Staff Report - Part 2

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.21-03-002)

Communications Division

October 2021

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I. SUMMARY

The California Public Utilities Commission (Commission) initiated Rulemaking (R.21-03-002) to address the need for a sustainable and cost-effective method to fund California's Universal Service Public Purpose Programs (PPPs). The Scoping Memo in this proceeding included a Staff Report – Part 1 prepared by the Commission's Communication's Division (CD). The main issue to be determined in this proceeding, as stated in the Scoping Memo is: "What specific adjustments to the current surcharge collection mechanism, if any, should be explored, changed or revised?" The Staff Report – Part 1 explains the need for the Commission to consider a different funding mechanism for the PPPs because the current surcharge mechanism, which applies Commission-determined percentages for each PPP to carriers' intrastate telecommunications service revenue, is not sustainable.[1]

This Staff Report-Part 2 analyzes the various options for a new surcharge mechanism that parties to this proceeding have proposed, provides further discussion on the definition of "access line," presents carriers' responses to the Scoping Memo data request (Scoping Memo DR) and other relevant data, and addresses issues raised in comments on the OIR. For the reasons discussed in this report, staff recommends that a flat, single-end user surcharge be adopted and includes a proposed definition for "access line."

II. BACKGROUND

On March 4, 2021, the California Public Utilities Commission (Commission) initiated the *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* to address the need for a sustainable and cost-effective method to fund the state's Universal Service Public Purpose Programs (PPPs).

The Commission received twenty comments on the OIR on April 5, 2021, from ExteNet Systems Inc, Sonic Telecom LLC, The National Lifeline Associations (NaLA), Charter, Cox California Telecom, Cal Advocates, Frontier, Telrite Corporation, Consolidate Communications of California Company, TracFone Wireless, Velocity Communication, Comcast, Small LECs, TURN and Center for Accessible Technology (CforAT), Utility Consumers' Action Network, CTIA, AT&T, Verizon, and RingCentral. California Emerging Technology Fund filed late comments on April 16, 2021 (with the Administrative Law Judge's approval).

The Commission also received thirteen Reply Comments on April 23, 2021 from the following parties: AT&T, Charter, California Emerging Technology Fund, California Cable and Telecommunications Association, Cal Advocates, Consolidate Communications of California, Frontier, Small LECs, Comcast, Voice of the Net Coalition, TURN and Center for Accessible Technology (CforAT), Cox, and CTIA.

The Commission held a prehearing conference on May 20, 2021. The Assigned Commissioner and ALJ issued a Scoping Memo on June 28, 2021. The Scoping Memo included a Data Request to communications companies for subscription and revenue data and a Staff Report-Part 1 that explained the need for the Commission to review the current surcharge mechanism and to consider alternative ones to ensure the sustainability of California's universal service programs. The Scoping Memo required

[1] Scoping Memo – June 28, 2021.

carriers to respond to the Scoping Memo DR by July 30, 2021, and to provide comments on the Staff Report-Part 1.

On July 27, 2021, in response to carriers' requests for an extension of time to respond to the Scoping Memo DR, the ALJ issued a ruling granting carriers an additional two weeks, until August 13, 2021, to submit their data request responses. Not all carriers provided responses by August 13, 2021, and some responses were incomplete, which required staff to follow-up with certain carriers. This, in turn, caused a delay in staff's ability to issue the Staff Report-Part 2. Accordingly, on October 8, 2021, the ALJ issued a ruling updating the proceeding schedule.

III. DATA ANALYZED IN THE STAFF REPORT

Staff gathered data from several sources. Those sources include carriers' responses to the Scoping Memo DR, a staff data request to the twenty largest revenue-reporting communications carriers serving the state, Federal Communications Commission (FCC) 477 Reports, and data from the CPUC's Telecommunications and User Fee Filing System (TUFFS). This section details staff's summary and observations regarding carriers' subscriptions, revenue, and surcharge collection and is organized into subparts as follows:

A. Carrier's Subscription and Revenue (based on Scoping Memo DR responses)– 2020
B. Twenty Largest Carriers Serving California – 2020
C. FCC 477 Report
D. CPUC's TUFFS data

Parties could use these data in conducting their own analyses and preparing comments regarding the various surcharge mechanisms under consideration in this proceeding. (*See* Section VII - Questions)

A. Carriers' Subscription and Revenue Data for Year 2020

By October 2021, 526 carriers provided complete responses to the Scoping Memo DR, including completing the staff-provided excel spreadsheet. From these responses, staff aggregated the total number for each cell, which includes the number of carriers' subscribers, California Lifeline subscribers, and reported revenues, as follows:[2]

- 56,388,645 subscribers[3]
- 1,533,902 California Lifeline subscribers[4]
- $6.3 billion in carrier-reported intrastate revenue for 2020.[5]

This aggregated data will be published on the Commission's website upon issuance of this Staff Report-2. The data published represents an aggregation of each carrier's response for individual cells in the excel spreadsheet provided in the Scoping Memo DR. For example, the line Total

[2] The aggregated data will be published on the CPUC's website for this proceeding, found at [Surcharge and Fee Proceeding (ca.gov)](https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-and-fee-proceeding) - https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-and-fee-proceeding.
[3] See aggregated excel spreadsheet: Mobile voice (cell D3), VoIP (cell D15), POTS (cell D27).
[4] See aggregated excel spreadsheet: Total CA Lifeline subscribers (cell N42).
[5] See aggregated excel spreadsheet: Total Intrastate Revenue (cell F42).

Revenue/Subscriptions (row 42) is not the sum of the entire column – it is a sum from each carrier's input.[6] Staff believes that the Total Subscriptions (cell D42) may not be a true representation of the total sum, due to the double counting effect (e.g., wholesaler and reseller may both count the same customer in their Scoping Memo DR responses).

B. Twenty Largest Carriers Serving California in Year 2020

In addition to the Scoping Memo DR, staff issued another data request to the 20 highest revenue reporting carriers for calendar year 2020 to determine each carrier's revenue reporting methodology, Universal Service Program participation, and subscriber counts for both residential and commercial customers.[7]

The data shows that these 20 carriers account for 80% of the total telecommunications subscribers[8] in California, and 82% of the reported intrastate revenue from telecommunications services.[9] This accounts for almost 45 million access lines and approximately $5.3 billion in reported intrastate revenue subject to surcharge. The carriers classified approximately 80% of the aggregate subscribers as residential, and the remaining 20% as business and/or government subscribers. Of the 20 carriers,15 rely on traffic studies[10] to identify intrastate telecommunications revenue reported to the CPUC and, correspondingly, to remit the surcharges.[11]

C. FCC 477 Report

FCC 477 data tracks carrier subscriber counts for Plain Old Telephone Service (POTS or wireline), Voice over Internet Protocol (VoIP), fixed broadband, mobile (cellular) voice, and mobile broadband.[12] This report also tracks the number of both residential and nonresidential subscribers for VoIP and POTS services, but not for mobile services and fixed broadband. Staff utilized the Form 477 data subscriber counts to verify the data provided by carriers in response to the Scoping Memo DR responses.

As of June 30, 2020, FCC 477 data and the 2021 Scoping Memo DR responses confirm that that there were more than 56 million lines in California subject to surcharges (excluding Lifeline subscribers).[13] Specifically, there were approximately 4.2 million POTS lines, 8.3 million VoIP lines, and 44.4 million mobile voice lines in California.

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[6] Example: Cell D42 = Carrier #1 input in cell D42 + Carrier#2 input in cell D42 + Carrier #3 input in cell D42 +… Carrier #526 input in cell D42.

[7] Data Request issued by Communications Division May 7, 2021.

[8] Compared data request responses against FCC 477 data, June 30, 2020.

[9] Compared data request responses against TUFFS data, total reported intrastate revenue, calendar year 2020.

[10] A Traffic Study aggregates intrastate versus interstate and international calling methods as a method for assigning jurisdictional percentages for the purpose of determining intrastate surcharge-reportable revenue.

[11] Of those 15 carriers, three use a combination of Traffic Studies and the "Books and Records" methodologies to report, for instance fist using Books and Records to allocate revenue to the various components (i.e., voice, text and data) of a bundled service plan, which can vary depending on the various features of any given plan type. Intrastate traffic factors, based on traffic studies are then applied to the revenue allocated to the voice component (i.e., voice calling and ancillary telecommunications services) to determine the surcharges and user fees associated with any given plan. Accordingly, a carrier may use both books and records and traffic studies to determine the surcharges and user fees associated with its service plans.

[12] FCC frequently asked questions, 6/30/2015.

[13] As of July 31, 2021, there were 239,381 wireline and 1,079,738 wireless LifeLine subscribers, equaling a total 1,319,119 LifeLine subscribers.

D. The CPUC's Telecommunications and User Fee Filing System

From aggregated data obtained from the Commission's TUFFS system, staff compared the surcharge amounts remitted by traditional wireline, wireless and VoIP providers. Staff notes that upon receiving operating authority, carriers are issued an identification number that differentiates between wireless, wireline and VoIP service (e.g., U-xxxx-C), and are required to report intrastate revenue separately. However, staff finds that carriers do not always separate wireline and VoIP data in TUFFs reporting, and, it appears that for the sake of convenience, some carriers with both POTS and VoIP authorizations combine revenue for both technologies, reporting and paying surcharges accordingly. As such, this compromises TUFFS' ability to accurately report wireline vs. VoIP data.

FCC 477 data and the scoping memo's data request responses confirm this discrepancy, which compromises accurate line counts between wireline and VoIP when separating and tracking the three technologies for the sake of observing revenue reporting and surcharge payment. Nonetheless, mobile (wireless) line counts are not compromised, and the intent of this section is to demonstrate the substantial decline in the mobile technology's support of PPPs, at the expense of wireline and VoIP subscribers.

Table 1 illustrates that, over time, wireline and VoIP voice customers collectively assumed a disproportionate burden in supporting the state's Public Purpose Programs (PPPs).[14] Prior to 2018, wireless carriers reported a much larger proportion of the total intrastate revenue billing base compared to wireline and VoIP carriers. But, in December 2018, the FCC classified text messaging and data services as "information services,"[15] which resulted in those services no longer being subject to CPUC surcharges or the CPUC User Fee. This resulted in an immediate decline during 2019 in the amount of reported intrastate revenue and resulting surcharges paid by wireless carriers. [16] The decline continues until the present.

Table 1. Communications Surcharges Collected in California by Carrier Technology, 2017-2020

Year	Wireline + VoIP	%	Wireless	%	Total	%
2017	$335,140,190	47.8	$365,632,169	52.2	$700,772,359	100
2018	$337,066,503	50.7	$327,470,397	49.3	$664,536,900	100
2019	$304,569,382	59.9	$204,296,200	40.1	$508,865,602	100
2020	$289,534,475	64.6	$159,008,098	35.4	$448,542,573	100
2021	$314,255,282	68.9	$142,114,925	31.1	$456,370,207	100

As Table 1 shows, during the last five years we have seen an increase in PPP support come from wireline and VoIP subscriptions, increasing from 47.8% of program support remittances in 2017 to 68.9% through August of 2021. According to FCC 477 data subscriber counts for years 2017 to 2020, the number of

[14] There are six Public Purpose Programs: The Advanced Services Fund, High Cost Fund-A, High Cost Fund-B, LifeLine Program, Teleconnect Fund, and the Deaf and Disabled Telecommunications Program.

[15] Declaratory Ruling, December 12, 2018, FCC 18-178, WT Docket No. 08-7.

[16] 2021 surcharge collection projections incorporate eight months of recorded and four months of annualized TUFFS data. Surcharge projections for 2021 increase slightly due to higher remittance rates for the CHCF-A and CASF programs, approved respectively by Resolutions T-17705 and T-17709.

wireline subscribers continuously decreased in comparison to Wireless over roughly the same period that wireline and VoIP PPP support burden increased (see Table 2).

Table 2. Wireline, Wireless and VoIP Voice Subscriber Counts in California, 2017-2020

Year	Wireline + VoIP	%	Wireless	%	Total	%
2017	14,024,908	24.9	42,382,906	75.1	56,407,814	100.0
2018	13,418,711	23.6	43,335,804	76.4	56,754,515	100.0
2019	12,943,679	22.6	44,450,928	77.4	57,394,607	100.0
2020	12,524,069	22.0	44,429,974	78.0	56,954,043	100.0

Taken together, Tables 1 and 2 demonstrate that wireline and VoIP subscribers contribute a disproportionate amount of their revenue to funding the state's PPP programs. The proportion of surcharge revenues that wireline subscribers remit increased substantially over this period, despite the decrease in total number of subscriptions. Specifically, wireline and VoIP subscriptions have decreased from 24.9% to 22% of total subscriptions, while their support of PPPs has increased from 47.8% to 68.9%. At the same time, wireless subscriptions have increased from 75.1% to 78% of total subscriptions, while their support of PPPs decreased from 52.2% to 31.1%.

TUFFS data shows that VoIP subscriptions and resulting PPP contributions have stabilized the magnitude of this trend. The VoIP share of approximately 8 million lines has remained in the 14-15% range of total voice subscriptions during 2017-2020, while contributing to a gradually increasing total of surcharge remittances against a collection total that has declined from $701 million in 2017 to a projected $456 million in 2021. VoIP carrier contributions for 2021 will equal 6.4% of surcharges and $29.462 million remitted in 2021), while wireless remittances have declined.

IV. SURCHARGE MECHANISM PROPOSALS AND STAFF'S ANALYSIS

Currently, PPP surcharges are assessed on intrastate telecommunications services sold in California. Carriers collect the PPP surcharges and the CPUC User Fee directly from their customers and then report and remit them electronically to the Commission monthly.

As indicated in the Staff Report- Part 1, the current revenue-based approach for collecting PPP fund support is not sustainable.[17] This section lays out six surcharge mechanism options that various parties discussed in OIR comments: Per Access-Line (Flat-Rate), Per Access-Line with Cap for Multi-Line Telephone Systems (MLTS), Per Access-Line Flat-Rate Differentiated by Customer Class, Hybrid Access Line/Revenue, Hybrid Residential Safe Harbor Access/Revenue, and funding through the State General Fund [18] (*See* Sections A to F below). After a thorough review of the comments, staff recommends the Per Access-Line (Flat-Rate Line) mechanism (*See* Section G).

A. Per Access-Line (Flat-Rate) Mechanism

Description: A single flat-rate end-user surcharge mechanism would apply equally to all customer classes (residential, small business, large business) and would be based on the number of telecommunications access lines in the state.

[17] Scoping Memo – June 28, 2021.

[18] Comments (April 5, 2021) and Reply Comments (April 23, 2021) on the OIR.

Small business customers are defined as business phone customers that purchase five or fewer lines.[19] Large business customers are defined as customers that purchase more than five lines.

See Section V.2 later in this report entitled "How Access Lines Should be Defined?" for further discussion on the definition of an "access line."

Support: CETF, Frontier and Small LECs support the Per Access-Line Flat-Rate End-User Mechanism because it simplifies the surcharge and collection process.[20] CETF contends that this mechanism is fair and technology neutral.[21] Frontier believes this mechanism would provide stability to the PPP fund balance.[22] Small LECs believe this mechanism is more equitable, which would likely result in an appropriate decrease in surcharges paid by their rural customers, many of whom have limited or fixed incomes, including elderly, farmworkers and struggling small businesses.[23]

Opposition: Verizon, CTIA, AT&T, and Charter oppose the Per-Access Line mechanism. Verizon and CTIA both argue that the Per-Access Line would shift the funding burden to wireless customers,[24] and AT&T claims it would be inequitable to customers who earn lower incomes.[25] Moreover, Charter argues the Per-Access Line mechanism would create administrative burdens in their billing process.[26]

Similar Method Adopted by Other States: The National Regulatory Research Institute reported that surcharges in 20 states are based on some form of per line or per connection charge. These states include Arizona, Idaho, Illinois, Iowa, Kentucky, Maine, Maryland, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, and West Virginia.[27]

Sample Calculation of Per Access-Line Surcharge: An example of how this mechanism would work can be found further below in *Section V.1 – PPP Projected Impacts of Per-Line Assessment Based on PPPs Forecasted Budget*, in which a sample per access line surcharge rate is calculated and applied to all communications customers.

B. Per Access-Line with Cap MLTS

Description: A single flat-rate end-user surcharge in which all amounts are applied to all customer classes (residential, small business, large business), with a cap on the number of access lines for multiple connections.

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[19] General Order (G.O.)133 D, R.11-12-001, at 4.
[20] CETF's OIR Comments (April 5, 2021) at 3 (preliminarily agrees); Frontier's OIR Comments (April 5, 2021) at 1; Small LECs' OIR Reply Comments (April 23, 2021) at 7.
[21] CETF's OIR Comments (April 5, 2021) at 3.
[22] Frontier's OIR Comments (April 5, 2021) at 3.
[23] CETF's OIR Comments (April 5, 2021) at 3; Small LECs' OIR Reply Comments (April 23, 2021) at 2.
[24] Verizon's OIR Comments (April 5, 2021) at 6; CTIA's OIR Comments (April 5, 2021) at 6.
[25] AT&T's OIR Reply Comments (April 23, 2021) at 3-4.
[26] Time Warner/Charter's OIR Reply Comments (April 23, 2021) at 6.
[27] Source: State Universal Service Funds 2018: Updating the Numbers, April 2019. Table 3, at 28.

Small business customers are defined as business phone customers that purchase five or fewer lines.[28] Large business customers are defined as customers that purchase more than five lines.

Support: Cox, Frontier, Comcast, and Charter (if the Hybrid model is not adopted) support capping the number of lines that would be assessed a per-access line surcharge.[29] Comcast and Charter argue the single flat-rate surcharge should be limited to 25 lines per account to avoid shifting disproportionate expense to MLTS customers.[30]

Opposition: Public Advocates, TURN/CforAT, Consolidated, and CTIA oppose the Per Access-Line with Cap MLTS.[31] Public Advocates, TURN/CforAT, and Consolidated all argue that the line cap would shift the contribution burden from business customers to residential customers. TURN/CforAT state that, at a minimum, the line cap should be set higher than 25 lines.[32] Consolidated cautions that business customers could be incented to explore other options to avoid surcharges (e.g., calling functionality over software applications such as Microsoft Teams) if the surcharge rate is set too high on business lines.[33] CTIA argues the line cap is inappropriate, as it would shift the surcharge burden to wireless carriers and questions whether business customers have been hit harder by the pandemic than non-business customers.[34]

Similar Method Adopted by Other States: Maine and Florida each impose 25-line cap for the surcharge per account bill, while Mississippi and New Hampshire each set a 25-line cap for the 911 surcharge.[35]

Sample Calculation of Per Access-Line with Cap MLTS: None of the parties provided a sample calculation of this mechanism.

C. Per Access-Line Flat-Rate Differentiated by Customer Class

Description: The current revenue-based surcharge mechanism could be transitioned to a single flat-rate end-user surcharge mechanism where residential and small business customers are charged a lower PPP surcharge rate than large business customers. The differential surcharge amounts would be calculated by using a ratio of statewide average business plan price to average residential plan price.

Small business customers are defined as business phone customers that purchase five or fewer lines.[36] Large business customers are defined as customers that purchase more than five lines.

[28] General Order (G.O.)133 D, R.11-12-001, at 4.

[29] Cox's OIR Comments (April 5, 2021) at 5-6; Frontier's OIR Reply Comments (April 23, 2021) at 7; Comcast's OIR Comments (April 23, 2021) at 4; Time Warner/Charter's OIR Reply Comments (April 23, 2021) at 6.

[30] Comcast's OIR Comments (April 5, 2021) at 4; Time Warner/Charter's OIR Reply Comments (April 23, 2021) at 6.

[31] Public Advocates' OIR Reply Comments (April 23, 2021) at 1; TURN/CforAT's OIR Reply Comments (April 23, 2021) at 13; Consolidated's OIR Comments (April 5, 2021) at 2; CTIA's OIR Reply Comments (April 23, 2021) at 4.

[32] Public Advocates' OIR Reply Comments (April 23, 2021) at 7; TURN/CforAT's OIR Reply Comments (April 23, 2021) at 13.

[33] Consolidated's OIR Comments (April 5, 2021) at 2.

[34] CTIA's OIR Reply Comments (April 23, 2021) at 4.

[35] 65-407-288 Me. Code R. § 6(A) (25-line cap for Maine USF assessment); Fla. Stat. § 427.704(4)(a)(1) (25-line cap in Florida); Miss. Code Ann. § 19-5-313(3) (25-line cap for 911 surcharge in Mississippi); and N.H. Rev. Stat. Ann. § 106-H:9(I)(a) (25-line cap for 911 surcharge in New Hampshire).

[36] General Order (G.O.)133 D, R.11-12-001, at 4.

Support: Cal Advocates proposed this mechanism. Cal Advocates argues that differentiating surcharges by customer class will be more equitable because large business customers have the capacity to pay higher surcharges compared to residential and small business customers.[37] In addition, Cal Advocates states that the Commission took similar action in "setting different rates for residential and business customers in telecommunications General Rate Cases (GRCs) and categorizing residential and small business customers together in service quality regulations under General Order (G.O.) 133-D."[38]

Opposition: Comcast, Frontier, Small LECs, and CTIA oppose this mechanism.[39] Comcast argues that it is inequitable for large businesses to pay higher surcharges compared to residential customers for programs that do not benefit them, and that "large businesses already pay more in PPP surcharges than residential and small business customers because they tend to be high-volume users of assessable services."[40] Both Frontier and the Small LECs argue that Cal Advocates' assertion that business customers are likely to have more resources to pay higher surcharges is not true for business customers in their service territories.[41] CTIA argues this multifaceted surcharge approach would be complicated for carriers to administer and it would add complexity for the Commission's TUFFS.[42]

Similar Method Adopted by Other States: Idaho currently charges different flat surcharge rates to residential ($0.25/line) and business ($0.44/line) customers by using a ratio of statewide average business plan price to average residential plan price.[43]

Sample Calculation of Differentiated Surcharge: Cal Advocates provides an illustration of how this mechanism can be implemented by calculating the differentiated surcharge rate for residential and large business customers (excluding small business) in Table 3 below.[44] The steps in Cal Advocates methodology are:

- Create a differential ratio. Cal Advocates assigns business access lines a surcharge ratio of 3:1, meaning that business access line surcharges would be three times as high as residential surcharges (row C).
- Assess the surcharge levied per customer. Cal Advocates divides the total funding requirement by the number of surcharge units (rows A and D).
- A surcharge unit is calculated by multiplying each access line and service connection (row B) by its ratio number (row C).
- Each residential connection is 1 surcharge unit, each business connection is 3 surcharge units. Annual surcharge units (row D) are calculated by multiplying service connections by surcharge multipliers and then by

[37] Cal Advocates' OIR Comments (April 5, 2021) at 12.
[38] Cal Advocates' OIR Comments (April 5, 2021) at 12.
[39] Comcast's OIR Reply Comments (April 23, 2021) at 7-8; Frontier's OIR Reply Comments (April 23, 2021) at 6-7; Small LECs OIR Reply Comments (April 23, 2021) at 7; and CTIA's OIR Reply Comments (April 23, 2021) at 5.
[40] Comcast's OIR Reply Comments (April 23, 2021) at 7-8.
[41] Frontier's OIR Reply Comments (April 23, 2021) at 6-7; Small LECs OIR Reply Comments (April 23, 2021) at 7.
[42] CTIA's OIR Reply Comments (April 23, 2021) at 5.
[43] Idaho Statute Title 62, Chapter 6 of the Telecommunications Act of 1988, 62-610(2)(a). https://legislature.idaho.gov/statutesrules/idstat/Title62/T62CH6/SECT62-610/.
[44] Cal Advocates' OIR Comments (April 5, 2021) at 13-14. Cal Advocates did not provide sources on where the numbers derived from.

twelve. This method results in 972.6 million surcharge units (Total column at row D).

- Dividing the funding requirement of $821.3 million by 972.6 annual surcharge units results in a monthly residential surcharge of $0.84 per access-line (row E).[45]
- Multiplying the residential surcharge by 3 results in a monthly business surcharge of $2.53 (row E) per access-line.

Table 3. Illustration of Cal Advocates Differentiated Surcharge Proposal

		Residential	Business	Total
(A)	Funding Requirement			$821,344,000
(B)	Access Lines and Broadband Service Connections	39,839,580	13,737,000	53,576,580
(C)	Surcharge Multiplier	1	3	
(D)	Annual Surcharge Units (D)= (B)×(C)×12	478,074,960	494,532,000	972,606,960
(E)	**Monthly Surcharge (E)= (A_{Total})/(D_{Total})×(C)**	**$0.84**	**$2.53**	

D. Hybrid Access Line/Revenue Mechanism

Description: Maintain a revenue-based approach for large business customers but move to a flat fee for residential and small business customers. Large business customers would still be assessed surcharges on an intrastate-revenue basis, while small business and residential customers would be assessed a flat-rate surcharge on an access line basis.

Support: Charter supports the Hybrid Access Line/Revenue Mechanism. Charter claims that "residential customers tend to have single lines which are easy to assess in billing systems and easily audited. Conversely, business customers tend to have multiple lines, and many types of lines, which can cause challenges for internal systems and audit processes." [46]

Opposition: CTIA opposes the Hybrid Access Line/Revenue Mechanism because it lacks "quantification in the record of differential impacts of the hybrid funding proposal on individuals, families, and business large and small…."[47]

Similar Method Adopted by Other States: The Nebraska Public Service Commission initially enacted this form of Hybrid surcharge mechanism in 2018, but later adopted a flat fee for all business and residential

[45] The funding requirement and number of access line and broadband service connections are estimations used by Public Advocates and are different than staff's number of access line estimation in Section V.1 of this report.
[46] Time Warner/Charter's OIR Comments (April 5, 2021) at 2.
[47] CTIA's OIR Reply Comments (April 23, 2021) at 4-5.

customers in 2021.[48] The Federal-State Joint Board on Universal Service recommended that the FCC adopt this type of surcharge mechanism.[49]

Sample Calculation of Hybrid Access-Line/Revenue Mechanism: None of the parties provide a sample calculation of this mechanism.

E. Hybrid Residential Safe Harbor Access/Revenue

Description: Residential customers are assessed surcharges on a per-access line basis and business customers are assessed surcharges on a revenue basis. Residential proportions are capped based on current residential contributions supporting PPPs, and the balance of needed PPP funding is obtained from assessments on non-residential voice revenues.

Support: TURN/CforAT proposed this Hybrid Residential Safe Harbor Access/Revenue mechanism, and CETF showed some interest in it. TURN/CforAT recommends that residential customers be held "proportionally harmless" from PPP budget changes and that funding above the Residential PPP Proportion Cap should be collected from non-residential customers using either a revenue-based or access line-based approach.[50] TURN/CforAT argue that large business customers generate significantly more revenue per line than residential customers and taking these additional measures are ways to protect non-Lifeline eligible, lower-income customers from unpredictable surcharge increases.[51]

CETF states that the preliminary results shown by TURN/CforAT on the Hybrid Residential Safe Harbor Access/Revenue appear to be fairer and more sustainable, which is consistent with the OIR's goals; but, protecting residential consumers against rate shock defeats the purpose of the new mechanism. CETF suggests modeling the impacts to understand whether short term "safe harbors" (e.g., one year) should be considered.[52]

Opposition: Consolidated, Frontier, and Small LECs oppose this Hybrid Residential Safe Harbor Access/Revenue mechanism. Consolidated argues that a residential cap would perpetuate the disparity between what customers of different technologies pay for what is ultimately substitutable voice services.[53]

Frontier and the Small LECs disagree with TURN/CforAT's assertion that business customers generate significantly more revenues per line than residential customers because that is not the case for their business customers.[54] Both also argue the Safe Harbor mechanism would be inconsistent with competitive neutrality, as it would cause wireline customers to continue to pay higher surcharges than

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[48] See, https://www.nebraska.gov/psc/orders/telecom/2021-05-11%20NUSF-119%20PI-233%20Order.pdf
[49] In the mater of Federal State Joint Board on Universal Service, Universal Service Contribution Methodology, A National Broadband Plan for our Future; WC Docket No. 96-45; WC Docket No. 06-122; WC Docket No. 09-51 released October 15, 2019. This is a "hybrid" proposal, as the letter also advocates for the revenue-based mechanism be maintained for business services, and for the contribution base be expanded to include a broader class of services, including Broadband Internet Access Service, suggesting that the FCC could use its permissive authority under Section 254(d) to expand the contribution base.
[50] TURN/CforAT's OIR Comments (April 5, 2021) at 23-26.
[51] TURN/CforAT's OIR Comments April 5, 2021) at 33-34.
[52] CEFT's OIR Reply Comments (April 23, 2021) at 4-5.
[53] Consolidated's OIR Reply Comments (April 23, 2021) at 2.
[54] Frontier's OIR Reply Comments (April 23, 2021) at 6-7; Small LECs OIR Reply Comments (April 23, 2021) at 7.

VoIP and wireless customers. They also claim that it would result in additional administrative cost and burden on them.[55] Additionally, Small LECs argue the Safe Harbor mechanism would likely cause a higher rate shock compared to the Per Access Line mechanism for business customers.[56]

Similar Method Adopted by Other States: State Members of the Federal-State Joint Board have recommended the implementation of a hybrid connections/revenue[57] approach, through which residential customers are assessed on a per-connection basis and business customers are assessed on a revenue basis.[58]

Sample Calculation of Residential Safe Harbor Surcharge: TURN/CforAT provide the following example of how to calculate the percentage baseline cap for residential proportion, the residential per-line surcharge, and the effect of PPP budget changes:[59]

Assumptions:[60] Current PPP Budget of $800,000,000
Current Residential PPP Contribution of $300,000,000
Number of Residential Connections of 55,000,000

Step 1: Calculate Percentage Baseline for Residential PPP Proportion Cap. The current PPP budget is divided by current residential PPP contribution to derive the percentage baseline for Residential Proportion Cap. As the program budget changes over time, the baseline cap for residential PPP proportion will remain fixed.

$$\frac{\text{\$300M of Current Residential PPP's Contribution}}{\text{\$800M of Current PPP Budget}} = \text{37.5 \% Baseline Residential PPP Proportion Cap}$$

Step 2: Calculate the Residential per-line Surcharge. The total dollar amount of the Residential PPP Proportion at cap is divided by the total number of residential access lines (i.e., landline, wireless, and VoIP) multiplied by number of months in a year.

$$\frac{\text{\$300M of Current Residential PPP Contribution}}{\text{55,000,000 number of Residential access line x 12 months}} = \text{\$0.45 residential surcharge per month}$$

As shown in Table 4, the resulting Residential PPP Proportion Cap would be 37.5% and the Residential Safe Harbor PPP Surcharge would be $0.45 per month, per access line.

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[55] Frontier's OIR Reply Comments (April 23, 2021) at 7; Small LECs' OIR Reply Comments (April 23, 2021) at 7.
[56] Small LECs' OIR Reply Comments (April 23, 2021) at 7.
[57] The term "Connection" is used interchangeably with "access line".
[58] In the Matter of Federal State Joint Board on Universal Service, WC Docket Nos 96-45, 06-122, 09-51, Recommended Decision, October 15, 2019 at ¶¶ 1, 19-26. ("State Members Recommended Decision"); See also, In the Matter of Universal Service Contribution Methodology, WC Docket No. 06-122, FNPRM, FCC12-46 (April 30, 2012) ("FCC Contribution 2012") at ¶¶ 3, 4 (changes in industry led to stresses on the contribution system and reduction in contributions).
[59] Staff modified TURN/CforCAT's calculation by excluding broadband revenues.
[60] Public Advocates uses different estimates than those staff used in Section V.1 of this report.

Table 4. Illustration of Baseline Residential PPP Proportion Cap and Initial Residential Safe Harbor Surcharge

A	Current PPP Budget	$800,000,000
B	Current Residential PPP Contribution	$300,000,000
C	Baseline Residential PPP Proportion Cap [(A)/(B)]	37.5%
D	Number of Residential Lines	55,000,000
Initial Monthly Residential Safe Harbor PPP Surcharge [(B)/(D*12)]		**$0.45**

If the PPP budget increases or decreases over the years, or if the number of residential lines changes, the residential PPP contribution amount would be adjusted to collect no more than 37.5 % of the new PPP budget. Table 5 illustrates a scenario where the PPP budget increases to $850 million and the number of residential lines increases to 56 million, and the new Residential PPP Contribution would be increased to $318.75 million with an adjusted monthly residential safe harbor surcharge of $0.47.

Table 5. Illustration of Budget and Line Change Impact on PPP Residential Cap and Contributions

A	New PPP Budget	$850,000,000
B	New Residential PPP Contribution [(A)x(C)]	$318,750,000
C	Baseline Residential PPP Proportion Cap (fixed value)	37.5%
D	New Number of Residential Lines	56,000,000
Initial Monthly Residential Safe Harbor PPP Surcharge [(B)/(D*12)]		**$0.47**

Funding above the Residential PPP Portion Cap would be collected from non-residential customers using a revenue-based approach. Non-residential voice revenue would make up the difference between the new PPP Budget and New Residential PPP Contribution of $531.25 million ($850 M - $318.75 M).

F. State's General Fund

Description: Pursue funding the state's PPPs through the State General Fund.

Support: AT&T and CTIA believe the State General Fund would be an appropriate contribution mechanism, as opposed to assessing PPP surcharges, to fund the PPPs because they claim it is more stable.[61] AT&T believes that funding the PPPs through the State General Fund would be equitable, and the burden should not be borne solely by telecommunications servicer end-users.[62] CTIA believes that funding the PPPs through the State General Fund would "ensure 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."[63]

Opposition: CETF and TURN/CforAT disagree that the State's General Fund would be an appropriate mechanism to fund the PPPs, due to the nature of the state budgeting process.[64] CETF argues that during lean years, the Legislature may choose to delay or defund these PPPs, and thus this option is not

[61] AT&T's OIR Comments (April 5, 2021) at 3; CTIA's OIR Comments (April 5, 2021) at 2.
[62] AT&T's OIR Comments (April 5, 2021) at 3.
[63] CTIA's OIR Comments (April 5, 2021) at 15.
[64] CETF's OIR Reply Comments (April 23, 2021) at 8; TURN/CforAT's OIR Reply Comments (April 23, 2021) at 14-15.

sustainable for those who depend on PPP programs.[65] TURN/CforAT argue the Commission does not have the authority to adopt such a proposal and find this option problematic because any bill to provide PPP support would "be characterized as the levy of a charge or tax, and therefore, must overcome significant procedural barriers to adoption."[66]

Similar Method Adopted by Other States: None of the parties provided references that other states fund their public purpose programs through monies deposited into state General Fund accounts.

Sample Calculation of State's General Fund: None of the parties provided a sample calculation of this approach.

G. Staff's Recommendation for a New PPP Surcharge Mechanism

Staff recognizes that there are advantages and disadvantages with each of the aforementioned six surcharge mechanism concepts. However, to address the significant disadvantages of the current revenue-based approach, staff recommends that the Commission adopt a mechanism based on access-lines. (*See* discussion below)

Consistent with 47 U.S. Code § 254 of the Communications Act, staff believes that every communications carrier should contribute to the state's universal service programs on an equitable and nondiscriminatory basis to preserve and advance universal service in the State of California. To preserve and advance universal service, staff believes the Commission's surcharge mechanism should also provide fund stability.

1. Per Access-Line (Flat Rate) Surcharge Mechanism

Guided by the principles of equity and fund stability, staff recommends the Commission adopt a Per Access-Line (Flat-Rate) surcharge mechanism. This mechanism would consolidate the PPP surcharges into a single per-access line (or equivalent) surcharge. A per-access line surcharge would apply the surcharge amount equally to all customer classes (residential, small business, large business) and all service types.

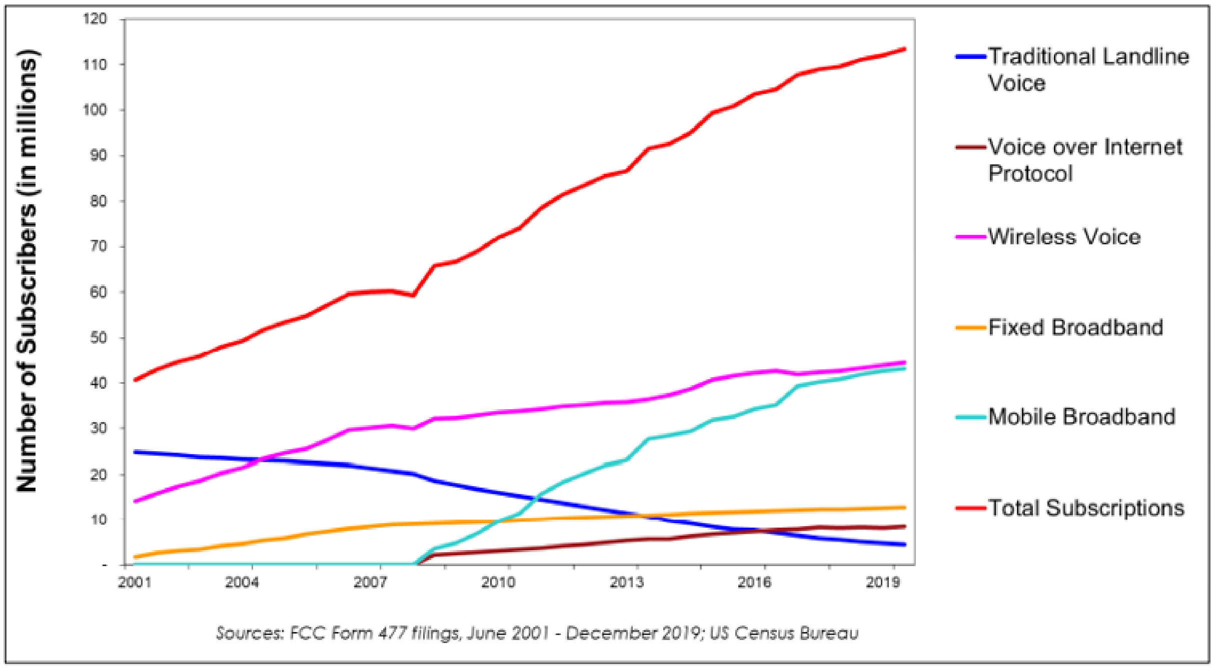
A per access-line contribution mechanism provides advantages over the current revenue-based approach and other surcharge proposals. First, it is equitable because every user pays the same amount. Second, a per-access line will provide stability to the PPP programs compared to the revenue-based approach**.** As noted in the Staff Report-Part 1, PPP funds have decreased under the current revenue-based approach, due partly to the trend with wireless carriers reporting declining intrastate telecommunications revenue amounts, while at the same time reporting increased amounts for revenue associated with non-telecommunications services not subject to state or federal universal service obligations.[67] Specifically, the FCC's reclassification of voicemail, texting, and Internet/data services from telecommunications services (Title II) to information services (Title I)[68] removed these services

[65] CETF's OIR Reply Comments (April 23, 2021) at 8.
[66] TURN/CforAT's OIR Reply Comments (April 23, 2021) at 14-15.
[67] Scoping Memo, Attachment B - 389957174.PDF (ca.gov).
[68] See Communications Act of 1934.

from inclusion in intrastate revenue calculations. This limits the number of services and amount of revenues contributing to state universal service programs.

Unlike the revenue-based approach, the per access-line approach would have a significant number of communications service subscriptions in the state (*see* Chart 1 below).[69] The access-line approach would ensure the stability and sufficiency of the universal service contribution over time. Moreover, determining the number of access lines would be more objective than with the revenue-based approach, which is problematic because it allows carriers to determine their intrastate telecommunications revenue amount based on various methodologies.

Chart 1. Subscribership Trend of All Communications Services in California by Technology -June 2001 to December 2019



Implementing an access-line based flat-rate surcharge would have some challenges. First, "access line" must be defined, as different parties argue that certain types of access-lines should not be assessed.[70] A fuller discussion of the definition is discussed in Section V.2 of this report. Second, one downside of the access-line based mechanism is that consumers could escape contribution requirements entirely by switching their line to another form of voice communication system (e.g., calling functionality over software applications in Microsoft Teams). This concern was raised by Consolidated, who cautioned that businesses could explore other options to avoid surcharges if the surcharge rate is set too high on business lines.[71] Third, the access line count reported by all carriers should be accurate to ensure proper

[69] Scoping Memo, Attachment B, Chart 2- 389957174.PDF (ca.gov).

[70] Consolidated Communications Company's OIR Comments (April 5, 2021) at 2; Time Warner/Charter's OIR Reply Comments (April 23, 2021) at 5-6.

[71] Consolidated Communications Company's OIR Comments (April 5, 2021) at 1.

remittance of surcharges. FCC's Form 477 data and other relevant data may be utilized to validate the access line numbers reported to the Commission.

2. Other Surcharge Mechanism Concepts

Staff opposes the Per Access-Line with Cap Multi-Line-Telephone System (MLTS) proposal as it does not appear to be equitable. This mechanism is a single flat-rate end-user surcharge where all amounts are applied to all end-users with a cap on the number of lines for multiple connections. If there is a cap on a set number of access-lines, it would create inequality where the contribution burden shifts from business customers to residential and wireless customers. Without any supporting data to ensure that this approach would be equitable, staff recommends the Commission reject it.

Staff opposes the Per Access-Line Differentiated by Customer Class proposal as it is not equitable. Similar to the Basic Access-Line for a single flat-rate end-user surcharge, this mechanism would apply a different surcharge amount based on the type of customer. For example, residential and small business customers would be subject to a lower surcharge amount than large business customers. Cal Advocates supports this approach and argues that differentiating surcharge by customer class will be more equitable because large businesses have the capacity to pay for higher surcharges in contrast to residential and small business customers. However, Frontier and Small LECs argue that is not the case for business customers in their service territories.[72] Staff is concerned this approach makes unsubstantiated assumptions about the ability of all large businesses to assume an increased surcharge burden on behalf of small businesses and residential customers, some of whom may be able to pay the same higher surcharge amount. This is not the same as differentiating low-income customers from other residential customers, as with the Lifeline program. Thus, staff does not support differentiating these types of customer classes for purposes of imposing different surcharge rates. Without further evidence or analysis supporting this proposal, staff recommends the Commission reject it.

Staff opposes the Hybrid Access-Line/Revenue and the Safe Harbor Access/Revenue mechanisms as they do not provide fund stability and they are inequitable. With the Hybrid Access-Line/Revenue mechanism, large businesses would continue to be assessed on an intrastate-revenue basis for its surcharge, while residential and small business customers would be assessed on a per-access line flat-rate basis for the surcharge. Staff does not recommend any proposal that is based on intrastate revenue because it is dramatically declining and does not provide PPP fund stability. As explained in the Staff Report -Part 1, two factors have largely contributed to the decline in intrastate surcharge revenues:

- market shift from wireline service to wireless services, and from traditional landline voice service to Voice over Internet Protocol (VoIP) services; and
- carriers allocating a majority of their revenue to *information services*.

[72] Cal Advocates' OIR Comment (April 5, 2021) at 12; Frontier's OIR Reply Comments (April 23, 2021) at 6-7; Small LECs OIR Reply Comments (April 23, 2021) at 7.

Under the FCC Rules, text messaging, voicemail service and data service are classified as "information services" and thus are not subject to intrastate revenue surcharge.[73] As a result, wireless and VoIP end users have contributed significantly less surcharges in California compared to traditional wireline telephone users (*See* Table 6 below). This disparity demonstrates that basing surcharges on reported revenues creates inequality among customers who use different communications services. Accordingly, staff recommends the Commission reject the Hybrid Access-Line/Revenue approach.

Table 6. Surchargeable Revenue in California by Service, for Year 2020[74]

Service	Subscriber Count for Service [A]	Intrastate Revenue for Service [B]	Average Yearly Intrastate Surchargeable Revenue [C] = [B]/[A]	Average Monthly Intrastate Surchargeable Revenue [D]=[C]/12	Average Monthly Intrastate Surcharge Remitted per Subscriber [E] = [D] x 6.94%
Total Facilities-Based Mobile Subscribers	45,089,008	$2,106,683,593	$46.72	$3.89	$0.27
Total VoIP Subscriptions	7,295,031	$1,095,744,894	$150.20	$12.52	$0.87
Total POTS Lines	3,954,606	$1,870,258,502	$472.93	$39.41	$2.74

See Appendix A for more granular information on surchargeable revenue.

The Safe Harbor mechanism is similar to the Hybrid mechanism, but there is a cap on residential contribution to the PPPs. TURN/ CforAT's proposal of a safe harbor aims to protect all residential customers from surcharge increases in migrating to an access line-based approach. This proposal is similar to the Hybrid mechanism in that it is based on reported intrastate revenues, and therefore staff also opposes it because it does not provide PPP fund stability. Under the Safe Harbor mechanism, all residential customers, regardless of their income level, are allowed special surcharge rate protection. Parties have not articulated a reasonable basis for adding this level of protection when the Lifeline program is already in place to protect low-income consumers. Staff estimates that a flat surcharge (approximately $1.00 to $1.25 per month depending on the number of access lines[75]) may not substantially impact the vast majority of customers. The most vulnerable consumers will likely be eligible for the LifeLine program, and these consumers are exempt from paying surcharges. Therefore, staff questions the need for this Safe Harbor Access/Revenue mechanism and recommends rejecting it.

Staff opposes the proposal involving the State's General Fund as it is an inappropriate funding source and would not provide fund stability. Under this proposal, the Commission would pursue PPP funds from the State's General Fund. Staff opposes this proposal as it undermines the Commission's authority

[73] In the Matter of Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service; WT Docket No. 08-7; 33 FCC Rcd 12075 (December 13, 2018) (FCC Declaratory Ruling 18-178). Effective December 12, 2018.
[74] Column A and B are derived from carrier responses to the Scoping Memo DR - https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-and-fee-proceeding .
[75] *See* Section V.1 of this report.

in overseeing universal service and as it would be inappropriate to fund the Public Purpose Programs through monies deposited into the General Fund, which are not collected for universal service purposes.

Only users of communications services pay charges to support the state's universal service programs, and only users of communications services benefit. The fees charged do not exceed the reasonable cost of providing services necessary to the activity for which the fee is charged, nor are the fees levied for unrelated revenues. The reasonableness is assured through legislative direction, the annual budget process, Commission proceedings, and program audits.

"Universal Service" has long been deemed by the Legislature to be an important benefit to Californians. This benefit is clearly and specifically articulated by the Legislature (P.U. Code 709). Ensuring Universal Service is effectuated through six PPPs. Through these programs, payors of these surcharges benefit from the ability to communicate to deaf and disabled individuals through assistive devices and services, reach and maintain connection with low-income individuals, or communicate with individuals that reside in high-cost areas of the state that would not otherwise have service or would not otherwise have access to modern services. Payors of these surcharges benefit from the safety net that these programs provide, should payors lose their hearing, become disabled, become impoverished, or reside in high-cost areas of the state that would not otherwise have service. Additionally, payors benefit from the societal enrichment provided by educational and community organizations. Therefore, staff recommends rejecting this option as the benefits are not aligned with the payors of the surcharge and thus are inequitable for contributors to the General Fund who may not use communications services or benefit from PPPs.

V. OTHER FACTORS TO CONSIDER WITH A PER ACCESS LINE (FLAT-RATE) SURCHARGE MECHANISM

1. Projected Impacts of Per-Line Assessment Based on PPPs Forecasted Budget

Staff evaluated the impact of the Per Access-Line surcharge mechanism on customers through the use of a hypothetical that uses subscriber data from FCC Form 477 (June 2020) to represent access-lines. Based on this hypothetical, staff estimated the surcharge would be $1.11 per access-line for all customers (excluding Lifeline participation) based on a forecasted $738 million budget for the state's universal PPPs in FY 2022-2023. (See Table 7)

Table 7. Impacts of Per-Line Assessment Based on PPPs Forecasted Budget

	Programs	Enacted FY 2019-2020[1]	Enacted FY 2020-2021[2]	Enacted FY 2021-2022[3]	Forecast FY 2022-23[4]	Forecast FY 2023-24[4]	Forecast FY 2024-25[4]
	CHCF-A	$ 49,267,000	$ 44,335,000	$ 49,451,000	$ 49,945,510	$ 50,444,965	$ 50,949,415
	CHCF-B	$ 22,352,000	$ 22,391,000	$ 22,435,000	$ 22,659,350	$ 22,885,944	$ 23,114,803
	ULTS	$ 455,139,000	$ 401,695,000	$ 402,114,000	$ 406,135,140	$ 410,196,491	$ 414,298,456
	DDTP	$ 67,284,000	$ 67,931,000	$ 67,123,000	$ 67,794,230	$ 68,472,172	$ 69,156,894
	CTF	$ 108,322,000	$ 108,130,000	$ 108,326,000	$ 109,409,260	$ 110,503,353	$ 111,608,386
	CASF	$ 81,255,000	$ 81,507,000	$ 81,342,000	$ 82,155,420	$ 82,976,974	$ 83,806,744
[A]	**Programs Total**	**$ 783,619,000**	**$ 725,989,000**	**$ 730,791,000**	**$ 738,098,910**	**$ 745,479,899**	**$ 752,934,698**
[B]	Annual Billing Intervals				12	12	12
[C]	Subscribers[5]				56,954,043	56,954,043	56,954,043
[D]	Lifeline Access Lines[6]				1,634,339	1,634,339	1,634,339
[E]	Total Access-Lines [E]= [Bx(C-D)]				663,836,448	663,836,448	663,836,448
[F]	**Projected monthly per-access line surcharge [F]= [A]/[E]**				**$ 1.11**	**$ 1.12**	**$ 1.13**

1. http://www.ebudget.ca.gov/2019-20/pdf/Enacted/GovernorsBudget/8000/8660.pdf
2. http://www.ebudget.ca.gov/2020-21/pdf/Enacted/GovernorsBudget/8000/8660.pdf
3. http://www.ebudget.ca.gov/2021-22/pdf/Enacted/GovernorsBudget/8000/8660.pdf
4. Forecast budget is based on a 1% increase over the previous year.
5. FCC Form 477, June 2020
6. Department of Finance 2021-22 BCPs, May Revision, Table 4 (Avg July 2021 to June 2022) - https://esd.dof.ca.gov/Documents/bcp/2122/FY2122_ORG8660_BCP4815.pdf

For illustrative purposes, the Per Access-Line surcharge can be calculated using a forecast of the PPPs revenue requirement and the number of access lines, as detailed in the steps below. This calculation excluded the User Fee revenue requirement and assumed the number of access lines (including Lifeline) will remain constant over time. User Fee issues are further discussed in *Section V.4* of this report.

Step 1: Forecast PPPs revenue requirement. Staff used the Enacted Budgets for fiscal year (FY) 2019-20 through FY 2021-22 as the starting baseline because the Legislature and Governor approved them. Based on the Enacted Budget, staff examined the budget for the various programs over three years and made a forecast assumption that there would be a 1% rate increase in the budget. Staff incorporated an "across-the-board" 1% increase for those budgets beginning with FY 2021-22 budget. This resulted in forecasted aggregate program budgets of approximately $738 million for FY 2022-2023, $745 million for FY 2023-2024, and $753 million for FY 2024-2025 (row A).[76]

Step 2: Calculate Number of Access Lines. There are 12 billing periods annually (row B). The number of subscribers is compiled from POTS/landline, VoIP, and cellular lines; and that data came directly from FCC (row C).[77] Carriers are required to report to the FCC (via Form 477) twice per year. The Lifeline Access Lines are the annual average projected participation numbers for 2021-22, which was published in May 2021 (row D).[78] To calculate the number of total access lines, staff subtracted the number of

[76] The 1% increase was used only for the purpose of illustrating the hypothetical.

[77] FCC Form 477, June 2020

[78] Department of Finance 2021-22 BCPs, May Revision, Table 4 (Avg July 2021 to June 2022) - https://esd.dof.ca.gov/Documents/bcp/2122/FY2122_ORG8660_BCP4815.pdf

Lifeline participants from the total number of subscribers and multiplied that result by 12 months (represents the number of annual monthly billings). Table 8 shows that this resulted in a total of 663 million access-lines (row E).

Table 8 Total Access Lines Calculation

B	Annual Billing Intervals	12 months
C	Subscribers	59,954,043
D	Lifeline Access Line	1,634,339
E	**Total Access Line [E] = [B x (C-D)]**	**663,836,448**

Step 3: Calculate Projected Monthly Per-Access Line Surcharge. Forecast PPPs revenue requirement (row A) divided by the number of access lines (row E). This results in a $1.11 per access-line surcharge for FY 2022-23, $1.12 per access-line surcharge for FY 2023-24, and $1.13 per access-line surcharge for FY 2024-25 (row F).

2. Definition of an "Access Line" Subject to Surcharge

A key issue in this surcharge transition rulemaking and in determining how to reform the surcharge mechanism is defining the term "access line". By defining this term, the Commission would then be able to calculate a monthly single remittance per access line that would meet the PPP authorized budgets. As explained further below, all technologies that facilitate communication by telephone, including wireline, VoIP, and wireless communications technologies, should be included in the access line definition.

Generally, most of the parties seem to agree that the definition of an access line (a.k.a connection) should be technologically and competitively neutral. Frontier, Cox, Cal Advocates, Small LECs, and UCAN expressed support for reforming the current surcharge mechanism. These parties considered the "Per Access Line Flat Rate End User Surcharge" to have potential.

Although TURN and CforAT agree that the Commission needs to expand its billing base, they did not believe a "per access line" surcharge mechanism was the correct approach. They believe including broadband[79] would be necessary; nevertheless, they echoed the request of other parties seeking clarity on the definition of Access Line. [80]

Similarly, CETF requests clarification concerning which categories of providers (wireline telephone, wireless telephone, interconnected VOIP, nomadic VOIP, wireline and wireless broadband providers) would pay into the Universal Service Fund.[81] CETF supports a more specific proposal providing a clear definition of "access line" in a technology-neutral manner.

Staff analyzed and considered various proposed definitions in developing a recommendation for defining "access line." We discuss each proposal below.

[79] TURN/CforAT's OIR Comments (April 5, 2021) at 4.
[80] TURN/CforAT's OIR Comments (April 5, 2021) at 7.
[81] CETF's OIR Comments (April 5, 2021) at 4.

Access Line Definition Proposals

A. The Emergency Telephone Users Surcharge Act Definition (911 Surcharge)

Description: For purposes of California's 911 Surcharge, which the Cal OES administers, the Revenue and Taxation Code defines "Access Line" in section 41020 as follows:

(c)(1) "Access line in this state" means a telephone line as defined in Public Utilities Code (P.U. Code) Section 233, associated with a billing address located in California.

P.U. Code section 233 defines "telephone line" as including "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 the use of transmission wires."[82]

Effective July 1, 2019, SB 96 (the Emergency Telephone Users Surcharge Act) added Section 41007.1 to the Revenue and Taxation Code to further clarify the meaning of "access line" to include the different technologies over which a communication can occur, stating:

> "Access line" shall mean any of the following:
>
> (a) A wireline communications service line.
>
> (b) A wireless communications service line.
>
> (c) A VoIP service line, as defined by Section 41016.5 as added by the act adding this section."[83]

We will refer to this access line definition as the "911 surcharge" definition. This Act also added other clarifying sections to the Revenue and Taxation Code, which are included in Appendix B: Section 41007.2, Section 41007.3, and Section 41016.5.

Support: Charter and Cal Advocates support adopting the 911 surcharge definition for "access line," and they consider it to be a reasonable goal for this proceeding to ensure consistent collection methods for both the 911 surcharge and CPUC PPP surcharges.[84] The Small LECs support alignment to "the new method, definitions and exemptions with the 911 "per access line" surcharge approach, including exemptions for LifeLine customers, as suggested by several carriers and consumer groups."[85]

Time Warner Cable states that "adopting this definition is critical because it ensures consistency with the 911 surcharge, which reduces the administrative burden for carriers who already comply with the 911 surcharge and is technologically neutral—it avoids a disproportionate impact on wireline customers, which may have outbound and inbound lines, as compared to wireless [86]

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[82] Pub. Util. Code § 233.
[83] Rev. & Tax. Code § 41007.1.
[84] Warner/Charter's OIR Comments (April 5, 2021) at 2-3.
[85] Small LECs's OIR Reply Comments (April 23, 2021) at 2.
[86] Time Warner/Charter's OIR Comments (April 5, 2021) at 4.

Cal Advocates recommends the Commission "retain the 'access line' definition used in the Revenue and Taxation Code Section 41007.1 [87] Cal Advocates argues that adopting the 911 surcharge" definition promotes fairness and would also greatly expand the number of lines that would contribute to funding the PPPs."[88]

Charter Communications supports the 911 surcharge definition for access line. Charter states that this definition was "the result of two years of collaboration among Cal OES, officials from the Governor's Office, carriers, and other parties."[89] Charter notes that "the 911 surcharge 'access line' definition focuses only on the lines that can make an outbound call".[90] Moreover, Charter considers the adoption of the "definition [to be] critical because it ensures consistency with the 911 surcharge, which reduces the administrative burden for carriers who already comply with 911 surcharge and is technologically neutral—it avoids a disproportionate impact on wireline customers, which may have outbound and inbound lines, as compared to wireless to customers that typically only have outbound lines." [91]

Opposition: Comcast and TURN/CforAT oppose adopting the 911 surcharge access line definition.

Comcast argues that "[w]hile [the 911]definition is appropriate in the 9-1-1 context, because 9-1-1 calls are outbound only, that definition is not appropriate in the instant context, because the services subject to the surcharge can be inbound and/or outbound services." [92]

TURN/CforAT state that "'Access Lines' is an antiquated concept associated with legacy wireline telephone service. If the Commission's intent is to continue to impose surcharges only on a narrow base of customers that use local exchange "access" and other voice services, such a proposal is tantamount to rearranging deck chairs on a sinking ship and should not be adopted."[93]

B. New Mexico's Contributions Mechanism Definition

Description: The New Mexico Public Regulation Commission adopted a "Communication Connection"-based (analogous to an access line-based) surcharge mechanism on May 11, 2021. New Mexico defines "Communications connection" as follows:

> "Communications connection" a voice-enabled telephone access line, wireless voice connection, unique voice over internet protocol service connection or other uniquely identifiable functional equivalent as determined by the commission."[94]

Support: No party commented on this definition. The National LifeLine Association (NaLa) references "per access line charges"[95] in its opening comments, but in the context of discussing "exempted connections,"[96] and it does not specify whether it supports the definition or not.

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[87] Cal Advocates' OIR Reply Comments (April 23, 2021) at 3.
[88] Cal Advocates' OIR Reply Comments (April 23, 2021) at 4.
[89] Warner/Charter's OIR Comments (April 5, 2021) at 2-3.
[90] Warner/Charter's OIR Comments (April 5, 2021) at 3.
[91] Warner/Charter's OIR Comments (April 5, 2021) at 3.
[92] Comcast's OIR Comments (April 5, 2021) at 3.
[93] TURN/CforAT's OIR Comments (April 5, 2021) at 7.
[94] N.M. STAT. ANN. § 63-9H-6 (LexisNexis 2021).
[95] NaLa's OIR Comments (April 5, 2021) at 3.
[96] NaLa's OIR Comments (April 5, 2021) at 3.

Opposition: No party commented on this definition.

C. Utah's Contribution Mechanism Definition

Description: In 1997, Utah enacted the Utah Universal Public Telecommunications Service Support Fund, and in 2017 the state enacted a definition for "Access Line":

> "Access line" means a circuit-switched connection, or the functional equivalent of a circuit-switched connection, from an end-user to the public switched network". [97]

Support: No party commented on this definition. While NaLa references Utah's surcharge mechanism in opening comments, it was done in the context of discussing "exempted connections."[98]

Opposition: No party commented on this definition.

D. Nebraska's Contribution Mechanism Definition

Description: The Nebraska Public Service Commission revised and adopted a "connections-based" (analogous to an access-line based) mechanism on October 31, 2017, and defined the term as follows:[99]

> "Connection:" A wired line or wireless channel used to provide end users with access to any assessable service.[100]

Nebraska further defines "assessable service" to mean: "A service which allows a connection to other networks through inter-network routing as a means to provide telecommunications."[101]

Support: No party commented on this definition. Cal Advocates describes how charges are applied in Nebraska,[102] but did not specify any support for this approach. As noted earlier, Cal Advocates stated it supports the 911 surcharge definition.[103]

Opposition: No party commented on or opposed this definition.

E. Comcast's Contribution Mechanism Definition

Description: In its OIR opening comments, Comcast recommended a definition for a "line," and argued that for "surcharges [to] apply to all access lines, and not merely a subset of access lines, no such exceptions should apply to PPP surcharges."[104] Comcast would define "line" as follows:

> "Line" shall mean a local exchange service provided at a physical location in this state that allows the user to make calls to or receive calls from the public switch telephone network. For multiple services, the

[97] Utah Code § 54-8b-2.
[98] National Lifeline Association's OIR Comments (April 5, 2021) at 3.
[99] NUSF -100. PI-1-93 at 30; NUSF-100.PI-193.72.pdf (nebraska.gov).
[100] NUSF -100. PI-1-93 at 30; NUSF-100.PI-193.72.pdf (nebraska.gov).
[101] NUSF -100. PI-1-93 at 31; NUSF-100.PI-193.72.pdf (nebraska.gov).
[102] Cal Advocates' OIR Comments (April 5, 2021) at 13.
[103] Cal Advocates' OIR Reply Comments (April 23, 2021) at 3.
[104] Comcast's OIR Comments (April 5, 2021) at 4.

> number of lines shall be equal to the maximum number of concurrent inbound and/or outbound call sessions supported by the service, as provisioned. The number of lines shall not exceed 25 per customer account.[105]

Support: While Comcast supports moving away from the current revenue based-surcharge mechanism, it recommends the Commission adopt its proposed definition for a "line," which it defines differently than "access line."[106]

Opposition: Cal Advocates opposes Comcast's definition because that definition could be construed as "exclud[ing] wireless lines from continuing to contribute to the PPP surcharge [which] would be neither fair nor equitable." [107]

F. SMALL LECS's Contribution Mechanism Definition

Description: In response to question #1 in the OIR, the Small LECs propose the following definition for "access line":

> An "Access Line" should be defined as a fixed or wireless local access voice connection between a customer's premises and a carrier's central office, local switch hub, or local distribution facility.[108]
>
> In the wireline context, an "access line" should be limited to basic local exchange service and should not include each vertical service "additive."[109]

Support: Small LECs support this definition.

Opposition: No party commented on this definition.

Staff's Recommendation for Defining "Access Line"

Staff believes the Commission should define "access line" broadly to ensure that all communications technologies would be captured by the definition. To that end, staff recommends that the Commission define "access line" as follows:

> **"Access Line"** means a "telephone line" as defined in Public Utilities Code section 233 and is associated with one assigned California phone number, and shall include, but is not limited to, a "wireline communications service line," a "wireless communications service line," and a "Voice over Internet Protocol service line."

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[105] Comcast's OIR Comments (April 5, 2021) at 4.
[106] Comcast's OIR Comments (April 5, 2021) at 4.
[107] Cal Advocates' OIR Reply Comments (April 23, 2021) at 4.
[108] Small LECs' OIR Comments (April 5, 2021) at 2.
[109] Small LECs' OIR Comments (April 5, 2021) at 2.

> **"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 the use of transmission wires.[110]
>
> **"Wireline communications service line"**[111] means a local exchange service provided at a physical location in this state which allows[112] for a "real-time, two-way voice communication that originates from, or terminates at, the user's location [whether it uses a Public Switched Telephone Network (PSTN)] or a Voice Over Internet Protocol (VoIP) or a successor protocol.[113]
>
> **"Wireless communications service line"**[114]l means a telecommunications service provided to an end user with a place of primary use in this state" that allows for a "real-time, two-way voice communication that originates from, or terminates at, the user's location [whether it uses a PSTN] or a (VoIP)"[115]. It also means any communication service regardless of whether the communication is voice, data, or video.[116]
>
> **Voice over Internet Protocol or "VoIP" service line** means voice communications service as defined in Public Utilities Code section 239.

While this definition is rooted in existing laws, it also clarifies that each individual line associated with one California telephone number would be subject to the PPP surcharges regardless of the underlying technology that provides the communications service. This definition could accommodate changes in technology because any technology that facilitates communication by telephone would be subject to surcharge.

Staff does not recommend adopting the 911 surcharge access line definition in total because it is specific to the 911 emergency service system. Staff agrees with Comcast that "the definition is not appropriate in the instant context, because the services subject to the surcharge can be inbound and/or outbound services."[117]

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[110] Pub. Util. Code § 233.
[111] Rev. & Tax. Code § 41007.2.
[112] *Ibid*.
[113] Pub. Util. Code § 239.
[114] Rev. & Tax. Code § 41007.3.
[115] Rev. & Tax. Code § 41007.2.
[116] Pub. Util. Code § 239.
[117] Comcast's OIR Comments (April 05, 2021) at 3.

Staff does not recommend adopting New Mexico's definition because, while it is similar to the definition staff proposes, it refers to "voice enabled' rather than wireline in its definition and does not refer to or require a billing address located within the state, as is provided in P.U. Code 233.

Staff does not recommend adopting Utah's definition, as its terminology differs from staff's recommendation, which accounts for evolving technology. Utah's definition also lacks reference to requiring a billing address located within the state.

Staff does not recommend adopting Nebraska's definition because it remains vague on specific technology, and similar to the New Mexico and Utah definitions, lacks mention to in-state billing address. In comments, no parties expressed support or opposition to this definition.

Staff does not recommend adopting Comcast's definition as it could be construed as only applying to traditional wireline service. Staff agrees with the interpretation of Cal Advocates in that the Comcast's proposed definition "could be interpreted to include wireline access lines and exclude wireless lines"[118]

Finally, staff does not recommend adopting the Small LEC's definition because it is not as clear as staff's proposed definition, which explicitly states that a telephone number associated with wireline, wireless, and VoIP services would be counted as an access line.

3. Potential Inclusion of Broadband and Satellite Services in the PPP contribution base

As previously discussed, the current intrastate revenue-based surcharge mechanism for PPPs is not sustainable due to the declining intrastate revenue billing base currently being reported by carriers. A way to mitigate the declining billing base is to transition to a per-access line basis and expand the line count by including additional services that contribute to the base. Services that are not currently in the billing base include broadband internet access and satellite. If broadband and satellite line counts were to be included in the contribution base for PPPs, it would increase the number of lines subject to surcharge and, thereby, decrease the amount required per line to support universal service. Currently, there are approximately 59 million broadband lines served in California.[119]

However, this expansion could mean that many consumers would pay a surcharge on both their phone and broadband subscriptions. Moreover, with the FCC's classification of broadband internet access service (data) as an information service, which is not subject to state or federal universal service obligations, broadband lines could not be counted at this time.[120]

Nonetheless, in considering the transition from an intrastate revenue-based surcharge mechanism to the flat-rate per access line surcharge, parties have stated varied positions about the inclusion of broadband lines:

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[118] Public Advocates's OIR Reply Comments (April 23, 2021) at 4.

[119] The June 30, 2020, FCC 477 data shows that there are approximately 13 million fixed broadband and 46 million mobile broadband subscribers in California.

[120] In the Matter of Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service; WT Docket No. 08-7; 33bFCC Rcd 12075 (December 13, 2018) (FCC Declaratory Ruling).

- CETF recommends that Broadband Internet Access Services (BIAS) be added to the contribution base for PPPs regardless of outdated jurisdictional issues. CETF observes that every PPP program involves broadband benefits in some way, whether as to broadband access issues, broadband and telecommunications infrastructure grants, and bringing anchor institutions and persons with disabilities broadband and communications services.[121]

- TURN and CforAT recommend expanding the surcharge mechanism base to include broadband. They contend that federal law reserves a clear role for states to "preserve and enhance universal service" through non-discriminatory mechanisms that will work with, and not conflict with, a federal support framework, thereby working together to support universal service. TURN and CforAT also provide an estimated number of residential broadband connections.[122]

- Cal Advocates recommends assessing the stability of the rate base in the future, commenting that "[i]n three to five years, the Commission should assess the stability of the billing base to determine if levying the PPP surcharge on all communication services subscribers, including broadband, is appropriate. Wireline telephone subscribership is decreasing." [123] In citing the downward trend in wireline subscribers, Cal Advocates also states, "In such a case, the Commission should consider assessing the PPP surcharge and user fee on subscribers of all communications services."[124]

A recent publication, *USForward,* issued on behalf of the Universal Services Fund[125] "makes the case for adding broadband internet access service revenues as a means of stabilizing the USF program to meet its mission and future goals." The paper also cites that the USF fee assessed on interstate and international telecommunications revenues has increased from 6.9% in 2001 to an historic high of 33.4% in the second quarter of 2021, and that if the FCC decides to include BIAS revenues as assessable, the contribution factor would fall significantly and remain under 4 percent over the next several years.

USForward asserts that it is appropriate as a matter of public policy to assess BIAS revenues because all four programs in the USF promote universal broadband. Similarly, California's own universal service programs are tied to and rely on a customer's access to the internet, as recent initiatives at both the state and federal level support substantial future investment in broadband infrastructure for the benefit of all. In citing that BIAS revenues are expected to be stable in the future with potential for modest growth, the USF funding mechanism would be stabilized. The same could be said for the future of California's PPPs.

In addition to the possibility of BIAS contributing to the surcharge billing base, some parties suggest the inclusion of satellite services, as done by other states. Kansas assesses satellite carriers, largely because

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[121] CETF's OIR Comments (April 5, 2021) at6.
[122] *See* OIR Comments, TURN/CforAT's OIR Comment (April 5, 2021) at 11-17 and Table 4 at 22.
[123] Cal Advocates' Comments (April 5, 2021)at 14.
[124] *Ibid*, at 15.
[125] *USForward, FCC Must Reform USF Contributions Now: An Analysis of the Options,* Written by Carol Mattey, Mattey Consulting LLC, in conjunction with Incompas, NTCA (The Rural Broadband Association), and the Schools, Health & Libraries Broadband Coalition (SHLB), September 2021.

of satellite company participation in the Connect America Fund (CAF) II auctions.[126] At this time we are not assessing satellite services, but this could be an issue in the future.

4. User Fee

The current User Fee funds the CPUC's annual operating budget for regulating the corporations under its jurisdiction.[127] For telephone corporations, this User Fee is calculated based on the "ratio that each corporation's gross intrastate revenues bears to the total gross intrastate revenues for the class."[128] The Commission further defined this to be based on a percentage of a Telecommunications Carrier's gross intrastate revenue, excluding inter-carrier sales, equipment sales, and directory advertising. [129]

Frontier and the Small LECs question whether the User Fee (based on intrastate revenue) may be changed to an access-line basis.[130] To comply with the method required under P.U. Code § 432(C)(3), Small LECs recommend the User Fee be left unchanged.[131]

At this time, staff recommends the Commission maintain the current revenue-based User Fee assessment and collection mechanism due to the statutory constraints in P.U. Code section 432(C)(3).

5. Exemption from PPP Surcharges

All telecommunications carriers that sell telephone service to the public in California are required to assess and collect surcharges from end users and to remit these surcharges to the CPUC to fund the PPPs. California Lifeline customers, however, are currently exempt from paying those surcharges.[132] Federal LifeLine customers are not subject to the PPP surcharges as well.[133]

There are two main Universal Lifeline Telephone Service discounts offered to low-income customers in California: California LifeLine Program (California Lifeline) and federal Lifeline Program (Federal Lifeline).[134] To qualify for the California LifeLine Program, customers must either have income that is at or below $28,500 for household of 1-2; $33,100 for household of 3; $40,300 for household of 4; or enrolled in an assistance programs such as Medicaid/Medi-Cal, Low Income Home Energy Assistance Program (LIHEAP), Supplemental Security Income (SSI), Federal Public Housing Assistance or Section 8, CalFresh, Food Stamps or Supplemental Nutrition Assistance Program (SNAP), Tribal TANF, or Federal Veterans and Survivors Pension Benefit Program.[135] To participate in the Federal Lifeline program, customers must either have an income that is at or below 135% of the Federal Poverty Guidelines or participate in certain federal assistance programs, such as the Supplemental Nutrition Assistance

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[126] State Universal Service Funds 2018: Updating the Numbers, April 2019. Table 4, at 22.
[127] See P.U. Code §§ 401-405, 431-435.
[128] P.U. Code § 432(C)(3).
[129] https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/cpuc-user-fee.
[130] Frontier's OIR Reply Comments (April 23, 2021) at 3; Small LECs' OIR Reply Comments (April 23, 2021) at 3.
[131] Small LECs' OIR Reply Comments (April 23, 2021) at 3.
[132] https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/instructions-for-filing.
[133] Title 47 USC Sec. 254(d) Telecommunications Carrier Contribution.
[134] https://www.californialifeline.com/en/eligibility_requirements.
[135] https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/lifeline/california-lifeline-eligibility#qualify.

Program (SNAP), Medicaid, Federal Public Housing Assistance, Supplemental Security Income, the Veterans and Survivors Pension Benefit, or certain Tribal Programs.[136]

Pursuant to P.U. Code section 879 and CPUC General Order 153, Section 8.1.9, California LifeLine subscribers are exempt from paying surcharges and the CPUC User Fee. Consistent with Title 47 USC 254(f), the Commission only has authority to impose surcharges on intrastate telecommunications services. Federal Lifeline reimbursement is not considered intrastate telecommunications services revenue, and therefore not applicable to PPP surcharges and the CPUC User Fee.

All parties generally agree that Lifeline subscribers should continue to be exempt from PPP surcharges.[137] Cox states that under the Moore Act, section 879(c), Lifeline customers are exempt from paying the PPP surcharges.[138] In addition to exempting Lifeline subscribers, Cal Advocates believes customers subscribing to low-income broadband plans that are bundled with voice services and people who are incarcerated should also be exempt from paying PPP surcharges.[139] Staff agrees with parties and recommends that Lifeline subscribers continue to be exempt from PPP surcharges.

Staff opposes exempting customers subscribing to low-income broadband plans and incarcerated people from the PPP, at this time. Cal Advocates has not provided evidence to support exempting these customers and therefore staff recommends the Commission reject this proposal.

6. Pre-Paid Wireless

Staff does not recommend, as some industry parties suggest, adopting a separate point-of-sale surcharge mechanism for prepaid wireless service, which the Prepaid Mobile Telephony Services Surcharge Collection Act ("Prepaid MTS Act") had created.[140] The Prepaid MTS Act required prepaid wireless sellers to collect the CPUC's PPP surcharges, CPUC User Fee, and local taxes from prepaid consumers at the point-of-sale (i.e., time of purchase) through a single *Prepaid MTS surcharge* only applicable to prepaid wireless service. The Prepaid MTS Act, however, sunset on January 1, 2020.

The only difference between prepaid wireless service and post-paid wireless service is how the customer is billed by the carrier. But the manner in which a carrier bills a customer is a business decision that does not warrant treating prepaid wireless carriers differently than postpaid wireless or wireline/VoIP carriers for surcharge or any other regulatory purpose.

In Decisions (D.)12-02-032 (Phase 1) and D.14-01-037 (Phase 2), in which the Commission adjudicated its Investigation of TracFone's failure to pay user fees and PPP surcharges (I.09-12-016), the Commission concluded that prepaid wireless services are subject to PPP surcharges and the CPUC User Fee. Importantly, the Commission found that "[r]egardless of how the user fees and PPP surcharges are collected, the carrier is ultimately responsible for paying these amounts to the Commission."[141]

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[136] https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines.
[137] Comcast's OIR Comments (April 5, 2021) at 6; Cal Advocates' OIR Comments (April 5, 2021) at 11; NaLA's OIR Comments (April 5, 2021) at 2; TURN/CforAT's OIR Comments (April 5, 2021) at 34; CTIA's OIR Comments (April 5, 2021) at 13; Cox's OIR Reply Comments (April 23, 2021) at 13; and CETF's OIR Comments (April 16, 2021) at 4.
[138] Cox's OIR Reply Comments at 13.
[139] Cal Advocates' OIR Comments (April 5, 2021) at 12.
[140] *See* e.g., TracFone OIR Comments (April 5, 2021) at 2; CTIA Reply Comments (April 23, 2021) at 8.
[141] D.14-01-037, *Slip Op*., Finding of Fact (FOF) 12 at 62.

If the Commission adopts a flat-rate surcharge mechanism based on access lines, as staff recommends, prepaid wireless carriers' purported difficulties with collecting surcharges would be moot because they could ascertain how many phone numbers they have assigned to California customers. For example, in the TracFone investigation, the Commission found that "TracFone's prepaid wireless services include a telephone number and must be used with a TracFone handset. Essentially, the result is equivalent to a dial tone access and a full-service telephone offering."[142]

VI. IMPLEMENTATION ISSUES

1. Transition Period

When the Commission adopts a new surcharge mechanism, staff understands that there is a need for a transition period to allow carriers enough time to provide customer notices and update billing systems to accommodate the change. Charter and Comcast request six months to implement any surcharge collection methodology change, and CTIA requests nine months.[143] In the Prehearing Conference, the majority of the carriers indicated that six months is adequate for carrier billing system modifications.[144] CETF recommends four to six months with an extension of two months when necessary. [145]Staff does not object to providing carriers six months to implement a new surcharge mechanism.

2. Transparent Billing

At present, California communications carriers disclose and itemize each PPP surcharge on customer bills showing a breakdown of what programs are being supported through surcharges and the rate for each.

To maintain transparency about program costs, TURN/CforAT and CETF contend that consumers should be able to easily see exactly what programs are being supported through surcharges on their monthly bills.[146] Cox is concerned that a mandate to require all PPP surcharges to be lumped together into one line will deprive consumers of transparency as they would no longer have any visibility into what portion of the surcharge would be allocated to each PPP fund.[147] Similarly, Sonic argues that providing detailed information about the amount of the surcharge for each PPP on customers' bills is generally better, as it helps customers see each program's funding level. Sonic states that combining all six PPP surcharges into a single surcharge will reduce transparency and would discourage public participation in the review of PPPs.[148]

On the other hand, Charter contends that a single per-line PPP surcharge on each customer bill statement would be more efficient and avoids reporting errors.[149] Consolidated Communications stated

[142] D.12-2-032, *Slip*. *Op*., at 30.
[143]Time Warner/Charter's OIR Comments (April 5, 2021) at 4; Comcast's OIR Comments (April 5, 2021) at 4; and CTIA's OIR Comments (April 5, 2021) at 7.
[144] Charter/Time Warner, Cox, Frontier, Consolidated, Small LECS, and Comcast were at the Prehearing Conference on May 20, 2021 that indicated six months is adequate.
[145] CETF's OIR Reply Comments (April 23, 2021) at 9.
[146] TURN/CforAT's OIR Comments (April 5, 2021) at 30; and CETF's OIR Comments (April 5, 2021) at 7.
[147] Cox's OIR Comments (April 5, 2021) at 7.
[148] Sonic's OIR Comments (April 5, 2021) at 5.
[149] Time Warner/Charter's OIR Comments (April 5, 2021) at 7.

that a majority of their customers will view a single per-line PPP surcharge as a simplification of their bills.[150]

While TURN/CforAT, CETF, and Cox's preference is for communications companies to continue to itemize each PPP surcharge on customers' bills, they are not opposed to the Commission adopting a single surcharge that combines all six PPPs.[151]

For transparency, a majority of the carriers argue that bills should direct the customers to the CPUC website for an explanation of how the single end-user surcharge is allocated to individual programs, rather than requiring the carriers to provide the information individually to customers.[152] Additionally, Cal Advocates and Cox suggest the Commission (not the carriers) should post on the CPUC website how PPP surcharges and user fees are calculated as separate line items, including information showing the PPP fund budgets.[153] Consolidated opposes any proposal to mandate carriers to provide monthly/recurring bill messaging to explain the Commission's change in the surcharge mechanism.[154]

Staff recommendations: To simplify the PPP surcharge process and to ensure transparency, staff recommends bundling all six PPP surcharges into a single Per Access-Line surcharge on the customer's bill with direction to the CPUC website for an explanation of the surcharge bill, broken down by each PPP program. The CPUC website would continue to include additional information about surcharge programs, as well as the allocation of funds and the amount that is charged on a monthly basis. Additionally, staff recommends that the surcharge information on the CPUC website be updated annually or as needed by the Communications Division.

[150] Consolidated's OIR Comments (April 5, 2021) at 3.
[151] TURN/CforAT's OIR Reply Comments (April 23, 2021) at 34; CETF's OIR Reply Comments (April 23, 2021) at 9; and Cox's OIR Reply Comments (April 23, 2021) at 13.
[152] Cal Advocates' OIR Comments (April 5, 2021) at 9-10; UCAN's OIR Comments (April 5, 2021) at 2-3; Consolidated's OIR Comments (April 5, 2021) at 3; Cox's OIR Reply Comments (April 23, 2021) at 6; Time Warner/Charter's OIR Reply Comments (April 23, 2021) at 7; AT&T's OIR Comments (April 5, 2021) at 2; CTIA's OIR Comments (April 5, 2021) at 15; Comcast's OIR Reply Comments (April 23, 2021) at 9; CEFT's OIR Reply Comments (April 23, 2021) at 9; Small LECS' OIR Reply Comments (April 23, 2021) at 8; and Frontier's OIR Reply Comments (April 23, 2021) at 8.
[153] Cal Advocates' OIR Comments (April 5, 2021) at 9-10; and Cox's OIR Reply Comments (April 23, 2021) at 6.
[154] Consolidated's OIR Comments (April 5, 2021) at 4.

VII. QUESTIONS FOR PARTIES

To further develop the record in this proceeding, staff recommends that parties provide comments on staff's recommendations in this Staff Report-Part 2 and to also respond to the questions below.

Surcharge Mechanism

1. Comments recommending surcharge mechanisms different from staff's recommendation should provide sufficient justification, including but not limited to a detailed explanation of the proposed surcharge mechanism, how the mechanism would be implemented, and detailed analyses utilizing the same data sets provided in Table 7 of this report to demonstrate the potential rates and impacts.
2. If the Commission adopts a Per Access-Line (Flat-Rate) surcharge mechanism, could businesses escape contribution requirements by switching their access-line based voice service to another form of voice communication and avoid paying surcharges? What is your specific proposal to mitigate or resolve this problem?
3. If the Commission adopts a surcharge mechanism that is differentiated by Customer Class, how should small business customers and large business customers be defined and identified?

Defining Access-Line(s)

4. How could the Commission validate the accuracy of the number of access lines that each carrier reports?

Exemptions

5. Besides California Lifeline, are there any other customers who should be exempt from paying PPP surcharges? Please provide justifications and ways for identifying an exemption.

Scoping Memo Data Request:

6. Why is there such significant variation between how much intrastate revenue different services (e.g., wireless, VoIP, and POTS), as well as different types of the same service (e.g., VoIP subscriptions provided over broadband vs. VoIP subscriptions that are not Over the Top), remit in surcharge revenue?
7. What other conclusions can be drawn from the data request results?

Appendix A

Surchargeable Revenue of Different Services, for Year 2020							
Service Category	**Service**	**Subscriber Count for Service [A]**	**Intrastate Revenue for Service [B]**	**Average Yearly Intrastate Surchargeable Revenue [C] = [B]/[A]**	**Average Monthly Intrastate Surchargeable Revenue [D]=[C]/12**	**Average Monthly Intrastate Surcharge Remitted per Subscriber [E] = [D] x 6.94%**
Mobile Voice	Total Facilities-Based Mobile Subscribers	45,089,008	$2,106,683,593	$46.72	$3.89	$0.27
	Total Direct Facilities-Based Mobile Voice Subscribers	37,264,049	$1,739,818,997	$46.69	$3.89	$0.27
	Total Facilities-Based Mobile Voice Wholesale Connections	5,563,523	$62,096,216	$11.16	$0.93	$0.06
	Total Non-Facilities-Based Mobile Voice Subscribers	11,179,641	$187,519,696	$16.77	$1.40	$0.10
	Total Direct Non-Facilities-Based Mobile Voice Subscribers	10,338,558	$17,450,129	$1.69	$0.14	$0.01
Mobile Broadband (Non-Voice)	Total Facilities-Based Mobile Broadband Subscribers	16,858,237	$0	$0.00	$0.00	$0.00
	Total Direct Facilities-Based Mobile Broadband Subscribers	14,307,252	$0	$0.00	$0.00	$0.00
	Total Facilities-Based Mobile Broadband Wholesale Connections	410,359	$0	$0.00	$0.00	$0.00
	Total Non-Facilities-Based Mobile Broadband Subscribers	1,394,217	$222,659	$0.16	$0.01	$0.00
	Total Direct Non-Facilities-Based Mobile Broadband Subscribers	1,287,936	$1,005	$0.00	$0.00	$0.00

Surchargeable Revenue of Different Services, for Year 2020						
Service Category	**Service**	**Subscriber Count for Service [A]**	**Intrastate Revenue for Service [B]**	**Average Yearly Intrastate Surchargeable Revenue [C] = [B]/[A]**	**Average Monthly Intrastate Surchargeable Revenue [D]=[C]/12**	**Average Monthly Intrastate Surcharge Remitted per Subscriber [E] = [D] x 6.94%**
Voice over Internet Protocol (VoIP)	Total VoIP Subscriptions	7,295,031	$1,095,744,894	$150.20	$12.52	$0.87
	Total Residential VoIP Subscriptions	3,959,760	$399,794,038	$100.96	$8.41	$0.58
	Total VoIP Subscriptions Bundled w Broadband	4,058,266	$127,862,298	$31.51	$2.63	$0.18
	Total VoIP Subscriptions over Copper	1,920,946	$98,840,202	$51.45	$4.29	$0.30
	Total VoIP Subscriptions over Fiber	579,605	$28,575,100	$49.30	$4.11	$0.29
	Total VoIP Subscriptions over Cable	3,845,815	$315,272,625	$81.98	$6.83	$0.47
	Total VoIP Subscriptions over Fixed Wireless	4,403	$489,431	$111.16	$9.26	$0.64
	Total VoIP Subscriptions that are Over-the-Top	712,445	$65,368,106	$91.75	$7.65	$0.53
	Total VoIP Residential Subscriptions that are Over-the-Top	152,460	$16,306,156	$106.95	$8.91	$0.62
	Total VoIP Subscriptions that are Not Over-the-Top	4,278,893	$687,951,088	$160.78	$13.40	$0.93
	Total Residential VoIP Subscriptions that are Not Over-the-Top	3,937,359	$292,025,030	$74.17	$6.18	$0.43
Circuit-switched Voice Lines (POTS)	Total POTS Lines	3,954,606	$1,870,258,502	$472.93	$39.41	$2.74
	Total Residential POTS Lines	1,199,290	$618,430,727	$515.66	$42.97	$2.98
	Total POTS Lines that are Bundled with Broadband	692,365	$190,639,841	$275.35	$22.95	$1.59
	Total POTS Lines over Copper	3,647,022	$1,392,538,302	$381.83	$31.82	$2.21
	Total POTS Lines over Fiber	28,942	$13,722,457	$474.14	$39.51	$2.74
	Total POTS Lines over Cable	46,558	$21,829,552	$468.87	$39.07	$2.71
	Total POTS Lines over Fixed Wireless	6	$0	$0.00	$0.00	$0.00
	Total POTS Lines that are Wholesaled	364,983	$108,205,327	$296.47	$24.71	$1.71
	Total POTS Lines that are Resold	376,604	$151,977,353	$403.55	$33.63	$2.33
Fixed Broadband	Total Broadband Subscriptions	4,127,933	$82,431,585	$19.97	$1.66	$0.12
	Total Residential Broadband Subscriptions	3,545,569	$14,889,184	$4.20	$0.35	$0.02
Other Revenues or Services	Other	$168,723,217	$298,297,410	$1.77	$0.15	$0.01
Total Revenue / Subscriptions*		260,608,290	$6,294,256,404	$24.15	$2.01	$0.14

Clarification: The value in each cell on column A and B represents an aggregate number derived by adding each carrier's response for that individual cell, as requested in the June 28, 2021 Scoping Memo Data Request (Excel template), issued in Rulemaking 21-03-002. (https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-and-fee-proceeding).

*The values for column A and B may not equal to the totals for that column because it represents an aggregate number derived by adding each carrier's response for that individual cell. The cells in this row provide the total number of either subscriber numbers or revenue numbers and not a combination of both.

Appendix B

SEC. 6. *Section 41007.2 is added to the Revenue and Taxation Code, to read:*

(a) "Wireline communications service" shall mean a local exchange service provided at a physical location in this state that allows the user to make an outbound communication to the 911 emergency communications system.

(b) For the purposes of the surcharge imposed by Chapter 2 (commencing with Section 41020):

(1) A wireline communications service access line does not include a direct inward dialing number, extension, or other similar feature that routes an inbound call and cannot provide access to the 911 emergency communications system.

(2) The number of surcharges imposed shall not exceed the total number of concurrent outbound calls that can be placed to the emergency communications system at a single point of time.

(c) This definition shall apply only to this part.

SEC. 7. Section 41007.3 is added to the Revenue and Taxation Code, to read:

(a) "Wireless communications service line" shall mean a telecommunications service provided to an end user with a place of primary use in this state that allows the end user to make an outbound communication to the 911 emergency communications system. A wireless communications service line shall not include prepaid mobile telephony service.

(b) For the purposes of the surcharge imposed by Chapter 2 (commencing with Section 41020), not more than one surcharge may be imposed per wireless communications service line number assigned to an end user of mobile telecommunications service.

(c) This definition shall apply only to this part.

SEC. 13. Section 41016.5 is added to the Revenue and Taxation Code, to read:

(a) "VoIP service" means any service that satisfies the requirements set forth in paragraph (1) and (2).

(1) Does all of the following:

(A) Enables real-time, two-way voice communication that originates from and terminates to the user's location using Internet Protocol (IP) or any successor protocol.

(B) Requires a broadband connection from the user's location.

(C) Permits users, generally, to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(2) Does at least one of the following:

(A) Requires Internet Protocol-compatible customer premises equipment (CPE).

(B) When necessary, is converted to or from transmission control protocol (TCP)/IP by the service user's service supplier before or after being switched by the public switched telephone network.

(C) Is a service that the Federal Communications Commission (FCC) has affirmatively required to provide 911 service.

(b) For the purposes of the surcharge imposed by Chapter 2 (commencing with Section 41020), both of the following shall apply:

(1) A VoIP service line does not include a direct inward dialing number, extension, or other similar feature that routes an inbound call and cannot provide direct access to the 911 emergency communications system.

(2) The number of surcharges imposed shall not exceed the total number of concurrent outbound calls that can be placed to the emergency communications system at a single point of time.

(c) This definition shall only apply to this part.

(d) This section shall become operative on January 1, 2020. [155]

[155] REVENUE & TAXATION CODE § 41007.1, 41007.2, 41007.3, and 41016.5