

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Enforcement Division
Utility Enforcement Branch

RESOLUTION UEB-005
September 24, 2020

RESOLUTION**RESOLUTION UEB-005. THIS RESOLUTION APPROVES A SETTLEMENT AGREEMENT BETWEEN THE CONSUMER PROTECTION AND ENFORCEMENT DIVISION (CPED) AND COX CALIFORNIA TELECOM, LLC (U-5684-C) IN RESOLUTION OF A BILLING PRACTICE INVESTIGATION.****SUMMARY**

In this Resolution, the California Public Utilities Commission (Commission) approves a Settlement Agreement between the Consumer Protection and Enforcement Division (CPED) and Cox California Telecom, LLC (Cox) (Attachment A), whereby Cox offers to make a contribution of funds in the amount of \$350,000 to the Connect2Compete program in full settlement of CPED's investigation into Cox's billing practices for its failure to include the appropriate telephone number of the Commission's Consumer Affairs Branch (CAB) on certain bills during the time period of January 2015 to January 2018, and alleged failures to comply with Public Utilities Code Section 2890(d)(2)(B), Resolution CSD-5, and General Order 96-B.

BACKGROUND

In 2000, the Legislature adopted Public Utilities Code (PU Code) Section 2890, which governs authorized charges for products or services on telephone bills and requirements for dispute resolution, specifies that all telephone bills must clearly describe the charges on the bill and provide the "appropriate telephone number of the commission that a subscriber may use to register a complaint."¹ On May 4, 2000, the Commission issued directions to its jurisdictional utilities by way of a letter from the Director of Consumer Services Division,² instructing them to include CAB's toll-free telephone number and

¹ PU Code Section 2890(d)(2)(B).

² Consumer Services Division is the predecessor of the Consumer Protection and Enforcement Division.

San Francisco Office address on all consumer bills as of the effective date of Section 2890, January 1, 2001).³

Based on a referral from CAB, CPED's Utilities Enforcement Branch (UEB) initiated an investigation into Cox's billing practices from 2015 to 2018 to determine if Cox had properly included CAB's toll-free telephone number on its customer bills in compliance with PU Section 2890(d)(2)(B) and Resolution CSD-5.

UEB's review and analysis of a sample of Cox customer bills from the CAB database showed that Cox's billing practices were inconsistent, and that failed to include the appropriate CAB contact information on all customer bills and late notices during the approximately four-year period of the investigation. Subsequent data request responses provided by Cox to UEB indicated that a large volume of residential telephone bills did not include all required CAB contact information.

On August 2, 2018, CAB sent an email to Cox entitled "Utility Bill Change," requiring that it include CAB's toll-free telephone number on its telephone bills.⁴ The notice also informed Cox that Commission Resolution CSD-5 requires utilities to update tariffs that contain CAB contact information.

Cox cooperated with UEB in responding to all data requests and in discussing appropriate corrective actions. Beginning in November 2019, CPED and Cox engaged in settlement negotiations regarding UEB's findings, wherein Cox acknowledged the omission and agreed to bring its billing statements into compliance with the Commission's requirements and to conform its tariffs with the updated billing statements and notices.

On August 25, 2020 CPED and Cox finalized the attached settlement agreement (Settlement) which resolves all issues in the underlying investigation. Cox and CPED request that the Commission adopt the settlement by approving this resolution.

UEB STAFF INVESTIGATION FINDINGS

UEB staff initially reviewed 229 Cox telephone bills in CAB's database, including past due and late notices from 2009 – 2017, and found several Cox customers' bills that did not contain CAB's contact information, including CAB's toll-free telephone number. As a result of UEB's initial review of Cox's bills, on October 24 and November 6, 2017, staff sent multiple data requests to Cox to obtain further information pertaining to Cox's

³ Resolution CSD-5 (May 4, 2000) 2000 Cal. PUC LEXIS 463; Letter from Director Richard Clark to All Utilities and Other Entities Under the Jurisdiction of the Commission (December 11, 2000).

⁴ Email letter dated August 2, 2018 to Cox from the Director of the CPED, Nick Zanjani, regarding utility bill changes with Required New Language.

customer bills and notices.⁵ Based on data responses provided by Cox on the number of residential bills issued between 2015 through November 2017, UEB staff estimated that Cox issued over 14 million residential bill statements during this period that did not contain the required CAB's toll-free number or any other Commission telephone numbers.⁶

With respect to past due and final notices, Cox has admitted it issued over 2 million such notices to residential and business customers between January 2015 through January 2018. None of the past due and final notices include the Commission specified CAB toll-free telephone number, however, they do include the Commission's direct and toll-free numbers. In all, Cox issued at least 16 million bill statements, past due, and final notices without the specific CAB's toll-free number as required by the statute and Commission directives, potentially depriving customers receiving those billings and notices of the ability to readily access CAB's dispute resolution services and/or to register a complaint with CAB.

DISCUSSION

UEB believes that Cox's omission of certain required CAB contact information could have impacted a significant number of customers. Potentially, depriving Cox customers of the ability to readily access CAB's dispute resolution services and/or to register a complaint with CAB is contrary to the purpose and intent of PU Code Section 2890. In addition, UEB contends that Cox's failure to revise its tariff sheets to conform with PU Code Section 2890 constitutes an additional violation of General Order 96-B by not reflecting the required changes to its bills and past due notices, as required by Resolution CSD-5.⁷ Further, Cox was on notice of the Commission's bill notification requirements and its failure to comply harms the regulatory contract.

On the other hand, Cox took many actions that mitigated the alleged harm in this matter. For instance, Cox provided the company's toll-free number for dispute resolution on all bills, and/or the Commission's (but not CAB's) main toll-free number and/or website information on all bills, and provided an annual mailing that included the correct CAB toll-free number to its customers. Moreover, Cox avers that any omission was inadvertent and unintentional. Cox maintains that the missing billing information is distinguishable from a billing error and did not cause its customers economic harm. Cox further represents that it has a history and practice of resolving customer billing disputes and has been cooperative with UEB's investigation. UEB

⁵ CPED Data Request 1.1 (November 6, 2017).

⁶ This aggregate number includes all telephone bills regardless of the technology Cox utilizes to serve its customers. Cox did not agree with this estimated number of bills.

⁷ General Order 96-B Section 9.1(3) and 9.5.8.

confirms that in response to this investigation, Cox has corrected its bills and conformed its tariff filings.

Cox and CPED engaged in settlement negotiations to resolve the issues identified in UEB's investigation. Pursuant to these negotiations, and in light of the foregoing mitigating factors, Cox and CPED have agreed that Cox will make a contribution to the Connect2Compete program which provides low-cost home internet to customers with school-age children, in the amount of \$350,000, in full resolution of this investigation. Cox has committed to begin applying credits beginning as soon as in October 2020 in order to benefit children returning to school in the fall, or within one calendar month of the date the resolution is approved. Details of Cox's contribution are further described in the attached Settlement.

In addition, Cox agrees to implement new customer notification and billing review practices, including ensuring that the complete and accurate CAB contact information is included on all bills. Cox will further undertake review and verification procedures, as well as reporting to CPED, as further set forth in the Settlement.

Given the mitigating circumstances and Cox's willingness to address and resolve all of the alleged non-compliances herein, CPED agrees the \$350,000 contribution to the Connect2Compete program in lieu of penalties as a satisfactory resolution of this matter and in the public interest. With this contribution and the corrective actions taken by Cox, CPED states that all of its identified issues are appropriately resolved, and that the settlement is reasonable in light of the circumstances of the whole matter, consistent with the law, and in the public interest.

CONCLUSIONS AND RECOMMENDATIONS

In light of the above discussions, the attached CPED-Cox settlement should be approved.

SAFTEY CONSIDERATIONS

CPED staff has identified no safety concerns with the Cox-CPED settlement, which involves errors in implementation of Commission bill notification requirements.

COMMENTS

In accordance with the Public Utilities Code section 311(g)(1), the draft Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Comments were received _____. Reply comments were received _____.

Therefore, CPED recommends adoption of the proposed Resolution without further modifications or delay.

FINDINGS AND CONCLUSIONS

1. Public Utilities Code (PU Code) Section 2890 and 2890(d)(2)(B) governs authorized charges for products or services on telephone bills and requirements for dispute resolution, specifies that all telephone bills must clearly describe the charges on the bill and provide the “appropriate telephone number of the commission that a subscriber may use to register a complaint.”
2. Cox was instructed by letter from the then Director of Consumer Services Division pursuant to authority in Resolution CSD-5 to include CAB’s toll-free telephone number and San Francisco Office address on all consumer bills.
3. UEB’s investigation and analysis of Cox’s customer bills from the CAB database between 2015 and 2018 showed that Cox’s billing practices were inconsistent, and that it failed to include the appropriate CAB contact information on all customer bills and late notices.
4. Cox acknowledges that some of its customer bills did not contain the appropriate CAB contact number for bill dispute resolution.
5. Cox provided either the company’s toll-free number for dispute resolution on all bills, the Commission’s main toll-free number and/or the Commission’s website information on all bills.
6. Cox provided an annual mailing to its customers that included the correct CAB toll-free number.
7. Cox has been fully cooperative with UEB staff’s investigation and has now brought its billing statements into compliance with the Commission’s requirements and conformed and updated its tariffs.
8. Cox and CPED have engaged in settlement negotiations and have agreed that the attached Settlement resolves all issues identified in UEB Staff’s investigation.
9. Cox’s contribution of \$350,000 to the Connect2Compete program, combined with improved bill review procedures and reporting requirements, appropriately resolves all findings in CPED’s investigation, is reasonable in light of the circumstances of this matter, consistent with the law, and in the public interest.
10. CPED identified no safety concerns regarding the Cox settlement as it involves matters of implementation of bill notification requirements.

THEREFORE, IT IS ORDERED that:

1. The Settlement Agreement between Cox California Telecom, LLC and the Consumer Protection and Enforcement Division is adopted.
2. Cox California Telecom, LLC shall make a \$350,000 contribution to the Connect2Compete (C2C) program and commence providing a bill credit to customers receiving C2C service within 30 days from the effective date of this Resolution.
3. This Resolution is effective today.

I hereby certify that the foregoing Resolution was adopted by the California Public Utilities Commission at its regular meeting on September 24, 2020, and the following Commissioners approved favorably thereon:

ALICE STEBBINS
Executive Director