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ATTACHMENT B

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ENFORCEMENT UPDATES UNDER CONSIDERATION

Enforcement area

Base fine

Current state

Base fine amount is \$750,000

Staff Recommended change

Increase the authorized level of fines to maximum allowable limit under PU Codes Sections 2107 and 2108.

Reference

This recommendation was brought up by the Public Advocates Office in their opening comments.

Enforcement area

Investment in lieu of fine

Current state

Carriers can propose to invest at least twice the amount of the annual fines in lieu of paying the fines on projects to improve service quality.

Staff Recommended change

The investment in lieu of fine is ineffective and lacks oversight. Instead, enforcement should include automatic customer credit refunds in addition to any revised penalty amounts. Discuss options for what changes would be needed to make the investment in lieu of fine option effective and how to provide meaningful oversight if this were to remain an option.

Reference

This recommendation was brought up by the Public Advocates Office in their opening comments.

Enforcement area

Chronic failure status

Current state

Fines begin to incur when a carrier fails to meet the minimum standard for three consecutive months, and no fines are assessed for the first two months of failure.

Staff Recommended change

Remove the two-month grace period and incur fines for each month that a carrier fails to meet the minimum standard.

Reference

This recommendation was brought up by the Public Advocates Office in their opening comments.

Enforcement area

Adjusted results

Current state

The penalty mechanism is based on adjusted results, which exclude Sundays, federal holidays, delays beyond the carrier's control, and catastrophic events.

Staff Recommended change

Update the penalty mechanism to rely solely on unadjusted results with no exclusions.

Reference

This recommendation was brought up by the Joint Commenters (C for AT, TURN) in their opening comments.

Enforcement area

Fine calculation (severity)

Current state

Fines are determined in a binary approach. If a carrier fails to meet a minimum standard, then it incurs a fine.

Staff Recommended change

Incorporate a penalty mechanism that accounts for the severity of the miss against a minimum standard. Add a multiplier to the base fine based on the number of percentage points by which a carrier fails to meet a minimum standard.

Reference

This recommendation was brought up by the Joint Commenters (C for AT, TURN) in their opening comments.

Enforcement area

Fine calculation (duration)

Current state

Fines are incurred using a binary threshold. For example, the penalty threshold for the Out of Service Repair Interval is 24 hours. The severity of the penalty remains the same whether it is >24 hours, >48 hours, >72 hours, or >96 hours.

Staff Recommended change

Incorporate a penalty mechanism that accounts for the length of the outages.

Reference

This recommendation was brought up by the Joint Commenters (C for AT, TURN) in their opening comments.

(END OF ATTACHMENT B)