



CJS/ar9 12/24/2015

FILED
12-24-15
09:11 AM

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)

**AMENDED SCOPING MEMORANDUM AND RULING OF THE ASSIGNED
COMMISSIONER, AND PRESIDING OFFICER'S RULING GRANTING,
IN PART, THE MOTION OF TELRITE CORPORATION DBA LIFE WIRELESS,
I-WIRELESS LLC, AND TOTAL CALL MOBILE, INC. (JOINT FILERS)
FOR REINSTATEMENT SERVICE CONNECTION, ACTIVATION,
CONVERSION DISCOUNTS AND REIMBURSEMENTS**

Summary

This ruling establishes the procedural process and scope for Phase II issues in the Rulemaking Regarding Revisions to the California LifeLine Program. The California Public Utilities Commission's consideration of issues regarding the participation in the California LifeLine Program by non-tariffed Voice Over Internet enabled providers is addressed in a separate portion of this rulemaking.

1. Background

On January 16, 2014, the California Public Utilities Commission (Commission) issued its Decision Adopting Revisions to Modernize and Expand the California LifeLine Program, Decision (D.) 14-01-036. D.14-01-036 revised the California LifeLine Program (California LifeLine or LifeLine) by extending the price cap on LifeLine wireline services and adopting specifications for LifeLine wireless services. The adopted California LifeLine service elements promote competition by preserving essential consumer protections across technology platforms and by assuring that minimum communications needs are met for

eligible low-income subscribers. The Commission sought to achieve technological neutrality by focusing on the function California LifeLine service is to perform. D.14-01-036 was the first substantive decision in this proceeding and applied to all extant California LifeLine providers and to those eligible to participate as Phase I providers under the newly adopted rules.

D.14-01-036 deferred consideration of the several issues to this or a subsequent phase of this proceeding. These included: 1) revisions to General Order (GO) 153 to reflect D.14-01-036 policies and requirements; 2) streamlining the process for seeking and receiving Eligible Telecommunications Carrier (ETC) status and for updating the terms and conditions associated with being designated an ETC; 3) implementation of the California LifeLine Program to enable access for low-income households without a Social Security Number; 4) creation of an alternative application process whereby consumers may begin the application process with the California LifeLine Administrator instead of the California LifeLine provider; 5) exploring possible efficiencies in program administration; studying possible improvements in the appeals process for California LifeLine eligibility determinations; 6) exploring outreach strategies and the role of community-based organizations (CBOs); 7) studying the impact of service connection/activation and conversion discounts and reimbursements (hereinafter “connection, activation, conversion discounts and reimbursements”) on the program; 8) investigating concerns related to applicants’ and participants’ privacy; 9) exploring the quality of California LifeLine customer service support received by participants if independent third-party retailers sold the California LifeLine service; 10) exploring how consumers with disabilities may receive California LifeLine information in accessible formats; 11) considering how service suspension for non-payment may be another trigger for ending the

N11 obligation; 12) considering the methods to assess the degree of achievement of universal service, including telephone participation rates by income, ethnicity, and geography; 13) and determining the mechanics of providing access to two California LifeLine discounted telephone lines to Deaf and Disabled Telecommunications Program participants or teletypewriter users.

On May 15, 2015, the assigned Administrative Law Judge (Judge) issued a ruling noticing a Prehearing conference, which sought input from parties regarding the prioritization of these issues. In addition to the issues identified by D.14-01-036, the ruling identified the following additional issues:

1. Other necessary GO 153 revisions to reflect the Commission's adopted policies and requirements prior to D.14-01-036;
2. Elimination of the payment floor in calculating the specific support amount recovery;
3. Weighted Average Revision;
4. Elimination of the unbundling requirement for data when California LifeLine-eligible service packages offer data component at no additional charge;
5. Exploring possible ways to enable applicants with no income or who are unable to produce income documentation necessary to prove eligibility to receive the California LifeLine discounts;
6. Whether consumers are informed during the application process that they are eligible to participate in only one California Lifeline program;
7. Customer protection; customer service issues; and
8. Standards for ETCs and/or ensuring high quality, reliable and affordable service.

During the May 28, 2015, Prehearing Conference, parties addressed the priority of issues each believed the Commission should address during Phase II of this rulemaking. In addition, members of the Low Income Oversight Board

(LIOB) had an opportunity to ask questions and discuss California LifeLine issues of priority to the LIOB.

2. Scope of the Proceeding

Taking into consideration the history of this case, the input of parties and staff, the scope of this proceeding going forward will include the issues noted below. The issues are grouped into prioritized categories and the subcategories listed in each section are listed in descending order in which issues will be addressed through comments and reply comments, workshops, Public Participation Hearings (PPHs), and one or more Decisions.

i) California LifeLine Reimbursements (1st Quarter 2016):

- (1) Analyze service connection, activation, conversion discounts and reimbursements, and suggest appropriate steps to align any service connection, activation, conversion discounts and reimbursements to program goals including services enabled, Lifeline enrollment, competition, and coordination with other public purpose programs such as California Alternative Rates for Energy (CARE) and the Energy Savings Assistance Program (ESA);
- (2) The role of the payment floor in calculating the specific support amount recovery;
- (3) Specific support amount for California LifeLine wireless telephone services with 501-999 voice minutes; and for those services with 1,000 or more minutes; and
- (4) Consider possible revisions to using the daily weighted-average counts of participants as a basis for calculating the amount California LifeLine service providers may recover from the California LifeLine program.
- (5) Renewal Process:
 - a) Explore possible efficiencies in the renewal process; and

- b) Analyze and enable electronic renewal process using mobile applications and platforms and online, phone, and non-mail-based methods; and,
 - c) Identify and suggest steps to remove barriers to renewal including the review of the mail-based renewal system including returned mail, the effectiveness of the PIN-based system, effectiveness of call-in or electronic renewal systems, and differences between mobile and landline Lifeline renewal, and;
- (6) Consider the changes the Commission made to the Lifeline enrollment process since 2012 to enable electronic enrollment and the role of ETCs conveyance of customer data to the Commission's Third Party Lifeline Administrator to evaluate and recommend updates to the Lifeline renewal process, develop and enable electronic renewal through apps, web-enabled, or other technologies; and
- (7) Analyze the role of CBOs, carriers, the California Lifeline Third Party Administrator, and others in the renewal process, and enable appropriate action to facilitate an efficient and effective renewal process.
- ii) **Consumer Protection (2nd Quarter 2016):**
Analyze and suggest appropriate steps regarding:
- (1) Service providers' use of intake or request documents (all mediums);
 - (2) Whether consumers are sufficiently informed during the application process that they can only have one California LifeLine discount per household, and identify steps to ensure that such information is appropriately conveyed;
 - (3) Customer service issues, including switching between service providers and number porting following initial LifeLine enrollment, and whether there should be annual or periodic limits on customer switching between Lifeline carriers in light of program costs and goals;

- (4) Standards for eligible telecommunications carriers to ensure high quality, reliable and affordable service and compliance with Commission and Lifeline program rules;
- (5) Analyze appropriate privacy protection for applicants and participants;
- (6) Quality of California LifeLine customer service support from ETCs, independent third-party retailers that sell California LifeLine service, and others who provide LifeLine customer support;
- (7) Use of third-party agents of ETCs or others to enroll customers, and appropriate steps to ensure compliance with Commission rules.

iii) Affordability (3rd to 4th Quarter 2016):

- (1) The Commission's Competition Order Instituting Investigation 15-11-007 referred to the Lifeline proceeding (Rulemaking (R.) 11-03-013) the issue of the "affordability" of telecommunications services in California.
 - a) Define standards for assessing affordability of telecommunications services in California including considering poverty levels and the cost of living in California, service availability and costs in regions and localities, and other factors that affect affordability including regional and local differences.
 - b) Identify barriers to affordability of telecommunications services, including, but not limited to, in local markets: the extent and type of competition; service coverage and types by different competitors including caps that affect service affordability; customer subscription levels to different types of telecommunications services (e.g. wireline, wireless, VoIP, etc.); facilities to support service including by facilities-based providers, as distinguished from resellers; and other factors, and identify appropriate steps to promote access to affordable telecommunications services through the LifeLine program and/or through other state, federal, local, or tribal programs.

- (2) Analyze whether the LifeLine income eligibility standards are well-calibrated to promote affordability and access to reliable telecommunications services; whether income-based eligibility (150% of federal poverty level) can or should be calibrated to be equivalent to program-based eligibility (approximately 200% of federal poverty level for many qualifying programs), and suggest appropriate adjustments to achieve program access objectives and administrative efficiencies.
- (3) Evaluate the monthly California LifeLine service rate cap for California LifeLine wireline telephone service, including telephone participation rates.
- (4) Evaluate availability and affordability of telecommunications services including Lifeline service in tribal regions of California, and identify strategies to increase telecommunications affordability and Lifeline service in those regions.
- (5) Examine other issues relevant to affordability as identified during Phase II.

iv) **Eligible Telecommunications Carrier Designation Process (3rd to 4th Quarter 2016):**

- (1) Streamline the process for seeking and receiving designation as an ETC and for updating the terms and conditions associated with being designated as an ETC, considering prudent steps and criteria to protect consumers, ensure compliance with program rules, and achieve program goals.

v) **Enrollment Process (3rd to 4th Quarter 2016)**

- (1) Consider creating an alternative application process whereby customers may begin the application process with the California Lifeline Administrator, a CBO, or other entity, in addition to the California LifeLine provider;
- (2) Create a process for applicants who lack a Social Security Number to receive the California LifeLine discounts;
- (3) Study and recommend possible improvements in the appeals process for California LifeLine eligibility

determinations to ensure that eligible Californians are able to expeditiously enroll and balance administrative efficiency;

- (4) Explore possible efficiencies in program administration;
- (5) Explore possible ways for applicants with no income or who are unable to produce income documentation to be able to enroll in California LifeLine discounts, consistent with program integrity, efficiency, and goals.

vi) California LifeLine Service Elements (4th Quarter 2016):

- (1) Determine the mechanics of providing access to two California LifeLine discounted telephone lines to Deaf and Disabled Telecommunications Program Participants or teletypewriters;
- (2) Examine elimination of the unbundling requirement for data when California LifeLine-eligible service packages offer a data component at no additional charge;
- (3) Consider whether service suspension for non-payment may serve as a trigger for ending N11 obligation;
- (4) Consider how California LifeLine service providers should apply the Minimum Elements Rule to promotions and whether the rules should be modified for promotions to avoid partial loss of reimbursement to wireline carriers and to increase choices for consumers, while balancing program objectives, costs, and ensuring that customers understand duration or other limits of promotional offerings.¹
- (5) Evaluate whether the service connection fees paid by California Lifeline participants should be adjusted to achieve program goals and efficiencies as California LifeLine wireless participants pay a discounted rate of \$0 for service connections while California LifeLine wireline

¹ These issues are raised by Cox California Telecom, LLC in R.11-03-013 in its Petition for Modification of Decision 14-01-036 filed November 30, 2014.

participants pay the lesser of \$10 or of one-half of the regular service connection charge;

vii) Update General Order 153 (4th Quarter 2016):

- (1) Other necessary General Order 153 revisions to reflect the Commission's adopted policies and requirements before and subsequent to D.14-01-036;
- (2) Consider whether any adjustments are appropriate for the Weighted Average customer methodology and process used for reimbursement and program administration.

viii) Outreach (Medium 3rd to 4th Quarter 2016):

- (1) Explore outreach strategies and the role of CBOs;
- (2) Explore options to provide information in accessible formats to consumers with disabilities;
- (3) Consider methods to assess the degree of achievement of universal service, including telephone participation rates by income, ethnicity, and geography.
- (4) Analyze and consider steps to improve outreach in Tribal Regions.

2.1. Connection, activation, conversion discounts and reimbursements and Motion for Emergency Order Reinstating Payments of Reimbursement for California LifeLine Wireless Service Connection/Activation and Service Conversion Charges

On July 30, 2015, Telrite Corporation dba Life Wireless (U442C), I-Wireless LLC (U4372C), and Total Call Mobile, Inc. (U4360C) (Joint Filers) moved for an order reinstating payments of reimbursement for California LifeLine wireless service connection, activation, conversion discounts and reimbursements. Communications Division staff informed the LifeLine Working Group in June 2015 that support for service connection, activation, conversion discounts and reimbursements would cease by June 30, 2015 on the basis of the language in footnote 57 of D.14-01-036, which states, "This variable \$39 discount and support will be in effect until June 30, 2015." A similar statement is contained in the

instructions to the Wireless Claim Form used by providers to obtain LifeLine reimbursement.

The Joint Filers argue an emergency order is necessary because they designed their California LifeLine service plans based on the understanding that these revenue streams would continue unless the Commission, in a subsequent phase of this proceeding, determined that particular support payments should be discontinued or revised. Joint Filers argue that footnote 57 of D.14-01-036 and the Wireless Claim Form do not mandate the discontinuance of the \$39 service connection, activation, conversion discounts and reimbursements as that the footnote language was not carried forward in the decision to an ordering paragraph, nor supported by any finding of fact, conclusion of law, or text in the body of the decision. Joint Filers note that the text of D.14-01-036 states, "We will monitor the continued impact of funding these discounts on nonrecurring charges, and may reconsider them in a subsequent decision."

D.14-01-036 continued:

We recognize the support amounts are based upon the rates of COLRs' basic telephone service only through wireline service. Therefore, we will continue to monitor the California LifeLine wireless market. If California LifeLine wireless service becomes unaffordable, if trends or issues in program administration and design suggest that support amounts are insufficient, or if other elements of LifeLine wireless service should be adjusted, we will modify accordingly in subsequent decisions.

In evaluating the trends since the June 30, 2015 cessation of the \$39 service connection, activation, conversion discounts and reimbursements wireless LifeLine enrollment growth has slowed and in some months declined. California LifeLine wireless enrollment experienced a dramatic increase in 2014 after D.14-01-036 authorized California Wireless Lifeline, ranging from a more than

1,100% enrollment increase in April 2014, to a 19% increase in December 2014. In 2015, California LifeLine wireless enrollment increased 21% in January 2015 and 10% in June 2015. After the suspension of service connection/activation/conversion discounts and reimbursement, LifeLine wireless enrollment growth declined from a 5% increase in July 2015, to a 1.2% increase in September 2015. Wireless LifeLine enrollment decreased by 1.23% in October 2015 and by 0.17% in November 2015. It is not clear whether the cessation of these reimbursements caused the decline in LifeLine enrollment, or whether that decline is due to other factors such as the decline in reenrollment, particularly for wireless households, many of whom had moved so their reenrollment notice sent by U.S. mail was returned.

In light of the procedural objection that footnote 57 was not carried forward into the findings of fact, conclusions of law, and ordering paragraphs of D.14-01-036, and the commitment expressed in the text of that decision to monitor the impact of such connection/conversion/activation/discounts and reimbursements on the fund and program, and the changes in wireless LifeLine enrollment since the suspension of these discounts and reimbursements the Joint Filers' motion for an emergency order is granted with the modifications as described below.

Service connection/activation/and conversion discounts and reimbursements shall be permitted no more than two times annually per eligible LifeLine household at the rate of \$39.00 through December 2016 or the Commission's adoption of a Decision which addresses this issue, whichever comes first. This limit on eligible household use of the service connection/activation/and conversion discounts and reimbursements is merited to ensure the LifeLine Fund's solvency and prudent administration, support

initial establishment of LifeLine service, reestablishment of service after a gap in program enrollment, and facilitate customer choice and competition.

Consumers may change or reestablish their LifeLine service carrier more often if they wish, but each eligible household will only be eligible for reimbursement of service connection/activation/discounts no more than twice annually. ETCs and any third-party agents or sellers must inform consumers in writing and verbally prior to service initiation, reestablishment or carrier change that the LifeLine fund will pay for no more than two connection/activation/conversion fees per year, and clarify whether the consumer or the carrier will be responsible for any such fee associated with the transaction that is not eligible for reimbursement from the LifeLine fund.

The Commission seeks to re-examine the reimbursement for non-recurring service connection/activation and service conversion charges through this phase of the proceeding, to determine whether these conversion charges and reimbursements should continue or be modified or eliminated after December 31, 2016 or upon adoption of Commission's Decision on this issue.

The Commission asks parties to file comments regarding the following:

- What changes, if any, should be made to California LifeLine reimbursement for these non-recurring service connection/activation and reimbursement charges and reimbursements for California LifeLine wireless and wireline services;
- Should reimbursement for these non-recurring charges for California LifeLine be limited to a specific number of times annually per eligible household, how many times should that be, and how should consumer dissatisfaction with the LifeLine service or phone, or policies to promote consumer choice and competition affect our determination;

- Which types of activities should be eligible for connection/activation/and conversion discounts and reimbursement: 1) establishing a new telephone connection; 2) re-establishing service at the same principal place of residence; 3) establishing service at a new principal place of residence; 4) transferring service between service providers; 5) changes to the class, type, or grade of service, or; 6) other types of activities or services such as support for Smartphones to enable broadband use and coordination with other programs such as CARE/ESA? Should reimbursements and discounts for connection/activation/conversion charges vary according to the purposes for which it is used?
- Should carrier use of LifeLine funds for reimbursement for service connection/activation and service conversion non-recurring charges be limited to certain types of costs or services, or should have carriers have discretion to apply those funds to program or service offerings such as offsetting the cost of smartphones or internet capable wireless phones? Is the use of such funds for a range of purposes including devices consistent with the Public Utilities Code; and
- Other Issues relevant to the Commission's consideration of this issue.

Comments shall be due January 28, 2016, and reply comments shall be due February 22, 2016.

3. Category of Proceeding and Need for Evidentiary Hearings

There is no change in the category of this proceeding as quasi-legislative, as defined by Rule 1.3(d), and that evidentiary hearings are not necessary.

4. Schedule

Pursuant to Pub. Util. Code § 1701.5, it is anticipated that this proceeding will be concluded within 18 months of the issuance of this Scoping Memo, and

the schedule plans for conclusion of this proceeding by December 31, 2016. The schedule is set forth below:

Issue	Date
Comments regarding reimbursement of non-recurring charges for service connection/activation and service conversion charges	January 28, 2016
Reply comments regarding reimbursement of non-recurring charges for service connection/activation and service conversion charges	February 22, 2016
Comments regarding issues listed in this Scoping Memo remaining in Phase II other than service connection/activation/ and service discounts and reimbursements	March 4, 2016
Reply comments on those issues	March 30, 2016
Workshop on LifeLine Phase II issues in this Scoping Memo (two-day workshop at the Commission in San Francisco)	February 2016, date to be announced
Workshop Report, Comments and Reply Comments	March -April 2016 Dates to be announced
Public Participation Hearings (PPHs may be held in coordination with other Commission proceedings including Investigation 14-05-012 (OII to Address Intrastate Rural Call Completion Issues)).	1 st and 2 nd Quarter 2016
Proposed Decision(s) (Some issues may be addressed in a separate decision to expedite resolution of issues)	2 nd Quarter 2016 Proposed Decision regarding reimbursement

	<p>of non-recurring charges for service connection/activation and service conversion charges;</p> <p>Proposed Decision on other issues in this Scoping Memo 3rd and 4th Quarter 2016.</p>
--	---

The procedural schedule is subject to change by subsequent ruling of the assigned Commissioner or assigned Administrative Law Judge, as appropriate. If there are any workshops in this proceeding, notice 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.

Parties may submit comments on the prioritization of the issues remaining in Phase II, listed above in Section 5. Parties who choose to comment on the priority of the listed issues shall file comments by within 30 days of the issuance of this amended scoping memo and ruling.

5. Designation of Presiding Officer

Today’s scoping memo adopts a procedural schedule that does not include formal hearings. The presiding officer is designated as Commissioner Catherine J.K. Sandoval.

6. Service List and Service Requirements

The current official service list for this proceeding is maintained by the Commission’s Process Office and posted on the Commission’s web page, at www.cpuc.ca.gov. The Commission will rely primarily on e-mail service of all documents it issues during this proceeding. The Commission will not rely on

paper service unless requested by a party. Whenever possible, e-mail should be transmitted no later than 5:00 p.m. on the date scheduled for service to occur. All parties must provide a current valid e-mail address for the service list. All persons on the service list are responsible for ensuring that the correct information is contained on the service list, and notifying the Process Office of corrections or changes, in accordance with Rule 1.9(f). Rules for service are found in the Commission's Rules of Practice and Procedure.

7. Request for Party Status

Requests for Party Status must be made by motion, in accordance with Rule 1.4.

8. Intervenor Compensation

Parties that have not previously filed notices of intent to claim intervenor compensation in this rulemaking must file within 30 days of today's ruling. Parties that have already filed in this rulemaking must only file a revised notice of intent if material changes exist in eligibility criteria.

9. Ex Parte Communication

The Commission's *ex parte* communication rules set forth in Rule 8.3(a), "In any quasi-legislative proceeding, *ex parte* communications are allowed without restriction or reporting requirement," shall apply in this proceeding.

IT IS RULED that:

1. The scope of the proceeding is set forth in Section 2 and 2.1. above.
2. The schedule for the proceeding is set forth in Section 4 above, subject to change by subsequent ruling of the assigned Commissioner or assigned Administrative Law Judge, as appropriate.

3. The schedule does not anticipate formal hearings. It is anticipated that the record will be composed of all documents filed and served in this proceeding, Workshop reports and transcripts, and Public Participation Hearing transcripts, and items subject to judicial notice under California Evidence Code 450-460.

4. Comments regarding prioritization of issues remaining in Phase II – Non-VoIP Issues may be filed 30 days from the issuance of this Amended Scoping Memo and Ruling by the assigned Commissioner.

5. Comments regarding reimbursement of nonrecurring charges for service connection, activation, and conversion shall be filed on January 28, 2016, and reply comments on February 22, 2016.

6. Comments regarding issues listed in this Amended Scoping Memo and Ruling remaining in Phase II other than service connection/activation/ and service discounts and reimbursements shall be due March 4, 2016, and reply comments shall be due March 30, 2016.

7. The Commission determination that this proceeding should be categorized as “quasi-legislative,” as that term is defined in Pub. Util. Code § 1701.1 (c)(1) shall remain unchanged. As set forth in Rule 7.6, the determination as to category is subject to appeal.

8. Parties that have not previously filed notices of intent to claim intervenor compensation in this rulemaking must file within 30 days of today’s ruling.

9. Parties that have already filed in this rulemaking must only file a revised notice of intent if material changes exist in eligibility criteria.

10. Telrite Corporation dba Life Wireless (U442C), I-Wireless LLC (U4372C), and Total Call Mobile, Inc. (U4360C) (Joint Filers) Motion for Emergency Order Reinstating Payments of Reimbursement for California LifeLine Wireless Service Connection/Activation and Service Conversion Charges is granted as modified

herein to permit service connection/activation/and conversion discounts and reimbursements from the California LifeLine program no more than two times annually per eligible LifeLine household at the rate of \$39.00 through December 2016 or the Commission's adoption of a Decision which addresses this issue, whichever comes first. Eligible LifeLine Consumers may change their LifeLine carrier or reestablish service more often if they wish, but each eligible household will only be eligible for reimbursement of service connection/activation/discounts no more than twice annually. Carriers must inform consumers in writing and verbally prior to service initiation that the LifeLine fund will pay for no more than two connection/activation/conversion fees per year, and clarify whether the consumer or the carrier will be responsible for any fee associated with a transaction that is no eligible for connection/activation/conversion reimbursement from the LifeLine fund.

Dated December 24, 2015, at San Francisco, California.

/s/ CATHERINE J.K. SANDOVAL
Catherine J.K. Sandoval
Assigned Commissioner