

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



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Order Instituting Rulemaking Regarding  
Revisions to the California High Cost  
Fund B Program.

R.09-06-019  
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**COMMENTS OF  
CRICKET COMMUNICATIONS, INC. (U-3076-C)  
ON ALTERNATE PROPOSED DECISION OF COMMISSIONER FLORIO ADOPTING  
BASIC TELEPHONE SERVICE REVISIONS**

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## Summary of Recommendations

The Commission must make the following changes to the Alternate Proposed Decision (“APD”) in order to ensure that the definition of “basic service” is truly technology-neutral:

- Eliminate the requirement that “wireless basic service providers must provide sufficient signal strength and coverage to maintain a voice-grade connection in at least one room in a customer’s residence.”
- Eliminate the requirement that a basic service provider must “demonstrate the capability to provide 911/E911 location accuracy and reliability that, at a minimum, is comparable to what is currently required of existing traditional wireline providers in that service territory.”
- Eliminate the requirement that “basic service” be offered as a “stand-alone option”

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Pursuant to Rule 14.3 of the California Public Utilities Commission's Rules of Practice and Procedure, Cricket Communications, Inc. (U-3076-C) ("Cricket") respectfully submits these comments on the Alternate Proposed Decision of Commissioner Florio ("APD") on the Proposed Basic Telephone Service Revisions.

## I. INTRODUCTION

For the past several years, Cricket and a number of other wireless providers have supported the Commission's effort to redefine "basic service" in a manner that is technology-neutral and that will recognize non-wireline technologies as "basic service."<sup>1</sup> As a wireless eligible telecommunications carrier ("ETC") offering federal Lifeline, Cricket has a particular interest in this issue, as the Commission's definition of "basic service" in this proceeding may inform the Commission's establishment of Lifeline service elements.<sup>2</sup> Indeed, as the Commission has expressly acknowledged, the lack of voluntary wireless participation in the California LifeLine program can be traced to the program's current wireline-centric structure<sup>3</sup> - a prime example of which is the current definition of what comprises "basic service."

Based on the extensive record in this proceeding, the current Proposed Decision ("PD") properly recognizes these concerns and proposes a definition that is both practical and technology-neutral for non-wireline providers.<sup>4</sup> Unfortunately, Commissioner Florio's APD proposes several requirements for "basic service" that would revert back to a wireline-centric framework which would effectively make it impossible, or extremely challenging at best, for

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<sup>1</sup> See generally, R.09-06-019, Order Instituting Rulemaking Regarding Revisions to the California High Cost Fund B Program.

<sup>2</sup> Although the APD notes that the definition adopted in this proceeding will not extend to federal ETCs, to the extent that the definition adopted in this proceeding could be the "starting point" for the commission's consideration of basic service for "Lifeline," Cricket is concerned that the definition in this proceeding be implementable.

<sup>3</sup> See Decision 10-11-033, *Decision Adopting Forward Looking Modifications to California Lifeline in Compliance with the Moore Universal Telephone Service Act*, mimeo at 69.

<sup>4</sup> See PD, version 5 (rel. June 11, 2012).

wireless providers to offer “basic service.” The requirements set forth in the APD are, on their face, wireline-centric and clearly violate the principles of competitive neutrality.

In particular, the APD’s requirements regarding “residential” signal quality, landline comparable E911 requirements and standalone service requirements establish standards that wireless service providers either cannot meet or cannot meet without incurring substantial and prohibitive costs. This will result in numerous barriers to entry for wireless providers. As reflected by the comments in the record, many consumers today value and desire wireless service as their primary, or “basic service.”<sup>5</sup> The APD’s definition of basic service will prevent consumers from being able to obtain this valued service for their basic service needs.<sup>6</sup> Ultimately, the customers that this APD seeks to protect will be the ones harmed.

Accordingly, Cricket urges the Commission to be mindful of its goal in this proceeding, which is to update the definition of basic service and to provide consumers the choice of basic service via alternate technologies. The PD best effectuates that goal. To the extent that the Commission considers adopting the APD, however, the Commission must revise certain elements of its “basic service” definition as discussed below.

## **A. Background**

### **1. Cricket’s ETC Designation**

Cricket received authorization as an ETC for the purpose of offering *federal* Lifeline and Link-up services to qualifying end-user customers in December 2010 and has been offering federal LifeLine since March 2011.<sup>7</sup> The resolution approving Cricket’s request for designation

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<sup>5</sup> See CTIA-The Wireless Association Comments (“2-24-12 CTIA Comments”), at 5 (Feb. 24, 2012).

<sup>6</sup> See Nexus Comments, at 3 (Feb. 24, 2012) (noting that “[a] competitively neutral definition is particularly important in the Lifeline context, since, as the Commission recognizes, such a definition provides low-income consumers with options for new technologies and services such as wireless, which afford mobility and a host of other benefits.”); Cricket Reply Comments, at 3 (May 31, 2011) (“the Commission should strive to adopt simple and technology-neutral requirements for basic service that accommodate and encourage participation in California LifeLine by all technologies (including wireless).”)

<sup>7</sup> Resolution T-17266 (Dec. 7, 2010).

as an ETC found that it was in the public interest to so designate Cricket, noting several advantages to its service, including “telephone mobility.”<sup>8</sup>

Cricket has devoted substantial resources to offering Lifeline and providing high quality services to low-income Californians.<sup>9</sup> Indeed, Cricket’s service offering is extremely attractive to low-income consumers because customers can pay for wireless service on a prepaid and pay-in-advance basis, without credit-checks, deposits, or long-term contracts. Cricket’s Lifeline offering also includes unlimited local and long distance calling, unlimited texting, caller-id, call-waiting, and voicemail. Cricket continues to be committed to offering Lifeline to low-income Californians but is concerned that its continuing participation as an ETC may be compromised by impossible or unduly restrictive standards.

**B. Consumers, Including Low-Income Consumers, Value and Desire Wireless Service**

Many customers today desire wireless service, and often use it as their primary, or only, service. Approximately three quarters of Cricket’s customer base has “cut the cord” and does not have a landline phone.<sup>10</sup> CTIA further has found that on a nationwide basis, more than 30% of households are wireless-only.<sup>11</sup> Moreover, wireless subscribership as a whole has increased exponentially. As of December 2011, there were 331.6 million wireless subscribers in the U.S., up from 128.4 million in 2001.

Low-income consumers are no different from the general population. They desire the mobility that wireless service offers so that they can make and receive critical calls while away from home, particularly if such calls are related to emergencies, their health, safety, and/or employment opportunities. Enabling low-income consumers to access Lifeline wireless service

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<sup>8</sup> Resolution T-17266, at 9. The Resolution found that Cricket complied with all but three of 23 elements of the current “basic service” definition in General Order 153.

<sup>9</sup> Cricket is also an ETC in 23 other states and the District of Columbia.

<sup>10</sup> Cricket Reply Comments, at 1 (Dec. 12, 2011).

<sup>11</sup> See CTIA Wireless Quick Facts. A copy is available at:

<http://www.ctia.org/advocacy/index.cfm/AID/10323>. See also 2-24-12 CTIA Comments, at 5.

is critical to ensuring that this segment of the population does not get left behind in a world of mobile communications. Moreover, in California, since Cricket received ETC status, it has been able to offer federal Lifeline to a number of Lifeline customers, despite the fact that these consumers currently can only receive the federal Lifeline subsidy.<sup>12</sup> Customers who choose to obtain Lifeline service through a wireless carrier in California choose to do so even though *California LifeLine* discounts are not available for wireless service at this time. These low-income customers are choosing to spend their limited dollars on wireless service, with only the federal Lifeline discount, because they see benefit in the mobility and additional features that wireless Lifeline service can offer them.

Given the increasing importance of wireless service to all customers, including low-income, it is critical that the Commission consider the potential impact of defining “basic service” in a manner that could impede the ability of wireless providers to offer such service. Or, more importantly, in a manner that could impede customer choice.

## **II. THE APD SHOULD BE MODIFIED TO ELIMINATE THE FOLLOWING REQUIREMENTS**

Although the APD recognizes the importance of promoting alternate technologies, and states that “[a] definition designed to be technology-neutral does not require that all modes of technology provide basic service in identical fashion,”<sup>13</sup> its proposed requirements effectively require all technologies to offer basic service in one fashion – that of a wireline provider. In particular, the following APD requirements impose wireline rules on non-wireline providers: (i) “sufficient signal strength” to maintain a voice-grade connection in “at least one room in a customer’s residence;” (ii) *landline* comparable E911; and (iii) wireless standalone service. Cricket and other wireless providers have previously commented in detail as to prior versions of

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<sup>12</sup> Once wireless ETCs participate in the California LifeLine program, their customers may also receive California subsidies.

<sup>13</sup> APD, at 13.

the PD why these requirements should be eliminated. As set forth again below, requiring *wireless* technology to conform to *wireline* standards is not technology-neutral and would prohibit, or at best, substantially inhibit, existing wireless providers from offering such “basic service.”

**A. The “Sufficient Signal Strength” Requirement Must be Eliminated**

The APD requires wireless carriers that seek to offer residential basic telephone service to “provide sufficient signal strength and coverage to maintain a voice-grade connection in at least one room of the customer’s residence.”<sup>14</sup> In establishing this requirement, the APD fails to recognize the innate differences between wireline and wireless service, including established business models and technological capabilities.

Requiring wireless carriers to provide customers with “sufficient signal strength and coverage” in “at least one room of the customer’s residence” is, as a practical matter, impossible for wireless providers. Indeed, the APD recognizes “that many factors may affect a wireless customer’s ability to make and receive calls, including but not limited to the building materials used to construct the customer’s residence; where the customer is in the house (e.g., in the basement or attic); amount and stature of surrounding vegetation; weather; calling traffic within the network cell at the time the call is attempted; potential sources of interference; and the type of phone used by the customer.”<sup>15</sup> However, despite acknowledging these factors, the APD imposes a requirement on wireless providers offering basic service that they cannot meet.<sup>16</sup>

As demonstrated in the record, the signal strength of wireless service within a customer’s residence is not always within a wireless provider’s control. Unlike wireline service, which is offered over dedicated, last-mile wires into homes, wireless service is offered through over-the-

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<sup>14</sup> *Id.*, at 22.

<sup>15</sup> *Id.*

<sup>16</sup> In contrast, the PD properly recognizes that such a requirement would be difficult if impossible for a provider of wireless service. The PD imposes this requirement only upon COLRs. *See* PD, version 5 at Appendix A, Item no. 1d.

air signals, which are subject to numerous external factors. These factors not only are outside of a wireless provider's control, but cannot always be predicted in advance and may depend on the time of year, or even time of day, or events such as new construction or buildings around a customer's residence.

The APD suggests that wireless service may be addressed through "a service technician . . . visit[ing] the customer's location to trouble-shoot the service and install a wireless bridge antenna, or take other steps as needed."<sup>17</sup> This also reflects a fundamental misunderstanding of wireless operations. Wireless carriers do not employ "service technicians" who are trained to "visit the customer's location to trouble shoot the service." Not only would it cost wireless providers exorbitant costs to hire, train, and maintain technicians, the use of such technicians would not address signal strength issues. A technician cannot simply ensure "sufficient signal strength" by travelling to the customer's residence and/or installing a "bridge antenna." Even if a wireless carrier did take these steps, technicians and additional equipment can still not guarantee flawless service for the very reasons listed above. Moreover, often siting and permitting restrictions prevent upgrades to a network in a timely fashion, if at all.

The problem that the APD attempts to fix is unnecessary. Cricket and most other wireless carriers generally provide customers a 30-day return policy. In general, if customers are not satisfied with the quality of service they are receiving from their wireless carrier, they have 30 days to cancel that service with no penalties. In the case of wireless prepaid and pay-in-advance models, like those offered by Cricket, customers can make this decision *every* 30 days. These remedies allow customers to choose whether the wireless service to which they are subscribed fits their individual needs, and to discontinue such service when it does not. Accordingly, any requirement as to "signal strength" is simply unnecessary here.

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<sup>17</sup> APD, at 22.

**B. The Requirements that Wireless Carriers Provide “Landline Comparable” 911 Should Be Eliminated**

The APD states that it “do[es] not dictate the use of any particular technology or network design for the purpose of satisfying the basic service requirement for 911/E911 access.”<sup>18</sup> However, it also states that “regardless of whatever technology or network design a carrier utilizes...the carrier must demonstrate to the Commission that it has the capability of providing a caller with 911/E911 location accuracy and reliability *comparable to that currently required of traditional wireline providers* in the service territory.”<sup>19</sup> These sentences conflict with each other and the latter is plainly not technology-neutral. Although the Commission acknowledges that it does not wish to dictate the type of technology used to provide basic service, it imposes a technological requirement that only wireline service providers can meet. Moreover, the requirement that wireless 911/E911 be comparable to that of wireline providers is confusing in that it does not clarify in what regard wireless providers must offer “comparable” 911/E911. Finally, the requirement ignores a complex set of federal, state, and local rules and technical standards and requirements governing wireless 911/E911 and the routing of such calls. In short, the requirement is practically impossible and inconsistent with other applicable legal requirements.

As an initial matter, while it is unclear the extent to which the APD seeks to impose additional 911/E911 requirements on non-wireless providers, it is questionable whether the Commission has the authority to do so. As previously noted by CTIA, wireless carriers are subject to federal and state requirements as to the location accuracy of 911/E911 calls and routing of wireless 911 calls and cannot simply deviate from those requirements.<sup>20</sup>

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<sup>18</sup> *Id.*, at 32.

<sup>19</sup> *Id.*, at 33 (emphasis added).

<sup>20</sup> CTIA-The Wireless Association Comments, at 6-7 (Dec. 5, 2011); *see also* 2-24-12 CTIA Comments, at 10.

Moreover, this requirement imposes a technological requirement that only wireline service providers can meet. By virtue of their innate technological differences, wireline (wired service) and wireless (non-wired service) do not allow for the exact same location accuracy. Because wireline service is offered at only one location, a 911 call will always be able to identify that specific location. A wireless call, however, is by its very nature, not fixed and thus, a 911 call will transmit the location of the caller to the nearest available accuracy, consistent with federal requirements.

Cricket further takes issues with the APD's implication that wireline 911 is superior to wireless 911.<sup>21</sup> As noted above, with wireline service, a customer's 911 call will provide the location of the customer's home. However, with wireless service, a customer can call 911 anywhere, even away from the residence. In this regard, wireless service provides customers with greater access to 911 than wireline service. As Cricket stated in its Reply comments to the PD, 70% of emergency calls are placed via wireless phones.<sup>22</sup> Without a wireless phone, a customer that is away from her or his residence would not be able to access 911. The Commission should recognize that wireless 911 services offer some significant advantages to wireline 911; acknowledge the inherent differences between these technologies; and allow customers the right to choose.

**C. The APD Should be Modified to Eliminate Requirements for Wireless Carriers to Provide a Standalone Option**

Requiring wireless carriers to offer a stand-alone service option is also not technology-neutral. As wireless carriers have explained to the Commission, they cannot simply extricate features such as call-waiting, caller-id, or voicemail from a wireless voice service offering.<sup>23</sup> Nor do most consumers want the carrier to do so. As written, the APD would not only require

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<sup>21</sup> See TURN Reply Comments, at 16 (May 31, 2011).

<sup>22</sup> Cricket Reply Comments, at 6 (May 31, 2011).

<sup>23</sup> 2-24-12 CTIA comments, at 6.

wireless providers to redesign their networks and systems to offer a stand-alone product but it would deprive *consumers* who seek wireless services over wireline services, in part *because of* these additional features.

Cricket, for example, offers a flat rate plan of \$35, which includes unlimited local and long distance calling, unlimited texting, caller-id, call-waiting, voicemail and the benefit of mobility. A wireless customer purchasing Cricket's flat rate wireless plan would pay far less, for far more features and service benefits, than some wireline customers purchasing stand-alone plans to which they would need to pay extra for the same additional features. Consumers who simply want a stand-alone local calling plan, however, can always simply subscribe to wireline service.

As a practical matter, some features such as call-waiting, caller-ID, and voicemail are often essential *part of* wireless service offerings and providers may need to redesign or reconfigure their networks or billing systems in order to offer a stand-alone product just for California. As CTIA points out, the number of wireless-only households is growing and this trend is even more prevalent with low-income households.<sup>24</sup> These customers are adopting wireless service knowing full well that these additional features are *included*. This shows that customers benefit from these additional features and chose wireless service, in part, because of them. Wireless carriers should not be forced to develop a stripped-down version of their service offerings when it is clear that customers who choose wireless service do so with the knowledge, and in most cases, the *expectation*, that these value-add features are included in the service plan.

Finally, in its recent Lifeline Reform Order, the FCC implicitly recognized that bundled offerings may provide benefits to consumers when it adopted a new federal policy "that allows all ETCs (whether designated by a state or this Commission) to choose to make bundled service

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<sup>24</sup> *Id.*, at 5.

packages or packages containing optional calling features available to Lifeline consumers.”<sup>25</sup>

The Commission should similarly allow low-income consumers the right to access a variety of service plans, including bundled service packages.

### III. CONCLUSION

For the foregoing reasons, Cricket urges the Commission, to the extent that it considers adopting the APD, to eliminate the above listed requirements in the APD. As discussed, these requirements would effectively prohibit wireless providers from offering basic service. Such an outcome would be contrary to the Commission’s goal in this proceeding, contrary to the goal of encouraging wireless providers to voluntarily participate in the California LifeLine program, and contrary to the interests and desires of consumers.

Respectfully submitted,

/s/ \_\_\_\_\_  
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<sup>25</sup> *In the Matter of Lifeline and Link Up Reform and Modernization*, FCC 12-11 (rel. Feb. 6, 2012), at para. 315.