

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** January 23, 2013

**To:** The Commission  
(Meeting of January 24, 2013)

**From:** Lynn Sadler, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** **SB 50 (Lieu) – Telecommunications: pay telephones.**  
**As introduced: December 19, 2013**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT**

**SUMMARY OF BILL:**

This bill would modify various sections of the Public Utilities Code that require some consumer protection disclosures through signage posting for coin-activated telephones to also apply to credit or debit card-activated telephones.

**CURRENT LAW:**

**PU Code Section 741**

741. Every owner or operator of coin-activated telephones available for public use, other than a telephone corporation, which, as part of the service furnished, provides operator-assisted services by other than a telephone corporation having tariff schedules on file with the commission providing for the furnishing of operator-assisted services shall cause to be posted on or near the telephone equipment so as to be easily seen by telephone customers all of the following information:

- (a) The name of the provider of operator-assisted services and a toll-free telephone number for contacting that provider.
- (b) The applicable charges for each available operator-assisted service.
- (c) That the provider of operator-assisted services will respond to inquiries concerning the terms and conditions of any available service.

**PU Code Section 742**

742. (a) The commission shall, by rule or order, adopt and enforce operating requirements for coin-activated and credit card-activated telephones available for public use owned or operated by corporations or persons other than telephone corporations. These requirements shall include, but are not limited to, all of the following:

- (1) A requirement that the telephone corporation furnishing service to the corporation or person owning or operating a coin-activated or credit card-activated telephone terminate service for any violation of the commission's rules or orders or of this section, upon a determination by the commission that the violation was a significant or repeated violation. Any determination by the commission leading to a termination of service shall be made in accordance with commission rules or orders adopted pursuant to this subdivision.
- (2) A requirement that every telephone permit a caller to be connected with the operator personnel of any telephone corporation authorized by the commission to operate within a service area by dialing the numeral "0" and with the emergency services switchboard reached by dialing the numerals "911" without insertion of any coin.
- (3) A requirement that every telephone contain instructions for both local and long distance dialing, the name of the owner or operator of the telephone, and the telephone number of that owner or operator to which complaints can be made.
- (4) A requirement that every telephone display its telephone number or other identification number, as determined by the commission, and the address at which the telephone is located, on the telephone in a place where that information may be seen by a person using the telephone.
  - (b) The commission shall require every telephone corporation which publishes a directory of subscribers to include in that directory information comprising the substance of this section and the rules and orders of the commission adopted pursuant to this section.

### PU Code Section 742.3

742.3. The commission shall, by rule or order, adopt and enforce an operating requirement for coin-activated and credit card-activated telephones available for public use, whether owned by telephone corporations or persons other than telephone corporations, which requires that every telephone display a notice that surcharges may apply to operator-assisted and calling card calls. The required signage shall be phased in over a period of two years beginning on January 1, 1993. A sticker with the necessary notification may be used as an interim measure until January 1, 1995.

### Code of Federal Regulations: 47 C.F.R. § 64.703

- (a) Each provider of operator services shall:
  - (1) Identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;
  - (2) Permit the consumer to terminate the telephone call at no charge before the call is connected;
  - (3) Disclose immediately to the consumer, upon request and at no charge to the consumer,
    - (i) A quotation of its rates or charges for the call;
    - (ii) The methods by which such rates or charges will be collected; and
    - (iii) The methods by which complaints concerning such rates, charges, or collection practices will be resolved; and

(4) Disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate non-access code operator service call, how to obtain the total cost of the call, including any aggregator surcharge, or the maximum possible total cost of the call, including any aggregator surcharge, before providing further oral advice to the consumer on how to proceed to make the call. The oral disclosure required in this subsection shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of operator services, by dialing no more than two digits or by remaining on the line. The phrase "total cost of the call" as used in this paragraph means both the variable (duration-based) charges for the call and the total per-call charges, exclusive of taxes, that the carrier, or its billing agent, may collect from the consumer for the call. It does not include additional charges that may be assessed and collected without the involvement of the carrier, such as a hotel surcharge billed by a hotel. Such charges are addressed in paragraph (b) of this section.

(b) Each aggregator shall post on or near the telephone instrument, in plain view of consumers:

- (1) The name, address, and toll-free telephone number of the provider of operator services;
- (2) Except for CMRS aggregators, a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone;
- (3) In the case of a pay telephone, the local coin rate for the pay telephone location; and
- (4) The name and address of the Consumer Information Bureau of the Commission (Federal Communications Commission, Consumer Information Bureau, Consumer Complaints, Telephone, Washington, D.C. 20554), to which the consumer may direct complaints regarding operator services. An existing posting that displays the address that was required prior to the amendment of this rules (i.e., the address of the Common Carrier Bureau's Enforcement Division, which no longer exists) may remain until such time as the posting is replaced for any other purpose. Any posting made after the effective date of this amendment must display the updated address (i.e., the address of the Consumer Information Bureau).

(c) Updating of postings. The posting required by this section shall be updated as soon as practicable following any change of the carrier presubscribed to provide interstate service at an aggregator location, but no later than 30 days following such change. This requirement may be satisfied by applying to a payphone a temporary sticker displaying the required posting information, provided that any such temporary sticker shall be replaced with permanent signage during the next regularly scheduled maintenance visit.

(d) Effect of state law or regulation. The requirements of paragraph (b) of this section shall not apply to an aggregator in any case in which State law or State regulation

requires the aggregator to take actions that are substantially the same as those required in paragraph (b) of this section.

(e) Each provider of operator services shall ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (b) of this section.

C.F.R. § 64.708 Definitions:

As used in §§ 64.703 through 64.707 of this part and § 68.318 of this chapter (47 CFR 64.703–64.707, 68.318):

(b) Aggregator means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services;

**AUTHOR'S PURPOSE:**

This bill's purpose is to modify CPUC code to require more adequate disclosure of pricing plans on the signage postings at credit or debit card-activated telephones for public use, thereby enabling consumers to make more reasonable and well-informed purchasing decisions.

Consumers placing long-distance and/or international calls using card-activated telephones paid through their credit or debit cards at airports are reporting being charged unexpectedly high amounts by operator service providers subcontracted by public telephone owners to provide this type of service.

Based on preliminary investigations, the Commission's Safety and Enforcement Division (SED) found several sources of complaints related to high charges on credit-card activated telephone calls. Complaints derived from the Commission's Consumer Affairs Branch, Los Angeles and San Francisco airports, FCC, Federal Trade Commission, class action lawsuits, and anecdotal online postings all show that consumers were allegedly charged high amounts without their prior knowledge. However, SED staff notes that, although there were several sources of complaint to draw from, each source taken individually did not contain many California complaints.

**SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:**

This bill should be supported for the following reasons:

- (1) This bill would require every owner or operator of credit or debit card-activated telephones for public use to post signage, on or near the telephone equipment, to comply with disclosure requirements that previously applied only to coin-activated telephones.

- (2) This bill would allow the Commission to adopt and enforce operating requirements for credit or debit card-activated telephones available for public use.
- (3) This bill will protect California consumers by requiring disclosures of applicable charges when placing a credit or debit card-activated call on a telephone available for public use, thereby enabling consumers to make an informed decision prior to incurring the charges.

SED supports this bill as written, although SED feels that adopting the suggested amendments below would better protect California consumers from undisclosed charges.

### **SUMMARY OF SUGGESTED AMENDMENTS:**

This bill should be amended as follows:

- (1) PU Code Section 741 amended to read:

741. (a) Every owner or operator of ~~coin-activated or credit card or debit card activated~~ telephones available for public use, *that are coin-activated or card-activated or any other payment device-activated, or where calls may be charged to a card by giving the card number to an operator,* other than a telephone corporation, which, as part of the service furnished, provides operator-assisted services by other than a telephone corporation having tariff schedules on file with the commission providing for the furnishing of operator-assisted services shall cause to be posted on or near the telephone equipment so as to be easily seen by telephone customers all of the following information:

(a1) The name of the provider of operator-assisted services and a toll-free telephone number for contacting that provider.

(b2) The applicable charges for each available operator-assisted service.

(c3) That the provider of operator-assisted services will respond to inquiries concerning the terms and conditions of any available service.

(4) *That surcharges may apply to operator-assisted and calling card calls.*

(5) *That card-activated or any other payment device-activated calls, or calls that may be charged to a card by giving the card number to an operator, may cost more than coin-activated calls.*

(6) *The local rates for non-operator-assisted calls.*

*The required signage shall be phased in by the end of 2014.*

This amendment would expand disclosure requirements to all public telephones that accept any type of card payments. By adding disclosure requirements to include “any other payment device-activated” telephones for public use, this amendment would also cover anticipated future forms of payments – for example, swiping a wireless phone device on an optical reader on a public telephone to pay for the call.

The surcharge signage requirement in subparagraph (a)(4) incorporates the requirement from PU Code Section 742.3, which we are recommending be deleted.

Requiring the additional language in subparagraph (a)(5) for postings in any public telephone would ensure that California consumers are adequately warned that calls other than coin-activated calls may cost more than coin-activated calls.

Requiring the additional language in subparagraph (a)(6) covers rate disclosures for local calls, which is currently not addressed in PU Code.

(2) PU Code Section 741(b) added to read:

*741. (b) Every owner or operator of telephones available for public use, that are card-activated or any other payment device-activated, or where calls may be charged to a card by giving the card number to an operator, other than a telephone corporation, which, as part of the service furnished, provides operator-assisted services by other than a telephone corporation having tariff schedules on file with the commission providing for the furnishing of operator-assisted services shall:*

*(1) Identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call.*

*(2) Permit the consumer to terminate the telephone call at no charge before the call is connected.*

*(3) Disclose to the consumer, immediately after the number to be called is entered or given to an operator, at no charge a quotation of its complete rates and charges for the call.*

*The required disclosures shall be phased in by the end of 2014.*

This addition would apply to telephones available for public use that are not coin-activated. The additional requirements would ensure full and adequate disclosures to consumers at the point of sale. In addition, consumers would be given the opportunity to terminate the call without a charge after rates and charges are disclosed.

(3) PU Code Section 742 amended to read:

*742. (a) The commission shall, by rule or order, adopt and enforce operating requirements for coin-activated ~~and or credit or debit card-activated~~ or card-activated or any other payment device-activated telephones available for public use owned or operated by corporations or persons other than telephone corporations. These requirements shall include, but are not limited to, all of the following:*

*(1) A requirement that the telephone corporation furnishing service to the corporation or person owning or operating a coin-activated or ~~credit or debit card-activated~~ card-activated or any other payment device-activated telephone terminate service for any violation of the commission's rules or orders or of this section, upon a determination by the commission that the violation was a significant or repeated violation. Any determination by the commission leading to a termination of service shall be made in accordance with commission rules or orders adopted pursuant to this subdivision.*

(2) A requirement that every telephone permit a caller to be connected with the operator personnel of any telephone corporation authorized by the commission to operate within a service area by dialing the numeral "0" and with the emergency services switchboard reached by dialing the numerals "911" without insertion of any coin-, **and without any form of card or any other device-activated payment.**

(3) A requirement that every telephone contain instructions for both local and long distance dialing, the name of the owner or operator of the telephone, and the telephone number of that owner or operator to which complaints can be made.

(4) A requirement that every telephone display its telephone number or other identification number, as determined by the commission, and the address at which the telephone is located, on the telephone in a place where that information may be seen by a person using the telephone.

(b) The commission shall require every telephone corporation which publishes a directory of subscribers to include in that directory information comprising the substance of this section and the rules and orders of the commission adopted pursuant to this section.

This amendment would ensure that the commission can adopt and enforce operating requirements for all public telephones activated by any means, including coin, all types of cards, and future forms of payments, such as payments by wireless phone devices.

(4) PU Code Section 742.3 deleted:

~~742.3 The commission shall, by rule or order, adopt and enforce an operating requirement for coin-activated and credit or debit card-activated telephones available for public use, whether owned by telephone corporations or persons other than telephone corporations, which requires that every telephone display a notice that surcharges may apply to operator-assisted and calling card calls. The required signage shall be phased in over a period of two years beginning on January 1, 1993. A sticker with the necessary notification may be used as an interim measure until January 1, 1995.~~

Signage requirements from this section are incorporated into recommended changes to PU Code Section 741(a)(4).

**DIVISION ANALYSIS (Safety and Enforcement Division):**

If this bill was to be passed, CPUC payphone inspectors would include additional locations in their inspection routes, such as the San Francisco and Los Angeles airports, in order to ensure that the card-activated payphones at these locations comply with the new requirements. These card-activated payphones would be accorded the same regulatory practices as other coin-activated payphones, wherein inspectors notify public telephone owners of violations through Corrective Action Report letters, and conduct follow-up inspections to ensure that deficiencies have been corrected. SED notes that a significant majority of the public telephone owners currently do comply with the letters and take corrective actions to remedy the deficiencies. However, in the event

that a growing trend of non-compliance occurs, SED would consider various enforcement options to address the violations, including (1) requiring the telephone corporation furnishing service to the corporation or person owning or operating the payphone terminate that service (PU Code 742.(a)(1)), (2) establishing via Commission resolution a citation program to allow the imposition of citations as violations occur, or (3) conducting a formal investigation that may result in the imposition of penalties and/or fines, per PU Code 2111, for non-concurrence with PU Code 741.

SED believes that the Code of Federal Regulations (47 C.F.R. § 64.703) addresses the identified problem of inadequate rate disclosure at card-activated telephones. However:

- 47 C.F.R. § 64.703(d) provides that the postings required in subsection (b) do not apply where state law or regulation requires the aggregator (defined in above section: Current Law) to take actions substantially the same as required in subsection (b). This bill would do that, codify in California law the obligations of payphone owners/operators, and provide clarity to payphone owners and operators regarding their signage obligations.
- Although subsections (a)(4) and (b)(2) relate to payphone rate disclosure both on signs and by an operator service provider, they address only interstate calls and carriers. Since many of the instances of high phone charges in California are occurring on non-interstate calls (i.e., intrastate and international calls), we believe that state-mandated disclosure requirements that are substantially the same as the federal requirements in CFR 64.703 are necessary to apply to all types of calls (interstate, intrastate, and international).

**PROGRAM BACKGROUND:**

The CPUC employs payphone inspectors who routinely conduct targeted inspections of public telephones across California to ensure compliance with regulatory requirements. The payphone inspectors are also available to inspect public telephones in key locations in response to complaints lodged by the public.

**SAFETY IMPACT:**

This bill would most likely have no impact on safety. Current law requires that callers are always able to dial emergency numbers at telephones available for public use without inserting coins or using activating cards.

**RELIABILITY IMPACT:**

This bill would most likely have no impact on reliability.

**RATEPAYER IMPACT:**

The Commission does not regulate the rates of coin-activated or card-activated telephones for public use. The FCC deregulated payphones in 1997, pursuant to section 276 of the Telecommunications Act of 1996. See orders issued in CC Docket No. 96-128 (re: Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996), including FCC Orders 96-388, 96-439, 97-371, 98-481, and 99-7 (summarizing all prior orders). It is unknown if owners or

operators of such telephones would pass any additional operating costs incurred from this new regulation to its customers by increasing charges or rates.

**FISCAL IMPACT:**

Since the CPUC already employs three payphone inspectors who are available to inspect additional card-activated telephones in key locations to ensure compliance with new regulatory requirements, it is anticipated that additional duties resulting from this bill will be absorbable in current staffing.

**ECONOMIC IMPACT:**

This bill may have a slight economic impact on owners or operators of public telephones, as they would be required to provide new signage postings and/or update their customer disclosure processes in order to comply with the amended PU Code requirements.

**LEGAL IMPACT:**

None.

**OTHER STATES' INFORMATION:**

None.

**LEGISLATIVE HISTORY:**

None.

**STATUS:**

SB 50 is pending hearing in the Senate Energy, Utilities and Communications Committee.

**SUPPORT/OPPOSITION:**

None on file.

**STAFF CONTACTS:**

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**BILL LANGUAGE:**

BILL NUMBER: SB 50           INTRODUCED  
                  BILL TEXT

INTRODUCED BY   Senator Lieu

DECEMBER 19, 2012

An act to amend Sections 741, 742, and 742.3 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as introduced, Lieu. Telecommunications: pay telephones.

(1) Existing law requires an owner or operator of a coin-activated telephone for public use, which is not a telephone corporation and which provides operator-assisted services by other than a telephone corporation tariffed to provide those services, to post on or near the telephone equipment certain information, as prescribed.

This bill would apply this provision to a credit or debit card-activated telephone.

(2) Existing law requires the Public Utilities Commission to adopt and enforce operating requirements, as prescribed, for coin-activated and credit card-activated telephones available for public use owned or operated by corporations or persons other than telephone corporations.

This bill would apply this provision to debit card-activated telephones.

(3) Existing law requires the Public Utilities Commission to adopt and enforce, as prescribed, an operating requirement for coin-activated and credit card-activated telephones available for public use, whether owned by telephone corporations or persons other than telephone corporations, that requires every telephone to display a notice that surcharges may apply to operator-assisted and calling card calls.

This bill would apply this provision to debit card-activated telephones.

(4) Because the provisions of this bill would be a part of the Public Utilities Act and because a violation of an order or decision of the Public Utilities Commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 741 of the Public Utilities Code is amended to read:

741. Every owner or operator of coin-activated *or credit or debit card-activated* telephones available for public use, other than a telephone corporation, which, as part of the service furnished, provides operator-assisted services by other than a telephone corporation having tariff schedules on file with the commission providing for the furnishing of operator-assisted services shall cause to be posted on or near the telephone equipment so as to be easily seen by telephone customers all of the following information:

(a) The name of the provider of operator-assisted services and a toll-free telephone number for contacting that provider.

(b) The applicable charges for each available operator-assisted service.

(c) That the provider of operator-assisted services will respond to inquiries concerning the terms and conditions of any available service.

SEC. 2. Section 742 of the Public Utilities Code is amended to read:

742. (a) The commission shall, by rule or order, adopt and enforce operating requirements for coin-activated ~~and~~ *or credit or debit card-activated* telephones available for public use owned or operated by corporations or persons other than telephone corporations. These requirements shall include, but are not limited to, all of the following:

(1) A requirement that the telephone corporation furnishing service to the corporation or person owning or operating a coin-activated or credit *or debit* card-activated telephone terminate service for any violation of the commission's rules or orders or of this section, upon a determination by the commission that the violation was a significant or repeated violation. Any determination by the commission leading to a termination of service shall be made in accordance with commission rules or orders adopted pursuant to this subdivision.

(2) A requirement that every telephone permit a caller to be connected with the operator personnel of any telephone corporation authorized by the commission to operate within a service area by dialing the numeral "0" and with the emergency services switchboard reached by dialing the numerals "911" without insertion of any coin.

(3) A requirement that every telephone contain instructions for both local and long distance dialing, the name of the owner or operator of the telephone, and the telephone number of that owner or operator to which complaints can be made.

(4) A requirement that every telephone display its telephone number or other identification number, as determined by the commission, and the address at which the telephone is located, on the telephone in a place where that information may be seen by a person using the telephone.

(b) The commission shall require every telephone corporation which publishes a directory of subscribers to include in that directory information comprising the substance of this section and the rules and orders of the commission adopted pursuant to this section.

SEC. 3. Section 742.3 of the Public Utilities Code is amended to read:

742.3. The commission shall, by rule or order, adopt and enforce an operating requirement for coin-activated and credit or debit card-activated telephones available for public use, whether owned by telephone corporations or persons other than telephone corporations, which requires that every telephone display a notice that surcharges may apply to operator-assisted and calling card calls. The required signage shall be phased in over a period of two years beginning on January 1, 1993. A sticker with the necessary notification may be used as an interim measure until January 1, 1995.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.