

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15855
Telecommunications Branch March 13, 1996

R E S O L U T I O N

RESOLUTION T-15855. THE PONDEROSA TELEPHONE CO. (PONDEROSA). (U-1014-C). 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 PONDEROSA CAN PASS CALLING PARTY NUMBERS (CPN) TO INTERCONNECTING CARRIERS.

BY ADVICE LETTER 222, FILED ON FEBRUARY 21, 1996.

SUMMARY

This Resolution authorizes Ponderosa to implement a CNEP for the passage of CPN subject to the conditions imposed in this Resolution. As modified and implemented, Ponderosa'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), GTB of California (GTEC) and Roseville Telephone Company (Roseville) in T-15827, T-15833 and Decision 96-02-012. With this approach, Ponderosa 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 of and reinforcement by repetition of these messages throughout California. As requested by Ponderosa, Advice Letter 222 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

March 13, 1996

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 our 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 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 were instructed to file an application while utilities not planning to offer Caller ID concurrently with beginning to pass CPN could 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 larger companies requested a 6 month extension, to June 1, 1996, many small companies, including Ponderosa, 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 so that their CNEPs could be conducted concurrently with 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 option
- 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

Ponderosa filed Advice Letter No. 222 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. Ponderosa's proposed CNEP has in all but one respect not only satisfied CACD's basic requirements but has exceeded it by proposing additional educational efforts.

NOTICE/PROTESTS

Notice of Advice Letter No. 222 was published in the Commission's Daily Calendar on February 23, 1996. No protests or comments have been filed.

DISCUSSION

Ponderosa's filing is exemplary in that it satisfies all of the requirements mentioned above, with one minor exception, and also proposes the following additional actions to educate its customers. Ponderosa plans to indicate permanently on all customer monthly billing statements the blocking option assigned to the customer's phone number. Also, Ponderosa plans to purchase and distribute posters in strategic locations throughout the communities it serves. Finally, in the event that adequate customer awareness has not been achieved as demonstrated by customer choice of blocking options Ponderosa will conduct a telephone campaign to educate customers about CPN passage and to acquire customers' blocking choice.

March 13, 1996

The one deficiency in Ponderosa's plan concerns the availability of a live operator or employee through its 24 hour information hotline. Ponderosa does not plan to have a live operator available after normal 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 off hours. Although we are not requiring the small companies to make a live agent available for 24 hours we are requiring small companies to have some non-business hour coverage. We believe that Ponderosa and other small companies can manage this access so as to minimize the intrusion on employees' personal lives.

We also are concerned about Ponderosa's proposed timeline which will result in default confirmation letters being sent to customers on May 20, 1996. We suggest that Ponderosa modify its timeline to allow for the default blocking to be assigned no later than May 15, 1996 as was recommended in our February 14, 1996 letter.

The remaining components of Ponderosa's CNEP are as follows:

- o Community Outreach Effort - Ponderosa will mail copies of its CNEP to community leaders and organizations and will invite them to an outreach session during March. Additionally the community at large will be notified and invited to this session by ads in the local press.
- o Direct Mail - In lieu of bill inserts, Ponderosa will send customers two direct mailings which will include choice ballots.
- o Confirmation letters - Will be sent with appropriate stickers as choice ballots are received. On May 20th customers having not indicated a blocking choice will be notified that they are being provided the default option.
- o Media Coverage - As Ponderosa and Sierra Telephone Company service areas are covered jointly by many news outlets, the utilities will coordinate and jointly offer newspaper and radio ads. Additionally customers will be reached through media coverage sponsored by Pacific.
- o Ongoing Education - This includes continuation of the 24 hour information hotline and access to an employee during normal business hours. Additionally new customers will be notified of the hotline as well as a copy of the direct mail notice with the return choice ballot. Confirmation letters and stickers will be provided. Also included in Ponderosa's proposed CNEP is the draft statement for inclusion in the directory pages. Finally, Ponderosa will include information about passing of CPN and Caller ID blocking options with its annual customer notice.

March 13, 1996

- o Awareness Level - Ponderosa proposes to achieve a 70% level of blocking choices registered by its customers in lieu of the 70% aided awareness, 60% understanding and 30% action standards required for other utilities and requiring an opinion survey. Ponderosa will send a report to CACD stating the attained level of choice of blocking options.

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, Ponderosa should contact subscribers to nonpublished service who were assigned selective blocking by default to inform each one of the change in default blocking option. Ponderosa should submit its proposed notice to customers on the change in blocking option default to CACD for approval prior to mailing.

We commend Ponderosa for its thoroughness and commitment to the public education campaign philosophy. We believe that if Ponderosa's comprehensive proposed CNEP is implemented as modified by this Resolution this should result in more than adequate awareness by its customers. As with the other utilities, we are requiring CACD to review the final drafts of messages and to coordinate with the Public Advisor's review and approval of the direct mail letter, before Ponderosa issues them. This review will assure general consistency with Pacific's and GTEC's tested messages.

We also require Ponderosa to provide CACD with the results from the community outreach meeting especially if it results in any modification of Ponderosa's CNEP. Finally, concerning the requirement to file a report with CACD on the percentage of customers choosing a blocking option or being assigned the blocking default, we will require Ponderosa 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 Ponderosa's AL No. 222 on less than 40 days notice.

FINDINGS

1. The Ponderosa Telephone Company (Ponderosa) filed its proposed Customer Notification and Education Plan (CNEP) on February 21, 1996 in Advice Letter No. 222.
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 requirements for a small LEC CNEP.

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

5. Ponderosa should be required to operate its information hotline allowing customers to speak with a Ponderosa agent about CPN passage and blocking options during some non-business hours.

6. Ponderosa should notify CACD of the results of its community outreach meeting and any changes to its CNEP resulting from community feedback.

7. In lieu of reaching the awareness levels required of other utilities whose CNEPs have been authorized by the Commission, Ponderosa proposes to achieve a 70% level of blocking requests by its customers.

8. Ponderosa should be required to provide CACD a revised timeline which will allow for sending default confirmation letters to customers no later than May 15, 1996 and filing with CACD a report on the number of customers choosing a blocking option by May 15, 1996.

March 13, 1996

THEREFORE, IT IS ORDERED that:

1. The Ponderosa Telephone Company's (Ponderosa) Advice Letter No. 222 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. Ponderosa shall operate its hotline for blocking information to allow customers to speak with a Ponderosa employee or agent during non-business hours.

b. Ponderosa shall report the results of its community outreach meeting to the Commission Advisory and Compliance Division (CACD) with any resulting modifications to its CNEP.

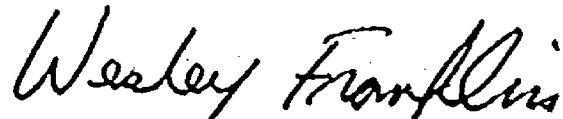
c. Ponderosa shall revise its timeline so that default confirmation letters will be sent to customers no later than May 15, 1996.

d. Ponderosa shall file its report with CACD on the percentage of customers choosing a blocking option by May 1, 1996.

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, Ponderosa shall contact subscribers to nonpublished service who were 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 M. FRANKLIN
Executive Director

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