

Decision 15-09-009 September 17, 2015

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

Investigation on the Commission's Own Motion into the Operations, Practices, and Conduct of Comcast Phone of California, LLC (U-5698-C) and its Related Entities (Collectively "Comcast") to Determine Whether Comcast Violated the Laws, Rules, and Regulations of this State in the Unauthorized Disclosure and Publication of Comcast Subscribers' Unlisted Names, Telephone Numbers, and Addresses.

Investigation 13-10-003  
(Filed on October 3, 2013)

**DECISION APPROVING SETTLEMENT REGARDING UNAUTHORIZED DISCLOSURE AND PUBLICATION OF UNLISTED TELEPHONE NUMBERS**

## Table of Contents

<u>Title</u>	<u>Page</u>
DECISION APPROVING SETTLEMENT REGARDING UNAUTHORIZED DISCLOSURE AND PUBLICATION OF UNLISTED TELEPHONE NUMBERS ..	1
Summary .....	1
1. Background.....	2
2. Overview of the Terms of the Settlement Agreement.....	5
3. Discussion .....	8
3.1. Introduction.....	8
3.2. Reasonableness in Light of the Record .....	10
3.3. Consistency with Applicable Law .....	12
3.4 Public Interest .....	13
4. Timeliness of Filing .....	13
5. Authorization to Cooperate With Attorney General in Superior Court Action .....	14
6. Waiver of Comment Period .....	14
7. Assignment of Proceeding .....	15
Findings of Fact.....	15
Conclusions of Law .....	17
ORDER .....	18

## **DECISION APPROVING SETTLEMENT REGARDING UNAUTHORIZED DISCLOSURE AND PUBLICATION OF UNLISTED TELEPHONE NUMBERS**

### **Summary**

By this decision, we approve the Settlement Agreement (the public version of which is attached as Appendix 1 hereto), which resolves all factual and legal issues in this proceeding. We instituted this proceeding to investigate issues relating to the unauthorized disclosure and publication of directory listing information (i.e., name, telephone number, and address) by Comcast Phone of California, LLC (U-5698-C) (Comcast Phone) and its related entities including Comcast IP Phone II, LLC, (collectively, "Comcast"). Approximately 75,000 Comcast customers in California had a non-published or non-listed feature on their XFINITY Voice service.<sup>1</sup> As a result of Comcast's unauthorized disclosure and publication, the names, telephone numbers, and addresses of these customers (affected customers) became available on Comcast's online directory, in a rural telephone company's phone books, and via directory assistance.

As discussed below, we find the Settlement reasonably resolves all issues in this proceeding consistent with applicable Commission rules and criteria relating to proposed settlements. Accordingly, we approve the Settlement in its entirety and without modification. Consistent with the terms of the Settlement, we direct Comcast to implement the measures prescribed in the Settlement Agreement as set forth in Appendix 1. We thus require Comcast (a) to pay a

---

<sup>1</sup> The term "non-published" as used in this decision means a customer's list information (e.g., name, address, and telephone number) is withheld from published directories and directory assistance. "Non-listed" means a customer's list information is withheld from published directories but available in directory assistance.

\$25 million penalty (half to the State of California General Fund, and half to the California Attorney General), (b) to provide further restitution to affected customers, as set forth in the Settlement, and (c) to undertake specified operational reforms to enhance the security of Comcast customers' directory listing information (and the privacy of those customers seeking non-published status).

Concurrent with our approval of the Settlement Agreement, this proceeding is closed.

## **1. Background**

This proceeding involves the Commission's investigation regarding (Comcast) concerning the names, telephone numbers, and addresses of the Comcast residential unlisted subscribers, *i.e.*, customers who specifically asked Comcast to keep such information private in exchange for a monthly fee.

On January 9, 2013, Comcast disclosed to the Commission and also to the office of the California Attorney General (AG) that it had discovered an error that resulted in the disclosure - on its online directory and elsewhere - of approximately 75,000 names, addresses, and phone numbers of Comcast subscribers who had paid for non-published phone numbers. Comcast also provided notification to affected customers beginning in January 2013 of its discovery of the release. In 2013, both the Commission and the AG's office began informal investigations of the Release, issuing a number of requests for information and documents to which Comcast responded.

On October 3, 2013, we authorized a formal Order Instituting Investigation (OII or Investigation), to determine whether Comcast Phone of California, LLC (U-5698-C) in conjunction with other Comcast affiliates violated any provision of the California Constitution, Public Utilities Code or Commission general orders,

statutes, resolutions, directives, rules, regulations, or requirements in connection with disclosing and publishing the names, telephone numbers, and addresses of the Affected Customers. We undertook to consider whether to impose a fine or order other remedies for Comcast's apparent actions in violation of privacy-related laws. In opening the investigation, we expressed great concern about the potential breach of customers' right of privacy, as well as the significant delays with respect to both the detection and reporting of Comcast's admitted failure to guard the identities of its unlisted subscribers.

The Assigned Commissioner's Scoping Memo and Ruling in this matter was issued on February 11, 2014. The Scoping Memo determined that hearings were needed in this matter. Pursuant to Rule 7.1(c) of the Commission's Rules of Practice and Procedure (Rules), this proceeding was categorized as adjudicatory. Evidentiary hearings were held on October 1 - 3, 2014. In addition to the respondent, Comcast, the following parties actively participated in the proceeding: the Safety and Enforcement Division (SED) of the California Public Utilities Commission, The Greenlining Institute (Greenlining) and The Utility Reform Network (TURN) (collectively, the "OII Parties"). Briefing concluded on November 25, 2014.

After submission of post-hearing briefs, the OII Parties began discussion about resolution of the issues in this proceeding. The AG's office (although not a party of record in the OII) was invited to participate in those discussions. (The AG's office and the OII Parties are collectively referred to as "the Resolving Parties.")

On January 16, 2015, the Resolving Parties informed the assigned Administrative Law Judge (ALJ) that they had reached a settlement in principle to resolve both the Commission's and the AG's investigations, but sought time to

finalize the settlement. On February 6, 2015, the parties informed the ALJ that most of the details of a settlement had been worked out, but that two more weeks were needed to finalize a Motion for Approval, and for the AG's office to finalize its review. The Settlement is jointly sponsored by all of the parties to this proceeding.

On May 7, 2015, the parties filed a motion for approval of the Settlement Agreement. The motion for approval included, as an attachment, a public version of the proposed Settlement Agreement, including supporting exhibits. The public version of the Settlement Agreement offered for the Commission's approval is attached to this decision as Appendix 1, along with the following supporting exhibits (except for Confidential Exhibit E, which is filed under seal):

Exhibit A - Stipulation for Entry of Final Judgment in  
AG/CPUC Action;

Exhibit B - Stipulated Facts;

Exhibit C - Simplified Disclosure Form;

Exhibit D - Sample Contractual Provisions Limiting Vendor  
Use of Directory Listing Information;

Exhibit E - Complaint Handling and Monitoring (Confidential);

Exhibit F - Reporting Obligations; and

Exhibit G - Sample Notification Letters to Affected Customers

Although the AG is not a party to the Settlement Agreement, the Agreement reflects terms parallel to those in the Stipulation for Entry of Judgment to be filed by the AG. The joint parties sought approval of the Settlement Agreement in conjunction with Settlement of the Alameda Superior Court Action and a Stipulation for Entry of Judgment between the AG, the Commission, and Comcast. Concomitant with this motion, the joint parties ask the Commission to authorize the joint Superior Court filings of the Commission

and AG, as has been done in other proceedings where Commission staff worked with the AG.

The settlement reached between and among the Resolving Parties is reflected in the following documents: (1) All-Party Settlement Agreement of Disputed Matters in Commission Investigation 13-10-003, in Conjunction with Settlement of the Alameda Superior Court Action; and (2) a Stipulation for Entry of Judgment between the AG, the Commission, and Comcast. The Stipulated Judgment (attached as Exhibit A) in the Commission/ Attorney General action contains a permanent injunction.

Concurrent with the motion for approval of the Settlement Agreement, Comcast filed a Motion for leave to file Confidential Exhibit E under seal. As noted by Comcast, Exhibit E of the Agreement contains information about Comcast's internal business methods and processes for handling complaints and Comcast would not otherwise reveal this information in the normal course of business. This document is highly proprietary and business sensitive, and if revealed, may pose an unfair business disadvantage to Comcast. The information in Exhibit E thus is the type that deserves protection under Section 593 and General Order 66-C. The OII Parties stipulated to Comcast's request to file Exhibit E under seal. For the reasons cited in the motion, we grant Comcast's motion to file Exhibit E under seal. Confidential treatment of Exhibit E is consistent with a prior agreement by SED and Comcast to treat this type of information as confidential.

## **2. Overview of the Terms of the Settlement Agreement**

In summary, the Settlement requires that: (1) Comcast pay a \$25 million penalty, split between \$12.5 million payable to the Commission's General Fund and \$12.5 million in penalties and related monies payable to the AG; (2) Comcast

make further restitution to each of the approximately 75,000 Affected Customers as specified below; (3) Comcast make further restitution to the customers that raised safety concerns in response to Comcast's notification of the unauthorized release of customer information, in the amount of an additional \$2,000 per household; (4) Comcast make additional attempts to refund a residue of \$517,714 in collected non-published service fees to former Affected Customers who did not contact Comcast pursuant to Comcast's initial notification efforts; and (5) any of the refund or restitution monies not claimed by individual Affected Customers escheats to the State of California.

Under the Settlement, Comcast shall make restitution to the affected customers, in three critical areas:

- a. \$7,477,400 -- \$100 credits (or checks to former Affected Customers) for each of the 74,774 Affected Customers;
- b. \$432,000 for home security and/or safety-related services for those approximately 216 customers who had previously identified safety concerns to Comcast associated with the Release; and
- c. \$517,714 in non-published fees (paid by customers at either \$1.50 or \$1.25/month) collected from former Affected Customers during the period of the Release, who had not previously contacted Comcast to receive their refunds in response to the notice Comcast sent.

Comcast or its third party restitution administrator will send letters to each of the 74,774 Affected Customers (draft samples are found as Exhibit G to the Agreement), notifying them of the restitution remedies and general information regarding how customers may remove directory listing information from websites. Comcast or its third party restitution administrator shall undertake reasonable efforts (skip trace, etc.) to locate former affected customers who were not located or did not respond to Comcast's initial notice of the Release in 2013.

Any of the restitution monies not successfully returned to customers within one year of the effective date of the Settlement Agreement will escheat to the State in accordance with state law.

Under the Settlement terms, Comcast shall make an initial Implementation Report approximately 120 days from the effective date of the Agreement (*i.e.*, the date of the Commission's approval of the Agreement), and three annual reports, to be made on the first three anniversaries of the Implementation Report. The details of the reporting regime are set forth in Exhibit F of the Agreement, including *inter alia* the status of the restitution and escheatment programs.

In order to address SED staff concerns that customers do not fully understand the scope of their XFINITY Voice non-published feature, Comcast agrees to post and make available a simplified disclosure form for at least three years following the Effective Date of the Agreement. (Paragraph 3 of the Settlement, and Exhibit C).

As part of the Settlement, Comcast agreed to detailed processes to handle customer inquiries and complaints regarding non-published listings, in an effort to prevent another Release from going undetected. The new processes require that verified complaints or inquiries about the publication or disclosure of a non-published listing will result in the creation of a "trouble ticket," which in turn will trigger review and "root cause analysis" and reports.

In order to address concerns that customers' directory listing information is not used for other than its intended purposes (directory listings and directory assistance) and that non-published listing information is not disclosed, Comcast agreed to various actions, including annual audits of its listing distribution agent Neustar, and certification by telemarketing and directory assistance vendors

regarding the use of directory listing information. The Settlement specifically requires that for the term of the Agreement:

- a. Comcast shall audit its directory listing agent, Neustar, Inc.'s handling of Comcast's residential customers' directory listing information. Comcast will continue its existing practice to restrict the manner in which its vendors use such directory listings information (Agreement, at ¶¶ 1-2);
- b. Comcast shall provide its XFINITY Voice customers with a new, simplified and easily readable disclosure of how Comcast uses its customers' personal information, and how they can restrict uses of their information (*Id.* at ¶ 3 and Exhibit C); and
- c. Comcast shall institute revised methods and procedures to address customer inquiries and complaints about the publication of non-published listings (Agreement at ¶ 4 and Confidential Exhibit E).

The Settlement Agreement contains provisions for its enforcement. The Resolving Parties, and particularly the OII Parties, believe that the package of remedies goes a long way toward remedying the impact of Comcast's error, and preventing similar errors in the future.

### **3. Discussion**

#### **3.1. Introduction**

In accordance with the provisions of Article 12 of the Commission's Rules, we hereby approve the Settlement Agreement. As required by Rule 12.1, we find the Settlement is consistent with applicable law, reasonable in light of the record, and in the public interest. We thus approve and adopt the Agreement as a whole and without modification. Consistent with our longstanding practice for review and approval of settlements, the fact that a party entered into the settlement is not to be construed as an admission or concession by that party regarding any

disputed matter in the proceeding. Also, our adoption of this settlement is not precedential regarding any principle or issue in any future proceeding.

We have repeatedly acknowledged a strong public policy favoring settlements. This policy supports many worthwhile goals, such as reducing litigation expenses, conserving scarce resources of parties and the Commission, and allowing parties to reduce the risk that litigation will produce unacceptable results. We are particularly supportive of settlements where all parties to the proceeding join in sponsorship, as is the case here.

A leading decision on our policy for consideration of an all-party settlement is Decision (D.) 92-12-019, 46 CPUC 538, which resolved a San Diego Gas & Electric Company (SDG&E) rate case. In D.92-12-019, as preconditions of approval of an all-party settlement, we prescribed that:

- a. all active parties to the proceeding join in sponsorship;
- b. the sponsoring parties are fairly reflective of the affected interests;
- c. no term of the Settlement contravenes statutory provisions or prior Commission decisions; and
- d. the Settlement must convey sufficient information to permit us to discharge our future regulatory obligations with respect to the parties and their interests.

The instant settlement meets each of these preconditions. In assessing settlements we consider individual settlement provisions but, in light of strong public policy favoring settlements, we do not base our conclusion on whether any single provision is the optimal result. Rather, we determine whether the settlement as a whole produces a just and reasonable result. While recognizing that settlements are compromises of parties' positions, the fact that parties with diverse interests and recommendations can reach a compromise that is

acceptable from their various viewpoints provides assurance that the overall result is reasonable. Additionally, where specific issues were identified and resolved in the Settlement Agreement, we find that the results are reasonable and consistent with the record.

As the basis to approve a settlement agreement, we also find that it meets the requirements of Commission Rule 12.1(d), in that it is: 1) reasonable in light of the whole record, 2) consistent with law, and 3) in the public interest.

The All-Party Settlement Agreement presented in this proceeding meets these requirements, as discussed below.

### **3.2. Reasonableness in Light of the Record**

We find that the Settlement Agreement is reasonable in light of the record developed in this proceeding. In assessing the reasonableness of a settlement, we consider the savings that it offers in terms of expenses and use of resources, when compared to the risk, expense, complexity, and likely duration of further proceedings. (*In re Southern California Gas Co.*, D.00-09-034 at 20-21).

There is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation. Generally, the parties' evaluations carry material weight in the Commission's review of a settlement. Evidentiary hearings have already been held in this proceeding, with considerable development of the factual issues, which provides substantial context for the settlement. The settlement was reached after considerable negotiation and substantial concessions by the Parties to resolve complex and strongly contested issues. A stipulation of facts at issue in the OII, as agreed to among SED, Intervenors, and Comcast is set forth in Exhibit B, as attached to the Settlement Agreement.

The Agreement, along with the Stipulation and Judgment to be entered by the Alameda Superior Court, affirms the Commission's and Comcast's

commitment to protecting residential consumers' directory listing information. While the Settlement Agreement does not require Comcast to admit culpability or wrongdoing, it does require Comcast to comply with California law governing telecommunications carriers and to pay penalties. Although these penalties are less than what certain parties had proposed in testimony, they are still significant, in contrast to Comcast's pre-settlement position that no penalties were warranted.

In response to a serious error, Comcast has agreed to certain enhancements to its processes to address consumers' non-published listings inquiries, protect consumers' privacy interest in non-published listings, and demonstrate its commitment to protecting its customers' non-published information. These voluntary remedial measures address many of the issues raised by SED and intervenors in this case, and incorporate in some form most of these parties' proposed remedial measures.

Mutual resolution of disputed matters in the OII offered an opportunity to develop voluntary remedies that were beneficial for consumers, instead of continuing an adversarial litigation process.

Approving the Settlement Agreement will save the further expense and resources that multiple appeals, motions for rehearing, and further appellate activity would entail in this contentious case. Some of the remedies proposed, even if adopted by the Commission, could have been subject to jurisdictional challenge and lengthy litigation. In contrast, the approval of the Settlement will enable the Commission and staff to focus limited resources on implementing this settlement, providing direct and timely restitution to consumers, and on other pressing tasks.

The Agreement provides benefits to consumers, many of which were proposed by parties in this proceeding, including immediate restitution to customers, enhanced processes to address customer questions and concerns about their non-published listings, simplified disclosures to consumers about their privacy choices, and additional oversight of specific Comcast vendors that receive Comcast's residential customers' directory listing information.

Under the terms of the Settlement Agreement, Comcast shall pay a voluntary \$25 million penalty, and another approximately \$7.9 million for purposes of making restitution to consumers. Together, these sums approach the \$43 million penalty that SED proposed in its opening brief. The Settlement is generally in the range of penalties that have been imposed on telephone companies for consumer protection type violations.

We thus conclude that the results reached in the Settlement are reasonable in light of the record.

### **3.3. Consistency with Applicable Law**

We find that the Settlement Agreement is consistent with applicable law. While the OII Parties disagree as to the applicability of certain laws as they relate to the imposition of penalties and various restitution measures, they have agreed to the settlement in order to reach a compromise on these issues.

The Settlement Agreement requires Comcast to make payments to the State General Fund and the AG's Office and to undertake certain voluntary commitments which will further enhance protections of customers' directory listing information. Nothing in the Agreement conflicts with any applicable laws or Commission rules or regulations.

The Settlement Agreement is governed by the laws of California, is intended to enforce California law, and does not violate any existing statutes. We therefore find that the Settlement Agreement is consistent with law.

### **3.4 Public Interest**

The seminal Commission decision approving an all-party settlement is the 1992 decision in an SDG&E rate case, where the Commission found that an all-party settlement, *i.e.*, one that “commands the unanimous sponsorship of all active parties to the instant proceeding,” itself reflects that the settlement is in the public interest.

As noted in our review of recent precedent, a critical factor in our decision to adopt a settlement is confidence that it commands broad support among participants fairly reflective of affected interests. Here we find that the settlement is sponsored by a range of parties ideally positioned to comment on the operation of the utility and ratepayer protection.

The record in this case reflects a robust litigation involving divergent evidence and views of the evidence. The fact that these parties – ranging from SED to TURN, Greenlining, and Comcast itself – unanimously recommend the Commission adopt the settlement convince us that the settlement is “fairly reflective of the affected interests” of the public.

## **4. Timeliness of Filing**

Rule 12.1 authorizes Commission approval of a settlement within “30 days after the last day of hearing.” Rule 1.2 provides that the Commission, “for good cause shown,” can deviate from the Rules of Practice and Procedure. Section 701 of the Public Utilities Code provides that the Commission “may do all things ... necessary and convenient” to the Commission’s exercise of its regulatory powers. The OII Parties request that the Commission exercise its powers in this instance.

While the development of the Settlement Agreement extended beyond the 30-day limit allowed by Rule 12.1, it significantly reduced the time and expense associated with Commission's deliberation of a fully litigated case. In all other respects, the process used by the Settling Parties in developing the Settlement Agreement, conducting settlement conferences, and filing the motion to adopt the Settlement Agreement is consistent with Commission Rules. All parties joined the Settlement, and no parties will be prejudiced by waiver of the Rule 12.1 deadline. Accordingly, we hereby waive the Rule 12.1 requirement for filing of the Settlement within 30 days of the last day of hearings. We consider the Settlement Agreement timely filed.

**5. Authorization to Cooperate With Attorney General in Superior Court Action**

Although the Commission typically authorizes staff to file a Superior Court action during a Closed Session, that is not necessary here, as the respondent/defendant is aware of – and indeed has stipulated to – the action against it, and the Stipulated Judgment. Accordingly, we grant the OII Parties' request that as part of our approval of the Settlement Agreement, that we specifically authorize staff to cooperate with the AG in filing a Superior Court action, and the attached Stipulated Judgment (Exhibit A hereto).

**6. Waiver of Comment Period**

This is now an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules, the otherwise applicable 30-day period for public review and comment is waived. Timely action in this matter will expedite the provision of restitution to the Affected Customers.

## **7. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Dan H. Burcham is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. On January 9, 2013, Comcast reported to Commission staff that since June 2011, Comcast had erroneously posted on its Internet directory, the names, telephone numbers, and addresses of certain California residential subscribers who paid Comcast for an unlisted telephone number.

2. For periods between July 2010 to December 2012, and for many customers the entire period, approximately 75,000 Comcast residential subscribers in California who paid Comcast the monthly fee for a non-published or non-listed phone number had their subscriber listing information published, and/or made available by a directory assistance provider.

3. On September 13, 2013, the SED of the Commission issued a report on its investigation of Comcast concerning the unauthorized disclosure and publication of names, telephone numbers, and addresses of the Comcast residential unlisted subscribers, *i.e.*, customers who specifically asked Comcast to keep such information private in exchange for a monthly fee.

4. On October 3, 2013, the Commission initiated a formal investigation to determine whether Comcast violated any provision of the California Constitution, Public Utilities Code or Commission general orders, statutes, resolutions, directives or requirements in connection with the unauthorized release of subscribers' confidential information.

5. Following discovery, evidentiary hearings, and post-hearing briefs in I.13-10-003, Comcast, the SED, other intervening parties, and the AG entered into

a Settlement Agreement in full resolution of the OII and the AG's investigation into the matter.

6. The Settlement Agreement offered for Commission approval is an "all-party" settlement since it is signed by all active parties in I.13-10-003.

7. The fact that parties with diverse interests and recommendations reached a compromise that is acceptable from their various viewpoints provides assurance that the overall result of the Settlement Agreement reflects the affected interests and is reasonable.

8. As a basis to support the Settlement Agreement, parties stipulated to the facts set forth in Exhibit B (and incorporated in Appendix 1 of this decision).

9. Comcast stipulates to the jurisdiction of the Commission over Comcast Phone of California, LLC, and the authority of the Commission to enforce the Settlement Agreement.

10. By entering into the Settlement Agreement, Comcast does not admit to any violations of law. Neither the Settlement Agreement nor any payment of money or other actions taken pursuant to this Agreement constitute or are deemed or construed as an admission of liability, or guilt, on the part of any party mentioned in this Agreement.

11. The Settlement Agreement provides benefits to consumers, many of which were proposed by parties in this proceeding, including immediate restitution to customers, enhanced processes to address customer questions and concerns about their nonpublished listings, simplified disclosures to consumer about their privacy choices, and additional oversight of specific Comcast vendors that receive Comcast's residential customers' directory listing information.

12. The terms of the Settlement Agreement call upon Comcast to pay a voluntary \$25 million penalty, and another approximately \$7.9 million for

purposes of making restitution to consumers. Together, these sums approach the \$43 million penalty that SED proposed in its opening brief.

13. Approving the Settlement Agreement will save the further expense and resources that multiple appeals, motions for rehearing, and further appellate activity would entail in this contentious case.

### **Conclusions of Law**

1. The All-Party Settlement Agreement between Comcast and the Commission's SED is: (a) reasonable in light of the whole record, (b) consistent with law, and (c) is in the public interest.

2. The Settlement Agreement should be approved.

3. Comcast should be directed to comply with all of the terms and conditions set forth in the Settlement Agreement.

4. The Settlement Agreement is limited in the scope of its applicability to California, except that the notification and restitution remedies set forth therein are to be applied to all former or current California Affected Customers, including those now residing outside of California.

5. The Settlement Agreement represents full and final resolution of I.13-10-003 and the matters giving rise thereto, with regard to potential claims, penalties, enforcement actions or investigations relating to the issues identified therein. As a condition of entering into the Settlement Agreement, Comcast and their directors, officers, employees, agents, attorneys, shareholders, affiliates, successors, and assigns are released from all claims and liabilities arising out of the OII issues.

6. The Commission retains continuing jurisdiction to enforce the terms of the Agreement. In the event of a breach, any of the parties to I.13-10-003 may move the Commission to enforce this Agreement. Before filing such motion, any

moving Party shall meet and confer with all the other Parties in a good faith attempt to resolve the issue without Commission intervention. Nothing in the Settlement Agreement shall be construed to limit the Commission's ability to enforce the Stipulated Judgment.

7. By entering into the Settlement Agreement, Comcast does not waive its right to contest, in any proceeding other than I.13-10-003 and the contemplated Attorney General/California Public Utilities Commission Civil Action, the extent of the Commission's jurisdiction or authority.

## **O R D E R**

**IT IS ORDERED** that:

1. The motion for approval of the Settlement Agreement, jointly filed on May 7, 2015, by the Safety and Enforcement Division of the California Public Utilities Commission, Respondent Comcast Phone of California, LLC (U5698C) (Comcast Phone), The Greenlining Institute and The Utility Reform Network, attached to this decision as Appendix 1, is hereby granted.

2. The Settlement Agreement (the public version of which is shown as Appendix 1 of this decision) is accordingly approved. The approved Settlement Agreement includes the following supporting exhibits which are each attached to Appendix 1 (except for Exhibit E which is separately filed under seal as it contains confidential information):

Exhibit A – Stipulation for Entry of Final Judgment in  
AG/CPUC Action;

Exhibit B – Stipulated Facts;

Exhibit C – Simplified Disclosure Form;

Exhibit D - Sample Contractual Provisions Limiting Vendor  
Use of Directory Listing Information;

Exhibit E - Complaint Handling and Monitoring (Confidential);

Exhibit F - Reporting Obligations; and

Exhibit G - Sample Notification Letters to Affected Customers

3. On August 6, 2015, the assigned Administrative Law Judge granted the motion filed on May 7, 2015, by Comcast Phone of California, LLC (U5698C) and Related Entities named in Order Instituting Investigation 13-10-003 to file under seal Exhibit E of the Settlement Agreement, pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure. Exhibit E is part of the approved Settlement Agreement, but shall be filed under seal as a confidential document.

4. Comcast Phone of California, LLC (U-5698-C) and its Related Entities (collectively, "Comcast") shall comply with the terms and conditions of the approved Settlement Agreement, attached to this decision as Appendix 1, and as referenced in the ordering paragraphs below:

- a. For a period of three (3) years, Comcast will implement the operational commitments, and shall report to the Safety and Enforcement Division, intervenors The Utility Reform Network, The Greenlining Institute and Consumer Federation of California, and the California Attorney General about its compliance with these commitments, in accordance with the requirements specified in Exhibit F of the Settlement Agreement. These operational commitments shall extend for three years from the Effective Date, except that annual and periodic reporting (set forth in Exhibit F) and operational commitments set forth in Paragraphs 1, 2(a), 2(b), 3, and 4 therein shall extend three years from the date of the Implementation Report.
- b. Within three months from the Effective Date of the Agreement, but no later than the date of the Implementation Report, Comcast shall adopt revised methods and procedures to address the process for handling customer inquiries and complaints about the publication of non-published listings. The methods and

- procedures shall be substantively similar to the process prescribed in Confidential Exhibit E and shall require, at a minimum, adherence to the specifications set forth in Section 4 (entitled: "Complaints") of the Settlement Agreement.
- c. Comcast shall provide the reports outlined in Exhibit F of the Settlement Agreement, on the dates specified therein. Comcast will provide these reports to the SED and Intervenors, subject to confidential treatment under Public Utilities Code Section 583, General Order 66-C and such non-disclosure agreements as the Intervenors have executed or will execute in this proceeding, and shall also provide the reports to the AG with the understanding that the AG will treat the reports as confidential, pursuant to Government Code Section 6250 et seq.
  - d. Within two months (and before the Implementation Report) of the Effective Date of this Agreement, Comcast and the third party restitution administrator will send a letter to all affected customers, setting forth the terms of the additional restitution offer and other available remedies. The letter shall also include an explanation about the likely continued availability of affected customers' non-published numbers online through various sources and a suggestion that a change in telephone number may further enhance privacy, as well as the fact that online personal data removal services exist. The content of the letter will vary depending on several factors including whether the affected customer currently receives Comcast services, but will be substantially similar to the sample letters to current and former Affected Customers attached in Exhibit G. The notification letters will be sent via U.S. Mail, in an envelope reflecting that important information is enclosed. Letters will be sent to the current billing address for affected customers who subscribe to any Comcast service; reasonable efforts will be made to locate former affected customers who no longer receive Comcast services.

- e. Within 30 days of the Effective Date of this Order, Comcast shall pay \$25,000,000 in total penalties to be apportioned as follows:
  - 1) a penalty of \$12,500,000 to the State of California General Fund. Payment shall be made by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. Comcast Phone of California, LLC (U-5698-C) shall write on the face of the check or money order "For deposit to the General Fund per Decision xx-xx-xxx."
  - 2) a civil penalty and related monies in the total amount of \$12,500,000 to the California Attorney General's Office.
- f. Comcast shall pay \$7,909,400 in restitution, to be paid out as follows:
  - 1) a \$100 bill credit (or checks) for each current Affected Customer who currently receives a Comcast service. (Credits to be issued by Comcast).
  - 2) a \$100 check to each Affected Customer who is no longer a Comcast customer. (Checks to be issued by the third party restitution administrator).
  - 3) \$432,000 will be made available for Affected Customers who identified personal safety concerns to Comcast arising out of the Error, as of August 2014. The compensation is intended to offset costs for home security or other safety services. Each such customer will receive \$2,000, either by bill credit or by check.
  - 4). Restitution amounts owed to former customers will be paid to a third party restitution administrator within two months of the Effective Date. The AG and SED shall approve the selection of the third party restitution administrator. Comcast will consult with the AG and SED about the mechanics of the restitution, and shall provide a copy of its contract with the third party restitution administrator to SED and the AG, once

executed. Comcast shall pay the costs of the third party restitution administrator.

- 5) Any portion of the \$7,909,400 not paid out to customers within 12 months after the Effective Date of this Agreement shall be transferred to the State Controller's Office in accordance with California's Unclaimed Property Law.
- 6) In connection with the Restitution efforts described above, the third party restitution administrator will undertake reasonable efforts to locate former Affected Customers who have not yet received refunds and provide them with notice of the nonpublished fees owed them. Any portion of the \$517,714 not paid out to Affected Customers will be transferred to the State Controller's Office in accordance with California's Unclaimed Property Law.

5. The Safety and Enforcement Division is hereby authorized to cooperate with the Attorney General's Office in filing a Superior Court action, and Stipulated Judgment (consistent with Exhibit A, as appended to this decision).

6. This decision is effective immediately.
7. Investigation 13-10-003 is closed.

Dated September 17, 2015, at San Francisco, California.

MICHAEL PICKER  
President  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
CARLA J. PETERMAN  
LIANE M. RANDOLPH  
Commissioners

# APPENDIX 1

## APPROVED SETTLEMENT AGREEMENT

**[Note: THERE ARE NO REVISIONS TO THE  
ATTACHMENT]**