

Decision 00-03-052 March 16, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into the Service
Quality Standards for All Telecommunications
Carriers and Revisions to General Order 133-B.

Rulemaking 98-06-029
(Filed June 18, 1998)

O P I N I O N

I. Summary

By this decision, we adopt two changes to General Order (G.O.) 133-B. We delete Rule 3.4 Dial Tone Speed and Rule 3.5 Dial Service (Service Observing) because they do not apply to the digital central offices now in use throughout California. Many parties support their removal and no party demonstrated why they should be retained. We are not convinced of the need for further changes to G.O. 133-B at this time.

II. Procedural Background

On June 18, 1998, we instituted this rulemaking to determine the types of service quality standards that should be applicable to all telecommunications carriers. We provided a proposed revision to G.O. 133-B and asked for comments.

On July 14, 1998, a presiding officer's ruling was issued revising the schedule set forth in the rulemaking.

Opening comments were received on August 25, 1998 and reply comments on September 15, 1998. A list of parties filing comments is included as Attachment 1.

On August 27, 1998, the California Alarm Association filed a motion to accept late filed comments pertaining to its opening comments. On September 16, 1998, Cox California Telecom L.L.C. filed a similar motion regarding its reply comments. No responses to either motion were received. No party would be disadvantaged by granting these motions. The motions are granted.

In our Order Instituting Rulemaking (OIR), we preliminarily categorized this proceeding as quasi-legislative. We also preliminarily determined that no hearings were necessary. Motions requesting hearings were filed on October 16, 1998 by the following parties:

Pacific Bell
GTE California Incorporated
Roseville Telephone Company
Cox California Telecom L.L.C.
California Telecommunications Coalition¹
Calaveras, et al.²

These motions asked for hearings to address the following issues that they believe should be addressed before new rules are adopted.

- Complaint data included in the rulemaking.
- Costs and impacts of the proposed rules.
- Need for and justification of the proposed rules.
- Recovery of implementation costs.

The following parties responded on October 30, 1998 in opposition to the motions:

¹ See Attachment 1, p.2.

² See Attachment 1, p. 1.

Office of Ratepayer Advocates (ORA)
The Utility Reform Network (TURN)
Utility Consumer's Action Network (UCAN)
Sun Yung Kim

These parties opposed the requests for hearings for the following reasons:

- Due process requirements were satisfied by the comments.
- Setting hearings would unnecessarily delay implementation.

The issues proposed for hearings are moot because we are not adopting the changes to G.O. 133-B that the hearings would have addressed. The motions are denied.

On December 2, 1998, the draft decision of Assigned Commissioner Conlon was mailed to parties for comment. Comments were filed on December 11, 1998.

The draft decision of Administrative Law Judge (ALJ) O'Donnell in this matter was mailed to parties in accordance with Pub. Util. Code Section 311(g) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on January 7, 1999. Reply comments were filed on January 12, 1999.

On February 23, 1999, the assigned administrative law judge issued a ruling requesting responses to a list of questions regarding service quality standards. Responses were filed on March 29, 1999 and replies were filed on April 12, 1999.

III. The Comments Generally

As indicated above, we have requested and received several rounds of comments on the rules proposed in the OIR, on draft decisions prepared in this proceeding, and on questions pertaining to the rules. The comments may be grouped into two topics: (1) what the rules, if any, should be, and (2) to which providers the rules should apply.

The utilities have generally recommended that because of competition, no rules are needed. However, if there are to be rules, they should be the current

rules. In contrast, consumer representatives have generally recommended that the rules be much stronger. They generally stated that there is not enough competition, or that competition by itself, is not sufficient to eliminate the need for rules.

As to which types of providers the rules should apply, the utilities have said that the rules should not apply to themselves and/or similar carriers. In some cases, they have recommended that the rules should be applied to other types of providers. They have also said that if other types of providers are not subject to the rules, they should not be subject to them. One consumer representative recommended that the rules apply to all service providers, while others have recommended that they apply only to some types of providers.

Many parties recommended changes to individual rules within the general order. Some parties also recommended expansion of the general order to cover additional areas.

IV. Discussion

We have considered all of the comments received in this proceeding. We acknowledge that the current general order is not perfect. However, no party has convinced us that the rule proposed in the OIR, or any other proposal, is significantly better than the current general order. Therefore, with two exceptions, we will retain the existing general order.

V. Rule 3.4 Dial Tone Speed and Rule 3.5 Dial Service (Service Observing)

These two rules measure how fast a customer receives a dial tone and the percentage of intra-company calls that are completed. The standards proposed in the OIR are 98% answered within three seconds and 98.5% of calls completed, respectively. The current standards are 97.4% answered within three seconds and 98% of calls completed, respectively.

A number of local exchange carriers, ORA, UCAN and TURN recommended that these rules be deleted because they do not apply to digital central offices. Substantially all central offices in California are digital. No party demonstrated why these rules should be retained. We will delete them.

VI. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on December 6, 1999, and reply comments were filed on December 13, 1999. The comments were generally similar to previously submitted comments. All comments were considered. No material changes were made to this decision.

Findings of Fact

1. R.98-06-029 was filed on June 18, 1998.
2. Comments were filed on August 25, 1998.
3. Reply comments were filed on September 15, 1998.
4. Comments on the draft decision of Assigned Commissioner Conlon were filed on December 11, 1998.
5. Comments and reply comments were filed on the draft decision of ALJ O'Donnell on January 7 and January 12, 1999, respectively.
6. Responses and replies to questions posed in a February 23, 1999 ALJ ruling were received on March 29 and April 12, 1999, respectively.
7. Rule 3.4 Dial Tone Speed and Rule 3.5 Dial Service (Service Observing) do not apply to digital central offices and are, therefore, not needed.

Conclusions of Law

1. GO 133-B should be retained, except as noted below.
2. Rule 3.4 Dial Tone Speed and Rule 3.5 Dial Service should be deleted.
3. Hearings are not necessary.

O R D E R

1. Rule 3.4 Dial Tone Speed and Rule 3.5 Dial Service (Service Observing) of General Order 133-B are deleted.

2. This proceeding is closed.

This order is effective today.

Dated March 16, 2000, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

CARL W. WOOD

LORETTA M. LYNCH

Commissioners

Attachment 1

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List of Parties Filing Comments

ILECs (and Related Companies)

Pacific Bell (Pacific Bell)

GTE California Incorporated and
GTE Communications Corporation (GTEC)

Citizens Telecommunications Company of California,
Citizens Telecommunications Company of the Golden State,
Citizens Telecommunications Company of Tuolumne, and
Citizens Telecommunications Company (Citizens)

Roseville Telephone Company (Roseville)

Calaveras Telephone Company^{1/}

Cal-Ore Telephone Company^{1/}

Ducor Telephone Company^{1/}

Foresthill Telephone Company^{1/}

The Ponderosa Telephone Company^{1/}

Sierra Telephone Company, Inc.^{1/}

Evans Telephone Company^{2/}

GTE West Coast Incorporated^{2/}

Happy Valley Telephone Company^{2/}

Hornitos Telephone Company^{2/}

Kerman Telephone Company^{2/}

The Siskiyou Telephone Company^{2/}

The Volcano Telephone Company^{2/}

Winterhaven Telephone Company^{2/}

^{1/} Filed jointly.

^{2/} Filed jointly.

Attachment 1

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List of Parties Filing Comments

Other Telecommunications Companies

Cox California Telecom L.L.C. (Cox)

GST Telecom California, Inc. and
GST Pacific Lightwave, Inc. (GST)

Northpoint Communications, Inc. (Northpoint)^{6/}

Allegiance Telecom of California, Inc. (Allegiance)

California Association of Competitive Telecommunications
Companies^{3/}

The Telecommunications Resellers Association^{3/}

The Competitive Telecommunications Association^{3/}

AT&T Communications of California, Inc.^{4/6/}

MCI Telecommunications Corporation^{4/6/}

Sprint Communications Company L.P.^{4/6/}

Covad Communications Co.^{4/6/}

MCG Communications, Inc.^{4/6/}

Firstworld Communications, Inc.^{4/6/}

ICG Telecom Group, Inc.^{4/6/}

Pacific Bell Mobile Services

WirelessCo, L.P.^{5/}

^{3/} Filed jointly.

^{4/} Filed jointly.

^{5/} Filed jointly.

^{6/} Filed reply comments jointly as the California Telecommunications
Coalition.

Attachment 1

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List of Parties Filing Comments

Other Telecommunications Companies (Continued)

Cox Communications PCS, L.P. dba Sprint PCS^{5/}

The Cellular Carriers Association

AirTouch Communications, Inc.

Los Angeles Cellular Telephone Company

Central Wireless Partners

Time Warner Connect^{6/}

Time Warner AxS of California, L.P.^{6/}

AT&T Wireless of California, Inc.^{6/}

Redding Cellular Partnership^{6/}

Santa Barbara Cellular Systems, Ltd.^{6/}

Nextlink California^{6/}

LCI International Telecom Corp.

Customers, Customer Representatives and Others

California Alarm Association

California Cable Television Association (CCTA)^{6/}

Greenlining Institute^{7/}

Latino Issues Forum^{7/}

Office of Ratepayer Advocates (ORA)

Utility Consumer Action Network (UCAN)

The Utility Reform Network (TURN)

Sun Yung Kim (Kim)

California Small Business Association (CSBA)

^{7/} Filed jointly.

(END OF ATTACHMENT 1)