

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Update Surcharge) RULEMAKING 21-03-002
Mechanisms to ensure Equity and Transparency of)
Fees, Taxes and Surcharges Assessed on Customers)
of Telecommunications Services in California)

**VOICE ON THE NET COALITION COMMENTS
IN RESPONSE TO ADMINISTRATIVE LAW JUDGE’S RULING**

The Voice on the Net Coalition (“VON”)¹ hereby respectfully submits these comments in response to the Administrative Law Judge’s Ruling, released March 30, 2022 (“ALJ Ruling”), in the above-captioned proceeding.² In particular, the ALJ Ruling seeks comments on a proposed, revised definition of an access line and the impact of such revision should the Commission adopt Staff’s recommendation for a flat rate, per access line surcharge mechanism to support the state’s Public Purpose Programs (“PPP”). Though VON continues to support maintenance of the current revenue-based funding mechanism and maintains the proposed access line funding mechanism does not comply with existing California law,³ it offers these brief comments in response to the ALJ Ruling.⁴

Access Line Definition: The Staff’s revised definition of access line fails to recognize the unique characteristics of nomadic voice of internet protocol (“VoIP”) services and the affect RAY BAUM’s Act may have on the proposed definition of Registered User. Accordingly, VON

¹ VON is a trade association founded in 1996 to advocate for a fresh approach to regulation of Internet communications. For more information, see www.von.org.

² Administrative Law Judge’s Ruling, R.21-03-002 (filed March 30, 2022). Parties were required to file responses within 30 days of the date of the ruling.

³ See Cal. Pub. Util. Code § 285(c).

⁴ See VON Reply Comments in Response to OIR in Rulemaking 21-03-002 (April 23, 2021); VON’s Comments in Response to the Assigned Commissioner’s Scoping Memo and Ruling (July 28, 2021); VON’s Comments in Response to Staff Report – Part 2 (November 30, 2021).

recommends that that the Commission revise the definition of “access line” to mean “a wire, radio frequency, other medium of transmission, or protocol used to provide telecommunications service or Voice over Internet Protocol (VoIP) service to or from any device utilized by an end-user, regardless of technology, which is associated with a wireline, wireless, VoIP or other service account assigned a 10-digit number or other unique identifier and has a California billing address or a Place of **Primary Use in California.**” VON further recommends that Primary Place of Use be defined as the “street address where the end-use of customer’s use of the service primarily occurs.”

The reason for this change is two-fold. First, the phrase “Primary Place of Use” is already used in the Public Utility Code and in the Emergency Telephone Users Surcharge Act.⁵ Providers are generally familiar with this definition, and it would be most efficient to use definitions employed in existing law.

Second, the proposed definition of “Place of Primary Use” fixes deficiencies in the definition of “Registered Location.” The proposed definition of “Registered Location” prevents VoIP providers from having the option to rely on Registered Location in assessing PPP charges. The Commission defines Registered Location as “the location associated with service for a subscriber’s *telecommunications* device.” A telecommunications device does not include a VoIP device, which the Commission recognized when it defined “telecommunications” and VoIP separately.

In addition, the term Registered Location does not account for RAY BAUM’s Act and the roaming user. RAY BAUM’s Act requires nomadic VoIP providers to prompt their users to update their location each time that the user moves. This means that a user may have multiple

⁵ See Cal. Pub. Util. Code § 285(d); Cal. Rev. and Tax. Code §41020(b)(6).

registered locations within a single day and will have out of state registered locations each time that the user travels. It would be impossible for providers to report PPP surcharges based on their users ever-changing locations.

By revising the “access line” definition to refer to Place of Primary Use, the Commission would adopt a term already used in California and would allow providers to align their contribution practices across PPP and 911 surcharges as well as other state taxes.

Inclusion of Toll-Free Numbers (Question 3): The Commission’s proposed definition does not and should not include toll free numbers, premium rate numbers, or other types of numbering services. These number services are not access lines and are not a “medium of transmission, or protocol” in and of themselves. Indeed, these services cannot be used unless a customer purchases an access line from a provider. Including these numbering services in the definition of access line would result in double taxation for a single line. Therefore, they should not be included.

CONCLUSION

VON continues to support maintaining the current revenue based assessment methodology until Congress and/or the Federal Communications Commission complete federal Universal Service Fund reform. If the Commission chooses to adopt an assessment methodology based on the number of access lines, VON recommends that the Commission adopts the changes noted herein.

Respectfully submitted,

THE VON COALITION

/s/ Glenn S. Richards

Glenn S. Richards
Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, NW
Washington, DC 20036

glenn.richards@pillsburylaw.com
(202) 663-8215

Its Attorney

April 29, 2022