



**FILED**

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

Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Edison Company, Cellco Partnership LLP d/b/a Verizon Wireless, Sprint Communications Company LP, NextG Networks of California, Inc. and Pacific Bell Telephone Company d/b/a AT&T California and AT&T Mobility LLC, Regarding the Utility Facilities and the Canyon Fire in Malibu of October 2007.

Investigation 09-01-018  
(Filed January 29,2009)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING THE SETTLING PARTIES' MOTION TO ACCEPT INTO THE RECORD THEIR PREVIOUSLY SERVED PUBLIC TESTIMONY AND ATTACHED EXHIBITS**

**1. Summary**

This ruling grants the joint motion by the Consumer Protection and Safety Division (CPSD), AT&T Mobility LLC (AT&T), Sprint Telephony PCS, L.P. (Sprint), and Cellco Partnership LLP d/b/a Verizon Wireless (Verizon Wireless) (together, the "Settling Parties") to move into the record of this proceeding their previously served public testimony and attached exhibits. This material is admitted into the record subject to the conditions set forth below.

**2. Background**

On March 27, 2012, the Settling Parties filed a motion to move into the record of this proceeding the public versions of their previously served testimony and attached exhibits in order to provide the Commission with a basis

for considering if the Settlement Agreement that was filed on February 3, 2012, satisfies Rule 12.1 of the Commission's Rules of Practice and Procedure (Rule). The Settling Parties further asked that their testimony and attached exhibits be accepted into the record subject to the following conditions:

- (1) There is no presumption as to the accuracy, persuasiveness, or reliability of such testimony.
- (2) If there is an evidentiary hearing regarding the alleged violations against Southern California Edison Company (SCE) and NextG Networks of California, Inc. (NextG), and a portion of the Settling Parties' testimony is used to prove the allegations, then SCE and NextG will have the right at that time to (A) object to the portion of the Settling Parties' testimony that is used to prove the allegations, and (B) cross-examine the Settling Parties' witnesses who sponsor the portion of the testimony that is used to prove the allegations.

The specific written testimony that the Settling Parties seek to move into the record is identified in their motion.

There was no response to the motion. However, SCE and NextG had previously advised the assigned Administrative Law Judge that they do not object to admitting the public versions of the Settling Parties' testimony into the record, subject to the previously identified conditions.<sup>1</sup>

### **3. Discussion**

The unopposed motion is granted. The public versions of the Settling Parties' previously served testimony and attached exhibits are admitted into the record for the limited purpose of considering if their Settlement Agreement

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<sup>1</sup> E-mails sent by Charles Read and Robert Millar to the service list on March 26, 2012, on behalf of SCE and NextG, respectively.

satisfies the requirements of Rule 12.1. So as to not prejudice SCE and NextG, the Settling Parties' testimony and attached exhibits are admitted into the record subject to the previously identified conditions. The specific testimony and attached exhibits that are admitted into the record are identified below:

<b>Exhibit No.</b>	<b>Party</b>	<b>Witness(es)</b>	<b>Description (Public Version)</b>	<b>Date Identified &amp; Admitted</b>
CPSD-1	CPSD	Tong, Moshfegh, Saah, Moritz, and Moody	Direct Testimony of CPSD Regarding the Malibu Canyon Fire of 2007, dated May 3, 2010	April 27, 2012
CPSD-2	CPSD	Tong, Moshfegh, Fugere, Saah, Moritz, and Moody	Rebuttal Testimony of CPSD Regarding the Malibu Canyon Fire of 2007, dated April 29, 2011	April 27, 2012
CPSD-3	CPSD	Moshfegh, Fugere, Saah, and Moritz	Reply Testimony of CPSD to Respondents' June 29, 2011 Surrebuttal Testimony, dated Aug. 29, 2011	April 27, 2012
AT&T-1	AT&T	Addington	Verified Opening Testimony of Jeff Addington in Support of Respondents AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated Nov. 18, 2010	April 27, 2012
AT&T-2	AT&T	Hernandez	Verified Opening Testimony of Lupe Hernandez in Support of Respondents AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated Nov. 18, 2010	April 27, 2012

<b>Exhibit No.</b>	<b>Party</b>	<b>Witness(es)</b>	<b>Description (Public Version)</b>	<b>Date Identified &amp; Admitted</b>
AT&T-3	AT&T	Hollister	Verified Opening Testimony of James Hollister in Support of Respondents AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated Nov. 18, 2010	April 27, 2012
AT&T-4	AT&T	Young and Diaz	Verified Opening Testimony of Brent Young and David Diaz in Support of Respondents AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated Nov. 18, 2010	April 27, 2012
AT&T-5	AT&T	Case	Verified Rebuttal Testimony of Christopher Case in Support of Respondents AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated June 29, 2010	April 27, 2012
AT&T-6	AT&T	Hollister	Verified Sur-Rebuttal Testimony of James Hollister in Support of Respondents AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated June 29, 2011	April 27, 2012
Sprint-1	Sprint	Ghantous, Dirvonis, and Baumler	Direct Testimony of Sprint Telephony PCS, L.P., dated Nov. 18, 2010	April 27, 2012
Sprint-2	Sprint	Baumler	Surrebuttal Testimony of Sprint Telephony PCS, L.P., dated June 29, 2011	April 27, 2012
Sprint-3	Sprint	Appleby	Surrebuttal Testimony of Sprint Telephony PCS, L.P., dated Aug. 29, 2011	April 27, 2012

<b>Exhibit No.</b>	<b>Party</b>	<b>Witness(es)</b>	<b>Description (Public Version)</b>	<b>Date Identified &amp; Admitted</b>
Verizon-1	Verizon Wireless (VW)	Brown	Testimony of Malcolm Brown on Behalf of Verizon Wireless, dated Nov. 18, 2010	April 27, 2012
Verizon-2	VW	Brown	Surrebuttal Testimony of Malcolm Brown on Behalf of Verizon Wireless, dated June 19, 2011	April 27, 2012
AT&T/ Verizon-1	AT&T and VW	Slavin	Rebuttal Testimony of Lawrence Slavin in Support of Respondents Cellco Partnership LLP d/b/a/ Verizon Wireless, AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated June 29, 2011	April 27, 2012
AT&T/ Verizon-2	AT&T and VW	Slavin	Sur-Rebuttal Testimony of Lawrence Slavin in Support of Respondents Cellco Partnership LLP d/b/a/ Verizon Wireless, AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated Aug. 29, 2011	April 27, 2012
Respondents-1	AT&T, NextG, Sprint, SCE, VW	Peterka	Prepared Testimony of Jon A. Peterka on Behalf of Southern California Edison Company, Cellco Partnership LLP d/b/a Verizon Wireless, Sprint Communications Company LP, NextG Networks of California, Inc. and AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated Nov. 18, 2010	April 27, 2012

<b>Exhibit No.</b>	<b>Party</b>	<b>Witness(es)</b>	<b>Description (Public Version)</b>	<b>Date Identified &amp; Admitted</b>
Respondents-2	AT&T, NextG, Sprint, SCE, VW	Peterka	Prepared Sur-Rebuttal Testimony of Jon A. Peterka on Behalf of Southern California Edison Company, Cellco Partnership LLP d/b/a Verizon Wireless, Sprint Telephony PCS L.P., NextG Networks of California, Inc. and AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated June 29, 2011	April 27, 2012
Respondents-3	AT&T, NextG, Sprint, SCE, VW	Rosenthal	Prepared Testimony of Jay Rosenthal on Behalf of Southern California Edison Company, Cellco Partnership LLP d/b/a Verizon Wireless, Sprint Communications Company LP, NextG Networks of California, Inc. and AT&T Mobility LLC, and Pacific Bell Telephone Company d/b/a/ AT&T California, dated Nov. 18, 2010	April 27, 2012
Respondents-4	AT&T, NextG, Sprint, SCE, VW	Schulte	Prepared Testimony of William R. Schulte on Behalf of All Named Respondents, dated Nov. 18, 2010	April 27, 2012
Respondents-5	AT&T, NextG, Sprint, SCE, VW	Schulte	Surrebuttal Testimony of William R. Schulte on Behalf of All Named Respondents, dated June 29, 2011	April 27, 2012

Therefore, **IT IS RULED** that:

1. The joint motion of the Consumer Protection and Safety Division, AT&T Mobility LLC, Sprint Telephony PCS, L.P., and Cellco Partnership LLP d/b/a Verizon Wireless to accept into the record of this proceeding their previously served public testimony and attached exhibits is granted. This material is admitted into the record for the limited purpose of considering if the Settlement Agreement that was filed on February 3, 2012, satisfies the requirements of Rule 12.1 of the Commission's Rules of Practice and Procedure.

2. The public versions of the Settling Parties' previously served testimony and attached exhibits are admitted into the record subject to the following conditions:

- i. There is no presumption as to the accuracy, persuasiveness, or reliability of the testimony and exhibits.
- ii. If there is an evidentiary hearing regarding the alleged violations against Southern California Edison Company (SCE) and NextG Networks of California, Inc. (NextG), and a portion of the Settling Parties' testimony is used to prove the allegations, then SCE and NextG will have the right at that time to (A) object to the portion of the Settling Parties' testimony that is used to prove the allegations, and (B) cross-examine the Settling Parties' witnesses who sponsor the portion of the testimony that is used to prove the allegations.

3. The specific public testimony and attached exhibits that are admitted into the record pursuant to this ruling are (i) identified in the body of this ruling, and (ii) assigned the Exhibit Numbers set forth in the body of this ruling.

Dated April 27, 2012, at San Francisco, California.

/s/ TIMOTHY KENNEY

Timothy Kenney  
Administrative Law Judge