

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17771
July 14, 2022**

R E S O L U T I O N

RESOLUTION T-17771. This Resolution grants the request of Varcomm Broadband, a competitive local exchange and interexchange carrier, to be designated as an Eligible Telecommunications Carrier to obtain federal Lifeline support, in certain service territories of Pacific Bell Telephone Company (AT&T) and Frontier California.

SUMMARY

By this Resolution, the California Public Utilities Commission (CPUC or Commission) conditionally grants the request of Varcomm Broadband, Inc., (Varcomm) (U-7385-C), a competitive local exchange carrier (CLC) and an interexchange carrier (IXC), to be designated as an Eligible Telecommunications Carrier (ETC) to obtain federal Lifeline support to provide voice services, using Voice over Internet Protocol (VoIP), to qualifying low-income households in certain service areas of Pacific Bell (AT&T) and Frontier California. (See Attachment A) Varcomm's request complies with the Federal Communications Commission's (FCC) Lifeline requirements and the Commission's ETC requirements established in Resolution T-17002. Staff finds that the request is reasonable and consistent with the public interest and should be granted to the extent allowed by this Resolution.

Varcomm Broadband's Advice Letter

On February 18, 2022, Varcomm submitted a Tier 3 Advice Letter (AL) 2 to the CPUC requesting ETC designation. Varcomm seeks ETC designation to receive federal Lifeline support. Varcomm also seeks ETC designation to prepare for future endeavors where it may seek other federal grants and/or state grants that require ETC designation. Varcomm will seek participation in the California LifeLine program in the near future.

Varcomm proposes the following service plan:

- Unlimited local calling and domestic long distance calling for \$25 per month.

BACKGROUND

Federal ETC Designation Requirements

In order to receive federal universal service support, an applicant must be designated as an ETC. Section 254(e) of the Communications Act (the Act), as amended, states that “only an eligible telecommunications carrier under section 214(e) shall be eligible to receive specific federal universal service support.”¹

The Act gives state commissions the primary responsibility for granting ETC designations to companies operating in their states. Section 214(e)(2) states that, “[u]pon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission” so long as the requesting carrier meets the requirements of Section 214(e)(1).

Accordingly, Section 214(e)(1) provides that, a common carrier designated as an ETC must offer services supported by the federal Universal Service Fund (USF) throughout the designated service area either by using its own facilities, resale, or by a combination of its own facilities and resale of another carrier’s services and must advertise the services and the related charges using advertising media of general distribution throughout the designated service area. Advertising must include the availability of federal Lifeline services in a manner reasonably designed to reach those likely to qualify for those services.

In addition to meeting the public interest standard, the FCC rules require that a carrier requesting ETC designation must:

1. Certify that it will comply with the service requirements applicable to the support that it receives;
2. Submit a five-year plan that describes proposed improvements or upgrades to the applicant’s network throughout its proposed service area;

¹ 47 C.F.R. §§ 54.400 *et seq.* contains the Federal Communications Commission’s (FCC) Lifeline rules issued to implement § 254 of the Act. Section 54.401 defines Lifeline as a non-transferrable retail service offering for which qualifying low-income consumers pay a reduced charge for voice telephony service after applying the federal Lifeline support amount.

3. Demonstrate its ability to remain functional in emergency situations;
4. Demonstrate that it will satisfy applicable consumer and service quality standards;
5. Demonstrate that it is financially and technically capable of providing the federal Lifeline service; and
6. Submit information describing the terms and conditions of any voice telephone service plans offered to federal Lifeline participants.²

The CPUC also adopted procedures and guidelines for processing ETC applications. In Resolution T-17002 (May 25, 2006), the CPUC adopted *The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs* that are consistent with FCC Universal Service Order 97-157³ regarding the designation of a telephone carrier as a qualified ETC. Pursuant to this Resolution, applicants seeking ETC designation in California are required to provide the following:

1. A description of the proposed service offerings and attached service area maps;
2. A description of the advertising plan(s);
3. A statement of commitment to provide service;
4. Submission of the 2-year service quality improvement plan;
5. A showing of the ability to remain functional;
6. A statement of commitment to consumer protection;
7. Demonstration that a carrier's usage plan is comparable to that of the incumbent LEC in the proposed service area; and
8. A public interest determination.

In addition to Resolution T-17002 ETC designation rules, carriers requesting ETC designation must also comply with General Order (GO) 153, and CPUC User Fee and surcharge obligations. The CPUC User Fee is levied on all telecommunications carriers providing services directly to customers and the amount of fees is a percentage calculation based on all intrastate customer billings for telecommunications services. All telecommunications carriers and Voice over Internet Protocol providers are also required to collect and remit public purpose program surcharges from end-users. These surcharges fund the CPUC's universal service programs.

² 47 C.F.R. § 54.202(a).

³ See *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt. 96-45 (FCC 97-157), released May 8, 1997.

Notice/Protests

Varcomm served its AL 2 filing via email to all parties on the ETC service list and the AL 2 appeared in the Commission's Daily Calendar on February 23, 2022. No protests were filed.

DISCUSSION

This Resolution adopts the Staff's recommendation of approving Varcomm's request for ETC designation to obtain federal Lifeline support in certain service areas of AT&T California and Frontier California. For future federal and/or state grant(s) participation, and when high-cost support is requested or is required by a particular program, Staff recommends Varcomm file a Tier 2 advice letter with the CPUC requesting a change in ETC status.

Company Overview

Varcomm Broadband, Inc., is located at 23473 Ave 56, Ducor, CA 93218. The company is affiliated with Ducor Telephone Company (Ducor) and currently provides broadband Internet access services in the Ducor service territories in California. On September 24, 2021, Varcomm received its Certificate of Public Convenience and Necessity ("CPCN") to provide resold and limited facilities-based and competitive local exchange and interexchange telecommunications service. As a certificated CLC and IXC, Varcomm is required to report and pay public purpose program surcharges and user fees on its California intrastate revenues.

Compliance with Federal ETC Requirements

A carrier must satisfy all federal ETC requirements in order to receive an ETC designation. Varcomm has met the following federal ETC requirements:

Demonstration that the services intended to be offered to comply with the voice telephony definition - Pursuant to 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.101 (a), Varcomm asserts that its designated services will comply with the supported services eligible for federal Lifeline support. Varcomm will provide voice-grade access to the public switched network or its functional equivalent, using Voice over Internet Protocol (VoIP). Varcomm will offer voice services with unlimited local and long-distance calling.⁴

⁴ Varcomm AL 2, at 2.

Advertise using media of general distribution – Pursuant to 47 C.F.R. § 54.201 (d)(2) Varcomm intends to advertise using a variety of mechanisms, such as direct mail marketing, social media posts, and newspaper advertisements.⁵

Commitment to provide supported service throughout the designated service area – Varcomm asserts that it is committed to provide the supported service to requesting customers within the proposed designated service areas on a timely basis. Varcomm states that it will make reasonable efforts to expand its network to service customers in adjacent areas where it can reasonably do so.⁶

Demonstration of ability to remain functional – Pursuant to 47 C.F.R. § 54.202 (a)(2) Varcomm asserts that the company has the ability to remain functional by mitigating outages, employing network resiliency, and efficiently restoring service. The facilities are built with physical redundancy and can re-route traffic as needed. The company further asserts that it will implement 72 hours of backup power at each of its switches and terminals, as required by D.21-02-029.⁷

Demonstration of financial and technical capability – Pursuant to 47 C.F.R. § 54.202 (a)(4) Varcomm is financially capable of providing its proposed voice services to eligible low-income households. Varcomm is affiliated with Ducor Telephone Company, an Incumbent Local Exchange Carrier (ILEC). Staff reviewed submitted financial statements and bank statements.

Staff finds that Varcomm is technically capable of providing telecommunications services to low-income households, as it has been operating as a broadband provider in the Ducor service territory for multiple years. Varcomm's management is knowledgeable about the Lifeline program due to Ducor's participation in both state and federal low-income programs.

Additionally, Varcomm has never filed for bankruptcy protection and has never been the subject of state enforcement or ETC revocation.

Commitment to meet public interest requirements for the proposed service areas – Varcomm asserts that receiving the ETC designation will serve the public interest by deploying facilities and providing telecommunications services in rural areas. The company's management is very experienced in serving rural communities that lack other telecommunications service options. Varcomm asserts that it is interested in participating in future federal and state programs that promote facilities deployment and service adoption.⁸

⁵ Varcomm AL 2, at 3.

⁶ Varcomm AL 2, at 2.

⁷ Varcomm AL 2, at 3-4.

⁸ Varcomm AL 2, at 3-4.

Commitment to satisfy all applicable consumer protection and service quality standards – Pursuant to 47 C.F.R. § 54.202 (a)(3) Varcomm asserts that it has a strong commitment to consumer protection and service quality. Varcomm will comply with all applicable state and federal consumer protection and service quality standards, including G.O 168.⁹

Compliance with Commission User Fee and Surcharge Obligations

Staff has verified that Varcomm and Ducor are current with payments of CPUC User Fees and public purpose program surcharges. These are existing Commission licensing obligations and Varcomm must continue to remain current with its payments. Failure to comply may lead to citations and enforcement action including, but not limited to, revocation of Varcomm's CPCN operating authority, and/or authority to operate as an ETC in California.

Compliance with the California LifeLine Administrator's Requirements

The California LifeLine Administrator is the sole entity responsible for determining eligibility and administering the enrollment process for both the California LifeLine Program and the federal Lifeline program. Service providers that participate in the federal program must comply with the eligibility requirements and the Administrator's enrollment process.

Varcomm may have some experience with the California LifeLine Program Administrator's enrollment process, protocols, transmission requirements, etc., since the company works with Ducor, however, it was in a different capacity. Staff recommends that the Commission must direct Varcomm to work with the Administrator and Staff to finalize its provisioning process and solidify its understanding of the program's processes prior to the company launching its federal Lifeline services.

Providing Lifeline Voice Service to Customers/Future Changes to Designated Service Areas

Varcomm requests designation as an ETC to provide voice telephony services to qualifying low-income households in certain service areas of AT&T California and Frontier California.

⁹ Varcomm AL 2, at 4.

As a federal Lifeline provider, Varcomm is authorized to provide federal Lifeline voice telephony services in the service areas as identified in Appendix A. Any changes to Varcomm's service areas in California must be presented by filing a Tier 2 advice letter that includes supporting documents; a description of the areas to be served; a list of the geographic service areas; and a map in Shapefile format of the proposed area(s). If Varcomm decides in the future to change its designation to include federal high-cost support due to federal and/or state programs that require such a designation in order to receive grants or funding, it must also submit a Tier 2 advice letter with the CPUC.

Public Interest Determination

Before recommending the designation of a carrier as an ETC, Staff must determine that doing so would be in the public interest for California consumers.¹⁰ Designating Varcomm as an ETC will serve the public interest by providing unserved/underserved customers and low-income households in California with access to voice telephony services and possibly broadband internet access services. Staff finds that Varcomm meets the criteria for the public interest determination by providing the benefits of another service provider option for customers in rural California.

Price Analysis

Varcomm proposes to offer voice telephony services using VoIP. The initial offering is unlimited local and long domestic distance calling for \$25 per month.¹¹ Staff finds that the pricing plan offered by Varcomm is reasonable for voice services. Staff finds that Varcomm's unlimited voice service plan is comparable to other available service plans and recommends approval. Both AT&T CA and Frontier CA offer similar VoIP plans for \$25 and between \$20 - \$35, respectively, for the first 12 months of service.¹²

Due Diligence Review

An integral part of Staff's processing of an ETC designation request is a due diligence review to determine if the applicant has engaged in behavior that may call into question its fitness to be granted ETC designation to serve California consumers. The due diligence review includes but is not limited to, conducting independent research about the applicant's past operations to provide the Commission with information that may

¹⁰ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt 96-45 (FCC 05-46), released Mar 17, 2005 ¶ 40 and CPUC Resolution T-17002, *Appendix A, Section II-G: Public Interest Determination*.

¹¹ See <https://varcomm.net/telephone-services>

¹² See [AT&T Home Phone Bundle Deals | Triple Play Bundles \(att.com\)](#) Pricing information for Frontier CA was obtained by searching Google as Frontier's website needed address information.

be pertinent in deciding whether or not to grant the ETC request. Typical research methods include performing Lexis/Nexis legal resource searches, internet searches, reviewing industry and trade publications, querying other governmental agencies, contacting the FCC and USAC, reviewing a company's history of operations, and consulting with the Commission's Consumer Protection and Enforcement Division and Consumer Affairs Branch.

Varcomm has not been subject to any enforcement sanctions or ETC revocation proceedings in any state nor has it received a Notice of Apparent Liability from the FCC. Staff did not discover any issues that would lead to a denial of Varcomm's request for authority to operate as an ETC service provider in the state of California. If substantive issues emerge after the ETC service provider authorization is approved which raise public interest questions about Varcomm's ability to offer subsidized program services in compliance with the authorities granted in this resolution, the Commission has the authority to pursue an enforcement action that may include fines, penalties, and the revocation of ETC designation in California.

SAFETY CONSIDERATIONS

Given that safety and emergency communications are common concerns for all of California's telephone customers, Staff recommends that the Commission require Varcomm to fully and clearly inform prospective federal Lifeline participants that access Enhanced 911 (E-911) and/or 911 may be limited or unavailable in the event of an emergency or power outage. Such disclosures include, but are not limited to, clear statements on marketing materials and conspicuous placement on the public website in the form of information content on webpages, footnotes, and/or listings on frequently asked questions (FAQ) webpage.

COMMENTS

In compliance with P.U. Code § 311(g), the Commission emailed a notice letter on June 10, 2022, informing all parties on the Eligible Telecommunications Carrier service list of the availability of this resolution for public comments at the Commission's website www.cpuc.ca.gov. The notice letter also informed parties that the final confirmed resolution adopted by the Commission will be posted and available at the same website.

CONCLUSIONS

Staff recommends that the Commission:

- 1) Approve Varcomm's request to be authorized as an ETC service provider to provide federal Lifeline services in specific areas of AT&T California and Frontier California.
- 2) Require Varcomm to work with the California LifeLine Administrator and Staff to finalize its provisioning process and solidify its understanding of the program's processes prior to the company launching its VoIP telephony services.
- 3) Require Varcomm to comply with all of the following:
 - a) File required annual reports and compliance reports with the Commission, such as but not limited to annual FCC's ETC reports and G.O. 133 D service outage reports;
 - b) Continue to comply with CPUC User Fee and public purpose program surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its authority to operate as an ETC in California;
 - c) Post safety related information about VoIP telephone service limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
 - d) Abide by all applicable state and federal consumer protection, including CPUC General Order 168, which is the Consumer Bill of Rights Governing Telecommunications Services; and
 - e) Comply with applicable California Public Utilities Commission Decisions regarding emergency consumer protections and service quality rules.

FINDINGS AND CONCLUSIONS

1. Varcomm Broadband, Inc., (Varcomm) is located at 23473 Ave 56, Ducor, CA 93218. Varcomm received its CPCN as a CLC and ICX (U-7385-C) on September 24, 2021.
2. Varcomm offers broadband Internet access service in the service territories of its affiliate Ducor Telephone Company.
3. On February 18, 2021, Varcomm submitted Tier 3 Advice Letter (AL) 2 to the CPUC requesting ETC designation to obtain federal Lifeline support in certain service areas of AT&T California and Frontier California.

4. Varcomm will seek participation in the California LifeLine Program in the near future.
5. Staff recommends that Varcomm ETC designation request to obtain federal Lifeline support be approved contingent on the following:
 - a) File required annual reports and compliance reports with the Commission, such as, but not limited to, FCC's annual reporting requirements for ETCs and G.O. 133 D service outage reports;
 - b) Continue to comply with CPUC User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC designation;
 - c) Post safety related information about VoIP telephone service limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
 - d) Abide by all applicable state and federal consumer protection, including CPUC General Order 168, which is the Consumer Bill of Rights Governing Telecommunications Services; and
 - e) Comply with applicable California Public Utilities Commission Decisions regarding emergency consumer protections and service quality rules.
6. Varcomm commits to comply with the CPUC's enrollment process, including all eligibility rules and validation checks, and to provide the Administrator with all required information for the Administrator to determine eligibility.
7. Varcomm commits to offer stand-alone VoIP service with unlimited local and domestic long-distance calling for \$25 per month. Eligible Lifeline participants will receive a federal discount of up to \$5.25 per month.
8. Staff conducted a due diligence review to determine Varcomm's fitness as it relates to business practice behavior and customer protection that may call into question its fitness to be granted ETC designation to serve California consumers. Staff found no fitness issues.
9. The Commission may pursue an enforcement action which may include fines, penalties, denial, suspension, and/or revocation of its ETC designation should substantive issues emerge after Varcomm is approved which raises public interest questions about Varcomm's operations.

10. As an ETC provider, Varcomm is authorized to provide voice services using Voice over Internet Protocol (VoIP) in certain designated service areas of AT&T California and Frontier California.
11. On June 10, 2022, the Commission emailed a draft of this resolution to the Eligible Telecommunications Carrier service list for public comments.

THEREFORE, IT IS ORDERED THAT:

1. The California Public Utilities Commission approves Varcomm Broadband, Inc., (Varcomm) (U-7385-C) as an eligible telecommunications carrier to obtain federal Lifeline support in certain designated service areas, as shown in Attachment A, of AT&T California and Frontier California.
2. Varcomm eligible telecommunications carrier designation approval for federal Lifeline support shall be contingent upon the following:
 - a) Submission of annual reports and compliance reports with the Commission, such as but not limited to the Federal Communications Commission's annual reporting requirements for Eligible Telecommunication Carriers and the California Public Utilities Commission's General Order 133 D service outage reports;
 - b) Compliance with the California Public Utilities Commission's User Fee and public purpose program surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its eligible telecommunications carrier designation;
 - c) Posting of safety-related information about Voice over Internet Protocol telephone service limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website; and
 - d) Abiding by all applicable state and federal consumer protection, including the California Public Utilities Commission's General Order 168, which is the Consumer Bill of Rights Governing Telecommunications Services.
 - e) Comply with applicable California Public Utilities Commission Decisions regarding emergency consumer protections and service quality rules.
3. Varcomm shall comply with the California Public Utilities Commission's General Order 153 and the California LifeLine Administrator's enrollment process including, but not limited to, validation checks, transmission requirements, and efforts to prevent waste, fraud, and abuse.

4. Varcomm shall work with the California LifeLine Administrator and Staff to finalize its provisioning process and solidify its understanding of the program's processes prior to the company launching its federal Lifeline Voice over Internet Protocol services.
5. Varcomm shall comply with all applicable California Public Utilities Commission's rules, orders, decisions, and resolutions, the California Public Utilities Code, and Lifeline rules. Failure to do so may result in fines, penalties, denial, suspension, and/or revocation of its eligible telecommunications carrier designation in California.
6. Varcomm shall inform Lifeline customers of the limitations that may affect Voice over Internet Protocol telephony service including E-911/911 which may be limited or unavailable in the event of an emergency or power outage. Disclosures will include but are not limited to, clear statements on all marketing materials and the company's website.
7. Varcomm shall file a Tier 2 Advice Letter to request approval for any future changes to its approved designated service area. This request shall include a description of the areas to be served; a list of the geographic areas; and a map(s) in Shapefile format of the proposed service area.
8. Varcomm shall file a Tier 2 Advice Letter to request changes to its designation status to include federal high-cost support if it chooses to do so.

This Resolution is effective today.

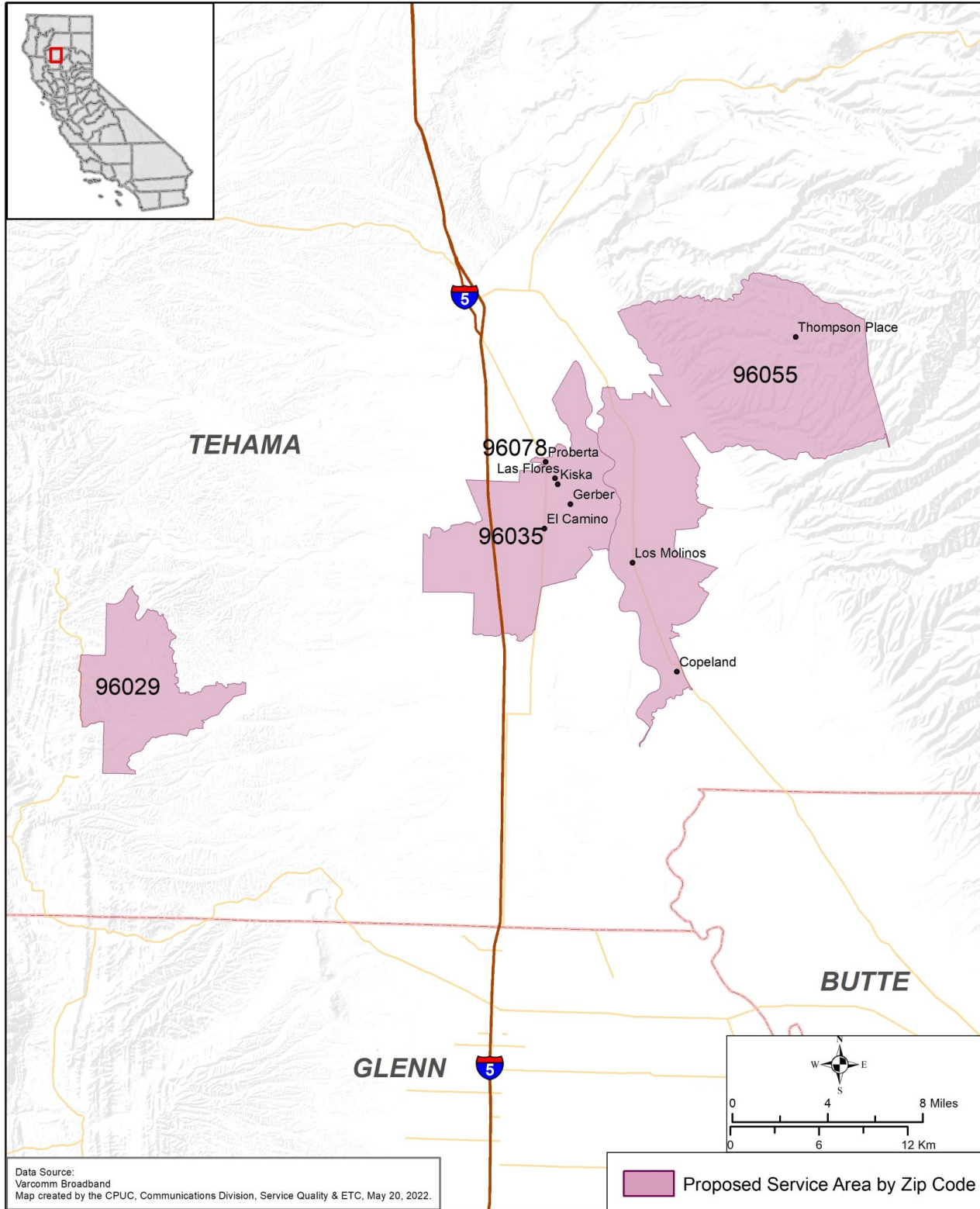
I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____ the following Commissioners voting favorable thereon:

Rachel A. Peterson
Executive Director

ATTACHMENT A



STATE OF CALIFORNIA Varcomm Broadband - Proposed ETC Service Area - Tehama County





STATE OF CALIFORNIA Varcomm Broadband - Proposed ETC Service Area - Tulare County

