

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking on the
Commission's Own Motion to Require
Interconnected Voice Over Internet Protocol
Service Providers to Contribute to the
Support of California's Public Purpose
Programs

Rulemaking 11-01-008
(Filed January 13, 2011)

**RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES TO THE
MOTION OF THE CONSUMER PROTECTION AND SAFETY DIVISION
FOR MODIFICATION OF THE SCOPE OF RULEMAKING
TO INCLUDE CONSUMER PROTECTION**

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April 4, 2011

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I. INTRODUCTION

On March 8, 2011, the Consumer Protection and Safety Division (CPSD) filed a motion (CPSD's Motion)¹ with the California Public Utilities Commission (Commission) to modify the scope of R.11-01-008 (OIR) to include consumer protection. CPSD urges the Commission to consider consumer protection requirements for VoIP providers, in addition to the obligation for universal service surcharge contributions presently contemplated in the OIR. The Division of Ratepayer Advocates (DRA) submits this Response² in support of CPSD's Motion.

¹ Motion of the Consumer Protection and Safety Division for Modification of the scope of Rulemaking to Include Consumer Protection (CPSD's Motion) March 8, 2011, <http://docs.cpuc.ca.gov/eFile/MOTION/131774.pdf>.

² Due date for the response was extended to April 4, 2011 per ALJ Walwyn's approval, March 10, 2011 email from ALJ Walwyn to parties regarding response due date extension.

II. DISCUSSION

DRA urges the Commission to consider the issue of consumer protection in this OIR and to consider adopting the associated California statutory requirements for VoIP carriers:

A. **The Commission Has The Authority And Obligation Pursuant To California Statutes To Protect Consumers And To Ensure High Quality Service**

Extending consumer protection requirements to VoIP providers, and thereby subjecting them to the same rules and standards as traditional wireline and wireless carriers is consistent with California statutes and policies. Public Utilities (PU) Code § 871³ requires the Commission to meet California’s universal service goals in an equitable and technologically neutral manner. This was also noted in the issuance of this OIR as a significant Commission objective.⁴ PU Code § 2896 (c)⁵ mandates the Commission to require all telephone corporations⁶, as defined in PU Code §§ 233 and 234⁷, to provide “...customer service to telecommunication customers that includes, but is not limited to...reasonable statewide service quality standards, including, but not limited to, standards regarding network technical quality, customer service, installation, repair, and billing.” Furthermore, the Commission has obligations under PU Code §§ 451 and 709 to ensure that service providers furnish and maintain service quality that is sufficient “to promote the safety, health, comfort and convenience” of its customers⁸ in order to “continue our universal service commitment by assuring the continued

³ PU Code § 871.

⁴ OIR at page 3.

⁵ Telecommunications Customer Service Act of 1993, PU Code § 2896 (c).

⁶ Telephone corporations include VoIP providers, as telephone corporations include all providers of “communication by telephone, whether such communication is had with or without the use of transmission wires,” PU Code §§ 233 and 234. See DRA’s Reply Comments on OIR.

⁷ PU Code §§ 233 and 234.

⁸ PU Code § 451, “Every public utility shall 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.”

affordability and widespread availability of high-quality telecommunications services to all Californians.”²

B. The FCC Mandates A Continuing Consumer Protection Role For The States

In the November 2004 Vonage Order, the FCC specified that “as [it] move[s] forward in establishing policy and rules for DigitalVoice and other IP-enabled services, states will continue to play their vital role in protecting consumers from fraud, enforcing fair business practices, for example, in advertising and billing, and generally responding to consumer inquiries and complaints.”¹⁰ The FCC also made similar statements with regard to consumer protections in later VoIP-related rulings.¹¹ Furthermore, the FCC has upheld consumer slamming complaints against VOIP carriers¹², and thus any Commission action here would not be inconsistent with federal policies. VoIP providers should be required to follow the same consumer protection rules that wireline and wireless carriers do now. Furthermore, CAB should be required to log and track VoIP complaints. The CAB complaints will give the Commission information about problems customers of VoIP service experience.

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² PU Code § 709.

¹⁰ FCC Vonage Order issued November 9, 2004 at ¶1.

¹¹ FCC orders extending number portability, discontinuance of service, and hearing- and speech- impaired access requirements to VoIP, www.fcc.gov.

¹² *In the Matter of Comcast Digital Voice; Complaint Regarding Unauthorized Change of Subscriber's Telecommunications Carrier*, FCC Order released July 31, 2009, 24 FCC Rcd 10096; 2009 FCC LEXIS 3819; *In the Matter of Time Warner Cable; Complaint Regarding Unauthorized Change of Subscriber's Telecommunications Carrier*, FCC Order released February 14, 2011, 23 FCC Rcd 1854; 2008 FCC LEXIS 1299. www.fcc.gov.

III. CONCLUSION

DRA supports CPSD's motion because this proceeding is the most efficient and appropriate place to decide the issues of consumer protection and service quality for VoIP providers.

Respectfully submitted,

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