PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Telecommunications Branch

RESOLUTION T-15854*
March 13, 1996

R E S O L U T I O N

RESOLUTION T-15854. HAPPY VALLEY TELEPHONE CO. (HAPPY VALLEY) (U-1010C). REQUEST FOR APPROVAL OF CUSTOMER NOTIFICATION AND EDUCATION PLAN (CNEP) IN COMPLIANCE WITH PUBLIC UTILITIES CODE SECTION 2893 AND FEDERAL COMMUNICATIONS COMMISSION (FCC) RECONSIDERATION ORDER 95-187 WHICH MUST BE IMPLEMENTED AND MUST THEREAFTER BE SHOWN TO BE EFFECTIVE TO THE COMMISSION'S SATISFACTION BEFORE HAPPY VALLEY CAN PASS CALLING PARTY NUMBERS (CPN) TO INTERCONNECTING CARRIERS.

BY ADVICE LETTER 159, FILED ON FEBRUARY 21, 1996.

SUMMARY

This Resolution authorizes Happy Valley to implement a CNEP for the passage of CPN subject to the conditions imposed in this Resolution. As modified and implemented, Happy Valley's CNEP will constitute a public education program which focuses on customer privacy and informed consent. This is consistent with the policies and requirements adopted for Pacific Bell (Pacific), GTE of California (GTEC) and Roseville Telephone Company (Roseville) in T-15827, T-15833 and Decision 96-02-012. With this approach, Happy Valley should initially attain the customer awareness level indicated in this Resolution, with a target of 100% customer awareness for ongoing education efforts. Additionally, by adopting a program using the same terms, definitions and similar messages developed for Pacific's, GTEC's and Roseville's customers, customer awareness of the passing of CPN will be increased through recognition and reinforcement by repetition of these messages throughout California. As requested by Happy Valley, Advice Letter 159 is effective on less than 40 days notice to allow for expeditious implementation of its CNEP.

BACKGROUND

In 1992 the Commission authorized Pacific, GTEC and Contel of California, Inc. (Contel) to offer Caller ID service to their customers. In so doing, the Commission took steps to assure that the service, which allows the calling party's telephone number to be displayed to the called party, would be offered consistent with constitutional and statutory rights of privacy of California citizens. The Commission authorized a choice of blocking options, free of charge, for all customers to prevent nonconsensual number disclosure. For customers dissatisfied with their initial assignment of a blocking option, it granted

one free change of this blocking option. It also outlined requirements for rigorous CNEPs to inform customers about the passage of CPN and the available blocking options.

Under the Commission's 1992 decisions, each respondent local exchange carrier is required to file its proposed CNEP with and obtain approval of its CNEP from the Commission before implementing a CNEP. After the approval and subsequent implementation of a CNEP the utility must provide a showing to the Commission, subject to approval by the Commission, indicating compliance with the adopted CNEP requirements and providing evidence that all customers have been informed of pending Caller ID service and available blocking options.

Until recently California utilities have declined to offer Caller ID service, pursuing instead Federal preemption of certain aspects of the Commission's conditions for offering Caller ID service. On June 5, 1995 the FCC issued its interstate Caller ID rules in Common Carrier Docket No. 91-281. The FCC substantially deferred to California and all other states, stating that individual state blocking regimes should apply to interstate calls so long as minimum federal privacy standards are met. Regarding customer education, the FCC adopted the Commission's informed consent standard and deferred to states to determine, in light of special circumstances applicable to a particular state, appropriate requirements for achieving effective education.

The FCC's order required all local exchange carriers to begin passing CPN to interconnecting carriers on December 1, 1995. On June 22, 1995, the Commission Advisory and Compliance Division (CACD) wrote local exchange carriers alerting them to the pending FCC requirement to pass CPN and to CACD's determination of utility requirements to develop and conduct effective CNEPs to satisfy the informed consent standard for the passing of CPN. CACD requested all local carriers to inform it of their ability to comply with the FCC rules, their intent to offer Caller ID service and their plans to file a proposed CNEP with the Commission.

On August 16, 1995, CACD sent local carriers who had not been authorized to offer Caller ID a letter to clarify filing requirements to request authority either to offer Caller ID and pass CPN or just to pass CPN. Utilities planning to offer Caller ID service were instructed to file an application and include a proposed CNEP for review and approval. Utilities not planning to offer Caller ID concurrently with beginning to pass CPN were instructed to file for approval of their proposed CNEPs by advice letter. As it became evident that there was insufficient time for California utilities to implement CNEPs by December 1, 1995, they sought waivers to the FCC of the December 1, 1995 deadline. Although the large companies requested a 6 month extension, to June 1, 1996, many small companies, including Happy Valley, requested a waiver of the requirement to pass CPN for 6 months from the date Pacific and GTEC begin to pass CPN. On December 1, 1995 the FCC granted a 6 month extension, until June 1, 1996, for all California carriers; the

request for an additional 6 months for the small carriers was denied.

In order to explore the possibility of a statewide CNEP plan, the California Telephone Association met on January 22, 1996 for the purpose of being briefed on the CNEP elements developed for Pacific by its consultant, with the thought of these elements being used by all carriers. On February 14, 1996 CACD sent a letter to the carriers that had not filed proposed CNEPs. This letter described CACD's recommended basic CNEP requirements for small local exchange carriers (LECs). The goal of the letter was to (1) facilitate the prompt filing by the small LECs in order for their CNEPs to be conducted at the same time as those of the large carriers in order to minimize customer confusion and (2) to encourage the use of common CNEP elements.

Briefly CACD's recommended CNEP includes:

- o Conducting a community outreach effort
- o Sending two bill inserts or direct mail letters
- o Sending a special notice to non-published/unlisted customers
- o Sending confirmation letters to customers for choice of blocking option or for assigned default blocking
- o Advertising in local newspaper(s) and radio
- o Conducting an awareness survey or achieving a 70% level of blocking choice by customers
- o Establishing an 800 or local number for customer assistance, available during some non-business hours
- o Developing an ongoing education program

Happy Valley filed Advice Letter No. 159 on February 21, 1996, requesting adoption of its proposed CNEP on less than the 40 day notice period required by General Order 96A (GO 96A) in order to expeditiously implement its program before passing CPN on June 1, 1996.

Happy Valley's proposed CNEP includes the following components:

- o Community Outreach - Includes participation in community meetings, personal contacts with agencies and businesses having "need to know" status and personal customer contacts by customer service representatives. Happy Valley has included a list of some of the organizations and events included in its outreach program. On May 16, 1996 Happy Valley will invite all customers to an open house.

- o Letter to non-published/unlisted customers - Will be sent after the first direct mailing to all customers. Draft of letter provided.

- o Bill inserts/direct mail - Happy Valley proposes sending two direct mail notifications with a postage paid return envelope to return the customer's blocking selection ballot. Draft of letter provided.

- 800 or local number - Happy Valley proposes the establishment of a 24 hour local voice mail number which will provide information, instructions and the opportunity to leave a message for a customer service representative to all back.

- Public service announcements - Happy Valley will run ads in local newspapers. There are no local radio stations.
- Confirmation Letters - CNEP includes draft letters and stickers, to be sent as blocking choice ballots received. Proposes to send default confirmation letter on May 15, 1996.

- Customer awareness levels - Happy Valley proposes in lieu of attaining the levels required for the larger utilities, necessitating a professional survey, to instead reach a 70% blocking choice ballot return by its customers. After the two direct mail notices have been sent Happy Valley will conduct a telephone calling campaign to increase ballot returns and take verbal instructions about blocking choices. Happy Valley will send a report to the Commission by June 1, 1996 which describes the percentage of customers choosing a blocking option or being assigned the default.

- Ongoing education - Happy Valley will continue its 24 hour voice mail system indefinitely. Additionally Happy Valley will send new customers notices and ballots concerning CPN passage and will send them confirmation letters with stickers for blocking choice. The telephone directory will include information about CPN passage and blocking options. Monthly billing statements will include a line item that indicates the blocking option assigned to the customer's telephone number. Finally, Happy Valley's annual notice on telephone services will include information about passing CPN and blocking options.

NOTICE/PROTESTS

Notice of Advice Letter No. 159 was published in the Commission's Daily Calendar on February 23, 1996. No protests or comments have been filed in conjunction with this advice letter.

DISCUSSION

Happy Valley's proposed plan includes not only the required components but proposes additional actions. Happy Valley will continue its 24 hour voice mail information hotline beyond the June 1 date, not only for new customers but for existing customers. Also, Happy Valley will call customers to obtain blocking requests if at the end of the campaign adequate awareness has not be achieved.

We do feel, however, that in two areas Happy Valley's education components should be modified. The first concerns Happy Valley's community outreach effort. We believe that to be consistent with other utilities Happy Valley should develop a complete list of the agencies and organizations who should be notified of the passing of CPN and sent a copy of Happy Valley's adopted CNEP, along with Happy Valley's offer to meet with them, etc. Happy Valley should be required to submit this list to CACD as a supplement to its plan by April 1, 1996.

Second, Happy Valley's voice mail information hotline will not enable callers to speak with a live operator on non-business hours. While we realize that the small companies may have limited staff and resources to devote to this educational campaign, we believe that customers who may not be able to call during normal business hours should be able to contact or be contacted by a utility employee or agent during some non-business hours. Although we are not requiring the small companies to make a live agent available for all 24 hours we will require small companies to have some non-business hour coverage. We believe that Happy Valley and other small companies can manage this access so as to minimize the intrusion on employees' personal lives.

In addition, on January 31, 1996, the United States Court of Appeals for the Ninth Circuit denied our appeal of the FCC decision (U.S. Court of Appeals opinion in California v. FCC, 9th Circuit No. 94-70197, et al.). In the event we appeal the circuit court opinion and prevail, Happy Valley should contact subscribers to nonpublished service who have been assigned selective blocking by default to inform each one of the change in default blocking option. Happy Valley should submit its proposed notice to customers on the change in blocking option default to CACD for approval prior to mailing.

As with the other utilities, we are requiring CACD to review the final drafts of messages and to coordinate them with the Public Advisor's review and approval of the direct mail letter before Happy Valley issues them. This will assure general consistency with Pacific's and GTEC's tested messages. Concerning the requirement to file a report to CACD on the percentage of customers choosing a blocking option or being assigned the blocking default, we will require Happy Valley and other small companies to file this report with CACD by May 15, 1996.

Due to the fact that the CNEP must be implemented and awareness demonstrated to the Commission before June 1, 1996, when the FCC requires LECs to begin passing CPN, it is reasonable to approve Happy Valley's Advice Letter No. 159 on less than 40 days notice.

FINDINGS

1. Happy Valley Telephone Company (Happy Valley) filed its proposed Customer Notification and Education Plan (CNEP) on February 21, 1996 in Advice Letter No. 159.

2. The Federal Communications Commission (FCC) in its reconsideration order of Rules governing interstate Caller ID (Docket 91-281) granted states discretion to adopt customer notification and education plans prior to the passage of CPN.

3. The Commission Advisory and Compliance Division (CACD) sent the small local exchange carriers (LECs) a letter on February 14, 1996 outlining the minimum CNEP requirements for a small LEC.

4. Happy Valley's proposed CNEP exceeds the minimum requirements for a small LEC.

5. Happy Valley should be required to operate its information hotline allowing customers to contact or be contacted by an employee during some non-business hours.

6. In lieu of reaching the awareness levels required of other utilities whose CNEPs have been authorized by the Commission, Happy Valley proposes to achieve a 70% level of blocking requests by Happy Valley's customers.

7. Happy Valley should be required to submit to CACD a complete list of agencies and organizations for its community outreach component by April 1, 1996.

8. Happy Valley should send each of these agencies and organizations a copy of its adopted CNEP before the first direct mail letter is sent to Happy Valley customers.

9. Happy Valley should be required to file with CACD by May 15, 1996 its report on the percentage of customers choosing a blocking option or being assigned the blocking default.

THEREFORE, IT IS ORDERED that:

1. Happy Valley Telephone Co. (Happy Valley) Advice Letter No. 159 requesting authorization to implement its Customer Notification and Education Plan (CNEP) on less than 40 days notice is granted subject to the following conditions:

a. Happy Valley shall operate its hotline for Calling Party Number blocking information to allow customers to speak with a Happy Valley employee or agent during some non-business hours.

b. Happy Valley shall develop a complete list of agencies and organizations requiring information about the passing of Calling Party Number issues and shall submit this list to the Commission Advisory and Compliance Division (CACD) by April 1, 1996.

c. Happy Valley shall send each of the agencies and organizations identified in 1.b. above a copy of Happy Valley's adopted CNBP before Happy Valley issues its first direct mail letter to customers.

d. Happy Valley shall file with CACD its report by May 15, 1996 on the percentage of customers choosing a blocking option or being assigned the blocking default.

e. In the event that the State of California appeals the U.S. Court of Appeals opinion in California v. FCC, 9th Circuit No. 94-70197, et al., and prevails, Happy Valley shall contact subscribers to nonpublished service who have been assigned selective blocking by default to inform each one of the change in default blocking option.

2. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on March 13, 1996. The following Commissioners approved it:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, Jr.
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