

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application for Rehearing of Resolution
T-17266

A.11-01-003
(Filed January 5, 2011)

**ORDER MODIFYING RESOLUTION T-17266,
AND DENYING APPLICATION FOR REHEARING OF
RESOLUTION T-17266, AS MODIFIED**

I. SUMMARY

In this decision, we grant a limited rehearing of Resolution T-17266 in order to revise our application of federal law in granting limited eligible telecommunications carrier (ETC) status to Cricket Communications, Inc. Although we still grant Cricket limited ETC status, the effective date of that designation will be the date that Cricket compliance plan is approved pursuant to the Federal Communications Commission’s (FCC) recent Order granting Cricket’s Petition for Forbearance of the geographic service area requirement.¹ As modified, we deny the application for rehearing of Resolution T-17266. A motion for a stay of Resolution T-17266 was filed concurrently with the application for rehearing. That motion is denied as moot.

II. PROCEDURAL BACKGROUND

On March 3, 2010, Cricket filed a Tier III Advice Letter 2 (AL 2) requesting limited ETC status for the purpose of offering federal LifeLine and Link-up services to qualifying end-user customers. ETC status is a federal designation given to a common carrier that is eligible to receive federal support for providing services to low-

¹ In the Matter of Telecommunications Carriers Eligible for Universal Service Support Cricket Communications, Inc.’s Petition for Forbearance, WC Docket No. 09-197, Order (rel. Sept. 16, 2011).

income consumers and/or those in high-cost areas of a state.² Cricket requested only federal LifeLine and Link-up support for low-income customers; it did not request federal Universal Service high-cost support or support for an offering of California's LifeLine Services.

On March 23, 2010, protests to the advice letter were filed by Verizon California Inc., the Division of Ratepayer Advocates (DRA), and a group of rate-of-return regulated small ILECs serving rural and remote areas (Small LECs).³ The Small LECs recommended that the Commission reject Cricket's advice letter because it failed to meet federal statutory requirements for ETC designation in a rural LEC service area. The Small LECs also claimed that even if the rural areas were excluded, Cricket's ETC request should be held in abeyance until the Commission addressed policy and implementation problems associated with wireless LifeLine service in Rulemaking (R.) 06-05-028.⁴

Cricket subsequently filed a Petition for Forbearance from the geographic service requirement at the FCC on June 21, 2010.⁵

Draft Resolution (Res.) T-17266 addressing Cricket's AL 2 was issued October 20, 2010. The Draft Resolution recommended approval of Cricket's ETC request for areas outside the Small LECs' service areas. The Draft Resolution acknowledged that there is a federal statutory requirement that a competing ETC carrier either offer service throughout a rural LEC's service area, or obtain a waiver by seeking redefinition of the rural LEC's service area.⁶ The Draft Resolution stated:

² 54 C.F.R. § 54.201; 54 C.F.R. § 54.101.

³ The Small LECs include Calaveras, Cal-Ore, Ducor, Foresthill, Happy Valley, Hornitos, Kerman, Pinnacles, Ponderosa, Sierra, Siskiyou, Volcano, and Winterhaven telephone companies. However, Cricket's wireless footprint only covers portions of Kerman, Hornitos, Sierra, Ponderosa, and Ducor telephone companies.

⁴ Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs (filed May 26, 2006), R.06-05-028.

⁵ Cricket Communications Inc. Petition for Forbearance, WC Docket No. 09-197 (filed June 21, 2010) (Cricket Forbearance Petition).

⁶ Draft Res. T-17266, at p. 11, citing 47 U.S.C. § 214(e)(1)(A).

[Communications Division (CD)] does not believe it appropriate to adopt a change in the definition of the Small LEC service areas in this resolution to accommodate Cricket's ETC request. Doing so would require the [Commission] to make a significant policy decision in the context of this resolution which could set a precedent with unanticipated potential consequences.

Given the existing Commission rules restricting competition in Small LEC territories, CD does not believe that it is appropriate to allow wireless carriers to offer subsidized federal LifeLine service at this time in Small LECs' territories.⁷

After the Draft Resolution was issued, but before Res. T-17266 was adopted, the Commission issued Decision (D.) 10-11-033 in R.06-05-028, which adopted forward looking modifications to the California LifeLine program in compliance with the Moore Universal Telephone Service Act.⁸ In that decision, the Commission noted that all carriers that are able to comply with the requirements of General Order (G.O.) 153⁹ may participate in the California LifeLine Program, including wireless and VoIP providers.¹⁰ The Commission also lifted geographic restrictions on the offering of California LifeLine services, stating:

We recognize that voluntary providers such as wireless carriers may not have the same geographic coverage as the incumbent telephone companies in the state. We do not place any geographic restrictions on such voluntary providers in order for wireless carriers to participate in California LifeLine. There is already significant wireless carrier overlap

⁷ Draft Res. T-17266, at p. 11.

⁸ The formal name specified in Public Utilities Code section 871 for the program which has come to be known as the "California LifeLine Program." The entire program is established in Public Utilities Code sections 871-884.

⁹ General Order 153 implements the Moore Universal Telephone Service Act and contains California LifeLine service requirements for wireline carriers offering basic residential telephone service in California.

¹⁰ Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs, Decision Adopting Forward Looking Modifications to California Lifeline in Compliance with the Moore Universal Telephone Act [D.10-11-033] (2010) ___ Cal.P.U.C.3d ___, at pp. 67-68 (slip op.).

with many of the rate-of-return carriers and we can foresee no circumstance under which our universal service goals or objectives would be furthered by eliminating the ability of some consumers to choose alternative LifeLine providers. Further, the rate-of-return carriers' overall financial results will not differ if wireless carriers receive LifeLine support for customers living in the rate-of-return carriers' service territory.¹¹

Res. T-17266 (Final Resolution or Resolution) was adopted at the December 2, 2010 Commission meeting, and issued on December 7, 2010. In the Final Resolution, the Commission stated that it reconsidered the restriction on Cricket's ability to offer service in the Small LEC territories, and (for reasons discussed further below) found such a restriction neither reasonable nor in the public interest.¹² The Commission referred to its recent decision D.10-11-033 lifting geographic restrictions on non-traditional carriers who volunteer to participate in the California LifeLine program. Although the Commission recognized that Cricket was not requesting authority to participate in the California LifeLine program, the Commission stated that it would use current California LifeLine policies and rules, including those in D.10-11-033, for evaluating requests by wireless carriers for limited LifeLine/Link-up-only ETC designation.¹³ The Resolution also declared that Cricket's Forbearance Petition before the FCC was "moot."¹⁴

The Small LECs filed a timely application for rehearing of Resolution T-17266 on January 5, 2011. The application raises the following allegations of legal error: (1) the resolution violates federal law by designating Cricket as an ETC in rural LEC territories where Cricket does not serve the entire service area; (2) the Commission failed to conduct the required public interest analysis under federal law; (3) the Commission abused its discretion in relying upon the terms and conditions of the

¹¹ Id. at p. 72 (slip op.).

¹² Res. T-17266, at p. 11.

¹³ Res. T-17266, at p. 12.

¹⁴ Res. T-17266, at p. 20.

California LifeLine Program in evaluating Cricket's request for federal ETC eligibility; (4) the Resolution's finding that there is "significant wireless carrier overlap" with Small LEC territories is erroneous and contrary to record evidence; and (5) the procedure by which the Resolution was adopted violates the Small LECs' due process rights. The Small LECs simultaneously filed a motion for a stay of resolution T-17266.

On January 20, 2011, Cricket filed a response to the Small LECs' application for rehearing of Res. T-17266 and an opposition to the Small LEC's motion for a stay.

III. DISCUSSION

A. **The Commission misapplied the federal standard by designating Cricket as an ETC in rural LEC territories where Cricket does not serve the entire service area.**

The Small LECs claim that the Commission erred in its application of federal law when it designated Cricket as an ETC in the rural LEC territories where Cricket does not serve the whole service area.

We agree that at the time the Resolution was issued, we did not correctly apply the federal standard. The Resolution acknowledges that federal ETC requirements require a competing ETC to offer service throughout a rural LEC's service area, and that Cricket admits it does not serve the entire rural LECs' service territories.¹⁵ It further acknowledges that a "study area redefinition would provide Cricket with a waiver from serving the entirety of the rural carrier's service area."¹⁶ However, the Resolution then states that it does not find a restriction on Cricket's ability to offer service in the Small LEC territories to be reasonable or in the public interest.¹⁷ Although the Commission must *also* find that the designation of a competitive ETC in a rural service area is in the

¹⁵ Res. T-17266, at p. 11.

¹⁶ Res. T-17266, at p. 11.

¹⁷ Res. T-17266, at p. 11.

public interest,¹⁸ a public interest inquiry alone is not the correct standard for determining whether a competing ETC may serve in only part of a rural LEC's territory.

However, the FCC has since acted on Cricket's petition for forbearance of the geographic service requirement. In an order released on September 16, 2011, the FCC conditionally granted Cricket's petition for forbearance.¹⁹ The FCC imposed a number of obligations upon Cricket designed to improve accountability and protect against waste, fraud, and abuse, and required Cricket to submit a compliance plan outlining the measures it will take to implement the obligations.²⁰ Specifically, the FCC stated that Cricket may not be designated an ETC by a state commission in a part of a rural service area or receive federal LifeLine support for these areas until the FCC's Wireline Competition Bureau approves the compliance plan.²¹

We accordingly find many of the Small LECs' arguments concerning the application of the geographic service requirement to be moot in light of the recent FCC order conditionally granting Cricket's Forbearance Petition. According to the FCC's order, this Commission no longer has to apply the geographic requirements of the Act in granting Cricket limited ETC status. In its order, the FCC stated that section 54.207 of the FCC's rules (which defines "service area" and sets out the redefinition process) is inapplicable because redefinition is not necessary: "[a]s a result, if a commission designates...Cricket as a facilities-based, limited, LifeLine-only ETC in part of a rural service area, that designation will not require redefinition of the rural telephone company's service area."²² The FCC further stated:

Forbearance in these limited circumstances merely removes the conformance requirement for [] Cricket when seeking ETC designation for LifeLine-only support, so that states, which have jurisdiction over most ETCs, may now designate

¹⁸ 47 U.S.C. § 214(e)(2).

¹⁹ In the Matter of Telecommunications Carriers Eligible for Universal Service Support Cricket Communications, Inc.'s Petition for Forbearance, WC Docket No. 09-197, Order (rel. Sept. 16, 2011).

²⁰ Id. at para. 15.

²¹ Id. at para. 17.

²² Id. at para. 9.

[] Cricket as [a] limited ETC eligible for LifeLine only support in part of a rural service area without requiring redefinition of that service area. State commissions are still required to consider the public interest, convenience and necessity of designating Cricket [] as a competitive ETC in a rural area already served by a rural telephone company.²³

Accordingly, we may designate Cricket as an ETC in part of the rural LECs' territory without conducting a redefinition analysis, as long we conduct the appropriate public interest inquiry. We find that the Resolution does conduct the appropriate public interest inquiry, as discussed below. However, to the extent the Resolution declares Cricket's Petition for Forbearance moot, and to the extent it designates Cricket an ETC prior to the date the FCC approves Cricket's compliance plan, the Resolution is in conflict with the FCC's order. Cricket's designation as an ETC may still stand, it just cannot be effective until the FCC approves Cricket's compliance plan. We accordingly grant limited rehearing in order to modify the Resolution so that it is in accord with federal law and the FCC's order.

B. The Commission conducted the required public interest analysis.

The Act provides that "before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest."²⁴

The Small LECs claim that the Commission failed to conduct the proper public interest analysis under federal law. The Small LECs point to 47 C.F.R. § 54.202(c), which provides, in part:

In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the [FCC] shall also conduct a creamskimming analysis that compares the population density of each wire center in which the eligible telecommunications

²³ Id. at para. 14.

²⁴ 47 U.S.C. § 214(e)(2).

carrier applicant seeks designation against that of the wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation.

The Small LECs claim that this Commission must make a specific determination as to whether or not the prospective ETC is proposing to selectively serve only in the areas where it is not costly to do so. According to the Small LECs, we must conduct this cream-skimming analysis, even though Cricket is not seeking high-cost support.

This argument fails for several reasons. First, the public interest standard articulated in 47 C.F.R. § 54.202(c) applies to the FCC in cases where it is making the ETC designation; it does not apply to this Commission. Mandatory requirements for ETC designation proceedings before the FCC were adopted in *Federal-State Joint Board on Universal Service* (“*ETC Designation Report and Order*”) (2005) 20 FCC Rcd 6371, CC Docket 96-45 (FCC 05-46). Although State commissions were encouraged to adopt similar requirements, States are not bound to follow the principles outlined in the Report and Order.

Second, even if we were bound by § 54.202 it is clear from the discussion in the FCC’s *ETC Designation Report and Order* that the cream-skimming analysis relates to situations where competing carriers are seeking high-cost support.²⁵ In fact, the FCC has stated in subsequent ETC designation proceedings that the cream-skimming analysis is not a necessary part of the public interest analysis where the carrier is seeking eligibility for LifeLine only.²⁶

Finally, we have our own public interest standard for ETC designations, which was properly applied. The public interest standard is set forth in Resolution T-17002, which contains comprehensive procedures, guidelines, and requirements for

²⁵ ETC Designation Report and Order at ¶¶ 49-52.

²⁶ Virgin Mobile Petition for Forbearance and Designation as an ETC (2009) 25 F.C.C. Rcd 17797, Docket 09-197, DA 10-2433, FCC 09-18 (2009), at ¶ 39 n.101; TracFone Petition for Designation as an ETC (2008) FCC 08-100, at ¶ 16 n. 47.

Commission ETC designation request reviews. An ETC applicant is required to demonstrate that the designation will increase consumer choice, advantages and disadvantages of its service offerings, and the absence of cream-skimming.²⁷ The Resolution thoroughly discusses the first two factors, and, consistent with the FCC's determinations, agrees that there is no danger of cream-skimming because Cricket seeks only federal LifeLine support, and not federal high-cost support.²⁸

C. The Commission should modify the Resolution in terms of the effective date of Cricket's ETC designation.

The Small LECs claim that the Commission abused its discretion by relying on the terms and conditions of the California State LifeLine program in evaluating Cricket's request for federal ETC status. In the Resolution, the Commission relied in part upon its recent decision D.10-11-033 in the California LifeLine proceeding to eliminate geographic restrictions on granting ETC status in a rural LEC service area. The Small LECs contend that the Commission cannot refuse to restrict a competitive ETC's subsidized territory simply because the California LifeLine program has no geographic restrictions. As discussed above, our analysis concerning the rural LEC service areas was in error, and we have modified our reasoning on this point. As modified, we find that the Small LECs' argument on this point is now moot.

D. The Resolution's findings are supported by record evidence.

The Small LECs claim that the Resolution's finding that "there is already significant wireless carrier overlap with many of the rate-of-return carriers" is plainly erroneous and contrary to the record evidence submitted in this proceeding. According to the Small LECs, there is no citation for this "sweeping statement" and there is no analysis of coverage maps that would confirm its truth. The Small LECs assert that the only coverage data submitted on the record is Cricket's map of its own wireless footprint, which shows that it only serves a fraction of most of the affected Small LEC territories.

²⁷ Res. T-17002, at p. 7.

²⁸ Res. T-17266, at pp. 8-9, 11, Attachment 5, pp. 1-2.

As such, the Small LECs argue the Resolution is not supported by “substantial evidence” in violation of Public Utilities Code Section 1757(a)(4). The Small LECs further state that this “erroneous statement” derives from D.10-11-033, where the Commission also stated that “[t]here is already significant wireless carrier overlap with many of the rate-of-return carriers.”²⁹ The Small LECs state that they have also filed an application for rehearing of that decision, which they purport to incorporate by reference herein.

The Small LECs’ argument is without merit. First, it should be noted that the sentence at issue is incompletely cited in the Small LECs’ application for rehearing. What the Resolution stated was this: “Cricket currently offers retail wireless service in some parts of some small LEC service areas, and the Commission recognizes that there is already significant wireless carrier overlap with many of the rate-of-return carriers.” This statement does not conflict with any evidence in the record in this proceeding, including Cricket’s map. Nor does it mean, as the Small LECs contend, that the Commission concluded that Cricket serves “significant” portions of the Small LEC territories. Rather, it means what it says: the Commission has acknowledged in another proceeding that there generally is already wireless carrier overlap with many of the Small LECs. The Small LECs point to no evidence to the contrary.

Finally, as a general matter, incorporation of arguments raised in a document that is not part of the underlying proceeding “by reference” does not meet the specificity requirements of Public Utilities Code section 1732 or Rule 16.1(c) of the Commission’s Rules of Practice and Procedure. As such, we decline to incorporate the application for rehearing of D.10-11-033 by reference and instead will address any allegations of legal error in D.10-11-033 in a separate decision.

²⁹ D.10-11-033, mimeo, at p. 72.

E. The procedure by which the Resolution was adopted did not violate the Small LECs' due process rights.

The Small LECs claim that we violated the Small LECs' constitutionally-protected rights to due process of law and "failed to proceed in the manner required by law." The Small LECs claim that they had no opportunity to address the arguments presented in the final Resolution, as the Resolution was substantially changed from the original draft on the evening before the meeting at which it was to be considered. Specifically, the Small LECs claim they never had an opportunity to point out that the Resolution failed to comply with the federal "service area" requirement, no opportunity to point out that the Resolution failed to conduct a proper "public interest" analysis under 47 C.F.R. § 54.202(c), and no opportunity to address the Resolution's misplaced reliance on the state LifeLine program or lack of evidentiary basis for the finding that wireless coverage has "significant overlap" with Small LEC territories.

These arguments are without merit. Due process requires that the Commission provide parties with adequate notice and the opportunity to be heard.³⁰ The Small LECs confuse this with the opportunity to point out specific legal errors in a final decision or resolution. The Small LECs did have notice of, and in fact did comment on, the material issues that were addressed in the Final Resolution, including the issue of redefinition of the rural LECs' territories. For example, in their protest to Cricket's Advice Letter, the Small LECs argued that Cricket's Advice Letter failed to meet the federal statutory requirements for ETC designation in rural company exchanges, stating that Cricket did not meet either the "service area" requirement or the rural "public interest" requirement under federal law.³¹ The Small LECs filed a further response to the issues raised in the Advice Letter, in which they further discussed the Joint Board's concerns regarding rural telephone company service areas, and stated "[w]hile these

³⁰ See U.S. Const., 14th Amend., Cal. Const., art. 1, § 7. See also *People v. Western Airlines* (1954) 42 Cal.2d 621, 632.

³¹ Protest of the Small LECs to Cricket Communications Inc.'s Request for Designation as a "LifeLine Only" Eligible Telecommunications Carrier in Small LEC Territories in California, March 23, 2010, at pp. 2-4.

factors may not apply to “LifeLine only” ETC requests in the same manner as to full ETC requests, they still must be considered in connection with a requested service area redefinition.”³² The letter further discussed reasons why any proposed redefinition was not in the public interest and did not make economic sense, and discussed cream-skimming implications. The Small LECs further discussed federal standards for granting ETC status in Small LEC territories in their reply comments on the Draft Resolution.³³ These filings demonstrate that the Small LECs not only had ample notice of and opportunity to comment on the material issues that were addressed in this proceeding, but were acutely aware of such issues and did in fact comment extensively on them.

IV. CONCLUSION

In accordance with the discussion above, we grant a limited rehearing of Resolution T-17266 in order to modify our analysis of federal law concerning Cricket’s limited ETC designation in rural LECs’ service areas. As the FCC’s recent order granting Cricket’s forbearance petition states that the geographic conformance requirement is inapplicable, we will modify the Resolution to remove any discussion of that requirement. Although we still grant Cricket limited ETC status, we modify the effective date of Cricket’s ETC designation to coincide with the date that the FCC approves Cricket’s compliance plan in accordance with the FCC’s order. As modified, we deny the Small LECs’ application for rehearing of Res. T-17266. We accordingly deny the concurrently filed motion for a stay of Res. T-17266 because our disposition of the rehearing application has made the moot.

³² May 3, 2010 Letter from Small LECs re: Response of Cricket Communications Inc. to Small LECs Protest to Advice Letter No. 2, at p. 2.

³³ Reply Comments of the Small LECs to Opening Comments of Cricket Communications, Inc. on Draft Resolution T-17266, November 9, 2010.

THEREFORE, IT IS ORDERED that:

1. Resolution T-17266 shall be modified as follows:
 - a. On page 11, the first and second full paragraphs, including footnotes, shall be deleted and replaced with the following text (footnotes shall be renumbered accordingly):

The Small LECs assert that Cricket has not complied with federal ETC requirements regarding offering service throughout a rural LEC's service area. Cricket admits that it does propose to offer service in the San Joaquin Valley, covering nearly the entire service area of Kerman Telephone with some outlying areas of Hornitos Telephone Co., Sierra Telephone Co., Ponderosa Telephone Co., and Ducor Telephone Co.

In order to grant a request for ETC designation in a rural telephone company area, a State has to either find that (1) the prospective ETC serves the entire "service area" of all affected underlying ETCs, or (2) seek a redefinition of any "study areas" that the prospective ETC does not entirely serve through the procedure outlined in 47 C.F.R. § 54.207.³⁶ Cricket is not proposing to redefine the Small LECs' service areas.

47 U.S.C. § 214(e)(5) provides that States may establish geographic service areas within which competitive ETCs are required to comply with universal service obligations and are eligible to receive universal service support. For an area served by a rural incumbent LEC, however, 47 U.S.C. § 214(e)(5) states that a company's service area for the purposes of ETC designation will be the rural incumbent LEC's study area "unless and until the Commission and the States, after taking into account the recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company."

On June 21, 2010, Cricket filed a Petition for Forbearance with the FCC from the geographic service requirement regarding rural LEC service areas.³⁷ On September 16, 2011, the FCC issued an Order conditionally granting Cricket's Forbearance Petition.³⁸ In that Order, the FCC stated

³⁶ 47 U.S.C. § 214(e).

³⁷ Cricket Communications Inc. Petition for Forbearance, WC Docket No. 09-197 (filed June 21, 2010) (Cricket Forbearance Petition).

³⁸ In the Matter of Telecommunications Carriers Eligible for Universal Service Support Cricket Communications, Inc.'s Petition for Forbearance, WC Docket No. 09-197, Order (rel. Sept. 16, 2011).

that section 214(e)(5) of the Act as well as section 54.207(b) of the FCC's rules do not apply insofar as those sections would require that Cricket's service area conform to the service area of any rural telephone company serving the same area.³⁹ The FCC also stated that state commissions may designate Cricket as a limited ETC eligible for LifeLine only support in part of a rural service area without requiring redefinition of that service area, but that state commissions are still required to consider the public interest, convenience and necessity of designating Cricket as a competitive ETC in a rural area already served by a rural telephone company.⁴⁰ The FCC further placed a number of obligations upon Cricket designed to protect against waste, fraud and abuse, and required Cricket to submit a compliance plan.⁴¹ The FCC stated Cricket may not be designated in part of a rural service area or receive federal LifeLine support in these areas until the FCC's Wireline Competition Bureau approves Cricket's compliance plan.⁴²

As discussed elsewhere herein, we find that designating Cricket as a competitive ETC in a rural area already served by a rural telephone company to be in the public interest. We agree with Cricket that no danger of creamskimming would result because Cricket seeks only federal LifeLine support, and not federal high-cost support.⁴³ Allowing Cricket to offer LifeLine support in parts of the Small LEC territories will not harm the Small LECs from a competitive standpoint. As Cricket notes in its comments on proposed Resolution T-17266, wireless carriers currently offer service through parts of the Small LEC territories, and restricting them from offering Federal LifeLine in territories they already serve only deprives rural customers of this benefit.⁴⁴

Cricket's request that it be allowed to operate in Small LEC territories pending FCC approval of Cricket's Petition for Forbearance of the geographic service requirement is granted. Cricket's designation as a

³⁹ Id. at para. 9.

⁴⁰ Id. at para. 14.

⁴¹ Id. at para. 15.

⁴² Id. at para. 17.

⁴³ Rural creamskimming is generally understood to be a carrier's selectively operating in only the low-cost, high-revenue portions of a rural telephone company's study area. This practice places the relevant incumbent carrier at an unfair disadvantage. See Virginia Cellular, FCC 03-338, mimeo p. 16.

⁴⁴ See November 4, 2010 Comments of Cricket Communications, Inc. (U 3076 C) On Draft Resolution T-17266, at p. 2.

LifeLine-only ETC is effective as of the date the FCC's Wireline Competition Bureau approves Cricket's compliance plan.

- b. The last full paragraph on page 20 of the Resolution (before the Findings) shall be deleted in its entirety.
- c. The following new Finding No. 22 shall be added: It is in the public interest to designate Cricket as a competitive ETC in a rural area already served by a rural telephone company.
- d. The following new Ordering Paragraph Number 8 is added.

Cricket Communications Inc. shall serve a copy of the FCC Wireline Competition Bureau's approval of Cricket's compliance plan on the Communications Division and the service list in this proceeding.

- e. The following new Ordering Paragraph Number 7 is added:

Cricket Communications Inc.'s ETC designation shall be contingent upon and effective as of the date the Federal Communications Commission's Wireline Competition Bureau approves Cricket's compliance plan pursuant to the FCC's Order in *In the Matter of Telecommunications Carriers Eligible for Universal Service Support Cricket Communications, Inc.'s Petition for Forbearance*, WC Docket No. 09-197, Order (rel. Sept. 16, 2011).

2. Rehearing of Resolution T-17266, as modified, is hereby denied.
3. The motion for a stay of Resolution T-17266 is hereby denied as moot.
4. Application 11-01-003 is hereby closed.

This Order is effective today.

Dated December 1, 2011, at San Francisco, CA.

MICHAEL R. PEEVEY
 President
 TIMOTHY ALAN SIMON
 MICHEL PETER FLORIO
 CATHERINE J.K. SANDOVAL
 MARK J. FERRON
 Commissioners