STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED
6-22-16
08:00 AM

June 22, 2016

Agenda ID#14992
Alternate to Agenda ID#14750
Quasi-Legislative

TO PARTIES OF RECORD IN RULEMAKING 11-12-001:

Enclosed is the Alternate Proposed Decision of Commissioner Catherine J.K. Sandoval to the Proposed Decision of Commissioner Michael Picker previously mailed to you. This cover letter explains the comment and review period and provides a digest of the alternate decision.

When the Commission acts on this agenda item, it may adopt all or part of it as written, amend or modify it, or set aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Public Utilities Code Section 311(e) requires that an alternate to a proposed decision or to a decision subject to subdivision (g) be served on all parties, and be subject to public review and comment prior to a vote of the Commission.

Parties to the proceeding may file comments on the alternate proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3 opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Bushey at mab@cpuc.ca.gov and Commissioner Sandoval's advisor Bill Johnston at wej@cpuc.ca.gov. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC: ar9

Attachment

DIGEST OF DIFFERENCES BETWEEN COMMISSIONER MICHAEL PICKER'S PROPOSED DECISION AND THE ALTERNATE PROPOSED DECISION OF COMMISSIONER CATHERINE J.K. SANDOVAL

Pursuant to Public Utilities Code Section 311(e), this is the digest of the substantive differences between the proposed decision of Commissioner Michael Picker (mailed on 3/22/2016) and the alternate proposed decision of Commissioner Catherine J.K. Sandoval (mailed on 6/22/2016).

Apart from many stylistic and organizational changes, the Alternate differs substantively from the Proposed Decision in the following ways:

1. Major Service Interruption reporting obligations are extended to entities subject to Public Utilities Code Section 285;
2. The reporting of Major Rural Outages will now be required of most telecommunications carriers and a new threshold for their reporting is ordered;
3. The automatic penalty provisions no longer contain an option for suspension of carrier fines based on the submission of a "corrective action plan" describing incremental spending intended to improve service quality performance; and
4. We anticipate launching a new phase of this proceeding to examine the appropriateness of service quality standards for wireless and VoIP services

ATTACHMENT

Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER SANDOVAL (Mailed 6/22/2016)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules.	Rulemaking 11-12-001 (Filed December 1, 2011)

ALTERNATE DECISION ADOPTING GENERAL ORDER 133-D

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ALTERNATE DECISION ADOPTING GENERAL ORDER 133-D

Summary

This decision adopts revisions to General Order 133, in a new General Order 133-D, which sets out service quality rules for California's public utility telephone corporations. Today's decision imposes automatic fines of up to $25,000 per day for failure to meet three service quality measures: 1) Out-of-Service Repair Interval, 2) Customer Trouble Reports and 3) Answer Time for Trouble Reports and Billing and Non-billing Inquiries. Fines do not accrue until a company fails to meet prescribed standards for three consecutive months. Federally-mandated outage reports must also be submitted to the Communications Division by all carriers registered under Public Utilities Code § 285, and telecommunication outages in rural areas must be reported. Other clarifying revisions to General Order 133-D are also adopted.

1. Background

In 2009, this Commission issued Decision (D.) 09-07-019 and adopted General Order (GO) 133-C, which revised the Commission's service quality rules, measures and standards for telecommunications carriers previously established under GO 133-B. In that decision, the Commission adopted five minimum service quality measures for installation, maintenance and operator answer time for local exchange telephone service. The goal of these service quality measures was to ensure that telecommunications carriers provide relevant information to the Commission so that it may adequately protect California customers and the public interest.

On December 1, 2011, the Commission opened Rulemaking 11-12-001 to review telecommunications carriers' performance in meeting GO 133-C service quality performance standards. In addition, the Order Instituting Rulemaking stated the Commission's intention to assess whether the existing GO 133-C service quality standards and measures meet the goals of the Commission and are relevant to the current regulatory environment and market, and whether there is a need to maintain a penalty mechanism for future substandard service quality performance.

On September 24, 2012, then-assigned Commissioner Ferron issued a scoping memo and ruling setting forth an initial schedule for this proceeding. In D.13-02-023, the Commission affirmed the scoping memo determinations that hearings may be required and that the largest incumbent local exchange carriers should fund an evaluation of telecommunications facilities in a study of network infrastructure.

On August 19, 2013, the proceeding was reassigned to Administrative Law Judge (ALJ) Maribeth A. Bushey, and on February 6, 2014, then Commissioner (now President) Picker was designated the assigned Commissioner after Commissioner Ferron's departure from the Commission. On September 24, 2014, assigned Commissioner Picker issued an Amended Scoping Memo and Ruling that modified the schedule set in the previous scoping memo.

The amended scoping memo included a Staff Report from the Commission's Communications Division. That report contained a discussion of carriers' performance on existing service quality measures, as well as a review of alternative approaches to monitoring telephone service quality. The Staff Report found that many of the Uniform Regulatory Framework (URF) carriers[1] did not

[1] URF carriers have full pricing flexibility over substantially all of their rates and charges. URF carriers include Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange

Footnote continued on next page

meet the out-of-service standard in multiple years. The two largest wireline carriers: AT&T California, Inc. and Verizon California, Inc. remained out of compliance with the General Order 133-C out-of-service standard for the years 2010-2013.[2]

Based on parties' comments on that report, Commission staff prepared a formal proposal for modifications to General Order 133-C. The Staff Proposal recommended: modifications to the existing service quality reporting requirements; changes in definitions within the general order; changes to outage reporting, including adoption of a methodology for determining the end of a catastrophic event; automatic customer refunds; carrier fines for non-compliance; and applying service quality rules to certificated facilities-based interconnected Voice over Internet Protocol (VoIP)[3] carriers. The assigned ALJ issued a ruling

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Carriers (CLECs) regulated through the Commission's uniform regulatory framework established in D.06-08-030. Verizon's wireline facilities in the state were purchased by Frontier Communications in a transaction approved by the Commission in December, 2015 (D.15-12-005). The transfer of operations occurred on April 1, 2016.

[2] California Wireline Service Quality Pursuant to General Order 133-C, Calendar Years 2010 through 2013, CPUC, Communications Division Staff Report, September 2014. Available on the Commission's website at: http://www.cpuc.ca.gov/General.aspx?id=1107

[3] Pub. Util. Code § 239(a)(1) "Voice over Internet Protocol" or "VoIP" means voice communications service that does all of the following:

> (A) Uses Internet Protocol or a successor protocol to enable real-time, two-way voice communication that originates from, or terminates at, the user's location in Internet Protocol or a successor protocol.
>
> (B) Requires a broadband connection from the user's location.
>
> (C) Permits a user generally to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

(2) A service that uses ordinary customer premises equipment with no enhanced functionality that originates and terminates on the public switched telephone network, undergoes no net protocol conversion, and provides no enhanced functionality to end users due to the provider's use of Internet Protocol technology is not a VoIP service.

Footnote continued on next page

requesting comments on that proposal on February 2, 2015, and parties filed comments in March and April 2015.

On November 12, 2015, assigned Commissioner Picker mailed a Proposed Decision that would have adopted a new version of the Commission's telecommunications service quality requirements, as General Order 133-D. Commissioner Picker subsequently withdrew his Proposed Decision from the Commission's agenda after the filing of opening and reply comments.

On December 29, 2015, the assigned ALJ issued a ruling seeking comment on a specific aspect of the draft General Order proposed in the November PD. Parties filed comments and reply comments on the proposal.

On March 22, 2016, assigned Commissioner Picker issued a new proposed decision and draft General Order, which contained slight modifications from the earlier proposed decision. Parties filed comments and reply comments on the proposed decision.

Attachment A is a list of parties that filed comments to the Staff Proposal and proposed decisions.

Today's decision establishes a revised draft GO 133-D (Attachment B). As described above, the proposals contained in Attachment B are the result of a long and detailed process involving all interested parties. This decision and the attached GO 133-D differ from the draft versions mailed in November 2015 and March 2016 primarily in the following ways:

(b) "Internet Protocol enabled service" or "IP enabled service" means any service, capability, functionality, or application using existing Internet Protocol, or any successor Internet Protocol, that enables an end user to send or receive a communication in existing Internet Protocol format, or any successor Internet Protocol format through a broadband connection, regardless of whether the communication is voice, data, or video.

1. Major Service Interruption reporting obligations are extended to entities subject to Public Utilities Code Section 285;

2. The reporting of Major Rural Outages will now be required of most telecommunications carriers;

3. The automatic penalty provisions no longer contain an option for suspension of carrier fines based on the submission of a "corrective action plan" describing incremental spending intended to improve service quality performance; and

4. We anticipate launching a new phase of this proceeding to examine the appropriateness of service quality standards for wireless and VoIP services.

2. Staff's Recommended Changes to the General Order

This section contains a description of recommendations made in the Staff Proposal, along with a summary of parties' positions on each issue. We adopt most staff recommendations, with modifications as noted below.

2.1. Definitions

2.1.1. Customer

Staff proposed to define a customer as a separate account number for voice service, or a bundle of services including voice, and includes large business (six or more lines), small business (five lines or less), and residential service. The definition will be used to determine whether a facilities-based URF carrier must report service quality results, and for calculating whether a catastrophic event has affected 3% of a carrier's customers in the state.

AT&T commented that "customer" should be defined as an "access line," and should be limited to circuit switched small business and residential customers because these two classes of customers have been the focus of G.O. 133-C and should remain so.[4]

We agree with AT&T that large business customers should not be included in the definition and that the definition should apply to circuit-switched services.

We adopt staff's proposed definition of customer GO 133-D, with one modification. Large business customers are excluded from the definition, and the definition applies only to circuit-switched services. Carriers subject to reporting shall report both customer numbers and access lines for small business and residential customers on the GO 133-D report card shown in Attachment C to this decision.

We are also concerned about outages that affect critical infrastructure, whether they are large or small businesses. However, these types of outages are currently outside of the scope of this proceeding and we will address them in a different proceeding.

2.1.2. Facilities-Based Carrier

Staff proposed that a facilities-based carrier be defined as a telephone corporation or interconnected VoIP provider that owns or controls facilities used to provide voice communication for compensation, including the line to the end-user's location. ORA commented on staff's proposal and recommended that the definition be:

> A telephone corporation, <u>including a wireless</u> or interconnected VoIP provider that owns or controls facilities used to provide

[4] Opening Comments of AT&T to Staff Proposal, March 30, 2015, p. 23.

> communication for compensation, including the line to the end-user's location.[5]

We do not believe that it is necessary to include the change to staff's proposed definition that was recommended by ORA because wireless providers are telephone corporations. We adopt staff's proposed definition, with one small modification: the definition of facilities-based carrier adopted here removes the word "voice." As a result, the definition reads:

> A telephone corporation or interconnected VoIP provider that owns or controls facilities used to provide communication for compensation, including the line to the end-user's location.This definition is technology-neutral; it reflects today's telecommunications market, including facilities-based interconnected VoIP providers who use a variety of delivery media, including copper wire, coaxial cable, fiber optics, and wireless technologies, to provide network access to their customers. These facilities are lines that provide a connection from the access provider's facilities to the end-user.

2.1.3. Interconnected VoIP Service

Staff proposed adopting the FCC's definition of interconnected VoIP service (47 C.F.R. § 9.3), which is limited to internet protocol-based voice service (VoIP). ORA agreed with staff's proposed definition.[6] AT&T recommended using the Public Utilities Code Section 239 (a)(1)(A) definition for interconnected VoIP because it is included in statute.[7] This definition of VoIP includes Internet protocol (IP) <u>or a successor protocol</u> enabling real-time, two-way voice

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[5] ORA Opening Comments to Staff Proposal, March 30, 2015, Appendix A. page A-1.

[6] *Ibid.*

[7] Opening Comments of AT&T to Staff Proposal, March 30, 2015, p. 23.

communication that originates from, or terminates at, the user's location in Internet Protocol or a successor protocol.

We adopt AT&T's recommended Public Utilities Code Section 239(a)(1)(A) definition of interconnected VoIP service because it is more technologically neutral than the federal definition and provides this Commission with greater flexibility in addressing voice services as technologies change.

2.1.4. Line

Staff proposed that a line be defined as:

> An access line (hardwire and/or channel) which runs from the local central office, or functional equivalent (Class 4/5, Class 5 or remote), to the subscriber's premises.

Only ORA commented on staff's proposed definition, supporting it.[8] This definition of line does not refer to specific types of central office technologies.

In this decision, we adopt a slightly modified definition of line, as follows:

> An access line (hardwire and/or channel) which runs from the local central office, or functional equivalent, to the subscriber's premises. A channel can be provided with or without wires.

This definition better reflects today's technologies for providing voice communication services, which do not always utilize a dial tone in the traditional sense.

2.1.5. Outage

Staff proposed to define outage as: A significant degradation in the ability of an end user to establish and/or maintain a channel of communications as a

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[8] Opening Comments of the Office of Ratepayer Advocates to Staff Proposal, March 30, 2015, Appendix A, page A-1.

result of failure or degradation in the performance of a communications provider's network. This definition is consistent with the FCC's definition of outage.[9]

AT&T does not recommend adopting staff's recommended definition of outage because no evidence has been presented that this definition is needed, and recommends that the Commission should use the definition for Out of Service in G.O. 133-C Section 1.3: A telephone line without dial tone.[10] ORA agrees with staff's proposed definition.[11]

As discussed in the previous section that defines "line," today's technologies for providing voice communication services do not always utilize a dial tone in the traditional sense. Consequently, staff's proposed definition is technology neutral and a better fit for today's communications market. We adopt staff's proposed definition of outage.

Due to the change in the definition of the term line and the adoption of the definition for outage, we believe that it is appropriate to revise the definition of Out of Service to be consistent with the purpose and intent of these new definitions. Consequently, Out of Service is defined as:

> A condition whereby a customer cannot establish and/or maintain a channel of communications.

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[9] 47 C.F.R § 4.5(a).

[10] Opening Comments of AT&T to Staff Proposal, March 30, 2015, p. 24.

[11] Opening Comments of ORA to Staff Proposal, March 30, 2015, Appendix A, page A-2.

2.2. Changes to Existing Reporting Requirements and Addition of New Reporting Requirements

2.2.1. Duration of Catastrophic Events

Currently, GO 133-C allows carriers to exclude outages associated with catastrophic events from their calculation of certain performance measures. The existing general order does not define the method for determining the duration of a "catastrophic event." Staff recommended that GO 133-D should prescribe a method for identifying the end of a catastrophic event, in order to facilitate consistent measurement and reporting of outage-related measures and suggested that the end of a catastrophic event should be when the out-of-service ticket level returns to the average level for the three consecutive months prior to the catastrophic event. The average level should be calculated by summing the actual number of out-of-service tickets for residential, small business (five lines or less), and large business (greater than five lines) customers for the three consecutive calendar months that did not have catastrophic events prior to the declared State of Emergency, divided by three.

AT&T, Cox, and Joint Consumers submitted comments on Staff's proposal. Joint Consumers supported staff's proposal.[12] AT&T and Cox[13] generally supported the proposal, but suggested the following modifications:[14]

1) only out-of-service tickets (and not other trouble reports) from residential and small business customers should be included in the calculation; and

[12] Opening Comments of Joint Consumers to Staff Proposal, March 30, 2015, p. 3.

[13] Reply Comments of Cox Communications to Staff Proposal, April 17, 2015, p. 16.

[14] Opening Comments of AT&T to Staff Proposal, March 30, 2015, pp. 25-26.

2) the calculation of the baseline average should exclude months in which there was a catastrophic event.

The attached GO 133-D incorporates these recommendations in the calculation of average out-of-service ticket levels for the purposes of identifying the end of a catastrophic event.

2.2.2. Additional Reporting and Calculation of Out-of-Service Measure Results

Staff recommended that carriers be required to provide the out-of-service measure results on an actual, unadjusted basis, in addition to the current reporting, which shows results that are adjusted to exclude Sundays, federal holidays, catastrophic events, and events beyond the control of the carrier, including customer requested appointments. The purpose for having actual results reported is to provide context as to the significance that the allowable exemptions have on out-of-service restoral time results. The unadjusted results will not be used for calculating fines.

Staff also proposed that carriers be required to include in the quarterly reporting information on catastrophic events that were excluded in the out-of-service calculation results. The information includes an explanation of what the catastrophic event was, the areas affected, the total number of customers affected, including small business and residential customers.

Verizon California[15] urged the Commission to completely eliminate this standard, and the small LECs recommended changing the threshold for reporting catastrophic events for small telephone companies from 3% of carriers' lines to the greater of either 3% of a carrier's lines or 100 customers, whichever is

[15] Opening Comments of Verizon California to Staff Proposal, March 30, 2015, p. 4.

greater.[16] The competitive carriers asked the Commission to adopt a separate template so that outages caused by the underlying carrier could be separated for the purpose of fines.[17]

Reporting outage repair results on an unadjusted basis provides useful information on the order of magnitude that the exemptions have on reported results. The additional burden of reporting the unadjusted results is not significant because the carriers have this information readily available. For these reasons, we adopt the requirement that carriers report both adjusted and unadjusted outage numbers. The standard for out-of-service measure will continue to apply only to the adjusted results and assessing carrier's out of service performance for the purpose of carrier fines will also be based on adjusted results. The new template in Appendix C reflects this requirement.

We do not adopt the small LECs' position on the appropriate threshold for reporting catastrophic events. As reported in the Staff's September 2014 report, the smallest telephone company, Winterhaven, had approximately 244 customers at the end of 2013. The small LECs' proposal would require 100 customers, or 40% of Winterhaven's customer base to be without service before reporting as a catastrophic event. We therefore think this threshold unreasonable.

2.2.3. Applicability of Service Quality Measures

Staff proposed that the GO 133-D Service Quality rules apply to any telephone corporation, common carrier, or other entity that provides voice service in California (e.g. VoIP providers required to remit universal service

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[16] Opening Comments of Small LECs to Staff Proposal, March 30, 2015, pp. 2-3.

[17] Opening Comments of CAL TEL to Staff Proposal, March 30, 2015, pp. 2-5.

surcharges pursuant to Public Utilities Code §285), including facilities-based interconnected VoIP providers, that:

1) Have been granted a Certificate of Public Convenience and Necessity by the Commission, and
2) Are designated as an Eligible Telecommunications Carrier by either the Federal Communications Commission (FCC) or this Commission to receive federal high-cost support and/or low-income support, and/or
3) Are authorized to provide California LifeLine service.

We adopt a modified version of staff's proposal. The service quality measures and standards apply to those interconnected VoIP providers that have a CPCN, have been designated as a Federal ETC in California and/or provide California Lifeline service. The service quality measures and standards do not apply to interconnected VoIP providers that are required to pay universal service surcharges pursuant to Public Utilities Code §285.

2.2.4. Require Interconnected VoIP Providers to Submit FCC Network Outage Reporting System (NORS) Reports to the Commission

Staff recommended that all entities subject to the GO, including interconnected VoIP providers issued a CPCN by the Commission; have been designated a federal ETC in California and/or provide California Lifeline service, and have to remit universal service surcharges pursuant to Public Utilities Code § 285, be required to submit to the Communications Division copies of all outage reports filed with the Federal Communication Commission under the NORS at the time of their filing so that the Commission is informed of major VoIP network outages.

Pub. Util. Code § 285(c) directs the Commission to require interconnected VoIP providers to collect and remit public purpose program surcharges:

(c) The commission shall require interconnected VoIP service providers to collect and remit surcharges on their California intrastate revenues in support of the following public purpose program funds:

(1) California High-Cost Fund-A Administrative Committee Fund under Section 275.

(2) California High-Cost Fund-B Administrative Committee Fund under Section 276.

(3) Universal Lifeline Telephone Service Trust Administrative Committee Fund under Section 277.

(4) Deaf and Disabled Telecommunications Program Administrative Committee Fund under Section 278.

(5) California Teleconnect Fund Administrative Committee Fund under Section 280.

(6) California Advanced Services Fund under Section 281.

Interconnected VoIP service providers are providing telephone service in California and the Commission should be aware of significant outages that occur in their networks. Providing the Commission a copy of a report already required by the FCC is an efficient means of informing this Commission of network outages compromising interconnected VoIP services.

Telephone corporations do not support adoption of this proposal for several reasons. They assert that there is no basis for the rules, the market is competitive, and that the CPUC is restricted from imposing service quality rules on VoIP due to Pub. Util. Code § 710.[18] Consumer groups and ORA support the recommendation because it is within the commission's authority under Pub. Util.

[18] AT&T Opening Comments to the October 2014 Staff Report at pp. 14-20, Verizon Opening Comments to the October 2014 Staff Report at pp. 3, 19-21, CTIA Opening Comments to the October 2014 Staff Report at pp. 1-2, CALTEL Opening Comments to the October 2014 Staff Report at p.7, CCTA Opening Comments to the October 2014 Staff Report at p.1-4 and Cox Opening at p.11.

Code §§ 216, 233, 234, 314 (b), 581; within the exemptions of Pub. U til. Code § 710; and is also a Commission mandate under Pub. Util. Code3 § 451.[19]

Interconnected VoIP providers have been required to report NORS outages to the FCC since 2012, pursuant to 47 CFR 4.3(h). The FCC adopted NORS reporting for interconnected VoIP providers due to the public safety issues associated with VoIP outages and access to 9-1-1. VoIP service is becoming more prevalent and is marketed as a substitute for traditional telephone service, and interconnected VoIP customers have the same need for reliable service and the ability to reach emergency services as do traditional telephone service customers. For these reasons, the commission needs to be informed of these network outages where those emergency access services become unavailable. To demonstrate the need for mandatory outage reporting, the FCC's Order adopting mandatory outage reporting requirements for communication providers providing interconnected VoIP services pointed to a number of significant VoIP outages where the FCC only learned of outages through the media.[20]

Currently, facilities-based wireline and wireless telephone corporations file NORS reports with the Commission, and there is limited administrative burden for interconnected VoIP providers to do the same.

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[19] ORA Opening Comments to the October 2014 Staff Report at pp. 10-15, TURN Opening Comments to the October 2014 Staff Report at pp. 6-7, CWA Opening Comments to the October 2014 Staff Report at p. 6, Joint Consumers Opening Comments to the October 2014 Staff Report at p. 6, and CFC Opening Comments to the October 2014 Staff Report at p. 3; ORA Opening Comments to the February 2015 Staff Proposal at p. 15.

[20] *In the Matter of The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice over Internet Protocol Service Providers and Broadband Service Providers,* Report and Order, PS Dkt. 11-82 (FCC 12-22) Rel. Feb 21, 2012, para 7.

This decision adopts staff's proposal, as shown in Section 4 of GO 133-D, in Attachment B. Interconnected VoIP providers are required to submit copies of their FCC-mandated NORS reports to the Communications Division in the same manner as telephone corporations.

2.2.5. Reporting Outages that Affect Public Safety (e.g. 9-1-1, Emergencies or Disasters) that Do Not Meet the FCC's NORS Reporting Threshold

Staff proposed new Emergency and Disaster Reporting for all emergencies and disaster events that affect 9-1-1/Public Safety for all customers in communities of place. The reporting requirement would apply to all facilities-based telephone corporations, including: (GRC LECs and facilities-based URF carriers), as well as interconnected VoIP providers which have been issued a CPCN by the Commission, designated a federal ETC in California, and/or provide California Lifeline service. The proposal was based on reporting requirements similar to the FCC's NORS and GO 166 for Electric Utilities for Reporting During Emergencies and Disasters.[21] These additional reporting requirements were intended to assist the Commission in identifying localized service quality problems, especially those affecting small communities and rural areas of the state.

Carriers generally did not support this additional reporting, and asserted that the recommended reporting requirements are either unnecessary or

[21] For electric utilities, the Commission has already adopted analogous reporting requirements. In D.16-01-008, the Commission updated the electric utility reporting to include electric outage data at the local level. That decision found that "[d]istrict or division level [outage] reporting… is reasonable and in the public interest" (Decision at Conclusions of Law 1).

infeasible. The carriers' objections to these requirements included, but were not limited to, the following:

1) the FCC NORS reports already cover rural areas;[22]
2) the Commission receives outage information (e.g. NORS report number, outage start and stop date, number of customers affected, 9-1-1 facilities affected, description of outage, etc.,) annually in ETC filings;[23]
3) the carriers' network monitoring equipment cannot identify communities of place;[24]
4) there are no objective reporting criteria which will provide the Commission with outage information that it seeks for outages in sparsely populated rural areas;[25]
5) staff did not demonstrate that the requirements would improve public safety;[26] and
6) that implementing such reporting would be costly.[27]

We find that the carriers' arguments miss the point of the staff proposal – to capture localized outages that do not meet the NORS reporting threshold on a close to real-time basis and not annually via the ETC annual report filing process.[28]

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[22] AT&T California Opening Comments to Staff Proposal, p. 22, Verizon California Opening Comments to Staff Proposal, p. 15., and Consolidated Opening Comments to Staff Proposal, p. 3., March 30, 2015.

23 Cox Opening Comments to Staff Proposal, March 30, 2015, p. 11.

24 Verizon Opening Comments to Staff Proposal, March 30, 2015, p. 16.

25 AT&T Opening Comments to Staff Proposal, March 30, 2015, p. 28.

26 Verizon Reply Comments to Staff Proposal, April 17, 2015, p. 7.

27 Cox Opening Comments to Staff Proposal, March 30, 2015, p. 6.

28 47 C.F.R. § 54.313 requires all federal eligible telecommunications carriers (ETCs) receiving high-cost support to file annual reports regarding compliance with Commission rules, including, but not limited to providing for the prior calendar year, information on any outage

Footnote continued on next page

Consumer groups supported the staff proposal.[29] However, ORA proposed that all outages, whether the customer reports the outage or the telephone corporation discovers the outage, for service providers that have more than 3,000 customers, should be reported and recommends a new threshold for outage reporting of 90,000 user minutes, compared to the NORS threshold of 900,000 user minutes.[30] ORA's recommendation is that any outage that lasts at least 30-minutes and:[31]

a. Affects a Mobile Switching Center (applicable to wireless service providers only);
b. Potentially affects at least 90,000 user minutes (vs. NORS 900,000 user minutes);
c. Potentially affects at least 150 DS3 minutes (vs. NORS 1,350 minutes);
d. Potentially affects any special offices and `facilities; and
e. Potentially affects a 9-1-1 special facility affecting at least 90,000 user minutes (vs. NORS 900,000 user minutes).

For service providers who have fewer than 3,000 customers, ORA recommended that the service providers report all service telephony service

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that last at least 30 minutes in duration and affects at least ten percent of end users served in a designated service area pursuant to Title 47 C.F.R. Part 4 (Disruptions to Communications), § 4.5 (Definitions of outage, special offices and facilities, and 9-1-1 special facilities).

[29] Joint Consumers Opening Comments to Staff Proposal, p. 5, CWA Opening Comments to Staff Proposal, p. 2.

[30] ORA Opening Comments to Staff Proposal, March 30, 2015, p. 26.

[31] ORA Opening Comments to Staff Proposal, March 30, 2015, p. 30, Table 1, 1). ORA defines the following:

- For wireless and wireline service providers, "user minutes" refers to user minutes of telephony service; for VoIP service providers, "user minutes" refers to minutes of interconnected VoIP service resulting in complete loss of service.
- DS3 minutes are defined as multiplying the duration of an outage, expressed in minutes, by the number of previously operating DS3 minutes that were affected by the outage. (See 47 C.F.R §4.7(d.).
- Special Offices and Facilities are defined in 47 C.F.R §4.5(b).
- 9-1-1 Outage is defined in 47 C.F.R § 4.5(e).

outages and all DS3 circuit outages that are of at least 30-minutes in duration that potentially affects 3% of their telephony customers, or 3% of the DS3 circuits that the provider has in the state.

In reply comments to ORA's proposal, only CWA supported ORA's new threshold.[32] However, as AT&T pointed out, ORA's proposal would result in hundreds, if not thousands, of additional reports being filed, most of which would not be associated with the rural or sparsely populated areas that motivated the original proposal. While ORA's proposal would show information for outages affecting smaller numbers of users, it does not solve the problem for which staff was seeking a solution: how to locate and identify smaller communities that experience outages. In contrast, the Joint Consumers proposed that zip codes could be used to identify sparsely populated areas, but they did not provide details on how zip codes could be used for real-time outage reporting. Because we are specifying a new method for rural outage reporting, we do not adopt Joint Consumers' proposal at this time.

Regarding wireless carriers, the proposed decision asked for proposals to extend the consumer protection concepts of the general order to wireless carriers.[33] In response, the commission did not receive proposals, however AT&T, Verizon Wireless, and CTIA commented that the commission is prohibited from applying service quality rules to wireless.[34] ORA strongly supports applying rules to wireless carriers as the statutes requiring the commission to promulgate rules does not distinguish between type of telephone

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[32] CWA Reply Comments to Staff Proposal, April 17, 2015, p. 3.

[33] Proposed Decision, filed 11-12-15, p. 15.

[34] Opening Comments of AT&T California, Verizon Wireless and CTIA to Proposed Decision, December 2, 2015.

corporation.[35] The commission needs information from all providers of rural communications services, including wireless carriers, and consequently includes these carriers in the rural outage rules.

2.2.5.1. Discussion – Reporting Major Rural Outages

In this decision, we adopt an alternative reporting requirement that contains elements of the ORA and Joint Consumers proposals, but is targeted to capture outages affecting rural and sparsely populated areas.

Carriers shall prepare and submit Rural Area Outage Reports on all outages of 75,000 user minutes or more that affect rural areas of the state. Rural areas are defined as areas that the US Census Bureau has determined are not within urbanized areas or in urban clusters.[36] These reports, described in Section 4 of GO 133-D, will be submitted to Communications Division along with other required reports. We believe that the 30 minute/75,000 user minutes provides us with better information on outages in sparsely populated areas. Under ORA's 90,000 user minute proposal, 3,000 customers would potentially have to be out of service for 30 minutes. We believe that a reporting requirement for outages that last at least 30-minutes in duration and potentially affect 75,000 user minutes strikes a reasonable balance between capturing the appropriate granularity and efficient reporting capabilities on outages affecting rural areas.[37]

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[35] Opening Comments of ORA to Proposed Decision, December 2, 2015, pp. 11-12.

[36] https://www.census.gov/geo/reference/urban-rural.html. The Census Bureau identifies two types of urban areas: Urbanized Areas (UAs) of 50,000 or more people and Urban Clusters (UCs) of at least 2,500 and less than 50,000 people.

37 A user-minute is the mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of end users potentially affected by the outage.

Wireless carriers should use the Federal Communications Commission's method for determining potential users, applying the 75,000 user minute threshold.[38] To determine if an outage meets the 75,000 user minute threshold in a rural area, the carrier should multiply the number of macro cell sites disabled in the outage by the average number of users service per site, which is calculated as the total number of users for the provider divided by the total number of the provider's macro cell sites. The outage must last for at least 30 minutes.

Service providers reporting Major Rural Outages shall use the report template in Attachment D.

2.2.6. Method of Submitting NORS Reports and Major Rural Area Outage Reports

Staff noted in its proposal that the current email method for carriers to submit NORS reports is not efficient and lacks consistency between reporting companies. Staff proposed that a secured web-based method be developed for carriers to submit reports. General Order 133-C § 4.b.ii Major Service Interruption - Reporting Procedures, states that NORS reports "…shall be filed with the CD per CD's directed method/media." CD has the delegated authority to develop for and direct carriers to use a web-based method of submitting reports.[39] Until such time that a secure, web-based method for submitting NORS

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[38] *In the Matter of Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, New Part 4 of the Commission's Rules Concerning Disruptions to Communications, The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers* Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, PS Dkt. 15-80, ET Dkt. 04-35, PS Dkt. 11-82 (FCC 16-63), Rel. May 26, 2016, para 16.

[39] In accordance with direction contained in D.09-07-019, the Commission submitted a formal request to the FCC in 2009 for password-protected access to all California-specific outage data. *In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications*

Footnote continued on next page

report information and Rural Area Outage reports exists, the service providers covered under GO 133-D shall use the current email process to submit NORS reports to the Commission.

2.2.7. Change in Answer Time Reporting

Staff recommended two changes to the reporting requirement for the Operator Answer Time measure: 1) compile monthly and report quarterly, and 2) identify the answer time results by the type of calls: billing, non-billing inquiries and trouble reports.

Large carriers do not support the change in Answer Time Reporting. They assert that the change would not benefit customers, and that the proposal would be costly and burdensome to implement.

Staff's September 2014 report showed that several carriers failed to meet the standard over multiple years from 2010 to 2013. In staff's view, the answer time metric remains important to monitor. It provides an indication of the level of service customers receive from their provider when calling telephone company representatives to report outages and resolve billing disputes. Staff contended that the new reporting schedule will bring these data to the commission consistent with the other measures. We concur with staff's assessment, and the attached GO 133-D contains the changes recommended by staff.

Petition of the California Public Utilities Commission and the People of the State of California for Rulemaking on States' Access to the Network Outage Reporting System ("NORS") Database and a Ruling Granting California Access to NORS, ET Dkt. 04-35, November 12, 2009. To date, the FCC has not acted on this request.

2.2.8. Change in Corrective Action Plan Submissions

Staff proposed to require telephone corporations that fail to meet any standard for two consecutive months or more to file a Corrective Action Plan with the Communications Division, or its successor, that explains the reason(s) for the missing the standard(s) and the actions the company will take to correct its failures and improve performance to a level that meets adopted standards and measures.

Such a requirement significantly reduces the time period, from two consecutive quarters to two consecutive months, where the carrier is not meeting any standards. It will allow the Commission to recognize problematic carrier performance promptly and evaluate plans to improve performance. Staff stated that this would help the Commission ensure that any proposed remedial actions are in fact effective in improving performance.

AT&T opposed Staff's proposal, maintaining that changing the corrective action plan reporting from the current GO 133-C process from quarterly to monthly would not result in improved service quality. ORA contended that the existing quarterly corrective action plans are not an effective means of improving service quality for carriers with chronic service quality problems.

We adopt staff's proposal. The Corrective Action Plans shall describe the reason(s) for missing the standard(s) and the remedial actions the company will take to improve performance to a level that meets adopted standards and measures, and do so within a reasonable time.

2.3. Customer Refunds for Service Outage

Staff recommended a customer refund mechanism for customers who have been out of service for more than 24 hours, whether or not the customer asked for a refund. The URF ILECs do not support the staff's refund proposal, and Verizon and Frontier commented that they currently have a refund provision in their tariffs. The small LECs do not believe that a refund mechanism should be applied to them because they have the general rate case process that includes a review of service quality and therefore a refund mechanism is not needed. Joint Consumers supported refunds for customers without service for more than 24 hours, and ORA supported appropriate and consistent refunds.

We do not adopt staff's proposal at this time because many companies have refund provisions in their tariffs or customer guidebooks. Customers for now may continue to rely on existing tariff provisions or customer guidebook provisions for customer refunds. As adopted here, GO 133-D requires carriers lacking a provision for customer refunds to develop a refund policy. Carriers that develop a new refund provision in compliance with this decision shall file a Tier I Advice Letter with the Commission modifying their tariff, or provide a copy of the modified customer guidebook with the refund provision identified.

3. Automatic Fine Proposal

Staff proposed automatic fines for certain URF carriers that fail to meet the service quality standards for: 1) Customer Trouble Reports, 2) Out-of-Service Reports, or 3) Answer Time Reports. Staff's proposal for imposing automatic fines for chronic failure to meet service quality standards finds its roots in the penalty mechanism adopted in D.01-12-021 to address Pacific Bell Telephone Company's declining service quality and failure to comply with Public Utilities Code § 451 regarding safe and reliable service. That penalty mechanism applied a $10,000 per day fine for each month that the company missed the adopted standard.

As set forth in Section 9.1 of GO 133-D, the automatic fine proposal is applicable to facilities-based telephone corporations that offer voice service and have been granted either a franchise or a Certificate of Public Convenience and Necessity (CPCN) pursuant to Public Utilities Code § 1001, or are registered pursuant to Pub. Util. Code § 1013, and are regulated under the Uniform Regulatory Framework adopted in D.06-08-030.

3.1. Party Comments on the Automatic Fine Proposal

The large carriers generally opposed the fine proposal claiming that competition provides the biggest incentive to improve service quality, and that the proposal is inappropriate and unlawful because it imposes daily fines on monthly service. The small LECs do not believe that the fine mechanism should be applied to them because their operations and service quality are scrutinized in general rate case reviews. Other comments asserted that penalties have little to no impact on service quality standards, will raise prices, and will not promote public safety goals.

The CLECs argue that they should not be fined for the underlying carrier's performance failures.

Consumer advocate groups and CWA generally supported Staff's penalty proposal, and ORA argued that competition has so far not resulted in improved service quality. Cox maintains that Staff erred in using the Performance Incentive Plan adopted in D.08-12-032 as a model for penalty provisions because it was a voluntary settlement between AT&T and specific CLECs.

3.2. Analysis of the Fine Proposal

Pursuant to Public Utilities Code § 451 each public utility in California must:

> Furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.
>
> All rules made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.

The duty to furnish and maintain safe equipment and facilities that provide adequate and efficient service at just and reasonable prices falls squarely on California's telecommunication carriers.

We opened this rulemaking in 2011 to review telecommunications carriers' performance in meeting existing service quality performance standards and to assess whether there is a need to establish a penalty mechanism for continuing and future substandard service quality performance failures. As set forth above, our Communications Division Staff did a comprehensive review of GO 133-C and proposed changes in the General Order, including automatic fines for carriers with chronic failures.

The September 24, 2014, Staff Report showed that the largest carriers in California at the time, AT&T Communications of California, Inc. (AT&T) and Verizon California, Inc. (Verizon), which collectively operate approximately 88% of telephone lines in California under GO 133-C, never met the minimum standard of repairing 90% of all out of service trouble reports within 24 hours during the 2010 to 2013 period. The Staff Report showed that for the combined years 2010 and 2011, AT&T and Verizon each needed on average up to 110 hours to repair 90% of actual outages. In the subsequent combined years 2012 and 2013, carriers improved their respective repair times for at least 90% of their outages to 72 hours.[40] Three days without phone service and the ability to dial 9-1-1 compromises public safety.

The Staff Report noted that during the years 2010 to 2013, AT&T and Verizon have provided corrective action reports for each quarter they missed the adopted measures and related minimum standards. Despite these corrective action reports, the acknowledged failures have not resulted in improvements significant enough to meet the minimum standard for the outage repair intervals. Reliance on carriers' corrective action plans has not been an effective means to improve compliance with the service quality standards set forth in GO 133-C, nor has whatever degree of competition there may be been sufficient to improve compliance.

Because of this, staff proposed to adopt a penalty mechanism with fines to motivate the carriers to improve performance. Staff compared service quality measures and penalty/incentive methodologies in other states and concluded that California's service quality measures and standards were consistent with other states' standards. The Staff Report also noted that ten states assess fines and penalties for carriers that are in direct violation of their state's service quality measures and standards.

Staff's proposal is based on the principles adopted in D.98-12-075 for assessing penalties under Pub. Util. Code §§ 2107 and 2108, which authorize penalties for failure to comply with commission rules. Though D.98-12-075 is

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[40] Using unadjusted data.

related specifically to energy utility affiliate transactions, the principles established in that decision apply more broadly to violations of this Commission's rules and orders. Public Utilities Code § 2107 provides that any public utility that violates or fails to comply with any order or decision of the Commission is subject to a penalty of not less than $500, or more than $50,000 for each offense. Pub. Util. Code § 2108 counts each day of a continuing violation as a separate and distinct offense. D.01-12-021 established a precedent for applying a daily fine for missing a monthly standard. For customers suffering outages, the daily count is crucial.

3.3. Adoption of Proposed Standards and Penalty Mechanisms

In this decision, we adopt the standards and penalties proposed by staff. We find that a fine mechanism provides a strong incentive for all carriers covered by GO 133-D to maintain a level of service quality that meets our adopted standards. These standards and penalties will apply to the URF ILECs, as well as to the CLECs and small LECs. GO 133-D as adopted here applies the fine mechanism for failure to meet Customer Trouble Reports, Out-of-Service, and Answer Time standards. As noted in the tables below, carriers will incur fines after two consecutive months of failing to meet the applicable standard, and once incurred, fines will accrue on a daily basis. For each standard, no penalty will be assessed until a carrier is out of compliance for more than two consecutive months, after which fines will continue to accrue until the carrier is in compliance with the standard for at least one month.

Although the large carriers have argued that the penalty mechanism is not necessary because competition provides the appropriate incentive for a carrier to provide quality service, the 2010 to 2013 performance results show ongoing failure to meet the GO 133-C standards. The Office of Ratepayer Advocates (ORA) maintains that the numerous major outages in California that were a result of poor maintenance of infrastructure demonstrates that competition has not led to better service quality and reliability because there is no competitive pressure for the companies to maintain their infrastructure and improve service quality.[41] The Staff proposal to impose automatic fines for chronic failure to meet service quality standards, to scale the fines to the size of the carrier, and to escalate the fine for on-going failures, reasonable addresses the telecommunications service quality issues documented in the Staff report.

Accordingly, we adopt the revised GO 133-D attached to today's decision. This GO will supersede in all respects GO 133-C. The penalty provisions shall become effective on January 1, 2017, in order to allow carriers time to develop any actions they feel are consistent with these standards and better guarantee conforming performance.

With reference to the small LECs, we note that if those companies continue to meet the service quality standards, then concerns about the fine mechanism are moot. For this reason, the small LECs objections to the fine mechanism are not persuasive.

The CLEC's request to be exempted from the fine mechanism is also not persuasive. Like other telephone carriers, the CLECs have a responsibility to provide safe and reliable service to their customers, and customers are indifferent to the underlying source of their service. If a CLEC outage is due to substandard service by an underlying facilities-based carrier or a failure of

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[41] ORA Reply Comments to Staff Proposal, April 17, 2015, p. 41.

facilities over which the CLEC has not direct control, CLECs have recourse against their underlying facilities-based providers through contractual agreements that track outages and other performance failures.

The following subsections describe the specific standards adopted in this decision, along with the associated penalty structures and amounts.

3.3.1. Out-of-Service Reports

The Out-of-Service (OOS) standard adopted in this decision requires that 90% of service outages are resolved by the telephone corporation within 24 hours. The calculation of fines for failure to meet this standard will be performed on a monthly basis across the telephone corporation's small business and residential lines.

Out-of-Service Automatic Fine (subject to scaling)

	1 to 2 Consecutive Months of OOS Standard Not Met	3 or more Consecutive Months of OOS Standard Not Met
Fine Per Day	$0 per day	$25,000 per day
Days in a Month	30 days	30 days
Total Fine per Month	$0	$750,000

3.3.2. Answer Time for Trouble Reports and Billing and Non-Billing Inquiries Fine

The fines for failure to meet the Operator Answer Time standard will be assessed for each day that a carrier fails to meet the minimum standard of answering at least 80% of the all customer calls within 60 seconds. The fine is based on a carrier's performance for all customer calls.

The initial fine is $500 per day, which escalates to the highest daily fine (after 12 or more consecutive months) at $2,000 per day.

Base Answer Time Fine (subject to scaling)

	1 to 2 Consecutive Months	3 to 5 Consecutive Months	6 to 8 Consecutive Months	9 to 11 Consecutive Months	12 or More Consecutive Months
Fine Per Day	$0	$500	$1,000	$1,500	$2,000
Days in Month	30	30	30	30	30
Base Fine per Month	$0	$15,000	$30,000	$45,000	$60,000

3.3.3. Customer Trouble Report Fines

The customer trouble reports standard requires a company-wide customer trouble report rate of no more than 10 reports per 100 access lines (10%). Carriers that fail to meet this standard for two consecutive months will be assessed a fine per day until the monthly average decreases to below 10%. The per-day fine amount, based on the size of the carrier, increases based on the number of consecutive months a carrier fails to meet the 10% standard. The initial fine is $500 per day, which escalates to the highest daily fine at $2,000 per day after 12 or more consecutive months.

Customer Trouble Report Automatic Fine (subject to scaling)

	1 to 2 Consecutive Months	3 to 5 Consecutive Months	6 to 8 Consecutive Months	9 to 11 Consecutive Months	12 or More Consecutive Months
Fine Per Day	$0	$500	$1,000	$1,500	$2,000
Days in Month	30	30	30	30	30
Total Fine per Month	$0	$15,000	$30,000	$45,000	$60,000

3.4. Alternative Proposal for Mandatory Corrective Action

The proposed decision of the assigned office adopted Rule 9.7 (the Alternative Proposal for Mandatory Corrective Action). Rule 9.7 allows carriers to propose, in their annual fine filing, to invest no less than twice the amount of their annual fine in a project (s) which improves service quality in a measurable way. ORA maintains that the commission should not adopt the rule because it undermines the very purpose of a penalty – to deter violations.[42] Pub. Util. Code § 451 requires utilities to provide safe and reliable service with adequate facilities at just and reasonable rates, and penalties are separate and distinct from the costs that telephone corporations must expend to provide adequate and safe service. We agree with ORA, therefore do not adopt this rule.

4. Extending GO 133-D Outage Reporting Requirement to Interconnected VOIP Carriers Subject to §285

As set forth above, Staff recommended that all entities subject to the GO, including interconnected VoIP providers and those subject to Pub. Util. Code § 285, submit to the Communications Division copies of all outage reports filed with the Federal Communication Commission (FCC) under the Network Outage Reporting System (NORS) when those reports are filed with the FCC. The administrative burden of simultaneously sending a copy of a report to the FCC and this Commission is not significant.

We agree with the FCC that outage reporting for interconnected VoIP providers is needed because of the public safety issues associated with VoIP outages and the growing number of customers using VoIP. VoIP service is becoming more prevalent and is marketed as a substitute for traditional telephone service. Interconnected VoIP customers have the same need for reliable service and the ability to reach emergency services as do traditional telephone service customers. Many VoIP customers may not realize that their

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42 ORA Opening Comments to President Picker's Proposed Decision, Dec. 2, 2015, p. 1.

telephone service is IP-enabled; they nevertheless rightfully have the expectation that they can reach emergency services and 9-1-1 using their phone equipment.

Commenting parties argue that the Commission is precluded from imposing this requirement pursuant to Pub. Util. Code § 710. Pub. Util. Code § 710 provides, in part: "The Commission shall not exercise regulatory control over Voice over Internet Protocol and Internet Protocol enabled services except as expressly delegated by federal law or as set forth in subdivision (c)."[43]

We are not persuaded that § 710 prohibits the Commission from requiring VoIP providers to submit NORS reports to the Commission for the following reasons.

At the outset, the opening comments generally mischaracterize the proposed ruling as "imposing" or "extending" service quality rules to VoIP providers. This is not an accurate representation of the proposal, which only requires VoIP providers to send a copy of the NORS reports (which they already generate for the FCC) to the CPUC.

Moreover, Section 710 contains numerous exceptions which indicate that the Commission does retain authority over VoIP providers and facilities used to provide VoIP services. In particular, Section 710 (f) expressly provides that the Commission has the authority "to continue to monitor and discuss VoIP services" to enforce backup power requirements, and our "authority relative to access to support structures, including pole attachments, or to the construction and maintenance of facilities pursuant to commission General Order 95 and

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[43] Express exceptions are also contained in subdivisions (d) through (g).

General Order 128. Requiring VoIP providers to provide the NORS report falls within this exception.

Even where the Commission does not have regulatory jurisdiction over an IP-enabled service, the Commission has broad authority to obtain information and to assure the safe and reliable operation of the facilities over which services of whatever type travel. Such authority is not limited to public utilities or regulated entities. (See, e.g., Public Utilities Code §§ 311; 314; Cal. Const., art. XII, § 6; Gov. Code, § 11180 and Res. ALJ-195.) Thus, we have the authority to require the NORS report even if the 710(f) exception did not apply. With the adoption of GO 133-D, we are not proposing to regulate a particular service but to assure the safe and reliable performance of facilities supporting all telecommunication services.

Section 710 prohibits only the regulation of VoIP and IP-enabled "services." Pursuant to the plain language and the legislative history of the statute, Section 710 is not a blanket prohibition on the regulation of facilities over which VoIP services are transported. As we noted, Section 710 contains certain exceptions relating to facilities (e.g., the Commission's authority to enforce existing requirements regarding backup power (§ 710 (c)(6)) and the Commission's authority regarding access to support structures, including pole attachments, or to the construction and maintenance of facilities pursuant to General Orders 95 and 128 (§ 710 (c)(7)). Regardless of what services are being transported, the telecommunications network remains a physical structure requiring reliable performance. We do not believe that the Legislature intended to bar the Commission from ensuring a safe and reliable telecommunications network by allowing facilities that provide VoIP services to go unmonitored or facility outages supporting those services to go unnoticed and uncorrected.

Further, as we have already noted above Public Utilities Code § 451 requires that utilities:

> Furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

We adopt staff's recommendation and clarify that telephone corporations and interconnected VoIP providers covered by the FCC's Part 4 reporting rules will also submit those reports to the Commission simultaneously with submission to the FCC.

5. Next Phase of This Proceeding

The Decision Affirming Provisions Of The Scoping Memo and Ruling stated that an immediate focus of this proceeding would be on residential basic telephone services and those parts of the telecommunications network that support those services. The decision further stated that the Commission may also make findings on issues related to other types of services and/or services provided via different technological platforms, to the extent that the record of this proceeding supports such findings.[44]

ORA recommends that the Commission consider adopting service quality standards for wireless and VoIP providers in this proceeding. ORA believes that wireless and VoIP technology are used to facilitate communication by telephone and that any corporation or person that owns, controls, operates , or manages the facilities that are used in voice communications are telephone corporations and are bound by the obligation to comply with reasonable statewide service quality

[44] D.13-02-023, p.11.

standards adopted by the Commission. Consequently, ORA argues the Commission has jurisdiction to impose reporting requirements and adopt service quality standards for wireless and interconnected VoIP providers, citing the Commission's mandate under Public Utilities Code § 2896, which in part directs the Commission to require telephone corporations to have reasonable statewide service quality standards, including, but not limited to, standards regarding network technical quality, customer service, installation, repair and billing.[45]

ORA also bases its recommendation on one of the adopted telecommunications policies of the state to "encourage fair treatment of consumers through provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of a process for equitable resolution of billing and service problems."[46] Consumer Federation agrees with ORA's position and believes that the Commission can impose service quality rules on wireless and VoIP services.[47]

AT&T, Verizon, and Cox believe that the Commission should not adopt ORA's recommendation for the following reasons: a) ORA provided no policy reasons why service quality standards should be adopted for wireless and VoIP services, b) federal law restricts the Commission's authority to adopt service quality requirements for wireless services, and c) the Commission lacks authority to adopt service quality standards for VoIP services.[48] Cox maintains that while

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[45] ORA Comments on Staff Proposal, March 30, 2015, pp. 6-8.

[46] Pub. Util. Code § 709(h).

[47] Consumer Federation Reply Comments to Staff Proposal, April 17, 2015, pp. 2-6.

[48] AT&T Reply Comments to Staff Proposal, pp. 4-14; Verizon Reply Comments to Staff Proposal, pp. 9-13, Cox Reply Comments to Staff Proposal, pp. 10-16, April 17, 2015.

the Commission has jurisdiction over public utilities, not all telephone corporations are public utilities.

Given that the scope of this proceeding anticipated looking at developing service quality standards for various voice technology platforms, the ongoing transition from traditional telephone service to wireless and VoIP services, and given the continued public safety issues, we believe that it is time to look at what service quality standards, if any, as distinct from reporting obligations, should be adopted for wireless and VoIP services in a subsequent phase of this proceeding. A Scoping Ruling will be issued at a later date that sets forth the issues to be addressed and the associated timeline.

6. Assignment of Proceeding

Michael Picker is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

7. Comments on Proposed Decision

The alternate proposed decision of Commissioner Sandoval in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code, following the filing of comments on the assigned Commissioner's proposed decision. Comments are allowed under Rule 14.3 pursuant to the Commission's Rules of Practice and Procedure. Comments on the alternate proposed decision were filed on ________, and reply comments were filed on ________ by ________.

Findings of Fact

1. The Commission opened this proceeding to consider revisions to GO 133-C applicable to California telecommunication carriers.

2. The Commission's Communications Division brought forward numerous proposed changes to GO 133-C, issued a staff report delineating the proposed changes, and received comments.

3. The proposed changes are summarized in the body of today's decision and are reflected in Attachment B, GO 133-D.

4. Reliable telephone service is essential for the public to access emergency services, maintain contact with family and friends, conduct business, including the provision of utility service and other critical infrastructure service, and find employment.

5. The service quality standards in GO 133-D are necessary to ensure safe and reliable telephone service for California residents and businesses.

6. Automatic fines for chronic failure to meet service quality standards are necessary incentives for carriers to adhere to the service quality standards set forth in GO 133-D.

7. An effective date of January 1, 2017, will allow for the orderly and efficient implementation of the new penalty rules set forth in Attachment B.

8. Penalties for non-compliance are necessary to deter carriers from violating the service quality standards set out in GO 133-D.

9. The administrative burden entailed in sending a copy of a report prepared for the FCC simultaneously to this Commission is reasonable.

10. Public safety requires that this Commission exercise its authority under Public Utilities Code Section 710 (f), to "monitor and discuss VoIP services" by requiring VoIP providers to submit NORS reports to this Commission.

11. The scope of this proceeding anticipated looking at developing service quality standards for various technology platforms.

12. There is an ongoing transition from traditional telephone service to wireless and VoIP services, although many customers remain on traditional telephone service, and there are public safety issues associated with the transition.

13. It is time to look at what service quality measures and standards, if any, should be adopted for wireless and VoIP services. A Scoping Ruling should be issued at a later date that sets forth the issues to be addressed and the associated timeline.

Conclusions of Law

1. The public interest requires that telephone service corporations furnish safe and reliable service.

2. The public interest requires that telephone corporations adhere to the service quality standards in GO 133-D, and that the Commission adopt the penalty mechanism to ensure that the telephone corporations comply.

3. The penalty mechanism in GO 133-D is consistent with the Commission's standards for imposing penalties set forth in D.98-12-075 because it is based on the size of the carrier and duration of the violations.

4. The Daily Base Fine for failing to meet the Out of Service standard should be $25,000. This Daily Base Fine should be scaled based on the carrier's access lines relative to the total number of access lines in California.

5. The Daily Base Fine for failing to meet the Customer Trouble Reports standard should be based on the number of consecutive months the carrier fails to the meet the standard, increasing from $0.0 for one or two months, up to $2,000 per day at 12 or more consecutive months of failing to meet the standard.

This Daily Base Fine should be scaled based on the carrier's access lines relative to the total number of access lines in California.

6. The Daily Base Fine for failing to meet the Answer Time standard should be based on the number of consecutive months the carrier fails to the meet the standard, increasing from $0.0 for one or two months, up to $2,000 per day at 12 or more consecutive months of failing to meet the standard. This Daily Base Fine should be scaled based on the carrier's access lines relative to the total number of access lines in California.

7. GO 133-D as set forth in Attachment B today's decision should be adopted effective today; except for the penalty provisions in Section 9 which shall become effective on January 1, 2017.

8. Public Utilities Code Section 710(f), permits this Commission to "monitor and discuss VoIP services" and this provision gives this Commission the authority to require VoIP providers to submit NORS reports to this Commission simultaneously with their submission to the FCC.

9. The Commission should exercise its authority under Public Utilities Code Section 710(f), to "monitor and discuss VoIP services" by requiring VoIP providers to submit NORS reports to this Commission regarding outages impacting the facilities supporting those services.

10. Another phase of this proceeding should be opened to examine the need for service quality standards for wireless and VoIP services.

O R D E R

IT IS ORDERED that:

1. General Order 133-D as set forth in Attachment B to today's decision is adopted effective immediately; except as to the penalty provisions in Section 9 which shall become effective on January 1, 2017.

2. Another phase in Rulemaking 11-12-001 shall examine the need for service quality standards for wireless and Voice over Internet Protocol service. A Scoping Ruling will be issued at a later date that sets forth the issues to be addressed and the associated timeline.

This order is effective today.

Dated ______________________________, at San Francisco, California.

Attachment A

List of Parties Submitting Comments

ATTACHMENT A: List of Commenting Parties

February 2, 2015, Staff Proposal

Utility Companies

- AT&T: Pacific Bell Telephone Company d/b/a AT&T California (U-1001-C); AT&T Corp., f/k/a AT&T Communications of California, Inc. (U-5002-C); Teleport Communications America, LLC f/f/a TCG San Francisco (U-5454-C); AT&T Mobility LLC (U-3060-C); AT&T Mobility Wireless Operations Holdings, Inc. (U-3021-C); Santa Barbara Cellular Systems Ltd. (U-3015-C) and New Cingular Wireless PCS LLC (U-3014-C)
- Verizon: Verizon California (U-1002-C)
- CTC: Citizens Telecommunications Company of California Inc. (U-1024-C) and Frontier southwest Inc. (U-1026-C)
- Consolidated: SureWest Telephone dba Consolidated Telephone (U-1015-C)
- Small LECs: Calaveras Telephone Company (U-1004-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), Winterhaven Telephone Company (U-1021-C)
- Cox: Cox California Telecom, LLC d/b/a Cox Communications (U-5684-C)
- CALTEL: California Association of Competitive Telecommunications Companies
- CTIA: CTIA – The Wireless Association[1]
- CCTA: California Cable & Telecommunications Association

Consumer Groups and the Workers Union

- Joint Consumers: Greenlining Institute, Center for Accessible Technology and The Utility Reform Network
- ORA: Office of Ratepayer Advocates
- CFC: Consumer Federation of California[2]
- CWA: Communications Workers of America District

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[1] CTIA filed only Reply Comments.

[2] CFC filed only Reply Comments.

November 12, 2015, Proposed Decision

The parties listed below filed Opening comments on December 2, 2015. Those that also filed Reply Comments on December 7, 2015 are designated with an asterisk.

Utility Companies

- AT&T California*
- Cox Communications*
- California Association of Competitive Telecommunications Companies (CALTEL)
- Frontier Communications (Citizens Telecommunications Company of California and Frontier Communications of the Southwest)
- SureWest (dba Consolidated Communications)
- Small LECs (Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, The Siskiyou Telephone Company, Volcano Telephone Company, Winterhaven Telephone Company)*
- Verizon Wireless (Cellco Partnership)
- Verizon California[3]
- California Cable & Telecommunications Association (CCTA)*
- CTIA – The Wireless Association*

Consumer Groups

- Office of Ratepayer Advocates (ORA)*
- Center for Accessible Technology, Greenling Institute and The Utility Reform Network (Joint Consumers)*

December 29, 2015, Proposed Decision (*denotes Reply Comments Only)

Utility Companies; January 22, 2016

- CCTA, California Cable and Telecommunications Association
- Comcast Phone of California (U 5698 C)
- Cox California Telecom (U 5684 C)
- CTIA – the Wireless Association
- Verizon California Inc. (U 1002 C)

Consumer Groups; February 12, 2016

[3] Note that the wireline entity (excluding Verizon Enterprise) has been approved for acquisition by Frontier Communications as of Dec. 2015.

- Office of Ratepayer Advocates (ORA)*
- Center for Accessible Technology, Greenling Institute and The Utility Reform Network (Joint Consumers)*

(End of Attachment A)

Attachment B

New GO 133-D

General Order 133-D

Public Utilities Commission of the State of California

Rules Governing Telecommunications Services

Effective January 1, 2017

1. GENERAL

1.1 Intent.

a. Purpose. The purpose of these rules is to establish uniform minimum standards of service to be observed in the operation of public utility telephone corporations.

b. Limits of Order. These rules do not cover the subjects in the filed tariff rules of telephone utilities.

c. Absence of Civil Liability. The establishment of these rules shall not impose upon utilities, and they shall not be subject to, any civil liability for damages, which liability would not exist at law if these rules had not been adopted.

d. These rules may be revised in scope on the basis of experience gained in their application and as changes in technology, the telecommunications market, or technology may require.

1.2 Applicability. These rules are applicable to all public utility telephone corporations providing service within the State of California, except as otherwise noted.

1.3 Definitions.

a. Business Office – A centralized service group which receives small business and/or residential customer requests for new installations or changes in existing service. This also includes billing center inquiries.

b. Central Office Entity – A group of lines using common-originating equipment or under stored program control.

c. CLEC: A *Competitive Local Exchange Carrier* (CLEC), per Pub.Util. Code § 234, § 1001, and Decision 95-07-054, provides local telephone services in the service territories formerly reserved for Incumbent Local Exchange Carriers (ILECs), in competition with ILECs, and must obtain a Certificate of Public Convenience and Necessity (CPCN) from the Commission.

d. COLR: A *Carrier of Last Resort* (COLR) is required to serve upon request all customers within its designated service areas. Pursuant to Decision 96-10-066, a carrier seeking to be a COLR needs to file a notice of intent (NOI) with the Commission in order to have access to high cost fund subsidies. Once designated a COLR, the carrier must get the Commission's approval to opt out of its obligation to serve.

e. Commission – In the interpretation of these rules, the word "'Commission" shall be construed to mean the Public Utilities Commission of the State of California.

f. Commitment – The date agreed to by a customer and a utility for the completion of requested work.

g. Customer – A customer is a separate account number for voice service, or a bundle of services including voice, and includes small business (5 lines or less) and residential customers.

h. ETC: *Eligible Telecommunications Carrier* (ETC) - A telecommunications carrier that has been designated by the Commission, pursuant to 47 USC § 214 (e) (2) as eligible to receive federal lifeline and/or high cost Universal Service support. Designated ETCs must file annual recertification advice letters to continue to be eligible for federal high cost fund support.

i. Facilities-based Carriers: A telephone corporation or interconnected VoIP provider that owns or controls facilities used to provide communications for compensation, including the line to the end-user's location. A local exchange carrier providing service solely by resale of the ILEC's local exchange services is not a facilities-based carrier. By Commission Decision (D.) 95-12-057, facilities-based carriers must file an environmental assessment report and undertake mitigation efforts addressing any adverse environmental impacts associated with their construction activities under their CPCN.

j. GRC ILECs: A *General Rate Case Incumbent Local Exchange Carrier (GRC ILECs)* is designated a COLR in its franchise territories per D.96-10-066, the decision where the Commission first spelled out what is meant by basic telephone service for purposes of Universal Service funding and updated by D.14-01-036, and is regulated through cost-of-service reviews by the Commission per General Order 96 B.

k. Installation – The provision of telephone service at the customer's request.

l. ILEC - An *ILEC* is a certificated local telephone company such as Pacific Bell Telephone Company (now d/b/a AT&T California) and Verizon California Inc., which used to be the exclusive local telephone service provider in a franchise territory established before the Telecommunications Reform Act of 1996. *See* Pub.Util. Code § 234 and § 1001.

m. Interconnected VoIP Provider - An interconnected VoIP provider is a company which provides a VoIP service that does all of the following:
(A) Uses Internet Protocol or a successor protocol to enable real-time, two-way voice communication that originates from, or terminates at, the user's location in Internet Protocol or a successor protocol.
(B) Requires a broadband connection from the user's location.
(C) Permits a user generally to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

A service that uses ordinary customer premises equipment with no enhanced functionality that originates and terminates on the public switched telephone network, undergoes no net protocol conversion, and provides no enhanced functionality to end users due to the provider's use of Internet Protocol technology is not a VoIP service.

"Internet Protocol enabled service" or "IP enabled service" means any service, capability, functionality, or application using existing Internet Protocol, or any successor Internet Protocol, that enables an end user to send or receive a communication in existing Internet Protocol format, or any successor Internet Protocol format through a broadband connection, regardless of whether the communication is voice, data, or video. (PU Code § 239)

n. Line – An access line (hardwire and/or channel) which runs from the local central office, or functional equivalent, to the subscriber's premises. A channel can be provided with or without wires.

o. Local Exchange – A telecommunications system providing service within a specified area within which communications are considered exchange messages except for those messages between toll points per D.96-10-066.

p. Minimum Standard Reporting Level – A specified service level of performance for each measure and each reporting unit.

q. NDIEC: A *Non-Dominant Inter-Exchange Carrier* (NDIEC) or long distance carrier (IEC/IXC) is only required to register with the Commission before providing long distance telephone services in California, per Pub. Util. Code § 1013.

r. Outage: A significant degradation in the ability of an end user to establish and/or maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network.

s. Out of Service – A condition whereby a customer cannot establish and/or maintain a channel of communications.

t. Small Business Customer -- small business customers are those that purchase five or fewer lines.

u. Telephone Company/Utility – A public utility telephone corporation providing public telephone service as further defined by Public Utilities Code §§ 216 and 234.

v. Trouble Report – Any oral or written notice by a customer or customer's representative to the telephone utility which indicates dissatisfaction with telephone service, telephone qualified equipment, and/or telephone company employees.

w. URF Carrier – A utility that is a wireline carrier that has full pricing flexibility over all or substantially all of its rates and charges. A Uniform Regulatory Framework (URF) carrier includes any ILEC that is regulated through the Commission's URF, as established in Decision 06-08-030, as modified from time to time by the Commission, and includes CLECs and IECs.

x. URF ILECs – URF ILECs are distinguished from GRC ILECs in that they are currently granted pricing flexibility through D.06-08-030, which may be modified from time to time.

y. Wire Center – A facility composed of one or more switches (either soft switch or regular switch) which are located on the same premises and which may or may not utilize common equipment. In the case of a digital switch, all remote processors that are hosted by a central processor are to be included in the central office wire center.

z. Wireless Carrier. A *Wireless Carrier* (a Commercial Mobile Radio Service provider under Federal Communications Commission regulations) is a carrier or licensee whose wireless network is connected to the public switched telephone network (PSTN). Per Commission decision (D.94-10-031), wireless carriers are required to file a wireless identification registration with the Director of the Communications Division within the Commission.

1.4 Information available to the Public. The public utility telephone corporation shall maintain, available for public inspection at its main office in California, copies of all reports submitted to this Commission in compliance with these rules. These copies shall be held available for two years. The public utility telephone corporation shall identify the location and telephone number of its main office in California in its White Pages directory and/or on its Internet website and shall provide information on how to contact it. A copy of these reports will also be maintained and be available for public inspection at the

Commission's San Francisco and Los Angeles offices. Copies shall also be made available to interested parties for a nominal fee to cover the cost of processing and reproduction. The availability shall be limited to reports provided by the local serving company.

1.5 Location of Records. All reports required by these rules shall be kept and made available to representatives, agents, or employees of the Commission upon reasonable notice.

1.6 Reports to the Commission. The public utility telephone corporation shall furnish to the Commission, at such times and in such form as the Commission may require, the results or summaries of any measurements required by these rules. The public utility telephone corporation shall furnish the Commission with any information concerning the utility's facilities or operations which the Commission may request and need for determining quality of service.

1.7 Deviations from any of these Rules. In cases where the application of any of the rules incorporated herein results in undue hardship or expense to the public utility telephone corporation, it may request specific relief by filing a formal application in accordance with the Commission's Rules of Practice and Procedure, except that where the relief requested is of minor importance or temporary in nature, the Commission may accept an application and showing of necessity by letter.

1.8 Revision of Rules. Public utility telephone corporations subject to these rules and other interested parties may individually or collectively file with this Commission a petition for rulemaking pursuant to Public Utilities Code § 1708.5 for the purpose of amending these rules. The petition shall conform to the requirements of Rule 6.3 of the Commission's Rules of Practice and Procedure.

2. STANDARDS OF SERVICE

2.1 General. These rules establish minimum standards and uniform reporting levels for the installation, maintenance, and operator answer time for local exchange telephone service. The service measures established are as follows:

Service Measure	***Type of Service***
Installation Interval	Installation
Installation Commitments	Installation
Customer Trouble Reports	Maintenance
Out of Service Repair Interval	Maintenance
Answer Time	Operator Services

2.2 Description of Reporting Levels. These levels have been established to provide customers information on how carriers perform. Minimum standard reporting levels are established for each of the service measures. Minimum standard reporting levels are applicable to each individual reporting unit.

3. MINIMUM TELEPHONE SERVICE MEASURES

3.1 Installation Interval – Applies to GRC ILECs.

a. Description. Installation interval measures the amount of time to install basic telephone service from the day and hour the customer requests service until it is established. When a customer orders basic service he/she may request additional features, such as call waiting, call forwarding, etc. If an additional feature is included in a basic service installation, the installation interval should only reflect the basic service installation. Installation interval applies to residential and small business customers (those that purchase five or fewer lines).

b. Measurement. The average interval measured by summing each installation interval, expressed in business days, between the date the service order was placed and the date the service becomes operational during the current reporting period, divided by the total service orders during the reporting period. This amount excludes all orders having customer requested appointments (CRS) later than the utility's commitment dates.

c. Minimum Standard Reporting Level. Business Days. Five Business Days is the minimum standard.

d. Reporting Unit. Exchange or wire center, whichever is smaller. Wire centers with fewer than 100 lines should be combined with other central offices within the same location. A remote switching unit with fewer than 100 lines should also be added to its host switch. All reporting carriers shall submit the raw data included in the report.

e. Reporting Frequency. The interval shall be compiled monthly and reported quarterly for all reporting units.

3.2 Installation Commitments – Applies to GRC ILECs.

a. Description. Requests for establishment of basic telephone services. Commitments will not be considered missed when resulting from customer actions. Installation commitments apply to residential and small business customers (those that purchase five or fewer lines).

b. Measurement. Monthly count of the total commitments and the commitments missed. Commitments met, expressed as a percentage, will equal total commitments minus missed commitments divided by total commitments.

c. Minimum Standard Reporting Level. 95% commitments met.

d. Reporting unit. Exchange or wire center, whichever is smaller. A wire center with fewer than 100 lines should be combined with other central offices within the same location. A remote switching unit with fewer than 100 lines should also be added to its host switch. All reporting carriers shall submit the raw data included in the report.

e. Reporting Frequency. Compiled monthly and reported quarterly.

3.3 Customer Trouble Reports – Applies to GRC ILECs and facilities-based URF Carriers with 5,000 or more customers and to any URF Carrier with fewer than 5,000 customers that is a COLR. Trouble reports apply to residential and business customers.

a. Description. Service affecting, and out of service trouble reports, from customers and users of telephone service relating to dissatisfaction with telephone company services. Reports received will be counted and related to the total working lines within the reporting unit in terms of reports per 100 lines.

b. Measurement. Customer trouble reports received by the utility will be counted monthly and related to the total working lines within a reporting unit.

c. Minimum Standard Reporting Level. Report number of trouble reports per 100 working lines (excluding terminal equipment reports). Six trouble reports per 100 working lines for reporting units with 3,000 or more working lines, eight reports per 100 working lines for reporting units with 1,001-2,999 working lines, and 10 reports per 100 working lines for reporting units with 1,000 or fewer working lines.

d. Reporting Unit. Exchange or wire center, whichever is smaller. A wire center with fewer than 100 lines should be combined with other central offices within the same location. A remote switching unit with fewer than 100 lines should also be added to its host switch. URF CLECs that do not have exchanges or wire centers shall report at the smallest reporting unit. All reporting carriers shall submit the raw data included in the report.

e. Reporting Frequency. Compiled monthly, reported quarterly.

3.4 Out of Service Repair Intervals – Applies to GRC ILECs, facilities-based URF Carriers with 5,000 or more customers, and to any URF Carrier with fewer than 5,000 customers that is a COLR.

a. Description. A measure of the average interval, in hours and minutes from the time of the reporting carrier's receipt of the out of service trouble report to the time service is restored for residential and small business customers.

b. Measurement. Commitment is measured by taking the total number of the repair tickets restored within less than 24 hours divided by the total outage report tickets. In addition, the system average outage duration is measured by summing each repair interval, expressed in clock hours and minutes, between the time the customer called to report loss of service and when the customer regains dial tone, divided by the total outage report tickets. These measurements include only residential and small business customer tickets.

   Carriers shall submit both the adjusted and unadjusted out of service data.

   The adjusted measurements exclude repair tickets when maintenance is delayed due to circumstances beyond the carrier's control. Typical reasons for delay include, but are not limited to: outage caused by cable theft, third-party cable cut, lack of premise access when a problem is isolated to that location, absence of customer support to test facilities, or customer's requested appointment. Deferred maintenance or lack of available spares are not circumstances beyond a carrier's control. Changed appointments shall be reported separately by identifying the number of such appointments and the time, in hours and minutes, associated with these appointments.

   A catastrophic event, an event where there is a declaration of a state of emergency by a federal or state authority, and a widespread service outage (an outage affecting at least 3% of the carrier's customers in the state) are circumstances beyond the carrier's control. A catastrophic event ends when the trouble ticket level returns to the average level three months prior to the catastrophic event. The average level is calculated by summing the actual number of out-of-service tickets for residential and small business (5 lines or fewer) customers for the three consecutive calendar months that did not have catastrophic events prior to the declared State of Emergency divided by three.

   When quarterly reporting includes a delay for one or more months or if a catastrophic event or widespread outages affects a carrier's adjusted reporting, the carrier shall provide supporting information as to why the month should be excluded and work papers which explain the event, the date(s), the areas affected, the total number of residential and small business lines affected, and how the adjusted figure was calculated.

c. Minimum Standard Reporting Level. Based on adjusted results, 90% of all out of service trouble reports within 24 hours is the set minimum standard. Both the percentage of outages meeting the 24-hour standard and the actual system-wide average outage duration should be reported.

d. Reporting Unit. Reporting is at the state-wide level. However, carriers shall submit with the report the underlying data at the exchange or wire center level, whichever is smaller, that supports the information being reported. A wire center with fewer than 100 lines should be combined with other central offices within the same location. A remote switching unit with fewer than 100 lines should also be added to its host switch. URF CLECs that do not have exchanges or wire centers shall report at the smallest reporting unit.

   All reporting carriers shall submit the raw data used to generate the report. Raw data should include the type of allowable adjustments which were excluded according to section (b.). Instructions for submitting data can be found in the Communications Division pages of the Commission's web site. www.cpuc.ca.gov.

e. Reporting Frequency. Compiled monthly and reported quarterly for those reporting units.

3.5 Answer Time for trouble reports and billing and non-billing inquiries applies to GRC ILECs, facilities-based URF Carriers with 5,000 or more customers, and any URF Carrier with fewer than 5,000 customers that is a COLR.

a. Description. A measurement of time for the operator to answer within 60 seconds 80% of calls to the business office for billing and non-billing inquiries and to the repair office for trouble reports. This measurement excludes any group of specialized business account representatives established to address the needs of a single large business customer or a small group of such customers. A statistically valid sample of the answering interval is taken to obtain the percentage of calls answered within 60 seconds. A customer must be presented with the option on an interactive voice response (IVR) or automatic response unit (ARU) system to speak with a live agent, preferably in the first set of options.

b. Measurement. An average answer time of a sample of the answering interval on calls to the business office and repair office that is representative of the measurement period.

c. Minimum Standard Reporting Level. 80% answered within 60 seconds when speaking to a live agent or 80% answered within 60 seconds when speaking to a live agent after completing an IVR or ARU system. If measurement data of average answer time is used, it will be converted to the percent answered within 60 seconds.

d. Reporting Unit. Each traffic office serving 10,000 or more lines and handling calls to the business office for billing and non-billing inquiry calls and to the repair office for trouble report calls.

e. Reporting Frequency. Compiled monthly and reported quarterly for percent answered within 60 seconds.

4. SERVICE INTERRUPTION REPORTING

a. Applicability. This section applies to:

i. Telephone corporations that have been granted either a franchise or a Certificate of Public Convenience and Necessity (CPCN) pursuant to Public Utilities Code § 1001,

ii. Telephone corporations that are registered under Public Utilities Code § 1013,

iii. Telephone corporations that are registered with this Commission pursuant to Wireless Identification Registration (WIR) process, and

iv. Any entity subject to Public Utilities Code § 285.

4.1 Major Service Interruptions

a. Description. The Commission adopts for its major service interruption reporting the Federal Communications Commission's (FCC) Part 4 rules concerning communications disruption and outages, the FCC's Network Outage Reporting System (NORS) reporting requirements, and the annual ETC (Eligible Telecommunications Carrier) outage report, as modified by FCC over time. The FCC's Part 4 rules and NORS user manual can be found at the following FCC website link:

http://www.fcc.gov/pshs/services/cip/nors/nors.html

b. Reporting Procedures:

(i) Written reports are normally satisfactory. In cases where large numbers of customers are impacted or that are otherwise of great severity, a telephone report should be made promptly. For those entities that offer voice services using multiple technologies, provide NORS reports for all service types.

(ii) Concurrent reports shall be submitted to the Communications Division (CD) and the Office of Ratepayer Advocates (ORA) or their successor divisions when the carrier files its reports with FCC's NORS system.

Carriers shall submit a report to the Commission when the communication disruption or outage meets the FCC's reporting threshold and that disruption or outage involves communications in California, regardless of whether the affected communications in California independently meet the FCC's reporting threshold. Reports shall be filed with the CD per CD's directed method/media.

(iii) Final NORS reports shall be made confirming that service has been restored.

(iv) ETCs, concurrent with their FCC filing, shall submit the annual outage report that provides detailed information on any outage lasting at least 30 minutes and potentially affecting 10% of their customers in a designated service area.

c. Confidentiality. Major Service Interruption reports submitted to the Commission pursuant to these rules shall be treated as confidential in accordance with Public Utilities Code § 583 and General Order 66-C.

4.2 Rural Area Outage Reporting

The Commission adopts a modification of the NORS reporting format for rural outages. This modification defines rural area and applies a lower threshold of reporting to the user-minute calculation.

a. Definitions:

a.(1) A rural outage is an outage that occurs in a rural area and lasts 30-minutes and potentially affects 75,000 user minutes.

Wireless carriers should use the FCC's 2016 method for calculating potential users. To determine if an outage meets the 75,000 user minute threshold in a rural area, the carrier should multiply the number of macro cell sites disabled in the outage by the average number of users service per site, which is calculated as the total number of users for the provider divided by the total number of the provider's macro cell sites. The outage must last for at least 30 minutes.

a.(2) Rural areas are defined as areas that the US Census Bureau has determined are not within urbanized areas or urban clusters.[1]

[1] https://www.census.gov/geo/reference/urban-rural.html. The Census Bureau identifies two types of urban areas: Urbanized Areas (UAs) of 50,000 or more people and Urban Clusters (UCs) of at least 2,500 and less than 50,000 people.

b. Types of Outage Reports and Reporting Timelines:

b.(1) Notification Report: Within 120 minutes of discovering an outage of at least 30 minutes in duration.

b.(2) Initial Report: No later than 72 hours after discovering the outage.

b.(3) Final Report: No later than 30-day after discovering the outage.

b.(4) Withdrawn Report: Filed as soon as practicable after determining that the outage did not meet the Major Rural Outage reporting threshold.

c. Report Format: Attachment D is the Major Rural Area Outage Report Template that contains the following fields:

c.(1) Company Name and Utility Number assigned by the Commission;

c.(2) Report Number. Year (YY) Utility number (UUUU), and five digit consecutive number for a calendar year beginning with the number 00001. Each calendar year reports shall begin with the number 00001. (e.g. 17-uuuu00001);

c.(3) Report Type, as described above;

c.(4) Date and time outage discovered in hours and minutes;

c.(5) Estimated date and time in hours and minutes of repair;

c.(6) Date and time in hours and minutes outage was repaired;

c.(7) Elapsed time in hours and minutes for outage to be repaired;

c.(8) Type(s) of Service Affected: Wireline, wireless, interconnected VoIP;

c.(9) Location/Areas affected by outage (County, city, township, unincorporated areas, etc.);

c.(10) Cause of outage;

c.(11) Explanation of steps taken to restore service;

c.(12) Description of steps that were, or will be taken to prevent similar types of outages from occurring in the future; and

c.(13) Name, title, and contact information (telephone number and email address) of the person submitting the report.

d. Confidentiality: Rural Area Outage reports submitted to the Commission pursuant to these rules shall be treated as confidential in accordance with Public Utilities Code § 583 and General Order 66-C.

5. WIRELESS COVERAGE MAPS– Applies to all facilities based telephone corporations that are wireless carriers, and have been granted a CPCN or a WIR.

5.1 Description: Wireless coverage maps shall show where wireless phone users generally may expect to receive signal strength adequate to place and receive calls when outdoors under normal operating conditions.

5.2 Requirements. Wireless carriers shall provide coverage maps on their websites and at retail locations.

a. Wireless carriers shall provide coverage maps in printable format on their websites and in a printable or pre-printed format at retail locations that customers can take with them. Wireless carrier representatives at retail locations shall implement procedures to make available during a sales transaction coverage maps depicting approximate wireless service coverage applicable to the wireless service rate plan(s) being sold.

b. Wireless carriers shall provide coverage maps depicting approximate wireless service coverage applicable to the wireless service offered rate plan(s). All coverage maps shall include a clear and conspicuous disclosure of material limitations in wireless service coverage depiction and wireless service availability.

6. RECORDS AND REPORTS

6.1 Reporting Units. Service measurements shall be maintained by reporting units. Reporting units are exchange, central office entity, wire center, traffic office, trouble report service office, or business office as required.

The reporting unit for each service measure is defined in Section 3.

6.2 Reporting Requirements. Reports shall be made to the Communications Division of the Commission within 45 days of the end of the reporting quarter, for all reporting units. Service interruption shall be reported when it is considered a major interruption as defined in Section 4. See the Communications Division pages of the Commission's web site for reporting instructions.

Reports to the Commission of performance not meeting the reporting level shall state the levels of service for each service measure and the months being reported. Reports on reporting units for two or more consecutive months shall also include a description of the performance at the reported level, a corrective action plan which includes the specific action being taken to improve service, and the estimated date of completion of the improvements.

6.3 Retention of Records. Quarterly summary records of service measurements for each reporting unit shall be retained for three years. All major service interruption reports shall be retained for three years. All summary records shall be available for examination by Commission representatives during the retention period and special summaries of service measurements may be requested by the Commission.

6.4 Commission Staff Reports. The staff may compile and post the minimum service standards and the performance of each carrier on the Commission's website.

7. STAFF INVESTIGATIONS AND ADDITIONAL REPORTING REQUIREMENTS

Commission staff may investigate any reporting unit that does not meet a minimum standard reporting level and any major service interruption. Staff may recommend the Commission institute a formal investigation into a carrier's performance and alleged failure to meet the reporting service level for six or more consecutive months.

Carriers that fail to meet any standard for two consecutive months or more shall file with the Communications Division, or its successor, a Corrective Action Plan for each month that the service quality measures are not met that explains the reason(s) for missing the standard(s) and the actions that the company will take to correct the causes and improve performance to a level that meets adopted measures and standards.

8. REFUNDS

URF carriers and GRC ILECs shall utilize their existing tariff or customer guidebook provisions for customer refunds. If a carrier does not have a tariff or guidebook provision for customer refunds, the carriers should develop a refund policy and file with the Commission a Tier 1 Advice Letter to describe the refund policy, identify where the policy can be found, and modify the tariff or customer guidebook as appropriate.

All carriers shall report the number and total amount of refunds by month. This data should be compiled monthly and reported quarterly in a separate form filed with the quarterly service quality reports.

9. FINES

9.1 General. Applies to facilities-based local exchange telephone corporations that have been granted either a franchise or a Certificate of Public Convenience and Necessity (CPCN) pursuant to Public Utilities Code § 1001 or are registered pursuant to Public Utilities Code §1013, and are regulated under the Uniform Regulatory Framework (URF) adopted in

D.06-08-030. For companies that offer voice service through multiple technologies, the fines only apply to traditional wireline telephone service.

A carrier will begin incurring a fine for these measures when it reaches a "chronic failure status," which is failure to meet the minimum standard for three consecutive months. No fines will be assessed for missing the first two months.

A carrier in chronic failure status will be fined a specific amount for each day that it failed to meet the minimum monthly standard. The fine does not end and restart when the calendar reporting year ends and a new year begins. A carrier exits chronic failure status after it meets the standard for two consecutive months. However, until the carrier exits chronic failure status, the carrier will continue to incur fines for any succeeding months that it failed to meet the standard.

The fine will be assessed based on the size of the carrier relative to the number of access lines in California at the end of June of the applicable year. The June 30th total California line count will be posted on the Communications Division's web page for each year of calculation. The formula to scale the fines follows:

> (Carrier's Access Lines/Total CA Access Lines in June) = Carrier's Scaling Factor
>
> (Carrier's Scaling Factor) X (Monthly Base Fine per Measure) X (Number of Months Measure Was Not Met) = Fine

For example, if a carrier were 24% of total access lines, the scaling factor of .24 would be applied to the monthly base fine for the number of months that the carrier was in chronic status. A carrier will exit chronic failure status when it meets the standard for two consecutive months.

9.2 Dispute Resolution. If CD staff determines that the calculation(s) in the advice letter is (are) incorrect, staff will attempt to clarify the terms and calculations with carrier. If the dispute is resolved, the carrier shall file a supplemental advice letter with corrected terms and calculations. If staff continues to disagree with the carriers' calculations, staff shall reject the supplemental advice letter.

The carrier (or a protesting party, or a third party, if applicable) may request Commission review of the advice letter disposition in accordance with GO 96B § 7.7.1. In the event staff disputes the advice or the carrier requests commission review, staff will prepare and place on the Commission's meeting agenda a proposed resolution, and will serve it on the requester and all others on whom the request was served.

9.3 Out of Service (OOS) Repair Interval Fine. Carriers must meet the minimum OOS measure on a monthly basis. Initially, if a carrier does not meet this standard for three (3) consecutive months, it will be assessed a fine based on adjusted results, beginning in the third month, and will be considered to be in chronic failure status.

The base daily fine amount for OOS is $25,000. For the purpose of calculating the fine, a month consists of 30 days.

For example, if a carrier that had 60% of total access lines initially failed to meet the standard for three consecutive months, the fine for the third, and each subsequent month, would be $750,000 per month X the carrier's scaling factor of .6, for a total of $450,000 per month. Table 1 is a summary of the base fine for failure to meet the OOS standard.

Table 1: Base Out Of Service Fine

	1 to 2 Consecutive Months of OOS Standard Not Met	**3 or more Consecutive Months of OOS Standard Not Met**
Fine Per Day	$0 per day	$25,000 per day
Days in a Month (for all months)	30 days	30 days
Base Fine per Month	$0	$750,000

9.4 Customer Trouble Reports (CTR) Fine. The fines for customer trouble reports shall be based on company-wide CTR results. Once it reaches chronic status, a carrier receiving 10 or more customer trouble reports per 100 access lines (10%) for its entire service territory will be assessed a fine.

The fine amount will be increased based on the number of consecutive months a carrier fails to meet the 10% standard. The initial fine is $500 per day, which will escalate to the highest daily fine of $2,000 per day after 12 or more consecutive months. Table 2 illustrates the progression.

Table 2: Base Customer Trouble Report Fine

	1 to 2 Consecutive Months	**3 to 5 Consecutive Months**	**6 to 8 Consecutive Months**	**9 to 11 Consecutive Months**	**12 or More Consecutive Months**

Fine Per Day	$0	$500	$1,000	$1,500	$2,000
Days in Month	30	30	30	30	30
Base Fine per Month	$0	$15,000	$30,000	$45,000	$60,000

9.5 Answer Time for Trouble Reports and Billing and Non-billing Inquiries Fine. The fines for Operator Answer Time will be assessed on a carrier for each day that it fails to meet the minimum standard of answering at least 80% of the all customer calls within 60 seconds.

The initial base fine is $500 per day, which will escalate to the highest daily fine of $2,000 per day. Table 3 illustrates the progression.

Table 3: Base Answer Time Fine

	1 to 2 Consecutive Months	3 to 5 Consecutive Months	6 to 8 Consecutive Months	9 to 11 Consecutive Months	12 or More Consecutive Months
Fine Per Day	$0	$500	$1,000	$1,500	$2,000
Days in Month	30	30	30	30	30
Base Fine per Month	$0	$15,000	$30,000	$45,000	$60,000

9.6 Advice Letter Tabulating Fine. The performance of any telephone corporation that does not meet the minimum standards shall submit annually, by February 15 of the following year, a Tier II Advice Letter that shows by month each Service Quality measurement that it did not meet the minimum standards and the applicable fine.

The advice letter shall contain detailed calculations using MS Excel spreadsheets (or a format specified by the Communications Division) with explanations of how each fine was calculated and assumptions used in the calculation. CD will prepare a resolution for the Commission annually, and if the resolution is adopted, then fines shall be payable to the California Public Utilities Commission for deposit to the California General Fund.

The minimum annual fine shall be no lower than the registration fee for a CPCN.

10. FORM

The attached form is a template for reporting GO 133-D Service Quality Standards. The staff may change this form as necessary. Additional information can be found on the Commission's website.

(End of Attachment B)

Attachment C

Service Quality Standards Reporting Template

California Public Utilities Commission
Service Quality Standards Reporting
General Order No. 133-D

Company Name: ____________________ **U#:** ________ **Report Year:** ________

Reporting Unit Type: ☐ Total Company ☐ Exchange ☐ Wire Center **Reporting Unit Name:** ____________________

Measurement (Compile monthly, file quarterly)		Date filed (05/15/yy)			Date filed (08/15/yy)			Date filed (11/15/yy)			Date filed (02/15/yy)		
		1st Quarter			2nd Quarter			3rd Quarter			4th Quarter		
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Installation Interval Min. standard = 5 bus. days	Total # of business days												
	Total # of service orders												
	Avg. # of business days												
Installation Commitment Min. standard = 95% commitment met	Total # of installation commitments												
	Total # of installation commitment met												
	Total # of installation commitment missed												
	% of commitment met												
Customers	Acct # for voice or bundle, res+bus												
Customer Trouble Report													
Min. Standard 6% (6 per 100 working lines for units w/ ≥ 3,000 lines)	Total # of working lines												
	Total # of trouble reports												
	% of trouble reports												
8% (8 per 100 working lines for units w/ 1,001 - 2,999 lines)	Total # of working lines												
	Total # of trouble reports												
	% of trouble reports												
10% (10 per 100 working lines for units w/ ≤ 1,000 lines)	Total # of working lines												
	Total # of trouble reports												
	% of trouble reports												
Adjusted Out of Service Report Min. standard = 90% within 24 hrs	Total # of outage report tickets												
	Total # of repair tickets restored in ≤ 24hrs												
	% of repair tickets restored ≤ 24 Hours												
	Sum of the duration of all outages (hh:mm)												
	Avg. outage duration (hh:mm)												
	Indicate if catastrophic event is in month												
Unadjusted Out of Service Report	Total # of unadjusted outage report tickets												
	Total # of all repair tickets restored in ≤ 24hrs												
	% of all repair tickets restored ≤ 24 Hours												
	Sum of the duration of all outages (hh:mm)												
	Avg. unadjusted outage duration (hh:mm)												
Refunds	Number of customers who received refunds												
	Monthly amount of refunds												
Answer Time (Trouble Reports, Billing & Non-Billing) Min. standard = 80% of calls ≤ 60 seconds to reach live agent (w/ a menu option to reach live agent)	Total # of calls for TR, Billing & Non-Billing												
	Total # of call seconds to reach live agent												
	% ≤ 60 seconds												

Primary Utility Contact Information

Name: ____________________ **Phone:** ____________________ **Email:** ____________________

Date Adopted: 7/28/09
Date Revised: 12/08/09 (Corrects typographical errors)
Date Revised: 05/04/10 (Added new lines and changed terms to reflect requirements of G.O.133-C)
Date Revised: 09/15/15 (Added new rows to reflect requirements of G.O. 133-D)

(End of Attachment C)

Attachment D

Major Rural Outage Reporting Template

R. 11-12-001 Proposed Decision

California Public Utilities Commission
Rural Outage Reporting Template
General Order 133-D

Company Name
Utility Number
Report Number:

Report Type (Check box that applies):

Notification:	
Initial:	
Final:	
Withdrawn:	

Date and Time of Outage in Hours and Minutes:

Estimated Time to Repair in Hours and Minutes:

Date and Time Outage Repaired in Hours and Minutes:

Elapsed Time to Repair in Hours and Minutes

Description of How Outage Was Discovered:

Type(s) of Service(s) Affected:

Wireline	
Interconnected VoIP	
~~DS3~~	
Wireless	
~~E 911~~	
~~Special Offces and Facilities~~	

Location/Areas Affected (County, City/Township:

Cause of Outage:

Explanation of How Outage Was Repaired:

Describe What Steps Will be Taken to Prevent Similar Types of Outages:

Name, position, telephone number and email address for person submitting this report: