



January 29, 2021

Via Email

President Marybel Batjer
Commissioner Martha Guzman Aceves
Commissioner Clifford Rechtschaffen
Commissioner Genevieve Shiroma
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94105

Re: Resolution M-4849: Authorization and Order Directing Utilities to Extend Emergency Customer Protections to Support California Customers Through June 30, 2021, And to File Transition Plans for the Expiration of the Emergency Consumer Protections

Dear Commissioners:

CTIA respectfully submits this letter in response to the comments filed by The Utility Reform Network, National Consumer Law Center, and Center for Accessible Technology (“TURN *et al.* Comments”) regarding Draft Resolution M-4849.¹

The Draft Resolution proposes to extend through June 30, 2021 (subject to potential further extension) requirements adopted in Resolution M-4842, which were borrowed from Commission decisions in Rulemaking 18-03-011 that focused on the scourge of wildfires and similar natural disasters in California.² These requirements include obligations on wireless carriers to deploy “Cells on Wheels” and “Cells on Light

¹ Draft Resolution M-4849 (issued Jan. 15, 2021) (“Draft Resolution”).

² See *id.* at 3 (“[T]he Commission initiated a disaster relief Rulemaking, (R.) R.18-03-011, and adopted a series of requirements for utility companies ... and communications providers, culminating in measures adopted in two Decisions, (D.) D.19-07-015 and D.19-08-025”); *id.* at 8 (citing D. 19-08-025 as the basis for the wireless carrier requirements).



Trucks,” and to provide customers with “device charging stations,” “WiFi access,” and free loaner mobile phones in specified situations.³

TURN *et al.* contend that the Resolution should also include a moratorium prohibiting wireless carriers from disconnecting customers for non-payment during the COVID-19 pandemic. This request is misplaced, since the disconnection moratorium has already been addressed by the Commission separately in Resolution M-4848.⁴ Indeed, the Draft Resolution in this docket explicitly acknowledges that the Commission addressed the disconnection moratorium in its separate Resolution adopted over a month ago.⁵ TURN *et al.*’s request to extend the moratorium through June 30, 2021 should be rejected as both procedurally improper and meritless.

As an initial matter, the request to extend the moratorium adopted over a month ago in Resolution M-4848 is procedurally barred because it is effectively an untimely Application for Rehearing of Resolution M-4848⁶ and an impermissible collateral attack on that Resolution.⁷

Moreover, the request is entirely meritless. The Commission has already considered and decided the appropriate duration of the moratorium, and TURN *et al.* provide no valid basis for disturbing the Commission’s policy judgment on that issue.⁸

³ See *id.* at 8 (summarizing requirements for wireless carriers).

⁴ See Resolution M-4848 (issued Dec. 18, 2020).

⁵ See Draft Resolution at 10 (“The Emergency Customer Protections extended to communications customers in Resolution M-4842 *did not include a moratorium on disconnections* for nonpayment, however the Commission imposed a 90 day moratorium on disconnections for non-payment for communications customers in Resolution M-4848.”) (emphasis added).

⁶ Under California Public Utilities Code § 1731(b)(1) and Commission Rule 16.1(a), an Application for Rehearing was due 30 days from issuance of Resolution M-4848—i.e., 30 days from December 18, 2020, a deadline that expired on January 19, 2021. TURN *et al.* filed their comments addressing Draft Resolution M-4849 on January 21, 2021.

⁷ See Cal. Pub. Util. Code § 1709 (“In all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive.”).

⁸ While recognizing that the Commission adopted Resolution M-4848 over CTIA’s objections, CTIA continues to respectfully maintain that the moratorium violates federal law for the



Finally, TURN *et al.* express “support” for the remaining requirements imposed in the Draft Resolution.⁹ CTIA, however, has explained that the Draft Resolution should not be adopted because (1) it is “the policy equivalent of the proverbial square peg in a round hole” (applying to a global public health crisis inapposite requirements lifted wholesale from the very different context of responding to wildfires and other natural disasters), and (2) runs headlong into serious federal preemption problems.¹⁰

Accordingly, CTIA asks the Commission to reject TURN *et al.*’s requests.

Respectfully submitted:

/s/ Benjamin J. Aron

Benjamin J. Aron
Assistant Vice President
State Regulatory Affairs

cc: April Mulqueen, CPUC

Service Lists: A. 20-03-014, A. 19-11-003,
A. 19-09-014,- R. 18-07-006,- R. 18-07-005, R. 18-03-011,
R. 17-06-024, R. 15-03-010 , R. 12-06-013

3100/016/X223947.v1

reasons it previously explained. See Comments of CTIA on Draft Resolution M-4848 (filed Dec. 9, 2020) at 4-13; Letter from Benjamin J. Aron, Director, State Regulatory and External Affairs for CTIA, to Robert Osborn, Director of the Communications Division of the California Public Utilities Commission regarding Resolution M-4848 (filed Dec. 14, 2020) at 2-3.

⁹ See, *e.g.*, TURN *et al.* Comments at 13.

¹⁰ See Letter from Benjamin J. Aron, Assistant Vice President, State Regulatory Affairs for CTIA, to the Commissioners of the California Public Utilities Commission regarding Resolution M-4849 (filed Jan. 22, 2021) at 3-4.