STATE OF CALIFORNIA GRAY DAVIS, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

February 8, 2002 **EX PARTE – Via Electronic Filing**

William F. Caton
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Ex Parte Communication in FCC Dockets WT 01-184 and CC 99-200 Petition Pursuant to 47 U.S.C.§ 160 For Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and In the Matter of Numbering Resources Optimization

Dear Mr. Caton:

The California Public Utilities Commission (CPUC) and the People of the State of California submit for filing this notice of recent ex parte communications with FCC commissioners and staff. The communications occurred in the form of a letter from CPUC President Loretta Lynch to the following FCC commissioners: Chairman Michael Powell, Comr. Kathleen Abernathy, Comr. Michael Copps, and Comr. Kevin Martin. Copies of the letter were sent to Thomas J. Sugrue, Chief of the Wireless Telecommunications Bureau; Dorothy Attwood, Chief of the Common Carrier Bureau; Jeffrey Carlisle, Senior Deputy Chief of the Common Carrier Bureau, and Diane Griffin Harmon, Acting Chief of the Network Services Division.

The letter addressed California's concerns about the Verizon Wireless petition for partial forbearance from the FCC's local number portability mandate. The CPUC opposes the petition, and urges the Commission to deny the request.

In accordance with FCC rules, a copy of this letter is being filed electronically in each of the above-captioned dockets. The attachments to the letter, however, cannot be filed electronically as we do not have electronic copies of them. Accordingly, we will mail a copy of the letter and attachments to your office, along with a copy of the electronic filing confirmation.

Sincerely,

/s/ Helen M. Mickiewicz

Helen M. Mickiewicz
Deputy General Counsel

HMM:cdl

February 5, 2002

Mr. Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Verizon Wireless Petition for Forbearance

Dear Chairman Powell:

I am writing to you again to urge you to deny Verizon Wireless' July 26, 2001 petition seeking permanent forbearance from the FCC's mandate that all telecommunications carriers (except paging companies) must deploy local number portability (LNP) technology. Since my last letter, sent in November, the wireless industry has intensified its lobbying efforts. None of those efforts, however, can change the fact that wireless number portability is in the public interest. Forbearance – permanent or otherwise – from the FCC's mandate would harm both competition and the public interest.

I am aware that the FCC seeks any information states can provide demonstrating public demand for wireless number portability. On January 17th, the Los Angeles Times ran an article covering the debate over whether the FCC should grant permanent forbearance from the wireless LNP mandate. On that same day, the Los Angeles Times also ran an editorial, a copy of which is enclosed, calling for the FCC to reinforce the wireless LNP mandate. The editorial noted the relationship between poor service quality and the capture of customers who cannot take a phone number when changing service providers.

> Many cell phone subscribers put up with poor service rather than switch providers because it's just too much of a hassle to change phone numbers already publicized on business cards or circulated among customers and friends—who no doubt then programmed them into their own cell phones. An industry famous for poor customer service is in no hurry to make it easier for subscribers to bail out.

Since the editorial ran in the Los Angeles Times, we have received numerous letters, e-mails, and calls from members of the public opposing the Verizon Wireless forbearance petition, and supporting the position this agency has taken on the petition. Copies of a sampling of these communications also are enclosed.

I am mindful that these few communications over the past few weeks do not represent a large showing, especially coming from one of the largest wireless markets in the United States. I also know that for every one of the individuals who took the time to write to the CPUC, an unknown number of others share those views but cannot or do not take the time to communicate them to us. Conversely, the CPUC has not received a single communication from any customer supporting a retreat from the wireless LNP mandate. No customer has agreed that the wireless industry is sufficiently competitive without wireless LNP. The only proponents of that view are the wireless carriers, who stand to gain immeasurably from FCC forbearance and their continued ability to hold customers captive.

As I stated in my previous letter, the essence of competition is a customer's opportunity to freely move from one service provider to another. Without LNP, however, wireless customers are forced to remain with a carrier the customer perceives to be providing inadequate or inferior service. One of the individuals who communicated by telephone with a member of my staff noted that his wireless number, which ends with the four digits "1000", renders him the "poster child" for wireless LNP. He complained that his service provider does not offer updated products or features available from some other providers. But, he said, he will not sacrifice his highly-desirable number and, instead, remains with a provider not of his choosing. I myself have expressed to you that I, too, would change wireless service providers if not daunted by the prospect of changing my wireless number for all business, government, and personal associates. The inconvenience would be too great.

The notion that no public demand exists for wireless number portability is nonsensical. More importantly, neither the states nor the FCC are obligated to generate evidentiary support for an existing federal mandate. The burden rests with the opponents of the mandate to show that public demand justifies abandoning the mandate. The wireless industry has made no such showing and, based on what we see here, would fail in any attempt to do so.

I again urge you and your colleagues to maintain the wireless LNP mandate, and to reinforce the deadline of November 24, 2002.

Sincerely,

Loretta M. Lynch
President

cc: Kathleen Q, Abernathy, FCC Commissioner
Michael J. Copps, FCC Commissioner
Kevin J. Martin, FCC Commissioner
Dorothy Atwood, Chief, Common Carrier Bureau
Jeffrey Carlisle, Senior Deputy Chief, Common Carrier Bureau
Diane Griffin Harmon, Acting Chief, Network Services Division
Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau