phone directories. The secretary, the complaint alleges, dialed directory assistance ("411") and found that the number was not listed there either. Watson's complaint sought reinstatement in the directory assistance database and "monetary compensation as allowed by PUC rules."

On May 13, 1997, the Commission's Docket Office served Watson's complaint on Pacific. On June 13, 1997, Pacific filed an answer to the complaint asking that the complaint be dismissed. Pacific argues that the complaint should be dismissed because

the Commission is without authority to award consequential damages and because Watson's business listing had been reinstated in the directory assistance database as of May 7, 1997. Pacific further answers that Watson is listed in both the San Diego white and yellow pages distributed in April 1997.

The assigned administrative law judge (ALJ) conducted a telephonic prehearing conference and a subsequent informal hearing by telephone with the parties to determine the status of Watson's telephone services and address procedural matters. Following a telephonic hearing on October 30, 1997, Watson and Pacific each signed letters to the Commission, both of which stated that the parties had resolved their differences in this proceeding. Watson's letter states he withdraws his complaint. We dismiss the matter as he requests.

#### **Competitive Directory Assistance Databases**

Although we dismiss the complaint at the request of the complainant, we address a broader problem identified by the complainant and confirmed by the Commission staff in the process of resolving this complaint. In attempting to confirm that Pacific had included Watson in the database on May 7, 1997, as Pacific asserted it had, Commission staff made several telephone calls to San Diego directory assistance services. Based on those calls, Commission staff found that until August 1997, Watson was not listed in the long distance directory assistance databases of either GTE California Incorporated (GTEC) or AT&T Communications of California Inc. (AT&T).<sup>1</sup> Watson was apparently, therefore, unlisted in long distance databases for three months after he was listed in Pacific's local database. The cause for the delay in this case is unknown and we have no evidence to suggest impropriety on the part of any party. The potential causes for erroneous unlisted numbers in competitive databases however are several.

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<sup>1</sup> The Commission staff reached these carriers depending upon how the staff chose to access San Diego directory assistance. The staff reached GTEC directory assistance because the Commission's telephone service is routed through GTEC. The staff reached the AT&T service using a personal calling card.

Historically, local directory assistance (411) and long distance directory assistance ((XXX) 555-1212) have been provided by local exchange companies. More recently, state and federal policy have opened the service to competition. Current Commission rules and the Telecommunications Act of 1996 require local exchange companies to include competitors' customers in local directory assistance databases and provide associated services. The Federal Communications Commission (FCC) has required the local exchange companies to provide competitors access to those databases at cost. Competitors may then offer their own directory assistance service, generally as part of a larger package of telephone services.<sup>2</sup> Currently, competitive directory assistance providers purchase updates from local exchange carriers on a daily, weekly or monthly basis to reflect changes in customers' services and telephone numbers. Neither this Commission nor the FCC, however, require competitors to subscribe to the updates or keep their databases current. A customer could be left out of a data base for long periods or indefinitely if the carrier inadvertently fails to update the database or delays database updates in an effort to cut costs. The timeliness of database changes could be compromised if local exchange carrier updates are not current.

In this complaint, Watson informally asks that the Commission take steps to inform the public of the possibility that competitive local exchange services, and long distance services, may not provide adequate directory assistance services. The competitive provision of directory assistance is a matter we have addressed to some extent in our local competition proceeding. Decision (D.) 96-02-072 (Rulemaking (R.) 95-04-043/Investigation (I.) 95-04-044) established interim rules in that proceeding under which competitive directory assistance providers may receive customer information from local exchange companies. We addressed various issues relating to the competitive provisioning of directory assistance services in D.97-01-042. In

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<sup>2</sup> In this case, AT&T was acting as a competitive directory assistance provider. GTEC retains its local data bases as part of its regulatory obligation but provides long distance directory assistance competitively as part of a package of telecommunications services to the state.

D. 97-05-091, the Commission granted the Petition for Modification of D.96-02-072, Conclusion of Law (COL) 29, as filed by the Association of Directory Publishers. In granting this modification, the Commission deleted language from COL 29 which had indicated that the provision of subscriber listings by the incumbent local exchange carriers is not an essential service. D.97-05-091 further directed the assigned ALJ in the Local Competition Docket to issue a procedural ruling to determine what further action was necessary to provide parties with the opportunity to be heard on the issue of whether the provision of local exchange carrier subscriber listings is an essential service. The assigned ALJ in the Local Competition docket has taken comments on this issue and has yet to determine the further procedural steps for addressing this issue.

Since Pacific uses one unified database for both directory assistance and for the publishing of directories, the Commission's further inquiry into the provision of its subscriber listings to third parties for directory publishing may also have a bearing on the competitive provisioning of directory assistance services. GTEC maintains separate databases for directory publishing and directory assistance. The Commission has already ordered GTEC to provide both competitive local carriers and third-party vendors equal access to each of its directory data bases in D.97-01-042. The rulemaking did not address the specific problems we identify here. We are also concerned that the general public is not aware that they may not be listed in competitive directory assistance databases or that their listings may be delayed from the time they change carriers or telephone numbers. Accordingly, we will refer these matters to R.95-04-043 for the purpose of considering these issues. We will issue a ruling in that proceeding which directs the local exchange companies to file comments assessing the concerns raised here and invite other parties to respond to the local exchange companies' filings. We will also develop information on the topic for release to the media and interested consumers.

**Findings of Fact**

1. Complainant in this proceeding has informed the Commission by letter dated October 31, 1997 that he has resolved his dispute with Pacific and withdraws this complaint.

2. In the course of reviewing this complaint, Commission staff have identified potential system problems with information assistance databases.

**Conclusions of Law**

1. The Commission should dismiss the complaint.

2. The Commission should consider whether competitive directory assistance providers, including incumbent local exchange carriers, are providing adequate service and related matters in R.95-04-043 and I.95-04-044, the local competition docket.

**IT IS ORDERED** that Case 97-04-062 is dismissed at request of complainant and the proceeding is closed.

This order is effective today.

Dated April 9, 1998, at San Francisco, California.

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