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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into the Service Quality Standards for All Telecommunications Carriers and Revisions to General Order 133-B	)))))	R. 02-12-004

COMMENTS OF JOINT COMMENTING PARTIES IN RESPONSE TO ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

Introduction

Sprint Communications Company, L.P. (U 5112 C), Sprint Telephony PCS, L.P. (U 3064 C), Sprint Spectrum L.P. as agent for Wireless Co., L.P. (U 3062 C) *dba* Sprint PCS, and Nextel of California, Inc. (U 3066 C) (collectively, "Sprint Nextel"), Cox California Telcom LLC (U 5684 C)("Cox"), Omnipoint Communications, Inc., dba T-Mobile (U 3056 C), XO Communications Services, Inc. (U 5553 C), Astound Broadband, LLC (U 6184 C), Time Warner Cable Information Services (California), LLC (U 6874 C), and Time Warner Telecom of California, L.P. (U 5358 C) (collectively, "Joint Commenting Parties" or "JCP") respectfully submit these Comments on the March 30, 2007 Assigned Commissioner's Ruling and Scoping Memo of Commissioner Chong ("the ACR") in the above-captioned proceeding.

Discussion

I. THE COMMISSION'S FINDINGS IN D.06-06-030 REGARDING THE EXISTENCE OF WIDESPREAD RETAIL COMPETITION SHOULD LEAD TO INCREASING RELIANCE ON COMPETITIVE MARKET FORCES TO PROMOTE RETAIL SERVICE QUALITY.

JCP welcome this opportunity to assist the Commission in its efforts to promote service quality in California's telecommunications markets. JCP recognize that the ACR reflects the Assigned Commissioner's key goal of ensuring that high quality telecommunications services continue to be widely available for California consumers in the future. JCP appreciate being

asked to comment on an appropriate means for determining consumers' satisfaction with the level of service quality they are experiencing in the telecommunications marketplace.

The principal question asked by the ACR is: should the Commission, in order to regulate service quality, require "[a]nnual customer satisfaction surveys for all wireline and wireless services"?[1] For the reasons set forth below, JCP believe the Commission should not do so. As explained below, the Commission may instead review information that is already available from a wide range of sources. This information will provide the Commission with a sound and reliable sense of whether consumers are, or are not, satisfied with the services available to them.

As background for this view, JCP first note that the Commission recently found that there is now "widespread competition" for retail services in California's telecommunications markets.[2] In reliance on competitive market forces, the Commission determined that traditional regulatory controls on pricing for retail services, including restrictions on geographic price deaveraging, are

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[1] ACR at 6. Although the ACR does not distinguish between retail (*e.g.*, carrier to consumer) and wholesale (typically, carrier to carrier) services, these Comments assume that the "wireline and wireless services" that the ACR had in mind were *retail* services.

[2] *See Order Instituting Rulemaking on the Commission's Own Motion to Assess and Revise the Regulation of Telecommunications Utilities*, R.05-04-005; Opinion [D.06-08-030] (2006) __ CPUC 2d __, 2006 Cal. PUC LEXIS 367 ("D.06-08-030"), Order Modifying and Granting Limited Rehearing of Decision (D.) 06-08-030, and Denying Rehearing of Decision, as Modified, in All Other Respects [D.06-12-044] (2006) __ CPUC 2d __, 2006 Cal. PUC LEXIS 511, *petition for writ of review filed January 18, 2007 and still pending as of May 12, 2007*. (All references herein to D.06-08-030 are to the Commission's *mimeo.* print of the decision.) This decision terminated the Commission's New Regulatory Framework ("NRF") for regulation of the large and mid-sized ILECs on the basis of Findings of Fact that, *inter alia*, found "widespread competition" in California's telecommunications markets. *See*, *e.g.*, *id.* at 268, Finding of Fact 77.

no longer necessary.[3] Accordingly, remaining pricing restrictions on retail services offered by California's incumbent local exchange carriers ("ILECs") will soon be dismantled.[4]

Given its conclusions in D.06-08-030 regarding the existence of widespread competition, JCP believe the Commission can, and should, feel confident about increasing its reliance, in the future, on competitive market forces as a sound means of promoting high quality services for California's consumers. As the ACR proclaims, "Service quality regulation should aim to . . . rely on competition, wherever possible, to promote broad consumer interests. . . ."[5] JCP subscribe to this view. JCP therefore encourage the Commission to continue on the path it has selected, which seeks to provide sufficient room for competitive forces to operate in a vigorous manner, while remaining subject to the Commission's continued oversight.[6]

In considering whether to conduct customer satisfaction surveys, the Commission should note the widespread availability of highly reputable customer satisfaction surveys and reviews that are already available in the marketplace. These surveys and reviews are conducted by such capable, experienced and respected entities as Consumer Reports, J.D. Power and Associates,

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[3] *See id.* at 275, Conclusion of Law 24: "Since Verizon, AT&T, SureWest and Frontier lack market power in their service territories, price regulation is no longer needed to ensure that their prices are just and reasonable. Such price regulations should be removed." *See also id.*, Conclusion of Law 27 (terminating restrictions on geographic price deaveraging for services not subsidized by the California High Cost Fund-B ("CHCF-B")). D.06-08-030 did not address wholesale services, and the restrictions on ILEC pricing that it addressed only concerned *retail* services. *See*, *e.g.*, *id.* at 262, Finding of Fact 14 ("The pricing of special access services was not part of this phase of the proceeding").

[4] Under D.06-08-030, "All price caps on basic residential services that are not subsidized by the CHCF-B shall be automatically lifted on January 1, 2009." *Id.* at 280, Ordering Paragraph 3. At present, legislative authorization for the CHCF-B program is slated to end on January 1, 2009. *See* Public Utilities Code Section ("PU Code §") 739.3, subd. (f) (as amended by Stats. 2004, c. 847 (S.B. 1276), § 3, eff. Sept. 28. 2004). (Hereinafter, basic local exchange services for residential customers are referred to as "basic services.")

[5] ACR at 3.

[6] *See* D.06-08-030 at 268, Finding of Fact 73 ("There is a need for the Commission to remain vigilant in monitoring the voice communications marketplace in order to ensure that the market continues to serve California consumers well"). JCP applaud the ACR as a reflection of the Commission's strong intention to remain vigilant in this task.

and PC Magazine, to name but a few.[7] For example, the J.D. Power and Associates Web site for wireless services[8] provides consumer satisfaction information in the following categories: wireless service satisfaction, prepaid wireless service satisfaction, business wireless service satisfaction, wireless call quality, wireless customer care performance, wireless retail sales performance, and wireless phone handset satisfaction. This information is available to consumers and the Commission via the Internet at no charge. The J.D. Power and Associates Web site for Telephone Service Provider Ratings – Residential Telephone Customer Satisfaction Survey[9] provides ranking information for: overall satisfaction, customer service, performance and reliability, billing, image, cost of service, and offerings and promotions. This information is also available to consumers and the Commission via the Internet at no charge. These surveys – which themselves emanate from and are strengthened by competitive forces – play an invaluable role in helping consumers select the products and services that best meet their needs. Review of these surveys will help the Commission feel confident that consumers do indeed have the information and tools they need to make sound decisions in choosing carriers, whether wireline and/or wireless, to meet all of their communications needs. Accordingly, based on the wide range of information that is already available to consumers, JCP do not believe the Commission needs to require or to create its own customer satisfaction surveys.

JCP strive to provide services that will meet the needs of – and allow them to retain – their customers. For example, Cox has won, for four consecutive years (every year that it has been eligible for consideration), the JD Power and Associates award for best customer service

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[7] A survey of the firms and Web sites offering reviews of wireless carrier service quality is set forth in the concurrently filed Comments of the CTIA – The Wireless Association® ("CTIA"). The CTIA survey, which includes links to the Web sites, offers assurance regarding the extent to which the competitive marketplace already provides consumers with the tools and information they need to assess wireless carrier service quality.

[8] *See* http://www.jdpower.com/telecom/ratings/wireless/index.asp.
[9] *See* http://www.jdpower.com/util/ratings/results.aspx?study_id=502&vertical=Telecom&v3=West.

for telephone for the 16-state Western Region.[10] In a competitive marketplace, carriers that fail to provide satisfactory customer service will ultimately not succeed in keeping their customers. This is a stern discipline, which in turn will assist the Commission in its efforts to ensure that high service quality is available for California's consumers and that consumers are satisfied.

II. RESPONSES TO THE COMMISSION'S QUESTIONS CONCERNING ANNUAL CUSTOMER SATISFACTION SURVEYS.

The ACR requests that parties comment on four groups of issues. These issue groups concern: (1) annual customer satisfaction surveys; (2) Uniform Regulatory Framework ("URF") "service quality monitoring of existing California-specific [Automated Reporting Management Information System ("ARMIS")] and [Merger Compliance Oversight Team ("MCOT")] measures; (3) service quality monitoring of "major service interruptions or California-specific downtime under ARMIS," and (4) "elimination or continuation of existing company-specific or California-specific measures and/or reports."[11] JCP focus below on the issue of "annual customer satisfaction surveys."

The ACR asks whether the Commission's service quality rules should be changed to require:

> Annual customer satisfaction surveys for all wireline and wireless services. If so, should the surveys focus on installation, repair and answering time or are there other relevant metrics that should be included? Should the surveys follow the ARMIS format for wireline carriers or should surveys be developed for wireline and wireless carriers? If surveys are developed, what questions should be included? Should the requirement to complete customer satisfaction surveys have a threshold determined by access lines and/or active numbers? How should the surveys be conducted? How should carriers transmit data to Commission staff for publishing on the Commission's website?

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[10] *See* http://www.jdpower.com/util/ratings/results.aspx?study_id=502&vertical=Telecom&v3=West.

[11] ACR at 6-7.

These questions pose numerous issues, which JCP address below. In general, the questions serve to highlight the many difficulties the Commission would face in attempting to craft annual customer satisfaction surveys.

A. Should surveys focus on installation, repair and answering time, or are there other relevant metrics that should be included?

This question identifies one of the Commission's key tasks – selecting the most useful yardstick for measuring customer satisfaction. A review of the J.D. Power and Associates Web site suggests that installation, repair and answering times are not of particular or primary interest to consumers, in and of themselves.[12] While installation and repair times may be of interest or concern for some wireline services, they may not be for others, and, in any event, installation and repair times are not relevant metrics for wireless carrier services. For wireless services, installation is not an applicable concept, inasmuch as wireless services are not "installed" Instead, wireless CPE is activated – in many if not most instances, in a few minutes at the site where the CPE is purchased (or over the phone). Likewise, repair time is not an applicable concept, since wireless carriers do not dispatch technicians to repair wireless CPE. In view of these and related considerations, JCP do not favor surveying either wireline or wireless carriers' customers concerning their satisfaction with installation or repair times. The same is true with respect to answering times, which may not be particularly informative now, in view of widespread use of interactive voice systems that permit customers to interact with and retrieve the information which they, in particular, desire.

Moreover, the selection by the Commission of a given metric, or group of metrics, could lead to unintended consequences as carriers, in an effort to avoid an adverse governmental report, devote resources to manage the specific issues or metrics chosen by the Commission for

[12] For example, for Customer Service, the J.D. Power and Associates rating score is based upon ". . . attributes such as customer service representatives' knowledge, their ability to make prompt service changes when requested and their ability to resolve problems with one call."

emphasis, but not to other issues or metrics that may be of greater interest to consumers. In a highly dynamic marketplace, the service quality issues or metrics of interest to consumers may change, resulting in carrier attention to metrics that are no longer of interest to consumers. In contrast, the surveys and reviews that are already publicly available will necessarily respond to different trends in the marketplace and thereby continuously provide up-to-date information on issues of interest to consumers.

B. Should surveys follow the ARMIS format for wireline carriers or should surveys be developed for wireline and wireless carriers?

JCP do not believe the Commission should attempt to construct a customer satisfaction survey based on the ARMIS reporting format, when wireless carriers, CLECs, and even many ILECs do not file ARMIS reports.

C. If surveys are developed, what questions should be included?

JCP do not have any questions to suggest to the Commission at this time. If other parties recommend particular questions to be included in any survey, JCP may comment on those recommendations in their Reply Comments.

D. Should the requirement to complete customer satisfaction surveys have a threshold determined by access lines and/or active numbers?

As noted above, JCP do not believe that a Commission-sponsored survey is either necessary or advisable. Thus, they have no comments at this time on the issue of thresholds for such surveys.

E. How should the surveys be conducted?

Again, JCP do not support the concept of Commission-sponsored surveys If the Commission were inclined to further consider the use of surveys, however, despite JCP's recommendations herein, then the Commission should ensure that surveys are conducted by

impartial professional survey firms, subject to oversight and control by all interested parties, including the carriers themselves. In any event, JCP do not believe that carriers should conduct their own surveys.

F. How should carriers transmit data to Commission staff for publishing on the Commission's website?

This question implies that carriers will be conducting customer satisfaction surveys themselves. If, as JCP recommend, the Commission does not rely on carriers to conduct their own customer satisfaction surveys, then questions concerning carrier transmission of data to the Commission are effectively moot. In any event, for the same reasons that JCP do not believe it is necessary for the Commission to conduct customer satisfaction surveys, JCP do not favor publishing the results of such surveys on the Commission's website, as such publication may interfere with the Commission's performance of effective oversight. Instead, if utilized at all, such surveys should be privately used by the Commission to guide its own vigilance over the competitive market. Given the amount of information that is already, and will continue to be, available on the Internet, the Commission need not post survey results.

G. Reporting Requirements for Non-URF ILECs and CLECs

The ACR observes that, "Non-URF ILECs and competitive local exchange carriers [("CLECs")] currently submit data when GO 133-B's reporting service levels are triggered. CLECs submit data on major service interruptions under D.96-02-072. The Commission needs to determine whether non-URF ILECs and CLECs should have the same reporting requirement as URF ILECs."[13]

JCP believe that non-URF ILECs, which are still monopolies and do not yet face wireline competition, should be considered separately. JCP offer no view at this time as to whether the

[13] ACR at 6.

Commission should continue G.O. 133-B requirements for such carriers. For CLECs, however, for all of the reasons stated above, there is little justification for imposing satisfaction survey requirements, nor is there a need to continue GO 133-B reports. Whether using traditional wireline, fixed wireless, cable telephony, or Internet Protocol ("IP") technologies, CLECs are subject to the same competitive market forces and competitive market discipline as wireless carriers. CLECs are therefore not appropriately "lumped together" with "non-URF ILECs."[14]

H. The Goals Identified in the ACR are Appropriate and Will Redound to Consumers' Benefit.

As noted above, the ACR states that, "Service quality regulation should . . . rely on competition, wherever possible, to promote broad consumer interests . . . ."[15] The ACR further states that service quality regulation should ". . . promote development of a wide variety of new technologies and services *in a competitively and technologically neutral manner*."[16] The ACR correctly reflects an intention to rely on competition, where possible, to promote service quality, because competitive forces will yield efficient, effective and, above all, dynamic improvement of service quality – all to consumers' benefit. The stated goal of competitive and technological neutrality is also appropriate, as this too will inure to the benefit of all consumers, regardless of the technology they have chosen to meet their particular needs. Accordingly, JCP urge the Commission to keep these goals in mind in deciding whether to conduct a customer satisfaction survey.

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[14] JCP accordingly do not believe that there should be "company-specific" or "California-specific" requirements imposed on either wireline or wireless competitors to the ILECs.

[15] ACR at 3.

[16] *Id.* (emphasis added).

Conclusion

For the reasons stated above, JCP submit that the Commission should not require annual customer satisfaction surveys for wireline or wireless carrier services.[17]

Respectfully submitted:

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[17] JCP do not have any comments concerning D.03-10-088 (concerning the quality of services offered by Pacific Bell and Verizon California) and D.04-09-062 (concerning Cingular Wireless).

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Certificate of Service

I, Earl Nicholas Selby, hereby certify that, on May 14, 2007, I caused a copy of the foregoing document, entitled:

COMMENTS OF JOINT COMMENTING PARTIES IN RESPONSE TO ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

to be served by electronic mail on the parties to this proceeding with electronic mail addresses on the service list maintained on the Commission's Web site for this proceeding, as indicated on the following pages. I further caused a copy of the foregoing document to be served by U.S. Mail, first class postage prepaid, on parties without email addresses and the Assigned Commissioner and Assigned ALJ, in envelopes addressed as follows:

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