State of California **Public Utilities Commission**
San Francisco

M E M O R A N D U M

Date : July 27, 2012

To : The Commission
(Meeting of August 2, 2012)

From : Helen M. Mickiewicz
Assistant General Counsel

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Program and Project Supervisor, Communications Division

Subject: **Filing of Reply Comments in Response to the FCC's Further Notice of Proposed Rulemaking (FNPRM) Regarding Universal Service Fund Contribution Methodology**

RECOMMENDATION: The CPUC should file reply comments before the Federal Communications Commission (FCC) in response to its *Further Notice of Proposed Rulemaking* (*FNPRM*) for Universal Service Contribution Methodology.[1] The FCC seeks comment on proposals to reform and modernize how federal Universal Service Fund (USF) contributions are assessed and recovered. This action is the FCC's next step in its "ongoing efforts to modernize its universal service programs to efficiently bring the benefits of 21st century broadband networks, and the economic growth, jobs and opportunities they provide, to all Americans."[2] Staff has brought this matter back before the CPUC because the earlier Memo of Recommendation (MOR) did not encompass the issues addressed in this memo. However, the earlier MOR contained a background discussion of this FCC proceeding which we do not include again here.

Staff makes the following recommendations for CPUC comments in this reply round. First, the FCC seeks comment on a proposed "bright line rule" for assessing revenues from bundled offerings to support universal service because of its concern that without a clear rule, carriers will be encouraged to minimize the assessable revenues in a bundle in order to gain a competitive edge.[3] Staff recommends that the CPUC support a modified version of the FCC's proposed "bright line rule" – to "treat all revenues [from bundled services] as assessable

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[1] In the Matter of Universal Service Contribution Methodology, A National Broadband Plan For Our Future, WC Docket No. 06-122, GN Docket No. 09-51 (FCC 12-46), Further Notice of Proposed Rulemaking; rel. April 30, 2012. (FNPRM).

[2] Id., at para. 1.

[3] *FNPRM*, ¶¶ 105.

telecommunications revenues" – by eliminating the word "telecommunications".**4** Staff also recommends that the CPUC acknowledge the possibility that in some instances where a bundled service offering includes video, the FCC's proposed methodology may result in an assessment against the revenues derived from the video offering.

Second, the FCC seeks comment on whether it should modify or eliminate its requirement that carriers are assessed on intrastate, interstate, and international revenues.**5** Staff proposes that the CPUC support continued allocation of revenues between inter- and intrastate jurisdictions. Specifically, staff supports recommending that the FCC adopt another "bright line rule" for how companies should allocate revenues between jurisdictions for the purpose of applying respective jurisdictional surcharges. Such a bright line should be based on traffic studies that the FCC compiles for all services, recognizing that the jurisdictional revenues for all technologies are not the same. Staff further recommends that the CPUC advocate that states are entitled to surcharge a portion of the revenue derived from broadband Internet access because of the states' role in ensuring, overseeing, and administering universal service.

Reply Comments are due August 6, 2012.

Contributing Staff: Candace Choe of Communications Division

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4 *See FNPRM,* ¶ 106. Staff recommends this because the FCC has not resolved how IP-enabled services and VoIP services should be classified for regulatory purposes. The FCC has not determined whether VoIP or IP-enabled services are "telecommunications" services but those services likely would be included in a bundled offering, thus potentially creating another conundrum where services not classified are "treated" as if they have been classified.
5 *FNPRM*, ¶ 127, 128.