



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

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Order Instituting Rulemaking to Evaluate  
Telecommunications Corporations Service Quality  
Performance and Consider Modification to Service  
Quality Rules.

Rulemaking 11-12-001  
(December 1, 2011)

**REPLY OF CTIA-THE WIRELESS ASSOCIATION®  
TO COMMENTS SUBMITTED IN RESPONSE TO THE MAY 18, 2012  
ADMINISTRATIVE LAW JUDGE'S RULING**

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Dated: July 13, 2012

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TO COMMENTS SUBMITTED IN RESPONSE TO THE MAY 18, 2012  
ADMINISTRATIVE LAW JUDGE’S RULING**

In accord with the May 18, 2012 Administrative Law Judge’s Ruling Requiring Telecommunications Corporations to Provide Data (May 18 Ruling), CTIA-The Wireless Association® (CTIA) submits these limited comments responsive to the opening submissions of the Division of Ratepayer Advocates (DRA) and the Utility Reform Network (in conjunction with the Center for Accessible Technology, the National Consumers Law Center and the Communications Workers of America) (collectively, TURN, *et al*).

**I. INTRODUCTION**

In providing the parties guidance for their responsive comments to the opening submissions, the May 18 Ruling contained the following directive:

Such comments may also identify discrete parts of the served responses they consider to be most salient and/or believe should be included in the proceeding record.<sup>1</sup>

The converse of such directive, but equally as relevant, is identification of the parts of the served responses which should be excluded from consideration in this proceeding. In this regard, and as

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<sup>1</sup> Administrative Law Judge’s Ruling Requiring Telecommunications Corporations to Provide Data, R. 11-12-001 (May 18 Ruling) at p.1.

illustrated below, CTIA submits that certain of the recommendations made by DRA and TURN *et al* regarding wireless carrier service quality metrics and reporting requirements are, to a large extent, reiterations of previously made and not adopted proposals. These proposals continue to lack adequate rationalization or evidence of need. Accordingly, they should be *excluded* from the proceeding record.

## **II. DRA’S AND TURNS REPEATED CALLS FOR SERVICE QUALITY METRICS FOR THE WIRELESS INDUSTRY REMAIN UNSUPPORTED**

Despite lack of evidence of need, DRA and TURN *et al* continue to reiterate their call for wireless service quality metrics and reporting requirements. Thus, TURN *et al*, in response to a question posed in the May 18 Ruling as to whether industry standards recommend tracking of calls that are disrupted or dropped, makes the unsubstantiated statement that “industry standards in both the wireless and wireline industry recommend tracking of calls that do not go through, or that are disrupted or dropped.”<sup>2</sup> TURN *et al* of course, do not cite any such standards, but merely reiterate the proposal made in their January 31, 2012 Opening Comments in this proceeding - namely that carriers should be required not only to provide the Commission with technical test information about their own wireless networks, but about their competitors’ networks as well.<sup>3</sup> TURN *et al*’s submission ignores the plethora of information already on the record of this proceeding as to the detailed data on service coverage and signal quality that is

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<sup>2</sup> See The Utility Reform Network, Center for Accessible Technology, the National Consumers Law Center and the Communications Workers of America, District 9’s Response to the Administrative Law Judge’s Ruling Requiring Telephone Corporations to Provide Data, R. 11-12-001 (June 14, 2012) (TURN, *et al*’s Comments) at p. 2. Indeed, review of the opening comments submitted by other parties indicates that no such standards exists.

<sup>3</sup> Id at pp. 2-3; *compare* Declaration of Trevor R. Roycroft, Ph.D., January 31, 2012, pp. 51-52 appended to the Comments of The Utility Reform Network, Center for Accessible Technology, and the National Consumer Law Center, R. 11-12-001 (January 31, 2012).

already publically available and easily assessable, thus providing consumers the tools they need to make a choice of carrier based on individual needs.<sup>4</sup>

Similarly, DRA reiterates its call for carrier submission of service quality information on metrics such as static, noise and uncompleted calls. DRA asserts that such metrics “would provide valuable information consumers could rely on to make informed choices when selecting telecommunications platforms and particular carriers.”<sup>5</sup> DRA further asserts that “such information is not broadly available today to aid or support consumers in deciding on selecting telecommunications platforms and/or particular carriers”<sup>6</sup> CTIA will not comment on DRA’s assertion as to the value of certain information to consumers, but DRA’s assertion, as it applies to the wireless industry, that such service quality information is not broadly available to consumers is simply inaccurate and belied by the record of this proceeding. Comments submitted by both CTIA and AT&T have described in detail the various resources (both carrier based and third party) and data points (including signal strength and data speed) available to consumers which enable consumers to evaluate their options and determine which providers, plans and devices best meet their needs.<sup>7</sup>

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<sup>4</sup> Reply Declaration of Dr. Debra J. Aron Supporting f AT&T California, appended to the Reply Comments of AT&T California and certain of its Affiliates, R. 11-12-001 (March 1, 2012) (Aron Reply Declaration) at ¶ 53 - ¶ 63.

<sup>5</sup> Comments of the Division of Ratepayer Advocates in Response to the May 18, 2012 Administrative laws Judge’s Ruling, R. 11-12-001 (June 14, 2012) (DRA Comments) at p. 2

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., Opening Comments of CTIA-The Wireless Association®, R. 11-12-001 (January 31, 2012) (CTIA Comments), at pp. 6-7 and sources cited therein. ; Reply Comments of CTIA-The Wireless Association® r. 11-12-001(March 1, 2012) at pp. 5-7 (and sources cited therein); Declaration of Dr. Debra J. Aron Supporting the comment of AT&T California, appended to the Opening Comments of AT&T California and certain of its Affiliates, R. 11-12-001 (January 31, 2012) (Aron Declaration) at ¶ 110 - ¶ 113.

The fierce competition in the wireless industry has already driven the market to provide consumers the information they need to assess their service options. Regulation need not duplicate what the market has already provided.

### **III. DRA’S ARMIS REPORTING RECOMMENDATION IS UNSUBSTANTIATED**

DRA recommends that the Commission require *all* facilities-based and broadband providers to provide the Commission with California-specific data reports from select ARMIS reports. DRA justifies this proposal by arguing that when the Federal Communications Commission (FCC) suspended the ARMIS, report, the Commission lost a “valuable asset” as “the ARMIS reports provide important data pertaining to service quality” not otherwise available to the Commission.<sup>8</sup> DRA’s recommendation, and purported basis therefore, is contrary to the actions, and supporting rationale, which both the FCC and the Commission have undertaken with respect to ARMIS reporting. Moreover, DRA’s proposal is completely inapplicable to and unnecessary for the wireless industry.

#### **A. DRA’s Proposal is Contrary to Recent Actions by FCC and the Commission**

The FCC created the ARMIS reports on an interim basis more than two decades ago for a limited subset of wireline carriers -- incumbent local exchange carriers -- to monitor service quality under price-cap regulation. The FCC has now eliminated the reports based on its findings that the reports were not needed to ensure just and reasonable rates,<sup>9</sup> that the reports did not allow consumers to make “truly informed choices”<sup>10</sup> as they did not “enable comparison among

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<sup>8</sup> DRA Comments at p. 4.

<sup>9</sup> *In re the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, et al.*, WC Docket Nos. 08-190, 07-139, 07-204, 07-273, and 07-21, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 23 FCC Rcd. 13647, 45 Communications Reg. (P&F) 1219, FCC 08-203 (rel. Sept. 6, 2008) (“FCC 08-203”), ¶¶ 11-17.

<sup>10</sup> *Id.* at ¶ 11.

competitors or allow evaluation of the industry as a whole,”<sup>11</sup> and that elimination of the reports was in the public interest.<sup>12</sup>

The Commission relied on the FCC’s determination on this matter ruling that:

Pending the FCC’s consideration of this issue [related to continuation and scope of the ARMIS reports] , carriers currently required to file ARMIS service quality data with the FCC in Report 43-05 will continue to furnish California specific service quality data to this Commission until September 6, 2010. Carriers should submit this data at the same time it is filed with the FCC. If the FCC determines that service quality data should be furnished by different classes of carriers in Report 43-05 or a successor report, those carriers shall compile and furnish California-specific service quality data to the Commission at the same time, consistent with the practice for ARMIS reporting.<sup>13</sup>

Moreover, the Commission determined that even if the FCC did not continue or expand the scope of the ARMIS reports, which has not occurred in the ensuing three year period, the Commission would not automatically do so. Rather, the Commission determined that it would only “require the currently reporting URF ILECs to continue to file California-specific ARMIS service quality data in Report 43-05 with the Commission *through December 31, 2011*.”<sup>14</sup> The Commission further stated that if at that time, “parties believe the Commission should continue to require such reporting beyond that date, they should file a petition for rulemaking with this Commission requesting consideration of continued reporting requirements.”<sup>15</sup> No specific request for such rulemaking has been filed.<sup>16</sup>

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<sup>11</sup> *Id.* at ¶ 11.

<sup>12</sup> *Id.* at ¶¶ 16-17.

<sup>13</sup> *Commission* Decision 09-07-019 at p. 70

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at pp. 70-71

<sup>16</sup> DRA’s proposals to continue, and even expand, ARMIS reporting are not procedurally compliant with the Commission’s directives in D.09-07-019 that a party seeking such relief should file a petition for rulemaking.

The actions of both the Commission and the FCC with respect to the ARMIS reports run directly counter to DRA's argument that such reports are a "valuable asset".

**B. DRA's Proposal is Incomplete at Best, and in all Practicality, Completely Ineffective**

DRA proposes that "reporting continue for URF carriers under the format that was used for ARMIS Reports filed before the FCC," while "comparable reports for other telecommunications and broadband providers should be developed, requiring changes to the reporting instructions in order to accommodate other industry providers."<sup>17</sup> DRA, however, provides minimal suggestions for how to develop such "comparable reports."<sup>18</sup> This deficiency could be anticipated as the data points in the ARMIS reports are completely inapplicable to wireless industry.

In brief, ARMIS Report 43-05, while entitled "Service Quality Report," focuses on Installation and Repair Intervals; Common Trunk Blockage and Total Switch Downtime -- all concepts that are inapplicable in the wireless industry. While there is one element of the report which focuses on unspecified "Service Quality Complaints" -- the information is delineated by types of access line, e.g., residential and business. Again these are delineations that the wireless industry does not make. Moreover, the Commission has its own system in place for recording consumer complaint data on all carriers, rendering the submittal of such data duplicative.

Similarly, the other two ARMIS Reports which DRA wants to reinstitute, Reports 43-06 and 43-07 are equally inapplicable to the wireless industry. The former, pertains to customer

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<sup>17</sup> DRA Comments at p. 6.

<sup>18</sup> The only suggestion offered by DRA as to how such comparable reports could be developed is found in footnote 9 where DRA states that "this can be accomplished by modifying references in FCC Report 43-05 Table II." Of course, no suggestion of what the correct references should be made.

satisfaction with respect to installation and repairs and the latter is an infrastructure report focusing on switching equipment and transmission facilities.

The lack of relevancy of the data points in the ARMIS reports to the wireless industry is not surprising -- they were intended to monitor the quality of incumbent services in an environment where there were no competitive options and where their services were rate-regulated. Such is not the case anymore in the wireline industry, much less the wireless industry. The record of this proceeding already demonstrates the highly competitive nature of the telecommunications industry.<sup>19</sup> To the extent a customer is not satisfied with the service of a particular carrier, they may choose another. In this highly competitive construct, carriers can retain customers solely by competing on every aspect of service, including price, network quality and customer service. As noted above, the current status of the market has led the FCC to suspend ARMIS reports for wireline providers. Resurrecting those reports and making them applicable to the wireless industry -- an industry grounded in competition -- serves no beneficial purpose.

In short, the inapplicability of the ARMIS data points to the wireless industry, the complete lack of need for any such reporting, and the Commission and FCC's recent actions suspending all such reporting all call for a rejection of DRA's proposal.

### **III. CONCLUSION**

In reviewing DRA's and TURN *et al* responses, the Commission should bear in mind that less than three years ago it determined to impose minimum service quality regulation on wireless

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<sup>19</sup> See, e.g. Opening Comments of Verizon California Inc., R. 11-12-001 (January 31, 2012), at pp. 5-8 (addressing status of competition in both wireline and wireless industries); CTIA Comments at pp.4-5 (addressing the status of competition in the wireless industry)

carriers. Such recent determination, along with the fact that the entire underpinnings of the current OIR rests with alleged deficiencies in wireline, and the continued failure by the consumer groups to provide any rationalization or evidence supporting the need for wireless service quality regulation (including this latest round of submissions), DRA and TURN *et al* proposals for wireless service quality metrics and reporting requirements should be excluded from consideration in this proceeding.

Respectfully submitted,

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