Decision **PROPOSED DECISION OF COMMISSIONER FERRON**
(Mailed 1/29/2013)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules.	Rulemaking 11-12-001 (Filed December 1, 2011)

DECISION AFFIRMING PROVISIONS OF THE SCOPING MEMO AND RULING

1. Summary

This decision affirms provisions of the scoping memo and ruling issued in this proceeding on September 24, 2012. Specifically, this decision confirms the finding in the scoping memo that hearings may be needed in this proceeding, and adopts the funding mechanism specified in the scoping memo for an evaluation of telecommunications facilities. This proceeding remains open pending the activities specified in the scoping memo.

2. Discussion

The Order Instituting Rulemaking (OIR) opening this proceeding, Rulemaking (R.) 11-12-001, made a preliminary finding that this proceeding should be categorized as quasi-legislative, and that hearings would not be needed. In their joint opening comments on the OIR, The Utility Reform Network (TURN), the Center for Accessible Technology, and the National Consumer Law Center suggested the possibility that hearings may be needed to

resolve material issues of fact in dispute in this proceeding. Issues they cite as disputed include whether Pacific Bell Telephone Company dba AT&T California (AT&T) and Verizon California Inc. (Verizon) are engaged in service quality discrimination favoring customers subscribing to the carriers' enhanced service offerings; whether AT&T's and Verizon's investment practices and policies discriminate in favor of those enhanced services; and whether these practices have led to ongoing non-compliance with the Commission's service quality standards and to long out-of-service experiences by consumers.[1] In comments and at the prehearing conference, these and other parties suggested that a study of AT&T and Verizon facilities could provide useful information on which to assess the service provided to different types of customers, and that such a study could assist in the identification of issues on which hearings in this proceeding could be appropriate.

The scoping memo and ruling issued on September 24, 2012, found that "[i]n order to maintain acceptable levels of service quality for California customers, it is necessary to ensure that carriers have access to an adequate network of infrastructure," and includes within the scope of this proceeding an evaluation of carriers' network infrastructure, facilities, and related policies and practices.[2] The scoping memo provides that this study will be conducted by an independent consultant and overseen by the Commission's Communications Division. The purpose of this evaluation is to gauge the condition of the carrier infrastructure and facilities used in the provision of telecommunications services

[1] Comments of TURN, Center for Accessible Technologies, and the National Consumer Law Center, public version, filed January 31, 2012, at 8.

[2] Scoping Memo and Ruling, September 24, 2012, at 12.

within California, in order to ensure that the facilities and related practices support a level of service consistent with public safety and customer needs. The purpose of and rationale for this study are described more fully in the scoping memo, which is attached to this decision as Attachment A.

This decision affirms the scoping memo and ruling's finding that hearings may be necessary in this proceeding, and changes the preliminary hearing determination in the OIR accordingly. As provided in the scoping memo, upon completion of the study authorized in this decision, parties may file motions for hearing, describing any issues on which they believe that hearings may be needed. The assigned Commissioner and assigned Administrative Law Judge (ALJ) will make a final determination on whether hearings will be held based on information in the proceeding record in the future.

This decision also affirms the finding in the scoping memo that an evaluation of carrier network infrastructure, facilities, and related policies and procedures is a necessary foundational activity within this proceeding, and further requires AT&T and Verizon to split the costs of this study, which we estimate will be approximately $1 million. The study costs shall be apportioned to those carriers based on their share of total intrastate revenues; this cost allocation is consistent with the allocation of the costs of the customer survey conducted in R.07-01-021 (the Limited English Proficiency proceeding),[3] and with the allocation of intervenor compensation costs for decisions in several previous rulemaking proceedings.[4]

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[3] *See* Decision (D.) 08-10-016 at 142.

[4] *See*, for example, D.06-08-007 at 46 and D.08-04-027 at 17.

The assigned Commissioner and ALJ may set specific procedures to ensure that the Commission receives timely funding from AT&T and Verizon to support this study, and may modify the study's scope and objectives as necessary to ensure a complete record on which to base a decision in this proceeding. The assigned Commissioner may also modify the estimated funding for this study, not to exceed a cap of $1.5 million.

3. Comments on Proposed Decision

The proposed decision of the assigned Commissioner in this matter was mailed to parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Six parties (AT&T, Communications Workers of America (CWA), the Division of Ratepayer Advocates (DRA), the Greenlining Institute (Greenlining), TURN, and Verizon filed timely comments on this proposed decision on February 19, 2013. AT&T, the California Association of Competitive Telephone Companies (CalTel), CWA, DRA, TURN, and Verizon filed timely reply comments on February 25, 2013.

DRA, Greenlining, and TURN support the proposed decision as originally mailed, and recommend that it be adopted without modification. CWA strongly supports the Proposed Decision's substantive conclusions that hearings may be required, that the infrastructure study is needed, and that AT&T and Verizon should pay for the study. CWA does not support the $1.5 million cost cap contained in the proposed decision, and instead recommends that the study budget remain uncapped to ensure that sufficient funding is available to meet the study's objectives. In reply comments, AT&T and Verizon oppose the CWA recommendation that the Commission should not adopt a cost cap for the study.

In their opening comments, AT&T and Verizon both argue that an infrastructure study is not needed; in fact, both the proposed decision and the scoping memo for this proceeding describe the rationale for the study and refer to parties' filings in support of the study. AT&T argues that an examination of carriers' investment and other policies represents "micromanagement" of the companies' operations. In contrast, a review of these policies is necessary to develop a picture of the current state of carrier infrastructure to ensure that it supports, and continues to support, the service quality that meets the needs of California consumers; this is the purpose of the study.

Verizon also asserts that the Commission cannot require AT&T and Verizon to fund the study, arguing that any funds collected by the Commission must be deposited in the Public Utilities Commission Utilities Reimbursement Account (PUCURA), and money in that account may only be accessed with specific legislative authorization, which the Commission does not have for this project. As noted by DRA, TURN, CalTel, and CWA in their reply comments, Verizon raised a similar objection to utility funding of a consumer survey ordered in D.08-10-016 in the Order Instituting Rulemaking to Address the Needs of Telecommunications Customers Who Have Limited English Proficiency. That decision rejected this same argument, stating that "[t]he statutes that Verizon Wireless contends require that the [LEP] survey be funded through the URA expressly exclude from the URA reimbursement costs like those related to the [preparation and management of a contract for that] survey."5 In that decision, as here, "the Commission was not directing carriers

5 D.08-10-016 at 148.

to reimburse the Commission for the costs of…Commission activities," which must be paid through the PUCURA, but to reimburse the costs of an outside consultant.6 As in that case, the Commission will pay for its own costs associated with this study, such as preparing and administering the study Requests for Proposal and overseeing the resulting consultant.7

Neither AT&T nor Verizon oppose the proposed decision's determination that hearings may be needed, but AT&T takes issue with some of the potential hearing topics suggested by parties and listed in the proposed decision. As noted in the scoping memo and decision, the eventual determination of whether hearings will be held in this proceeding will be made after the completion of the study authorized here, and parties will have an opportunity to comment on the need for hearings before a final determination is made.

Verizon also recommends that, if the Commission persists in requiring AT&T and Verizon to pay for an infrastructure study, the study costs should be allocated to these companies in proportion to their jurisdictional revenues or number of California subscribers, rather than shared equally, as provided in the proposed decision. AT&T objects to this recommendation and argues that costs should be split equally between these companies. This decision has been modified to require AT&T and Verizon to pay study costs in proportion to their individual respective shares of California jurisdictional retail revenues for calendar year 2012, as described in Section 2, above. No other substantive changes have been made since the proposed decision was mailed; other minor

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6 D.08-10-016 at 147.

7 CalTel reply comments at 4.

technical and clarifying changes have been made throughout the decision, as appropriate.

4. Assignment of Proceeding

Mark J. Ferron is the assigned Commissioner and presiding officer and Jessica T. Hecht is the assigned ALJ in this proceeding.

Findings of Fact

1. A study of carrier network infrastructure, facilities, policies, and practices as described in the scoping memo and ruling issued on September 24, 2012, is a necessary foundational activity within this proceeding to help gauge the condition of carrier infrastructure and facilities and ensure the facilities support a level of service consistent with public safety and customer needs.

2. Hearings may be needed in order to build a full record on the issues within this proceeding.

Conclusions of Law

1. The Commission has the authority to require AT&T and Verizon to pay the costs of a study as described in the scoping memo and ruling in this proceeding.

2. It is reasonable to require AT&T and Verizon to pay the costs of a study of their network infrastructure, facilities, policies, and practices as described in the scoping memo and ruling, not to exceed $1.5 million, in order to ensure a complete record on which to base a decision in this proceeding.

3. It is reasonable to require AT&T and Verizon to pay the costs of this study in proportion to their share of total intrastate revenues.

O R D E R

IT IS ORDERED that:

1. Provisions of the Scoping Memo in this proceeding, attached to this decision as Attachment A, are confirmed. Specifically:

   1.1. The preliminary determination made in the Order Instituting Rulemaking that hearings would not be needed is changed to acknowledge that hearings may be needed.

   1.2. Pacific Bell Telephone Company dba AT&T California and Verizon California Inc. shall pay the costs of a study of their network infrastructure, facilities, policies, and practices conducted by an independent consultant under a contract managed by the Commission, as described in the scoping memo and ruling. This study will help gauge the condition of carrier infrastructure and facilities to ensure the facilities support a level of service consistent with public safety and customer needs.

2. The costs to conduct the infrastructure study approved in this decision shall be borne by Pacific Bell Telephone Company dba AT&T California and Verizon California Inc., and shall be apportioned to those carriers based on their share of total intrastate revenues.

3. We estimate the cost of this study to be $1 million. The assigned Commissioner may increase or modify the funding amount through a ruling, if appropriate based on future information, up to a cap of $1.5 million.

4. The assigned Commissioner and assigned Administrative Law Judge for this proceeding may modify the study's scope or objectives as necessary to ensure a complete record.

5. Rulemaking 11-12-001 remains open pending the resolution of issues identified in the original Order Instituting Rulemaking and the Scoping Memo dated September 24, 2012.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

FILED
09-24-12
02:46 PM

FER/jt2 9/24/2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules.	Rulemaking 11-12-001 (Filed December 1, 2011)

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

1. Summary

Pursuant to Rule 7.3(a)[1] of the Commission's Rules of Practice and Procedure, and following the prehearing conference held on March 26, 2012, this scoping memo and ruling sets forth the procedural schedule, assigns the presiding officer, and confirms the categorization of this proceeding. In addition, this scoping memo identifies the issues in this proceeding and finds that hearings may be needed in this case. The assigned Commissioner or Administrative Law Judge may modify the scope and schedule adopted herein as necessary for the reasonable and efficient conduct of this proceeding.

Parties can appeal this ruling only as to the category of this proceeding under the procedures in Rule 7.6.

[1] Unless otherwise stated, all references to "Rule" or "Rules" are to the Commission's Rules of Practice and Procedure.

2. Background

In 2009, Decision (D.) 09-07-019 adopted General Order (GO) 133-C, which revised the Commission's service quality rules, measures and standards for telecommunications carriers previously established under GO 133-B. In that decision, the Commission adopted five minimum service quality measures for installation, maintenance and operator answer time for local exchange telephone service. The goal of these service quality measures was to ensure that telecommunications carriers provide relevant information to the Commission so that it may adequately protect California customers and the public interest. All of the GO 133-C service quality measures apply to rural telephone companies regulated under rate-of-return regulations commonly known as General Rate Case Incumbent Local Exchange Carriers (GRC ILECs). Only three of the measures -- Customer Trouble Reports, Out-of-Service Report and Answer Time -- are applicable to ILECs and facilities-based Competitive Local Exchange Carriers (CLECs) with 5,000 or more customers regulated under the Uniform Regulatory Framework (URF).[2] Resellers, Wireless, and Voice Over Internet Protocol/Internet Protocol (VoIP/IP)-enabled carriers are not subject to GO 133-C reporting.

In March 2011, the Commission's Communications Division (CD) prepared a report pursuant to GO 133-C § 7 regarding the quality of telephone service provided by wire line telephone companies in 2010. The report, *Telephone Carrier Service Quality for the Year 2010*, was distributed to the Commissioners and

[2] D.09-07-019 at 3-5, 54, 57. A URF CLEC with less than 5000 customers and authorized as a Carrier of Last Resort is required to report Customer Trouble Report, Out-of-Service Report and Answer Time.

the California Legislature and was attached to the order initiating this proceeding. The findings and conclusions in the report were based on the GO 133-C service quality measures submitted by a total of 27 telephone carriers: the four URF ILECs, eight URF CLECs, and 15 GRC ILECs. The report also addressed the responses of Pacific Bell Telephone Company dba AT&T California (AT&T) and Verizon California Inc. (Verizon) to the severe winter storms that caused widespread service outages in Southern California during the months of December 2010 and January 2011.

On December 1, 2011, the Commission opened Rulemaking (R.) 11-12-001 to review telecommunications carriers' performance in meeting GO 133-C service quality performance standards. In addition, the Order Instituting Rulemaking (OIR) stated the Commission's intention to assess whether the existing GO 133-C service quality standards and measures meet the goals of the Commission, are relevant to the current regulatory environment and market, and whether there is a need to establish a penalty mechanism for future substandard service quality performance. The OIR established deadlines for the filing of comments, reply comments, and motions for hearing, and the assigned Administrative Law Judge (ALJ) approved brief extensions to the filing dates provided in the OIR. 12 parties or groups of parties filed timely opening comments, and 13 parties or groups of parties filed timely reply comments. The prehearing conference (PHC) in this proceeding was held on March 26, 2012. In June and July, parties filed additional information in response to an ALJ ruling issued on May 18, 2012. This Scoping Memo and Ruling establishes the scope and schedule for initial activities within this proceeding.

3. Categorization and Need for Hearings

Rule 7.1(d) requires that an OIR preliminarily determine the category of the proceeding and the need for hearing. The Commission preliminarily categorized this OIR as quasi-legislative, as defined in Rule 1.3(d), and determined that no evidentiary hearings are needed. The OIR directed any party objecting to these preliminary determinations to state objections in opening comments on the OIR. Some parties stated in their opening comments or at the PHC held in this proceeding on March 26, 2012, that they believed hearings might be necessary to resolve several factual and policy issues within this proceeding.

This scoping memo confirms the Commission's preliminary categorization of this proceeding as quasi-legislative. This determination is appealable under the provisions of Rule 7.6. This scoping memo changes the preliminary determination that hearings will not be needed in this proceeding, finding that hearings may be necessary.

4. Scoping Memo

4.1. Scope of the Proceeding

The OIR that launched this rulemaking enumerated and asked for feedback on many issues that could be considered within the scope of this proceeding. The potential scope of this proceeding outlined in the OIR is broad, calling for a review of existing service quality reporting requirements,[3] an assessment of telecommunications corporations' performance on the service

[3] R.11-12-001 at 12. *See also* R.11-12-001 at 13, question 1.

quality standards adopted in GO 133-C,[4] and a determination of the need for these or other reporting requirements, standards, and/or associated enforcement mechanisms in the future.[5] In addition, the OIR suggested several related issues potentially within the scope of this proceeding, including an assessment of the condition and maintenance of telecommunications facilities,[6] and an examination of telecommunications corporations' internal policies and practices that could affect the quality of service experienced by consumers.[7] The OIR further allowed for the scope of this proceeding to include various technological approaches to providing voice telecommunications services, including the use of wire line, wireless, and potentially other ways of accessing voice services through the telecommunications network.[8] This ruling provides further guidance to focus parties' participation at the outset of this proceeding.

The Commission has a statutory duty to ensure that telephone corporations provide customer service that meets reasonable statewide service quality standards including, but not limited to, standards regarding network technical quality, customer service, installation, repair and billing. (D.09-07-019 *at* 12, Pub. Util. Code § 2896.) The Commission also has a responsibility to ensure that services overseen by this Commission are provided in a manner

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[4] R.11-12-001 at 12. *See also* R.11-12-001 at 13, question 3; at 14, question 9; and at 15, question 16.

[5] R.11-12-001 at 13, questions 2, 4, 5, 6, 7, and 8; *see also* at 14, questions 10, 13, and 14.

[6] R.11-12-001 at 15, question 17.

[7] R.11-12-001 at 14, questions 11, 12, and 15.

[8] R.11-12-001 at 14, questions 8 and 13.

consistent with public safety. In D.09-07-019, the Commission found that competition in the California telecommunications market should provide an incentive for carriers to provide high quality service to their customers. Specifically, the Commission stated that "URF carriers operate in competitive markets that provide greater external pressure to ensure service quality and customer satisfaction."[9] This finding provided support for the Commission's determination in 2009 that only minimal service quality standards should be needed to meet the Commission's responsibility to ensure customers receive adequate service quality. One possible conclusion that could be drawn from the service quality results contained in the March 2011 CD report is that existing competitive forces and minimal standards are not sufficient to provide the service quality the Commission is required to ensure, and the level of public safety the Commission is committed to upholding.

Consistent with the Commission's statutory responsibilities in this area and with the goals established in the OIR, the scope of the current phase of this proceeding includes:

1. Examination of past and current carrier service quality performance and the factors (including but not limited to condition of facilities, infrastructure investment policies, and internal procedures and practices for maintenance and emergency response) that influence each company's performance.
2. Assessment of the safety implications of carriers' service quality performance, for example, access to reliable and consistent service throughout areas served.

[9] R.09-07-019 at 40-41 and Finding of Fact 31.

3. Evaluation of the existing service quality standards to determine:
    a. their relevance in the current regulatory environment;
    b. their usefulness in providing customers with information that assists in making informed communications service purchase decisions; and
    c. their usefulness in ensuring adequate service quality for, and meeting the safety needs of, California customers.
4. Determination of the need for new or modified service quality standards and the development of those standards, if any are found to be needed to meet the level of service required by Pub. Util. Code § 451, as well as to support Commission requirements to provide adequate service quality and support public safety.
5. Clarification and standardization of the calculation of reported service quality measures.
6. Determination of the need for enforcement mechanisms and/or penalties tied to underperformance on any service quality standards retained or developed within this proceeding.
7. Assessment of the appropriateness of and need for reporting requirements during emergency situations, and development of such reporting requirements.
8. Any additional issues that may be referred to this proceeding from R.09-06-019[10] or other Commission proceedings, including, as appropriate, any service quality requirements for providers of residential basic telephone service, as ultimately defined in that proceeding.

At this time, a central focus of this proceeding is on service quality for voice communications services provided to customers. An assessment of the

[10] The ongoing High-Cost Fund B proceeding in which the Commission is examining the definition of basic voice service.

quality of other services provided to retail customers, as well as service to wholesale customers, are also within the scope of this proceeding. In addition, depending on the definition of basic telephone service adopted in R.09-06-019, issues related to service quality for all carriers wishing to offer residential basic telephone service may be addressed this proceeding. Additional issues related to the applicability of service quality rules or standards to telecommunications services provided via different technological platforms may be addressed now or in a future phase of this proceeding, or in a successor proceeding, as appropriate.

The scope of this proceeding encompasses any information reasonably necessary for the Commission to make findings on the issues discussed in this section or in the preliminary scope section of the OIR. The assigned Commissioner and/or ALJ may make any revisions or provide further direction regarding the scope of this proceeding and the manner in which issues shall be addressed, as necessary for a full and complete development of the record.

4.2. Focus of Initial Activities

Within the scope of the proceeding outlined above, initial activities will focus on the following questions. For the purposes of this proceeding, the phrase "quality service" means that a customer can place and receive calls, customers can access E911, and calls are free of static or other noise.

1. Are telecommunications facilities being appropriately maintained to ensure quality service is being, and will continue to be, provided to retail and wholesale customers?
    a. What is the current condition of AT&T and Verizon's facilities and infrastructure, including but not necessarily limited to fiber and legacy copper components of the telecommunications network?

b. What actions are AT&T and Verizon taking to ensure that their facilities are maintained at a level that ensures customers receive quality service?

c. Are AT&T and Verizon investments in their facilities and infrastructure adequate to ensure that customers receive quality service?

2. How have telecommunications corporations performed since 2009 relative to the service quality standards adopted in GO 133-C?

   a. How does performance since 2009 compare to performance on the same or similar measures before the adoption of GO 133-C?

   b. To the extent that some telecommunications corporations (e.g. AT&T and Verizon) have not met existing standards for telecommunications services, what led to these failures?

   c. To the extent that some telecommunications corporations have met or exceeded these standards, what factors may explain this performance?

3. Are telecommunications companies providing reliable telecommunications services of sufficient quality to ensure public safety and meet their obligations under state law[11] and Commission directives?

   a. What company business practices (including but not limited to investment planning, procedures for handling of problem tickets, and repair prioritization guidelines) affect the service quality experienced by customers receiving residential basic telephone service, as well as other types of customers?

[11] For example, Public Utilities Code Section 451 requires that telecommunications carriers provide a level of service "…as necessary to promote the safety, health, comfort, and convenience of its patrons…and the public."

b. How do business practices affect the quality experienced by different types of customers (e.g., residential vs. business, retail vs. wholesale, etc.)?

c. What best practices and engineering and design standards could improve the service quality and reliability of telecommunications services?

d. What best practices and engineering and design standards have been developed and/or adopted regarding network reliability since the Federal Communications Commission (FCC) adopted National Outage Reporting System (NORS) reporting in 2004?[12]

e. What, if any, of these best practices or standards should the utilities consider using to improve service quality, or should be adopted for use by utilities?

4. Are existing service quality standards and reporting requirements reasonable, appropriate, and/or sufficient to ensure that California consumers receive adequate service and support public safety?

a. If not, are more or fewer reporting requirements or standards needed?

b. Are current reporting exceptions for emergency situations appropriate? If not, what reporting requirements should apply during emergency situations?

c. What modifications (additions, deletions, or changes) should be made to existing service quality standards and reporting requirements?

d. How should service quality measures (new or existing) be calculated to ensure consistency across carriers and services?

[12] The FCC states that as a result of NORS, they have been able to identify problems, both company specific and network overall, and worked with carriers to develop best practices. *See* FCC 12-22 ¶¶ 13-14 re: VoIP and NORS.

5. If new service quality standards are adopted or existing standards are maintained, should enforcement mechanisms such as penalties apply when telecommunications carriers fail to meet those standards?

    a. If so, what enforcement mechanisms (penalties, citation programs, other) should be adopted?

An immediate focus of this proceeding will be on residential basic telephone services, and on those parts of the telecommunications network that support those services. The Commission may also make findings on issues related to other types of services and/or services provided via different technological platforms, to the extent that the record of this proceeding indicates such findings are appropriate. To facilitate this, information on various telecommunications services and platforms may be collected. This broad approach will ensure that the Commission has adequate information about various types of providers and their services to accurately assess service provided to different types of customers, and to enable comparisons between the service quality experienced by all, regardless of their location within the state (e.g., rural or urban) and the technology used to serve them.

In order to make findings on these issues, this proceeding will include written comments and workshops. Because several of the issues described above raise factual, technical, legal, and policy questions, this proceeding may also include testimony, hearings, and/or briefing, as appropriate. I anticipate that a detailed study of telecommunications network infrastructure, to be conducted within this proceeding by an independent consultant under a contract managed by Commission staff, will provide substantial information relevant to these questions. This study will inform a future determination on whether hearings are needed.

5. Evaluation of Carrier Facilities

In order to maintain acceptable levels of service quality for California customers, it is necessary to ensure that carriers have access to an adequate network of infrastructure. Without ubiquitous functional infrastructure that is adequately maintained, services provided to customers will degrade. In extreme cases, facilities failures will lead to a complete loss of service, including E911, to customers served by those facilities.[13] As a part of our review of the factors that may affect service quality, Communications Division shall oversee an examination of carriers' facilities. This examination will focus on the facilities of AT&T and Verizon, and will be conducted by an independent consultant under a contract managed by Commission staff. I expect that this study will be a foundational activity in this proceeding, providing valuable information that will assist parties and the Commission in addressing the issues within the scope as outlined above.

This examination is likely to include, but may not be limited to, physical inspection of network facilities throughout the state and a review of carrier policies, procedures, and documents. Policies and procedures related to investment, maintenance, and problem ticket response will be assessed, among other subjects. The Communications Division will select a qualified team to conduct the examination via a Request for Proposal (RFP), and will manage the resulting study contract. AT&T and Verizon, as the largest carriers in the state and the ones whose facilities will be examined, shall evenly split the costs of this examination, and will reimburse the Commission's costs for this study. At this

[13] According to CD staff, service disruptions apparently caused by infrastructure failures have already been experienced in some (especially rural) parts of the state.

time, I anticipate that the cost of this study will not exceed $1 million. The amount of funding needed may be increased through a ruling if necessary once bids are received on an RFP for the study. I intend to place this funding requirement on a future Commission agenda for confirmation of the funding mechanism.

6. Schedule

The schedule for the initial activities in this proceeding is outlined in the following table.

Date	Activities
January 31, 2012	Opening comments filed and served.
March 1, 2012	Reply comments filed and served.
March 15, 2012	Requests for evidentiary hearings filed and served.
March 26, 2012	Prehearing Conference
March 30, 2012	Responses to requests for hearing due (filed and served)
May 18, 2012	ALJ ruling requesting data and comments
June 14, 2012	Comments on May 18th ALJ ruling due (filed and served)
July 13, 2012	Reply comments on May 18th ALJ Ruling due (filed and served)
September 2012	Scoping memo issued
Fall 2012	Workshop on Scope for and Structure of an examination of AT&T and Verizon Facilities
End of 2012	Issuance of an RFP on evaluation of AT&T and Verizon facilities and other factors contributing to telecommunications service quality experienced by customers.
First quarter 2013	Hiring of consultant for an examination of AT&T and Verizon Facilities
Fourth Quarter 2013	Distribution of Consultant Evaluation Report

30 days after issuance of Report	Comments on consultant report filed and served
60 days after issuance of Report	Reply comments on consultant report filed and served
60 days after issuance of Report	Motions for hearings due
Spring/Summer 2014	Testimony, Hearings, and/or Briefing, as appropriate
Fall 2014	Estimate for a Proposed Decision

The assigned Commissioner and/or ALJ may modify the scope and schedule provided herein as necessary for the reasonable and efficient conduct of this proceeding.

Several parties articulated in comments, motions, and at the PHC that hearings may be needed on a variety of issues. I decline to formally schedule hearings at this time; the specific subjects appropriate for hearings are more appropriately determined after the issuance of a report on AT&T and Verizon facilities. As provided in the schedule above, if any parties wish to request evidentiary hearings after distribution of the Evaluation Report, they may file a motion requesting hearings. Such a motion shall:

(1) Identify each area of relevant factual inquiry requiring a hearing; and

(2) Identify each material contested issue of fact on which hearings should be held (explaining, as necessary, why the issue is material).

These motions shall also contain requests for briefing, if any, along with an explanation of what issues the parties believe are appropriate for briefing and why. If any party formally requests evidentiary hearings and/or briefing as specified here, I will consider that request and inform parties of whether such

hearings or briefing will be scheduled, and, if so, the dates for those activities. A determination on the need for further procedural measures, including the scheduling of technical workshops and/or evidentiary hearings, will be made in one or more rulings issued by the assigned Commissioner or assigned ALJ.

Pursuant to the authorization conferred by Pub. Util. Code § 1701.5(b), it is expected that this proceeding will be completed within 24 months from the date of this scoping memo. The OIR presents many complex issues, and it is therefore reasonable to adopt a 24-month timeframe for its completion. If additional phases of this OIR prove necessary, a subsequent scoping memo may establish the scope and schedule of those phases.

7. Common Outline for Comments and Briefs

Parties shall use a common outline for all comments and briefs. The outline is to be developed jointly by the parties. Parties may bring any unresolved disputes regarding the outline to the attention of the ALJ at least 15 days before the due date for the relevant filing.

8. Assignment of Proceeding and Presiding Officer

Mark J. Ferron is the assigned Commissioner and Jessica T. Hecht is the assigned ALJ in this proceeding. Pursuant to Rule 13.2(c), the assigned Commissioner is the Presiding Officer in a quasi-legislative proceeding.

9. Ex Parte Communications

Pursuant to Rule 8.2(a), *ex parte* communications will be allowed in this quasi-legislative proceeding without restriction or reporting requirements.

10. Filing, Service and Service List

10.1. Filing, Service and Service List

All formally filed documents in this proceeding must be filed with the Commission's Docket Office and served on the service list for this proceeding. Parties who provide an e-mail address for the official service list may serve documents by e-mail in accordance with Rule 1.10 (and must nevertheless serve a paper copy of all documents on the assigned Commissioner and assigned ALJs, pursuant to Rule 1.10(e)), and are deemed to consent to e-mail service by other parties. If no e-mail address was provided, service should be made by United States mail.

Parties are encouraged to electronically file pleadings pursuant to Rule 1.13(b), as it speeds their processing and allows them to be posted on the Commission's website. More information about electronic filing is available at www.cpuc.ca.gov/puc/efiling.

10.2. Subscription Service

This proceeding can also be monitored by subscribing in order to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at http://subscribecpuc.cpuc.ca.gov/.

10.3. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

11. Confirmation of Party Status

After the PHC, the assigned ALJ granted party status to the Consumer Federation of California informally via an electronic mail ruling on March 28, 2012. That ruling is confirmed here.

12. Intervenor Compensation

Any party intending to seek an award of compensation pursuant to Pub. Util. Code §§ 1801-1812 was required to file and serve a notice of intent to claim compensation (NOI) no later than 30 days after the March 26, 2011 PHC.[14] Four parties to this proceeding filed timely NOIs: the Greenlining Institute, The Utility Reform Network, the Consumer Federation of California, and Center for Accessible Technology.[15] These parties may file an amended NOI not later than 15 days after the issuance of this scoping memo. Under the Commission's Rules, future opportunities may arise for the filing of NOIs, but no such opportunity is guaranteed.

In this proceeding, parties intending to seek an award of intervenor compensation must maintain daily records for all hours charged, with a sufficient description for each time entry. To be considered sufficient to support a request for intervenor compensation, the description must contain more detail than the activity (e.g. "review correspondence" or "research" or "attend meeting"), and shall include references to specific issues and/or documents. In addition, intervenors must classify time by issue.

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[14] Pub. Util. Code § 1804(a)(1), and Rule 17.1(a)(1).

[15] All four of these parties have rebuttable presumptions of eligibility for intervenor compensation in place for this proceeding.

As reflected in the provisions set forth in Pub. Util. Code § 1801.3(f) and § 1802.5, all parties seeking an award of intervenor compensation must coordinate their analysis and presentation with other parties to avoid duplication.

IT IS RULED that:

1. The Commission's preliminary categorization of this proceeding as quasi-legislative is confirmed. This determination is appealable pursuant to Rule 7.6.
2. The Commission's preliminary determination on the need for hearings is changed to reflect that hearings may be needed in this proceeding.
3. Pursuant to Rule 8.2(a), ex parte communications will be allowed in this quasi-legislative proceeding without restriction or reporting requirements.
4. The scope of this proceeding is as set forth in Section 4 of this ruling.
5. The assigned ALJ and assigned Commissioner may make any revisions or provide further direction regarding the scope of this proceeding and the manner in which issues shall be addressed, as necessary for a full and complete development of the record.
6. The initial schedule of this proceeding is as set forth in Section 6 of this ruling.
7. The assigned ALJ and assigned Commissioner may modify the schedule adopted herein as necessary for the reasonable and efficient conduct of this proceeding.
8. Communications Division shall oversee an examination of AT&T's and Verizon's network infrastructure and facilities, as described in Section 5 of this ruling.

9. AT&T and Verizon shall split the costs of this study equally up to $1 million. The amount of funding needed from AT&T and Verizon established here may be increased through a ruling if necessary once bids are received on an RFP for the study. I intend to place this funding requirement on a future Commission agenda for confirmation of this funding mechanism.

10. Parties shall serve all filings as set forth in Section 10 of this ruling.

11. Any procedural directions given in the Order Instituting Rulemaking that are not specifically addressed in this ruling remain unchanged.

12. Commissioner Mark J. Ferron is the assigned Commissioner and presiding officer for this proceeding. Jessica T. Hecht is the Administrative Law Judge assigned to this proceeding.

Dated September 24, 2012, at San Francisco, California.

/s/ MARK J. FERRON
Mark J. Ferron
Assigned Commissioner

(END OF ATTACHMENT A)