

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 REPLY COMMENTS
IN RESPONSE TO ORDER INSTITUTING RULEMAKING**

The Voice on the Net Coalition (“VON”) hereby respectfully submits these reply comments in response to the Order Instituting Rulemaking (“OIR”) in the above-captioned proceeding.¹ VON is a trade association founded in 1996 to advocate for a fresh approach to regulation of Internet communications. VON members are on the cutting edge of delivering innovative IP communications that converge voice, video and text in entirely new ways.²

VON and its members continue to be active in efforts (now more than a decade old) to reform the contribution methodology used to support the Federal Communications Commission Universal Service Fund (“FUSF”). The FUSF contribution factor (the percent of revenues that communications service providers contribute to support FUSF programs) has seen significant growth, from 20 percent in the first quarter of 2019 to the current 33.4 percent.³ This dramatic rise has resulted in calls for reform, including expansion of the revenue base to additional services (e.g., broadband internet access service), assessments based on connections or numbers,⁴ and a

¹ These reply comments are timely filed. See ALJ Hazlyn Fortune E-Mail Ruling Granting Motion Requesting an Extension of Time to File Reply Comments, issued April 12, 2021, R.21-03-002 (extending the reply comment date until April 23, 2021).

² For more information, see www.von.org.

³ See: [Contribution Factors - Universal Service Administrative Company \(usac.org\)](https://www.usac.org/contribution-factors) (last viewed April 18, 2021).

⁴ See, Letter from the Ad Hoc Telecommunications User Committee, FCC Docket 06-122, filed April 22, 2021; see also Recommended Decision of the State Members of the Federal-State Joint

suggestion that Congress directly appropriate the funds to cover those programs supported by FUSF.⁵

In light of the volatility at the federal level, it is unsurprising that this Commission is facing similar concerns about the continued viability of funding for critical Public Purpose Programs (“PPP”). Changes in technology and the way communications services are used have necessarily motivated the Commission to consider alternatives to the existing revenue-based funding model to seek a sustainable path forward. This is an important and complicated proceeding for all involved in California’s communications ecosystem.

The Commission Should Maintain the Existing Funding Mechanism

VON agrees with those commenters that suggest the Commission should maintain the existing revenue-based funding and not transition to a per-line fee. Though imperfect, the revenue-based model is consistent with the current federal structure, complies with existing California law and, unlike the per-line model, will not cause disruptions to any group of ratepayers or changes to the accounting and billing systems of contributing service providers.

For example, RingCentral notes that California Public Utilities Code Section 285 requires registered interconnected VoIP providers to “collect and remit surcharges on their California intrastate revenues” and provides options for calculating those revenues, including the allocation between federal and state collections.⁶ VON agrees with RingCentral that a per-line fee would therefore not be permissible under PUC Code Section 285 because it is not revenue-based.⁷

Board on Universal Service, FCC Docket No. 06-122, filed October 15, 2019 (advocating for the inclusion of broadband services).

⁵ See, *We Need to Fundamentally Rethink How USF Programs are Funded*, AT&T Public Policy Blog, posted July 21, 2020 (found at <https://www.attpublicpolicy.com/universal-service/we-need-to-fundamentally-rethink-how-usf-programs-are-funded/>), last viewed April 18, 2021.

⁶ RingCentral, Inc.’s Comments in Response to Order Instituting Rulemaking, R, 21-03-002 (April 5, 2021) at 2.

⁷ Id.

Moreover, RingCentral notes that VoIP providers are not required to pay user fees, and the proposed single line-item, per-line fee would cover both PPP surcharges and user fees.⁸

As AT&T notes, the switch to a per-line contribution mechanism for both PPPs and the user fee would require significant modifications to service provider billing systems and would not align with the federal system which will continue (for now) to require contributions based on revenues.⁹ The possibility of 50 different state approaches to collections for universal service programs would impose significant administrative burdens on providers, would be inconsistent with the FUSF, and would risk FCC preemption.¹⁰ Nor would it necessarily guarantee the stability for the fund that the Commission seeks.¹¹ AT&T recommends, and VON agrees, that the Commission should not make fundamental changes to PPP assessment in the absence of changes to the FUSF contribution methodology.¹²

⁸ Id. at 3.

⁹ Verizon similarly notes that, if adopted, the proposed per-line fee would require it spend resources and time modifying and redesigning its billing collection and remittance processes and systems for California. Opening Comments of MCI Communications Services LLC, R.21-003-002 (April 5, 2021) at 3.

¹⁰ AT&T Opening Comments on Order Instituting Rulemaking to Update the Surcharge Mechanism for Public Purpose Programs, R, 21-03-002 (April 5, 2021) at 2, 4; *see also* Comments of CTIA on the Order Instituting Rulemaking, R, 21-03-002 (April 5, 2021) (suggesting the Commission's proposal may be unlawful because it may result in the collection of interstate revenue by the Commission) at 8.

¹¹ Id. at 3 (suggesting that stability would come if PPPs were paid for through the state's General Fund supported by state tax revenues); *see also* Comments of CTIA on the Order Instituting Rulemaking, R, 21-03-002 (April 5, 2021) (asking the Commission to consider whether it is more appropriate to Fund PPPs from California's general fund) at 15.

¹² Id. at 5.

CONCLUSION

VON looks forward to working with the Commission and other stakeholders on charting a course that would provide stability in the funding of PPPs that is consistent with both state and federal law, and would not unnecessarily burden any specific group of ratepayers or service providers.

Respectfully submitted,

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