FILED
09/10/19
04:59 PM

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

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| Order Instituting Rulemaking to Establish a Framework and Processes for Assessing the Affordability of Utility Service. | Rulemaking 18-07-006 (Filed July 12, 2018) |

# OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON STAFF PROPOSAL ON ESSENTIAL SERVICE AND AFFORDABILITY METRICS


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September 10, 2019

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**OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON STAFF PROPOSAL ON ESSENTIAL SERVICE AND AFFORDABILITY METRICS**

Pursuant to the Administrative Law Judge's Ruling Inviting Comments on Staff Proposal ("ALJ Ruling"), issued on August 20, 2019, The Utility Reform Network ("TURN") submits these opening comments.

## I. INTRODUCTION

TURN appreciates the opportunity to review and provide comments on the Staff Proposal. TURN believes that the Staff Proposal is a great step in the right direction and offers recommendations to further improve the metrics – the most important one being that the Affordability Ratio can be significantly improved by including essential non-utility expenditures in the analysis. In addition, the Commission should establish guidance for affordability ranges, even if at a high level. Without such guidance, developing these metrics could become a futile exercise for the foreseeable near future until enough time series data points are collected. Lastly, TURN explains that contrary to claims by some telecommunication providers, the Commission has the authority to analyze the affordability of communications services as essential services, including broadband services.

## II. RESPONSES TO ALJ RULING'S QUESTIONS

### 1. Do the Proposed Affordability Metrics Adequately Assess Affordability? If Not, How Should the Metrics Be Changed?

TURN applauds the Staff Proposal's use of multiple metrics as an approach to develop a robust and actionable view of utility service affordability. The Staff Proposal identifies three metrics: The Affordability Ratio ("AR"), Hours at Minimum Wage ("HM"), and the Ability to

Pay Index ("API"), with each metric contributing valuable elements to construct a meaningful, multifaceted view of what is affordable. While TURN believes that these metrics contribute to an analysis of the affordability of essential utility services, TURN also believes that the metrics can be improved. As a preliminary matter, TURN notes that work papers and foundational data associated with the Staff Proposal have only recently been provided to the parties. TURN bases this assessment on information in the Staff Proposal and information that was presented by Staff at the August 26, 2019, workshop, as well as a preliminary review of the workpapers. In light of the accelerated schedule, TURN reserves the right to update the analysis and recommendations presented below.

**a. The Affordability Ratio ("AR") Can Be Significantly Improved by Including Essential Non-Utility Expenditures in the AR Analysis.**

While TURN supports the concept of an affordability ratio, implementing and interpreting an AR is complex.[1] Including an "overall" AR that evaluates the impact of rate changes when considering all essential utility expenses and an "in isolation" AR that focuses on rate changes for a single utility are steps in the right direction, but TURN believes that the approach can be significantly improved by including essential non-utility expenditures in the AR analysis.

_*Identification of all essential services, including non-utility expenses, is key for an AR analysis*_

The ARs in the Staff Proposal rely solely on a household's housing cost to define essential expenses other than utilities.[2] While TURN agrees that a household's housing expense represents the largest single element of a household's essential budget, it is only one component

[1] TURN Opening Comments on ALJ's Ruling, May 13, 2019, pp. 22-23.
[2] Staff Proposal, p. 18.

of a number of non-utility services that make up a household's essential living costs. Taken together, the sum of other non-utility essential costs (such as food, health care, and in many cases, childcare) amounts to a significant demand on a household's income that may approach the cost of housing. Each of these components affect the ability of a household to absorb utility cost increases. As noted in Teodoro's paper on the affordability of water/sewer services, the identification of all essential services is critical to any AR analysis: "Housing, food, health care, home energy, and other essential goods and services also affect water and sewer affordability to the extent that they constrain households' financial flexibility."[3] Teodoro's analysis of the affordability of water/sewer service identified a broad set of essential non-water/sewer services and used these as data in calculating the AR for the water/sewer services. Pointing to his data source, Teodoro explains that his analysis used "Essential expenses . . . calculated as the sum of average quarterly household expenditures on housing . . ., food . . ., health care . . ., home energy . . ., and taxes . . ., divided by 3 to represent monthly expenditures."[4] TURN believes that for purposes of calculating an AR, the evaluation of essential non-utility services should be as broad as possible,[5] balancing the need for ease of calculation and data availability with the importance of fully accounting for all essential services which necessarily include essential costs such as childcare, transportation, and insurance payments.

TURN respectfully recommends that the AR analysis be modified to include essential non-utility expenses that are consistent with Teodoro's analysis. This may be accomplished by: 1) leveraging the utility estimating methodology already proposed in the Staff report to calculate proxies for all essential utility services which may then be used as inputs in the AR metric; and

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[3] Teodoro, Manuel, "Measuring Household Affordability for Water and Sewer Utilities," *Journal of the American Waterworks Association,* January 2018, p. 14.
[4] Teodoro, Appendix: Household Expenditure Estimates.
[5] TURN Opening Comments on the April 12, 2019, ALJ Ruling, pp. 22-23, 25-26.

2) engaging in collaboration with organizations and academic institutions which regularly produce and publish household expenditure data sets at the county- and metro- level, by household type[6] to provide a publicly available source of non-utility essential service proxy data to support the metrics.

*Excluding essential non-utility expenses would likely understate the AR values and overstate affordability*

The Staff Proposal limits its consideration of essential services to housing (mortgage payments and taxes, rent, or taxes alone).[7] This narrow definition of essential non-utility services will unnecessarily limit the effectiveness of the Staff Proposal's AR approach even though data that would strengthen the metric's applicability is readily available. For example, the Staff Proposal contains three paired AR evaluations that includes an "overall" as well as an "in isolation" analysis.[8] The "overall" AR does not, however, address essential non-utility expenses such as food or healthcare, as discussed above. As a result, the value of the household's discretionary budget is significantly overstated, which likely makes the "overall" AR results unrealistically low and difficult to interpret.

Likewise, for the "in isolation" analysis, the Staff Proposal only considers the utility expense of an individual utility and ignores the essential utility expenses that a household must make for the other utilities, as well as all other essential non-utility expenses.[9] For example, the

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[6] For example, both the Economic Policy Institute and University of Washington Center for Women's Welfare compiles "bare bones" household budget data that might be appropriately used with $AR_{20}$.

[7] Staff Proposal, p. 16.

[8] The results of the analysis are shown it the following table "pairs" in the Staff Proposal: Tables 5 & 6 for energy; Tables 7 & 8 for water; and Tables 9 & 10 for telecommunications.

[9] The Staff Proposal does not provide a formula for the "in isolation" analysis that it shows in Tables 6, 8, and 10. In response to a workshop question on how that analysis was completed, Staff responded that the analysis also used "(I – H)" in the denominator of the ratio, thus excluding the expenditures on the other essential utilities which were not under consideration.

Staff Proposal's calculation of the AR for water services "in isolation" does not acknowledge that the consumer must pay for essential energy and telecommunications services. Given that the Staff Proposal estimates that consumers pay over $300 per month for essential energy and telecommunication services, this proposed "in isolation" AR overstates a household's discretionary budget and results in a less informative affordability metric.

In the analysis below, TURN restates the results shown in Tables 7 & 8 of the Staff proposal to account for essential utility and non-utility expenses. An $AR_{20}$ that also includes other essential expenditures results in a substantial increase in the calculated $AR_{20}$ associated with the water utility. This demonstrates that, when the essential utility and essential non-utility expenses are accounted for, the rate change will be more difficult for consumers to afford.[10]

Table 1 below restates "overall" AR analysis that is shown in the Staff Proposal's Table 7. As can be seen in Table 1, the exclusion of essential non-utility expenses from the Staff Proposal's $AR_{20}$ results in a relatively lower AR.

[10] The calculations shown in Tables 1 and 2 utilize the essential utility prices shown in Table 3 of the Staff Report, the $AR_{20}$ income level for a 2-person family shown in Table 4 of the Staff Proposal, and the water rate changes shown in Table 8. Based on the data contained in the Staff Proposal, TURN calculated the Staff Proposal's essential housing expenses to average $504.50 per month. To approximate other essential non-utility expenses for the examples shown in Tables 1 & 2, TURN referenced the Economic Policy Institute's (EPI) "Family Budget Calculator" for various metro areas in California (https://www.epi.org/resources/budget/). Because the basic family budget identified by EPI is designed to offer "a modest yet adequate standard of living," the annual incomes needed to support the basic budgets identified by EPI far exceeded the $27,010.47 used as the $AR_{20}$ income level in the Staff Proposal. For the examples shown in Tables 1 & 2, TURN assumed values for food, healthcare, and taxes that were a fraction of those shown in the EPI tables. TURN will continue to evaluate data for a reasonable basic budget at the 20th income percentile.

| **Table 1**<br><br>**$AR_{20}$ Structure Sensitivity Analysis for Water Rate Change ("Overall")** | 2-Person Household | |
|---|---|---|
| | Original Rate | Adjusted Rate |
| | \$72.00 | \$113.48 |
| | | |
| I = Monthly Income at 20th Percentile<br>H = Monthly Housing = \$504.50<br>F = Monthly Essential Food = \$400<br>HC = Monthly Essential Healthcare = \$125<br>T = Monthly Taxes = \$100 | $AR_{20}$ Original Rate | $AR_{20}$ Adjusted Rate |
| **Staff Proposal $AR_{20}$:** No Other Essential Expenses [$AR_{20}$ Denominator (I - H)] | 21.47% | 23.84% |
| **Percentage Difference in Staff Proposal $AR_{20}$** [Staff Proposal $AR_{20}$Adjusted Rate minus Staff Proposal $AR_{20}$Original Rate] | N/A | 2.38% |
| **Alternative $AR_{20}$:** Other Essential Expenditures Included [$AR_{20}$ Denominator [(I - H - F – HC - T)] | 33.44% | 37.14% |
| **Percentage Difference in Alternative $AR_{20}$** [Alternative $AR_{20}$Adjusted Rate minus Alternative $AR_{20}$Original Rate] | N/A | 3.70% |

When the $AR_{20}$ is recalculated to account for expenditures on other essential non-utility services, the results show an AR which is nearly twelve percentage points higher at the original rate, and over thirteen percentage points higher for the adjusted rate. The change in the $AR_{20}$ resulting from the rate increase is also significantly higher: 3.70% versus the Staff Proposal's 2.38%.

Similarly, the exclusion of other essential utility and non-utility expenses from the Staff Proposal's approach to the "in isolation" AR also results in relatively lower AR values, as compared to an approach that correctly recognizes that consumers continue to pay the other essential utility bills and also face essential non-utility expenses. Table 2, below, restates the Staff Proposal's Table 8 to account for the essential utility and non-utility services that are excluded in the Staff Proposal's analysis. The AR values that address essential utility and non-utility expenses shown in Table 2 are approximately double the values associated with the Staff

Proposal's approach. The increase in the $AR_{20}$ due to the rate change is also substantially higher when accounting for essential expenses other than housing: 5.07% for the more representative $AR_{20}$ versus 2.38% for the Staff Proposal's approach.

| **Table 2**<br><br>**$AR_{20}$ Structure Sensitivity Analysis for Water Rate Change ("In Isolation")** | 2-Person Household | |
|---|---|---|
| | Original Rate | Adjusted Rate |
| | $72.00 | $113.48 |
| | | |
| EE = Essential Energy = $129<br>ET = Essential Telecom = $173.95<br>I = Monthly Income at 20th Percentile<br>H = Monthly Housing Costs = $504.50<br>F = Monthly Essential Food = $400<br>HC = Monthly Essential Healthcare = $125<br>T = Monthly Taxes = $100 | $AR_{20}$ Original Rate | $AR_{20}$ Adjusted Rate |
| **Staff Proposal $AR_{20}$:** No Other Essential Utility or Non-Utility Expenses [$AR_{20}$ Denominator (I - H)] | 4.12% | 6.50% |
| **Percentage Difference in Staff Proposal $AR_{20}$** [Staff Proposal $AR_{20}$ Adjusted Rate minus Staff Proposal $AR_{20}$ Original Rate | N/A | 2.38% |
| **Alternative $AR_{20}$:** Other Essential Utility and Non-Utility Expenses Included [$AR_{20}$ Denominator [(I - H - EE – ET – F – HC - T)] | 8.80% | 13.87% |
| **Percentage Difference in Alternative $AR_{20}$** Percentage change in rates [Alternative $AR_{20}$ Adjusted Rate minus Alternative $AR_{20}$ Original Rate] | N/A | 5.07% |

In summary, the analysis shown in Tables 1 and 2 demonstrates that the Staff Proposal's approach results in lower AR values that overstate affordability and understate the absolute fraction of discretionary household budgets that would be allocated to essential utility services. TURN strongly supports the AR methodology but cautions that the Commission must include other essential services in its calculation. Proxies for food, health care, and taxes, could be easily and transparently obtained from public sources like Economic Policy Institute.[11] The Commission could also consider data from the University of Washington Center for Women's Welfare[12] which publishes annual data for California at the county and metro level for a range of household sizes and adult/child makeups. Including food, healthcare, taxes and essential utility services in the deductions from income along with housing costs will ensure that the Staff AR metric provides the most accurate picture of affordability and achieves the broadest applicability as an input to policy decisions. Whereas, excluding expenditures on essential services is more likely to result in false negatives with regard to the assessment of rate changes, i.e., rate changes that will place a household under financial strain are more likely to be identified as acceptable.

#### b. TURN Supports the Use of Hours at Minimum Wage ("HM")

TURN believes that the HM metric is a transparent and useful measure of affordability especially when taken in conjunction with AR. Lower income households are more likely to earn wages that are either at or close to the minimum wage and are the populations most at risk of disconnections and insecurity with respect to essential services. Additionally, HM provides a tangible sense of what is affordable in that it translates to the number of hours a customer must work to maintain an essential level of utility services.

#### c. The API Provides Valuable Affordability Context and Granularity

The Staff Proposal states that API is not a direct measure of the affordability of essential utility services – this limitation arises due to the fact that API includes both housing and utilities in the statistic.[13] TURN agrees with this assessment. However, while API does not explicitly measure the affordability of specific utility rate changes, TURN believes that API can play a role

[11] https://www.epi.org
[12] http://www.selfsufficiencystandard.org
[13] Staff Proposal, p. 22.

in understanding the size, location and general economic profile of vulnerable communities, and it also provides value in the context of the affordability discussion. As Staff has indicated, API offers a level of granularity that is not available in other proposed metrics. This allows API to be used in time series to give the Commission an idea of how rate levels and changes might affect specific customer communities and associated demographics. In addition, it allows the Commission to see how well low-income programs are working by examining the correlation between a specific API and the enrollment of CARE and FERA programs and to direct utilities to target outreach efforts accordingly.

### 2. Are the Proposed Sources of Data for Household-Level Information Acceptable for Constructing Affordability Metrics? If Not, What Sources Would Be More Appropriate, and Why?

TURN applauds the rigor that the staff has brought to this process. TURN supports the use of Census Bureau data — such as the Public Use Microdata Samples (PUMS) and the American Community Survey (ACS) — as well as the U.S. Department of Health and Human Services for the Federal Poverty Line, the U.S. Department of Housing and Urban Development for Fair Market Rent statistics, etc. These represent the best, most transparent, regularly produced and publicly available data to support these calculations. As TURN has indicated in these and prior comments, because affordability directly impacts customers, customers need to be able to understand and replicate the results and conclusions reached through this process.

As stated in response to Question 1 above, TURN strongly recommends that the AR analysis include essential non-utility expenses in order to make the analysis more robust and less prone to misinterpretation. Rather than gather data from multiple sources, the Commission could engage in collaboration with organizations which regularly produce and publish household expenditure data at the county level and by household type. These groups include the Economic

Policy Institute, University of Washington Center for Women's Welfare, the California Budget and Policy Center and United Way of California. These "bare bones" budgets provide important, accessible, single-source options for essential non-utility expenses. The significant difference in AR ratios calculated with and without essential non-utility expenses clearly demonstrates the need to include these costs.

### 3. What Regulatory, Operational, and/or Resource Considerations Might Be Necessary to Effectively Implement Affordability Metrics? How Should the Commission Monitor and Track Affordability on a Recurring Basis, Outside of Specific Proceedings?

The Commission should ensure that the affordability metrics are updated on a regular schedule (ideally semiannual but not less than an annual basis) by Staff and published on the public website, including making raw data available for stakeholders to perform their own analyses.

The Commission also needs to establish ranges reflecting varying degrees of affordability (even if at high levels such as heat maps), so that this valuable data is usable by practitioners and consumers. Without such guidance, the affordability metrics only become useful/meaningful after a time series has been developed, which if updated annually, would take many years before one could even determine whether a trend is forming and/or attempt to analyze what factors are affecting the affordability metrics. In essence, without guidance regarding affordability ranges, establishing these metrics becomes a futile exercise for the foreseeable near future. In order to provide such guidance, the Commission could consider existing research on this subject. For example, Teodoro recently suggested water $AR_{20}$ affordability standards of no more than 10% paired with a common sense HM standard of 8 hours or no more than one day of work as an upper limit of what may be deemed affordable for water and sewer services.[14] Similarly, an overall 30% household income rule of thumb has long been applied to housing costs including utilities as a measure of affordability for public housing assistance as well as conventual mortgage lenders. [15] This threshold while not reflective of average housing burdens in California nonetheless offers another well-established, common sense line to which financial stress may be compared and which views utility costs as part of a broader basket of essential occupancy and shelter costs.

### 4. When and How Should Affordability Metrics Be Utilized in Commission Decisions and Program Implementation?

#### a. How Should the Commission Use or Interpret the Resulting Values from Affordability Metrics in Proceedings?

#### b. How Should the Commission Use Affordability Metrics to Prioritize or Design Ratepayer Programs?

#### c. In Which Types of Proceedings Should the Commission Assess Affordability? What Criteria Should Be Used to Determine If a Proceeding Requires an Affordability Assessment?

Each time a utility seeks to increase rates, the utility should have the burden of demonstrating both 1) the effect of the request on the affordability metrics and 2) the cumulative effect of the request and other pending requests for rate increases on the affordability metrics. The Commission should then examine the changes in these metrics to evaluate questions such as:

- Whether the increases are too burdensome for ratepayers. If yes, should the funding request be funded by reprioritizing other resources instead of overall rate increases?

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[14] Measuring Household-level Water Affordability, Manny Teodoro, Texas A&M University, Rules of Thumb. https://cal-span.org/media/metadata/SWRCB/SWRCB_18-04-05/Staff/Panel-1-C-Manny-Teodoro.pdf

[15] US Census Bureau, Who Can Afford to Live in a Home?: A look at data from the 2006 American Community Survey by Mary Schwartz and Ellen Wilson

- Whether changes in affordability metrics are reasonable in general. Are some cities/counties/areas already burdened by high affordability metrics or disproportionately affected by the increase? If yes, should public purpose programs be adopted for these cities/counties/areas if the rate increase is adopted?

The Commission could also start looking at affordability metrics in conjunction with cost effectiveness measures for risk reduction (such as risk spend efficiency).[16] This would allow programs/expenses to be prioritized while considering both dimensions. For example, a program could be very cost effective in terms of reducing risk but could be overly burdensome in terms of affordability. Or, conversely, a program could be less cost-effective compared to another program but contributes a very small increase to the affordability metrics. Depending on the circumstances (or the geographic area being considered), the Commission could use these transparent metrics to determine whether one program may be more reasonable than the other and be able to provide an objective and transparent explanation.

### 5. Staff Proposal Regarding Essential Voice and Broadband Services

#### a. The Commission Has the Authority to Analyze the Affordability of Communications Services, Including Broadband Services, as Essential Services

When considering affordability of essential utility services, it is entirely reasonable to evaluate voice and broadband services.[17] While the Commission is currently only limitedly engaged in rate setting for voice services, and at present does not regulate broadband prices, the

[16] Risk Spend Efficiency was defined and adopted by the Commission in D.16-08-018 and D.18-12-014.
[17] At the August 26, 2019, workshop, some parties questioned the Staff Proposal's decision to include telecommunication services in the analysis of essential services, including suggesting that the FCC's classification of broadband services as an information service (a decision that is currently under review at the Federal Court of Appeals for the District of Columbia) prohibits the Commission from evaluate broadband markets. As discussed below, TURN believes that these suggestions are irrelevant.

Commission administers programs that promote the deployment and usage of both voice and broadband services. For example, the California Advanced Services Fund ("CASF") provides funding for broadband infrastructure deployments, for which a requirement to receive any CASF funding is that a provider must offer an affordable broadband service offering where it uses CASF funds to deploy broadband infrastructure.[18] As another example, the California LifeLine Program supports mobile broadband services for LifeLine participants.[19] TURN notes that these public purpose programs and Staff's Proposal to include essential voice and broadband services are consistent with Section 709 of the California Public Utilities Code, which identifies policies for telecommunications in California:

> (a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.
>
> (b) To focus efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions *with access to advanced telecommunications services* in recognition of their economic and societal impact.
>
> (c) *To encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.*
>
> (d) *To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.*
>
> (e) *To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.*
>
> (f) To promote lower prices, broader consumer choice, and avoidance of anticompetition conduct.

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[18] Decision 18-12-018 (R.12-10-012, CASF), Appendix I at p. 12 ("At a minimum, all CASF Infrastructure projects must meet performance criteria outlined below . . . Affordability: All projects shall provide an affordable broadband plan for low-income customers.").

[19] See generally, California LifeLine Program, Provider Search Home & Cell Phone, retrieved from https://www.californialifeline.com/en/provider_search (last viewed September 10, 2019) (most wireless LifeLine plans include data services).

> (g) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.
>
> (h) To encourage fair treatment of consumers through provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of processes for equitable resolution of billing and service problems.[20]

Certainly, consideration of the availability and affordability of broadband services is consistent with these elements of California law and policy. The Commission can, and does, pursue policies and public purpose programs that address these objectives, and it should continue to do so by including essential voice and broadband services in its analysis of essential utility services. Furthermore, the Commission also has a separate grant of authority from Congress in Section 706 of the Federal Telecommunications Act of 1996, which states:

> The Commission and *each State commission* with regulatory jurisdiction over telecommunications services *shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans* (including, in particular, elementary and secondary schools and classrooms) by utilizing, *in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment*.[21]

Section 706 defines "advanced telecommunications capability" as follows:

> The term 'advanced telecommunications capability' is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.[22]

From a technological perspective, there is no question the broadband services satisfy the criteria associated with advanced telecommunications capability.

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[20] PUC CA PUB UTIL § 709, emphasis added.
[21] Section 706 is codified at 47 U.S.C. § 1302(a), et seq. Emphasis added.
[22] 47 U.S.C. § 1302(d)(1).

It is also important to note that a 2014 D.C. Circuit ruling concluded that this Commission has the authority to exercise authority under Section 706 independently of FCC action. With regard to that grant of authority, the D.C. Circuit stated:

> Observing that the statute applies to both "[t]he Commission *and* each State commission with regulatory jurisdiction over telecommunications services," 47 U.S.C. § 1302(a) (emphasis added), Verizon contends that Congress would not be expected to grant both the FCC and state commissions the regulatory authority to encourage the deployment of advanced telecommunications capabilities. But Congress has granted regulatory authority to state telecommunications commissions on other occasions, and we see no reason to think that it could not have done the same here.[23]

TURN believes that the Commission has an obligation to use its authority under Section 706 of the Federal Telecommunications Act of 1996 to uphold not only Congress' intent to encourage the deployment of advanced telecommunications capabilities to all Americans, but also the California Legislature's policy as stated in Section 709 of the California Public Utilities Code. As such, the fact that the FCC has classified broadband service as an information service does not impede this Commission's ability to include broadband services as it evaluates the affordability of essential utility services.

#### b. Staff Proposal's Essential Voice and Broadband Service Definitions Should Be Refined and Expanded

Regarding the essential voice and broadband services described in the Staff Proposal, TURN believes that the definitions need to be refined. TURN believes that the proposal for essential fixed broadband speeds is a reasonable starting point and commends the Staff Proposal for indicating that an annual reassessment of the measure is appropriate. TURN does not believe that a data cap is necessary for fixed broadband as data caps are artificial contrivances of the fixed broadband industry that promote price discrimination.[24]

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[23] *Verizon v. FCC,* pp. 22-23. The emphasis on the word "and" is the D.C. Circuit's.
[24] "Leaked Comcast memo reportedly admits data caps aren't about improving network performance," *The Verge*, November 7, 2015. https://www.theverge.com/smart-home/2015/11/7/9687976/comcast-data-

TURN supports the Staff Proposal's perspective on fixed voice as being an unlimited service. However, TURN is concerned that the definition of basic mobility services includes only one subscription per household. Mobility services are likely to be essential to more than one household member and subscription data indicates that mobility services are subscribed to by multiple family members.[25] TURN believes that expanding the definition of essential mobility service to include one subscription per adult family member is a more appropriate baseline.

TURN also believes that the Staff Proposal does not present a consistent approach to the definition of essential mobility voice and data services. On modern mobility networks, voice and data services share the same platform. From a capacity standpoint, the impact of voice calling does not impose the same load as mobility broadband services—voice is a small fraction of all information transmitted on a modern mobility network. However, the Staff Proposal recommends 1,000 minutes per month for voice and 8.75 GB per month for mobile data. While TURN believes that the 8.75 GB mobility data baseline is reasonable, the 1,000 minutes of mobility voice is not. On a modern mobility network, voice and data do not have the disparate impact on network costs that the 1,000 minute/8.75 GB benchmark suggest. 1,000 minutes of digital voice service generate about 0.5 GB of data transmission. This suggests that the 1,000-minute proposal is not consistent with the Staff Proposal on data usage, and results in a backward-looking baseline for mobile voice usage. TURN also notes that a review of California

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caps-are-not-about-fixing-network-congestion ; "Sonic CEO: Broadband Usage Caps Just Aren't Necessary," *DSL Reports*, June 3, 2016. http://www.dslreports.com/shownews/Sonic-CEO-Broadband-Usage-Caps-Just-Arent-Necessary-137108

[25] CTIA reports over 400 million connected mobile devices nationwide in 2018, an average of 1.2 devices per person. https://api.ctia.org/wp-content/uploads/2018/07/CTIA_State-of-Wireless-2018_0710.pdf

LifeLine providers reveals that the overwhelming majority offer unlimited voice services.[26] TURN believes that essential mobility voice service should also be unlimited minutes.

Finally, however the Commission ultimately defines an essential level of voice and broadband services, in order for the concept of essential service to be meaningful in any calculation of affordability, that precise bundle and level of service must be actually readily available for purchase in the market by consumers.

## III. CONCLUSION

TURN appreciates the opportunity to comment on these issues. TURN respectfully requests that the Commission adopt the aforementioned recommendations.

Dated: September 10, 2019

Respectfully submitted,

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