

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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

R.11-03-013  
(Filed March 24, 2011)

**REPLY COMMENTS OF AT&T ON PROPOSED DECISION**

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AT&T<sup>1</sup> respectfully submits its Reply Comments on the Proposed Decision (“PD”) filed on September 27, 2016.

**Response to CALTEL.** AT&T supports the Comments of CALTEL, particularly as they relate to the PD’s performance bond requirement.<sup>2</sup> As CALTEL notes, the record and logic do not support the PD’s proposal for a performance bond greater than \$25,000 for non-certificated VoIP LifeLine providers.

**Response to Joint Consumers.** AT&T opposes the proposals in the joint comments filed by the Center for Accessible Technology, the Greenlining Institute and The Utility Reform Network (“Joint Consumers”). Joint Consumers first contend the PD should be revised to remove the conclusion that non-certificated VoIP providers are not “telephone corporations” under Pub. Util. Code § 234.<sup>3</sup> They also take issue with the conclusion that Pub. Util. Code § 710 would not allow the Commission to force non-certificated VoIP providers to become LifeLine providers.<sup>4</sup> Joint Consumers argue that these legal conclusions should be removed to “avoid uncertainty,” but removing those conclusions would only *create* uncertainty for VoIP providers. If participation in the LifeLine program is to be truly voluntary and encouraged, as the PD intends, VoIP providers must not have to operate with the fear that at any time the Commission could declare them to be “telephone corporations” or not protected by Section 710, and thereby subject to a range of new regulation. Moreover, while Joint Consumers may

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<sup>1</sup> Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C); AT&T Corp. (U 5002 C); Teleport Communications America, LLC (U 5454 C); and AT&T Mobility LLC (New Cingular Wireless PCS, LLC (U 3060 C); AT&T Mobility Wireless Operations Holdings, Inc. (U 3021 C); and, Santa Barbara Cellular Systems, Ltd. (U 3015 C)), collectively hereinafter “AT&T.”

<sup>2</sup> See CALTEL Comments, pp. 3-4 (Oct. 17, 2016).

<sup>3</sup> Joint Consumers Comments, pp. 2-3 (Oct. 17, 2016).

<sup>4</sup> *Id* at 4.

disagree with the wording of the PD, nothing in their Comments even attempts to prove any “legal error” in the PD.

The remainder of Joint Consumers’ Comments seek to impose a range of obligations on non-certificated VoIP providers that are not borne by wireless providers (whose participation in the LifeLine program is also voluntary) and that are typically borne only by certificated utilities. And they would impose those duties *on top of* the already overly onerous duties that the PD would impose. Specifically, Joint Consumers would:

- Require that complaints about *any* service in a bundle with LifeLine voice service could proceed via any of the same procedural paths as complaints about LifeLine voice service;
- Require non-certificated VoIP providers to respond to Staff data requests regarding *any* service they provide in a bundle with LifeLine service;
- Limit term contracts to one year;
- Impose new billing requirements;
- Apply certain rules regarding different payment methodologies, disconnection for nonpayment, and certain customer disclosures;
- Require providers to offer LifeLine service throughout their serving footprint in California;
- Impose additional “exit” requirements beyond those required by the PD, such as the Mass Migration rules under Decisions 06-10-021 and 10-07-024.<sup>5</sup>

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<sup>5</sup> *Re Transfer of Customers from Competitive Local Carriers Exiting the Local Telecommunications Market*, Decision No. 06-10-021, *Opinion Adopting Mass Migration Guidelines*, 253 P.U.R.4th 112 (Oct. 5, 2006), as modified by Decision No. 10-07-024, *Decision Adopting Guidelines for Competitive Local Exchange Carriers Involuntary Exits and Principles and Procedures for CLEC End-User*

None of those requirements are appropriate for non-certificated VoIP providers, for several reasons.

*First*, the most successful form of LifeLine service is wireless service, which now accounts for about 75% of LifeLine lines in California. Provision of LifeLine service by wireless carriers is voluntary, and wireless carriers that elect to provide LifeLine service are not subject to any of the requirements that Joint Consumers propose here. Indeed, Joint Consumers themselves say it is “critical” that the same requirements apply to “all provider participants, regardless of the technology platform used to provide the service.”<sup>6</sup> But if they believe that, it is also true that certain providers should not bear greater burdens just because of the technology platform they use. And that is why non-certificated VoIP carriers that elect to offer LifeLine service should not be treated differently than wireless carriers that voluntarily offer LifeLine service.

*Second*, Joint Consumers do not provide any support for imposing these additional obligations on VoIP LifeLine providers. Certainly there is no less interest in protecting customers of wireless LifeLine providers than VoIP LifeLine providers, yet wireless LifeLine has succeeded without any of the extra requirements proposed by Joint Consumers, and there is no evidence of wireless customers being at a disadvantage. And the fact that VoIP providers use a wire, and wireless carriers do not, makes no difference in this context.

*Third*, Joint Consumers’ proposed requirements would make it even less likely that any non-certificated VoIP provider would want to provide LifeLine service. For example, if providing LifeLine service is supposed to be voluntary, there is no basis for requiring a VoIP

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*Migrations and Modifying the Mass Migration Guidelines*, 2010 WL 3194651 (Cal. P.U.C. July 29, 2010).

<sup>6</sup> Joint Consumers Comments, p. 2.

provider to offer LifeLine throughout its entire footprint. Rather, the VoIP provider should be free to decide for itself not only *whether* to offer the service, but also *where* to offer the service. Voluntarily providing LifeLine service is not the same thing as being a carrier of last resort. Moreover, contrary to Joint Consumers' claims, there is no "discrimination" issue as long as the VoIP provider treats all customers equally *in the area where it voluntarily choose to provide LifeLine service*. It is not "discriminatory" not to offer a service or discount in areas where the carrier has no legal duty to offer that service or discount.

As another example, imposing the Mass Migration exit rules would make no sense in this context and would discourage LifeLine participation. A VoIP provider that exits LifeLine service would not necessarily be going out of business – it would just be discontinuing the LifeLine discount while still providing its normal services. It therefore would make no sense to subject such VoIP providers to the obligations of the Mass Migration rules, which are designed for carriers that are going out of business.

In short, if the Commission wants to encourage voluntary VoIP LifeLine service, it should treat non-certificated VoIP providers no differently than wireless carriers. Following Joint Consumers' proposed path would only add barriers and disincentives for VoIP providers, on top of the significant barriers already contained in the PD.

Finally, both Joint Consumers and the PD's onerous proposed requirements ignore the fact that any consumer that would buy VoIP LifeLine would do so by choice, a choice informed by considering other available LifeLine offers from wireless and wireline providers. In such circumstances, the idea that a heavily regulated, Commission-designed VoIP LifeLine product

