

Mailed

Decision 96-10-073 October 25, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service

R. 95-04-043

(Filed April 26, 1995)

Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service

R. 95-04-044

(Filed April 26, 1995)

ORIGINAL

LECs shall update their databases within 48 hours two hours prior to receiving the data from the CLC.

On February 13, 1996, Pacific Bell (Pacific) filed a Petition for Modification of Decision (D) 95-12-056 relating to two areas: (1) E-911 database updates and (2) held-order penalty limitations.

Pacific's Position

E-911 Database Updates

In D. 95-12-056, Local Exchange Carriers (LECs) were ordered to "update their [E911] databases within 48 hours of receiving the data from the CLC." The decision further directed the "[i]f the LEC detects an error in the CLC-provided data, the data shall be returned to the CLC within 48 hours after receiving the data." These requirements were included in D. 95-12-056 in order to ensure that the time allowed to process transactions associated with E-911 end user information be as short as possible and uniform across LECs.

On January 3, 1996, the Commission's Executive Director granted Pacific an extension of time in which to comply with these requirements of the decision pursuant to Rule 48(d) of the Commission's Rules of Procedure, pending a decision on the Petition to Modify.

1 D. 95-12-056, Ordering Paragraph (OP) 37.
2 Comments of Pacific Bell (U 1001 C) Regarding GO 133-B January 27, 1996. (GO 133-B Comments) at 3.
3 (Id., p. 52.)

Pacific requests that the decision be modified so that the processes which it applies to E-911 updates for its own end-user customer information will be consistently applied to competing local carrier (CLC) end user information. Pacific's standard business practice is to update its E-911 databases within 48 business hours (two business days). Pacific's existing technology currently allows it to support updates and/or verify the accuracy of information provided within a one or two business day period. Accordingly, Pacific requests that the pertinent ordering paragraphs should be revised to read as follows:⁴

"37. LECs shall update their databases within ~~48 hours~~ two business days of receiving the data from the CLC.

"38. (If the) LEC detects an error in the CLC provided data, the data shall be returned to the CLC within ~~48 hours~~ two business days after receiving the data.

Pacific proposes to resubmit its E-911 database update tariff upon the approval of this petition for modification incorporating these changes.

GO 133-B Held Order Penalty Limitations

The decision also considered and decided issues concerning intercompany interconnection Held Service Orders (IHSOs) that were the subject of workshops addressing General Order (GO) 133-B. The Commission agreed with Pacific's recommendation that there should not be an automatic penalty

4 On January 3, 1996, the Commission's Executive Director granted Pacific an extension of time in which to comply with these requirements of the decision, pursuant to Rule 48(b) of the Commission's Rules of Practice of Procedure, pending a decision on the Petition to Modify.

5 Comments of Pacific Bell (U) 1001 C) Regarding GO 133-B Issues, November 27, 1995, (GO 133-B Comments) at 3.

mechanism built into the IHSO reporting standard since a number of circumstances beyond the reporting party's control could delay or prevent installation, such as natural disasters, severe weather, labor or union disputes or civil disturbances.⁶ In its comments, Pacific had also argued that the automatic penalty should not apply when the company requesting interconnection does not have its facilities ready on time.⁷ Pacific believes this, too, is a circumstance beyond the control of the LEC or CLC with the held order. Pacific argued in its comments that holding the LEC or CLC automatically accountable for all IHSOs would be inappropriate and could violate their due process rights.⁸ Pacific, therefore, requests that OP 60 of the decision be slightly modified to include the language highlighted in boldface below:

"60. The refund provision shall not apply if and only if service order completion was delayed due to natural disasters, severe weather, labor disputes or civil disturbances or the company requesting interconnection does not have its facilities ready on time."

Pacific argues that basic fairness requires that this clause be added.

DRA's Position

On March 13, 1996, the Commission's Division of Ratepayer Advocates (DRA) filed a response in opposition to Pacific's petition. No other party filed a response to Pacific's petition.

DRA opposes Pacific's proposed changes to Ops 37 and 38. Since E-911 service is available to all customers 24 hours a day, seven days a week, DRA argues that record updates should not be

facilities not being ready on time is truly a circumstance beyond the control of the LEC or CLC as claimed by Pacific. DRA believes

⁶ D.95-12-056, OP 60. This exemption would offer the opportunity for "penalties" for

⁷ GO 133-B Comments of Pacific Bell at 3. DRA recommends that the Commission alter the

⁸ (Id.) To reduce the chances for (Id.) change which Pacific proposes.

made on Pacific's business office schedule. Pacific's reason for requesting its proposed modifications to OPs 37 and 38 is one of pure convenience; according to DRA, Pacific is asking the Commission to modify D.95-12-056 so that the period in which Pacific must update CLC end user information conforms to Pacific's "standard business practice" for updating its own end user records. DRA believes Pacific's request is unjustified. First, if it is consistency of its practices that Pacific seeks, DRA suggests that Pacific could change its "standard business practice" of two business days for updating its own end user records to conform with the required 48 hours adopted in D.95-12-056. DRA does not believe the Commission should retreat from a higher to a lower standard in order to accommodate one LEC's "standard business practice."

In earlier comments, DRA advocated that Automatic Location Identification (ALI) records be updated electronically within 24 hours. The Commission, in D.95-12-056, allowed the LECs more time, selecting 48 hours as a reasonable period in which LECs should update their E-911 data bases. DRA does not challenge the Commission's decision, but strongly urges the Commission not to allow any additional time for updating these critical data bases. DRA believes that public safety and security should be placed above convenience to the LECs.

DRA opposes Pacific's recommended change to OP 60 to allow the company to add an exemption to the refund provision contained in OP 59 if "the company requesting interconnection does not have its facilities ready on time." DRA is unsure that facilities not being ready on time is truly a circumstance beyond the control of the LEC or CLC as claimed by Pacific. DRA believes this exemption would offer the opportunity for "agitated finger pointing" between the LECs and CLCs when a service order is not completed on time. DRA recommends that the Commission alter the change which Pacific proposes. To reduce the chances for (b) 8

accusations and recriminations, DRA suggests that if the company is requesting interconnection states in writing to the connecting company, that the interconnecting facilities are not ready, then an exemption may be allowed. Discussion

E-911 Database Updates As we review the record concerning this issue, we find it reasonable to grant Pacific's requested modification concerning the time requirements for processing transactions associated with E-911 service. Comments on this issue, especially those of Pacific, make no clear distinction between two days and two business days. The discussion of the Coalition's position contained in D.95-12-056 (page 52) uses "48 hours," "two business days" and "two days" interchangeably. We conclude that this issue is only now receiving clarification needed earlier in the case on certain costs of uncertainty of treatment of customers. We note that once telephone service is started, all customers can dial 911 and reach emergency services. The 48-hour requirement for updating the 911 database contained in D.95-12-056 was imposed to ensure that the time allowed to process such transactions was as short as feasible and uniform across LECs. D.95-12-056 contains no finding that current practices fail to protect public health or safety.

The clarifications contained in Pacific's Petition makes it clear that "existing technology currently allows (Pacific) to support updates and/or verify the accuracy of information provided within a one to two business day period." Thus, regulation requiring the updating the E-911 database within 48 hours would

Pacific's E-911 Report of October 2, 1995 asserts that it updates the 911 records within 24 to 48 hours after the completion of the service order, yet Pacific's Petition for Modification states that its current technology updates the 911 records within a one to two business day period.

trigger a new round of investment in order processing technology and modification of current business practices. There is no record in this proceeding establishing that the new technology and altered business practices are needed or how much they would cost.

While we agree with DRA that maintaining public safety and security are important goals, we note DRA's Response provides no citation to the record or demonstration that current practices pose threats to public health or safety.

There is no record demonstration that the public safety requires a change in current practice. There is no record, nor findings of fact or conclusions of law in D195-12-056 that we normally find when the Commission imposes a new regulatory requirement.

Based on the clarification of the meaning of "48 hours" given in Pacific's Petition, we see no reason to impose a requirement of uncertain costs on either Pacific or its ratepayers.

For these reasons, we shall grant Pacific's request to modify D195-12-056 respecting the 48-hour requirement.

Finally, we note that by letter dated February 8, 1996 from the Executive Director, Pacific was previously granted an extension of time to comply with OP 37 and 38 until we ruled upon its Petition to Modify.

GO 133-B Penalty Limitations

We agree with Pacific that LECs should not be held liable for penalties for delays in completing IIHSOs when the company requesting the interconnection does not have its facilities ready on time. We also appreciate the concern raised by DRA; however, that granting this exemption might contribute toward contentiousness between the LEC and CLC when an IIHSO is not completed on time. We find DRA's suggested refinement a reasonable remedy, namely, that the company requesting interconnection state

in writing to the connecting company, that the interconnecting facilities are not ready. We shall modify OP 60 to incorporate this change.

Findings of Fact

1. On February 13, 1996, Pacific filed a Petition for Modification of D.95-12-056 relating to (1) E-911 database updates, and (2) held-order penalty limitations.

2. D.95-12-056 directed Pacific and GTEC to update their E-911 databases within 48 hours of receiving the data from the CLC.

3. D.95-12-056 further directed Pacific and GTEC to return any corrections in CLC-provided E-911 data to the CLC within 48 hours after receiving the data.

4. Pacific's standard business practice is to update its E-911 databases within 48 business hours (i.e., two business days).

5. Pacific's existing technology only allows it to support updates and/or verify the accuracy of information provided within a one or two business day period.

6. Pacific requests a modification in D.95-12-056 to allow it to conform to the E-911 database requirements within two business days rather than within 48 hours.

7. There is no evidence that the current practice of updating E-911 databases within two business days poses a threat to public health or safety.

8. D.95-12-056 recognized that there should not be an automatic penalty for a LEC's delay in completing an IIHSO where the delay was due to certain circumstances beyond the control of the LEC.

9. D.95-12-056 did not list as an uncontrollable circumstance causing IIHSO delay the possibility that a carrier requesting interconnection may not have its facilities ready on time, although this is a condition beyond the LEC's control.

Conclusions of Law

1. Pacific's requested modification concerning the time requirements for processing transactions associated with 911 service has been justified.

2. The 48-hour requirement for E-911 database processing was imposed to ensure that the time allowed to process such transactions was as short as possible and uniform across LECs.

3. Maintaining public safety and security are important goals.

4. Current practice of updating E-911 service within two business days does not produce unacceptable delays or threats to public safety and security.

5. LECs should not be held liable for penalties for delays in completing IHSOs when the company requesting the interconnection does not have its facilities ready on time.

6. Granting this exemption might contribute toward contentiousness between the LEC and CLC when an IHSO is not completed on time.

7. A reasonable remedy is that the company requesting interconnection state in writing to the connecting company that the interconnecting facilities are not ready.

8. OP 60 of D.95-12-056 should be modified to incorporate this change.

ORDER

IT IS ORDERED that: a delay in the CLC's automatic penalty for a LEC's delay in the Pacific Bell's (Pacific) petition to modify Ordering Paragraphs 37 and 38 of Decision 95-12-056 is granted to the extent indicated below.

Ordering paragraph 37 is modified to read: "LECs shall update their databases within two business days of receiving the data from the CLC."

Conclusion of Law

1. Pacific's requested modification concerning the time requirements for processing transactions associated with E-911 service has been justified.

3. Ordering Paragraph 38 is modified to read:

"If the LEC detects an error in the CLC-provided data, the data shall be returned to the CLC within two business days after receiving the data."

4. Pacific's petition to modify Ordering Paragraph 60 is granted to the extent indicated below.

5. Ordering Paragraph 60 is modified to read:

"The refund provision shall not apply if service order completion was delayed due to natural disasters, severe weather, labor disputes, or civil disturbances or the company requesting interconnection indicates to the LEC in writing that it does not have its facilities ready on time."

This order is effective today.

Dated October 25, 1996, at Sacramento, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

Commissioner Daniel Wm. Fessler,
being necessarily absent, did not
participate.