

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15858
Telecommunications Branch March 13, 1996

R E S O L U T I O N

RESOLUTION T-15858. CONTEL OF CALIFORNIA, INC. (CONTEL). (U-1003-C). REQUEST FOR APPROVAL OF CUSTOMER NOTIFICATION AND EDUCATION PLAN (CNEP) IN COMPLIANCE WITH D. 92-06-065 AND 92-11-062 WHICH MUST BE IMPLEMENTED AND MUST THEREAFTER BE SHOWN TO BE EFFECTIVE TO THE COMMISSION'S SATISFACTION BEFORE CONTEL CAN PASS CALLING PARTY NUMBERS (CPN) TO INTERCONNECTING CARRIERS.

BY ADVICE LETTER 1023, FILED ON FEBRUARY 21, 1996 AND SUPPLEMENTED BY ADVICE LETTER 1023A FILED ON MARCH 5, 1996.

SUMMARY

This Resolution authorizes Contel of California Inc. (Contel) to implement a CNEP for the passage of CPN subject to the conditions imposed in this Resolution. As modified and implemented, Contel'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, Contel 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 Contel, Advice Letter 1023 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 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

March 13, 1996

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 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 their plans to file a proposed CNEP with the Commission.

Contel provided CACD a draft CNEP in September 1995. CACD requested copies of proposed messages and media, which hadn't been included in the draft. CACD sent Contel copies of the CACD consultant's evaluation of Pacific and GTEC, in order for Contel to learn about the public education approach which the consultant believed necessary to meet the Commission's informed consent mandate, and to help Contel understand why its product marketing approach was inappropriate.

In October, as it became evident that there was insufficient time for California utilities to implement CNEPs by December 1, 1995, carriers sought waivers to the FCC of the December 1, 1995 deadline. On December 1, 1995, the FCC granted a 6 month extension, until June 1, 1996, for all California carriers.

In January CACD staff met with Contel representatives to discuss how the public education campaign concept which the Commission

March 13, 1996

had adopted for GTEC and Pacific should be applied by Contel to its proposed CNEP. CACD staff suggested that Contel adopt, where possible, common terms and messages being developed and tested for Pacific and GTEC by their consultant. On January 22, the California Telephone Association met to be briefed on the messages and terms being developed and tested by Pacific and GTEC's consultant, with the goal that these materials could be used by all carriers, thereby creating a statewide plan. On February 8, Contel sent a revised draft CNEP to CACD.

Contel filed Advice Letter No.1023 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. On March 5, 1996, Contel filed Advice Letter (AL) No. 1023A.

Contel's proposed CNEP includes the following components which are required in our 1992 decisions:

- o Community Outreach - Contel proposes holding a workshop once a week for six weeks. Three will be in Gilroy and the other three in Victorville, the two major communities where CPN will be passed. Besides mailing community organizations, community leaders, etc. copies of its CNEP and inviting them to the workshops, it will advertise the workshops in local newspapers so that all customers will be invited. Results will be provided to CACD and, where relevant, Contel's CNEP will be modified.
- o Bill inserts/ direct mail - Contel will send out two bill inserts and a ballot by a separate direct mail letter.
- o Letter to non-published/unlisted customers - Will be sent shortly before first bill insert is sent. Will be sent in English and Spanish.
- o Confirmation letters - will include sticker and will be sent as blocking orders are received.
- o Media Campaign - Besides advertising on local newspapers, TV and radio, Contel will distribute posters, brochures in strategic locations. Education on Caller ID blocking will also be reinforced by Pacific's advertising which will reach Contel customers.
- o 800 or local number - Customers will have access to a 24 hour toll free number. It is not clear if customers will be able to speak to a Contel employee or agent on non-business hours.
- o Permanent blocking notice on bills - Contel will have the blocking option assigned to the telephone number permanently listed on the customer bill.

March 13, 1996

- o Contel will contract with an independent public opinion survey to monitor the ongoing level of consumer awareness.
- o Customer awareness levels - Contel believes that due to the lack of time available for it to accomplish its CNEP, it will not be able to achieve the 70% awareness levels required by the Commission for Pacific, GTEC and Roseville. Contel believes that the 70% awareness level will not be reached until 1998. Contel believes it can achieve the 30% action level by June 1, 1996. Contel will conduct two surveys, one in 1996 and one in 1997.
- o Ongoing education - Contel will include information about CPN passage and blocking options in its Quarterly newsletter,
- o 800 number to verify blocking form assigned to number - Contel will advertise this

On March 4, 1996, Dr. Brenda Dervin, CACD's consultant who evaluated Pacific and GTEC's proposed CNEPs, also performed an abbreviated evaluation of Contel's CNEP. Besides commenting on Contel's plan in general, she was asked to focus specifically on Contel's plan to include information about its other CLASS services in its proposed CNEP.

In her general comments she stated that Contel is to be commended for showing serious attention to the comments provided on the Pacific and GTEC plans. In particular she noted that Contel has allocated an impressive budget to the CNEP, has committed itself to a permanent statement on the phone bill identifying that phone's blocking status; has provided in some messages useful examples of potential privacy invasions from CPN passing and has taken the proposed outcome goals established for GTEC and Pacific and has offered a contingency time-line for reaching them.

The difficulties noted, however, are similar to those found in Pacific's and GTEC's CNEPs. She found in some CNEP components that there is still evidence of (a) a marketing force, (b) less than direct attention to privacy concerns (c) less than honest message components (d) confusing language and (e) company controlled top-down program for the community outreach.

One of Dr. Dervin's concerns, also mentioned by CACD to Contel, was addressed in Contel's Supplemental Advice Letter. Contel removed the User Guide from its community outreach effort. This brochure consisted of a description of all of Contel's CLASS services which were approved in the consolidated decision (92-06-065). CACD believed this brochure could be construed as advertising for Caller ID and would thereby not be appropriate for the CNEP.

Additionally the Supplemental clarified Contel's plan for sending bill inserts to notify those customers whose CPN will be passed as well submitting bill inserts to customers who will not

March 13, 1996

be affected by the FCC requirement due to lack of switch capabilities. This supplement also included clarification about Contel's proposed awareness goals attained by June 1, 1996. Last, Contel submitted revised community outreach materials and agreed to mail copies of Contel's adopted CNEP to the agencies on its community outreach list.

NOTICE/PROTESTS

Notice of Advice Letter No. 1023 was published in the Commission's Daily Calendar on February 23, 1996. Notice of Supplemental Advice Letter No. 1023A was published in the Commission Daily Calendar of March 8, 1996. No protests or comments have been filed in conjunction with this advice letter.

DISCUSSION

We commend Contel for the extensive resources and effort made by its staff to transform its earlier CNEP draft from a product advertising to a public education campaign. We are certain that Contel's CNEP, if implemented as proposed and as modified by our conditions, will adequately educate its customers about privacy issues presented by CPN passage and available blocking options.

We recommend that the following components of Contel's proposed plan be modified or strengthened to satisfy the Commission's mandate for informed consent by customers.

Contel has included a list of agencies which would not be allowed to subscribe to Caller ID service. This proposal was not included in our 1992 Caller ID decisions and is not appropriate for consideration in Contel's proposed CNEP. We direct Contel to remove this item from its CNEP. Contel would need to modify our 1992 decisions in order to obtain authority to restrict agencies from subscribing to Caller ID.

Concerning Contel's community outreach component, we suggest that Contel should explore the alternative of holding fewer and more in depth meetings and, as suggested by Dr. Dervin, delegating some of the community education action to agencies whose clients are at risk of being harmed by the passing of CPN. Contel should be required to submit to CACD by April 1, 1996 an alternate plan for consideration.

Although Contel's draft messages in general focus on privacy and describe the blocking options available to customers, we will instruct CACD to review Contel's final draft messages to assure that they are consistent with other state-wide materials and free of any bias against blocking.

It is not clear if Contel's 800 information hotline will allow for a customer to speak with a live agent on non-business hours. Contel should be required to allow customers to speak to an agent on some non-business hours. Finally, Contel should provide more information about its ongoing education effort to achieve the levels which it states will only be achieved in one

or two years after CPN will be passed.

Although Contel's supplemental AL stated that it believes it can attain the 30% action goal by June 1, 1996, Contel has not stated what can be achieved by June 1, 1996 in terms of aided awareness and understanding. It also hasn't stated what will cause customers to reach the desired 70% awareness goal by 1998. Contel should be held to the standards required for GTEC, Pacific and Roseville, namely, of 70% aided awareness, 60% understanding of CPN passing and blocking options and 30% action, demonstrated by the percentage of customer request for blocking option. We will, however, allow Contel to delay until May 15th its requirement to submit its survey results on customer awareness. As we stated for GTEC and Pacific, our action, if a utility does not meet the required awareness goals will depend on the actual results and the considered reasons for the lack of success. We will allow Contel to delay until May 15, 1996 its requirement to submit to CACD the results of its survey and its plans to achieve our stated goals.

In the event the State appeals the U.S. Court of Appeals opinion in California v. F.C.C. 9th Circuit No. 94-70197, et al., and prevails, Contel should contact subscribers to non-published service who have been assigned selective blocking by default to inform each one of the change in default blocking.

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 Contel's Advice Letter No. 1023 and Supplemental Advice Letter No. 1023A on less than 40 days notice.

FINDINGS

1. Contel of California, Inc. (Contel) filed its proposed Customer Notification and Education Plan (CNEP) on February 21, 1996 in Advice Letter No. 1023 and Supplemental Advice Letter 1023A on March 5, 1996 as required by Decision 92-06-065 and Decision 92-11-062 before it may offer Caller ID service or pass calling party number (CPN) to interexchange carriers.
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.
2. Contel's proposed CNEP includes the required actions required in our 1992 decisions on Caller ID service.
3. CACD's consultant hired to assist it in evaluating Pacific Bell and GTEC's CNEP also evaluated Contel's proposed CNEP and provided CACD with a letter on March 4, 1996.
4. We believe that Dr. Dervin's recommendations will result in a strengthened CNEP.

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

6. Contel should be required to reach the awareness levels required for Pacific, GTEC and Roseville, which includes a 70% aided awareness level, 60% understanding of CPN passing and blocking options and a demonstration of 30% action level in the request of a blocking option.

7. Contel should be allowed to file on May 15, 1996, its report to the Commission on the attained awareness levels by its customers.

8. Contel should clarify its plan for ongoing education beyond June 1, 1996 not only for existing customers but also for new customers.

THEREFORE, IT IS ORDERED that:

1. Contel of California Inc. (Contel's) Advice Letter No. 1023, supplemented by Advice Letter 1023A 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. Contel shall operate its hotline for Calling Party Number CPN blocking information to allow customers to speak with a Contel employee or agent during some non-business hours.

c. Contel shall submit to CACD a plan for ongoing education for existing customers as well as information for educating new customers.

d. Contel shall submit to CACD an alternate community outreach plan which provides for fewer and more in-depth meetings and delegating education on CPN to community agencies serving customers at risk of harm by passing of CPN.

e. Contel shall have until May 15th to file to the Commission its report on customer awareness of CPN passing and blocking options.

g. Contel shall be required to reach the awareness levels required for Pacific Bell, GTE California, Inc. and Roseville Telephone Company, which includes a 70% aided awareness level, 60% understanding of CPN passing and blocking levels and a demonstration of 30% action level in the request of a blocking option.

March 13, 1996

h. In the event the State appeals the U.S. Court of Appeals opinion in California v. F.C.E. 9th Circuit No. 94-70197, et al., and prevails, Contel should contact subscribers to non-published service who have been assigned selective blocking by default to inform each one of the change in default blocking.

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.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners