



FILED
3-09-15
09:54 AM

KK3/ek4 3/9/2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding
Revisions to the California Universal
Telephone Service (LifeLine) Program.

Rulemaking 11-03-013
(Filed March 24, 2011)

**ADMINISTRATIVE LAW JUDGE'S RULING (1) INCORPORATING STAFF
PROPOSAL INTO THE RECORD (2) REQUESTING COMMENTS FROM
PARTIES AND (3) SETTING COMMENT DATES**

Summary

This Administrative Law Judge's Ruling (Ruling) provides an initial proposal prepared by the Communications Division (CD) to allow fixed-Voice over Internet Protocol¹ (VoIP) service providers without a Certificate of Public Convenience and Necessity (CPCN) to participate in the California LifeLine Program. This Ruling also provides a set of questions and directs parties to comment on these questions for the Commission's consideration.

1. Background

In April 1984, the California Public Utilities Commission (Commission)

¹ VoIP is defined by California Public Utilities Code (Cal. Pub. Util. Code) Section 239 as voice communications that does all of the following:

- A) Uses Internet Protocol or a successor protocol to enable real-time, two-way voice communication that originates from, or terminates at, the user's location in Internet Protocol or a successor protocol;
- B) Requires a broadband connection from the user's location; and
- C) Permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

established the Universal Lifeline Telephone Service Program² in Decision (D.) 84-04-053 as an important means of achieving universal service by making residential telephone service affordable to low-income consumers.³ In March 2011, the Commission opened this Rulemaking, which is a successor to the Commission's earlier Rulemaking 06-05-028, to make revisions to the California LifeLine Program (California LifeLine). On January 16, 2014, the Commission issued its Decision Adopting Revisions to Modernize and Expand the California LifeLine Program, Decision (D.)14-01-036.

D.14-01-036 assigned the "exploration of whether entities without Certificates of Public Convenience and Necessity, Wireless Identification Registration, or franchises should be allowed to participate in the California LifeLine Program" to this phase of the proceeding.⁴ Specifically, for this part of the proceeding, the Commission will "focus primarily on the participation of non-tariffed VoIP providers" consistent with applicable laws including, but not limited to Public Utilities (Pub. Util.) Code § 710, and in recognition that Voice over Internet Protocol (VoIP) customers also pay the surcharge that supports the California LifeLine Program. The Commission will address other pending issues identified in Section 5 of D.14-01-036 separately.

Today's Ruling maintains the timely and organized manner by which the Administrative Law Judge (Judge) and Assigned Commissioner intend to handle this phase of the proceeding. This Ruling incorporates the "Staff Proposal for

² D.10-11-033 changed the state LifeLine program's name to the California LifeLine Program.

³ D.84-11-028 established General Order 153 which includes rules and requirements of the California LifeLine Program.

⁴ See D.14-01-036 at 129-30.

Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program” (Staff Proposal) prepared by the Communications Division, attached hereto as Attachment A, into the record of this proceeding. We direct parties to comment on the Staff Proposal according to the schedule set below.

In addition, for purposes of this rulemaking and consideration of the Staff Proposal, we direct parties to comment on the following questions:

1. Can and/or should the Commission allow entities without CPCNs or franchises to participate in the California LifeLine Program?
2. Can and/or should the Commission limit the type of VoIP services that should be supported by California LifeLine funds to fixed-VoIP⁵ service?
 - a. Does Pub. Util. Code § 710, or other federal laws, present any legal impediments to including any VoIP services in the California LifeLine Program?
3. What enforcement rules should the Commission adopt for fixed-VoIP service providers without a CPCN or franchise that receive California LifeLine funds?
 - a. Should the Commission adopt a uniform set of enforcement rules that apply to all California LifeLine service providers regardless of regulatory classification and/or technology that is used to offer California LifeLine service? If yes, which set of rules should the Commission adopt?
 - b. Does Pub. Util. Code §710 raise any legal issues or limitations for the Commission to establish enforcement rules for fixed-VoIP service

⁵ For purposes of this proceeding we define fixed-VoIP to permit a customer to make voice calls from a fixed address using wireline technologies.

providers participating in the California Lifeline program without a CPCN or franchise?

- c. Can and/or should the Commission extend its existing enforcement authority over public utilities under the Pub. Util. Code to fixed-VoIP service providers that are participating in the California Lifeline program without a CPCN or franchise?; Should the Commission be authorized to do so in order for fixed-VoIP service providers without a CPCN or franchise to receive California LifeLine funds?
4. Does including VoIP service in the California LifeLine Program raise any safety considerations that the Commission needs to be aware of? If yes, identify the type of VoIP service and associated safety considerations.
5. How should the Commission apply the public interest standard to service providers without any prior experience of offering fixed-VoIP services?
6. What amount of performance bond should the Commission adopt for fixed-VoIP service providers without a CPCN or franchise to participate in the California LifeLine Program? Address whether the performance bond amount should be higher for companies without prior experience of offering fixed-VoIP services.
7. Should the Commission adopt a uniform set of withdrawal of service/transfer of service/exit rules that apply to all California LifeLine service providers regardless of regulatory classification and/or technology that is used to offer California LifeLine service? If yes, which set of rules should the Commission adopt?

2. Schedule

Comments by parties in response to these questions and to the Staff Proposal may identify additional issues. A workshop may be scheduled, if necessary, to further discuss any or all of these issues. Parties may file comments

and reply comments regarding Attachment A and the additional questions raised by this ruling according to the following schedule:

Event	Date
File and Serve Opening Comments	March 27, 2015
File and Serve Reply Comments	April 27, 2015
All-Party Meeting	May 6, 2015, 1:30 p.m. - 3:30 p.m. California Public Utilities Commission 505 Van Ness Avenue San Francisco, California 94102

In preparing comments on the Staff Proposal, parties should utilize the structure of the Staff Proposal to label the specific issue being addressed for clarity. Comments should include a table of contents and table of authorities if necessary. Opening comments shall not exceed 25 pages. Reply comments shall not exceed 15 pages.

IT IS RULED that:

1. The “Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program,” at Attachment A to this ruling is entered into the record.

2. Opening Comments on the “Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program” are due on March 27, 2015. Reply Comments are due on April 27, 2015.

3. An All-Party meeting shall be held on May 6, 2015 at 1:30 p.m. at the California Public Utilities Commission at 505 Van Ness Avenue, San Francisco, California.

Dated March 9, 2015, at San Francisco, California.

/s/ KATHERINE KWAN-MACDONALD

Katherine Kwan MacDonald
Administrative Law Judge

ATTACHMENT A

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers
Without CPCNs to Participate in the California LifeLine Program

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

REGISTRATION PROCESS

- **Proposal**
 - A. Complete and submit a VoIP Provider Registration Form as designed by the Communications Division (CD)
 - B. Acquire a Utility Contact Information System (UCS) ID Number associated with Digital Voice Service (DVS) from the CD's Licensing Team as authorized by the VoIP Provider Registration Form
 - C. File Tier 3 Advice Letter demonstrating fulfillment of entry pre-requisites
 - D. Issue Resolution approving or denying Tier 3 Advice Letter
 - E. Set up with California LifeLine Administrator, if approved
 - F. Submit marketing materials for review and approval to CD
 - G. File Tier 2 Advice Letter for any changes to approved content of Tier 3 Advice Letter
 - H. Registration fee = mirror Competitive Local Carrier's (CLC) registration fee, but other applicable fees apply outside of the California LifeLine Program (California LifeLine)

ENTRY PRE-REQUISITES

- **Proposal**
 - A. Demonstrate that the services intended to be offered comply with the California LifeLine fixed-Voice over Internet Protocol (VoIP) service elements
 - B. Commit to provide service throughout the designated service area (identify service area – map, zip codes list, geographic area list)
 - C. Demonstrate financial and technical capabilities and managerial competence
 - D. Demonstrate the ability to remain functional
 - E. Demonstrate fulfillment of public interest standards
 - F. Provide terms and conditions
 - G. Provide disclosures
 - H. Provide schedule of rates and charges

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

- I. Describe how the company will interface with consumers
- J. Describe how the company will incorporate its intake and provisioning processes, and be in compliance with the California LifeLine Administrator's enrollment process
- K. Annual User Fee requirement
- L. Continuous Performance Bond requirement
- M. Affidavit requirement
- N. Affirmative Statements: For applicants seeking authority as a reseller, it must clearly state that 1) it does not intend to construct any facilities, 2) it will comply with General Order (GO) 153 and other rules, 3) it will offer all plans that meet or exceed the California LifeLine service elements and are consistent with the rules on a discounted basis, and 4) it will offer free, unlimited access to customer service representatives (CSR) in the same language in which the California LifeLine service was originally sold or marketed.

CALIFORNIA LIFELINE PROGRAM RULES

- **Proposal**

- A. All sections of General Order 153

(http://docs.cpuc.ca.gov/WORD_PDF/GENERAL_ORDER/154648.pdf)

- General Order 153 describes the rules and processes associated with implementing the California LifeLine Program. In general, GO 153 outlines the requirements and specifications for filing schedules of rates and charges, for written and oral communications with residential customers, for in-language communications, for residential customers' and service providers' eligibility to participate in the program, for transmitting and sharing information for purposes such as eligibility determination, de-enrollment, and reimbursement of claims, for the California LifeLine service elements, rates, and charges, for the reimbursement methodology and amounts, claims-related requirements and process, surcharge-

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

related requirements and process, for audits, and for records retention.

- B. Augment Appendix A of General Order 153 adopted in Decision (D.) 1401036 with the proposed Appendix A-3 incorporating the fixed-VoIP service elements: the service elements should be based upon the service elements in a proposed decision from the existing rulemaking proceeding, R1103013.
- C. January 2014 Decision, D. 1401036
(<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M086/K541/86541587.PDF>)
- D. Commission decisions that put in place the various provisions of General Order 153
- E. Commission decisions and resolutions adopted since the Commission last revised GO 153
- F. Federal Lifeline program rules to the extent the CPUC would like fixed-VoIP service providers without CPCNs to take advantage of federal Lifeline funds

OTHER APPLICABLE GENERAL ORDERS

- **Proposal**
 - A. General Order 66-C (Procedures for obtaining information and records in the possession of the Commission and its employees and Commission policy orders thereon)
(<http://docs.cpuc.ca.gov/PUBLISHED/Graphics/644.PDF>)
 - B. General Order 96-B (Rules for filing and publishing tariffs for gas, electric, telephone, telegraph, water and heat utilities)
(http://docs.cpuc.ca.gov/PUBLISHED/GENERAL_ORDER/164747.htm)
 - C. General Order 107-B (Privacy of telephone communications)
(<http://docs.cpuc.ca.gov/PUBLISHED/Graphics/567.PDF>)
 - D. General Order 133-C (Rules Governing Telecommunications Services Service Quality)
(<http://docs.cpuc.ca.gov/PUBLISHED/Graphics/110984.PDF>)

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

- E. General Order 168 (Consumer Bill of Rights Governing Telecommunications Services. Market Rules to Empower Telecommunications Consumers and to Prevent Fraud.)
(<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M089/K440/89440106.PDF>)
- F. Commission decisions that put in place the various provisions of General Orders 66-C, 96-B, 107-B, 133-C, and 168

HANDLING CONSUMER COMPLAINTS, ISSUES, APPEALS

- **Proposal**

- A. Make available to the public these processes:
 - i. the Consumer Affairs Branch's (CAB) informal complaint process;
 - ii. the Administrative Law Judge Division's expedited complaint process;
 - iii. the formal complaint process per Article 4 of the Rules of Practice and Procedure
(http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm);
and
 - iv. the Safety and Enforcement Division's (SED) investigation process via an Order Instituting Investigation (OII).
- B. Types of complaints include, but are not limited to the following:
 - i. Application of the California LifeLine discounts;
 - ii. California LifeLine rates charged;
 - iii. California LifeLine service meets service elements;
 - iv. Compliance with California LifeLine Program rules and other applicable rules;
 - v. Application of California LifeLine Program eligibility rules;
 - vi. Compliance with service quality standards;
 - vii. Violations of consumers' bill of rights delineated in GO 168; and
 - viii. Disclosures.
- C. Recourse and remedy must be consistent with applicable state and/or federal rules.

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

DATA REQUESTS AND REPORTING

- **Proposal**

- A. For data requests, the California LifeLine provider must respond within 10 business days. If the California LifeLine provider needs more time, then it can request an extension for no more than 30 calendar days.
- B. Types of information for data requests may include, but not be limited to the following:

TYPE OF INFORMATION	PURPOSE
Phone bills, implementation expenses, administrative expenses	Substantiate claims for reimbursement
Written and verbal communications with consumers	Enforcement + Waste, Fraud, and Abuse Prevention
Business operations processes and methods	Enforcement + Waste, Fraud, and Abuse Prevention
All aspects of enrollment process and methods	Enforcement + Waste, Fraud, and Abuse Prevention
CaLL related complaints and trouble tickets	Enforcement + Waste, Fraud, and Abuse Prevention
Privacy compliance with CPNI rules and breaches	Enforcement
CaLL related usage/plan information	Substantiate claims for reimbursement + Potential program enhancement

- C. Types of recurring reports may include, but not be limited to the following:
 - i. Schedule of Surcharge Remittance (monthly)
 - ii. Customer Trouble Report for both retail and California LifeLine services (quarterly)
 - iii. Schedule of Rates and Charges (annual + advice letters)
 - iv. Affiliate Transaction Report (annual)
 - v. Operational and Financial Report (annual)

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

- vi. Residential Service Geographical Survey (annual)

EXIT REQUIREMENTS

- **Proposal**
 - A. Align the exit requirements consistent with GO 96-B
 - B. File an application with the CPUC (see GO 96-B Industry Rules 8.5 and 8.6)
 - C. 30-day notice to participants prior to withdraw services (see GO 96-B Industry Rules 3, 3.1, and 3.2 for types of information to include in the notice)

FIXED-VOIP SERVICE ELEMENTS

- **Proposal for Appendix A-3 of General Order 153**

The California LifeLine service elements for fixed-Voice over Internet Protocol telephone services are as follows:

1. The provider must offer participants the ability to place and receive voice-grade calls over all distances utilizing the public switched telephone network or successor network.
 - a) The provider must, at a minimum, enable calls to be sent and received within a local exchange or over an equivalent or larger-sized local calling area.
 - b) The provider must provide a voice-grade connection from the participant's residence to the public switched telephone network or successor network.
 - c) The provider must disclose to each participant before activating service that they are entitled to a voice-grade connection and the conditions under which the participant may terminate service without penalty if one cannot be provided.
 - d) If at any time a participant fails to receive a voice-grade connection to the residence and notifies the provider, the provider is required to (1) promptly restore the voice-grade connection, or if not possible (2) provide telephone

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

service to that participant using a different technology if offered by the provider and if the participant agrees. Nothing in these rules alters or modifies the service obligation of a COLR to ensure continuity and functionality of basic service within the residence.

2. The provider must provide free, unlimited access to 911 emergency services, in compliance with current state and federal laws and regulations.
 - a) Each provider must provide its potential and existing customers information regarding its 911 emergency services, in compliance with current state and federal laws and regulations.
3. The provider must provide for free, one directory listing per year and white pages telephone directory, to participants.
 - a) The provider shall include a participant's listing for free in the local white pages telephone directory as a default unless the participant affirmatively requests to have the number unpublished.
 - b) The provider shall include a participant's listing for free in the directory listing as a default unless the participant affirmatively requests to have the number unlisted.
 - c) The provider must provide participants the option to receive a free printed paper copy of the white pages directory instead of an electronic copy covering the local community where the participant resides if the provider publishes the white pages directory in both printed and electronic forms. Some service providers may provide electronic delivery i.e., by CD-ROM or by on line access, of the free white pages directory pursuant to Resolution T 17302. However, participants may contact the provider to affirmatively elect to receive a printed paper copy instead of an electronic copy of the free white pages directory.
4. The provider must abide by the following additional billing provisions.

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

- a) The provider must offer at least one California LifeLine plan that meets or exceeds the California LifeLine service elements, and is not bundled with any video or data services. The provider may offer added features and/or enhanced service elements without additional charge(s).
 - b) The provider shall apply the applicable California LifeLine discount to the participant's selected plan.
 - c) The provider must offer California LifeLine discounted services on a non-discriminatory basis to any customer residing within the service territory where the provider offers retail residential telephone services. The provider must only provide California LifeLine discounts to participants that are approved by the California LifeLine Administrator.
 - d) The provider must offer an option with monthly rates and without contract or early termination penalties.
 - e) The provider may offer features and/or enhanced services in plans that could potentially be eligible for California LifeLine support, if the plans meet or exceed the California LifeLine minimum standards set by the CPUC. However, providers must not obligate participants to also subscribe to service bundles that require subscription to data and/or video services as a condition of receiving the California LifeLine discounts.
5. The provider must offer access to California Relay Service pursuant to Public Utilities Code § 2881 for deaf or hearing-impaired persons or individuals with speech disabilities.
 6. The provider must provide participants free blocking for 900/976 information services and a one-time free billing adjustment for 900/976 information services related charges inadvertently or mistakenly incurred, or without authorization.
 7. The provider must provide free access to operator services.

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

8. The provider must provide the ability to receive free, unlimited incoming calls.
9. The provider shall prominently disclose and disseminate terms and conditions, including their rates and fees, the charges, terms, and conditions associated with purchasing additional minutes, 911 emergency services location accuracy and reliability standards as required in basic service element number I.2.(d) in Appendix A of Decision 12-12-038, potential service coverage and service quality issues, back-up power considerations, and safety related considerations caused by outages, latency, and jitter. Additional disclosures must include the entitlement to a voice grade connection, the conditions under which the participant may terminate service without penalty, the charges or fees associated with using operator services, and the impact of terminating fixed-VoIP service for contracts lasting more than one year, e.g., the consumer will be subject to the retail rates charged by the service provider and any applicable early termination fees.
10. The provider must provide access to local directory assistance (DA). Each provider shall offer to its participants the same number of free DA calls that the provider provides to its retail customers.
11. The provider shall offer and file a schedule of California LifeLine service rates and charges.
12. The provider must provide free, unlimited access to 800 or 800-like toll-free services.
13. The provider must provide free, unlimited access to customer service for information about California LifeLine, service activation, service termination, service repair, and bill inquiries. Calls to the provider's customer service shall not count against the participant's allotted voice minutes or number of calls.

Staff Proposal of Rules for Enabling Fixed-VoIP Service Providers Without CPCNs to Participate in the California LifeLine Program

14. The provider must provide free, unlimited access to customer service representatives fluent in the same language (English and non-English) in which California LifeLine was originally sold or marketed. Calls to the provider's customer service shall not count against the participant's allotted voice minutes or number of calls.
15. The provider must provide free access to Toll-Blocking Service.
16. The provider must provide free access to Toll-Control Service, but only if (i) the California LifeLine Service Provider is capable of offering Toll-Control Service, and (ii) the California LifeLine subscriber has no unpaid bill for toll service.
17. The provider must provide access to two California LifeLine discounted telephone lines to Deaf and Disabled Telecommunications Program participants or teletypewriter users.
18. The provider must provide free access to the California Relay Service via the 711 abbreviated dialing code.