BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Update Surcharge Mechanisms to Ensure Equity and Transparency of Fees, Taxes and Surcharges Assessed on Customers of Telecommunications Services in California.	Rulemaking 21-03-002 (Filed March 4, 2021)

COMMENTS OF CTIA ON THE ORDER INSTITUTING RULEMAKING

GOODIN, MACBRIDE,
SQUERI & DAY, LLP
Jeanne B. Armstrong
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: 415.392.7900
Facsimile: 415.398.4321
Email: jarmstrong@goodinmacbride.com

Attorneys for CTIA

April 5, 2021

Pursuant to Rule 6.2 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission")[1] and Ordering Paragraph 4 of the above-captioned item, CTIA[2] respectfully submits these comments in response to the Order Instituting Rulemaking ("OIR") issued on March 11, 2021, in Rulemaking No. 21-03-002.[3]

I. INTRODUCTION

CTIA supports the Commission's goals of affordable universal service, but the proposal to implement a regressive contribution mechanism for funding the Public Purpose Programs and the Commission's user fee (collectively "PPPs") will do nothing to further the Commission's goals and will actually make it *more* difficult to achieve universal service goals because it disproportionately targets less affluent customers. A connections-based mechanism for PPP charges therefore should be rejected.

A connections-based funding mechanism is a regressive surcharge that places on the impoverished the same burden for funding universal service as it does on billionaires. It also does particular harm to families subscribing to family plans. These families will be charged a flat-fee for each line, an approach that surgically counteracts the discounts they receive for bundling multiple lines, and the commensurately lower taxes, fees, and surcharges that follow under the existing revenue-based PPPs surcharge.

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[1] CAL. CODE REGS. tit. 20, § 6.2.

[2] CTIA – The Wireless Association® ("CTIA") (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st -century connected life. The association's members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry, and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984.

[3] *Order Instituting Rulemaking to Update Surcharge Mechanisms to ensure Equity and Transparency of Fees, Taxes and Surcharges Assessed on Customers of Telecommunications Services in California*, R. 20-03-002, Order Instituting Rulemaking (issued March 11, 2021).

Aside from being a regressive surcharge, implementing a connections-based flat-fee surcharge without also implementing point-of-sale collection for prepaid wireless services sold by third party retailers (also called indirect sales channels) would discriminate competitively against prepaid providers who cannot feasibly recover such surcharges separately from their advertised rates because they often have no ongoing billing relationship with their customers.

To the extent the Commission is concerned about stabilizing the PPPs budget, switching to a connections-based funding mechanism will do nothing to further that goal. Under the proposal, the Commission will be collecting the same amount of revenue from the same contribution base of California telecommunications consumers. The Commission's proposal simply shifts onto wireless customers a far greater share of the burden of funding the PPPs without any impact whatsoever on the stability of the budget.

Switching to a connections-based mechanism raises practical and legal questions, too. A connections-based surcharge is discriminatory and may illegally burden the federal universal service program, and it will necessitate separate systems for federal and California universal service remissions, increasing complexity and expense for carriers.

While CTIA supports contribution reform, it believes the appropriate contribution mechanism is to fund universal service goals from the State's general fund. While that goal is beyond the Commission's ability to achieve on its own, taking steps to advance that goal is a more prudent path than pursuing the Commission's regressive proposal.

Below, CTIA responds to the specific questions listed in the OIR.

II. CTIA RESPONSES TO QUESTIONS IN THE OIR

1. Does this proposed OIR simplify or make more complicated the surcharge collection process?

The net effect of the proposal from a practical perspective is to complicate surcharge collection for post-paid wireless providers, primarily as a matter of the expense of implementing a new surcharge collection methodology, and to discriminate against prepaid wireless carriers for their sales of service through third party retailers. The proposal will cause carriers to expend resources and capital to implement any changes the Commission adopts while still needing to determine other universal service contributions based on revenues. Wireless carriers' current approach to PPPs contributions is driven by identifying the inverse of the revenues subject to surcharge (*i.e.* telecommunications revenue)[4] that are assigned to the interstate (federal) jurisdiction. The Federal Communications Commission ("FCC") maintains a revenue-based universal service contribution mechanism, so regardless of what the Commission does in the instant docket, carriers will still need to follow the FCC's rules and guidance to determine federal USF contributions based on revenues. The Commission should also consider that the definition it uses for an assessable "connection" could greatly impact the issues CTIA describes. Depending on how the term is defined, those issues could be alleviated or exacerbated. The definition could lead to over- or under-inclusion and could lead to issues that have not yet been identified. CTIA attempts to illuminate concerning issues arising from the overall approach, but the Commission must not ignore that the definition it chooses will carry its own consequences.

Further, while the Commission's questions focus on the billing *process*, it ignores the fact that carriers make competitive decisions regarding how to collect surcharge revenues from customers, not just *how much* to collect or the billing processes involved. For instance, certain

[4] *See* OIR at 7 (only telecommunications services, not information services, are subject to surcharge).

post-paid rate plans offer all-inclusive billing that collects the service rate plus all taxes, fees, and surcharges in a single lump sum without differentiation on a bill. Other post-paid rate plans isolate the service rate and separately identify the taxes, fees, and surcharges on bills. Similarly, some rate plans involve unlimited amounts of surchargeable voice service while others offer metered voice minutes. Each of these offerings reflect an individual carrier's competitive decisions about what offerings are attractive to customers in the marketplace. Any change in surcharge methodology is likely to change the assumptions underlying a carrier's service offerings, thereby potentially intruding on the competitive marketplace.

Aside from intruding on competitive decision-making in the post-paid market, a connections-based methodology is a unique challenge for prepaid providers in terms of collecting the specific taxes, fees, and surcharges due when sales are conducted through third party retailers. Without a statute authorizing collection of surcharges at third party points of sale, any connections-based surcharge methodology will discriminate against prepaid carriers. This is so for a number of reasons.

To start with, it would be impracticable, or nearly impossible, for prepaid carriers to accurately reflect the correct taxes, fees, and surcharges due without a point of sale collection methodology. Carriers that bill on a monthly basis (including postpaid wireless carriers and other market participants), or otherwise bill consumers directly, are able to generate bills that reflect the taxes, fees, and surcharges on customers' services. For such carriers, changes to surcharge rates are implementable, although they need adequate notice of the changes and sufficient time to implement them. Not so for prepaid carriers.

Theoretically, prepaid carriers have the ability to include a surcharge in addition to their rate as part of the purchase price for services. This could be reflected as a rate plus some

additional increment that equals the applicable taxes, fees, and surcharges for a given state (*e.g.* $100 + $5 Regulatory Fee for 5 GB and 500 minutes), but implementing such an approach in the real world would fall somewhere on a continuum between inordinately difficult to nearly impossible. Such an approach could necessitate prepaid carriers printing new top-up cards and working with third party retailers to ensure distribution of these new top-up cards *only* in California, as opposed to the current nationwide approach. Any change in taxes, fees, or surcharges, such as the Commission proposes, could necessitate recall of *all* in-market top-up card inventory to ensure distributed cards match applicable taxes, fees, and surcharges.

Prepaid providers would suffer further discrimination without point of sale collection for indirect sales channels insofar as they would not be able to offer national pricing as do postpaid carriers. In the wireless industry, national pricing is the standard. Postpaid carriers are able to bill their customers the same rate nationally, while also collecting all applicable taxes, fees, and surcharges, which are advertised separately. Prepaid carriers selling service through indirect sales channels have no such option. Prepaid carriers have to select between offering national pricing or top-up cards with prices (rate plus charges) that are specific to each state. This is discriminatory, and because the latter option (rate plus charge specific to each state) is impracticable, point of sale collection is the only means of correcting for this discrimination.

A counterargument that prepaid carriers can adjust their national price so that the national price includes taxes, fees, and surcharges due averaged across all sales would fail because such an approach, too, discriminates against prepaid carriers. Prepaid carriers do not operate in a vacuum. The wireless market is extremely competitive and prepaid services compete with postpaid services for customers. Thus, consumers measure prepaid and postpaid rates against each other. The postpaid segment of the market is able to advertise its rate separate from other

charges that may apply, so prepaid carriers' ability to include taxes, fees, and surcharges in their monthly rates is constrained, and prepaid carriers suffer discrimination in their ability to set competitive rates.

For prepaid and all-inclusive post-paid plans, a sizeable, potentially massive, increase in PPPs contribution obligations – as will occur for wireless customers if the Commission adopts a connections-based approach[5] – confronts wireless carriers with decisions regarding whether they can maintain their current rate structures. Examining rates and rate structures is inevitable if the Commission moves from a system under which all revenues from the same category of services are assessed an identical surcharge percentage to one in which wireless customers will bear the substantial majority of the burden of funding the PPPs regardless of the jurisdictional revenues attributable to them.

Among the wireless customers particularly impacted by this change are those that subscribe to family plans. Such plans offer discounted rates to families that maintain multiple lines, and those discounted rates result in a lower tax, fee, and surcharge burden than would apply to the same number of lines maintained as individual accounts. Essentially, family plans allow families to enjoy economies of scale. A flat-fee, connections-based approach eviscerates such savings. Under the proposed methodology, the Commission's approach to collecting PPPs would frustrate the efforts of families seeking to lower their bills by grouping their lines into a single account. CTIA further discusses these regressive impacts *infra* in response to Questions 6.

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[5] The Commission has not provided the underlying data graphically reflected in Chart 1 of the OIR, but it is apparent that wireless contributions are less than half of the total reflected. Based on the FCC's most recent estimate of voice subscriptions in California (https://www.fcc.gov/sites/default/files/vts_state_table_1_1.xlsx), wireless contributions based on a flat-fee imposed on all voice connections would increase wireless consumers' collective contribution burden to approximately 75% of all contributions. In light of the size of the overall fund ($6.43 billion, *see* OIR at 5) the Commission's proposal is likely to increase wireless consumers' PPPs funding burden by over $1.5 billion.

Wireless carriers today collect some California surcharges based on fixed fees, so obviously they would be able to implement a fixed fee surcharge collection methodology for the PPPs, but doing so will be expensive and carriers will need sufficient lead time to implement any changes the Commission may adopt. On behalf of its members, CTIA requests that the Commission allow at least nine months to implement any collection methodology change.

2. Does the proposed OIR benefit providers' billing process?

No. As stated in response to Question 1 above, the net effect of a change in the contribution methodology is to complicate wireless carriers' billing processes, discriminate against prepaid carriers, interfere with competitive decisions regarding rate plans, and adversely impact families in particular.

3. Would a single per-line access charge approach provide stability to Fund balances?

No. Every year the Commission sets its combined PPP and user fee surcharges at a level that fully funds its programs. There are three steps to the Commission's process for accomplishing this. First, the Commission determines the budget necessary to fund each program.[6] Second, the Commission determines the billing base against which the surcharges will be applied by calculating the total intrastate telecommunications revenues forecasted by telephone corporations and interconnected VoIP service providers in California for the upcoming year.[7] Finally, after determining the billing base, the Commission calculates the percentage surcharge necessary (as applied against the representative billing base) in order to collect the

[6] *See, e.g.*, Resolution T-17615. Approval of the California Telecommunications Public Purpose Programs estimated budgets for the 2018-2019 Fiscal Year.
[7] *See, e.g.* Resolution T-17519. Approval of the California LifeLine Program Surcharge Rate of 4.75%, Effective November 1, 2016, p. 9.

amount budgeted.[8] This system has worked well for the Commission and has not resulted in any irreconcilable under-collection that CTIA is aware of. Even were such to occur, the Commission would only need to issue an interim upward adjustment of the surcharge rate. Thus, fund stability is not an issue under the current system and offers no reasonable justification for switching contribution methodologies.

4. Would a single per-line access charge approach better align the Commission's efforts with those at the federal level and the state's Office of Emergency Services?

No, and specific to the "align[ment of] the Commission's efforts with those at the federal level," the Commission should recognize that its proposal actually works at cross-purposes with the federal approach. This juxtaposition of the federal methodology and the Commission's proposal may be unlawful on its face and may result in unlawful collection of interstate revenues by the Commission. Furthermore, the proposal, at a minimum, fundamentally ignores and counter-acts the balancing inherent in the federal program.

The federal program's structure assigns telecommunications revenues – the only assessable revenues – to the interstate and intrastate jurisdictions and then relies upon jurisdictional revenues to fund universal service programs. In operation, this means that carriers, like wireless providers, that tend to have more interstate revenue than intrastate revenue are the predominant funding source for the federal universal service program. Conversely, and by design, carriers that tend to tend to have more intrastate revenue than interstate revenue, like traditional wireline providers such as ILECs, are the predominant funding source for state universal service programs such as the Commission's PPPs.

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[8] *See, e.g*. Resolution T-17453 Approval of the California High Cost Fund-A Program Surcharge Rate of 0.35%, Effective January 1, 2015.

The Commission's proposal threatens to upset the balance the FCC has achieved with its approach. The proposal would result in wireless providers remaining the predominant source of funding for the federal universal service programs *and* becoming the predominant source of funding for California's PPPs, too.[9] Rather than contributing proportionately more at the federal level and proportionally less at the state level – the very balancing the federal program achieves by design - the Commission's proposal upsets the balance for wireless providers and saddles them with the predominant burden of funding universal service at both the state *and* federal levels.

The foregoing illustrates the inadvisable misalignment between the Commission's proposal and the federal USF, but it is important for the Commission to consider that while such misalignment is, at a minimum, bad policy, it may also be illegal. Pursuant to federal law, a state universal service mechanisms must be "not inconsistent" with the federal universal service rules and programs. As illustrated *supra*, the Commission's proposal is facially inconsistent with the FCC's chosen contribution mechanism. Such facial inconsistency may be prohibited under Section 254(f) of the Communications Act.[10]

The Commission's proposal will also upset the balanced jurisdictional allocation of revenues that underpins the FCC's contribution methodology. The FCC has established a complex, balanced program with rules and procedures specifically designed to determine the amount of revenue subject to universal service contributions at the state and federal levels.

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[9] *See supra* fn. 5.

[10] *See* 47 U.S.C. § 254(f) ("A State may adopt regulations *not inconsistent* with the Commission's rules to preserve and advance universal service [...] A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State *only to the extent* that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards *that do not rely on or burden Federal universal service support mechanisms*.) (emphasis added)

Upsetting the FCC's careful balancing so that wireless carriers bear the bulk of funding obligations at the federal and state levels even when their service revenues are primarily derived from interstate and non-assessable services is decidedly inconsistent with the federal universal service program and therefore may be illegal.

Beyond upsetting the FCC's programmatic balancing of revenues, the Commission's program risks "relying on" and "burdening" federal USF support mechanisms. Federal USF program funding relies on interstate telecommunications revenues and prescribes various methodologies (safe harbors, traffic studies, etc.) to determine the jurisdictional allocation of revenues. States are not at liberty to ignore the FCC's articulated approach for determining the amount of intrastate telecommunications revenue available for state universal service funding. Surcharging more revenue than is assigned to the intrastate jurisdiction under the FCC's regime is illegal.[11] The Commission has not proposed any mechanism to avoid illegally surcharging interstate revenues, and without such a mechanism, there is a very real risk of imposing surcharges that illegally apply to interstate revenues.

Another potential roadblock to implementing a flat-fee connections-based surcharge is whether such a surcharge is applied "on an equitable and nondiscriminatory basis."[12] Under federal law, this requires that contributions must be required, if at all, from all telecommunications providers offering telecommunications services.[13] The Commission's proposal fails on this account as it would collect surcharges only from carriers that provide their customers with a voice connection. Telecommunications providers, such as interexchange

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[11] *See* AT&T Corp. v. Public Utility Commission of Texas, 373 F.3d 641 (5th Cir. 2004) ("PUC assessment of interstate and international calls … conflicts with § 254(f), and thus is preempted by federal law.").
[12] *See* 47 U.S.C. § 254(f).
[13] *Id.*

carriers, would have no contribution obligation under the Commission's proposal, which renders it illegal under federal law.

While the Commission has offered no proposed definition of a connection, an inadequate definition runs the risk of being under-inclusive. An inadequately under-inclusive definition might exclude over-the-top VoIP providers, which would discriminate against other contributing providers offering voice services. The Commission also must take care not to craft an over-inclusive definition that might illegally apply to broadband connections. At such time as the Commission offers a proposed definition, CTIA may offer more specific comments.

It is also worth noting, to the extent the Commission inquires about alignment with the Governor's Office of Emergency Services' ("CalOES's") surcharges, that while CalOES does impose flat-fee surcharges on a per-connection basis, CalOES's surcharge *is* collected from prepaid customers at third party points of sale, so discriminatory impacts against prepaid carriers are avoided. The Commission cannot truly align its surcharges with CalOES's until and unless the Commission's surcharge, too, is collected from prepaid carriers at third party points of sale.

5. Does a single per-line access charge approach serve as an overall TUFFS system benefit, reducing error frequency by reporting carriers and less time spent by Communications Division and Fiscal Services Staff responding to and correcting carrier entry errors?

No. CTIA's members support modifications to simplify the TUFFS system, which has proven to be overcomplicated. It does not follow, however, that the Commission should redesign its PPPs contribution methodology. To the contrary, the problems identified in the questions could and should be addressed through a TUFFS system redesign, but the need for a redesign in no way supports a change in the PPPs surcharge methodology. Changing the surcharge methodology in order to accommodate or mute the shortcomings of the TUFFS system – if that is indeed the thrust of the question – would be an absurd result.

6. Would implementing a per-access line charge be regressive?

Absolutely. The proposed flat-fee surcharge would quite obviously be regressive insofar as customers would pay the same fee per-line regardless of income, so the per-line impact on lower income earners would be proportionally higher than for higher income earners. Californians that struggle to make ends meet will be making the same contribution as billionaires. In essence, the Commission is proposing a transfer of wealth from the economically disadvantaged to the comparatively better-off by forcing users with low-cost service plans to pay a greater relative percentage of the PPPs' budget. Such a shift is harmful and unjustifiable. Indeed, increasing the overall cost of service and proportional share of the contribution burden for parties with lesser means runs directly contrary to the entire rationale for universal service programs.

One important difference between a regressive surcharge like the one the Commission is proposing and a progressive surcharge like the one the Commission seeks to abandon is that consumers have some control over surcharge impacts from progressive surcharges. Not so with regressive surcharges. With a progressive revenues-based surcharge, a consumer that needs to reduce spending will see surcharges decrease as s/he purchases lower cost services. With a regressive surcharge such as the Commission proposes, that same consumer's efforts to lower their spending will be thwarted. The effect is the same for families that subscribe to family plans, but the negative impact is multiplied by the size of the subscribing family – a particularly harmful result.

In a recent docket in Oklahoma that, like the instant docket, considered adopting connections-based surcharges for the state's universal service program, CTIA illustrated a real-world example of a family that would see its monthly universal service surcharge burden

increase by a whopping 316% under a connections-based approach.[14] CTIA also highlighted the illogic of a regressive surcharge that requires customers who subscribe to inexpensive, simple wireless or wireline plans to pay the same amount as customers who have the financial means to subscribe to high-end, high-volume, expensive plans, regardless of their ability to pay.[15]

The regressive proposal is perhaps most egregious if applied to federal and California LifeLine (collectively "Lifeline") customers, and for this reason, CTIA implores the Commission to not apply per-line surcharges to Lifeline "connections." Lifeline customers are often among the least affluent Californians. Were the Commission to seek to force such customers to pay a flat-fee per-connection surcharge, it would reflect the most regressive application of the surcharge. Further, because only approximately half of Lifeline eligible Californians participate in the program,[16] the Commission's regressive proposal would particularly injure the 1.8 million Lifeline eligible Californians that are *not* participating in the program today. That group of Lifeline consumers would be expected to make the same PPPs contribution as millionaires and billionaires, and their expected contribution will be unaffected by how much they spend on assessable services.

Such a regressive approach would also make it difficult for the Commission to achieve California's universal service goals and is contrary to express provisions of California law.[17]

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[14] *See* Rebuttal Testimony of Don Price on Behalf of CTIA, Application of Brandy L. Wreath, Administrator of the Oklahoma Universal Service Fund, Seeking to Establish an Assessment Factor for the Oklahoma Universal Service Fund and Determine a New Assessment Methodology, Cause No. OSF 210900316, at 10 (June 5, 2020).

[15] *See* Initial Testimony of Don Price on Behalf of CTIA, Application of Brandy L. Wreath, Administrator of the Oklahoma Universal Service Fund, Seeking to Establish an Assessment Factor for the Oklahoma Universal Service Fund and Determine a New Assessment Methodology, Cause No. OSF 210900316, at 10 (April 17, 2020).

[16] https://www.usac.org/lifeline/learn/program-data/.

[17] *See* P.U. Code § 871.5(d): "The Legislature finds and declares […] The furnishing of lifeline telephone service is in the public interest and should be supported fairly and equitably by every telephone corporation, and the commission, in administering the lifeline telephone service program, *should implement the program in a way that is equitable, nondiscriminatory, and without competitive*

The fact that Lifeline customers often have no billing relationship with their wireless carrier prevents identification of any obvious mechanism for wireless carriers to collect surcharges from Lifeline customers. Thus, applying the proposal to Lifeline would act as a disincentive to program participation by carriers and could thwart achievement of programmatic goals. It would also render the Commission's proposal discriminatory. Federal law prohibits discriminatory funding for universal service programs at the state and federal level,[18] and applying surcharges to Lifeline "connections" could run afoul of federal law for a number of reasons.[19] CTIA urges the Commission to exempt Lifeline customers from PPPs contribution obligations, but if it does not, CTIA is prepared to provide a full discourse on the legal infirmities to such an approach.

7. What is effect [sic] of the end user customer not knowing exactly how much is being charged to support each program and the user fee?

CTIA can only speculate as to the answer, but does offer that it seems highly likely that average customers will be concerned with the total amount and personal impact of the Commission-imposed PPPs surcharge, not how their contribution is divided and distributed

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consequences for the telecommunications industry in California." (emphasis added); P.U. Code PUC §871.7 (c) and (d): "It is the intent of the Legislature that the commission initiate a proceeding investigating the feasibility of redefining universal telephone service by incorporating two-way voice, video, and data service as components of basic service. It is the Legislature's further intent that, to the extent that the incorporation is feasible, that it promote equity of access to high-speed communications networks, the Internet, and other services to the extent that those services provide social benefits […] For purposes of this section, the term "feasibility" means consistency with all of the following: *(1) Technological and competitive neutrality. (2) Equitable distribution of the funding burden for redefined universal service as described in subdivision (c), among all affected consumers and industries, thereby ensuring that regulated utilities' ratepayers do not bear a disproportionate share of funding responsibility*" (emphasis added).

[18] *See* 47 U.S.C. § 254.

[19] *See* Compl., *CTIA – The Wireless Ass'n v. Utah Pub. Serv. Comm'n*, Case 2:18-cv-00302-EJF (D. Utah. Apr. 10, 2018), *withdrawn* (July 3, 2018) (arguing that connections-based surcharges imposed on wireless Lifeline "connections" would illegally rely on an burden the federal program in violation of 47 U.S.C. § 254(f), discriminate against prepaid providers of Lifeline in violation of 47 U.S.C. § 254(f), be illegally inconsistent with the federal program in violation of 47 U.S.C. § 254(f), violate the FCC's rules (47 C.F.R. § 54.403) dictating requirements for the Lifeline carrier's disposition or programmatic subsidies, and violate prohibitions against rate regulation in violation of 47 U.S.C. § 332(c)(3)(A)).

among the PPPs. If the Commission determines to move forward with its regressive proposal, CTIA suggests that the Commission place guidance for consumers about the division and distribution of their flat-fee surcharge among the PPPs on the Commission's website rather than requiring such information to be provided by wireless carriers.

8. What other considerations, not set out in prior questions, should be considered? Why?

As the Commission considers the funding model for its PPPs, CTIA urges the Commission to consider in this docket whether it is more appropriate to fund the PPPs from California's general fund. Receiving funding from California's general fund is appropriate for the PPPs in light of the broad public benefits they provide and the public policy goals they were envisioned to achieve. Governor Newsom highlighted some of the benefits of broadband when he indicated that affordable and reliable broadband is essential to California's economy, workforce, infrastructure, public safety, educational institutions, and citizenry at large.[20] Using California's general fund to achieve the PPPs goals would also help ensure the appropriate level of funding is reviewed on a continual basis (through the State's budget process) to ensure that the PPPs are minimally-sized to achieve their objectives. While such a step is beyond the direct authority of the Commission, pursuing that goal is more prudent than pursuing the Commission's regressive proposal. This approach would also better ensure that funding for the PPPs is consistent with the underlying statutes that direct the Commission to create programs that are competitively neutral and nondiscriminatory.[21]

Finally, The Commission's proposal presumes its own legality without examination. It does so without even providing the definition it intends to use for "connections" – an issue that

[20] *See* Executive Order N-3-20 (issued August 14, 2020).
[21] *See* fn. 17 *supra.*

CTIA discussed *supra* in response to Questions 1. CTIA's comments have highlighted legal issues such as facial inconsistency, inconsistency with the federal universal service program's balancing of revenues, the risk of illegally surcharging interstate revenues, and a host of discrimination and anticompetitive issues. Each of these issues, and perhaps others, should be vetted thoroughly through the comment cycle before the Commission proceeds.

III. CONCLUSION

CTIA looks forward to working with the Commission to identify the most appropriate means of funding universal service goals in California, but the Commission's proposal is a regressive solution that will injure consumers, harms competition, raises legal and practical issues, and should be rejected.

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Respectfully submitted April 5, 2021 at San Francisco, California.

By: *___/s/ Jeanne B. Armstrong___*

Jeanne B. Armstrong

GOODIN, MACBRIDE,
SQUERI & DAY, LLP
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: 415.392.7900
Facsimile: 415.398.4321
Email: jarmstrong@goodinmacbride.com

Attorneys for CTIA

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