

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
07-14-10
04:59 PM

Petition to Adopt, Amend, or Repeal A
Regulation Pursuant to Cal. Pub. Util.
Code § 1708.5, specifically To Review
the Assessment of Surcharges for The
Commission's Public Policy Programs
With Respect to Prepaid Wireless
Services.

P.09-12-018
(Filed December 11, 2009)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE PROPOSED DECISION DENYING PETITION BY VERIZON
WIRELESS TO REVIEW THE ASSESSMENT OF SURCHARGES FOR THE
COMMISSION'S PUBLIC PURPOSE PROGRAMS WITH RESPECT TO
WIRELESS SERVICES**

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July 14, 2010

I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) hereby submits these Comments in support of the June 24, 2010 Proposed Decision (PD) which would deny Verizon Wireless' request that the Commission review the assessment of public purpose program surcharges with respect to prepaid wireless services.

DRA appreciates that the Commission recognizes it should not address prepaid wireless services in a piecemeal fashion, which would be the case if the Commission granted the petition.¹ The Petition was an unsubtle attempt to undermine the Commission's rule and practice that *all* wireless carriers must pay surcharges and fees just like any other carriers.² Questions relating to the most reasonable or efficient mode of calculating and collecting the surcharge on prepaid revenue belong in an omnibus proceeding to consider how Lifeline and other surcharges are to be calculated, remitted, and applied in an ever-changing telecommunications landscape.

II. DISCUSSION

A. The Proposed Decision Correctly Denies Verizon Wireless' Petition

The PD correctly finds that the Commission should deny the Verizon Wireless petition because the Commission should not address prepaid wireless services in a "piecemeal fashion."³ DRA emphatically agrees. The PD also notes that the Commission "intend[s] to issue a rulemaking on the Commission's own motion that will seek to incorporate the issues presented by the petition into a broader discussion of prepaid wireless service issues."⁴ However, DRA cautions against leaving "broader

¹ PD at 6.

² *See, e.g.*, D.84-04-014, 14 CPUC 2d 563, 564; D.84-11-029 at O.P. 7-9, 16 CPUC 2d 381, 426 (mobile phone applicant "is subject to the user fee as a percentage of gross intrastate revenues"); D.85-04-008, 17 CPUC 2d 492, 496; Opposition of DRA to TracFone Wireless Inc.'s Motion to Defer (A.10-01-015, 4/20/2010) at 2.

³ PD at 6.

⁴ *Id.*

discussion of prepaid wireless service issues” open for interpretation without any further detail and guidance.

Based on earlier comments and/or motions of wireless and prepaid wireless carriers, those carriers may confuse the issue of whether prepaid wireless carriers are exempted from the universal application of public purpose program surcharges with the issue of what the appropriate methodology for doing so should be. Most carriers, including most prepaid wireless carriers, remit surcharges and fees to the Commission. The question whether one carrier may be exempted from such surcharges and fees is now before the Commission in the current investigation of TracFone Wireless Inc. (I.09-12-016).⁵ Furthermore, as DRA has previously stated with regard to the alleged difficulty in applying public purpose program surcharges to prepaid wireless intrastate revenue, DRA agrees with the Small LECs and SureWest that there are no “insurmountable difficulties” in assessing these surcharge merely due to the nature of the billing method associated with prepaid services.⁶

B. To The Extent The Commission Addresses Broader Prepaid Wireless Service Issues, It Should Be Done In The Public Purpose Program (3p) Proceeding (R. 06-05-028)

To the extent that the Commission wishes to examine the broader discussion of prepaid wireless service issues, DRA agrees with TURN and DisabRA that the Commission should consider all public purpose program wireless issues together in the context of the 3P rulemaking (R. 06-05-028).⁷ DRA understands that low-income customers may find prepaid wireless service to be an attractive option, and the Commission is already examining low-income telephone programs in that proceeding.

⁵ See, e.g., TracFone Comments at 3 (“Rules governing public programs are not applicable to prepaid wireless services”); Reply of DRA to Responses to Verizon Wireless’ Petition for Rulemaking (1/28/10) at 2. In I.09-12-016, the Commission’s Consumer Protection and Safety Division (CPSD) has argued that, while there is no colorable question as to the *duty* of all carriers to calculate and remit public purpose surcharges, there may be differences in *methodology*, and for purposes of that Investigation CPSD would accept “any reasonable methodology” to fulfill the statutory duty to collect the surcharges.

⁶ PD at 4.

⁷ *Id.* at 5; Joint Response of TURN and DisabRA (1/11/2010) at 1-3.

III. CONCLUSION

DRA urges the Commission to adopt the PD denying Verizon Wireless' petition as written, since (1) the Commission has been, and remains, clear that all wireless carriers must pay surcharges and fees just like any other carrier, and (2) the Commission should not address the issues raised by the petition in a piecemeal fashion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE PROPOSED DECISION DENYING PETITION BY VERIZON WIRELESS TO REVIEW THE ASSESSMENT OF SURCHARGES FOR THE COMMISSION’S PUBLIC PURPOSE PROGRAMS WITH RESPECT TO WIRELESS SERVICES**” to the official service list in **P.09-12-018** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **July 14, 2010** at San Francisco, California.

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