



**CALIFORNIA PUBLIC UTILITIES COMMISSION
SAFETY AND ENFORCEMENT DIVISION**

STAFF REPORT

**INVESTIGATION OF COMCAST PHONE OF CALIFORNIA, LLC
AND RELATED ENTITIES
CONCERNING THE UNAUTHORIZED DISCLOSURE
AND PUBLICATION
OF UNLISTED TELEPHONE NUMBERS**

(PUBLIC VERSION)

**BY RAHMON MOMOH
SEPTEMBER 25, 2013**

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1 **I. EXECUTIVE SUMMARY**

2 This Investigative Report by the Safety and Enforcement Division (SED) of the
3 California Public Utilities Commission (Commission) documents the result of SED’s
4 investigation of Comcast Phone of California, LLC (U-5698-C) and its related entities,
5 including Comcast IP Phone II, LLC, (hereinafter collectively “Comcast”), concerning its
6 unauthorized disclosure and publication of the names, telephone numbers, and addresses
7 of over 74,000 Comcast residential unlisted subscribers, i.e., customers who specifically
8 asked Comcast to keep such information private in exchange for a monthly fee.

9 From approximately July 2010 through December 2012, Comcast erroneously
10 sold, leased, and/or released directory listings containing unlisted numbers (with
11 associated names and addresses) to third parties for publication through directory
12 assistance services, printed directories, and/or the Internet. Comcast claims it did not
13 detect this admitted error until early October 2012. Comcast did not report the error to
14 the Commission until January 9, 2013.

15 Based on SED’s investigation, SED recommends that the Commission open a
16 formal investigation through an Order Instituting Investigation (OII) to determine
17 whether Comcast’s actions in disclosing and/or publishing its customers’ confidential
18 unlisted information violated any laws, rules, regulations, and/or orders of this State.

19 Public Utilities (PU) Code section 2891.1 states that “a telephone corporation
20 selling or licensing lists of residential subscribers shall not include the telephone number
21 of any subscriber assigned an unlisted number or unpublished access number.” PU Code
22 section 451 states that “[a]ll charges demanded or received by a public utility... for any
23 product...or service...shall be just and reasonable...” and “[e]very unjust and
24 unreasonable charge demanded or received...is unlawful.”

25 **II. SED INVESTIGATION**

26 SED initiated this investigation on January 9, 2013, after Comcast first informed
27 the Commission of Comcast’s erroneous disclosure of unlisted telephone numbers, as
28 described below. Thereafter, SED issued six sets of data requests to Comcast, with

1 several questions concerning affected customers disputed and still unanswered by
2 Comcast. SED and Comcast are attempting to resolve this dispute concerning the
3 Commission's access to information about Comcast's affected customers. SED's
4 investigation of this matter is ongoing and if necessary, SED will issue a supplemental
5 report.

6 **A. COMCAST'S UNAUTHORIZED DISCLOSURE OF**
7 **CONFIDENTIAL CUSTOMER INFORMATION**

8 **1. Comcast Erroneously Disclosed the Telephone**
9 **Numbers, Names, and Addresses of its Unlisted**
10 **Subscribers**

11 On January 9, 2013, Comcast first reported to Commission staff that since June
12 2011 it had been erroneously posting on its Internet directory, Ecolisting
13 (www.ecolisting.com), the names, telephone numbers, and addresses of over 50,000
14 California residential subscribers who paid Comcast for an "unlisted" telephone number.¹
15 "Unlisted" refers to both "non-published" and "non-listed" telephone numbers.² The
16 term "non-published" means a subscriber's listing information (i.e., name, telephone
17 number, and address) is withheld from published directories and directory assistance.³
18 "Non-listed" means a subscriber's listing information is withheld from published
19 directories but available in directory assistance.⁴ According to Comcast, some of the
20 released unlisted telephone numbers belonged to individuals with domestic violence
21 concerns and/or other personal protection needs.⁵

¹ See **Attachment 1** (Comcast Data Response to DR-TEL-00406-1 (2/15/13), Q.1, at p. 4 [posting on www.ecolisting.com]); see also **Attachment 1** (Comcast Data Response to DR-TEL-00406-1 (2/15/13), Q.2, at pp. 5-6 [description of disclosure and affected customers]); see also **Attachment 1** (Comcast Updated Response to DR-TEL-406-1 (3/26/13), Q.2, at pp. 7-9 [description of disclosure and affected customers]).

² See **Attachment 1** (Comcast Response to DR-TEL-00406-1 (2/15/13), Q.1, p. 1 [definitions of "unlisted," "non-published," and "non-listed"]).

³ See *ibid.*

⁴ See *ibid.*

⁵ See **Attachment 1** (Comcast Data Response to DR-TEL-00406-1 (2/15/13), Q.2(a), at p. 5 [number of affected subscribers] and Comcast Updated Response to DR-TEL-00406-1 (3/26/13),

1 Comcast later corrected in data responses that the erroneous postings had begun in
2 July 2010, rather than June 2011, and that over 74,000 subscribers were affected by
3 Comcast's error, rather than approximately 50,000.⁶

4 Comcast also stated that it had sent letters to affected customers, but did not intend
5 to make any public announcements of its error in releasing the unlisted numbers.⁷
6 Comcast stated that the erroneous postings of unlisted information first occurred in June
7 2011, when Comcast implemented a new process for producing and disseminating listing
8 information for its residential customers.⁸ Comcast claimed it first became aware of the
9 unauthorized disclosures after receiving two customer complaints in the beginning of
10 October 2012. (See Discussion *infra*, section II.D.)

11 Comcast further stated that it was reporting this error on a voluntary basis.⁹
12 Comcast later stated Public Utilities Code section 710 (added by Senate Bill 1161)
13 prohibited the Commission from exercising jurisdiction over this alleged VoIP matter.¹⁰
14 See Discussion below, section II.E, for a detailed explanation of Comcast's objections to
15 SED's requests for information.

Q.2(a), at p. 7 [corrected response to numbers of affected subscribers]); see also **Attachment 1** (Comcast Data Response to DR-TEL-00406-1 (2/15/13), Q.3, at p.7 [subscribers with safety concerns]); see also **Attachment 1** (Comcast Data Updated Response to DR-TEL-406-1 (3/26/13), Q.3, at p. 10 [corrected response to number of subscribers with safety concerns]).

⁶ See **Attachment 1** (Comcast Updated Responses to DR-TEL-406-1 (3/26/13), Q.2, at p.7-9 [updated response re initial release date and affected subscribers]).

⁷ See **Attachment 1** (Comcast Data Response to DR-TEL-00406-1(2/15/13), Q.2(d), at p. 6 [notification letters]); see also **Attachment 1** (Comcast Data Response to DR-TEL-00406-1 (2/15/13), Q.8, at p. 12 [no press releases]).

⁸ See **Attachment 1** (Comcast Data Response to DR-TEL-00406-1 (2/15/13), Q.5, at p. 9 [new process for producing and disseminating listing information]); see also **Attachment 1** (Comcast Updated Response to DR-TEL-406-1 (3/26/13), Q.5, at p. 12 [updated response re new process for producing and disseminating listing information]); see also **Attachment 1** (Comcast Updated Responses to DR-TEL-406-1 (3/26/13), at p. 1 [summary of updated responses]); Q.1[updated response re new process], at p. 5; and Q.2, at pp. 7-9 [updated response re affected subscribers].

⁹ See **Attachment 16** (Comcast Letter, February 15, 2013).

¹⁰ See *ibid.* In response to SED's data requests seeking further information regarding the incident reported to the Commission on January 9, 2013, Comcast objected and claimed that the affected customers belonged to Comcast IP Phone II, LLC ("Comcast IP") rather than Comcast Phone, and therefore P.U. Code § 710 prohibited the Commission from exercising any regulatory jurisdiction or control over this matter.

2. Comcast Produced and Released Erroneous Subscriber Directory Lists Containing Unlisted Subscribers' Confidential Information

According to Comcast, beginning in July 2010 Comcast implemented a new process for producing and disseminating listing information for its residential subscribers. This new process included a new query to extract listing information to third parties for publication in directories.¹¹ Comcast explained,

[Redacted text block]

Specifically, the "new query" was part of a process that Comcast designed to pull residential subscriber listing information from data tables in one of Comcast's billing systems.¹³ Comcast described this new query, stating:

[Redacted text block]

¹¹ See Attachment 1 (Comcast Data Response to DR-TEL-00406-1 (2/15/13), Q.5, at p. 9 [new process for producing and disseminating listing information]); see also Attachment 1 (Comcast Updated Response to DR-TEL-406-1 (3/26/13), Q.5, at p. 12 [updated response re new process for producing and disseminating listing information]); see also See Attachment 5 (Comcast Response to DR-TEL-00406-5 (6/21/13), Q.6(b), at p. 11).

¹² See Attachment 1 (Comcast Updated Response to DR-TEL-00406-1(3/26/13), Q.5 at p. 12).

¹³ See Attachment 5 (Comcast Response to DR-TEL-00406-5 (6/21/13), Q.6(b), at p. 11).

¹⁴ See *ibid.*

1 However, the query at issue here relied on a data table that did not reflect Comcast
2 subscribers’ unlisted status as it should have. Comcast further explained,

3 [Redacted]
4 [Redacted]
5 [Redacted]
6 [Redacted]
7 [Redacted]
8 [Redacted]

9 [Redacted]
10 [Redacted]
11 [Redacted]
12 [Redacted]
13 [Redacted]
14 [Redacted]
15 [Redacted]
16 [Redacted]
17 [Redacted]¹⁵

18 Comcast contracted with Targus Information Corporation (owned by Neustar) to
19 disseminate Comcast’s residential listing information, as discussed further below. Targus
20 then made Comcast’s directory listings available for Comcast’s online directory,
21 Ecolisting (www.ecolisting.com), and to other directory assistance service providers
22 and/or publishers.¹⁶

23 **B. COMCAST PHONE’S ROLE IN THE UNAUTHORIZED**
24 **DISCLOSURE OF CONFIDENTIAL CUSTOMER INFORMATION**

25 **1. Company Background**

26 Comcast Phone of California (“Comcast Phone”) holds a certificate of public
27 convenience and necessity (CPCN), U-5698-C, from the Commission to provide
28 facilities-based and resold local exchange and interexchange telecommunications services
29 in California as a competitive local exchange carrier (CLEC).¹⁷ According to Comcast,

¹⁵ See **Attachment 5** (Comcast Response to DR-Tel-00406-5 (6/21/13), Q.6(b), at p. 12).

¹⁶ See **Attachment 1** (Comcast Second Updated Response to DR-Tel-00406-1 (5/14/13), Q.2(f), at p. 5 [role of Targus/Neustar]).

¹⁷ See D.08-04-042, footnote 1: “The certificate of public convenience and necessity (CPCN) was originally granted to TCI Telephony Services of California, Inc. in D.96-10-064. The

1 Comcast Phone is primarily a wholesale provider offering interconnection and other
 2 regulated services, of which Comcast IP receives through an interconnection agreement
 3 with Comcast Phone.¹⁸ Comcast further claims that Comcast Phone does not offer any
 4 retail services to residential customers, but does have retail business customers.¹⁹

5 Comcast maintains that it provides or provided residential telephone service to the
 6 customers affected by the unauthorized disclosures through its affiliate, Comcast IP²⁰;
 7 this service is known as “XFINITY Voice.”²¹ Comcast advertises XFINITY Voice on its
 8 website simply as a “Comcast” service, rather than one specifically provided by Comcast
 9 IP.²² Similarly, the telephone bill for XFINITY Voice does not list Comcast IP
 10 anywhere.²³ Rather, the bill indicates that it is from “Comcast.”

11 Comcast Phone and Comcast IP have the same officers and principal place of
 12 business.²⁴ Both entities also share some employees, though Comcast cannot clarify the
 13 nature and extent of this commonality, stating generally:

14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]²⁵

facilities-based CPCN was acquired from AT&T Corp. by the renamed AT&T Broadband Phone Company of California, Inc. (AT&T Broadband Phone) in the above-cited D.99-03-019. In D.02-11-025, AT&T Broadband Phone merged with Comcast Business Communications, Inc. and became Comcast Phone-CA. Comcast Phone-CA acquired additional limited facilities-based authority for the service territories of SureWest Telephone and Citizens Telephone Company (dba Frontier Communications Company of California) in D.05-12-031.”

¹⁸ See **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.5, at p. 8); see also **Attachment 10** (Comcast Phone and Comcast IP Interconnection Agreement).

¹⁹ See **Attachment 2** (Comcast Updated Response to DR-Tel-00406-2 (5/14/13), Q.8, at p. 3).

²⁰ See **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.5, at p. 8.)

²¹ See **Attachment 14** (Comcast website, found at <http://www.comcast.com/home-phone-service.html> [last visited August 27, 2013]).

²² See *ibid.*

²³ See **Attachment 15** (Redacted sample of Comcast XFINITY Voice telephone bill).

²⁴ See **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.4, at p.7 [re offices, staff, and officers]).

²⁵ See *ibid.*

1 Comcast admits, without further specificity, that staff from various Comcast entities
2 supports both Comcast Phone and Comcast IP.

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]²⁶

6 With respect to the provision of XFINITY Voice service, staff is informed and
7 believes that Comcast Phone obtains from the North American Numbering Plan
8 (“NANP”)²⁷ the 10-digit telephone numbers (also known as access numbers), which it
9 then assigns to Comcast IP for use by XFINITY Voice subscribers as their residential
10 telephone numbers.²⁸ Staff is informed that only a service provider that has a license or
11 authority issued by the FCC or a state regulatory body, such as Comcast Phone, may
12 obtain numbers from the NANP.²⁹ Neustar, which owns the Comcast vendor (Targus)
13 who distributes and publishes Comcast’s directory listings, is also the FCC-delegated
14 entity that administers the NANP.³⁰

15 **2. Comcast Phone’s Involvement in the Production**
16 **and Distribution of Comcast’s Residential**
17 **Directory Lists**

18 Comcast has informed staff that it contracts with a vendor, Targus/Neustar, to
19 distribute and publish Comcast’s directory listings pursuant to the *Directory Listing*
20 *License and Distribution Agreement*.³¹ The contract states that it is between Comcast

²⁶ See *ibid.*

²⁷ NANP is an integrated telephone numbering plan serving 20 North American countries, including the United States. AT&T developed the North American Numbering Plan in 1947 to simplify and facilitate direct dialing of long distance calls. Implementation of the plan began in 1951. NANP numbers are ten-digit numbers consisting of a three-digit Numbering Plan Area (NPA) code, commonly called an area code, followed by a seven-digit local number. See NANP website, at http://www.nanpa.com/about_us/abt_nanp.html (last visited August 27, 2013). NANPA, currently operated by Neustar, administers The North American Numbering Plan (NANP).

²⁸ See **Attachment 10** (Comcast Phone and Comcast IP Interconnection Agreement).

²⁹ See 47 CFR § 52.15(g)(2)(i).

³⁰ See fn. 27, *supra*.

³¹ See **Attachment 11** (*Directory Listing License and Distribution Agreement*).

1 Cable Communications Management, LLC, on behalf of itself and its Comcast local
 2 exchange carrier (LEC) affiliates, and Targus.³² A representative of Comcast Phone,
 3 LLC, which owns ██████████% of Comcast Phone of California, executed the contract.³³
 4 Comcast IP was not a party to the contract.

5 Comcast Phone of California is an affiliate of Comcast IP and other Comcast
 6 entities, as shown in the corporate structure document of Comcast Phone.³⁴ Comcast
 7 Phone is a LEC. More specifically, it is what is known in the industry as a competitive
 8 local exchange carrier (CLEC).³⁵ While Comcast IP is also an affiliate of Comcast,³⁶
 9 Staff is informed and believes that Comcast IP is not licensed by the Commission or the
 10 FCC as a LEC.

11 Pursuant to the *Directory Listing License and Distribution Agreement*, Comcast
 12 released to Targus/Neustar Comcast's residential subscriber list information.³⁷ In turn,
 13 Targus/Neustar made the directory listing information available for Comcast's online
 14 directory database, Ecolisting (www.ecolisting.com), and to other directory publishers.³⁸

15 The *Directory Listing License and Distribution Agreement* states in relevant part:

16
 17
 18

██
 ██
 ██

³² See **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (5/14/13), Q.2(f), at p. 5 [Comcast relationship with Targus/Neustar]).

³³ See **Attachment 11** (*Directory Listing License and Distribution Agreement*, at p. 12 [signed by ██████████, VP Carrier Management, Comcast Phone, LLC]); see also **Attachment 2**, Comcast Response to DR-TEL-00406-2 (3/26/13), Q.2, at p. 5 [Comcast Corporation corporate structure document]; see also **Attachment 8** [Comcast Phone of California Corporation structure document].

³⁴ See **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.3, at p. 6 [relationship of Comcast Phone and Comcast IP to Comcast Corporation]); see also **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.2, at p. 5 [Comcast Corporation corporate structure.]); see also **Attachment 8**.

³⁵ See fn. 17, *supra*; see also D.08-04-042.

³⁶ See **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.3, at p. 6, Comcast attachment documents]).

³⁷ See **Attachment 1** (Comcast Updated Response to DR-Tel-00406-1 (3/26/13), Q.2(f), at p. 8.)

³⁸ See *ibid.*

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]

5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]

8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]³⁹

11 The *Directory Listing License and Distribution Agreement* further states that
 12 Targus is Comcast Phone’s Distribution Agent.⁴⁰ According to the contract, as Comcast
 13 Phone’s agent, Targus is to provide Comcast’s directory listing information to all eligible
 14 recipients as if Comcast Phone provided the listings itself. Specifically, the contract
 15 states:

16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]⁴¹

21 Before Targus/Neustar became Comcast’s vendor for disseminating Comcast’s
 22 residential subscriber lists for directory assistance and directory publishing purposes,
 23 Comcast Phone disseminated those lists directly to other telephone carriers.⁴² In
 24 explaining Comcast Phone’s role in disseminating Comcast’s residential directory lists,
 25 Comcast stated:

³⁹ See **Attachment 11** (Directory Listing License and Distribution Agreement, at p.1).
⁴⁰ See *id.* at 2.
⁴¹ See *ibid* (emphasis added).
⁴² See **Attachment 5** (Comcast Response to DR-TEL-00406-05 (6/21/13), Q.6(a), at p. 11 [Comcast Phone’s role in disseminating Comcast’s residential directory lists before Targus became Comcast’s agent]).

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]⁴³

C. COMCAST’S ERROR AFFECTED OVER 74,000 CUSTOMERS

23
 24 Currently, the number of affected California⁴⁴ Comcast residential subscribers has
 25 reached over 74,000.⁴⁵ These subscribers paid Comcast from \$1.25 to \$1.50 per month
 26 to have an “unlisted” residential phone number (some affected subscribers had multiple
 27 numbers).⁴⁶ Approximately [REDACTED] % of Comcast residential subscribers pay to have

⁴³ See **Attachment 5** (Comcast Response to DR-TEL-00406-5 (6/21/13), Q.6(a), at p. 11 [Comcast Phone’s role in disseminating Comcast’s residential directory lists before Targus became Comcast’s agent]).

⁴⁴ It appears from the complaints found online that the unauthorized disclosures of unlisted subscriber information may have affected consumers in other states. See e.g., fn. 58, *infra*.

⁴⁵ See **Attachment 1** (Comcast Updated Responses to DR-TEL-406-1 (3/26/13), Q.2, at p. 7 [updated response re affected subscribers]).

⁴⁶ See **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.1, at p. 4 [prices for non-published and non-listed numbers]); see also **Attachment 17** (Comcast’s California pricing lists found at Comcast website: <http://cdn.comcast.com/~Media/PDFs/Phone%20Terms%20of%20Service/Comcast%20Digital%20Voice%20->

1 their numbers unlisted.⁴⁷ Of this, approximately ██████████% are affected by Comcast's
2 error.⁴⁸

3 **1. Assurances by Comcast to Subscribers with** 4 **Unlisted Telephone Numbers**

5 On Comcast's website for XFINITY Voice, Comcast provides customers with
6 information on how to keep their telephone numbers from being published on Ecolisting,
7 Comcast's online directory:

8 As an XFINITY Voice subscriber, you can choose to publish
9 or not publish your number in our Comcast Ecolisting online
10 directory. Here's everything you need to know about our
11 directory listing guidelines.
12

13 ...If you want to keep your telephone number private, you
14 can request "non-published status". This means your number
15 will be made unavailable both in directories and directory
16 assistance.⁴⁹

17 When Comcast advertised its new online directory assistance service, Ecolisting,
18 Comcast told customers that Comcast would continue to ensure that unlisted names and
19 numbers would not be distributed to phone book publishers, online directories, or
20 directory assistance.⁵⁰

21 **2. Customer Complaints**

22 As part of SED's investigation, SED sought further information from Comcast
23 concerning the affected subscribers and requested that Comcast provide SED with

[%20Residential/State%20Pricing%20Lists/California/California_pricing_list.pdf?vs=7](#) [last visited August 27, 2013]).

⁴⁷ See **Attachment 2** (Comcast Response to DR-TEL-00406-2 (3/26/13), Q.10, at p. 13 [number of customers paying for "non-published" or "non-listed" status as of 12/31/12]).

⁴⁸ See *ibid.*

⁴⁹ See **Attachment 18** (Comcast XFINITY Voice website concerning Comcast's Ecolisting online directory, also found at <http://customer.comcast.com/help-and-support/phone/directory-listing-guidelines/> [last visited August 27, 2013]).

⁵⁰ See **Attachment 19** (Supplemental to Comcast response to CPUC DR-3-26, July 31, 2013, [Comcast July 29, 2013 Response to AG Second Information Request) Bates # Comcast_AG_000747, Screenshot of Ecolisting advertisement, 8/25/11]).

1 specific information relating to inquiries or complaints received by Comcast concerning
2 its unauthorized disclosure of unlisted telephone numbers. SED requested the following
3 information:

- 4 • For the incident reported to the CPUC on January 9, 2013,
5 please provide a list of customers that filed complaints
6 with Comcast regarding release of unlisted names and
7 phone numbers.⁵¹
- 8 • For the incident reported to the CPUC on January 9, 2013,
9 please provide details on how Comcast responded to each
10 complaint including copies of any correspondence.⁵²
- 11 • Provide the contact information for the [REDACTED]
12 customers that raised personal safety concerns.⁵³
- 13 • For the period January 1, 2009 to present, please provide
14 all communication from consumers to Comcast or any
15 entity conducting business, including customer relations
16 services, on behalf of Comcast, that relates to or concerns
17 Comcast IP's unauthorized publishing of Comcast IP's
18 subscribers' unlisted telephone numbers (including both
19 non-published and non-listed telephone numbers) on
20 www.ecolisting.com.⁵⁴
21

22 Comcast objected to providing responses to the aforementioned data requests
23 contending that the Commission does not have jurisdiction to obtain that information
24 from Comcast because the affected customers belonged to Comcast IP not Comcast
25 Phone, and further that the information sought is protected by federal and state privacy
26 laws.⁵⁵ To date the above data requests remain largely unanswered.

⁵¹ See **Attachment 7** (SED Data Request DR-TEL-00406-1 (2/1/13), Q.11, at p. 4).

⁵² See **Attachment 7** (SED Data Request DR-TEL-00406-1 (2/1/13), Q.12, at p. 4).

⁵³ See **Attachment 7** (SED Data Request DR-TEL-00406-3 (4/11/13), Q.12, at p. 4).

⁵⁴ See **Attachment 7** (SED Data Request DR-TEL-00406-5 (6/6/13), Q.5, at p. 4).

⁵⁵ See e.g., **Attachment 3** (Comcast Response to DR-TEL-00406-3 (5/14/13), Q.16, at p. 19 [objections to request for contact information for customers that raised safety concerns]); see also **Attachment 1** (Comcast Supplemental Objections and Responses to DR-TEL-00406-1 (6/12/13), Q.11, at pp. 1-2 [objections to providing list of customers that filed complaints with Comcast re unauthorized disclosure of unlisted numbers]).

1 **a) Internet Complaints**

2 In addition to seeking consumer complaint information from Comcast, SED
 3 conducted Internet searches for complaints concerning Comcast subscribers' unlisted
 4 telephone numbers being published. SED found complaints posted online, some at
 5 Comcast's own help and support forums (<http://forums.comcast.com/>) dating back as
 6 early as March 2010 and as recent as August 13, 2013.⁵⁶ SED also found similar
 7 Comcast consumer complaints posted on other consumer online forums.⁵⁷ Below are
 8 examples of the complaints SED found.

- 9 • February 4, 2010, <http://www.pissedconsumer.com/>, Review #: 170070,
 10 Complainant posted, **Comcast published my address and a convicted felon has it:**
 11 *Perviously (sic) we had phone service through verizon and had always kept our*
 12 *name, number, and address unlisted. when we switched our phone to comcast I*
 13 *asked them if they would keep it unlisted. they said no problem. a few months*
 14 *later I looked our name up in a phone book. there I was. I called comcast and*
 15 *told them that my number had to be unlisted. again they promised to take care of*
 16 *it. We moved and I transferred service. we decided to keep the same phone*
 17 *number. I told them that they had screwed up and published my number before. I*
 18 *was very specific that with this move my number had to be unpublished. They said*
 19 *no problem. I trusted the companies word that this was going to be taken care of.*
 20 *I didn't look up my name. a few days ago I received a letter at the address that*
 21 *was supposedly unlisted. this letter was from a violent convicted felon. This felon*
 22 *was the reason for making sure that my number was unlisted....the really crazy*
 23 *part is that this felon will be transferred to a prison just blocks from my house.[]*
 24 *what is going to stop him from swinging by upon release'. I called comcast!. It*
 25 *took days to get a supervisor to call me back!. Once I finally got one they were*
 26 *worthless!. they told me that they had no record on their end regarding my 3*
 27 *previous attempts to make my number unlisted/. Of course they won't take*
 28 *responsibility for putting my children, husband and self in serious danger/. I'm*
 29 *sure that in the days that it took to get a call back..they go (sic) rid of any*
 30 *notations regarding my requests. I was told that now they will make my number*
 31 *unlisted. My question is...what does that do for me???? the violent person that I*
 32 *needed to keep my address away from already has it. I told them to do it anyway.*
 33 *they then said there would be a service fee...WHAT????...not only did they do this*
 34 *to us.. now we are going to be charged!!!! I then asked them how do I know that*
 35 *my number is going to be unlisted...Now I have no trust with anything they tell*

⁵⁶ See **Attachment 20** (Consumer Complaints from Comcast Help and Support Forums).

⁵⁷ See **Attachment 21** (Consumer Complaints from Other Consumer Online Forums).

1 *me.[] He said that I should be trusting because he was putting in a work order as*
 2 *we spoke. I asked to have a copy of the work order. He said they don't do that. so*
 3 *now I have no proof that this conversation ever happened.[] On top of that he*
 4 *said that the new round of listing (sic) may have already been sent to businesses*
 5 *like the white pages. He said that there was a small window of opportunity to stop*
 6 *listing from being published. so he's going to charge me and he still can't promise*
 7 *that my number is going to be unlisted...I am so angry....*⁵⁸

- 8 • March 27, 2010, Comcast Help Support Forums, (<http://forums.comcast.com/>),
 9 nalmquist posted, ***Unlisted Phone Numbers Published on the Net: I also have***
 10 ***not had my address listed for a number of years for a reason. Yet when signing up***
 11 ***with Comcast, my address is listed all over the internet and in the printed phone***
 12 ***book. Due to an abusive relationship and restraining order, my address needs to***
 13 ***be kept unpublished.***⁵⁹
- 14 • February 28, 2011, Comcast Help and Support Forums,
 15 (<http://forums.comcast.com/>), SouSay posted, ***Unlisted Phone Still Being Listed:***
 16 ***This has been an ongoing situation ever since we switched to Comcast. I was***
 17 ***assured everything had been cleared up and I believed it had been. However, I***
 18 ***discovered Comcast sold my unlisted name, phone, and address AFTER they had***
 19 ***claimed to have straighten this all out. Again I am listed in public phone books***
 20 ***and all over the net. I have paid for a service to help find and get off my***
 21 ***information off the net but the damage has been done. Not every source will***
 22 ***remove my information. This has taken me hours and hours over weeks and***
 23 ***months. I did not create this mess but I am left to clean it up. I called the phone***
 24 ***books I found our names in and they told me the information has been sold to them***
 25 ***in April 2010 by Comcast. What is even harder to understand is why we have***
 26 ***been paying to be unlisted all along yet our personal and private information has***
 27 ***been sold. Again. And after we were told it had been straightened out. I want to***
 28 ***know how this is going to be worked out to my satisfaction.***⁶⁰

⁵⁸ See **Attachment 21(a)** (Consumer Complaints from Other Consumer Online Forums, also found at <http://www.pissedconsumer.com/reviews-by-company/comcast/comcast-published-my-address-and-a-convicted-felon-has-it-20100204170070.html> [last visited August 27, 2013]). SED notes that this complainant was located in Monroe, Washington.

⁵⁹ See **Attachment 20(a)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Customer-Service/Unlisted-Phone-Numbers-Publishd-on-the-Net/m-p/769430/highlight/true#M3245> [last visited August 27, 2013]).

⁶⁰ See **Attachment 20(b)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Customer-Service/Unlisted-Phone-STILL-being-listed/m-p/887525/highlight/true#M8033> [last visited August 27, 2013]). SED notes that on or about March 1, 2011, it appears Comcast escalated this complaint to its Regional Office.

- 1 • February 20, 2012, CBS Sacramento (<http://sacramento.cbslocal.com>), news
2 article, ***Call Kurtis: They Published My Unlisted Phone Number*** (“Stepping
3 *outside onto her backyard deck, Kim Jason dialed 411 and waited. ‘Rio Linda for*
4 *a Kim Jason,’ she said. Within seconds, she got not only her own phone number*
5 *but her home address as well. ‘And I’m paying for a non-listed phone number,’*
6 *she said, hanging up, frustrated. For the past 19 months, Jason has paid \$1.50*
7 *per month on her Comcast bill because she didn’t want people to know where to*
8 *find her. ‘I’ve called them numerous times,’ she said. ‘I paid for a service. I want*
9 *my service!’”).⁶¹*
- 10 • April 9, 2012, Comcast Help and Support Forums, (<http://forums.comcast.com/>),
11 Report2All posted, ***Let’s see what corporate does: So! I’ve experienced a very***
12 ***bad issue with Comcast! They have put my life in danger & this is not even the***
13 ***littlest bit of exaggerating. They put our phone numbers as listed when they were***
14 ***suppose to be un listed, unpublished! I’m tired of getting the run around & have***
15 ***now contacted corporate office, being paraplegic already how am I suppose to***
16 ***protect myself from a man that has threatened to kill me with an ak57, or other***
17 ***guns. Yet Comcast puts my number out there for him to get n see, and then they***
18 ***give me the run around. Wow! Shows they care. Wonder how many other people***
19 ***they have put in danger yet don’t care if they get killed or not! Just today when I***
20 ***called the corporate office & spoke with the supposedly executive office, they still***
21 ***didn’t seem to care! Wow! So when I get killed I guess they still won’t care there’s***
22 ***more customers out there to get to buy there services! Wow! This is what gets***
23 ***me!***⁶²
- 24 • June 20, 2012, Comcast Help and Support Forums, (<http://forums.comcast.com/>),
25 dorie-s posted, ***Phone book listings: We are paying Comcast for an unlisted***
26 ***number – but it keeps getting published in the AT&T phone book as well as the***
27 ***Valley Yellow Pages. Why are we paying if it still gets published?***⁶³
- 28 • July 29, 2012, Comcast Help and Support Forums, sleepycat posted, ***Comcast***
29 ***published my “non-published” phone number: I’ve had the same phone number***
30 ***for 13 years, always non-published, unlisted, whatever you call it. I work in the***

⁶¹ See **Attachment 21(b)** (Consumer Complaints from Other Consumer Online Forums, also found at <http://sacramento.cbslocal.com/2012/02/20/call-kurtis-they-published-my-unlisted-phone-number/> [last visited August 27, 2013]).

⁶² See **Attachment 20(c)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Customer-Service/Let-s-see-what-corporate-does/m-p/1249511/highlight/true#M21360> [last visited August 27, 2013]).

⁶³ See **Attachment 20(d)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Customer-Service/Phone-book-listings/m-p/1320451/highlight/true#M23729> [last visited August 27, 2013]).

1 *criminal justice system and need to maintain my privacy. I switched to Comcast*
 2 *less than 2 months ago and specifically asked for my number to remain non-*
 3 *published. The monthly non-published fee is listed on my bill. However, my phone*
 4 *number, along with my address, now shows up in online searches and I've started*
 5 *getting telemarketing calls. I logged into my account at digitalvoice.comcast.net*
 6 *and there it is, my phone number and the notation "published". I called customer*
 7 *service and had a live chat - Comcast reps say my phone number is indeed non-*
 8 *published, but they can't explain why it appears as published on their own website*
 9 *and in online searches. Any help?⁶⁴*

- 10 • September 15, 2012, Comcast Help and Support Forums,
 11 (<http://forums.comcast.com/>), whydoipayu posted, **NEVER, EVER USE**
 12 **COMCAST – COMCAST SERVICE SUCKS / BILLING DEPT DOESN'T**
 13 **SPEAK ENGL:** *Same experiences here, nonstop since starting service. The*
 14 *problem is that no only do none of the reps know what's going on, they get nothing*
 15 *done, lie saying they did, then when you get the next rep the cycle continues. My*
 16 *phone number was constantly bombarded by sales calls, I called cx support to get*
 17 *an unlisted number which for some reason I need to pay \$2 for to make up for the*
 18 *lost ad revenue on comcast's part. THE LOCAL PHONE BOOK INFORMED ME*
 19 *THAT MY NUMBER IS LISTED. Upon asking a rep why I was ignored and told*
 20 *that they had made the change NOW. No explanation whatsoever, they ignore*
 21 *their mistakes completely. Asking for a supervisor as the rep refused to explain*
 22 *what had hapenned I was put on hold for a while then told I would have to wait for*
 23 *a call back that never came. I dont even need this phone line anyway, but I am*
 24 *forced to keep it because of comcasts pricing game. If I were to cancel my internet*
 25 *price would go higher than the phone+internet bundled. Next time I speak to*
 26 *comcast it will be to discontinue service. And why do we put up with this in the*
 27 *first place? Comcast trying to position themselves as the ONLY option.⁶⁵*
- 28 • February 13, 2013, Comcast Help and Support Forums
 29 (<http://forums.comcast.com/>), fieldswb posted, **Paying for unlisted number:** *Why*
 30 *are you still charging me to have an unlisted number when you screwed up and*

⁶⁴ See **Attachment 20(e)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Voice-Service-and-Equipment/Comcast-published-my-quot-non-published-quot-phone-number/m-p/1361385/highlight/true#M12520> [last visited August 27, 2013]). SED notes that on July 2012 a Comcast Administrator, replied to this post stating, "I am sorry for the trouble this is causing. I will have this addressed for you. Please send me your contact and account information to my inbox. I sent you a message for you to reply to. Thank you, Comcast Vic."

⁶⁵ See **Attachment 20(f)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Customer-Service/NEVER-EVER-COMCAST-CUSTOMER-SERVICE-SUCKS-BILLING-DEPT/m-p/1352237/highlight/true#M25007> [last visited August 27, 2013]).

1 *published it anyway. Once you publish a number, you cannot go back and undo it.*
 2 *I am guessing you are charging everyone of your customers who wanted unlisted*
 3 *phone numbers the same even though you didn't provide the service.⁶⁶*

- 4 • February 21, 2013, Comcast Help and Support Forums
 5 (<http://forums.comcast.com/>), Halfton57 posted, ***Comcast published my unlisted***
 6 ***number: I'd been wondering why I've been getting so many calls from sales***
 7 ***people lately trying to sell me everything under the sun. Well...I recently received***
 8 ***a letter from Comcast apologizing for inadvertently publishing my unlisted***
 9 ***number. Apologize my foot, they ought to reimburse me for the inconvenience and***
 10 ***aggravation!!!***⁶⁷
- 11 • August 13, 2013, Comcast Help and Support Forums
 12 (<http://forums.comcast.com/>), Draggndly posted, ***Unlisted/unpublished phone***
 13 ***number (sic): When I got Comcast 19 months ago, I specifically (sic) told them I***
 14 ***wanted my phone number unlisted/unpublished. I am being charged for this but***
 15 ***my number continues to show up when I call people. I called Comcast twice about***
 16 ***this and my number is still showing up. Also, I am always getting calls from***
 17 ***people wanting to make reservations for renting a room.....***⁶⁸

18 These internet complaints show that consumers were complaining to Comcast about the
 19 unauthorized disclosures of unlisted customer information years earlier than October
 20 2012, the date Comcast claims it first became aware of the unauthorized disclosures.

21 **b) Commission Complaints**

22 Similarly, prior to October 2012, the Consumer Affairs Branch (CAB) of the
 23 Commission also received several complaints from Comcast subscribers about their
 24 unlisted numbers being published.⁶⁹ Below are four complaints received by CAB.

⁶⁶ See **Attachment 20(g)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Voice-Service-and-Equipment/Paying-for-unlisted-number/m-p/1584455/highlight/true#M14425> [last visited August 27, 2013]).

⁶⁷ See **Attachment 20(h)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Voice-Service-and-Equipment/Comcast-published-my-unlisted-number/m-p/1594721/highlight/true#M14525> [last visited August 27, 2013]).

⁶⁸ See **Attachment 20(i)** (Consumer Complaints from Comcast Help and Support Forums, also found at <http://forums.comcast.com/t5/Voice-Service-and-Equipment/Unlisted-unpublished-phone-number/m-p/1784330/highlight/true#M16371> [last visited August 27, 2013]).

⁶⁹ See **Attachment 22** (Complaints received from the Commission's Consumer Affairs Branch (CAB)). Due to the different coding procedures by the Commission's Consumer Affairs Branch

- 1 • January 14, 2009, Customer Number 16629, notes from CAB representative:
 2 *Consumer complains that he pays Comcast for service and also for home phone*
 3 *number to be unlisted. Recently received new phone book and he found his name*
 4 *and number is listed in book. States he called Comcast and they do nothing.*
 5 *Requested to speak w/Supervisor and rep transfers call from one rep to another,*
 6 *never able to speak with Supervisor. Consumer did not want me to call utility -*
 7 *suggested he put complaint in writing to have on record.*⁷⁰
 8
- 9 • December 2011, Customer Number 200655, customer wrote: *With my Dec.*
 10 *Comcast/Xfinity bill I recd a flier outling Xfinitys www.ecolistng.com ecofriendly*
 11 *phone book alternative. The last paragraph 'current Comcast customers with*
 12 *non-listed and non-published numbers will not see a change to their status.'* *I*
 13 *have always paid for a non-published number (over 3 years with Comcast) and*
 14 *they chose to list my non-published phone number on their ecolisting website.*
 15 *They politely offered me a \$1.50 refund and after I asked, I was told it would take*
 16 *a month to remove my information. The ecolisting website should be shut down*
 17 *until Comcast/Xfinity insures that the customers who have paid for non-published*
 18 *service phone numbers are not listed and offer new phone numbers to customers*
 19 *whose privacy rights were violated.*⁷¹
 20
- 21 • May 5, 2012, Customer Number 225255, customer wrote: *I have Comcast and*
 22 *have had the service (cable, phone and internet) for over 20 years. I have always*
 23 *requested for my number and address to be unlisted. In fact I agreed to pay for an*
 24 *unlisted number. Comcast sold my information without my consent and now all of*
 25 *my information (name, Full address and number) is listed in the YP (AT&T). I*
 26 *have never had AT&T service, called, and found out Comcast sold my*
 27 *information. Comcast called and admitted it was a mistake, apparently when I*
 28 *made a change in my promotion the rep. forgot to include my unlisted information*
 29 *request. I am very upset because my information is in this book until 2013. I just*
 30 *came from an abusive relationship now my abuser can just pick up the YP book to*
 31 *find me....I would like to know what are my rights when a company breeches*

with respect to Comcast complaints, the Commission may have received more than the four complaints included in this Staff Report concerning the publishing of Comcast subscribers' unlisted numbers. SED is still in the process of locating other complaints involving the unauthorized disclosure of unlisted numbers that the Commission may have received. Staff notes that Comcast provided several customer complaints received from the Federal Communications Commission (FCC) and two customer complaints from the Better Business Bureau (BBB). **See Attachment 23.**

⁷⁰ See **Attachment 22(a)** (CAB Complaint Number 16629, January 14, 2009).

⁷¹ See **Attachment 22(b)** (CAB Complaint Number 200655, December 2011).

1 *privacy laws?...how dare they sell my information without my consent especially*
 2 *to a company I never had service with.*⁷²
 3

- 4 • August 28, 2012, Customer Number 238897, notes from CAB representative:
 5 *Consumer states that he put in a request to not have his number and address*
 6 *published in the phone directory....the info is listed in the p/book.....trsf'd the*
 7 *consumer to the E/office for assistance.*⁷³

8 **3. Customers were Angry that Comcast Disclosed**
 9 **Their Unlisted Information, Some Fearing for**
 10 **Their Safety**

11 From the complaints SED found, most customers expressed frustration and anger
 12 regarding their attempts to resolve the issues caused by Comcast's unauthorized
 13 disclosure of their unlisted information, some fearing for their safety. For example, the
 14 April 9, 2012 complainant wrote, "They have put my life in danger & this is not the
 15 littlest bit of exaggerating....I'm tired of getting the runaround & have now contacted
 16 corporate office, being paraplegic already how am I suppose (sic) to protect myself from
 17 a man that has threatened to kill me with an ak57...."⁷⁴ The February 28, 2011
 18 complainant wrote about paying for a service to assist with removing his or her unlisted
 19 information from the Internet, as well as the hours spent, over the span of months,
 20 attempting to resolve this issue with Comcast.⁷⁵

21 Another subscriber declared, "I've called them [Comcast] numerous times" and
 22 exclaimed, "I paid for a service. I want my service!"⁷⁶ Another subscriber further stated,

⁷² See **Attachment 22(c)** (CAB Complaint Number 225255, May 5, 2012).

⁷³ See **Attachment 22(d)** (CAB Complaint 238897, August 28, 2012).

⁷⁴ See fn. 62, *supra*; see also **Attachment 23** (e.g., FCC Complaint number 13-C00468870-1, February 4, 2013 ["The longer my information is out there, the worse the issue gets, yet still no action. I have paid for unpublishing my information for years as I testified in a murder trial. Now, my wife, children, and I are [a]ll in danger; and I have nowhere to turn. I live in California, but Ca PUC 2891.1 apparently has no teeth. Is there no recourse????"]).

⁷⁵ See fn. 60, *supra*.

⁷⁶ See fn. 61, *supra*.

1 “so he [Comcast customer service representative] is going to charge me and still he can’t
2 promise that my number is going to be unlisted...I am so angry.”⁷⁷

3 Other complainants complained:

- 4 • *No explanation whatsoever, they ignore their mistakes*
5 *completely. Asking for a supervisor as the rep refused to*
6 *explain what had happened I was put on hold for a while*
7 *then told I would have to wait for a call back that never*
8 *came;*⁷⁸
- 9 • *Why are you still charging me to have an unlisted number*
10 *when you screwed up and published it anyway. Once you*
11 *published a number, you cannot go back and undo it;*⁷⁹
- 12 • *Apologize my foot, they ought to reimburse me for the*
13 *inconvenience and aggravation!!!;*⁸⁰
- 14 • *I am very upset because my information is in this book*
15 *until 2013. I just came from an abusive relationship now*
16 *my abuser can just pick up the YP book to find me....*⁸¹

17 **D. COMCAST FAILED TO DETECT THE UNAUTHORIZED**
18 **DISCLOSURES FOR MORE THAN TWO YEARS AFTER IT**
19 **IMPLEMENTED THE NEW QUERY PROCESS THAT**
20 **PURPORTEDLY RESULTED IN THE ERROR**

21 Although Comcast contends it did not discover the unauthorized disclosure of
22 unlisted information until early October 2012, after it received two customer complaints,
23 SED staff found a customer complaint posted on Comcast’s own Help Support Forum as
24 early as March 27, 2010. Because of the existence of complaints dating much earlier
25 than October 2012, staff believes that Comcast knew or should have known about the
26 unauthorized disclosure of confidential customer information earlier than October 2012.

⁷⁷ See fn. 58, *supra*.

⁷⁸ See fn. 65, *supra*.

⁷⁹ See fn. 66, *supra*.

⁸⁰ See fn. 67, *supra*.

⁸¹ See fn. 72, *supra*.

1 Comcast explained to staff how it became aware of and detected its error, stating:

2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]⁸²

8 Later, in response to SED’s follow-up data request concerning Comcast’s
9 “investigation of a few customer inquiries,” Comcast provided the following response, in
10 part:

11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]

- 20 • [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
- 23 • [REDACTED]
 24 [REDACTED]
 25 [REDACTED]
 26 [REDACTED]
 27 [REDACTED]
 28 [REDACTED]⁸³

29 Assuming that Comcast first discovered its directory listings error in October
30 2012, then this would mean that Comcast failed to detect the unauthorized disclosures
31 approximately 27 months after the implementation of the new query process that
32 Comcast claims led to the error.

⁸² See **Attachment 1** (Comcast Updated Responses to DR-TEL-00406-1 (3/26/13), Q.5, at p. 8).

⁸³ See **Attachment 6** (Comcast Response to DR TEL-00406-6 (7/31/13), Q.1, at p. 4).

1 When SED staff inquired whether Comcast performs searches on the Internet for
 2 customer complaints, Comcast responded that it regularly does searches on Internet and
 3 social media platforms.⁸⁴ These results help Comcast identify and address customer
 4 concerns.⁸⁵ Comcast did not provide SED with its Internet search results because
 5 Comcast claims it does not have them, stating it “[REDACTED]
 6 [REDACTED]”⁸⁶

7 **E. COMCAST OBJECTED TO SED’S DATA REQUESTS,**
 8 **CLAIMING LACK OF JURISDICTION**

9 On February 1, 2013, SED submitted its first set of data requests to Comcast to
 10 obtain further details of the disclosure of unlisted subscriber information that Comcast
 11 reported on January 9, 2013.⁸⁷ In addition to requesting information about the entities
 12 involved, the data request asked about the cause of the unauthorized disclosures, the
 13 number of customers affected, the total number and records of complaints Comcast
 14 received, the number of customers with safety concerns, and the remedial measures taken
 15 by Comcast.⁸⁸

16 Comcast responded to SED on February 6, 2013, noting “the information that you
 17 seek in data request DR-TEL-00406-1 pertains to VoIP services offered by Comcast’s
 18 unregulated affiliate. Accordingly, the Commission’s authority over these VoIP services
 19 and its unregulated affiliate is restricted by law.”⁸⁹ At that time Comcast agreed to
 20 provide the responses on a voluntary basis pursuant to a non-disclosure agreement with

⁸⁴ See **Attachment 3** (Comcast Supplemental Objections and Responses to DR-TEL-00406-3 (6/12/13), Q.14, p. 4).

⁸⁵ See **Attachment 3** (Comcast Supplemental Objections and Responses to DR-TEL-00406-3 (6/12/13), Q.14(a), p. 4).

⁸⁶ See **Attachment 3**, Comcast Supplemental Objections and Responses to DR-TEL-00406-3 (6/12/13), Q.14(c), p. 5).

⁸⁷ See **Attachment 7** (SED’s six sets of Data Requests to Comcast).

⁸⁸ See **Attachment 7** (SED DR-TEL-00406-1 (2/1/13)).

⁸⁹ See **Attachment 16** (Comcast Letter, February 6, 2013).

1 Comcast.⁹⁰ Staff did not agree to a non-disclosure agreement, but agreed to abide by the
2 confidentiality rules set forth in PU Code section 583 and General Order 66-C.

3 Comcast thereafter provided responses to SED's first set of data requests, but
4 again reiterated its position that the Commission lacked the jurisdiction to investigate the
5 unauthorized disclosure of unlisted numbers, stating "the information you seek pertains to
6 VoIP services offered by Comcast Phone's unregulated affiliate Comcast IP. While
7 Comcast Phone has a CPCN with the Commission, the Commission has limited
8 jurisdiction over Comcast IP and no jurisdiction over the subject matter of this request
9 under Pub. Util. Code Section 710."⁹¹

10 SED staff sent an additional set of data requests to Comcast on February 22, 2013,
11 to which Comcast again objected. Comcast maintained that the Commission lacked
12 jurisdiction over the unauthorized disclosure of unlisted telephone numbers and requested
13 to "meet and confer" with Legal Division staff concerning the relevance of the data
14 requests.⁹² That meeting occurred on March 15, 2013. Thereafter, Comcast requested
15 and had further meetings with Legal Division regarding SED's additional sets of data
16 requests (six total), including meeting with Legal Division's General Counsel and
17 attorneys representing SED.⁹³

18 Eventually, Comcast provided responses to many of the data requests, but still did
19 not provide to SED important customer information, including a list of affected
20 customers and any of Comcast's records of complaints or inquiries from customers that
21 contacted Comcast about the unauthorized disclosure of unlisted numbers, except for a
22 couple of complaints from the FCC and the Better Business Bureau, provided in
23 Attachment 23. In objecting to those inquiries, Comcast argued that federal and state
24 privacy laws prohibited Comcast from providing the Commission with customer

⁹⁰ See *ibid.*

⁹¹ See **Attachment 16** (Comcast Letter, February 15, 2013). Section 710 was passed into law as part of Senate Bill 1161, effective January 1, 2013.

⁹² See **Attachment 16** (Comcast Letter, March 1, 2013).

⁹³ Those meetings occurred on March 26, 2013 and June 13, 2013.

1 information.⁹⁴ SED's counsel disputed those claims. Comcast also stated that it does not
2 separately track calls to its general customer care number related to unlisted numbers.⁹⁵

3 F. COMCAST'S PURPORTED REMEDIAL EFFORTS

4 To date, Comcast has not issued any press releases, notified the media, nor made
5 any public announcements regarding its erroneous and unauthorized disclosure of the
6 names, phone numbers, and addresses of over 74,000 unlisted customers. Comcast does
7 not intend to make any public announcements of its admitted error.⁹⁶

8 According to Comcast, affected customers were notified about the unauthorized
9 disclosures through both letters and automated phone calls, except for those who no
10 longer have Comcast service (e.g., voice, video, or high speed Internet, etc.).⁹⁷ For those
11 previous Comcast customers who may have been affected by the unauthorized
12 disclosures, Comcast stated it sent notification letters to them but did not notify them
13 through the automated calls because Comcast did not have their current contact
14 information.⁹⁸ Because some of these previous Comcast customers may have relocated,
15 it is possible that some of the affected customers did not receive any notice of Comcast's
16 mistake in disclosing and publishing their unlisted telephone numbers, names, and
17 addresses.

18 Comcast stated it provided written notices, as described below, to affected
19 subscribers on the following dates:

⁹⁴ See e.g., **Attachment 1** (Comcast Supplemental Objections and Responses to DR-TEL-00406-1 (6/12/13), Q.11, at pp. 1-2 [objections to providing list of customers that filed complaints with Comcast]); see also **Attachment 5**, Comcast Response to DR-TEL-00406-5 (6/21/13), Q.4, at pp. 7-8 and Q. 5, at p. 9).

⁹⁵ See **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (5/14/13), Q.11, at p. 9).

⁹⁶ See **Attachment 1** (Comcast Updated Response to DR-TEL-00406-1 (3/26/13), Q.8, at p. 15).

⁹⁷ See **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (5/14/13), Q.2(d), p. 4).

⁹⁸ See **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (5/14/13), Q.2(d), p. 4).

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- **January 10, 2013** - Comcast mailed notices to approximately [REDACTED] affected customers in California. (In relevant part those letters stated: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁹⁹
- **January 25, 2013** - Comcast mailed notices to approximately [REDACTED] affected customers in California who had terminated all Comcast services after December 5, 2012. Comcast mailed [REDACTED] additional notices to customers who had previously been sent an incorrect version of the notice letter on January 10, 2013.
- **January 31, 2013** - Comcast mailed additional notices to [REDACTED] affected customers in California who had cancelled their Comcast IP VoIP service after December 5, 2012, but still had an active account with Comcast for other services.
- **April 22, 2013** – Notices were sent beginning this week to several groups of customers:
 - Affected customers (listed above) who already received a notice in January, to inform them of the longer period that their listings were published (based on the recognition that the process error began in July 2010);
 - Affected customers who had not previously received notice and cancelled Comcast telephone service prior to December 5, 2012 or converted to “published” service prior to that date; and
 - Affected customers who received a prior notice and had a second number/listing that the customer had terminated or converted to “published” status prior to December 5, 2012.

⁹⁹ See **Attachment 12** (Comcast Customer Notification Letters); see also **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (5/14/13), Q.9).

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[REDACTED]
[REDACTED]¹⁰³

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In some cases, upon request by the customer, Comcast stated it provided additional remediation to customers beyond the refunds or credits.¹⁰⁴ In those instances, Comcast sent general release forms for those customers to sign.¹⁰⁵ Staff is attempting to ascertain the total number of subscribers who actually received refunds.

7 III. SED'S RECOMMENDATIONS

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Based on Staff's investigation, as reflected in this Staff Report, SED recommends that the Commission issue an OII to determine whether Comcast violated PU Code sections 451 and 2891.1, and any other applicable laws, orders, decisions, rules, or regulations. SED also recommends that the Commission determine, as part of the OII, whether to impose penalties upon Comcast or order other remedies should the Commission determine that Comcast violated any laws, orders, decisions, rules, or regulations.

¹⁰³ See **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (3/26/13), Q.10, at p. 17); see also **Attachment 4** (Comcast Response to DR-TEL-00406-4 (5/14/13), Q.2 [re reimbursement or compensation to affected customers who requested new telephone numbers]).

¹⁰⁴ See **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (5/14/13), Q.12, at p. 10); see also **Attachment 23** (e.g., FCC Complaint number 13-C00471912-1, February 13, 2013 [The notes in the complaint state, in pertinent part: "[C]ustomer of Comcast XFINITY. He received a letter from the[m] stating that they had their unpublished, unlisted number inadvertently published in their online directory. He called Comcast and they confirmed this. What can the FCC do about this? The letter states that they have taken the appropriate corrective actions. They state that they have also credited his account accordingly. He now has a restraining order against a consumer in his town because of this. There are other consumers that are experiencing the same things. As a resolution, he would like Comcast to be held accountable for these actions. Offering a \$27 credit is not sufficient compensation."]).

¹⁰⁵ See **Attachment 1** (Comcast Second Updated Response to DR-TEL-00406-1 (5/14/13), Q.12, at p. 10).