

Statement of Commissioner Susan P. Kennedy
California Public Utilities Commission
Item 77: Policy Statement on Consumer Choice
August 25, 2005

First of all, thank you President Peevey for standing up and being a leader on this issue. California played a leadership role at NARUC and other states will take note of what we do here today.

This is about consumer choice. It's about competition. It's about empowering consumers to vote with their feet and their wallets in a changing industry.

As the telecommunications industry moves away from the old technologies and regulatory schemes to a world where voice, video and data services are all simply ones and zeros – indistinguishable -- as they travel over broadband pipes, the concept of consumer protection enters a whole new dimension.

Consumer protection today is about choice. And with broadband, the choices available to consumers for voice services have exploded: SBC, Verizon Wireless, T-Mobile, Cingular, Vonage, Packet 8, Voicewing, Voiceglo, Skype – very soon Comcast – the list goes on. Aside from wireless, access to broadband and VoIP is what makes this dynamic competition possible.

And as we move into a world where traditional regulation is relaxed and replaced by competitive market forces – consumer choice is the bedrock without which competition does not exist.

Allowing the owners of broadband facilities to use their market power to force customers into maintaining old, traditional analog voice service as a condition of accessing a broadband pipe destroys the very concept of consumer choice in the voice market.

And I cannot argue credibly that we should relax economic regulation in the traditional voice market as long as the owners of the broadband pipes are actively discouraging competition by making it twice as

expensive for customers to use give up their landline and move to a VoIP provider or a wireless service if they want to.

So this commission is taking a stand for consumer protection today with this resolution. We're taking a stand for competition instead of traditional regulation. We're taking a stand for consumer choice.

Let me be clear. Nothing in this resolution calls for unbundling. If a broadband provider wants to package digital voice with Internet service and video or any combination of the above – more power to them. Consumers should be able to choose between broadband providers based on head to head competition for broadband services they offer – and our job is to encourage investment in more broadband facilities through new technologies like wireless broadband and BPL.

Nothing in this resolution calls for unbundling the low frequency portion of the loop to a CLEC as was done in the Bell South case.

What this resolution calls for is an end to the practice of forcing customers to buy two separate services – one an old technology (plain old telephone service) in order to access broadband. If a customer wants to go wireless – they should be able to access DSL without paying for analog voice service.

If a customer wants to use a VoIP provider like Packet 8 – they should be able to turn off their landline service and use their broadband connection to access the provider of their choice without competitive interference from the owner of the broadband pipe.

This resolution is a statement of policy. It is not a new regulation or an expansion of our jurisdiction. There are many avenues with which this Commission can advocate and pursue these policy objectives and this resolution signals that we intend to do so.

In the absence of market failure there should be no reason to accomplish this through regulation. The FCC provided an important example in the Madison River case where a shot across the bow prevented an ILEC from blocking customer access to a VoIP provider.

Verizon has already announced that based on customer demand they will end the practice of forcing customer to maintain a traditional voice line in order to access Verizon's DSL services. I expect consumer demand will only increase to force other providers to do the same and we will avoid the need for regulatory action.

But if necessary, regulators and legislators should not hesitate to act. This resolution unequivocally signals our resolve to do just that.

Again, I want to thank President Peevey for taking a leadership role on this issue and for presenting this resolution to the commission today.