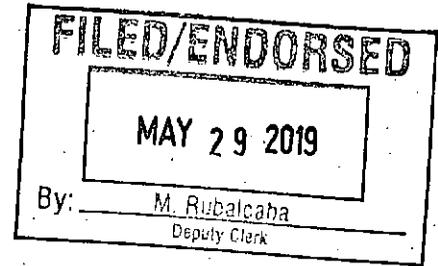


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*Attorneys for California Governor's Office of
8 Emergency Services*



9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SACRAMENTO

13 **AT&T CORP.,**

Petitioner,

15 v.

17 **CALIFORNIA GOVERNOR'S OFFICE OF
EMERGENCY SERVICES,**

Respondent.

Case No. 34-2019-80003146

[Assigned to the Honorable James P.
Arguelles—Department 17]

**DECLARATION OF JEFFREY A. RICH
IN SUPPORT OF OPPOSITION TO
PETITIONER'S EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY
INJUNCTION**

Date: June 3, 2019
Time: 1:30 p.m.
Dept: 17
Judge: Hon. James P. Arguelles
Trial Date: None
Action Filed: May 16, 2019

1 I, Jeffrey A. Rich, declare as follows:

2 1. I am an attorney licensed to practice before all of the courts of the State of California
3 and am a Deputy Attorney General with the Office of the Attorney General, attorneys of record
4 for California Governor's Office of Emergency Services (Cal OES). I make this declaration in
5 support of Cal OES's request for judicial notice in support of its opposition to AT&T Corp.'s ex
6 parte application for a temporary restraining order and order to show cause.

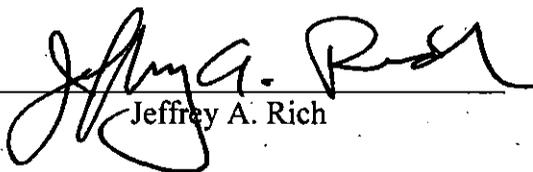
7 2. Attached hereto as Exhibit 1 is a true and correct copy of Senate Rules Committee,
8 Office of Senate Floor Analyses, Report on Senate Bill No. 1211 (2013-2014 Reg. Sess.)
9 August 24, 2014. I obtained Exhibit 1 from the California Legislative Information Web site.

10 3. Attached hereto as Exhibit 2 is a true and correct copy of Senate Rules Committee,
11 Office of Senate Floor Analyses, Report on Senate Bill No. 1161 (2011-2012 Reg. Sess.)
12 August 21, 2012. I obtained Exhibit 2 from the California Legislative Information Web site.

13 4. I first received AT&T's ex parte application papers on May 23, 2019. The Court
14 ordered Cal OES's opposition to be filed on May 29, 2019. Accordingly, Cal OES had three
15 court days to review AT&T's ex parte application and prepare an opposition.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18 Executed on May 29, 2019, at Sacramento, California.

19 
20 Jeffrey A. Rich

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23
24
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EXHIBIT 1

SENATE RULES COMMITTEE

SB 1211

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1211
Author: Padilla (D)
Amended: 8/22/14
Vote: 21

SENATE ENERGY, UTILITIES & COMMUNICATIONS COMM: 9-0, 4/1/14
AYES: Padilla, Fuller, Cannella, Corbett, DeSaulnier, Hill, Knight, Pavley, Wolk
NO VOTE RECORDED: Block, De León

SENATE GOVERNANCE & FINANCE COMMITTEE: 6-0, 4/24/14
AYES: Wolk, Beall, DeSaulnier, Hernandez, Liu, Walters
NO VOTE RECORDED: Knight

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/23/14
AYES: De León, Walters, Gaines, Hill, Lara, Padilla, Steinberg

SENATE FLOOR: 37-0, 5/29/14
AYES: Anderson, Beall, Berryhill, Block, Cannella, Corbett, Correa, De León,
DeSaulnier, Evans, Fuller, Gaines, Galgiani, Hancock, Hernandez, Hill, Hueso,
Huff, Jackson, Knight, Lara, Leno, Lieu, Liu, Mitchell, Monning, Morrell,
Nielsen, Padilla, Pavley, Roth, Steinberg, Torres, Vidak, Walters, Wolk,
Wyland
NO VOTE RECORDED: Calderon, Wright, Yee

ASSEMBLY FLOOR: 79-0, 8/26/14 - See last page for vote

SUBJECT: Emergency services: Next Generation 911

SOURCE: Author

CONTINUED

DIGEST: This bill requires the Office of Emergency Services (OES) to develop a plan and timeline of target dates for testing, implementing, and operating a Next Generation 911 (Next Gen 911) emergency communication system, including text to 911 service, throughout California, as specified.

Assembly Amendments add double-jointing language with AB 1717 (Perea).

ANALYSIS: Existing law:

1. Requires OES to administer the state's 911 emergency telephone system, including local dispatch centers known as Public Safety Answering Points (PSAPs), with funds from a 911 customer surcharge on intrastate communication service.
2. Requires OES to determine annually, on or before October 1, the customer surcharge rate to fund the subsequent year's costs of the state 911 system.

Current decisions of the Federal Communications Commission (FCC) establish May 15, 2014, as the date for large wireless service providers to enable customers to text to 911 to any PSAP that is "technically ready" and require carriers to send a "bounce-back" message if the PSAP is not ready to receive texts.

Current federal law designates up to \$7 billion from FCC spectrum auctions to fund a nationwide public safety broadband network known as FirstNet and directs that this network integrate 911 PSAPs.

This bill:

1. Requires that the OES plan for deploying Next Gen 911 incorporate, where consistent with public safety and technologically feasible, shared infrastructure and elements of FirstNet and other public safety communications networks that receive state and federal funding.
2. Requires OES, at least one month before finalizing the 911 surcharge rate, to prepare a summary of the calculation of the proposed surcharge, include the costs it expects to incur consistent with the plan to deploy text to 911 and Next Gen 911, and make this information available to the Legislature and the 911 Advisory Board, and on the office's Internet Web site.
3. Contains double-jointing language with AB 1717 (Perea).

Background

OES Administers Statewide 911 System. California's existing 911 system, established pursuant to the Warren 911 Emergency Assistance Act of 1976, includes 458 PSAPs that receive about 25 million 911 voice calls per year. These calls are dispatched to local first responders including police, ambulance, fire, medical and other emergency service providers. About 75 percent of all 911 calls are from wireless devices.

The Public Safety Communications Office within OES administers the state 911 system, reviews local PSAPs' 911 equipment and operations, and reimburses their reasonable costs for planning, implementation, and maintenance of approved 911 systems. In 2013, this office was transferred from the California Technology Agency to OES as part of budget action. The California Emergency Number Association represents the state's PSAPs and provides research, planning, and training to support 911 dispatchers and the state 911 system. A state 911 Advisory Board advises OES on operation, funding, and long-range planning for PSAPs and the state 911 system.

911 Funded By Customer Surcharge. The 911 program costs are paid from the State Emergency Telephone Number Account funds, which are derived from a statewide 911 surcharge on telephone customer bills, including landline, wireless and Voice over Internet Protocol services. OES is required to determine the surcharge rate annually up to a statutory maximum of 0.75 percent of intrastate service charges. The State Emergency Telephone Number Account has been in a structural deficit for years, with annual surcharge revenue declining from about \$133 million in 2005-06 to about \$80 million in 2012-13. The rate was set at 0.50 percent from 2007 through 2013, but in October OES increased the surcharge to 0.75 percent effective January 1, 2014, with projected total revenue of \$108 million for 2014-15.

Next Gen 911 Planning Underway. Next Gen 911 refers to an Internet Protocol (IP)-based, two-way communications system that will enable real-time transmission of emergency-related voice, text, data, photos, and video between the public and public safety agencies. Next Gen 911 will build upon, and eventually replace, the existing 911 voice system that operates on the legacy switched telephone network. Implementing Next Gen 911 will require substantial funding for PSAP upgrades to an IP-based platform. OES (the California Technology Agency prior to July 2013) published a roadmap in 2010, conducted public stakeholder meetings in 2011, and now is conducting several pilot projects with vendors and PSAPs. A "Rough Order Magnitude Cost Estimate" reported in 2013

was \$885 million for total hardware and software costs to deploy conceptual Next Gen 911 design while also running the existing 9-1-1 system. OES states that this is an estimated \$375 million additional investment over five years on top of the \$510 million to operate the existing system over that same five years. But, because of a 50 percent margin of error in that estimate, OES states that it will have refined cost estimates at the completion of the pilot projects in mid-2015.

Text to 911 Requires PSAP Readiness. No later than May 15, 2014, the four major wireless carriers, AT&T, Verizon, Sprint, and T-Mobile, will offer all subscribers the ability to text to 911, pursuant to a voluntary commitment to the FCC. A proposed FCC rule would require all wireless and Internet-based text providers to offer text-to-911 capability by December 31, 2014. Short Message Service texting technology is an acceptable interim solution prior to full deployment of Next Gen 911 infrastructure. While a voice call to 911 is still preferred, text to 911 offers public safety advantages for persons with disabilities, in a hostage situation or home break-in when a voice call can be dangerous, and when network congestion from high usage during a crisis makes voice connections unavailable or slow.

But despite these 2014 carrier obligations, text to 911 will not be fully operational until PSAPs are “technically ready” and authorized by a state or local 911 agency to receive 911 text messages. PSAPs require equipment upgrades, and likely additional staff and training. As stated by FCC Chairman Wheeler:

“Of course, as the saying goes, it takes two to tango. Providers will deliver the information, but it will mean little if PSAPs and state and local governments do not take the necessary steps ... to ensure that PSAPs have sufficient funding to deploy the necessary technologies and, ultimately, make the migration to NG911.”

To date, OES has not specified plans to fund PSAP upgrades to receive texts, but reports that it is conducting pilots to verify the operation of each form of text to provide the PSAPs with a basis to determine which, if any, form of text they want to receive. (OES also reports that all PSAPs currently have the ability to receive Short Message Service to teletype texts, devices used by the hearing-impaired.) In the meantime, carriers currently are required to send a “bounce-back” auto-reply message to alert subscribers who attempt to text to 911 that the service is not available and that they should place a voice call instead.

Comments

According to the author, this bill will enhance public safety and achieve costs savings in two ways. First, it will increase transparency and accountability for establishing the state 911 surcharge, which will help ensure that the fee is adequate to fund upgrades necessary for text to 911 and Next Gen 911. The bill does not increase the surcharge. Second, it requires coordinated planning of Next Gen 911 infrastructure with FirstNet and other public safety communications systems, which will help leverage federal funds and achieve maximum efficiency through shared infrastructure where technologically feasible and consistent with public safety.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, one-time costs of approximately \$250,000 from the State Emergency Telephone Number Account (special)/General Fund for two years to develop a plan and timeline for the deployment of a Next Gen 911 system.

SUPPORT: (Verified 8/26/14)

AFSCME, AFL-CIO

AT&T

California Ambulance Association

California Communications Association

California's Independent Telecommunications Companies

California Police Chiefs Association

CALNENA

Frontier

Office of Ratepayer Advocates

The Utility Reform Network

Sprint

ASSEMBLY FLOOR: 79-0, 8/26/14

AYES: Achadjian, Alejo, Allen, Ammiano, Bigelow, Bloom, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Conway, Cooley, Dababneh, Dahle, Daly, Dickinson, Donnelly, Eggman, Fong, Fox, Frazier, Beth Gaines, Garcia, Gatto, Gomez, Gonzalez, Gordon, Gorell, Gray, Grove, Hagman, Hall, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Mansoor, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Nestande, Olsen, Pan, Patterson, Perea, John A. Pérez, V. Manuel Pérez, Quirk, Quirk-Silva,

CONTINUED

Rendon, Ridley-Thomas, Rodriguez, Salas, Skinner, Stone, Ting, Wagner,
Waldron, Weber, Wieckowski, Wilk, Williams, Yamada, Atkins
NO VOTE RECORDED: Vacancy

JG:nld 8/27/14 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** **END** ****

EXHIBIT 2

SENATE RULES COMMITTEE

SB 1161

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1161
Author: Padilla (D), et al.
Amended: 8/16/12
Vote: 21

SENATE ENERGY, UTIL. & COMMUNIC. COMM.: 12-0, 4/17/12
AYES: Padilla, Fuller, Berryhill, Corbett, De León, DeSaulnier, Emmerson,
Kehoe, Pavley, Rubio, Strickland, Wright
NO VOTE RECORDED: Simitian

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/24/12
AYES: Kehoe, Walters, Alquist, Dutton, Lieu, Price, Steinberg

SENATE FLOOR: 30-6, 5/30/12
AYES: Alquist, Anderson, Berryhill, Blakeslee, Calderon, Cannella,
Correa, De León, DeSaulnier, Dutton, Emmerson, Fuller, Gaines,
Harman, Hernandez, Huff, Kehoe, La Malfa, Lieu, Liu, Lowenthal,
Negrete McLeod, Padilla, Price, Rubio, Steinberg, Vargas, Walters,
Wright, Wyland

NOES: Corbett, Hancock, Leno, Simitian, Wolk, Yee
NO VOTE RECORDED: Evans, Pavley, Runner, Strickland

ASSEMBLY FLOOR: 63-12, 8/20/12 - See last page for vote

SUBJECT: Communications: Voice over Internet Protocol(VoIP) and
Internet Protocol(IP) enabled communications service

SOURCE: Silicon Valley Leadership Group
TechAmerica
TechNet

CONTINUED

DIGEST: This bill requires authorization by statute or express delegation by federal law expressly authorized by statute for the Public Utilities Commission (PUC) or any other state department, agency, commission or political subdivision of the state to regulate Voice over Internet Protocol (VoIP) or Internet Protocol-enabled (IP) service providers.

Assembly Amendments add two additional savings clauses to provide even more assurance that the bill's limitation on regulation could not be construed to prevent enforcement of agency requirements related to communications services: (1) provides that the bill does not affect enforcement of the Warren Act requiring a statewide 911 emergency telephone system, and (2) provides that the bill does not affect enforcement of policies or contracts that protect intellectual property, such as an executive order that prohibits use of state computers from downloading, streaming, or using unlicensed software, sound recordings or audiovisual works. The amendments also add clarifying language, and add coauthors.

ANALYSIS:

Existing Law

1. Federal law grants the Federal Communications Commission (FCC) authority over all interstate and international communication and reserves for each state authority over services that are provided between points within that state's borders.
2. Federal law provides that it is "the policy of the United States to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation."
3. The California Constitution grants the PUC authority, subject to control of the Legislature, to regulate utilities including "telephone corporations," defined as every entity "owning, controlling, operating, or managing any telephone line for compensation within this state."
4. Federal law and FCC decisions provide that a "telecommunications service," but not an "information service," is subject to utility-type common carrier regulation, including regulation of market entry, rates, and terms and conditions of service, among other requirements, and preempts state regulation of any "information service."

CONTINUED

5. FCC decisions have imposed public safety and consumer protection requirements on VoIP service, which include requiring VoIP to offer 911 service, provide law enforcement access to facilities, make facilities accessible to disabled users, protect customers' private information, allow customers to keep their telephone number when switching providers, and report network outages.
6. FCC decisions have preempted state regulation of IP-enabled services including VoIP but have authorized states to take specified actions with respect to VoIP, which include requiring VoIP providers to pay fees to support state 911 systems and state universal service programs.

Existing law authorizes the PUC to require VoIP providers to pay fees to support the state's 911 system and state universal service programs and to obtain specified data from VoIP providers in connection with certain federal proceedings.

Existing federal law authorizes the PUC to implement and enforce federal requirements relating to service provider interconnection, access to unbundled network elements, and to affect the resolution of disputes regarding intercarrier compensation, including for the exchange of traffic that originated, terminated, or was translated at any point into IP format.

Existing law, the Digital Infrastructure and Video Competition Act of 2006, authorizes the PUC to grant statewide franchises to providers of video service and enforce conditions of service.

Existing law includes numerous provisions of criminal or civil laws of general applicability, including unfair or deceptive trade practice laws, that apply to the conduct of business.

Several existing laws would be exempted from these prohibitions including the Emergency Telephone Users Surcharge Law which requires interconnected VoIP to collect and remit 911 surcharges, the state's universal service programs, The Digital Infrastructure and Video Competition Act of 2006, and the enforcement of criminal or civil laws or any local ordinances of general applicability.

This bill:

CONTINUED

1. Specifies certain areas of law that are expressly applicable to VoIP and IP enabled service providers.
2. Provides that this bill does not affect existing PUC authority over non-VoIP and other non-IP enabled wireline or wireless service and does not affect the enforcement of any state or federal criminal law or local ordinances of general applicability that apply to the conduct of business, the California Environmental Quality Act, or a local utility user tax.
3. Specifies that it does not affect existing regulations or existing PUC authority over non-VoIP and other non-IP enabled wireline or wireless service including regulations regarding universal service, the offering of basic service, and lifeline service, and will remain in effect until January 1, 2020.

Background

The Senate Energy, Utilities and Communications Committee held an informational hearing on March 20, 2012, on “Apps, Internet Services, and the 21st Century Telecommunications Network.” This hearing addressed how rapidly changing technology, especially the Internet, has led to a much different regulatory environment than in the days when telecommunications consisted of Plain Old Telephone Service (POTS) – local and long distance voice service over landline facilities with circuit-based switching offered by a monopoly provider. Since the early days of the Internet and computer processing, the FCC has declined from applying traditional telephone regulations to broadband and Internet-based services that involve some form of data processing and enable end users to manage the communication rather than just transmit a voice signal. The hearing reviewed this history and recent FCC and PUC decisions generally declining to regulate VoIP and IP-enabled services and also heard from the PUC, industry, and consumer advocates on what California’s policy and governance framework should be as increasing numbers of customers abandon traditional landline service and choose to subscribe to these services accessible with a broadband connection.

Customer Migration to VoIP Service. Today’s consumers are increasingly abandoning landline service and opting for wireless service and fixed or mobile broadband service that offers a platform for integrated voice, video and data services and Internet access. VoIP is the service that allows voice calling through a broadband connection. Unlike traditional circuit-switched

telephony, which establishes a dedicated circuit between the parties to a voice transmission, VoIP relies on IP technology, which changes the contents of a communication into digital packets and sends them over the fastest available route over private IP networks or the Internet.

“Interconnected” VoIP enables calling to and from the public switched telephone network. VoIP service may be offered by the same provider of the broadband connection, such as a cable company (i.e. Comcast’s Digital Voice) or a local exchange carrier (i.e. AT&T’s U-verse or Verizon’s FiOS). “Over-the-top” VoIP is offered separately and operates with any broadband connection, in many cases free of charge (i.e., Skype).

While similar in many ways to traditional landline telephone service, VoIP is different in that the IP technology and broadband connection provide an integrated suite of capabilities and features that go beyond the ability to place and receive calls. Users can send and receive information and access their calls and information in a variety of ways from multiple devices – phone, Internet, video, mobile handset, iPod, or smart phone. VoIP service allows, for example, to play back voicemails through a computer or receive them in an email, with the actual message attached as a sound file, have caller identification information appear on a television screen, cause incoming calls to ring at multiple locations simultaneously, or combine voice calling with a live video connection.

According to FCC data, the number of subscribers to interconnected VoIP service nationwide increased 46 percent from 2008 to 2010, while the number of subscribers to traditional wired telephone services decreased by 17 percent during that two-year period. As of December 2010, 31 percent of the 87 million residential telephone subscriptions in the United States were provided by interconnected VoIP providers. California had about 3.5 million interconnected VoIP subscriber lines at the end of 2010, receiving service from 125 VoIP providers.

As the two largest carriers (AT&T and Verizon) continue to migrate customers from landline to broadband connections, these numbers will increase dramatically. These two carriers had a combined 29 percent increase in the number of VoIP customers in the six months from June to December 2011.

Federal Policy to Not Regulate the Internet. The Communications Act of 1934, as amended, established a dual regulatory regime for communications

services, granting the FCC authority over all interstate and international communication, and reserving for each state authority over services that are provided between points within that state's borders. The law provides that only a "telecommunications service" is subject to utility-type common carrier regulation, which includes regulation of market entry, rates, and terms and conditions of service, among other requirements. Traditional landline voice service has always been recognized as a "telecommunications service."

Since the 1960s, when innovators began adding computer devices to the network and the Internet was in its infancy, the FCC has declined from applying utility-type regulation to these "information services," concluding that they should be allowed to compete and flourish in a competitive market place free from the burden of rules, regulations, and licensing requirements. Congress reinforced this policy in the Telecom Act and also stated that it is "the policy of the United States to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation."

FCC Declines Traditional Regulation of VoIP. In 2004, in a decision known as the *Vonage Preemption Order*, the FCC preempted the Minnesota Public Utilities Commission from applying its traditional telephone company regulations to a VoIP service that allowed calling through a broadband connection. The FCC concluded that preemption was warranted because it was impossible or impractical to separate out the purely intrastate component of the service and because state regulation would directly conflict with the pro-competitive policy disfavoring utility-type regulations that hinder development of innovative new services. The FCC cited the Congressional directive to promote a free and competitive Internet and emphasized the goal of avoiding patchwork regulation so that these new IP-enabled services would not have to "satisfy the requirements of more than 50 jurisdictions with more than 50 different sets of regulatory obligations."

In the *Vonage Preemption Order*, the FCC declined from deciding whether VoIP is a "telecommunications service" or an "information service" but stated that it was "making clear that this Commission, not the state commissions, has the responsibility and obligation to decide whether certain regulations apply" to IP-enabled services.

In a series of decisions since 2004 relating to IP-enabled services, the FCC has repeatedly declined to classify VoIP service. Instead of opting for the

CONTINUED

full panoply of regulations applicable to “telecommunications services,” the FCC has identified specific public safety and consumer protections that apply. These include requiring VoIP to:

- offer 911 service, including customer location information, and collect 911 fees;
- provide law enforcement access to facilities;
- make facilities accessible to disabled users;
- protect customers’ proprietary information;
- apply number portability requirements so customers can keep their telephone number when changing providers;
- contribute to universal service programs;
- not transmit fraudulent Caller ID information;
- provide customers notice of discontinuance of service; and
- report network outages.

VoIP Regulation in Other States. In the wake of the *Vonage Preemption Order* and subsequent IP decisions, any attempt by a state commission to apply utility-type regulation to VoIP has been highly controversial. No state commission regulates VoIP as a telephone utility. The few decisions by state commissions asserting jurisdiction over VoIP have been suspended, challenged in court, or invalidated by legislation. At least 24 states and the District of Columbia have enacted statutes that generally prohibit utility-type regulation of IP-enabled services including VoIP, although generally applicable business, taxation and consumer protection laws apply. These states include Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Maine, Minnesota, Missouri, North Carolina, New Jersey, Nevada, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. A VoIP bill in New York that was included in a budget bill without a public hearing was recently withdrawn. Utah enacted a VoIP statute in March, and a bill in Mississippi is currently before the Governor.

PUC Activity Related to VoIP. The California Constitution grants the PUC authority, subject to control of the Legislature, to regulate utilities including “telephone corporations,” defined as every entity “owning, controlling, operating, or managing any telephone line for compensation within this state.” A “telephone line” includes “all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had

with or without transmission wires.” Thus, the PUC has authority to regulate the intrastate component of service that equates to a “telecommunications service” under federal law, subject to any preemption.

Like the FCC, the PUC has declined from applying utility-type regulation to VoIP and has never decided whether or not a VoIP provider is a “telephone corporation.” In 2004, the PUC opened a proceeding to evaluate the appropriate regulatory structure for VoIP under state law, but several years later closed the proceeding, concluding that it was premature to assess its regulatory role over VoIP until the FCC classifies VoIP as either a regulated “telecommunications service” or an unregulated “information service.” The PUC has repeated this conclusion in several other decisions over the years (including a service quality decision in July 2009 and its backup power decision in January 2010), each time declining to regulate VoIP and IP-enabled services.

Prior Legislation

AB 2393 (Levine), Chapter 776, Statutes of 2006, authorized the PUC to adopt backup power requirements for VoIP.

SB 202 (Simitian), Chapter 626, Statutes of 2006, applied state privacy protections to calling records of VoIP customers.

SB 1040 (Kehoe), Chapter 17, Statutes of 2008, required VoIP to pay fees to support the state’s 911 system.

AB 1315 (Fuentes), Chapter 358, Statutes of 2010, authorized the PUC to obtain data from VoIP providers related to forbearance petitions filed with the FCC.

SB 3 (Padilla), Chapter 695, Statutes of 2011, and AB 841 (Buchanan), Chapter 685, Statutes of 2011, authorized the PUC to require VoIP to pay fees to support state universal service programs.

Related legislation. SB 1160 (Padilla) updates current law related to intentional service interruptions so that it applies to any service that enables users to call 911 in an emergency, including wireless and VoIP service. The bill is currently on Senate Third Reading.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

CONTINUED

According to the Assembly Appropriations Committee, PUC estimates one-time special fund costs of about \$730,000. These costs include a one-year proceeding (four positions totaling \$500,000) to examine the applicability of a Certificate of Public Convenience and Necessity (CPCN) to the services and facilities of VoIP providers, and other voice service providers. Potential issues include clarifying the scope of PUC jurisdiction over facilities providers use to offer basic telephone service utilizing VoIP.

Additionally, PUC anticipates a review, likely through a rulemaking, to assess the impact on its public purpose programs. This review would require three positions at a cost of about \$230,000 [Public Utilities Reimbursement Account]. PUC would likely address whether existing PUC rules and guidelines would still apply to a service provider that does not hold a CPCN but wishes to participate in one or more of the state's public purpose programs.

While it is unclear whether PUC will need two proceedings to implement this bill, cost pressure could exceed \$150,000 to the extent that a statute prohibiting PUC from engaging in regulatory activity results in an increase in disputes and a redirection of staff resources at PUC.

SUPPORT: (Verified 8/21/12)

Silicon Valley Leadership Group (co-source)
TechAmerica (co-source)
TechNet (co-source)
African-American Male Achievers Network
American G.I. Forum of California
Appallicious
Applied Materials
Asian Business Association
Asian Pacific Islander American Public Affairs Association – Southern
California Regional Headquarters
AT&T
Bay Area Council
Black Business Association
Brotherhood Crusade
California Asian Pacific Chamber of Commerce
California Association of Competitive Telecommunications Companies
California Black Chamber of Commerce Foundation

CONTINUED

California Cable & Telecommunications Association
California Chamber of Commerce
California Hispanic Chambers of Commerce
California Manufacturers & Technology Association
California Retailers Association
California Small Business Association
California State Association of Electrical Workers
CALinnovates
Cambodian Association of America
Charter Communications
Cisco Systems, Inc.
Coalition of California Utility Employees
Comcast Communications
Concerned Citizens Community Involvement
Congress of California Seniors
CONNECT
Consejo de Federaciones Mexicanas en Norteamérica
Corporation for Education Network Initiatives in California
Cox Communications
CTIA – The Wireless Association
Drumbi
Frontier Communications
Great Valley Center
Inland Empire Economic Partnership
Jobblehead
Juniper Networks
La Maestra Community Health Centers
Los Angeles Opportunities industrialization Center
Microsoft
MobileFuture
Motion Picture Association
National Association for the Advancement of Colored People – California
Conference
Orange County Business Council
Palm Desert Area Chamber of Commerce
Portal A
QUALCOMM
Self-Help for Elderly
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
TelecomCouncil

CONTINUED

Time Warner Cable
United Cambodian Community
United States Hispanic Chamber of Commerce
Verizon
Voice on the Net Coalition

OPPOSITION: (Verified 8/21/12)

AARP
Access Humboldt
American Civil Liberties Union of California
AnewAmerica Community Corporation
Asian American Business Women Association
Brightline Defense Project
California Alliance for Retired Americans
California Broadband Policy Network
Center for Accessible Technology
Center for Media Justice
Central City SRO Collaborative
Chicana/Latina Foundation
Communications Workers of America
Consumer Federation of California
Consumers First, Inc.
Consumers Union
County of Mendocino
Davis Media Access
Division of Ratepayer Advocates
El Concilio of San Mateo County
FAME Corporations
Greenlining Institute
Hmong American Political Association
Humboldt County Supervisors
Media Alliance
MuniServices, LLC
National Federation of Filipino American Associations
National Hispanic Media Coalition
Office of Mayor Gayle McLaughlin
Privacy Rights Clearinghouse
Public Counsel Law Center
San Francisco African American Chamber of Commerce
Santa Clara University

CONTINUED

Tenderloin Housing Clinic
Tenderloin Neighborhood Development Corporation
Town of Fairfax
The Utility Reform Network
Utility Consumer's Action Network
Utility Workers Union of America
West Angeles Community Development Corporation

ARGUMENTS IN SUPPORT: According to CTIA:

Promote continued growth and innovation of Internet-based services for California consumers. Today, consumers are benefiting from significantly enhanced services and choices due to VoIP and other IP-based technologies. Free and low-cost audio and video calling are fundamentally changing the way consumers connect with friends, family and in business. New Internet-based "Applications" are providing consumers with powerful tools for commerce, public safety, healthcare, entertainment, and other uses. California's wireless industry is on the frontlines, providing consumers these innovative new services and technologies. SB 1161 will help ensure continued growth and choice for consumers.

Promote continued growth and innovation of Internet-based services for California jobs and the economy. VoIP and IP-based technologies are revolutionizing our economy. California's wireless carriers are at the forefront of technologies and applications that are revolutionizing the healthcare, education and music industries, and these technologies are helping businesses of all sizes become more efficient and competitive. Continued growth and innovation of Internet-based technologies and VoIP will help promote economic growth and jobs at a time when they are desperately needed.

ARGUMENTS IN OPPOSITION: American Association of Retired Persons (AARP) writes:

This proposal has far-reaching ramifications and will likely have many unintended consequences should it become law. The bill prohibits the CPUC from exercising any jurisdiction over internet-enabled telecommunications services. By effectively removing CPUC oversight and regulatory authority, this measure would remove the ability to enforce a host of valuable protections currently serving the interests of

seniors, the disabled, and consumers generally. AARP have grave concerns about shutting and locking the door on the CPUC performing its traditional role in protecting consumers in this critical area. The need for consumer protections applies regardless of the technology used.

ASSEMBLY FLOOR: 63-12, 08/20/12

AYES: Achadjian, Alejo, Atkins, Bill Berryhill, Block, Blumenfield, Bonilla, Bradford, Brownley, Buchanan, Charles Calderon, Campos, Carter, Cedillo, Conway, Cook, Davis, Dickinson, Donnelly, Eng, Fletcher, Fong, Fuentes, Beth Gaines, Galgiani, Garrick, Gordon, Gorell, Grove, Hagman, Halderman, Hall, Harkey, Hayashi, Hill, Huber, Hueso, Jeffries, Jones, Knight, Lara, Logue, Ma, Mansoor, Miller, Mitchell, Morrell, Nestande, Nielsen, Norby, Olsen, Perea, V. Manuel Pérez, Portantino, Silva, Smyth, Solorio, Swanson, Torres, Valadao, Wagner, Wieckowski, Williams

NOES: Allen, Ammiano, Beall, Chesbro, Feuer, Gatto, Huffman, Bonnie Lowenthal, Monning, Skinner, Yamada, John A. Pérez

NO VOTE RECORDED: Butler, Furutani, Roger Hernández, Mendoza, Pan

RM:m 8/21/12 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** **END** ****

DECLARATION OF SERVICE BY E-MAIL and OVERNIGHT COURIER

Case Name: **AT&T Corp. v. California Governor's Office of Emergency Services
[AT&T Bid Protest]**

No.: **34-2019-80003146**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for overnight mail with the **GOLDEN STATE OVERNIGHT COURIER SERVICE**. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the overnight courier that same day in the ordinary course of business.

On May 29, 2019, I served the attached **DECLARATION OF JEFFREY A. RICH IN SUPPORT OF OPPOSITION TO PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, for overnight delivery, addressed as follows:

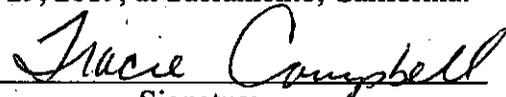
Nathaniel Wood
Crowell & Moring LLP
515 S. Flower St., 40th Flr.
Los Angeles, CA 90071-2258
E-mail Address: nwood@crowell.com

David Ginsberg
Crowell & Moring LLP
515 S. Flower St., 40th Flr.
Los Angeles, CA 90071-2258
E-mail Address: dginsberg@crowell.com

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 29, 2019, at Sacramento, California.

Tracie L. Campbell

Declarant



Signature