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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs.

Rulemaking 06-05-028
(Filed May 25, 2006)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE DETERMINING THE SCOPE, SCHEDULE, AND NEED FOR HEARING IN THIS PROCEEDING

This ruling determines this proceeding's scope, schedule, and need for hearing in accordance with the Commission's Rules of Practice and Procedure.

Background

On May 25, 2006, the Commission opened this rulemaking to conduct a comprehensive review of its Telecommunications Public Policy Programs - California LifeLine, Payphone Programs, Deaf and Disabled Telecommunications Program, and California Teleconnect Fund. To initiate the review, the Commission posed a series of questions regarding these programs and set filing dates for initial comments and proposals as well as reply comments. The Commission also stated that at least three public participation hearings would be held at locations throughout the state.

Initial comments and proposals were filed on July 28, 2006,¹ with reply comments following on September 15, 2006. Public Participation Hearings were held in San Diego, Oxnard, and Sacramento.

Scope of the Proceeding

In initiating this proceeding, the Commission sought comment on a wide range of issues related to the four Telecommunications Public Policy Programs and the funding mechanism for those programs. The Commission performed outreach around the state via public participation hearings to talk to consumers directly impacted by these important programs. The Commission directed that all proposals for change “explicitly address consistency with statutory goals, necessity, feasibility, and cost effectiveness” and set forth “estimated costs” and “projected, specific benefits.” To assist the parties, the Commission provided a list of questions.

The primary purpose of this ruling and scoping memo is to define the specific issues to be addressed for each program. The issues we will address for each program are set out below:

¹ The following parties submitted initial comments: Assistive Technology Law Center, Pacific Bell Telephone Company dba AT&T California, California Cable and Telecommunication Association, California Coalition of Agencies Serving the Deaf and Hard of Hearing, California Communications Access Foundation, California Council of the Blind, California Payphone Association, California Community Technology Policy Group and Latino Issues Forum, Cingular Wireless, Citizens/Frontier Telephone, Cox California, Cricket Communications, Disability Rights Advocates, Division of Ratepayer Advocates, Equipment Program Advisory Committee, FONES4All, Greenlining Institute, 14 Small Local Exchange Carriers, Surewest Telephone, Telecommunications Access for the Deaf and Disabled Advisory Committee, The Utility Reform Network and National Consumer Law Center, Verizon California Inc., Verizon Wireless, Winston Ching, and the World Institute on Disabilities.

Funding Mechanism for Public Policy Programs

We have reviewed the comments and recognize that new communications services, not currently subject to surcharges to fund these programs, such as internet-based telephone service, may undermine the funding mechanism as customers migrate to other providers. No party, however, identified significant, near-term threats to the current intrastate surcharge methodology.

The Federal Communications Commission is currently conducting a proceeding to consider changes to the funding mechanism for federal programs. Federal legislation is also pending which may affect the participation of and support by internet-based telephone services in funding public purpose programs.

At this time, the prudent course is to monitor any impacts to our funding mechanism, as well as potential changes on the federal level and with other states. We will reassess this position as necessary to ensure adequate funding for these important programs.

California LifeLine²

In Decision (D.) 06-08-030, the Commission lifted price regulation on most local exchange service in California due to the state of the competitive marketplace for most services. The price for basic residential telephone service remains regulated until January 1, 2009. The Commission also directed that this

² This program is authorized in the Moore Universal Telephone Service Act, Pub. Util. Code §§ 871 - 884.

docket would be the place to “rethink the relationship between Lifeline and basic residential rates.”³

Currently, the Lifeline rate is a specified price – 50% of Pacific Bell Telephone Company dba AT&T California’s (AT&T) monthly rate for basic residential telephone service - \$5.34 for flat rate service and \$2.85 for measured service.⁴ Local exchange carriers are reimbursed for the difference between the Lifeline rate and the applicable basic residential service rate of the incumbent local exchange carrier serving the area. Thus, AT&T is reimbursed for the 50% reduction for Lifeline customers from the Universal Lifeline Telephone Service fund. Carriers with rates higher than AT&T’s,⁵ however, can receive substantially more from the fund, subject to a cap at the rate charged by the incumbent local exchange carrier serving the area. For example, a carrier operating in AT&T’s service territory would only be reimbursed up to \$10.69 per Lifeline subsidy customer even if actual subsidy costs exceeded that.

³ Order Instituting Rulemaking on the Commission’s Own Motion to Assess and Revise the Regulation of Telecommunications Utilities, Decision 06-08-030, mimeo. at page 154.

⁴ General Order (GO) 153 §§ 8.1.4 and 8.1.5 require that the flat rate and measured service rate equal “the lower of 50% of the utility’s regular tariffed rate” or “one-half of AT&T California’s regular tariffed rate.”

⁵ In comparison, Verizon's local residential service rates are \$10 for measured service (AT&T’s rate is \$5.30) and \$17.25 or, for certain areas, \$16.85, for flat rate service (AT&T’s rate is \$10.68). Lifeline customers, however, pay the same rate as customers located in AT&T’s territory, and the Universal Services fund makes up the difference between the Lifeline rate and Verizon’s otherwise applicable rate.

Adopting a specific support amount for all customers who qualify for California Lifeline, without regard to the telecommunication provider or service selected, has the advantage of providing each customer the same support amount and may provide greater flexibility to customers to select services beyond basic residential service, potentially including wireless communications services. Such an approach would acknowledge the range of providers of voice communications services beyond landline telephones, and enhance technology neutrality by allowing customers to choose the provider that best meets their needs.

This phase of the rulemaking will consider the legal and policy issues related to a specific support amount. Both approaches (set price and set support amount) also require a mechanism to update amounts over time.

AT&T provided the most comprehensive proposal for this concept, which AT&T calls a “fixed benefit.” AT&T begins by acknowledging that moving to a fixed benefit will require significant changes in GO 153, which sets forth the procedures for implementing the Lifeline Program. AT&T then proposed to have the Commission set the benefit amount, structured to meet the needs of low-income customers, which would be utilized by all providers. The fixed benefit would be credited on the customer’s bill. Providers would seek reimbursement for the fixed amount from the claims process. AT&T concluded that this method would simplify administration of the Lifeline program because the reimbursement amount would no longer be calculated based on the provider’s usual rate but rather limited to the actual benefit distributed to customers.

We seek further comment from the parties on this approach to “rethinking” the connection of the Lifeline program to basic residential rates. We

also welcome alternative proposals that adapt this program to accommodate the new regulatory regime created by D.06-08-030.

Many questions require further analysis:

1. How would the initial support amount be calculated? To provide the parties with a starting point, we observe that the 50% discount concept in the Moore Act, current telecommunications prices for basic services of different technologies, including wireline and wireless, and the record in this proceeding suggest an initial amount in the range of \$12 to \$18.
2. Should the amount or price be changed over time? If so, what is the appropriate index?
3. The proposed changes will greatly simplify carrier implementation of the Lifeline program and substantially reduce program administrative costs. Is there any continuing justification for reimbursing carrier administrative costs for the Lifeline program?

We will set the following dates for filing and serving comments and reply comments on this proposal and the questions set forth above:

Comments August 24, 2007

Reply Comments September 14, 2007

We will also adopt a collaborative process to further develop implementation issues related to this proposal. Specific issues include: all changes needed to GO 153 as well as timelines for carrier billing program changes. Other implementation issues should be identified and resolutions proposed. Our Communications Division staff will lead a workshop:

Wednesday, August 15, 2007

9:00 a.m. to 5:00 p.m.

Commission Auditorium

**505 Van Ness Avenue
San Francisco, CA 94102**

After concluding the workshop, Communications Division staff will file and serve a staff report no later than September 14, 2007.

Our plan is to address this initial issue in a decision to be issued for comment. In a subsequent phase of this proceeding, we will address the issue of expanding the Lifeline program to wireless services.

**Deaf and Disabled Telecommunications
Program**

The Deaf and Disabled Telecommunications Program is currently implementing a pilot project that will bring wireless devices to participants to encourage increased mobility for users. The pilot project is designed to test a methodology for using electronic vouchers or a similar mechanism to provision the devices. At this point, the program is not authorized to provide low-cost wireless services to participants, but we are encouraged that wireless carriers have shown interest in voluntarily offering low-cost messaging services to program participants.

We fully support the development and implementation of the wireless pilot program, which differs substantially from the current program for landline equipment. The most notable differences are: (1) eligibility is limited to persons also eligible for the Lifeline program, and (2) in the initial phase of the pilot, various versions of a wireless device known as the Sidekick, is being distributed, within a \$300 limit, and (3) participants are responsible for their own service charges.

For purposes of the pilot program, only one authorized provider is initially available. Should the pilot prove successful, other authorized providers will be

sought out and centralized administration, perhaps along the lines of the Lifeline third-party administrator, will be considered.

In this proceeding, we would like to consider policy implications of the pilot program and its potential expansion. We ask that the Communications Division keep us apprised of its evaluation of the pilot program and bring forward any proposals for permanent implementation.

California Teleconnect Fund (CTF)

No party identified a deficiency or proposed a feasible change to this program. Several issues have been recommended to us for further consideration:

1. Expanding the CTF to include the over 100 California Community Colleges;
2. For schools and libraries, expanding the list of CTF-eligible services to mirror the services included in the federal E-rate program;
3. Improving overall statewide E-rate application and participation rates by dedicating Commission staff or a third-party consultant to provide E-rate application assistance to nonparticipating potential applicants, particularly those in low performing schools, low income, or disadvantaged areas, and rural or remote settings;
4. Expanding the CTF to fund 50% of the remaining costs in California Telemedicine projects selected for funding by the FCC's Telemedicine Pilot Program; and⁶

⁶ Rural Health Care Support Mechanism, WC Docket No. 02-60, Order (rel. Sept. 29, 2006); Order on Reconsideration (rel. Feb. 6, 2007).

5. Requiring telephone service providers that are certificated by the Commission to provide CTF discounts on E-rate eligible services (telecommunications and internet access) to all qualifying CTF entities.

Comments and reply comments should be filed and served in accord with the procedural dates set out above.

Payphone Provider Enforcement and Public Policy Payphone Programs

The California Payphone Association set forth the rather dismal status of these two programs, and the overall decline of the payphone industry in light of other advanced communication technologies. Other than generalized objections to reducing payphone availability, no party offered a specific, feasible proposal to remedy the deficiencies.

Therefore, we will consider the recommendations of the Payphone Association in their July 28, 2006, comments. In summary, those comments recommend terminating the Public Policy Payphone Program and combining the Payphone Provider Enforcement Program with the Commission's general enforcement program, including funding.

The Payphone Provider Enforcement Program allows the Commission staff to impose a level of oversight on payphone operations that is higher than our general enforcement oversight. Combining this program with our general enforcement efforts may diminish this level of oversight. To assist the Commission in performing its statutory payphone oversight duties, see e.g., Pub. Util. Code § 742, we seek comment on actions that the payphone providers could take to offset the change in oversight. For example, adding the Commission's 800 number for service complaints to current posting requirements or requiring providers to make periodic reports to the Commission might ameliorate the

potential deterioration in Commission staff oversight. We request other feasible suggestions.

Written comments on these proposals shall be filed and served on the schedule set out below:

Payphone Program Initial Comments September 7, 2007

Payphone Program Reply Comments September 28, 2007

We caution the parties that general or vague comments will carry little weight. Specific customer consequences should be identified and feasible solutions proposed.

Based on the parties' comments and reply comments, a recommended decision addressing only the payphone programs may be prepared for consideration by the Commission. If so, such a decision will be circulated for comments as required by the Commission's Rules of Practice and Procedure.

Need for Evidentiary Hearings

No issues of material facts have been identified; evidentiary hearings are not necessary.

Procedural Schedule

The filing dates for the initial phase of this proceeding as set out above are adopted.

Ex Parte Communications

This matter is designated as "quasi-legislative" as defined in Rule 1.3(d). Therefore, pursuant to Rule 8.2(a), ex parte communications are allowed without restriction or reporting requirement.

IT IS HEREBY RULED that:

1. Evidentiary hearings are not needed.

2. The scope of this proceeding is as stated above.
3. The schedule for this phase this proceeding is as stated above.

Dated July 13, 2007, at San Francisco, California.

/s/ RACHELLE B. CHONG
Rachelle B. Chong
Assigned Commissioner

/s/ MARIBETH A. BUSHEY
Maribeth A. Bushey
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the Notice of Availability to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the Notice of Availability is current as of today's date.

Dated July 13, 2007, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

***** SERVICE LIST *****

Last Update on 02-JUL-2007 by: JVG
R0605028 LIST

***** APPEARANCES *****

Anna Kapetanacos
JAMES B. YOUNG
Attorney At Law
AT&T CALIFORNIA
525 MARKET STREET, ROOM 2024
SAN FRANCISCO CA 94105
(415) 778-1480
anna.kapetanacos@att.com
For: AT&T California

David P. Discher
General Attorney
AT&T CALIFORNIA
525 MARKET STREET, ROOM 2027
SAN FRANCISCO CA 94105
(415) 778-1464
david.discher@att.com

Emery Borsodi
AT&T CALIFORNIA
RM 1921
525 MARKET STREET, 19TH FLOOR
SAN FRANCISCO CA 94105
(415) 778-1476
emery.borsodi@att.com

Syreeta Gibbs
AT&T CALIFORNIA
525 MARKET STREET, 19TH FLOOR
SAN FRANCISCO CA 94105
(415) 778-1453
syreeta.gibbs@att.com

Thomas J. Selhorst
AT&T CALIFORNIA
525 MARKET STREET, RM. 2023
SAN FRANCISCO CA 94105
(415) 778-1482
thomas.selhorst@att.com

Anna Leach-Proffer
J.KENDRICK KRESSE
Staff Attorney
CALIFORNIA CENTER FOR LAW AND THE DEAF
14895 E. 14TH ST., SUITE 220
SAN LEANDRO CA 94578
(510) 483-0962
anna.leach-proffer@deaflaw.org
For: CCASDHH

Shelley Bergum
CALIFORNIA COMMS. ACCESS FOUNDATION
1300 CLAY STREET, SUITE 600
OAKLAND CA 94612
(510) 446-7766
info@communicationsaccess.org

Richard Chabran
CALIFORNIA COMMUNITY TECHNOLOGY POLICY
1000 ALAMEDA STREET, SUITE 240
LOS ANGELES CA 90012
(909) 234-1768
chabran@cctpg.org

Dan Kysor
Governmental Affairs
CALIFORNIA COUNCIL OF THE BLIND
225 15TH ST.
WEST SACRAMENTO CA 95691
(916) 371-1514
dan@kysor.net
For: CALIFORNIA COUNCIL OF THE BLIND

Beth Fujimoto
Director-External Affairs
CINGULAR WIRELESS
PO BOX 97061
REDMOND WA 98073-9761
(425) 580-1822
beth.fujimoto@cingular.com

Cindy Manheim
CINGULAR WIRELESS
PO BOX 97061
REDMOND WA 98073-9761
(425) 580-8112
cindy.manheim@cingular.com

Mark P. Schreiber
Attorney At Law
COOPER, WHITE & COOPER, LLP
201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO CA 94111
(415) 433-1900
mschreiber@cwclaw.com
For: Calaveras/SureWest Telephone

Patrick M. Rosvall
E.GARTH BLACK, SEAN P. BEATTY
Attorney At Law
COOPER, WHITE & COOPER, LLP
201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO CA 94111
(415) 433-1900
smalllecs@cwclaw.com

***** SERVICE LIST *****

Last Update on 02-JUL-2007 by: JVG
R0605028 LIST

For: The Small LECs/SureWest Telephone

La Tanya Linzie
COX CALIFORNIA TELCOM,L.L.C. DBA COX COM
2200 POWELL STREET, SUITE 1035
EMERYVILLE CA 94608
(510) 923-6220
latanya.linzie@cox.com

Douglas Garrett
COX COMMUNICATIONS
2200 POWELL STREET, STE. 1035
EMERYVILLE CA 94608
(510) 923-6222
douglas.garrett@cox.com

Esther Northrup
COX COMMUNICATIONS
5159 FEDERAL BLVD.
SAN DIEGO CA 92105
(619) 266-5315
esther.northrup@cox.com

Suzanne Toller
Attorney At Law
DAVIS WRIGHT TREMAINE
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO CA 94111-6533
(415) 276-6500
suzannetoller@dwt.com

Treg Tremont
Attorney At Law
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO CA 94111-6533
(415) 276-6500
tregtremont@dwt.com

Phil Kaplan
DDTPAC
19262 PEBBLE BEACH PLACE
NORTHRIDGE CA 91326
(510) 302-1100
philillini@aol.com

Deborah Kaplan
DEBORAH KAPLAN CONSULTING
930 CLAY ST., SUITE H
OAKLAND CA 94607
(510) 301-4804
dk@deborahkaplan.com

Melissa W. Kasnitz
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, THIRD FLOOR
BERKELEY CA 94744-1204
(510) 451-8644
pucservice@dralegal.org
For: Disability Rights

Ann Ruth
EQUIPMENT PROGRAM ADVISORY COMMITTEE
505 15TH STREET, SUITE 400
OAKLAND CA 94612
(510) 302-1100
annruth1@aol.com
For: The Equipment Program Advisory Committee

Lewis Golinker
ASSISTIVE TECHNOLOGY LAW CENTER
401 EAST STATE STREET, SUITE 300
ITHACA NY 14850
(607) 277-7286
lgolinker@aol.com

Jeanne B. Armstrong
Attorney At Law
GOODIN MACBRIDE SQUERI RITCHIE & DAY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO CA 94111
(415) 392-7900
jarmstrong@gmsr.com

Enrique Gallardo
LATINO ISSUES FORUM
160 PINE STREET, SUITE 700
SAN FRANCISCO CA 94111
(415) 547-7550
enriqueg@lif.org

Joseph S. Faber
Attorney At Law
LAW OFFICE OF JOSEPH S. FABER
3527 MT. DIABLO BLVD., SUITE 287
LAFAYETTE CA 94549
(925) 385-0043
jsf@joefaber.com

Earl Nicholas Selby
Attorney At Law
LAW OFFICES OF EARL NICHOLAS SELBY
418 FLORENCE STREET

***** SERVICE LIST *****

Last Update on 02-JUL-2007 by: JVG
R0605028 LIST

For: The World Institute on Disability

PALO ALTO CA 94301
(650) 323-0990
ens@loens.com
For: Sprint Nextel

Martin A. Mattes
Attorney At Law
NOSSAMAN GUTHNER KNOX & ELLIOTT, LLP
50 CALIFORNIA STREET, 34TH FLOOR
SAN FRANCISCO CA 94111-4799
(415) 398-3600
mmattes@nossaman.com
For: California Payphone Association

James Lau
THE CHILDREN'S PARTNERSHIP
1351 THIRD ST. PROMENADE, STE 206
SANTA MONICA CA 90401
(310) 260-1220
jlau@childrenspartnership.org

Peter Hayes
PACIFIC BELL TELEPHONE COMPANY
515 MARKET STREET, ROOM 1919
SAN FRANCISCO CA 94105
(415) 778-1473
peter.hayes@att.com

Thalia N.C. Gonzalez
Attorney At Law
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVENUE, 2ND FLOOR
BERKELEY CA 94704
(510) 926-4002
thaliag@greenlining.org

Kristin L. Jacobson
SPRINT NEXTEL
201 MISSION STREET, SUITE 1400
SAN FRANCISCO CA 94102
(707) 816-7583
kristin.l.jacobson@sprint.com

Christine Mailloux
Attorney At Law
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO CA 94102
(415) 929-8876
cmailloux@turn.org

Stephen H. Kukta
Counsel
SPRINT NEXTEL
201 MISSION STREET, STE. 1400
SAN FRANCISCO CA 94105-1831
(415) 572-8358
stephen.h.kukta@sprint.com

Regina Costa
Research Director
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO CA 94102
(415) 929-8876 X312
rcosta@turn.org

Sarah E. Leeper
STEEFEL LEVITT & WEISS PC
1 EMBARCADERO CENTER 29TH FLOOR
SAN FRANCISCO CA 94111
(415) 788-0900
sleeper@steefel.com

William Nusbaum
THE UTILITY REFORM NETWORK
SUITE 350
711 VAN NESS AVENUE
SAN FRANCISCO CA 94102
(415) 929-8876
bnusbaum@turn.org

Philip H. Kaplan
Chair
TELECOMMUNICATIONS ACCESS FOR THE DEAF
505 15TH STREET, SUITE 400
OAKLAND CA 94612
(510) 302-1100
philillini@aol.com
For: Telecommunications Access for the Deaf & Disabled
Administrative Committee

Jesus G. Roman
Attorney At Law
VERIZON ACCESS TRANSMISSION SERVICES
112 S. LAKEVIEW CANYON ROAD, CA501LB
THOUSAND OAKS CA 91362
(805) 372-6233
jesus.g.roman@verizon.com

Philip H. Kaplan
Chair

William D. Wallace Esq.
VERIZON WIRELESS
1300 I STREET, N.W., SUITE 400 WEST

***** SERVICE LIST *****

Last Update on 02-JUL-2007 by: JVG
R0605028 LIST

TELECOMMUNICATIONS ACCESS FOR THE DEAF
505 15TH STREET, SUITE 400
OAKLAND CA 94612
(510) 302-1100
philillini@aol.com

WASHINGTON DC 20005
(202) 589-3790
Bill.Wallace@VerizonWireless.com

Mike Bagley
JOYCE MASAMITSU
VERIZON WIRLESS
BUILDING E. THIRD FLOOR
15505 SAND CANYON AVENUE
IRVINE CA 92618
Michael.Bagley1@VerizonWireless.com

Natalie Billingsley
Division of Ratepayer Advocates
RM. 4108
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-1368
nxb@cpuc.ca.gov

Leon M. Bloomfield
Attorney At Law
WILSON & BLOOMFIELD, LLP
1901 HARRISON STREET, SUITE 1620
OAKLAND CA 94612
(510) 625-1164
lmb@wblaw.net
For: Omnipoint Communications, Inc.

Maribeth A. Bushey
Administrative Law Judge Division
RM. 5018
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-3362
mab@cpuc.ca.gov

Deborah Kaplan
WORLD INSTITUTE ON DISABILITY
510 16TH STREET, 1ST FLOOR
OAKLAND CA 94612
(510) 301-4804
dk@deborahkaplan.com

Joe Chicoine
Manager, State Government Affairs
FRONTIER COMMUNICATIONS
PO BOX 340
ELK GROVE CA 95759
(916) 686-3588
joe.chicoine@frontiercorp.com

Kathy Martinez
Executive Director
WORLD INSTITUTE ON DISABILITY
510-16HT STREET, SUITE 100
OAKLAND CA 94612
(510) 251-4326
kathy@wid.org

Robert Haga
Executive Division
RM. 5304
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-2538
rwh@cpuc.ca.gov

Natalie Wales
Legal Division
RM. 4107
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 355-5490
ndw@cpuc.ca.gov

Risa Hernandez
Division of Ratepayer Advocates
RM. 4209
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-2132
rhh@cpuc.ca.gov

Jane Whang
Legal Division
RM. 5029
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-2721
jjw@cpuc.ca.gov

Edward Howard
Division of Strategic Planning
RM. 5119
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-1114
trh@cpuc.ca.gov

***** SERVICE LIST *****

Last Update on 02-JUL-2007 by: JVG
R0605028 LIST

***** STATE EMPLOYEE *****

Kelly Hymes
Executive Division
RM. 5306
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-5132
khy@cpuc.ca.gov

William Johnston
Communications Division
AREA 3-F
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-2124
wej@cpuc.ca.gov

James Simmons
Division of Ratepayer Advocates
RM. 4108
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-3512
jjs@cpuc.ca.gov

Jeff Lilley
Consumer Service & Information Division
AREA 2-A
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-2683
jl7@cpuc.ca.gov

***** INFORMATION ONLY *****

Peter A. Casciato
A PROFESSIONAL CORPORATION
355 BRYANT STREET, SUITE 410
SAN FRANCISCO CA 94107
(415) 291-8661
pcasciato@sbcglobal.net

Simin Litkouhi
Communications Division
AREA 3-D
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-1865
sim@cpuc.ca.gov

John L. Darby
ADMINISTRATIVE COMMITTEE, DDTP
1661 PINE STREET, APT.443
SAN FRANCISCO CA 94109-0416
(415) 447-5757
birdarby@yahoo.com

Janeen L. Long
Consumer Protection & Safety Division
RM. 2-E
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-1246
jl3@cpuc.ca.gov

Michael Arrigo
7516 FOUNTAIN AVENUE
W. HOLLYWOOD CA 90046
(323) 876-1414
michaelanthony@adelphi.net

Paul S. Phillips
Division of Ratepayer Advocates
RM. 4101
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-2039
psp@cpuc.ca.gov

Glenn Semow
CALIFORNIA CABLE & TELECOMM. ASSOC.
360 22ND STREET, STE. 750
OAKLAND CA 94612
(510) 628-8043
grs@calcable.org

Linda Rochester
Administrative Law Judge Division
RM. 2106
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-3372

Maria Politzer
Legal Department Associate
CALIFORNIA CABLE TELEVISION ASSOCIATION
360 22ND STREET, NO. 750
OAKLAND CA 94612
(510) 628-8043
mp@calcable.org

Kevin Saville

***** SERVICE LIST *****

Last Update on 02-JUL-2007 by: JVG
R0605028 LIST

lrr@cpuc.ca.gov

Roxanne Scott
Communications Division
AREA 3-E
505 VAN NESS AVE
San Francisco CA 94102 3298
(415) 703-5263
rs2@cpuc.ca.gov

John A. Gutierrez
Director Of Government Affairs
COMCAST CABLE COMMUNICATIONS, INC.
WESTERN DIVISION
12647 ALCOSTA BOULEVARD, SUITE 200
SAN RAMON CA 94544
(925) 973-7214
john_gutierrez@cable.comcast.com

Katie Nelson
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO CA 94111-6533
(415) 276-6572
katiensel@dwt.com

Winston Ching
DDTPAC
2133 GRANT STREET, 1
BERKELEY CA 94703
winson8@comcast.net

Melissa Kasnitz
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, THIRD FLOOR
BERKELEY CA 94704-1204
(510) 665-8511
pucservice@dralegal.org

Bettina Cardona
President
FONES4ALL CORPORATION
6320 CANOGA AVE, SUITE 650
WOODLAND HILLS CA 91367
(818) 615-0100
bettina@fones4all.com

Charlie Born
Manager, Gov'T & External Affairs
FRONTIER COMMUNICATIONS
PO BOX 340
ELK GROVE CA 95759
(916) 686-3570
charlie.born@frontiercorp.com

Associate General Counsel
CITIZENS/FRONTIER COMMUNICATIONS
2378 WILSHIRE BLVD.
MOUND MN 55364
(952) 491-5564
kevin.saville@frontiercorp.com

Charles E. Born
Manager-State Government Affairs
FRONTIER, A CITIZENS TELECOMMUNICATIONS
PO BOX 340
ELK GROVE CA 95759
(916) 686-3570
cborn@czn.com

Bill Stobbe
MISSION CONSULTING
428 J STREET, SUITE 550
SACRAMENTO CA 95814
(916) 446-5624
bstobbe@missionconsulting.com

Olivia B. Wein
Attorney At Law
NATIONAL CONSUMER LAW CENTER
1001 CONNECTICUT AVE., NW., STE. 510
WASHINGTON DC 20036
(202) 452-6252
owein@nclcdc.org
For: National Consumer Law Center

Linda Burton
SIERRA TELEPHONE COMPANY, INC.
49150 ROAD 426
PO BOX 219
OAKHURST CA 93644-0219
(559) 642-0229
lindab@stcg.net

Anita Taff-Rice
Counsel
1547 PALOS VERDES MALL 298
WALNUT CREEK CA 94597
(415) 699-7885
anitataffrice@earthlink.net

Bobak Roshan
Legal Associate
THE GREENLINING INSTITUTE
1918 UNIVERSITY STREET, 2ND FLOOR
BERKELEY CA 94704

***** SERVICE LIST *****

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R0605028 LIST

Aloa Stevens
FRONTIER, A CITIZENS COMMUNICATIONS CO.
299 S MAIN ST STE 1700
SALT LAKE CITY UT 84111-2279
(801) 924-6356
astevens@czn.com

(510) 926-4018
bobakr@greenlining.org

Stephanie Chen
Legal Associate
THE GREENLINING INSTITUTE
1918 UNIVERSITY STREET, 2ND FLOOR
BERKELEY CA 94704
(510) 926-4011
stephaniec@greenlining.org

Margaret Tobias
Attorney At Law
TOBIAS LAW OFFICE
460 PENNSYLVANIA AVE
SAN FRANCISCO CA 94107
(415) 641-7833
info@tobiaslo.com

Regina Tochterman
1506 WENTWORTH AVENUE
SACRAMENTO CA 95822
(916) 456-1663
RegGreco@yahoo.com

Jacque Lopez
Legal Assistant
VERIZON CALIFORNIA INC
CA501LB
112 LAKEVIEW CANYON ROAD
THOUSAND OAKS CA 91362
(805) 372-6664
jacque.lopez@verizon.com

Phillip L. Cleverly
VERIZON CALIFORNIA INC.
112 S LAKEVIEW CANYON RD, CA501LS
THOUSAND OAKS CA 91362
(805) 372-7861
phillip.cleverly@verizon.com

Justine Weldon
760 NORTH POINT STREET SUITE 101
SAN FRANCISCO CA 94109
(415) 474-4189

Ross A. Buntrock
WOMBLE CARLYLE SANDRIDGE & RICE PLLC
1401 EYE STREET, N.W. SEVENTH FLOOR
WASHINGTON DC 20005

******* SERVICE LIST *******

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R0605028 LIST**

(202) 857-4479
rbuntrock@wcsr.com

WORLD INSTITUTE ON DISABILITY
510-16TH STREET, STE. 100
OAKLAND CA 94612-1500
linda@wid.org