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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Proceeding to Consider Amendments
to General Order 133.

Rulemaking 22-03-016

ADMINISTRATIVE LAW JUDGE’S RULING ISSUING STAFF PROPOSAL

This Ruling issues for comment a proposal prepared by the California Public Utilities Commission’s (Commission) Communications Division Staff (Staff Proposal). The Staff Proposal is included as Attachments A, B, and C to this Ruling, with Attachment A containing the explanation of the Staff Proposal, Attachment B containing the proposed revisions to General Order 133-D in redlined form, and Attachment C containing the new proposed General Order.

Parties wishing to file comments on the Staff Proposal must file and serve comments by September 2, 2024. Reply comments must be filed and served by September 17, 2024. Parties are asked to respond to the questions and issues identified in Section 1 of this ruling.

1. Questions of Parties

In preparing their comments and reply comments, parties are asked to focus on responding to the questions and issues discussed below.

1.1 Single Thresholds versus Multiple Thresholds

General Order 133-D utilizes single thresholds to enforce minimum service quality standards (e.g., “less than 24 hours”). Staff finds that while single thresholds can establish a bright line for ease of measuring carrier service quality

compliance, they are inadequate in capturing the severity of service failures.¹ Thus, Staff proposes that the Commission eliminate the use of single thresholds across outage-related service measures and instead use multiple thresholds, focused on network outages and service outages, to reflect increasing severities with escalating penalties. This new penalty structure would apply to plain old telephone service (POTS), voice over internet protocol (VoIP), and wireless voice services.

Should the Commission eliminate the use of single thresholds across outage-related measures in favor of multiple thresholds to account for increasing severities as outlined by the Staff Proposal? Should any additional changes be made to Staff's proposed escalating outage repair standards?

1.2 Installation Standard

In General Order 133-D, GRC ILECs (aka the Small LECs) must install 95 percent of new service requests within five business days.² Currently, the enforcement of these two standards is limited to General Rate Case (GRC) ILECs, which account for only 1.4 percent of the over 3 million POTS lines in California.³ Staff proposes extending the requirement to the Uniform Regulatory Framework (URF) ILECs and increasing the standard to 100 percent of new installation requests being met in five business days, with exceptions.⁴

¹ Staff Proposal at 34.

² *Id.*, at 40

³ *Id.*

⁴ *Id.*, at 40-41.

Should the Commission adopt the installation standard as outlined by the Staff Proposal? Which types of telephone corporations⁵ should the installation standard apply to? Should any additional changes be made to the installation standard?

1.3 Customer Trouble Reports Standard

The Staff Proposal recommends eliminating the use of the customer trouble reports standard, as currently used in General Order 133-D. Should the Commission adopt this proposal? If not, how can this standard be improved, measured, and enforced in a meaningful manner?

1.4 Answer Time Standard

General Order 133-D requires that live agents answer 80 percent of phone calls each month within 60 seconds. This standard applies to GRC ILECs, URF carriers with 5,000 or more customers, and COLRs. The Staff Proposal recommends maintaining the existing standard, but adding the requirement that a live agent must answer 100 percent of customer service calls within five minutes.⁶ Additionally, telephone corporations must offer a chat component on the carrier's webpage to reach those who cannot access voice services and include a postal mail option.⁷ Billing-related inquiries must be addressed and, if necessary, reconciled by the next billing cycle.⁸ Should the Commission adopt this proposal? Should any additional changes be made to the answer time standard? If yes, how would these additional changes improve customer service?

⁵ Public Utilities Code section 234 (a) defines a telephone corporation as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

⁶ Staff Proposal at 41.

⁷ *Id.*

⁸ *Id.*, at 42.

1.5 Automatic Customer Credit Fine Mechanism

The Staff Proposal includes a new penalty in the form of an automatic customer credit,⁹ a \$5 per-day customer credit (or “base fine”) for all customers and a \$10 per-day credit for customers living in disadvantaged communities (DAC¹⁰) and communications areas of affordability concern (AAC¹¹). Do parties support this proposal? Should the Commission adopt a different credit amount? Should the refund apply equally to all customers or be applied differently to certain customers, based on their living in disadvantaged communities? Are there any changes the Commission should make to the proposed customer credit mechanism? Who should be responsible for paying the customer credit in the case of resold service? Parties are asked to support their comments with specific cites to appropriate statute, Commission rules, as well as any relevant factual information.

1.6 General Fund Fine

The Staff Proposal recommends implementing an automatic customer credit fine structure. Since the proposed base fine would issue refunds to customers on an ongoing basis, the resulting fine mechanism will not result in an outstanding fine amount for telephone corporations. Should the Commission levy an additional fine on carriers, equivalent to the total customer credit, or a percentage thereof, payable to the State’s General Fund?

⁹ *Id.*, at 45-47.

¹⁰ The Commission adopted the California Environmental Protection Agency’s designation of disadvantaged communities in Decision 22-08-023 in its Affordability Rulemaking.

¹¹ Areas of affordability concern were introduced by the November 2021 Staff Proposal in the Commission’s Affordability Rulemaking. See <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/affordability-proceeding/r1807006--staff-proposal-on-affordability-metrics-implementation.pdf>

1.7 Capital Investment-in-lieu-of-fine

The Staff Proposal observes that the current investment-in-lieu-of-fine mechanism has not resulted in meaningful improvements to statewide service quality. Is the premise of the Staff Proposal, that the current investment-in-lieu-of-fine penalty mechanism has not improved service quality statewide, accurate? Can the investment-in-lieu-of-fine penalty mechanism be reformed by meaningfully increasing the penalty amount? If so, how much of a penalty amount would be meaningful to ensure that the mechanism generates measurable positive outcomes for customers statewide?

1.8 Ongoing Operational Expenditures In Lieu of Fine

At the September 7, 2023 workshop in this proceeding, an AT&T representative stated that AT&T's ability to restore service in a manner consistent with the current service restoration standard in General Order 133-D is impacted by the limited technician staffing in relation to the large size of AT&T's service territory. If technician staffing is a limiting factor in complying with service restoral goals, should the investment-in-lieu-of-fine mechanism be replaced with an alternative where telephone corporations must invest the incremental necessary amount in ongoing operational expenditures (OpEx) related to the hiring and retaining of technicians to improve service quality by a significant margin? If so, how should the necessary amount be determined? How could the Commission ensure that telephone corporations commit to funding these technician positions on an ongoing basis? What rules are necessary to ensure that an OpEx investment alternative would lead to improved service quality performance in a measurable way? By when and by how much? How can the Commission ensure that any additional OpEx spending was incremental to a

telephone corporation's planned or budgeted spending? What kind of reporting should be required?

1.9 Reforms to the Investment In-Lieu-of-Fine Penalty Mechanism

The Staff Proposal notes that the investment in-lieu-of-fine mechanism has been ineffective and if it is to provide meaningful benefits to customers it would need to be reformed. How can the Commission ensure reforms to the in-lieu-of-fine mechanism result in meaningful service quality improvements for Californians? Should the in-lieu-of-fine penalty mechanism (whether it applies to capital investment, OpEx, both, or other) be made additional to, rather than in lieu of, the proposed automatic customer credit fine mechanism? If so, should it replace the proposed general fine discussed in Section 1.6? How should the investment-in-lieu of fine be calculated? For example, would a base investment in-lieu-of-amount equivalent to double the base fine and general fund fine of the aggregated base fine amount be significant enough to provide meaningful benefit to customers in California? If not, how can the Commission determine an adequate amount for an in-lieu-of-fine penalty and how should it be calculated?

Should Communications Division Staff be given the authority to direct and approve the location that telephone corporations would invest capital or operational expenditures in lieu of fine? If not, how should investment location be determined? Should DACs and communications AACs receive priority for investment?

Are there any other enforcement mechanisms that the Commission should consider for improving out-of-service repair compliance statewide? Parties are asked to provide detailed recommendations that have proven track records.

Absent empirical evidence, parties should provide detailed implementation plans for their recommendations.

1.10 Corrective Action Plan

General Order 133-D gives Communications Division Staff the authority to require corrective action plans from telephone corporations who fail to meet service quality standards for two consecutive months or more. Should Staff continue to be given the discretion to require carriers who fail to meet service quality standards to file a Corrective Action Plan? In light of proposed reforms to the base fine, suggested inclusion of a general fine, and investment in lieu of fine alternative, what, if any, corresponding changes should be made to the Corrective Action Plan requirement?

Are there other changes to the corrective action plan structure that the Commission should consider? For example, in lieu of a penalty, should a mechanism be adopted that allows a telephone corporation to transfer its facilities to another telephone corporation subject to a plan that sets out the steps that would ensure improved compliance with service quality standards? Could a telephone corporation lease its facilities or offer open access to another telephone corporation under the same scenario? How could this be accomplished and still be in compliance with Public Utilities Code sections 767.7, 851, and 854, 47 USC sections 251 and 252, the Commission's Rights of Way rules, General Order 69-C and other relevant statute and rules? Could the Commission utilize an Order Instituting Investigation process to accomplish these goals?

1.11 Wireless Coverage Maps

Staff proposes that the wireless carriers must create and maintain wireless coverage maps with a customer-facing interface that has the capability to verify coverage at the address or location level with equipment requirements. Is that a

reasonable requirement? If not, how should the Commission require telephone corporations to validate claimed coverage maps? How can the Commission ensure that prepaid wireless customers benefit from any revisions to wireless service quality standards?

1.12 Reporting Requirements

General Order 133-D contains several reporting requirements for POTS, VoIP, and wireless services. Staff proposes that telephone corporations continue to provide copies of the Federal Communications Commission's required reports to the Commission, such as the National Outage Reporting System reports and Wireless Coverage Maps. In addition, Staff proposes that telephone corporations continue adhering to all current reporting requirements, including the Major Service Interruption reports.¹² Staff also proposes to require customer notification of aggregate annual fine amounts paid by telephone corporations. Should the Commission include any additional reporting requirements?

1.13 Mass outages

Recent nationwide outages¹³ highlight their impact on public safety. How can the Commission hold telephone corporations accountable for mass outages as distinguished from localized outages? What parameters for assessing penalty amounts or requiring remediation activities and enforcement mechanisms should the Commission utilize to hold telephone corporations accountable and ensure customer safety? Are there categories of outages that should be exempt?

¹² Staff Proposal at 47

¹³ Examples include on June 4, 2024, AT&T reported a major outage that prevented customers from completing calls to other carriers and prior to that an unrelated major outage on February 22, 2024; T-Mobile experienced a major outage in February the year before on February 13, 2023; Verizon reported a major nationwide outage on August 17, 2021.

For example, if an area is completely submerged under water and backup power is rendered inoperable, should the provider be held accountable?

2. Submission

Parties are reminded that the Assigned Commissioner's Scoping Memo and Ruling determined that Phase 1 of this proceeding would stand submitted after the filing and serving of reply comments to this Staff Proposal unless the Assigned Commissioner or Assigned Administrative Law Judge determine additional information is needed to complete the record.¹⁴ After review of reply comments a ruling will be issued either affirming the matter is submitted or requesting additional information from the parties with a subsequent submittal date provided.

IT IS RULED that:

1. The proposal prepared by the California Public Utilities Commission's Communications Division Staff, included as Attachments A and B to this Ruling, is served on parties.
2. Parties wishing to file comments on the Staff Proposal must file and serve comments by September 2, 2024. Reply comments must be filed and served by September 17, 2024.

Dated June 27, 2024, at San Francisco, California.

/s/ THOMAS J. GLEGOLA

Thomas J. Glegola
Administrative Law Judge

¹⁴ Assigned Commissioner's Scoping Memo and Ruling, issued July 22, 2022, at 5.