

Decision 84 11 028

NOV 7 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's	)	
own motion into the method of	)	OII 83-11-05
implementation of the Moore Universal	)	(Filed November 30, 1983)
Telephone Service Act.	)	

(For appearances see Decision 84-04-053.)

Additional Appearances

Ann C. Pongracz and Richard Wiley, Attorney at Law, for GTE Sprint Communications Corporation; Margaret deB. Brown, Attorney at Law, for Pacific Bell; Lawrence P. Keller, for The Western Union Telegraph Company; Brobeck, Phleger & Harrison, by Gordon E. Davis and William H. Booth, Attorneys at Law, for FTC Communications, Inc., ITT World, Inc., TRT Telecommunications Corporation, and Western Union International, Inc.; and Morrison & Foerster, by Preston Moore, for MCI Telecommunications Corp.; respondents. Palmer & Willoughby, by Michael F. Willoughby and Warren A. Palmer, Attorneys at Law, for ICS Communications; Patricia A. Tilley, for University of California; and Leonard L. Snaider and Robert R. Laughead, Attorneys at Law, for City and County of San Francisco; interested parties.

OPINION ON ESTABLISHING A GENERAL ORDER FOR ADMINISTRATION OF THE MOORE ACT

By Decision (D.) 84-04-053 dated April 18, 1984, the Commission issued an interim decision on implementation of the Moore Universal Telephone Service Act (Act). Ordering Paragraph 7 of D.84-04-053 required the Commission staff to "conduct meetings with all respondents and interested parties who wish to attend to develop and file with the Commission for its consideration a proposed general

order to govern administration of the Act." As required by the decision, staff held the first meeting on May 10, 1984; four additional meetings were held, with the last one on September 18. Over 20 parties participated in drafting the proposed general order which was filed with the assigned administrative law judge (ALJ) on October 2 and is attached as Appendix A. Only three exceptions to Appendix A have been received.

General Telephone Company of California (General) proposes to delete Section 1.4 of the draft order which provides that:

"Any public utility which violates or fails to comply with this General Order and the rules set forth herein is subject to the penalties set forth in Section 2107 of the California Public Utilities Code and such other penalties as may be provided by law."

We agree with General that the proposed section should be deleted. Because Section 2107 is operative whether or not it is referred to in a general order and because of other provisions in the Public Utilities (PU) Code such as Article 5 of Chapter 3, we see no need for the proposed section.

Roseville Telephone Company (Roseville) recommends changes in proposed Sections 4.2 and 5.3.2. Section 4.2 now reads:

"The Commission shall, at any time, have access to all accounting data they deem necessary to verify the telephone corporation's monthly reports."

Roseville proposes to change the language to the following:

"The Commission may have access to all accounting data that is needed to verify the telephone corporation's monthly reports."

Again, because of the provisions of the PU Code such as Article 5 of Chapter 3, we see no need for this section at all and will delete it from the adopted general order.

Section 5.3.2 now reads:

"Upon rejection of a claim the Commission shall return the claim to the originating telephone corporation along with a detailed explanation of the reason(s) for rejection. No carrying charge will be applied to the time lapsed between submittal of a rejected claim and the rejection of such claim. All final determination of disputed claims will be made by the Commission."

Roseville proposes to change the language as follows:

"Upon rejection of all or a part of a claim, the Commission will provide the telephone corporation with a detailed explanation of the reason(s) for rejection. Any uncontested portions of the claim, and the carrying charges on such uncontested portions, will be forwarded to the State Controller's Office for payment.

"Should it later be determined that all or a part of the contested portion of a claim was valid, the valid charges along with carrying charges from the midpoint of the month(s) in question shall be paid to the telephone company."

By letter dated October 17, 1984 to the ALJ, General supports Roseville's recommendation. We will adopt Roseville's proposal because it appears unfair to penalize a responding telephone company if it is later determined that the filing of the company which was contested by our staff is, indeed, valid.

Findings of Fact

1. Ordering Paragraph 7 of D.84-04-053 required the Commission staff with the assistance of respondents and interested parties to develop a proposed general order to govern administration of the Act.

2. Five meetings among all those interested were held beginning May 10 and ending September 18, 1984 and, as a result, Appendix A, the proposed general order, was filed with the ALJ on October 2, 1984.

3. There is no need to include in the adopted general order Section 1.4 or 4.2 of the proposed general order.

4. Section 5.3.2 of the proposed general order is unfair to the responding telephone companies and the alternate language proposed by Roseville is fair and reasonable.

Conclusions of Law

1. Under PU Code § 739.2 the Commission may establish the general order provided by the following order.

2. Because the first quarter returns required of telephone utilities by the Act will be due shortly, there is an immediate need for the general order and, therefore, this decision should be effective on the date signed.

O R D E R

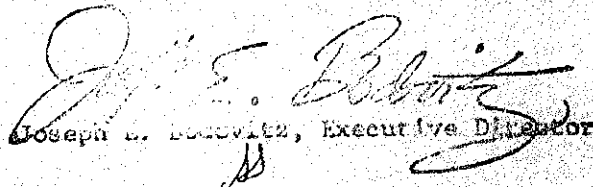
IT IS ORDERED that Appendix B is adopted as a general order of the Commission.

This order is effective today.

Dated NOV 7 1984, at San Francisco, California.

VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. DAGLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph L. Rosvitz, Executive Director