

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Application for Rehearing of Resolution T-17266

A.11-01-003

**RESPONSE OF CRICKET COMMUNICATIONS, INC. (U 3076 C) TO  
SMALL LECS' APPLICATION FOR REHEARING OF RESOLUTION T-17266**

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January 20, 2011

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OF THE STATE OF CALIFORNIA**

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Cricket Communications, Inc. (U-3076-C) (“Cricket”) respectfully submits this Response to the Small LECs’<sup>1</sup> Application for Rehearing (“Rehearing Application”) on Commission Resolution T-17266 (“Resolution”). The Small LECs seek to overturn the Resolution’s grant to Cricket of eligible telecommunications carrier (“ETC”) status with respect to Cricket’s footprint in the Small LECs’ territories. They reiterate the same baseless arguments that they have made repeatedly over the past year in response to Cricket’s ETC request,<sup>2</sup> the Commission’s draft Resolution, and in other contexts, including the Commission’s rulemaking on the California LifeLine program. The Commission should deny the Small LECs’ application as meritless, and as simply one final attempt to thwart competitive alternatives for low-income consumers in their territories.

**I. INTRODUCTION**

The Small LECs principally argue that the Resolution fails to address the requirement of 47 U.S.C. § 214(e)(1)(A) that an ETC offer services throughout the Small LECs service

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<sup>1</sup> The Small LECs are a group of small incumbent local exchange carriers serving rural and remote areas, as follows: Calaveras Telephone Company (U-1001-C), Cal-Ore Telephone Co. (U-1006-C), Ducor Telephone Company (U-1007-C), Foresthill Telephone Co. (U-1009-C), Happy Valley Telephone Company (U-1010-C), Hornitos Telephone Company (U-1011-C), Kerman Telephone Co. (U-1012-C), Pinnacles Telephone Co. (U-1013-C), The Ponderosa Telephone Co. (U-1014-C), Sierra Telephone Company, Inc. (U-1016-C), The Siskiyou Telephone Company (U-1017-C), Volcano Telephone Company (U-1019-C), and Winterhaven Telephone Company (U-1021-C).

<sup>2</sup> See Cricket Advice Letter No. 2 (Mar. 3, 2010).

territories, or alternatively, redefine the Small LECs' service areas for purposes of the ETC designation. They also argue that the Resolution includes the following additional legal errors: (i) misapplication of the "public interest" test required for ETC designation in a rural telephone carrier's territory; (ii) unlawful reliance on the Commission's recent LifeLine decision D.10-11-033 in which the Commission determined not to place geographic restrictions upon non-traditional telecommunications providers for the state LifeLine program; (iii) a conclusion that there is already significant wireless overlap with many rate-of-return carriers; and (iv) denial of due process because the Small LECs did not have sufficient notice of changes to the Resolution.

The Commission should reject all of these arguments as neither new nor grounds for reversal of the Resolution, as they fail to demonstrate legal or other error by the Commission. As discussed further below, the "redefinition" requirement has no applicability to Lifeline-only ETCs such as Cricket. Moreover, to the extent that "redefinition" applies to Lifeline-ETCs, the Commission effectively redefined the Small LECs' territories in the Resolution for purposes of Cricket's ETC designation.

At the most, the Small LECs' arguments essentially raise the same *policy* argument that they have raised again and again, which is that, the Commission *should* prohibit wireless carriers from offering Lifeline in their territories to protect the Small LECs from "competition." In so arguing, the Small LECs continue to ignore the reality that wireless carriers today can and do offer wireless service in their territories and that there are a variety of competitive alternatives to the Small LECs, including wireless, Voice over Internet Protocol, and cable. Moreover, the Small LECs' claims lack merit as the Commission has the discretion to determine that a wireless Lifeline choice benefits rural consumers and is in the public interest. The Commission properly approved the Resolution granting Cricket ETC status in the Small LECs' territories in

recognition that it is unfair to deny consumers in the Small LECs' territories the right to choice in Lifeline providers that consumers elsewhere in the State will have. Moreover, the Commission accurately recognized that Cricket's service offering provides many benefits to low-income consumers, including mobility, a clear and simple plan, unlimited local and long distance calling, and increased coverage areas and calling features.

Given these facts, there is also no basis for the Small LECs' accompanying Motion for Stay of the Resolution, and Cricket files concurrently with this Response an Opposition to the Motion for Stay.

## **II. REDEFINITION AND THE ANALYSIS UNDERLYING WHETHER TO REDEFINE THE SMALL LECs' TERRITORIES IS IRRELEVANT TO LIFELINE-ONLY ETCs**

The Small LECs argue that the Resolution is legally flawed because it fails to determine that the Small LECs' territories should be redefined, pursuant to 47 U.S.C. § 214(e)(5). As an initial matter, to the extent that "redefinition" is even required, the Commission effectively "redefined" the Small LECs' territories by granting Cricket ETC authority in the Small LECs' service areas. More importantly, however, it is evident from reviewing the Federal Communications Commission ("FCC") orders and the Federal-State Joint Board orders that the analysis of whether to "redefine" a rural telephone company's territory is pertinent only where an ETC seeks receipt of high-cost support in a rural company's territory and not where an ETC seeks only low-income Lifeline support. For example, the FCC has not considered "redefinition" of a rural carrier's service area where it grants ETC status to Lifeline-only carriers. The Commission should reject the Small LECs' argument as simply inapplicable to Cricket's Lifeline ETC designation.

The Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("Act"), requires an ETC to provide service throughout a "service area" in which the carrier is

designated an ETC.<sup>3</sup> Section 214(e)(5) of the Act defines “service area” for a rural telephone company as “[the] company’s ‘study area’ unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410 (c) of this title, establish a different definition of service area for such company.”<sup>4</sup> The Federal-State Joint Board’s 1996 *Recommended Decision* generally recommended that a rural telephone company’s service area be retained for the following reasons: (1) minimizing cream-skimming; (2) the 1996 Act places rural carriers on a different competitive footing from other local exchange companies; and (3) there would be an administrative burden imposed on rural carriers by requiring them to calculate costs at something other than the study area level.<sup>5</sup> In response, the FCC concluded that it would be appropriate for a state commission and the FCC to redefine the service area of a rural telephone company where these factors are not a concern.<sup>6</sup> The analysis of these factors, however, demonstrates concern with the impact on rural carriers only where an ETC receives high cost support.<sup>7</sup> Lifeline support does not raise any of these issues, and the FCC has granted ETC status to carriers seeking only low-income Lifeline/Link Up support without undertaking analysis of any of these factors.<sup>8</sup>

For example, the FCC has determined in prior orders granting wireless carriers ETC status for high-cost support that redefining a rural telephone company’s service area at a level other than the study area will not affect the “**total amount of high-cost support**” that the rural

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<sup>3</sup> 47 U.S.C. § 214(e)(1).

<sup>4</sup> 47 U.S.C. § 214(e)(5).

<sup>5</sup> *See Federal State Joint Board on Universal Service*, FCC 96-3 at ¶¶ 172-74 (“Federal-State Joint Board First Recommended Decision”) (1996).

<sup>6</sup> *See Virginia Cellular Petition for Designation as an ETC*, FCC 03-338 at ¶¶ 41-44 (“Virginia Cellular ETC Order”) (2003); *Highland Cellular Petition for Designation as an ETC*, FCC 04-37 at ¶¶ 39-41 (“Highland Cellular ETC Order”) (2005).

<sup>7</sup> As discussed below, the FCC has also noted that cream-skimming concerns do not arise with Lifeline-only ETCs.

<sup>8</sup> *See, e.g., Virgin Mobile Petition for Forbearance and Designation as an ETC*, FCC 09-18 at ¶ 39 n. 101 (“Virgin Mobile Forbearance Order”) (2009); *TracFone Petition for Designation as an ETC*, FCC 08-100 (“TracFone ETC Order”) (2008).

carrier receives;<sup>9</sup> nor will it affect the way that the rural carrier determines its costs for receiving **high-cost support** (and thus no additional administrative burdens are imposed on rural carriers).<sup>10</sup> The FCC has repeatedly found that these factors are not at issue in granting ETC status to carriers for high-cost support. Given that these factors are not at issue with ETCs seeking high-cost support, they are even less applicable to ETCs seeking Lifeline support such as Cricket. Indeed, the FCC has not analyzed these factors when granting ETC status to carriers seeking low-income support only.<sup>11</sup>

As for cream-skimming, the FCC has expressly held in granting ETC status to wireless carriers that “we need not perform a creamskimming analysis because [the carrier] is seeking eligibility for Lifeline only.”<sup>12</sup> The FCC has explained that concerns about cream-skimming arise only when a competitor seeks high-cost support and it “serves only the lowest-cost, highest-density wire centers in a study area with widely disparate population densities” because in such situations a rural ILEC may be disadvantaged where high-cost support is “calculated on a study-area-wide basis.”<sup>13</sup> In contrast, the Federal Lifeline program, provides support on a per-customer basis, rather than basing support on the ILEC’s costs. A competitive carrier that obtains Lifeline support thus does not secure any inherent advantage over a rural incumbent by

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<sup>9</sup> *Virginia Cellular ETC Order* at ¶ 43; *see also Highland Cellular ETC Order* at ¶¶ 40-41.

<sup>10</sup> *Virginia Cellular ETC Order* at ¶ 44; *Highland Cellular ETC Order* at ¶ 40 (“redefining the service area of the affected rural telephone company will not change the amount of universal service support that is available to the incumbents.”).

<sup>11</sup> *See Virgin Mobile Forbearance Order; TracFone ETC Order.*

<sup>12</sup> *See Virgin Mobile Forbearance Order* at ¶ 39 n.101 (“we need not perform a creamskimming analysis because Virgin Mobile is seeking eligibility for Lifeline support only.”); *see also Virgin Mobile Petition for Designation as an ETC*, DA 10-2433 at ¶ 19 (“We note that we do not need to perform a creamskimming analysis because Virgin Mobile is eligible for Lifeline support only.”) (“Virgin Mobile ETC 2010 Order”); *TracFone ETC Order*, at ¶ 16 n.47 (“we need not perform a creamskimming analysis because TracFone is seeking to be eligible for Lifeline support only”).

<sup>13</sup> *See Highland Cellular ETC Order* at ¶ 32.

targeting the lower-cost portions of its service territory<sup>14</sup> and cream-skimming concerns accordingly have no relevance in the Lifeline context.

For the above reasons, although the Small LECs claim that the Commission has failed to consider the federal guidelines for ETC designation, this Commission's lack of analysis as to redefinition is, in fact, consistent with the FCC's own lack of such analysis when granting ETC authority to Lifeline-only carriers.<sup>15</sup> This Commission has properly determined that Cricket may offer Lifeline in portions of the Small LECs' territories without conducting the above analysis. While this Commission requires that ETC applicants to *demonstrate* that there is no "cream-skimming" that results from such designation as an ETC in areas below the study area level of a Small LEC's territory, Cricket has more than met this requirement.<sup>16</sup> As the Resolution notes, Cricket explained that no danger of cream-skimming results from a service area redefinition.<sup>17</sup> Cricket further explained that not only has the FCC concluded that cream-skimming is not an issue for Lifeline ETCs, but other states have also granted it ETC authority without conducting the cream-skimming analysis because Cricket seeks only Lifeline/ Link Up support.<sup>18</sup>

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<sup>14</sup> The Joint Board 2004 Recommended Decision's examination of factors for cream-skimming highlights the underlying concern with deterring ETCs seeking high cost support from targeting low-cost areas of a rural carrier: "[i]n evaluating whether a service area redefinition will provide opportunities for cream skimming, some state commissions and the Commission have considered, among other things, whether universal service support in the affected rural service area has been disaggregated. In the *Rural Task Force Order*, the Commission determined that support should be disaggregated and targeted below the study area level to eliminate uneconomic incentives for competitive entry caused by the averaging of support across all lines served by a carrier within its study area..." *Federal State Joint Board on Universal Service*, FCC 04-1 at ¶ 53 (2004).

<sup>15</sup> See, e.g., *Virgin Mobile Forbearance Order* at ¶ 39 n. 101 (noting "we need not perform a creamskimming analysis because Virgin Mobile is seeking eligibility for Lifeline support only."); *TracFone ETC Order* at ¶ 16 n.47 (noting "we need not perform a creamskimming analysis because TracFone is seeking to be eligible for Lifeline support only.").

<sup>16</sup> See Resolution T-17002.

<sup>17</sup> Resolution at 11.

<sup>18</sup> See Cricket Comments on Draft Resolution at 4, n.15, citing *Application of Cricket Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 2010-21-C, Order Granting ETC Status for Lifeline and LinkUp Support from the Federal Universal Service Fund, South Carolina Commission (July 28, 2010) ("South Carolina Order") (referring to the FCC's *Virgin Mobile Forbearance Order* and noting that the "FCC recently addressed this issue and declined to perform a cream skimming analysis where the applicant sought ETC designation for Lifeline support only.") The South Carolina Order was issued in July 2010. Although Cricket interprets the FCC's *Virgin Mobile Forbearance Order* as not requiring such, out of an abundance of caution,

Because cream-skimming is not an issue, the Commission properly granted Cricket ETC authority for its footprint in the Small LECs' territories and effectively redefined the Small LECs' territories. No change or modification to the Resolution is necessary; however, if the Commission desires to clarify the Resolution, it could note that it has determined that no cream-skimming analysis is necessary and that the Small LECs' territories are redefined for purposes of Cricket's ETC status.

### **III. THE COMMISSION PROPERLY APPLIED THE PUBLIC INTEREST TEST IN GRANTING ETC STATUS TO CRICKET**

The Small LECs also wrongly assert that the Commission failed to conduct the "public interest" analysis required by 47 U.S.C. § 214(e)(2). The Small LECs acknowledge that the Commission is permitted to set forth its own public interest analysis, but insist that a cream-skimming analysis should be conducted even though Cricket is not seeking high-cost support.<sup>19</sup>

Contrary to the Small LECs' assertions, the Commission in fact properly assessed whether it is in the public interest, convenience, and necessity to grant Cricket its requested ETC authority. As an initial matter, this Commission's ETC guidelines set forth in Resolution T-17002 establish that the ETC applicant demonstrate the following for the Commission's public interest analysis for ETC designation: increased consumer choice, advantages of the service offering, and the absence of cream-skimming. Cricket has demonstrated these factors. The Resolution notes that there a number of advantages to designating Cricket an ETC in California, including the fact that Cricket offers: (i) a flat rate for unlimited local and long distance calling, with text messaging, and caller ID; (ii) flexibility for customers to bring their own handset or use

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Cricket filed with the FCC in June 2010 a petition for forbearance from 47 U.S.C. § 214(e)(5) and 47 C.F.R. 54.207, to confirm its position that the FCC need not review or undertake an analysis in redefining rural service territories in connection with Lifeline ETC applications. In that petition, Cricket noted that the FCC has made clear that "concerns regarding cream-skimming have no application in the context of Lifeline/Link Up services."

<sup>19</sup> Rehearing Application at 11.

a Cricket handset; (iii) a Link-Up discount off the normal activation fee of \$15.00; (iv) expanded local calling areas; (v) no credit check, deposit, or contracts; (vi) no customer bills or termination fees; and (vii) mobility.<sup>20</sup> The Resolution also notes that there would be confusion for customers in the Small LECs' territories who can purchase Cricket's wireless service but who would be unable to purchase Cricket's Lifeline service if the Commission prohibited Cricket from offering Lifeline in the Small LECs' service area.<sup>21</sup>

As for the cream-skimming issue, Cricket demonstrated repeatedly that there is an *absence* of cream-skimming with this ETC designation for the reasons explained above. The FCC has declined to conduct a cream-skimming analysis under similar circumstances for other wireless carriers. Other states such as South Carolina have also recognized that cream-skimming does not arise with Lifeline-ETCs. The reason why a cream-skimming analysis is irrelevant is that a Lifeline provider does not obtain any cost-advantage over the Small LECs by serving only the low-cost areas of a Small LEC's territory because the amount of support that it receives is not tied to the ILEC's costs in any way. Rather, Lifeline affords a discount that is passed through directly to the customer. Thus, whether Cricket serves the low-cost or high-cost portions of a Small LEC's territory is irrelevant where it receives only Lifeline support.<sup>22</sup> The Small LECs' insistence that the Commission undertake a time-consuming and costly analysis of cream-skimming is a thinly-veiled attempt to delay the inevitable finding that Cricket should offer Lifeline in their territories.

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<sup>20</sup> Resolution at 8-9.

<sup>21</sup> Resolution at 20.

<sup>22</sup> In other words, Cricket receives no profit or other undue advantage from offering Lifeline to customers in the low-cost areas of a Small LEC territory as opposed to offering Lifeline to customers in the entire Small LEC territory; if Cricket were receiving high-cost support averaged over the study area, it is possible that Cricket's targeting of low-cost customers while receiving averaged support, could result in advantages for Cricket.

On considering these factors, and Cricket's arguments, the Commission concluded that the Commission's universal service goals and objectives would hardly be advanced by preventing some customers in California from having alternative Lifeline services. Accordingly, the Commission properly considered these facts in determining that it is in the public interest for Cricket to be designated an ETC in its footprint, including the Small LECs' territories.

#### **IV. THE SMALL LECs' OTHER ARGUMENTS ARE EQUALLY BASELESS**

The remainder of the Small LECs' arguments further fail to establish that the Commission committed legal error or that the Commission should grant rehearing.

##### **A. The Commission Did Not Abuse Its Discretion by Referring to D.10-11-033**

The Small LECs assert that the Commission abused its discretion by relying on D.10-11-033 in determining that there are no geographic restrictions prohibiting carriers such as wireless from offering Lifeline in Small LECs' territories.<sup>23</sup> The Small LECs argue that the Commission cannot rely on D.10-11-033 as it has no bearing on the Commission's evaluation of competitive ETC requests, which is governed by Resolution T-17002.

There has been no abuse of discretion. The Commission merely referred to D.10-11-033, but did not rely on D.10-11-033 solely as support for its conclusion that there should not be geographic restrictions on wireless carriers or other non-traditional providers that voluntarily participate in the California LifeLine program. The Commission noted, additionally, that it did not find a geographic restriction "reasonable or in the public interest;" that "Cricket currently offers retail wireless service in some parts of some small LEC service areas;" and that it cannot foresee how its universal service goals or objectives would be served by eliminating the ability

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<sup>23</sup> Moreover, the Small LECs challenge the Commission's conclusion that it will "use current Commission California Lifeline policies and rules, including those in D.10-11-033, for evaluating requests by wireless carrier for ETC designation" as "misplaced as a matter of law." Rehearing Application at 12 (citation omitted).

for some consumers to choose alternative Lifeline providers.<sup>24</sup> It was in addition to these facts that the Commission noted that its recent LifeLine Decision does not place geographic restrictions on non-traditional telecommunications service providers.

The Small LECs incorrectly contend that the Resolution “ignores federal law” by relying on the California LifeLine program for its conclusion. As an initial matter, the Commission has the discretion to establish its standards for determining ETCs, which it has done in Resolution T-17002. Further, as noted, nothing in the Resolution implies that the Commission has solely relied on findings in its state LifeLine Decision for Cricket’s ETC designation. The Commission merely referred to its LifeLine Decision to note that its conclusion here is *consistent* with its policy for the California LifeLine program. In fact, it is highly ironic and disingenuous for the Small LECs to claim that the Commission cannot reference its state LifeLine program, given the Small LECs’ constant claims that the Commission should not grant Cricket ETC authority in advance of the Commission’s finding that wireless carriers may participate in the California LifeLine program.<sup>25</sup>

**B. The Resolution Properly Determined That There is Significant Wireless Carrier Overlap with Rate-of-Return Carriers**

The Small LECs further argue that the Commission’s conclusion that there is significant wireless carrier overlap with many of the rate-of-return carriers is not supported by “substantial evidence” in the record. First, this is a finding in the LifeLine Decision and the appropriate place for reconsidering this finding is in that decision, on which the Small LECs have (as they note) sought rehearing. Moreover, as Cricket noted in its response to the Small LECs’ Application for

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<sup>24</sup> See Resolution at 11.

<sup>25</sup> See, e.g. Small LECs’ Protest to Cricket Advice Letter No. 2 (Mar. 23, 2010); Small LECs Further Response to Cricket Response (May 3, 2010) (“the Commission should reject Cricket’s advice letter without prejudice, subject to further consideration when the Commission has clarified the nature of the State LifeLine program going forward.”); Small LECs Reply Comments to Cricket Comments on Draft ETC Resolution (noting Cricket “should not be authorized to provide LifeLine service at all until an order is adopted in the pending proceedings addressing the application of General Order 153 to wireless carriers in R.06-05-028.”) (Nov. 9, 2010).

Rehearing on the Lifeline Decision, the Small LECs' arguments on this point fail to provide evidence that there is not significant wireless coverage overlap.<sup>26</sup> In fact, Cricket's coverage maps reflect that its coverage overlaps substantial portions of some of the Small LECs' territories; and the Small LECs indeed concede that Cricket serves a major portion of the Kerman territory and parts of other Small LECs' territories. As the Commission has noted, "if findings are based on inferences reasonably drawn from the record, an administrative order is considered to be supported by substantial evidence in light of the whole record."<sup>27</sup> In addition, the Commission can reasonably conclude that there is substantial wireless coverage overlap given that there are wireless carriers other than Cricket that offer service in the State, and whose service territories overlap the Small LECs' service areas.

In addition, the Small LECs wrongly imply that this statement was the primary basis for the Commission's determination that Cricket should be permitted to offer Lifeline in the Small LECs' territories. As explained above, the Commission considered a variety of other factors in concluding that Cricket should be granted ETC status in the Small LECs' service areas. Among other things, the Commission noted that the restriction would not be in the public interest because Cricket currently offers wireless service in some parts of the Small LECs' territories, and that its universal service goals would not be promoted by restricting rural customers from the choice of another Lifeline provider.

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<sup>26</sup> The only "evidence" that the Small LECs point to as to whether there is not significant wireless coverage overlap is Cricket's wireless maps. As Cricket noted, the Commission can conclude that there is substantial wireless coverage overlap based on Cricket's coverage maps and the fact that Cricket is only one wireless carrier and there are other larger wireless carriers operating in the State. In reviewing whether a decision is supported by the record, the courts focus on whether the Commission's conclusions are "reasonably supported," and conflicts of evidence "are resolved in favor of the findings of the Commission." *Calaveras Telephone Co., et al.*, Order Modifying Decision (D.) 10-06-029, and Denying Rehearing of Decision, as Modified D.10-10-036, mimeo at 16.

<sup>27</sup> See *UCAN v. SBC*, Order Modifying Decision (D.) 07-07-020, Denying Rehearing of Decision, as Modified D.08-06-023, D.08-06-023, mimeo at 9 (citation omitted).

**C. The Commission's Revision to the Resolution Was Based on the Record and Did Not Violate the Small LECs' Due Process Rights**

Finally, the Small LECs argue that they did not have the opportunity to address revisions to the Resolution. However, the Small LECs were not deprived of the opportunity to address these issues, or provide arguments on this point, as they had numerous opportunities from the time that Cricket filed its advice letter. Not only did the Small LECs have numerous opportunities to make such arguments, they in fact *made such arguments* in every single filing on whether Cricket should be allowed to offer Lifeline in the Small LECs' territories.<sup>28</sup> Cricket continued to argue throughout the past year that it should be allowed ETC authority in the Small LECs' territories and the Small LECs responded to these arguments, and was well aware that this was at issue in the Commission's consideration of Cricket's request. Therefore, it is disingenuous for the Small LECs to assert that they were somehow not "fully advised of the issues to be addressed" or given adequate notice of the facts it must rebut in order to prevail. They were fully aware of this issue, had notice of it, and in fact, were heard on this issue numerous times. The lack of opportunity to comment on the revised Resolution is not fatal because the issue was fully briefed, and the Small LECs in fact did comment on this issue numerous times.<sup>29</sup>

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<sup>28</sup> See, e.g., Small LECs Protest to Cricket Advice Letter No. 2; Small LECs Further Response to Cricket Response (May 3, 2010); Small LECs' Opening Comments on Draft Resolution (Nov. 4, 2010); Small LECs Reply Comments on Draft Resolution.

<sup>29</sup> In rejecting similar arguments made in a rehearing application as to a revised draft decision, the Commission noted that parties had "numerous opportunities to comment on this issue and present arguments to support their position," and the "Commissioners were fully aware of all arguments" and had sufficient information to make their decision. *Order Instituting Rulemaking Regarding Implementation of Suspension of Direct Access Pursuant to Assembly Bill IX and Decision 01-09-060*, Order Denying Rehearing of Decision (D.) 06-07-030, D.07-01-020, mimeo at 12 (footnote omitted). Further, the Commission has noted that a revision to a draft resolution does not result in an "alternate" if the revision "does no more than make changes suggested in prior comments on the proposed decision or draft resolution," and thus no further round of comment is necessary. D.07-01-020, *mimeo* at 11 (citing to Cal. Code Regs., Tit. 20, § 14.1).

**V. CONCLUSION**

For the foregoing reasons, the Commission should reject the Small LECs' Rehearing Application and Motion for Stay.

Respectfully submitted,

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Attorneys for Cricket Communications, Inc.

Dated: January 20, 2011

**CERTIFICATE OF SERVICE**

I, Cassandra J. Baines, certify:

I am employed in the City and County of San Francisco, California, am over eighteen years of age and am not a party to the within entitled cause. My business address is 505 Montgomery Street, San Francisco, California.

On January 20, 2011, I caused the following to be served:

**RESPONSE OF CRICKET COMMUNICATIONS, INC. (U 3076 C) TO  
SMALL LECS' APPLICATION FOR REHEARING OF RESOLUTION T-17266**

via electronic mail and U.S. Mail to all parties on the service list who have provided the Commission with an electronic mail address.

Executed this 20th day of January, 2011 in San Francisco, California.

\_\_\_\_\_/s/  
Cassandra J. Baines

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Utilities Commission

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## CALIFORNIA PUBLIC UTILITIES COMMISSION Service Lists

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**PROCEEDING: A1101003 - APPLICATION FOR REHE**  
**FILER: CAL-ORE TELEPHONE COMPANY (U1006C)**  
**LIST NAME: LIST**  
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