

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

Certain Wireless Service Interruptions.

GN Docket No. 12-52

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION
AND THE PEOPLE OF THE STATE OF CALIFORNIA IN RESPONSE TO PUBLIC
NOTICE SEEKING COMMENT ON CERTAIN WIRELESS SERVICE
INTERRUPTIONS**

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I. INTRODUCTION

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these comments in response to the Federal Communications Commission's (FCC or Commission) Public Notice released on March 1, 2012. In the Public Notice, the FCC seeks comment on concerns and issues related to intentional interruptions of Commercial Mobile Radio Service (CMRS or "wireless service") by government authorities for the purpose of ensuring public safety.

The release of the Public Notice was triggered, at least in part, by an incident last summer where the Bay Area Rapid Transit (BART) agency in California temporarily interrupted wireless service on parts of its underground transit system based on stated concerns about public safety. According to the Public Notice, the service interruption implicated significant legal and policy questions. The FCC seeks comments on situations "where one or more wireless carriers, or their authorized agents, interrupt their own services in an area for a limited time period at the request of a government actor, or have their services interrupted by a government actor that exercises lawful control over network facilities."¹

Although the FCC raises a number of policy considerations related to this issue, the CPUC's comments focus on providing background information related to the BART incident and current California laws related to interruption of wireless service. The CPUC also addresses questions concerning the legal constraints on interrupting wireless

¹ FCC Seeks Comment on Certain Wireless Service Interruptions, DA 12-311, GN Docket 12-52 (rel. March 1, 2012).

service. The issue of intentional disruption of wireless service by governmental agencies for the purpose of ensuring public safety implicates the need to balance First Amendment and due process rights with law enforcement's ability to maintain safety. The basis for any such interruption of service should be an immediate threat to public safety, and any rules crafted to address this issue should be narrowly drawn and not be susceptible to abuse. However, while the FCC has plenary jurisdiction over wireless carriers, it does not have jurisdiction over a state or local governmental or law enforcement agency's ability to determine what action is necessary to address immediate threats to public safety. Determinations about the appropriate circumstances that may warrant an interruption of service for public safety, as well as the procedures used to effect such interruption, constitute exercise of state police powers over which the FCC has no jurisdiction. Moreover, last summer's incident involving BART implicates the CPUC's jurisdiction over rail safety. The FCC does not have jurisdiction to preempt CPUC rules and regulations concerning rail safety.

For these reasons, the FCC should not set policies governing public agency or law enforcement determinations about the immediate circumstances that may warrant an interruption of service for public safety, appropriate officials or agencies that have or should have the authority to request an interruption of service, or the procedures used to effect such interruption. These matters should be left to state legislatures and state and local law enforcement agencies to address.

II. DISCUSSION

A. Background Information Pertaining to the BART Incident.

The Public Notice seeks comment on the circumstances of previous incidents where public agencies have interrupted wireless service for safety reasons and policies that provide guidance on such interruptions.² This inquiry was triggered, at least in part, by the incident involving BART last summer, where BART temporarily interrupted wireless service in part of its underground transit system citing public safety concerns. BART opened in September 1972, well before cellular services became popular; and for many years, even as cell phones became ubiquitous, cellular services in underground stations did not exist. Even with its deployment, the provision of cellular services in BART stations remains an adjunct to BART's primary mission, which is the safe, efficient and reliable provision of public transit services.

Wireless service in BART's underground facilities began in September 2002 when BART deployed its System Cellular Equipment and AT&T Mobility provided service to the four downtown San Francisco stations, all of which are underground (Embarcadero, Montgomery Street, Powell Street, and Civic Center Stations). BART owns and operates the Fiber Optic Cable connecting the RADIAX distributed antenna system (DAS) infrastructure in its underground locations to the points of interconnection with carrier head-end equipment located at the BART Civic Center station. Carriers own and operate their own RADIAX facilities from Civic Center Station to the Embarcadero Station.

² *Id.*, at p. 3, Question 1.

Only in those four underground stations do the carriers have RADIAX facilities of their own, connected to their head-end facilities by BART fiber cabling. It was this fiber connection that was interrupted at the August 11 protest.

BART owns and operates separate RADIAX equipment in these same downtown underground stations and in other underground locations in the system for its own internal wireless services.

The BART System Cellular Equipment provides patrons in BART's four downtown underground stations – BART has no ability to interfere with above-ground cellular services – with added measures of personal convenience and safety not available at BART underground locations until the 2002 deployment. These include:

1. The ability for a patron who has a medical problem to make wireless calls when the in-train phone or in-station intercom is not within reach or not appropriate;
2. The ability of a passenger threatened by another passenger(s) to contact authorities when the in-train phone or in-station intercom are not within reach;
3. Providing phone access when a passenger needs to make emergency arrangements with those not accompanying them on the train.

BART maintains its own cellular equipment and service separate from the underground carrier DAS system for its internal use during emergencies. This service is maintained even when the carrier connection is interrupted. The BART wireless facility is available to coordinate agency responses to transit service disruptions that may strand trains between stations, in tunnels, on elevated tracks, or in other underground areas, including emergency evacuations of trains and other emergency situations.

BART's policy on cell service interruptions was stated last December, following the incident last summer:

[I]t shall be the policy of the District that the District may implement a temporary interruption of operation of the System Cellular Equipment only when it determines that there is strong evidence of imminent unlawful activity that threatens the safety of District passengers, employees and other members of the public, the destruction of District property, or the substantial disruption of public transit services; that the interruption will substantially reduce the likelihood of such unlawful activity; that such interruption is essential to protect the safety of District passengers, employees and other members of the public, to protect District property or to avoid substantial disruption of public transit services; and that such interruption is narrowly tailored to those areas and time periods necessary to protect against the unlawful activity. Any such interruption shall include measures to ensure the rights of the disabled to information and assistance and shall be promptly reported to first responders and the Board of Directors. Any decision to implement a temporary interruption must be pursuant to a determination that the public safety benefits outweigh the public safety risks of an interruption.

BART has provided examples of circumstances where invocation of this policy may be justified in practice:

1. Where cell phone services within BART underground stations and tunnels are being used as instrumentalities in setting off explosives;
2. Where cell phones may facilitate violent criminal activity or endanger passengers, employees, or other members of the public (e.g., hostage situations);
3. Where cell phones are being employed to facilitate specific attempts to destroy BART property and/or disrupt public transit services.

A copy of BART’s current policy governing wireless service interruptions is attached as Attachment A.

B. Current California Law Concerning Interruption of Wireless Service.

The Public Notice asks what state laws prohibit or circumscribe an interruption of wireless service.³ Current California law focuses on discontinuance or refusal of service to particular subscribers at the behest of law enforcement officials. Every telecommunications company in California has a tariff rule that spells out the procedures by which telecommunications companies may refuse or discontinue service to subscribers when advised by law enforcement officials that the service is or will be used for unlawful purposes. This Rule 31, as it is known, also sets out the procedures by which a subscriber who has been disconnected or refused service based on the actions of law enforcement officials may challenge that disconnection or refusal of service.

The present text of Rule 31 was developed in response to the case of *Goldin, et al. v. Public Utilities Commission, et al.*, 23 Cal.3d 638 (1979), wherein the California Supreme Court set forth the procedure that must be followed before a telephone utility may refuse service to an applicant or discontinue service to a subscriber if advised by any law enforcement agency that the service is or will be used for unlawful purposes. *Goldin* states that before disconnection, a “magistrate” or “responsible government official” must find that there is “probable cause” to believe that (1) the telephone facilities are being

³ *Id.*, at p. 6, Question 6(g).

used for illegal acts, and (2) the character of such acts pose significant dangers to public health or safety absent immediate action to disconnect.

Other relevant California statutes are as follows:

- California Public Utilities Code § 7904 provides that an agent, operator, or employee of a telegraph or telephone office who willfully refuses or neglects to send a message received by the office is guilty of a misdemeanor. However, this section does not require such messages to be delivered “unless the charges thereon have been paid or tendered, nor to require the sending, receiving, or delivery of any message counseling, aiding, abetting, or encouraging treason against the Government of the United States or of this State, or other resistance to the lawful authority, or any message calculated to further any fraudulent plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or to facilitate the escape of any criminal or person accused of a crime.”
- Cal. Pub. Util. Code § 7907 provides that where a law enforcement official has probable cause to believe that a person is holding hostages and is committing a crime, or is barricaded and is resisting apprehension through the use or threatened use of force, such official may order a previously designated telephone corporation security employee to arrange to cut, reroute, or divert telephone lines, as specified.
- Cal. Pub. Util. Code § 2876 provides that any person using an automated dialing –announcing device (ADAD) in violation of Pub. Util. Code §§ 2871-2976 is guilty of a civil offense and is subject to either or both of the following penalties:
 - (a) A fine of not to exceed five hundred dollars (\$500) for each violation, levied and enforced by the commission, on complaint or on its own motion, pursuant to Chapter 11 (commencing with Section 2100) of Part 1.
 - (b) Disconnection of telephone service to the automatic dialing-announcing device for a period of time which shall be specified by the Commission.
- Cal. Business and Profession Code § 149 permits numerous state government bodies, upon a finding of probable cause that a person advertising services in a telephone directory is operating without a proper state license, to order the violator to notify the telephone company providing service to the violator to disconnect the service. If the violator fails to comply, the agency that issued the order must inform the CPUC

and the CPUC is then required to direct the telephone company to disconnect the person's service.

- Cal. Bus. and Prof. Code § 7099.10 permits the registrar of the Contractors' State License Board to similarly, upon a finding of probable cause that a contractor advertising services in a telephone directory is operating without a license, to order the violator to notify the telephone company providing service to the violator to disconnect the service. If the violator fails to comply, the agency that issued the order must inform the CPUC and the CPUC is then required to direct the telephone company to disconnect the person's service.

C. Legal Constraints on Interrupting Wireless Service.

1. The FCC Does Not Have Authority to Preempt Local or State Laws Governing the Interruption of Wireless Service for Public Safety Purposes.

The FCC asks what authority it has regarding shutdowns of wireless service, and whether it has authority to preempt state or local laws or regulations prohibiting or permitting interruption of wireless service.⁴ States have the constitutional prerogative and duty to provide for the health and safety of their residents pursuant to their police powers. Because determinations about the appropriate circumstances that may warrant an interruption of service for public safety, and the procedures used to effect such interruption, constitute an exercise of state police powers, the FCC does not have authority to preempt state or local laws governing shutdowns in those circumstances. Policies that affect a public agency or law enforcement's legal authority to interrupt

⁴ *Id.*, at p. 5, Questions 6(a), (c).

wireless service should be dealt with on a state or local level.⁵ While the FCC may wish to receive notice of such a shutdown, the FCC has no authority to require law enforcement to obtain FCC approval prior to a shutdown.

The Omnibus Budget Reconciliation Act of 1993, which amended § 332(c)(3)(A) of the Federal Communications Act (the Act), specifically preserves state authority over “other terms and conditions” of wireless service. Legislative history makes it clear that “other terms and conditions” includes consumer protection matters and “such other matters as fall within a state’s lawful authority.”⁶ This includes a state’s lawful exercise of police power. A state’s police powers are not considered to be superseded by a federal statute unless that is the “clear and manifest purpose of Congress.” (*Rice v. Santa Fe Elevator Corp.*, 221 U.S. 218, 230 (1947).) Since the Act preserves this authority to the states, the FCC cannot preempt state legislation governing the interruption of wireless services for the purposes of ensuring public safety, nor stand in place of local police

⁵ In fact, as the Public Notice notes, the California State legislature is considering a bill that would address intentional interruptions telecommunications services. Senate Bill (SB) 1160 would repeal or amend Cal. Pub. Util. Code §§ 7904 and 7909 (discussed above), and instead would prohibit any governmental entity, and any provider of voice communications service that interconnects with the PSTN acting at the request of a governmental entity, from knowingly and intentionally interrupting, suspending, or disconnecting, or disrupting such communications service for the purpose of ensuring public safety or preventing the use of such communications service for an illegal purpose, except pursuant to an order signed by a judicial officer that makes specified findings. These findings include (1) that probable cause exists that the service is being or will be used for an unlawful purpose or to assist in a violation of law; (2) that absent immediate and summary action to interrupt service, significant dangers to public health, safety or welfare will result; and (3) that interrupting service will not suppress speech that is protected by the First Amendment or Section 2 of Article 1 of the California Constitution, or violate any other rights under federal or state law. A copy of SB 1160 current at the time of this filing is attached as Attachment B.

⁶ H.R. Rep. No. 103-111, reprinted in 1993 U.S. Code Cong. & Admin. News, p. 588.

authorities or state agencies in addressing the particular and immediate demands of public safety.

2. The FCC Does Not Have Authority to Preempt the CPUC's Jurisdiction Over Rail Safety.

The CPUC's jurisdiction over rail safety adds another layer of complexity of which the FCC should be aware in considering issues related to a public agency's authority to interrupt wireless service. As discussed above, both the provision and interruption of wireless service in BART's underground stations presents public safety concerns particular to rail safety. Congress has expressly invited the states to regulate aspects of train safety. (*Southern Pacific v. PUC*, 647 F.Supp. 1220, at 1227 (N.D. Cal. 1986).) The key federal provision, 49 C.F.R. Part 659, is entitled "Rail Fixed Guideway Systems; State Safety Oversight." Among other elements, this rule requires each state to designate an agency to oversee the safety of rail transit systems. In California, the CPUC is that agency.

The CPUC's responsibilities regarding rail transit safety are set forth in the California Public Utilities Code. Pursuant to the California Public Utilities Code and 49 C.F.R. Part 659, the CPUC oversees seven major rail transit agencies in California, including BART. The CPUC has the authority to issue regulations relating to safety appliances and procedures, inspect all work done on those public transit guideway systems, and "may make further additions or changes necessary for the purpose of safety to employees and the general public." (Cal. Pub. Util. Code §§ 29047, 99152; *see also* Cal. Pub. Util. Code § 778.) In addition to these seven agencies, the Commission has

safety oversight responsibility for other public transit guideways operating in California. The rules established in CPUC General Order 164-D apply to “any light rail system, rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway transit system used for public transit and not regulated by the Federal Railroad Administration or unless specifically exempted from Commission oversight.” (CPUC General Order 164-D, Section 2.15.)

Pursuant to these provisions, the CPUC has the authority to order BART to dismantle antennas that allow for the provision of wireless service in its underground stations if such provision of service is found to have a negative impact on public safety.⁷ As Congress has expressly invited states to regulate aspects of rail safety, the FCC cannot preempt CPUC rules or regulations that govern rail safety.

III. CONCLUSION

The CPUC appreciates the FCC’s inquiry into the complex legal and policy considerations related to interruption of wireless service for purposes of ensuring public safety. However, for the reasons discussed above, the CPUC does not believe the FCC can or should set policies concerning determinations about the immediate circumstances that may warrant an interruption of service for public safety, appropriate officials or agencies that have or should have the authority to request an interruption of service, or

⁷ Pursuant to these California statutes, for example, the CPUC recently adopted regulations prohibiting the use of personal electronic devices, including cell phones, by safety-sensitive rail transit employees. (*See* CPUC General Order 172.)

the procedures used to effect such interruption. These matters should be left to state and local legislatures and law enforcement agencies to address.

Respectfully submitted,

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April 30, 2012

ATTACHMENT A

Cell Service Interruption Policy

The primary mission of the San Francisco Bay Area Rapid Transit District (the “District” is providing safe, efficient and reliable public transit services. The District recognizes that the availability of equipment inside the District’s system facilitation cellular communications in its stations and trains (the “System Cellular Equipment”) is a valuable and important service to District passengers, that should be interrupted only in the most extraordinary circumstances that threaten the safety of District passengers, employees and other members of public, the destruction of District property, or the substantial disruption of public transit service. The District also recognizes that any interruption of cellular service poses serious risks to public safety and that available open communications networks are critical to our economy and democracy and should be preserved to the fullest extent possible. The District is also fully committed to its existing long-standing policy of allowing the exercise of First Amendment rights of expression in the areas of its stations where it can be done safely and without interference with the District’s primary mission. The District is also committed to full compliance with all state and federal regulatory laws applicable to a temporary interruption of operation of the System Cellular Equipment.

In accordance with these principles, it shall be the policy of the District that the District may implement a temporary interruption of operation of the System Cellular Equipment only when it determines that there is strong evidence of imminent unlawful activity that threatens the safety of District passengers, employees and other members of the public, the destruction of District property, or the substantial disruption of public transit services; that the interruption will substantially reduce the likelihood of such unlawful activity; that such interruption is essential to protect the safety of District passengers, employees and other members of the public, to protect District property or to avoid substantial disruption of public transit services; and that such interruption is narrowly tailored to those areas and time periods necessary to protect against the unlawful activity. Any such interruption shall include measures to ensure the rights of the disabled to information and assistance and shall be promptly reported to first responders and the Board of Directors. Any decision to implement a temporary interruption must be pursuant to a determination that the public safety benefits outweigh the public safety risks of an interruption. The decision to implement a temporary interruption of operation of the System Cellular Equipment requires the establishment of an operational procedure approved by the General Manager (i).

Illustrative examples of “extraordinary circumstances” include, but are not limited to, strong evidence of use of cell phones (i) as instrumentalities in explosives; (II) to facilitate violent criminal activity or endanger District passengers, employees or other members of the public, such as hostage situations; (iii) to facilitate specific plans or attempts to destroy District property or substantially disrupt public transit services. Such circumstances may justify a narrowly tailored interruption of service only if they meet the principles listed above.

(i) Nothing herein is intended to restrict the District’s ability to implement a temporary interruption of the operation of the System Cellular Equipment for maintenance or other operational reasons.

ATTACHMENT B

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1160

Introduced by Senator Padilla

February 22, 2012

An act to *amend Section 7904 of, and to repeal and add Section 7907 of, and to repeal and add Section 7904 of, the Public Utilities Code, relating to telecommunications communications.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1160, as amended, Padilla. ~~Telecommunications: intentional Communications: service-disruption: interruptions.~~

Existing law provides that an agent, operator, or employee of a telegraph or telephone office who willfully ~~fails~~ *refuses or neglects* to send a message received by the office is guilty of a misdemeanor, as specified. ~~Existing law also provides that where a law enforcement official has probable cause to believe that a person is holding hostages and is committing a crime, or is barricaded and is resisting apprehension through the use or threatened use of force, the official may order a previously designated telephone corporation security employee to arrange to cut, reroute, or divert telephone lines, as specified. Existing law provides that these requirements are not applicable when payment for charges for transmittal or delivery of the message has not been paid or tendered, for messages counseling, aiding, abetting, or encouraging treason or resistance to lawful authority, to a message calculated to further any fraudulent plan or purpose, to a message instigating or encouraging the perpetration of any unlawful act, or to a message facilitating the escape of any criminal or person accused of crime.~~

~~This bill would repeal those provisions and instead would provide that a person who owns, operates, or controls facilities for providing~~

~~telecommunications service that interconnects with the public switched telephone network shall not intentionally interrupt, suspend, or disconnect service to a particular user or to a geographic area, except as specified~~ *retain the provision that the above-described requirements are not applicable when payment for charges for transmittal or delivery of the message has not been paid or tendered, but would delete the other enumerated exceptions.*

Existing law provides that where a law enforcement official has probable cause to believe that a person is holding hostages and is committing a crime, or is barricaded and is resisting apprehension through the use or threatened use of force, the official may order a previously designated telephone corporation security employee to arrange to cut, reroute, or divert telephone lines, as specified.

This bill would repeal this provision.

This bill would prohibit a governmental entity, as defined, and a provider of communications service, as defined, acting at the request of a governmental entity, from undertaking to interrupt communications service, as defined, for the purpose of protecting public safety or preventing the use of communications service for an illegal purpose, except pursuant to an order signed by a judicial officer, as defined, that makes specified findings. The bill would provide that a good faith reliance upon an order of a judicial officer constitutes a complete defense against any action brought as a result of the interruption to communications service as directed by that order.

The bill would also find and declare that it is a matter of statewide concern to ensure that California users of any ~~telecommunications communications service that interconnects with the public switched telephone network~~ not have this service interrupted and thereby be deprived of a means to connect with the state's 911 ~~system in an emergency~~ *emergency services* or be deprived of a means to engage in constitutionally protected expression.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 7904 of the Public Utilities Code is*
- 2 *amended to read:*
- 3 *7904. Every agent, operator, or employee of any telegraph or*
- 4 *telephone office, who wilfully refuses or neglects to send any*

1 message received at such office for transmission, or wilfully
2 postpones the transmission of the message out of its order, or
3 wilfully refuses or neglects to deliver any message received by
4 telegraph or telephone, is guilty of a misdemeanor. Nothing in this
5 section shall be construed to require any message to be received,
6 transmitted or delivered, unless the charges thereon have been paid
7 or tendered, nor to require the sending, receiving, or delivery of
8 any message counseling, aiding, abetting, or encouraging treason
9 against the Government of the United States or of this State, or
10 other resistance to the lawful authority, or any message calculated
11 to further any fraudulent plan or purpose, or to instigate or
12 encourage the perpetration of any unlawful act, or to facilitate the
13 escape of any criminal or person accused of crime.

14 SECTION 1. ~~Section 7904 of the Public Utilities Code is~~
15 ~~repealed.~~

16 SEC. 2. ~~Section 7904 is added to the Public Utilities Code, to~~
17 ~~read:~~

18 ~~7904. (a) A person who owns, operates, or controls facilities~~
19 ~~for providing telecommunications service that interconnects with~~
20 ~~the public switched telephone network shall not intentionally~~
21 ~~interrupt, suspend, or disconnect service to a particular user or to~~
22 ~~a geographic area except in compliance with all of the following:~~

23 ~~(1) Pursuant to an order signed by a magistrate that includes all~~
24 ~~of the following findings:~~

25 ~~(A) That probable cause exists that the service is being or will~~
26 ~~be used for an unlawful purpose or to assist in a violation of the~~
27 ~~law.~~

28 ~~(B) That absent immediate and summary action to interrupt,~~
29 ~~suspend, or disconnect service, serious danger to public health or~~
30 ~~safety will result.~~

31 ~~(C) That interruption, suspension, or disconnection of service~~
32 ~~will not suppress speech that is protected by the First Amendment~~
33 ~~or Section 2 of Article I of the California Constitution, or violate~~
34 ~~any other rights under federal or state law.~~

35 ~~(2) After providing the California Public Utilities Commission~~
36 ~~or the Federal Communications Commission, or both, any required~~
37 ~~notification and complying with any applicable regulation of either~~
38 ~~commission or any other applicable provision of state or federal~~
39 ~~law.~~

~~(b) The Legislature finds and declares that it is a matter of statewide concern to ensure that California users of any telecommunications service that interconnects with the public switched telephone network not have this service interrupted and thereby be deprived of a means to connect with the state's 911 system in an emergency or be deprived of a means to engage in constitutionally protected expression.~~

~~SEC. 3.~~

~~SEC. 2.~~ Section 7907 of the Public Utilities Code is repealed.

~~SEC. 3.~~ *Section 7907 is added to the Public Utilities Code, to read:*

7907. (a) For purposes of this section, the following terms have the following meanings:

(1) "Communications service" means any communications service that interconnects with the public switched telephone network and is required by the Federal Communications Commission to provide customers with 911 access to emergency services.

(2) "Governmental entity" means every local government, including a city, county, city and county, a transit, joint power, special, or other district, the state, and every agency, department, commission, board, bureau, or other political subdivision of the state.

(3) "Interrupt communications service" means to knowingly or intentionally suspend, disconnect, interrupt, or disrupt communications service to one or more particular customers or all customers in a geographical area.

(4) "Judicial officer" means a magistrate, judge, justice, commissioner, referee, or any person appointed by a court to serve in one of these capacities, of any state or federal court located in this state.

(b) No governmental entity and no provider of communications service, or any agent thereof, acting at the request of a governmental entity, shall interrupt communications service for the purpose of protecting public safety or preventing the use of communications service for an illegal purpose, except pursuant to an order signed by a judicial officer that includes all of the following findings:

1 (1) *That probable cause exists that the service is being or will*
2 *be used for an unlawful purpose or to assist in a violation of the*
3 *law.*

4 (2) *That absent immediate and summary action to interrupt*
5 *communications service, significant danger to the public health,*
6 *safety, or welfare will result.*

7 (3) *That interruption of communications service will not*
8 *suppress speech that is protected by the First Amendment to the*
9 *United States Constitution or Section 2 of Article I of the California*
10 *Constitution, or violate any other rights under federal or state law.*

11 (c) *A provider of communications service that intentionally*
12 *interrupts communications service pursuant to subdivision (b)*
13 *shall comply with any rule or notification requirement of the*
14 *commission or Federal Communications Commission, or both,*
15 *and any other applicable provision or requirement of state or*
16 *federal law.*

17 (d) *Good faith reliance upon an order of a judicial officer*
18 *authorizing the interruption of communications service pursuant*
19 *to subdivision (b) shall constitute a complete defense against any*
20 *action brought as a result of the interruption to communications*
21 *service as directed by that order.*

22 (e) *The Legislature finds and declares that it is a matter of*
23 *statewide concern to ensure that California users of any*
24 *communications service not have that service interrupted, and*
25 *thereby be deprived of 911 access to emergency services or a*
26 *means to engage in constitutionally protected expression.*