

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15875*
Telecommunications Branch April 10, 1996

R E S O L U T I O N

RESOLUTION T-15875. EVANS TELEPHONE COMPANY (EVANS) (U-1008C). 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 EVANS CAN PASS CALLING PARTY NUMBERS (CPN) TO INTERCONNECTING CARRIERS.

BY ADVICE LETTER NO. 249, FILED ON MARCH 1, 1996 AND ADVICE LETTER SUPPLEMENT NO. 249A FILED ON MARCH 27, 1996.

SUMMARY

This Resolution authorizes Evans to implement a CNEP for the passage of CPN subject to the conditions imposed in this Resolution. As modified and implemented, Evan'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 other utilities. With this approach, Evans 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 being used by other utilities, customer awareness of the passing of CPN will be increased through recognition and reinforcement by repetition of these messages throughout California.

BACKGROUND

In 1992 the Commission authorized Pacific Bell (Pacific), GTE California (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

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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. However, the FCC preempted California's per line (complete) blocking default safety net. This preemption is under appeal by the Commission. 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 larger companies requested a 6 month extension, to June 1, 1996, many small companies, including Evans, requested a waiver of the requirement to pass

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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 so that their CNEPs could 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

Evans' Advice Letter includes a description of its community outreach plan, drafts of its direct mail educational notice, its bill insert response, its confirmation letter, default blocking assignment notice and plan to conduct a survey to assess customer awareness. The Advice Letter Supplement provides a copy of the draft letter to non-published customers, a description of Evans' media plan, an expanded list of community agencies and organizations who will be provided a copy of Evans CNEP as well as invited to the meetings, copies of stickers and an updated timeline for implementation of the CNEP. In the supplement Evans indicates that it will obtain a 70% level of customer choice of a blocking option rather than hiring a firm to conduct a survey to assess awareness levels. With the additions and changes made to Evans CNEP, Evans' draft CNEP includes the following components:

- o Community Outreach - Evans has expanded its community contact list to 59 organizations, agencies, etc. who will be provided with a copy of Evans' CNEP plan and invited to attend one of three community meetings. Evans is advertising these meetings in both Spanish and English on local radio and in local newspapers. The meeting at Grayson will be conducted in Spanish. The purpose of these meetings will be to explain the passage of CPN and to receive feedback from the community on the CNEP.

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- o Bill Inserts/Direct Mail - Evans will send each customer a letter with the standard educational notice, a response form and enclosed envelope for returning the form to Evans. The response form with a briefer educational message will be sent to customers as a bill insert in April and May. The front page of these notices contains a message in Spanish indicating that a Spanish language version is available on request.
- o Letter to Non-published/unlisted customers - A draft letter was included in the draft CNEP. The revised timeline indicates it will be sent on April 22, 1996.
- o 800 or local number - Evans will provide a 24 hour toll free number.
- o Public service announcements - In addition to advertising the community meetings, Evans will place full page ads on Caller ID blocking issues in local newspapers serving two separate communities. Radio, television and print media sponsored by Pacific Bell also reaches Evans' customers.
- o Confirmation Letters - A confirmation letter including stickers will be sent to each customer on May 15, 1996.
- o Default Letter - Customers not selecting a blocking option will be notified on May 15, 1996 that they have been assigned selective blocking by default.
- o Customer awareness levels - Beginning May 8, 1996, Evans will begin calling customers who have not by then returned their response forms. This telephone campaign will continue until 70% of Evans customers have selected their blocking option. On May 15, 1996 Evans will provide CACD its report on the achieved percentage of customers who have chosen a blocking option.
- o Ongoing education - New customers will be educated about CPN passing and will be assigned their choice of blocking options. The welcome packet sent to all new customers will include the educational notice. Additionally, all customers' bills will indicate the blocking option in effect for them. The CNEP includes a draft directory white pages educational notice. Last, Caller ID blocking option descriptions will be included in Evans' annual notice to customers.

NOTICE/PROTESTS

Notice of Advice Letter No. 249 was published in the Commission's Daily Calendar on March 8, 1996. Advice Letter Supplement 249 A was published in the Commission's Daily Calendar on March 29, 1996. No protests or comments have been filed in conjunction with this advice letter.

DISCUSSION

Evans' CNEP exceeds the requirements outlined in CACD's February 14, 1996 letter. This is most evident in its community outreach program whereby Evans is not only advertising in local media to achieve high attendance at its meetings but will conduct on of the meetings in Spanish. Another example is Evans' plan to indicate on each customer bill the blocking option in effect.

The only remaining issue to be addressed is a contingency plan requirement concerning the default blocking option. 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, 95h Circuit No. 94-70197, et al.). On March 18, 1996 the Commission filed a petition in the Supreme Court to appeal the circuit court opinion. Should the FCC's preemption of the Commission's complete (per line) blocking default be stayed or should the Commission prevail, Evans should contact subscribers to nonpublished service who have not chosen a blocking option to inform each one of the change in default blocking option. Evans should submit its proposed notice to customers on the change in the blocking option default to CACD for approval prior to mailing.

CACD should review and approve the final draft of Evans notices and messages to assure consistency with statewide CNEP materials.

FINDINGS

1. Evans Telephone Company (Evans) filed its proposed Customer Notification and Education Plan (CNEP) on March 1, 1996 in Advice Letter No. 249 which was supplemented by Advice Letter No. 249A filed on March 27, 1996.
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 CNEP by a small LEC.
4. Evans' draft CNEP exceeds the minimum requirements.
5. Evans proposes to achieve a 70% level of customer request for a blocking option.
6. Evans should be required to submit a letter to CACD by May 15, 1996 reporting the level of awareness achieved with its customers.

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THEREFORE, IT IS ORDERED that:

1. Evans Telephone Company (Evans) Advice Letter No. 249 as supplemented by Advice Letter No. 249A requesting authorization to implement its Customer Notification and Education Plan (CNEP) is granted subject to the following conditions:

- a. Evans shall provide the Commission Advisory and Compliance Division (CACD) its report on the percentage of customers choosing a blocking option or being assigned the blocking default by May 15, 1996.
- b. In the event that the Commission obtains a stay of the FCC's preemption of the per line blocking default or prevails in the Supreme Court, Evans shall contact subscribers to nonpublished or unlisted service who have not chosen a blocking option of the change in the default blocking option. Evans shall send CACD for its approval a draft copy of this notice.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on April 10, 1996. The following Commissioners approved it:


WESLEY M. FRANKLIN
Executive Director

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