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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Conduct a
Comprehensive Examination of the California
Teleconnect Fund.

Rulemaking 13-01-010
(Filed January 24, 2013)

**ASSIGNED COMMISSIONER'S AMENDED SCOPING MEMO AND RULING
FOR PHASE 3 OF THE PROCEEDING**

This Amended Scoping Memo and Ruling sets forth the procedural schedule for Phase 3 of this proceeding, assigns the presiding officer, and addresses the scope of Phase 3 and other procedural matters following the prehearing conference held on November 17, 2015.

Background

On January 24, 2013, the Commission approved the Order Instituting this Rulemaking (OIR), which sought to re-examine policies, procedures, and rules that govern the California Teleconnect Fund or CTF. The Phase 1 and 2 decision, Decision (D.) 15-07-007, adopted restated program goals and updated the CTF program design in several key areas. The decision benefited from stakeholder and Commission staff input from reports and workshops on significant issues. The purpose of Phase 3 is to address implementation and administration elements of the CTF program.

1. Scope of Phase 3

As part of D.15-07-007 the Commission preliminarily established the following issues to be considered in Phase 3:

- Issue 1: The process for schools, libraries, government-owned and operated health care facilities, and Critical Access Hospitals in unserved or underserved areas to seek exemption from reduced voice services support.
- Issue 2: Methods to determine whether wireless data plans for non-E-Rate participants are the most cost-effective form of internet access.
- Issue 3: The level of a California Telehealth Network (CTN) budget cap and a health care/health services Community-Based Organizations (CBO) budget cap and associated implementation issues.
- Issue 4: How to separate internet access service used for both administrative purposes and to provide clients with direct access to the internet (hybrid use segregation or other separation).
- Issue 5: Implementation and documentation specifics for the adopted three-year eligibility verification requirement.
- Issue 6: The documentation requirements to implement D.15-07-007's adopted costs allocation processes and related ancillary functionality showings by CTF claimants.
- Issue 7: Development of annual submittals, detailed pricing information, and documentation requirements necessary to implement D.15-07-007.
- Issue 8: Recommendations on improvements to resource allocation and potential budget augmentations for administration of the CTF program as necessary to implement D.15-07-007's program reforms.

Resolving Issues 1 and 2

D.15-07-007 reduced CTF support of voice and VoIP services from 50% to 25%. D.15-07-007 determined that eligible schools, libraries, government-owned and operated health care facilities, and Critical Access Hospitals in unserved or underserved broadband areas should have the ability to request an exemption from a reduction in CTF support for voice and VoIP services. Entities that

qualify for the exemption would retain a 50% discount for voice services. The Commission explained, in D.15-07-007, that “CTF is intended to ensure high-speed internet connectivity,”¹ and expressed concern “that removing support to those [unserved and underserved] parts of California could impact the ability of qualifying entities and the communities they serve to access even the best available telecommunications services in their communities.”² In light of that concern, the decision stated that during phase 3, the Commission would establish a process for qualified entities to claim the voice exemption. In prehearing conference (PHC) statements several parties identified clarifying the process for claiming an exemption as a priority issue to address. Parties are directed to respond to the following questions about issue 1:

1. What information should schools, libraries, government-owned and operated health care facilities, and Critical Access Hospitals in unserved or underserved areas as defined in D.15-07-007 submit to the Commission to seek exemption from reduced voice services support?
2. What documentation should schools, libraries, government-owned and operated health care facilities, and Critical Access Hospitals submit to the Commission to demonstrate that they are in unserved or underserved areas as defined in D.15-07-007? Is an address check or a zip code check against a map of unserved and underserved areas adequate to determine whether an otherwise eligible entity is in an unserved or underserved area?
3. What should the frequency for submission of exemption requests be? Should entities seeking the exemption from reduced voice support be required to renew the voice exemption every two years?

¹ D.15-07-007 at 41.

² D.15-07-007 at 41-42.

4. Should the unserved/underserved voice support exemption be extended to CBOs located in unserved or underserved areas?
5. If applicable, what information, documentation, and submission frequency should CBOs be subject to for exemption requests for the unserved/underserved voice support exemption?
6. Should the Commission require entities seeking the exemption from reduced voice support to certify, in writing within 90 days of an exemption request, that they receive only voice services from any telecommunications service provider? Should that certification need to be supported by billing documentation?
7. What criteria and data should the Commission use to assess whether the reduced voice discount exemption should continue or expire?
8. Are there any additional issues the Commission would need to resolve before the exemption can go into effect?

D.15-07-007 also determined that CTF will only provide discounts for wireless data plans and air cards if the entity can demonstrate it is the most cost-effective means of internet access. For E-Rate participants, CTF will accept documentation of the Federal Communication Commission's E-Rate approval of the entity's wireless data plan as evidence that it is the most cost-effective solution available. For entities that do not receive E-Rate, the Commission stated that it would develop methods to determine whether wireless data plans for non-E-Rate participants are the most cost-effective form of internet access during Phase 3. Parties are directed to respond to the following questions about issue 2:

1. What methodology should the Commission adopt to determine if data plans are the most cost-effective form of internet access?
2. What are the issues that the Commission must identify to address cost-effectiveness for internet access?

3. Are there elements of the E-Rate approval process that the Commission can use for CTF analysis of data plan cost effectiveness?
4. Should the Commission hold a workshop to discuss the relevant items needed to resolve issue 2?

Initial comments on issues 1 and 2 should be submitted by January 15, 2016, with reply comments submitted by January 29, 2016. The Commission will use this information to form the basis of the record for a targeted spring 2016 decision to resolve these issues. If the Commission determines that a workshop should be held to inform issue 2, that issue will be resolved in a later decision.

As in Phase 2, CTF program participants that would like to offer their views but are not active parties to the proceeding will be able to do so on the CTF Rulemaking Webpage where an electronic form will be available for direct input.

Resolving Issues 3 through 8

The Commission will be communicating with parties to indicate how and when we will tackle the resolution of issues 3 through 8. As mentioned during the PHC, Commission staffing constraints prevent providing more precise information about the timing for addressing each issue. However, the Commission intends to resolve all issues not addressed in the spring 2016 decision in a separate decision targeted for later in 2016.

Parties are directed to respond to the following questions about issues 3 through 8, pursuant to the schedule set forth in section 2 below:

Issue 3

- Based on the forecast submitted by the California Telehealth Network, attached as Appendix A, should the Commission institute a \$3 million budget cap for CTN members and adjust for inflation beginning in 2019?

- How should the budget cap for the health care/health services CBO category be determined?
- Should there be an established expiration method for these caps?

Issue 4

- Is the requirement that 50% of a CBO's mission should be services that qualify for CTF an adequate eligibility limitation to prevent excessive CTF support for administrative uses?
- Should the Commission use an assumed "administration factor" to reduce CTF support assumed to apply to administrative uses rather than direct access? If so, what should the factor be?

Issue 5

- Propose documentation and implementation practices for the reapplication process for CBOs. Topics include, but are not limited to, the following requirements: "Qualifying Services" must be 50% or more of a CBO's mission, types of financial statements if a CBO does not have an adequate IRS Form 990, providing community access to the internet, providing direct service to individuals at specific geographic locations, a majority of members of the Board of Directors being members of the served community, and direct provision of services or provision of services through some closely related indirect assistance.

Issue 6

- What documentation should the Commission consider in analyzing cost allocation for eligible services bundled with ineligible services?
- What documentation should the Commission consider in determining whether bundled ineligible services are ancillary?
- Propose standards for Commission review of documentation, including a threshold for "ancillary" and

“most cost-effective means of obtaining the eligible functionality.”

Issue 7

- What are the elements of pricing information that carriers should be required to post and provide?

Issue 8

- How can the Commission more effectively and efficiently administer CTF?

Additional Issues

This scoping memo adds the following issues to Phase 3 of this proceeding that were not specifically mentioned in D.15-07-007:

- Issue 9: Should taxes and fees (such as company-specific surcharges, the CPUC User Fee, the Federal Excise Fee, the 911 Fee, and local taxes) be eligible for CTF support?
- Issue 10: Should Community Colleges be added to the CTF Advisory Committee?
- Issue 11: Is the Federally Qualified Health Center³ qualification process sufficiently similar to the CTF requirements that qualification as a Federally Qualified Health Center should be sufficient to qualify for CTF?

Parties are directed to respond to the questions about issues 9 through 11 pursuant to the schedule set forth in section 2 below.

Safety Considerations

Parties are also directed to comment on whether issues 1-11 raise any safety implications.

³ <http://www.hrsa.gov/healthit/toolbox/RuralHealthITtoolbox/Introduction/qualified.html>.

2. Schedule

We adopt the following preliminary schedule:

Event	Dates
PHC	November 17, 2015
Initial Comments on Issues 1 & 2	January 15, 2016
Reply Comments on Issues 1 & 2	January 29, 2016
Workshop on Issue 2	TBD, if applicable
Proposed Decision on Issues 1 & 2	Spring 2016
Initial Comments on Issues 3 through 11	April 8, 2016
Reply Comments on Issues 3 through 11	May 6, 2016
Potential Workshop on Issues 3 through 11	TBD, if applicable
Proposed Decision on Issues 3 through 11	TBD

If a workshop on Issue 2 is deemed necessary, final resolution of that issue may occur in the second decision targeted for later in 2016.

The assigned Commissioner or Administrative Law Judge (ALJ) may adjust this schedule as necessary for the fair and efficient management of this proceeding. Consistent with Pub. Util. Code § 1701.5, the Commission anticipates that this proceeding will be completed within 18 months of the date of the issuance of this Scoping Ruling.

3. Proceeding Category and Need for Hearings

An earlier Scoping Memo and Ruling issued on November 5, 2013 categorized this proceeding as quasi-legislative as defined in Rule 1.3(d).⁴ Parties did not indicate that any change in categorization was needed for Phase 3 of the proceeding. Parties anticipate that the Phase 3 issues may be resolved through comments and workshops without the need for evidentiary hearings.

4. Presiding Officer

Pursuant to Rule 13.2(c), assigned Commissioner Carla J. Peterman is the Presiding Officer in this proceeding.

5. Need for Workshops

During the PHC, parties voiced that workshops may aid in the resolution of several of the Phase 3 issues. If there are any workshops in this proceeding, notices of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

6. Filing, Service, and Service List

Parties must file documents as required by the Commission Rules or in response to rulings by either the assigned Commissioner or the assigned ALJs. All formally filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing requirements.

⁴ All references to rules are to the Commission's Rules of Practice and Procedures. These rules are available on the Commission's website at:
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M154/K622/154622266.PDF>.

Parties are encouraged to file and serve electronically, whenever possible. This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule allows electronic service of documents, in a searchable format, unless the party or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by U.S. mail. Concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request. More information about electronic filing is available at <http://www.cpuc.ca.gov/puc/efiling>.

Parties are responsible for ensuring that the correct information is contained on the service list, and notifying the Commission's Process Office and other parties of corrections or ministerial changes. (Rule 1.9(f).) Substantive changes (e.g., to be added or removed as a party) must be made by motion. Motions to become a party must conform to Rule 1.4(a) and (b). Over the course of the proceeding, parties must use the most current service list each time service is performed. The service list for this proceeding is on the Commission's web page.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

7. Informal Comments by CTF Program Participants

In order to facilitate increased involvement by CTF program participants in this rulemaking, CBOs were permitted to submit informal comments during Phases 1 and 2. In this Phase 3, CBOs and other CTF program participants that are not active parties to the proceeding may again submit their views without making a formal filing by completing an electronic form designated for this purpose that will be found on the CTF Rulemaking Webpage.⁵ Informal comments and replies submitted on the CTF Rulemaking Webpage shall be submitted on the same dates set for the parties to file Initial and Reply Comments on Issues 1-11.

8. Intervenor Compensation

The prehearing conference in this matter was held on November 17, 2015. Pursuant to Pub. Util. Code § 1804(a)(1) and Rule 17.1(a)(1), a party who intends to seek an award of compensation must file and serve a notice of intent to claim compensation within 30 days after the prehearing conference. Pursuant to Rule 17.1(b), an amended notice of intent may be filed within 15 days after the issuance of the scoping memo in the proceeding.

9. Ex Parte Communications

Ex parte communications are governed by the Public Utilities Code and Commission Rules. In any quasi-legislative proceeding, *ex parte* communications are allowed without restriction.

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http://www.cpuc.ca.gov/PUC/Telco/Public+Programs/CTF/Rulemaking_to_Conduct_a_Comprehensive_Examination_of_the_California_Teleconnect_Fund.htm.

IT IS RULED that the items addressed in the body of this ruling are adopted. In particular:

1. The category of this proceeding is quasi-legislative.
2. Evidentiary hearings are not necessary for Phase 3 issues.
3. Pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure, Commissioner Carla J. Peterman is the Presiding Officer.
4. The issues for Phase 3 of this proceeding are as stated in section 1 of this ruling. The issues may be amended following workshops.
5. The schedule stated in section 2 of the ruling is adopted. The assigned Commissioner or Administrative Law Judge may adjust this schedule as necessary for the fair and efficient management of this proceeding.

Dated December 18, 2015, at San Francisco, California.

/s/ CARLA J. PETERMAN
Carla J. Peterman
Assigned Commissioner

APPENDIX A

Letter from California Telehealth Network

(Dated November 20, 2015)



November 20, 2015

Via Email

Fay Fua

Program Management & Implementation Branch, Communications Division

California Public Utilities Commission

505 Van Ness Avenue

San Francisco, CA 94102

Re: Compliance with Decision No. 15-07-007, Ordering Paragraph #9

Dear Fay:

As required by Ordering Paragraph 9 of Decision Number 15-07-009, the California Teleconnect Fund (CTF) recent decision, this provides a revised forecast (first forecast dated October 23, 2015) for California Telehealth Network (CTN) site counts and expected CTF funding for CTN sites effective July 2015 for the three year period through June 2018:

Site Counts Per Circuit Type Per Year			
	FY2016	FY2017	FY2018
T1-1.5 mbps Bundle	105	114	115
3.0 mbps Bundle	2	2	2
4.5 mbps Bundle	3	3	3
6.0 mbps Bundle	51	51	51
10 mbps Bundle	149	201	249
20 mbps Bundle	46	95	167
30 mbps Bundle	-	-	-
30 mbps Bundle	-	-	-
45 mbps Bundle	51	112	184
50 mbps Bundle	-	-	-
60 mbps Bundle	-	-	-
100 mbps Bundle	43	91	151
1 Gig Bundle	20	56	80
TOTAL	470	725	1,002

CTF Funding Per Circuit Type Per Year			
	FY2016	FY2017	FY2018
T1-1.5 mbps Bundle	\$93,763.15	\$91,587.51	\$96,851.16
3.0 mbps Bundle	\$2,812.95	\$2,812.95	\$2,812.95
4.5 mbps Bundle	\$5,631.44	\$5,631.44	\$5,631.44
6.0 mbps Bundle	\$110,383.69	\$110,383.69	\$110,383.69
10 mbps Bundle	\$151,049.79	\$355,392.39	\$437,257.84
20 mbps Bundle	\$39,484.18	\$171,228.44	\$314,309.73
30 mbps Bundle	\$-	\$-	\$-
30 mbps Bundle	\$-	\$-	\$-
45 mbps Bundle	\$103,354.25	\$386,720.33	\$691,062.37
50 mbps Bundle	\$-	\$-	\$-
60 mbps Bundle	\$-	\$-	\$-
100 mbps Bundle	\$89,640.60	\$353,440.08	\$632,606.52
1 Gig Bundle	\$80,503.50	\$465,349.50	\$812,889.00
TOTAL	\$676,623.56	\$1,942,546.33	\$3,103,804.70

Please note that although CTN does not require sites to disclose prior CTF participation, generally our experience has been that over 50% of new CTN sites already participate in CTF at a higher discount rate than they will receive through CTN and the FCC Healthcare Connect Fund. (See next paragraph for additional explanation.)

You may notice that the forecasted percentage increase in CTF funding is higher than the percentage increase in CTN members. There are two primary reasons for this. First, CTN sites are increasingly ordering larger and more expensive circuits to keep up with the ever growing need for higher bandwidth health care applications like the transmission of patient images, MRI's, etc. We expect this trend to continue and have appropriately forecasted a higher ratio of higher bandwidth circuits. Second, in the past CTN participated in the FCC Rural Health Care Pilot Program (RHCPP) which paid a higher discount at 85% of monthly recurring costs than the current FCC Healthcare Connect Fund which pays 65% of monthly recurring costs. As a result, going forward, CTN forecasts that CTF discounts will increase from 7.5% of CTN site monthly recurring costs under the Pilot Program to 17.5% or half of the Healthcare Connect Fund match.

Our apologies for the delay getting this to you but we have been forced to issue a revised forecast due to CTN financial operations staffing changes and issues with the previous version.

Please feel free to contact me if you would like to discuss further.

Sincerely,

Eric P. Brown
 President & CEO
 California Telehealth Network
 310.365.1450
eric@caltelehealth.org

cc: Rachelle Chong, Outside Counsel