

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking Proceeding to  
Consider Amendments to General Order 133

Rulemaking 22-03-016

**COMMENTS OF CTIA ON  
RULING REQUESTING COMMENTS ON SERVICE  
QUALITY OUTAGE ANALYSIS REPORT**

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CTIA submits these comments in response to the Administrative Law Judge’s Ruling released April 17, 2023 in this docket seeking comment on a report by California Public Utilities Commission (“Commission”) Communications Division entitled “Service Quality Outage Analysis” (“Staff Report”).<sup>1</sup>

## **I. INTRODUCTION AND SUMMARY**

The Ruling asks whether the data in the report “merit revisiting GO 133-D so that service quality rules apply to VoIP and/or wireless service.”<sup>2</sup> As to wireless service, the answer is clearly no.

The Staff Report plainly intends to lay the foundation for an argument that the mere existence of outage reports (or, perhaps, enough outage reports to meet an arbitrary and yet-undefined threshold) justifies expansion and extension of the service quality regulations in GO 133-D to more types of telecommunications providers. As regards wireless providers, however, the Staff Report fails to do so. The Staff Report relies exclusively upon non-public outage reports to conclude that new service quality standards are required and that the current GO 133-D protections “address only the tip of the iceberg” as pertains to communications reliability in California.<sup>3</sup> However, the Staff Report fails to properly analyze the data by, for example, failing to quantify outages with zero consumer impact and outages caused by factors outside the reporting provider’s control such that recurrence could not be prevented or reduced through

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<sup>1</sup> Administrative Law Judge’s Ruling Requesting Comments on the Service Quality Outage Analysis Report, R.22-03-016 (filed April 17, 2023) (“Ruling”); attachment, Communications Division Staff, “Service Quality Outage Analysis”.

<sup>2</sup> Ruling at 2.

<sup>3</sup> Staff Report at 30.

regulation.<sup>4</sup> The Staff Report also presents data in an unclear manner, such as by grouping information together in arbitrary, over-broad categories that ultimately obscure the data and prevent probative analysis. As a result, the Staff Report fails to establish either that outage reporting reveals any service quality “problem” or that extending GO 133-D service quality regulations to wireless providers would reduce wireless service outages.

The Staff Report also leaves unchallenged the extensive record in this docket showing that applying GO 133-D service quality regulations to wireless providers would not benefit consumers and, in fact, could harm them. Testimony from respected economists establishes that utility service quality regulations like those in GO 133-D are employed to approximate the service quality that providers would deliver in a competitive market and therefore are inappropriate in a robustly competitive environment such as the marketplace for wireless services. In these circumstances, service quality regulations will not benefit consumers and are more likely to disrupt the market in harmful ways. The record contains no expert testimony or other evidence to the contrary.

In sum, the Staff Report does not provide any basis to extend GO 133-D service quality regulations to wireless providers, and the Commission should refrain from doing so.

## **II. ANALYSIS OF THE STAFF REPORT FURTHER DEMONSTRATES THAT THERE IS NO MERIT TO REVISITING THE APPLICATION OF GO 133-D SERVICE QUALITY REGULATIONS TO WIRELESS PROVIDERS.**

Analyzing the Staff Report reveals that there is no merit to “revisiting GO 133-D so that service quality rules apply to ... wireless service.”<sup>5</sup> While it relies heavily on Federal

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<sup>4</sup> As CTIA has stated previously in this docket and elsewhere state wireless service quality requirements would be preempted by federal law. *See* Comments of CTIA on Order Instituting Rulemaking, R.22-03-016, at 4-16 (May 9, 2022).

<sup>5</sup> Ruling at 2.

Communications Commission (“FCC”) Network Outage Reporting System (“NORS”) reports the Commission receives pursuant to GO 133-D and outage reports filed with the California Governor’s Office of Emergency Services (“CalOES”) that the Commission clearly has access to, the Staff Report fails to explain why the existence of those reports somehow justifies imposition of any service quality regulations.

With regard to wireless providers, the Staff Report presents selected data from three sources: outage reports submitted to the FCC via NORS, which wireless providers are required to file with the Commission by GO 133-D; outage reports submitted to CalOES; and the Commission’s Consumer Affairs Branch (“CAB”) consumer complaint data.<sup>6</sup> The Staff Report suggests that these data “provide useful analyses for the CPUC to examine the effectiveness of GO 133-D and to identify areas of opportunity to improve service quality for Californians.”<sup>7</sup> Unfortunately, the Staff Report does not disclose the NORS and CalOES outage reports or source data<sup>8</sup> that it purports to tabulate, so CTIA is unable to comment on whether the Staff Report’s calculations and tabulations are accurate. However, even taking the Staff Report at face value, it is easy to illustrate that the Staff Report ignores important facts to present misleading analysis in support of erroneous conclusions.

For instance, NORS reports are required whenever an FCC-defined threshold is met without any indication of whether any customer was ever impacted. NORS reports reflect that a

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<sup>6</sup> See *generally* Staff Report.

<sup>7</sup> Staff Report at 23.

<sup>8</sup> To be clear, while the analysis cannot reasonably be given any weight or relied upon in any manner without providing interested parties access to the source data, that source data would need to be protected from disclosure, perhaps with access and use being restricted by the terms of an appropriately crafted protective order or other appropriate measures.