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Decision 99-01-017 January 20, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

William Alan Fabricius, Complainant, vs. Ducor Telephone Company (U 1007 C), Defendant.	Case 97-03-018 (Filed March 13, 1997)

OPINION

1. Summary

This decision finds in favor of complainants in the mountain community of Ducor, and it directs that the toll-free calling area for the community be extended to include nearby Porterville. Residential subscribers will pay $1.35 a month more and businesses $4 a month more for this extended service. This proceeding is closed.

2. Extended Area Service

The complaint, brought by William Alan Fabricius and endorsed by 150 subscribers in Ducor, seeks extended area service (EAS) from the Ducor exchange to the Porterville exchange 13 miles away. There are about 300 telephone lines serving Ducor. Ducor Telephone Company (Ducor Telephone) does not dispute the fact that most of Ducor's essential calling needs are in Porterville, nor does it oppose EAS if the company does not lose money in the process.

To briefly explain, EAS extends the geographic reach of a local toll-free calling area. Generally, the service territories of local telephone carriers are divided into local exchanges. Each local exchange has a point designated as a rate center that is used to measure the distance of calls for billing purposes. Generally, if the centers for two exchanges are within 12 miles of one another, the calls between those exchanges are local calls. If the rate centers are greater than 12 miles apart, the calls between the exchanges are toll calls. EAS permits customers in one exchange to extend the toll-free local calling area into another exchange when the rate center is more than 12 miles away.

EAS routes traditionally have been established through formal complaint cases filed by customers. In the past, in deciding whether to authorize an EAS route, the Commission has considered (1) whether there is a community of interest between the local exchange and a target area beyond the existing toll-free calling area; (2) whether there is customer support for extending the area of service, and (3) whether the EAS route can be implemented with reasonable rates. To determine the existence of a community of interest, the Commission has applied three tests: (1) whether the number of calls per line between the complainants' exchange and the target exchange averages at least three to five per month; (2) whether the percentage of affected subscribers who make at least one call a month to the target exchange is at least 70-75%; and (3) whether most essential calling needs (police, fire, medical, legal, schools, banking and shopping) can or cannot be met within subscribers' existing toll-free calling area. (Collin v. Pacific Bell, Decision (D.) 98-03-076 (March 26, 1998).)

If all of these tests appear to be met, the Commission requires a survey of subscribers to determine whether they are willing to pay the additional service charge in order to have toll-free calling to the target exchange. The cost of an EAS route, borne by all subscribers in the affected exchange, is calculated pursuant to a "Salinas formula," adopted by the Commission in D.77311 in 1970. Any additional costs borne by the telephone company are recovered through a statewide surcharge intended to subsidize rural phone service.

In Rulemaking re Local Exchange Service, D.98-06-075, issued on June 18, 1998, the Commission concluded that increased competition introduced in local toll calling on January 1, 1995, had given consumers a choice of carriers and rates not previously available. Accordingly, the need for EAS routes had diminished. The Commission ruled that no further EAS complaints would be considered unless filed prior to June 18, 1998. The Commission ruled that pending EAS cases, like this one, were to be processed under the Commission's traditional guidelines.

3. Procedural History of This Complaint

This complaint was filed on March 13, 1997. Complainant and his neighbors argued that essential calling needs of their community were to the Porterville exchange, and that toll charges for those calls were burdensome and unfair. The Ducor and Porterville exchanges are located about 13 miles apart. The Ducor exchange is served by Ducor Telephone. The Porterville exchange is served by Pacific Bell.

A prehearing conference was held on July 23, 1997, in Porterville before Administrative Law Judge (ALJ) Garde, who has since retired.[1] At the hearing, Ducor Telephone stated that it would not oppose establishment of an EAS route from Ducor to Porterville if Ducor Telephone were made whole on lost revenue. Ducor Telephone also agreed to supply calling data to the Commission's

[1] The case was reassigned to ALJ Walker on June 26, 1998. The Assigned Commissioner continues to be Henry M. Duque.

Telecommunications Division to determine whether Ducor calls to Porterville met the traditional EAS tests.

The Telecommunications Division analyzed toll billing data between Ducor and Porterville exchanges for the months of December 1996 and January, April and July 1997. The results showed that Ducor subscribers made an average of nearly 40 calls per month into the Porterville exchange, and that more than 90% of Ducor subscribers called into Porterville at least once a month. There is no question that essential calling needs are not met within the Ducor exchange.

The analysis also included a cost of EAS service based on a revenue-neutral calculation. This yielded an estimated EAS surcharge of $5.34 per month for residential subscribers and $11.05 per month for business subscribers. Because these amounts were more than most Ducor residents pay in toll charges to Porterville, an EAS was deemed uneconomical. When these results were conveyed to the parties in December 1997, both complainant and Ducor Telephone objected, noting that a revenue-neutral calculation was a departure from the Commission's traditional application of the Salinas formula for calculating the surcharge.

Early this year, at the direction of Assigned Commissioner Duque, EAS costs were calculated pursuant to the Salinas formula. Under that calculation, residential subscribers would pay an additional $1.35 per month (68 cents for Lifeline) and business subscribers would pay an additional $4 per month for an EAS route to Porterville, and Ducor Telephone would be permitted to recover any shortfall in costs and revenue through a state-wide surcharge fund called the California High Cost Fund-A.

The Telecommunications Division in July 1998 mailed questionnaires to Ducor subscribers asking whether they were willing to pay the Salinas formula rates for an EAS route to Porterville. The results, attached to this decision as Appendix A, showed an 87% approval of the EAS route and surcharge.

4. Discussion

In its decision in June 1998 foreclosing new EAS complaints, the Commission recognized that the need for extended area service diminished with the introduction of local toll competition four years ago. Where subscribers in rural areas previously had no choice but to place toll calls through their monopoly telephone carrier, the same subscribers today may place such calls using any of numerous telephone companies with competing rate plans. (Rulemaking, supra.)

Responding to arguments that rural communities had come to rely on existing EAS routes, the Commission declined suggestions that it eliminate existing EAS service, and it provided that EAS complaints pending at the time of its decision would "proceed based on the factual merits of each case." (Rulemaking, supra, slip op. at 10.) In dicta, the Commission commented that the Salinas formula was based on outdated cost assumptions, but the Commission did not require a change in those assumptions for pending cases. (Rulemaking, supra, slip op. at 8.) Indeed, after three decades of reliance on the Salinas formula, a change in that calculation arguably would require a rulemaking proceeding in which all interested parties could be heard.

It follows, therefore, that a pending EAS case like this one should be judged based on the criteria and calculations, including the Salinas formula, that have been applied to all such cases for many years. Based on those standards, there can be no question on this record that complainant has established that a community of interest exists between the Ducor and Porterville exchanges, that frequency of calls meets and exceeds the traditional EAS tests, and that Ducor subscribers support establishment of an EAS route to Porterville with an EAS surcharge based on the Salinas formula. By the same token, Ducor Telephone will be entitled to file an Advice Letter, with supporting workpapers, to seek recovery of costs and revenue shortfall attributable to the EAS route through the state-wide California High Cost Fund-A. Accordingly, the complaint is granted, and we direct Ducor Telephone as soon as practical to establish a one-way EAS route from the Ducor exchange to the Porterville exchange.

5. Comments on Draft Decision

The draft decision in this case was mailed to the parties on December 18, 1998. Fabricius had no comments on the draft. Ducor asked that the amount it be permitted to recover from the California High Cost Fund-A be increased by $5,000 to include estimated implementation costs that had been noted on the record. Ducor also asked that Ordering Paragraph 6 be revised to more particularly outline the cost recovery process. Each of these requests is supported by the record and is reasonable. The recommended changes have been made in the final draft of the decision.

Findings of Fact

1. Complainant requests that the Commission authorize an EAS route from the Ducor exchange to the Porterville exchange.

2. Ducor Telephone does not oppose establishment of an EAS route if Ducor Telephone can be made whole as to costs and loss of revenue.

3. A Telecommunications Division analysis shows that Ducor subscribers average nearly 40 calls per month into the Porterville exchange, and more than 90% of Ducor subscribers call into Porterville at least once a month.

4. Under the Salinas formula, residential subscribers would pay an additional $1.35 per month (68 cents for Lifeline subscribers) and business subscribers would pay an additional $4 per month for an EAS route to Porterville.

5. Approximately 87% of Ducor subscribers responding to a mail survey favor establishment of an EAS route to Porterville at the Salinas formula rates.

Conclusions of Law

1. The Ducor exchange meets the Commission's historic tests for establishment of an extended area service route to the Porterville exchange.

2. The record does not show that competitive alternatives in telephone service have developed to the point that EAS is inappropriate for the Ducor exchange.

3. The relief sought by complainant should be granted.

4. Ducor Telephone should be directed to establish an EAS route from the Ducor exchange to the Porterville exchange.

5. Ducor Telephone should be authorized to file an Advice Letter to recover implementation and lost revenue costs attributable to the EAS route.

6. This is a complaint case challenging the reasonableness of rates or charges, and this decision is not issued in an adjudicatory proceeding as defined in Public Utilities Code § 1757.1.

ORDER

IT IS ORDERED that:

1. The complaint of William Alan Fabricius vs. Ducor Telephone Company (Ducor Telephone) is sustained.

2. To the extent that the complaint asks that Ducor Telephone be required to establish one-way extended area service (EAS) from the Ducor exchange to the Porterville exchange, the relief requested is granted.

3. To the extent that the complaint seeks relief other than establishment of a one-way route from the Ducor exchange to the Porterville exchange, the relief requested is denied.

4. Ducor Telephone is directed, as soon as practical, to establish one-way EAS from the Ducor exchange to the Porterville exchange.

5. Ducor Telephone is authorized to file tariffs within six months of the date of this decision reflecting an EAS surcharge for Ducor subscribers once the EAS route is implemented.

6. In its annual high cost fund advice letter filing, Ducor Telephone is authorized to seek, with supporting workpapers, recovery from the California High Cost Fund-A of $84,497 which represents the recurring intrastate annual revenue loss, and up to $5,000 associated with implementation and other unrecovered costs of the EAS route serving the Ducor exchange.

7. Case 97-03-018 is closed.

This order is effective today.

Dated January 20, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

APPENDIX A

DUCOR EAS SURVEY RESULTS

		R	E	S	P	O	N	S	ES
	CUSTOMERS SURVEYED	TOTAL RE-SPONSES	RESPONSES AS % OF CUSTOMERS SURVEYED	YES	NO	COMMENTS	NO CHOICE	NON DELIVER-ABLE	YES AS A % OF TOTAL RESPONSES
RESIDENCE	266	126	47.37%	113	11	64	0	2	89.68%
BUSINESS	41	20	48.78%	14	5	5	1	0	70.00%
GRAND TOTAL	307	146	47.56%	127	16	69	1	2	86.99%

(END OF APPENDIX A)