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July 30, 2009

President pro Tempore Darrell Steinberg
State Capitol, Room 205
Sacramento, CA 95814

**The Greenlining Institute Opposes Commissioner Chong's
Re-Confirmation**

Dear President pro Tempore Steinberg,

Over the last few years, the Greenlining Institute has tried to find common ground with Public Utilities Commissioner Rachele Chong, upon which to build a consensus at least on limited issues. However, we and other consumer protection groups have learned only what we suspected to be true from the outset – that our interests and the interests of Commissioner Chong are disparate at best, and more often than not are directly at odds. As such, we cannot support her re-confirmation to the position of Commissioner, and urge you to oppose it.

**Commissioner Chong Does Not Exhibit The Leadership Required To
Broker Cooperation**

Given Commissioner Chong's expertise in the telecommunications industry, it is only fitting that she be seen as the telecom Commissioner. However, Commissioner Chong has demonstrated an inability to bring parties together to forge cooperative relationships. This has created an imbalance that forces parties into winning and losing camps, with consumers unfortunately finding themselves on the losing side nearly every time.

Greenlining actively engages in efforts to support profitable businesses operating in California, so long as they provide proper service and protections to their customer base. We firmly believe that companies can do well by doing good, and that a business model based on this principle benefits customers and shareholders alike.

However, instead of facilitating forums for partnerships, Commissioner Chong has created a battleground pitting stakeholders against each other in a zero-sum game. Rather than crafting policies that will benefit both company and consumer, Commissioner Chong provides for companies at the expense of the public interest, which as a Commissioner she is

charged with serving.¹ Governance based on this combative philosophy is certainly detrimental to consumers, and in the long run is also damaging for the industry that is being pitted against its own customer base.

Commissioner Chong has allowed telecom companies under her watch to engage in deceptive marketing tactics without penalty, charge exorbitant early termination fees, and raise their rates as high as they wish, all at the expense of California consumers. Basic service measures such as contracts printed in the language of sale, an effective system for tracking and addressing allegedly fraudulent practices, and even simple disclosures of customer rights can improve customer satisfaction and expand a company's customer base. However, Commissioner Chong treated them as nothing more than burdens on business, and refused to consider how such policies could be crafted to benefit consumer and industry alike.

Commissioner Chong's Stewardship Of The Public Interest Is Trumped By Her Ideology

From her first day serving on the Commission, Commissioner Chong has made it clear that she believes in a market free to operate without constraint, which she believes will promote competition and, only secondarily, better service and pricing for consumers. The problem with this trickle-down approach is that it prevents industry priorities from being informed by consumer needs.

In order for both public and private interests to be sustainable, they must be mutually reinforcing. The Commission's role, and indeed the role of regulatory bodies in general, is to facilitate this balance. One need only look at the lending industry today for proof of the critical nature of responsible regulation. Rather than balancing interests, Commissioner Chong instead allows consumer needs to be subsumed under the priorities of private industry.

Rigid conformity to a market principle that ignores or directly contradicts the factual record at issue weakens the credibility of the Commission and often results in decisions that thwart the intent of the very programs it is charged with implementing. It also frustrates the potential for thoughtfully crafted regulation that could benefit both market participants and consumers. This kind of thinking will only hold California back as it seeks to move its policies forward for the benefit of all.

¹ The mission statement of the CPUC reads, in relevant part, "[t]he California Public Utilities Commission serves the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates."

Moreover, such a rigid, trickle-down ideology defeats the very purpose of the Public Utilities Commission. The purpose of the Commission is to impose reasonable regulations on the companies under its purview, for the purpose of protecting consumers that depend on essential energy and telecommunication services. Essential to success in this charge is an ability to balance the interests of stakeholders, from the wealthiest company to the poorest household, and devise innovative solutions that will allow all parties to benefit. Greenlining has, to date, not seen this kind of creative, strategic policymaking from Commissioner Chong.

Universal LifeLine: A Case Study in Imbalance

Commissioner Chong's disregard for the public interest extends even to the most vulnerable among us. In the recent Universal LifeLine proceeding, addressing a program designed to ensure that even the lowest-income Californians can afford some form of telephone service, Commissioner Chong refused to consider evidence of affordability before issuing her proposed decision.

Ms. Chong refused to even consider a mechanism that would trigger Commission review of affordability in the event that prices rose beyond a certain benchmark. The painful irony bears repeating: in a program designed to ensure affordable service, Commissioner Chong did not see fit to determine what is affordable and what is not before proposing drastic changes to a program upon which millions of low-income Californians depend.

It is not uncommon in quasi-legislative proceedings such as this for parties to find mutually beneficial ground and begin to build consensus over the course of the proceeding. However, Commissioner Chong's handling of the LifeLine proceeding has only served to entrench parties in their respective positions and has driven them further apart.

At one point, just prior to Commissioner Chong's withdrawal of her proposed decision and amid the precipitous deepening of the present budget crisis, the proceeding became so contentious that members of the legislature felt compelled to interject to ensure that the Commission did not overstep its bounds and that consumer interests would remain protected.

Greenlining sees this proceeding as another example of Commissioner Chong's inability to build policy on common ground, rather than simply taking from one party to give to another.

Conclusion: Oppose Commissioner Chong's Re-Confirmation

For all of the above reasons, Greenlining urges that the Senate take this opportunity to add to the Commission a true consumer and small business advocate, who is able to align these interests with the interests of regulated industries. The people of California need a champion capable of creating a common ground in which consumer benefits and industry benefits become mutually-reinforcing, allowing both sectors to thrive together.

Sincerely,



Samuel Kang
Managing Attorney



Stephanie Chen
Legal Fellow

Cc: Assemblymember Felipe Fuentes, Senator Alex Padilla, Senate Rules Committee