



ALJ/HCF/nd3 3/6/2023

**FILED**

03/06/23

12:16 PM

R2103002

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

Order Instituting Rulemaking to  
Update Surcharge Mechanisms to  
Ensure Equity and Transparency of  
Fees, Taxes and Surcharges Assessed  
on Customers of Telecommunications  
Services in California.

Rulemaking 21-03-002

**ADMINISTRATIVE LAW JUDGE'S RULING  
CONCERNING PHASE 2 OF THE PROCEEDING**

This Ruling seeks comments on the Commission's Communications Division Staff's proposed inquiry for Phase 2 of this proceeding. The Commission launched Rulemaking 22-03-002 to address the need for a sustainable and cost-effective method to fund the state's Universal Service Public Purpose Programs (PPP). Phase 1 addressed the need to reform the then current surcharge mechanism based on a per access line flat rate mechanism. The Phase 1 decision adopted a per access line surcharge rate of \$1.11 effective April 1, 2023. The Commission may increase the surcharge rate as needed in the future. The decision also includes reporting requirements and exempts incarcerated persons and LifeLine subscribers from PPP surcharges and the User Fee.

**1. Phase 2**

In the second phase of this proceeding, the Commission indicated it would review provider-imposed charges added to customer bills. An overview of these charges is provided in Staff Report 1, developed during Phase 1 of this proceeding. These non-public purpose program charges are separate and in

addition to the various PPP surcharges on customer bills. These charges are not always clearly identified, nor is the purpose of these charges clear. These charges have increased substantially in recent years. Numerous efforts past and present have attempted to improve the transparency and fairness of the charges added to consumer bills.

Since Staff Report 1<sup>1</sup> was issued during Phase 1, provider-imposed charges on customer bills have been the subject of recent activities in California and nationally. On October 26, 2022, President Biden called on all federal agencies to reduce or eliminate hidden fees, charges, and add-ons for everything from banking services to cable and internet bills to airline and concert tickets.<sup>2</sup> On November 8, 2022, the United States District Court of the Northern District of California approved a settlement proposed by the parties in *AT&T v. Vianu*, a class action lawsuit filed on behalf of AT&T wireless customers in California. AT&T does not admit or concede any actual or potential fault, wrongdoing, or liability related to the allegations in the lawsuit, but the settlement did create a \$14,000,000 fund to provide rebates to California AT&T customers for a monthly Administrative Fee, which the customers alleged was unfair and not adequately advertised or disclosed as part of the price of certain service plans.<sup>3</sup>

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<sup>1</sup> Staff Report Part 1 is available at:

<https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/high-cost-support-and-surcharges/r-21-03-002/r2103002-oir-cd-staff-report-part-1.pdf>.

<sup>2</sup> Documents related to the President's Initiative on Junk Fees and Related Pricing Practices are available at:

<https://www.whitehouse.gov/briefing-room/blog/2022/10/26/the-presidents-initiative-on-junk-fees-and-related-pricing-practices/>.

<sup>3</sup> Documents related to *Vianu v. AT&T Mobility LLC* are available at:

<https://www.attvianuclassactionsettlement.com/important-documents>.

We take note of these current events, and other similar ones that may come to our attention, as background in developing the record in Phase 2.

Parties are directed to file comments on the following questions.

## **2. Questions**

### **2.1. To All Providers**

1. Through which charge(s), fee(s), or both that appear on your customers' bills do you recover the cost of service?
2. List all charges and fees that your company charges customers that are separate and in addition to the cost of service.
  - a. How and where do these additional charges and fees appear on your customers' bills?
  - b. Are these charges and fees optional? If so, how do customers opt out of paying any of them?
  - c. Why are these charges separated out from the service plan cost?
  - d. How and where are these additional charges and fees disclosed to prospective customers? Are they advertised in any way prior to or when a customer signs up for service? If your company increases or decreases the additional fees, where and when are existing customers notified?
3. How much revenue do these charges generate?
4. Providers that charge these fees are directed to provide a breakdown of how the revenue from these charges is spent.
5. How are these charges separate from the cost of doing business?

### **2.2. To All Parties**

1. Explain whether all of the charges and fees that appear on communications customers' bills are reasonable and consistent with Public Utilities (Pub. Util.) Code Section 451?

2. Are all of these charges and fees properly disclosed, consistent with Pub. Util. Code Section 2896 and General Order (GO) 168?
3. Do any of these charges and fees violate state law or commission regulations prohibiting cramming, including but not limited to Pub. Util. Code Section 2890 and GO 168?
4. Explain whether the Commission should prohibit provider fees for purposes of protecting consumers against unjust, unreasonable, or illegal charges and fees that appear on communications customers' bills. Please identify specific criteria and propose clear definitions.
5. Explain whether the Commission should consider prohibiting any types of charges or fees on communications customers' bills.
6. Are there instances where these charges or fees may be misrepresented as government fees or being government-imposed? Provide examples.
7. Provide proposals for what action the Commission should take to improve transparency and eliminate unreasonable charges or fees on customer bills?

### **2.3. Authority**

1. List and explain any laws and other legal authority that limits the Commission's authority to prohibit or regulate any charge or fee that appears on telephone corporations' customer bills.
2. Specify the services for which these limitations apply, including but not limited to traditional wireline, Voice over Internet Protocol, wireless, video, and broadband services.

### **2.4. General**

1. Are there other issues that Phase 2 should address?

Parties shall file their responses to the questions above within thirty days from the date of this ruling.

Therefore, **IT IS RULED** that Parties shall file their opening responses to the questions above in Section 2 within 30 days from the date of this ruling. Reply responses are due 15 days after the 30-day period has completed.

Dated March 6, 2023, at San Francisco, California.

/s/ HAZLYN FORTUNE

Hazlyn Fortune  
Administrative Law Judge