

Decision 10-11-033 November 19, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own
Motion to Review the
Telecommunications Public Policy
Programs.

Rulemaking 06-05-028
(Filed May 25, 2006)

**DECISION ADOPTING FORWARD LOOKING MODIFICATIONS
TO CALIFORNIA LIFELINE IN COMPLIANCE WITH
THE MOORE UNIVERSAL TELEPHONE SERVICE ACT**

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**DECISION ADOPTING FORWARD LOOKING MODIFICATIONS
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1. Summary

In 2006, the Commission opened this Rulemaking to evaluate whether California's universal service public policy programs should be updated to reflect changes in the telecommunications industry. Through this Rulemaking, the Commission set out to reform California LifeLine in order to guarantee high-quality communication services were affordable and widely available to all. This decision adopts a new methodology for providing LifeLine support to consumers and in doing so ensures that the Commission will continue to monitor impacts on ratepayers, make sure that the basic rate remains just and reasonable, and that the LifeLine rate remains affordable.

This decision recognizes significant technological and regulatory changes in the telecommunications industry and the flexibility of the statutory structure underlying the Moore Universal Telephone Service Act,¹ which we now refer to as the California LifeLine Program (California LifeLine or LifeLine).² Our work over the past four years to evaluate whether and how to reform California LifeLine has proved quite prescient as the pace of change that drove the rulemaking has only increased since 2006. Consumers have accelerated their use of communication options that have never been subject to traditional utility regulation and have not participated in the California LifeLine Program. A

¹ The formal name specified in Pub. Util. Code § 871 for the program which has come to be known as the "California LifeLine Program."

² The entire program is established in Pub. Util. Code §§ 871-884.

challenge for the Commission is how to make those communication services that consumers are choosing available to LifeLine customers. This decision clarifies that non-traditional carriers may participate and offer their services to consumers eligible for California LifeLine.

This decision targets reforms to the most pressing problems confronting the California LifeLine Program and adopts the following changes to the program:

- “De-links” California LifeLine from the AT&T basic rate structure in order to ensure ongoing compliance with Section 874 of the Public Utilities Code, and determines that a Specific Support Amount methodology is the best option to continue to meet the goals of the Moore Act and our overall universal service goals.
- Sets a Specific Support Amount at 55 percent of the highest basic rate of the State’s URF carriers of last resort. Each carrier will receive the Specific Support Amount (with some exceptions), and the initial Specific Support amount shall be set at \$11.50, effective July 1, 2011.
- Each carrier’s LifeLine rate will be capped at no more than 50 percent of its basic service rate.
- Each carrier may reset its LifeLine rate on an annual basis. Each carrier’s LifeLine rate will be calculated by subtracting the Specific Support amount and any applicable Federal Lifeline and Linkup subsidy from its basic rate.
- Caps the current California LifeLine rate at \$6.84 for the next two years for most customers.
- Eliminates the current price floor and allows carriers to charge customers less than AT&T’s 2006 basic service rates. However, this decision also requires carriers offering LifeLine to charge LifeLine customers at least \$5 per month (exclusive of tribal customers receiving federal Tier 4 subsidy).

- Expands the LifeLine program to include data services for consumers that receive wireless equipment through the CPUC's Deaf and Disabled Telecommunications Program (DDTP).
- Allows non-traditional carriers, such as wireless carriers and voice over internet protocol (VoIP) companies, to participate in the California LifeLine program consistent with current requirements. This decision establishes a separate phase to consider implementation changes needed to facilitate participation in LifeLine for non-traditional carriers, including data services for DDTP – eligible consumers, wireless carriers, and other non-traditional carriers.
- Eliminates excess payments to carriers for administration, bad debt, and to make up for forgone Federal support.

2. Background

On April 14, 2006, the Staff of the Commission's Telecommunications³ and Strategic Planning⁴ Divisions published a comprehensive report on the Public Policy Programs, which described each program and the need for review. On April 25 and 26, 2006, the Assigned Commissioner convened two workshops to take comment from interested parties on the scope and objectives of this proceeding.⁵

On May 25, 2006, the Commission opened this rulemaking to conduct a comprehensive review of its Telecommunications Public Policy Programs – California LifeLine, Payphone Programs, Deaf and Disabled

³ Now known as the Communications Division.

⁴ Now known as the Policy & Planning Division.

⁵ The workshops occurred on April 25 and 26, 2006, and were well-attended.

Telecommunications Program (DDTP),⁶ and California Teleconnect Fund (CTF). To initiate the formal review, the Commission posed a series of questions regarding these programs and set filing dates for initial comments and proposals as well as reply comments. The Commission also stated that at least three public participation hearings would be held at locations throughout the state.

Initial comments and proposals were filed on July 28, 2006,⁷ with reply comments following on September 15, 2006. Public Participation Hearings were held in San Diego,⁸ Oxnard,⁹ and Sacramento.¹⁰ Comments focused on changes needed to the LifeLine program, including the affordability of telephone service and the need to include wireless services in the LifeLine program. Many

⁶ The Deaf and Disabled Telecommunications Program was established by the Commission to comply with Pub. Util. Code §§ 2881-2881.2. The Legislature updated the Commission's oversight of the program with Pub. Util. Code § 278, which formalized the advisory board and created a fund to be overseen by the state Controller.

⁷ The following parties submitted initial comments: Assistive Technology Law Center, Pacific Bell Telephone Company dba AT&T California, California Cable and Telecommunication Association, California Coalition of Agencies Serving the Deaf and Hard of Hearing, California Communications Access Foundation, California Council of the Blind, California Payphone Association, California Community Technology Policy Group and Latino Issues Forum, Cingular Wireless, Citizens/Frontier Telephone, Cox California, Cricket Communications, Disability Rights Advocates, Division of Ratepayer Advocates, Equipment Program Advisory Committee, FONES4All, Greenlining Institute, 14 Small Local Exchange Carriers, SureWest Telephone, Telecommunications Access for the Deaf and Disabled Advisory Committee, The Utility Reform Network and National Consumer Law Center, Verizon California Inc., Verizon Wireless, Winston Ching, and the World Institute on Disabilities.

⁸ September 25, 2006. *See* R.06-05-028 Public Participation Hearings Volume 1.

⁹ October 26, 2006. *See* R.06-05-028 Public Participation Hearings Volume 2.

¹⁰ November 3, 2006. *See* R.06-05-028 Public Participation Hearings Volume 3.

LifeLine consumers also wanted to purchase additional communication services without losing the discount.

On July 13, 2007, the assigned Commissioner and Administrative Law Judge issued a ruling and scoping memo to define the specific issues to be addressed for each program. A workshop focused on General Order (GO) 153 was convened on August 15, 2007.¹¹ A summary of the extensive input provided in this Rulemaking can be found at Appendix A.

On June 12, 2008, the Commission issued D.08-06-020, addressing the CTF, Payphone, and DDTP programs. This decision concluded the Commission's review of these four public policy programs, leaving only the California LifeLine Program for consideration by the Commission.

A proposed decision on California LifeLine was issued in April 2009. This Proposed Decision was subsequently withdrawn after a request from the Legislature so that the Legislature could consider additional statutory changes in 2009 and 2010.¹²

3. Program History, and Technological and Regulatory Change

The Legislature adopted the Moore Universal Telephone Service Act in 1983 to address the expected increases in local telephone service charges due to the breakup of the AT&T Bell system into long-distance and local service

¹¹ Staff Report on August 15, 2007 Workshop in Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs, R.06-05-028.

¹² The Legislature approved AB 2213 (Fuentes) to replace the term residential with the term households in order to require that a lifeline telephone service subscriber be provided with one lifeline subscription, as defined by the commission, at his or her principal place of residence. The Governor signed AB 2213 into law on September 25, 2010.

carriers.¹³ Until divestiture, AT&T's rate structure allowed higher cost local service and discounted service to low-income customers¹⁴ to be supported by long distance service charges. With the corporate separation of these components of telephone service, regulators expected that customers would be required to absorb a higher portion of actual local service costs through higher basic monthly service rates, which would present a serious financial obstacle for many customers.¹⁵

The purpose of the Moore Universal Service Act was to provide rate relief for customers "who are most vulnerable to the rising costs of phone service," including "the needy, the elderly, the handicapped or infirm, and rural residents."¹⁶ The Commission noted that it had "many options available to it under the Moore Act for setting LifeLine rates," and then adopted a 50% discount on the otherwise applicable residential service rate.¹⁷

In 1995, the Commission initiated revisions to its Universal Service rules, including the LifeLine program, to address the then-new competition in the

¹³ Re Moore Universal Telephone Service Act, 14 CPUC2d 616, 617 (D.84-04-053). In 1983, the Moore Universal Telephone Service Act was implemented (Pub. Util. Code Section 871, Stats. 1987, Chap. 163, Sec. 2) with the goal of offering high quality basic telephone service at affordable rates to the greatest number of citizens.

¹⁴ See Re General Telephone Company (1969) 69 CPUC 601, 676, See also Re Pacific Telephone & Telegraph (1969) 69 CPUC 55, 83. The Commission modified the California LifeLine service from 1969 to 1984 through general rate cases of the telephone companies.

¹⁵ D.84-04-053, 14 CPUC2d at 618.

¹⁶ *Id.* at 622-623.

¹⁷ *Id.* at 623, citing Pub. Util. Code § 874.

provision of local exchange service.¹⁸ The Commission first set forth the two essential elements of universal service:

- a minimum level of telecommunications services is available to virtually everyone in the state, i.e., there is ubiquitous presence of telecommunications services throughout the state, and
- the rates for such services remain reasonable.¹⁹

The Commission's regulation of local exchange carriers has evolved over the 20 years since the Moore Act was adopted by the Legislature and implemented by the Commission.²⁰

In 2005, the Commission undertook its most recent comprehensive review of its regulation of local exchange carriers. On August 30, 2006, the Commission adopted D.06-08-030 which further changed rate regulation for California's four largest incumbent local exchange carriers – Pacific Bell, Verizon, SureWest Telephone, and Citizens Telecommunications Company of California dba Frontier Telecommunications Company of California – by adopting a Uniform Regulatory Framework.²¹ With the objective of symmetrically regulating all

¹⁸ Re Universal Service and Compliance with the Mandates of Assembly Bill 3643, 60 CPUC2d 536 (D.95-07-050).

¹⁹ *Id.* at 546.

²⁰ In 1989, the Commission adopted an incentive-based regulatory framework which, rather than solely focusing on costs, used a price cap indexing mechanism to create incentives for efficiency by the carriers. This approach came to be known as the New Regulatory Framework (or "NRF"). *See, e.g.,* Order Instituting Rulemaking/Order Instituting Investigation on the Commission's Own Motion to Assess and Revise the New Regulatory Framework for Pacific Bell and Verizon California Incorporated,, D.02-10-020 ("NRF IV").

²¹ Re Uniform Regulatory Frameworks for Local Exchange Carriers, D.06-08-030.

providers of telecommunications service, the decision eliminated all retail price regulations for all business services.²² Retail price regulation for residential service, with the exception of basic service, was also eliminated.²³ The existing price caps on basic residential service were to remain in place until January 1, 2009, after which these four carriers would have unlimited authority to set prices for basic residential service.²⁴ Geographically averaged residential basic service rates would no longer be required.²⁵

The Uniform Regulatory Framework (URF) decision also relaxed the procedural requirements for these four incumbent local exchange carriers when offering new services and filing tariffs.²⁶ These carriers can now provide new services with full pricing flexibility. The carriers were also authorized to allow all tariffs to go into effect on a same day filing, but any tariffs that impose price increases or service restrictions require a 30-day advance notice to all affected customers.²⁷

The URF decision continued price regulation for basic residential telephone service until January 1, 2009, consistent with the intent of the California Legislature as expressed in the Digital Infrastructure and Video

²² *Id.* at Ordering Paragraph 5.

²³ *Id.*

²⁴ *Id.* at Ordering Paragraph 3. The Commission subsequently extended rate caps until January 1, 2011 in D.08-09-042.

²⁵ D.06-08-030 at Ordering Paragraph 1 as modified by D.08-09-042 at Finding of Fact 30 and Ordering Paragraph 4.

²⁶ URF Decision D.06-08-030 at Ordering Paragraph 8. See also D.07-09-018.

²⁷ URF Decision, D.06-08-030 *mimeo* at 183, 201-202, FoF 78, Ordering Paragraph 9.

Competition Act (DIVCA).²⁸ Subsequently as part of the High Cost Fund-B review, the Commission on September 18, 2008 extended pricing restrictions for basic telephone service and adopted a transitional plan to permit adjustments in retail rates for basic telephone service until January 1, 2011.²⁹ In the URF decision, the Commission recognized the important role of affordable LifeLine service, and acknowledged the need to “rethink the relationship between LifeLine and basic residential rates” in this proceeding.³⁰

When Assemblymember Moore proposed the legislation in 1983 that would become today’s LifeLine program, the technology and regulation of local exchange service was substantially different. Cost-of-service determined local exchange rates have given way to competitive market service bundles and prices, and the nationwide monopoly provision of wireline service has been replaced with competition from wireless and internet-based telephone providers. Through the 40-year history of LifeLine, the Commission has interpreted the specific implementation details of the LifeLine program to remain true to its objective of providing affordable telephone service to low-income Californians. A brief history of actions in California related to the LifeLine program can be found in Appendix B. After reviewing the extensive history of the LifeLine program, we believe the principles adopted by the Commission in 1996 remain valid today:

²⁸ DIVCA is the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), Assembly Bill 2987 (Ch. 700, Stats. 2006), codified at Pub. Util. Code §§ 5800, et seq.

²⁹ D.08-09-042 at Ordering Paragraphs 1-4.

³⁰ D.06-08-030 at 154.

1. It is the policy of the Commission to ensure that high-quality basic telecommunications services remain available and affordable to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.
2. It is the policy of the Commission that in order to avoid stratification between information rich and information poor consumers, there should be a progressive expansion of the definition of basic service, as appropriate, and through the implementation of other policies, programs, and incentives to promote the deployment of advanced telecommunications technology to all customer groups.
3. It is the policy of the Commission to ensure that consumers have access to information needed to make timely and informed choices about basic service and ULTS.
4. It is the policy of the Commission to provide consumers with the ability to choose among competing basic service carriers regardless of the technologies employed by the carriers who provide basic service.
5. It is the policy of the Commission to ensure that basic service carriers adhere to interconnectivity, interoperability, common carriage, reliability, privacy and security guidelines.
6. It is the policy of the Commission to provide incentives as needed to promote deployment of advanced telecommunications technology to all customer segments, and to position health care, community, and government institutions to be early recipients of the benefits of the information age.
7. It is the policy of the Commission to provide a competitively neutral universal service mechanism which will minimize market distortions. The mechanism must provide for competitive provisioning of basic service, access to universal

service funds, and a funding source which is broad-based and sustainable.³¹

We add an eighth principle today, it is the policy of the Commission to ensure that carriers provide consumers an evolving level of telecommunications services and take into account advances in telecommunications and information technologies and services.

As we review the current LifeLine program in today's decision, we will use these principles to guide us in our interpretation of the Moore Act to develop a forward looking program that meets the needs of modern Californians.

3.1. California LifeLine Today

The California LifeLine rate was effectively a set price for all incumbent local exchange carriers - 50% of AT&T California's (AT&T) monthly rate for basic residential telephone service - which was \$5.47 for flat rate service and \$2.91 for measured service in 2008.³² Specifically, the California LifeLine General Order requires the flat rate and measured service rate equal "the lower of 50% of the utility's regular tariffed rate" or "one-half of AT&T California's regular tariffed rate."³³

Local exchange carriers are reimbursed from the LifeLine program for the difference between the California LifeLine rate and the applicable basic residential service rate of the incumbent local exchange carrier serving the area.³⁴

³¹ Re Universal Service and Compliance with the Mandates of Assembly Bill 3643, 68 CPUC2d 524, Appendix B, Section 3 at 672 (D.96-10-066).

³² AT&T's rates effective through December 31, 2008.

³³ General Order 153 §§ 8.1.4 and 8.1.5.

³⁴ General Order 153 § 9.3.2.

Thus, as AT&T is reimbursed for the 50% reduction for California LifeLine customers from the Universal LifeLine Telephone Service program,³⁵ a competitive carrier operating in AT&T's service territory in 2008 would be reimbursed up to \$5.47 (50% of AT&T's 2008 basic rate) even if the competitive carrier's actual basic rate exceeded that of AT&T. Other California carriers with basic rates higher than AT&T's rate, such as Verizon,³⁶ receive substantially more money from the fund as a result.

The disparity in payment amounts between companies means that the average discount provided by California LifeLine was \$8.39 per month per customer in 2007. The average discount has grown to \$9.26 for the first part of 2010. As the California LifeLine Program pays the full difference between the basic rate of each carrier and the California LifeLine rate, the program pays as much as \$11.02 per customer per month for Eligible Telecommunication Carriers (ETCs) and \$20.53 for non-ETCs.³⁷ Prior to the CPUC's decision extending the

³⁵ D.84-11-028 established General Order 153 for the implementation, funding, and administration of the Moore Universal Telephone Service Act and officially named the program the Universal LifeLine Telephone Service (ULTS) program. The official name was changed to California LifeLine in 2005. California Public Utilities Commission Report to the California Legislature, *Universal Telephone Service to Residential Customers in Accordance with California Public Utilities Code Section 873*, June 2006, at 12-13, available at <http://docs.cpuc.ca.gov/published/Graphics/57534.PDF>. See also D.08-08-029, *mimeo.* at 32.

³⁶ Verizon's local residential service rates are \$10.24 for measured service (AT&T's rate is \$5.83) and \$17.66, or for certain areas, \$17.25, for flat rate service (AT&T's rate is \$10.94). Verizon's California LifeLine customers, however, pay the same rate as customers located in AT&T's territory, and the California LifeLine fund makes up the difference between the California LifeLine rate and Verizon's otherwise applicable rate.

³⁷ Eligible Telecommunication Carriers (ETCs) are designated by the Commission pursuant to 47 U.S.C. § 214(e) to be eligible to receive federal universal service support. The Federal California LifeLine program provides up to \$10 per month – \$6.50 in lieu of

Footnote continued on next page

cap on basic rates, the total FY 2009-2010 projected budget was \$331 million, and the fund size has grown about 20% over the past five years. The California LifeLine Program is larger than all the other state universal service programs combined.

In 2010, Frontier, Verizon, and SureWest chose not to make any change to their basic rates of \$16.85, \$19.91, and \$19.99, respectively, while AT&T increased its rate to \$16.45, a lower amount than the authorized cap, and lower than the three other URF carrier rates were in 2006. The California LifeLine rate increase was limited to \$0.73 changing from \$6.11 to \$6.84 in 2010. This resulted in an increase to the California LifeLine Program of approximately \$2.22 per customer which increased the total annual California LifeLine budget by more than \$63 million in 2010. Somewhat offsetting this increase in costs is a lower demand that has resulted, in part, from the implementation of third-party application and renewal procedures in 2006 and the move to pre-qualification in 2009.

The Commission extended its "Set Price" California LifeLine methodology until the end of 2010 and limited the total increase for California LifeLine customers at a cost of increasing the annual California LifeLine budget by an additional 20% to 25% per year.³⁸ While reductions in household participation

carriers charging a Subscriber Line Charge (SLC) to California LifeLine subscribers, and an additional \$3.50 match to ETCs in California. This \$3.50 match means that the California LifeLine program pays AT&T only \$6.11 (plus administrative fees) compared to paying Verizon \$9.97 (plus administrative fees) for every California LifeLine subscriber each month. The \$6.11 is calculated by taking the AT&T basic rate, \$16.45, subtracting the \$6.84 paid by the LifeLine customer means the state and federal subsidy must total \$9.61; deducting the \$3.50 federal match from \$9.61 leaves \$6.11 for California LifeLine to pay directly to the carrier.

³⁸ See D.08-09-042 at OPs 5, 6, and 11.

have offset some of the increases, we have created a state LifeLine fund that is not transparent to the consumers that receive the benefit or those that pay the cost. Thus, while the current methodology could be maintained, we could only do it at a significant cost. The interim methodology is not the best long-term methodology for LifeLine consumers and non-LifeLine consumers that must pay for the program.

4. Positions of the Parties

4.1. Comments in Response to 2007 Scoping Memo

Pacific Bell Telephone Company dba AT&T California (AT&T) urged the Commission to sever the LifeLine rate from AT&T's rate for basic service.³⁹ AT&T recommended that the Commission adopt a 12-month transition period to allow sufficient time for customer education on changes to the program, and give carriers enough time to implement billing system changes and educate their staff.⁴⁰ AT&T supported an initial fixed benefit of \$15, but noted that federal support of \$3.50 will reduce the actual amount needed from state funds to \$11.50.⁴¹ AT&T supported an interim Lifeline rate in 2009 as part of a process to phase-in the fixed benefit system in 2010⁴² and that the Commission has a complete record upon which to base the changes.⁴³ AT&T advocated retaining

³⁹ Opening Comments of Pacific Bell Telephone Company dba AT&T California in Response to Scoping Memo, at 2 (August 24, 2007).

⁴⁰ *Id.* at 3.

⁴¹ *Id.* at 4.

⁴² AT&T Supplemental Opening Comments at 5-6 (October 3, 2008).

⁴³ AT&T Supplemental Reply Comments at 9-10 (October 8, 2008).

the existing 50% subsidy for installation charges, up to \$30, reviewing and updating the fixed amount as needed, and continuing to reimburse carriers for administrative costs.

Verizon⁴⁴ supported a “small but affordable increased LifeLine rate” by setting each carrier’s rate separately, rather than at 50% of AT&T’s rate, to update the LifeLine rate to reflect increased median wages.⁴⁵ Calculating the LifeLine rate from each carrier’s basic local service flat rate, Verizon concluded, would better reflect increased costs for the carriers without a corresponding increase in program funding and surcharge requirements. Verizon opposed adopting a fixed benefit of \$12 to \$18, with a \$1 floor, because the benefit will not be “fixed” but rather will fluctuate with each carrier’s rate changes and will vary among customers served by different carriers, and the program fund would “balloon” by up to 42.6%.⁴⁶ The concept of affordability must be reflected in any new program elements, particularly for wireless service where the cost of handsets, and service overuse could be substantial.⁴⁷ Verizon raised a number of legal challenges to the Commission expanding the LifeLine program to include

⁴⁴ Verizon California Inc., Bell Atlantic Communications, Inc., dba Verizon Long Distance, NYNEX Long Distance Company dba Verizon Enterprise Solutions, MCI Communications Services, Inc. dba Verizon Access Transmission Services, TTI National, Inc., dba Verizon Business Services, Teleconnect Long Distance Services & Systems Company, dba Telecom*USA, Verizon California, Inc., Verizon Select Services Inc. and Verizon West Coast, Inc.

⁴⁵ Verizon Initial Comments on Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding, at 7 (August 24, 2007).

⁴⁶ *Id.* at 3–5.

⁴⁷ *Id.* at 9–10.

wireless service. First, Verizon pointed out that the plain words of the Moore Act, at § 871.5(b), define the program as applying only to residential telephone service, and the Commission has twice concluded that wireless service is not residential service.⁴⁸ Verizon next contended that wireless carriers do not offer basic flat rate or measured service, as defined in § 874, and do not offer other components of the definition of basic service adopted in D.96-10-066.⁴⁹ Finally, Verizon urged the Commission to proceed slowly and carefully in making any changes to the LifeLine program to avoid what Verizon described as the “problem-plagued experience with the verification and certification process changes.”

SureWest Telephone and SureWest Televideo (SureWest) jointly opposed adopting a portable “set support amount” and instead recommended that the LifeLine program continue to provide “basic, primary-line residential service at a set discounted price.”⁵⁰ SureWest stated that LifeLine subsidies should only be extended to services that will achieve universal service goals to the same extent as basic, wireline service, and that reliability, safety, consumer protection, and coverage concerns make wireless and internet-based alternatives inappropriate for these subsidies at this time.⁵¹ SureWest advocates for a LifeLine price set at \$5.34 (the 2007 AT&T price), adjusted annually for inflation, with each carrier being reimbursed for the difference between \$5.34 and its regular tariffed rate for

⁴⁸ *Id.* at 11–12.

⁴⁹ *Id.*

⁵⁰ Opening Comments of SureWest Telephone and SureWest Televideo on Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on the Scope, Schedule, and Need for Hearing in this Proceeding at 2 (August 24, 2007).

each LifeLine customer.⁵² SureWest further requested that the Commission change its policy of allowing prospective LifeLine customers to start receiving discounted service prior to completing the certification process. SureWest explained that this policy confuses customers who incorrectly conclude that no further action is required for certification once they begin receiving the discount, and can lead to back-billings of \$100 or more where the customer fails to successfully complete the certification process.⁵³ SureWest recommended that the Commission adopt a process whereby a prospective LifeLine customer would be charged full tariffed rates at initiation of service, but then credited for LifeLine discount if the customer is deemed eligible.

Frontier⁵⁴ supported a fixed benefit approach to LifeLine service to enable customers to choose the telecommunications service that best meets their needs. Frontier calculated the initial amount based on the High Cost Decision (D.08-09-042) that established a High Cost Fund B benchmark of \$36, less the 50% discount in the GO 153, and arrived at \$18 as the monthly amount each LifeLine customer would have available as a credit.⁵⁵ Frontier supported recalculating the

⁵¹ *Id.*

⁵² *Id.* at 3.

⁵³ *Id.* at 5.

⁵⁴ Comments on the July 13, 2007, Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge by Citizens Telecommunications Company of California, Inc., dba Frontier Communications of California, Citizens Telecommunications Company of the Golden State dba Frontier Communications of the Golden State, Citizens Telecommunications Company of Tuolumne dba Frontier Communications of Tuolumne, (August 24, 2007).

⁵⁵ *Id.* at 3.

LifeLine amount each time the High Cost Fund B benchmark is recalculated, and continuing to reimburse carrier administrative costs.⁵⁶

The Small Local Exchange Carriers⁵⁷ supported the recommendations of SureWest.⁵⁸

The Division of Ratepayer Advocates (DRA) first observed that the current LifeLine program is both effective and sustainable.⁵⁹ DRA urged caution and prudence in considering changes to the LifeLine program, and recommended further Commission analysis particularly an affordability study. DRA supported ending the reimbursement of carrier administrative costs because the costs of obtaining a new customer, even a LifeLine customer, are a normal cost of doing business that should be borne by the carrier.⁶⁰

The Utility Reform Network and the National Consumer Law Center (TURN) also found that the LifeLine program has been a success and cautioned

⁵⁶ *Id.*

⁵⁷ Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., Global Valley Networks, Inc., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, and Winderhaven Telephone Company.

⁵⁸ Small Local Exchange Carriers Opening Comments on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and the Need for Hearing in this Proceeding (August 24, 2007).

⁵⁹ Comments of the Division of Ratepayer Advocates on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and the Need for Hearing in this Proceeding at 2 (August 24, 2007). DRA pointed out that the current penetration rate for all California households has exceeded the 95% benchmark previously adopted by the Commission.

⁶⁰ *Id.* at 7.

against changes that could imperil that success.⁶¹ TURN recommended that the Commission freeze LifeLine rates at the 2007 level, \$5.34 for flat service and \$2.85 for measured service, until 2009, and review the rates every two years. TURN supported a policy of “gradualism” for any increase in LifeLine prices, constrained to a maximum annual increase of no more than 50% of the inflation rate.⁶² TURN opposed tying LifeLine prices to either a fixed benefit or the basic rate of any carrier because the price of basic service was expected to be unrestricted in 2009, resulting in a varying LifeLine price under either scenario.⁶³ TURN also opposed expanding the LifeLine program to include wireless service at this time, and contended that the Moore Act is limited to basic residential service, not personal communications services like wireless.⁶⁴ TURN concluded that creating a wireless LifeLine option would degrade the quality of life for household members and result in a “giant step backward” in bringing voice communications to all Californians.⁶⁵

Disability Rights Advocates observed that the current LifeLine program has been “incredibly” successful, and recommended that the Commission should thoroughly analyze any proposed changes to ensure the changes would create a

⁶¹ Comments of the Utility Reform Network and the National Consumer Law Center on the Issued Identified in the Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge at 3 (August 24, 2007).

⁶² *Id.* at 4 (recommending that the Bureau of Labor Statistics’ Consumer Price Index for Urban areas be used as the measure of inflation).

⁶³ *Id.* at 4-5.

⁶⁴ *Id.* at 8-10.

⁶⁵ *Id.* at 10-11.

more effective program.⁶⁶ Disability Rights Advocates argued that the only statutory means for the Commission to add new services to the LifeLine program was through the process adopted by the Legislature in §871.7(c), which requires that the Commission study the social benefits to be achieved from the new service and determine that these benefits justify the costs.⁶⁷ Like TURN, Disability Rights Advocates raised the issue of telephone service for household members that remain at home when the individual in possession of the handset travels away from the home. Disability Rights Advocates contended that the concept of a flat benefit is too preliminary to consider implementation questions as the parties at the August 15, 2007 workshop stated, a “well-considered, well-drafted plan” is necessary for the parties to assess the viability and impact of the plan.⁶⁸

The California Community Technology Policy Group and the Latino Issues Forum (LIF) argued that discovery and evidentiary hearings were necessary to allow the parties to properly evaluate the “radical changes in the LifeLine” program proposed in the Scoping memo.⁶⁹ LIF stated that the fundamental purpose of the LifeLine program is to offer basic telephone service at affordable rates, but that the soon-to-be unregulated basic service prices could

⁶⁶ Comments of Disability Rights Advocates on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge at 2 (August 24, 2007).

⁶⁷ *Id.* at 2-3.

⁶⁸ *Id.* at 5-6.

⁶⁹ Comments of the California Community Technology Policy Group and the Latino Issues Forum on the Commission’s Proposals for the Public Policy Programs at 2 (August 24, 2007).

result in unaffordable LifeLine prices, even with a LifeLine fixed support amount.⁷⁰

The Greenlining Institute urged the Commission to move the California LifeLine program into the 21st century by unshackling LifeLine subscribers from obsolete landline technology and allowing them to move to the overwhelmingly preferred cell phone technology.⁷¹ Greenlining explained that cell phone access is essential for many low-income consumers for access to the internet and emergency services. Greenlining also stated that cell phones will have important future roles in bringing banking and health care to low-income customers.⁷² Greenlining noted that two carriers are now offering cell phone based LifeLine in various states, using funding from both federal and state LifeLine programs. Greenlining recommended that the Commission adopt a support level that would allow wireless carriers to offer at least 300 anytime minutes, with 1,000 night and weekend minutes, for \$16.74.⁷³

Cox⁷⁴ stated that the Commission should adopt a fixed support amount for the LifeLine program, effective January 1, 2009, so that customers receive a uniform benefit, bringing greater certainty and clarity to the program, and allow

⁷⁰ *Id.* at 3-4.

⁷¹ Comments of The Greenling Institute on the Scoping Memo of the Commission's Rulemaking to Conduct a Comprehensive Review of its Telecommunications Public Policy Programs at 2 (August 24, 2007).

⁷² *Id.* at 8.

⁷³ *Id.* at 9.

⁷⁴ Cox California Telcom, LLC, dba Cox Communications and Time Warner Cable Information Services (California), LLC submitted comments bearing both names but Time Warner joined in on only the CTF issues.

a minimum six-month consumer education period.⁷⁵ Cox also supported continuing to reimburse carriers for their administrative costs incurred in providing LifeLine Service.⁷⁶ Cox opposed requiring all carriers to obtain the federal Eligible Telecommunications Carrier (ETC) status prior to obtaining reimbursements from the California LifeLine program, and also opposed adopting the federal definition of basic service, which includes wireless.⁷⁷

Sprint Nextel urged the Commission to take all necessary steps to allow wireless carriers to be considered eligible providers of California LifeLine service.⁷⁸ Sprint Nextel explained that wireless customers outnumber wireline customers by about 5 million in California,⁷⁹ and that the current LifeLine program deprives persons with limited financial means of the opportunity to obtain these services. Sprint Nextel supported the “fixed benefit” approach (so long as wireless carriers are also eligible to provide LifeLine service) due to its simplicity and clarity, and as being carrier and technology neutral.⁸⁰ Sprint Nextel, however, questioned whether the \$1 floor rate for LifeLine service

⁷⁵ Opening Comments of Cox California Telcom, LLC, dba Cox Communications and Time Warner Cable Information Services (California), on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and the Need for Hearing in this Proceeding at 1-2 (August 24, 2007).

⁷⁶ *Id.* at 2-3.

⁷⁷ *Id.* at 3-4.

⁷⁸ Amended Comments of Sprint Nextel on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and the Need for Hearing in this Proceeding at 1 (August 27, 2007).

⁷⁹ *Id.* at 2 *citing* Federal Communications Commission, Trends in Telephone Service at Tables 11.2 and 8.5 (February 2007), available at www.fcc.gov/wcb/iatd/trends.html.

⁸⁰ Sprint Nextel Scoping Memo Comments at 5 (August 27, 2007).

represented sound social and economic policy and recognized that program cost ramifications would need to be studied and considered.⁸¹ Sprint Nextel suggested that the Commission provide carriers an incentive for efficient program administration by limiting the administrative cost reimbursements now paid to LifeLine service providers to a reasonable fixed amount per customer.⁸²

In reply, AT&T reiterated its request to delink the LifeLine price from its basic service rate, and agreed with other comments that administrative costs should be reimbursed.⁸³ AT&T supported SureWest's proposal for pre-qualifying LifeLine customers prior to initiating the discounted service.⁸⁴

Verizon agreed with AT&T that delinking the LifeLine price from AT&T's basic service rate is essential and that administrative costs should continue to be reimbursed, but disagreed that a fixed benefit is a sound replacement; Verizon supported calculating the LifeLine price as 50% of each carrier's basic rate.⁸⁵ Verizon opposed extending the LifeLine program to wireless because the Affordability Study⁸⁶ showed that the customers who find telephone service the most difficult to afford "are not successful in self-regulating their use to keep

⁸¹ *Id.* at 6.

⁸² *Id.* at 6, note 17 and 8.

⁸³ Reply Comments of Pacific Bell Telephone Company dba AT&T California in Response to Scoping Memo at 2-4.

⁸⁴ *Id.* at 4.

⁸⁵ Verizon Reply Comments on Scoping Memo and Rulings of Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding at 2-3 (September 14, 2007).

⁸⁶ *Id.* at 6, note 14. (Verizon stated that the study surveyed over 5000 customers and non-customers by the Field Research Corporation in 2003 and 2004, and has been documented in four volumes.)

phone service affordable” and are resistant to call control services.⁸⁷ Verizon concluded that these facts, combined with the potential for higher wireless usage fees, will result in greater numbers of customers losing service entirely.⁸⁸ Verizon agreed with DRA, and Disability Rights Advocates that the Moore Act must be amended to allow the California LifeLine Program to move to a fixed benefit and to include wireless service.⁸⁹ Verizon agreed with other parties that support eliminating the use of California LifeLine funds to make up lost federal funds for carriers that are not designated Eligible Telecommunications Carriers by the Federal Communications Commission (FCC); carriers that decline to become so designated should bear the costs, not the California LifeLine fund.⁹⁰

SureWest agreed with Verizon that the Commission should be cautious and methodical in updating the LifeLine program, although it is clear that the rate must be de-linked from AT&T’s rates.⁹¹ SureWest opposed DRA’s recommendation to end administrative cost reimbursement.⁹² SureWest joined Verizon in concluding that the Commission should not pursue the fixed benefit approach due to the uncertainties with the proposal and the resultant surcharge increases; SureWest concluded that increased surcharges in ranges calculated by

⁸⁷ *Id.* at 7-8.

⁸⁸ *Id.* at 8-9.

⁸⁹ *Id.* at 11-12.

⁹⁰ *Id.* at 14-15.

⁹¹ Reply Comments of SureWest Telephone and SureWest Televideo on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding at 1-2 (September 14, 2007).

⁹² *Id.* at 2-5.

Verizon (30% to 40%) are “unreasonable.”⁹³ SureWest recommended that the Commission de-link the LifeLine price from AT&T’s basic residential rate and update it for inflation, and that legal and jurisdictional issues prevent the Commission from expanding the LifeLine program to other services such as wireless.⁹⁴

The comments of the small local exchange carriers echoed those of SureWest but added that discontinuing reimbursement of administrative costs will result in an unfunded mandate for cost of service regulated carriers.⁹⁵

DRA took issue with the parties that support a fixed benefit, contending that each has a “radically different version of how the benefit would be implemented” leading DRA to conclude that more research is needed before the Commission can adopt a fixed benefit approach.⁹⁶ DRA proposed capping the amount a service provider can draw from the fund regardless of that provider’s otherwise applicable rate for basic service as a solution to the issue of modifying the LifeLine program to accommodate basic service pricing flexibility beginning on January 1, 2009.⁹⁷ DRA stated that no party had submitted any data or analysis supporting any specific initial support amount, and that no carrier had

⁹³ *Id.* at 5-7.

⁹⁴ *Id.* at 7.

⁹⁵ Reply Comments of the Small LECs on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding at 4 (September 14, 2007).

⁹⁶ Reply Comments of the Division of Ratepayer Advocates on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding at 3 (September 14, 2007).

⁹⁷ *Id.* at 4.

presented any data or analysis demonstrating that the LifeLine customer administrative costs exceed the costs of other customers.⁹⁸

TURN agreed with SureWest and the Small Local Exchange Carriers that LifeLine prices should be frozen at the 2007 levels, and that all other proposals have in common a nearly complete lack of analytical support in the record.⁹⁹ TURN noted, but did not endorse, Verizon's cost estimates for the fixed benefit approach as the only available cost analysis. TURN opposed Verizon's proposal to base the LifeLine rate on each carrier's basic service rate, with pricing flexibility commencing on January 1, 2009, and Verizon's proposal to increase the LifeLine rate.¹⁰⁰ TURN opposed SureWest's and the Small Local Exchange Carriers' proposal to require pre-qualification for LifeLine customers; TURN contended that the current policy of enrollment on first contact facilitates low-income consumer access to the LifeLine program and that the question of prequalification is before the Commission in R.04-12-001.¹⁰¹

LIF opposed extending the LifeLine discount to bundles of services without additional consumer protections, primarily focused on marketing techniques and disconnection policies.¹⁰²

⁹⁸ *Id.* at 6-7.

⁹⁹ Reply Comments of The Utility Reform Network on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding at 4 (September 14, 2007).

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 6-7.

¹⁰² Reply Comments of the California Technology Group and Latino Issues Forum on the Commission's Proposals for the Public Policy Programs at 1-2.

Greenlining primarily reiterated its opening comments in reply, but opposed the parties that wanted to limit the LifeLine program to wireline.¹⁰³

Disability Rights Advocates replied in agreement with the Small Local Exchange Carriers, and SureWest that fixing the LifeLine rates at their 2007 levels is the “most fiscally viable solution” to achieve the necessary de-linking from AT&T’s rates.¹⁰⁴ Disability Rights Advocates concluded that before expanding the currently successful and financially sustainable LifeLine program to wireless or internet-based service, the Commission must thoroughly assess the financial repercussions through evidentiary hearings.¹⁰⁵

In reply, Sprint Nextel disputed Verizon, Disability Rights Advocates, and DRA’s objections to the fixed benefit approach and expanding the LifeLine program to include wireless.¹⁰⁶ Sprint Nextel also explained that one of its purposes for advocating that wireless carriers be included in the LifeLine program is to ensure that such carriers be eligible to “receive funds from the California Advanced Services Fund envisioned” in D.07-09-020, recently issued in the High Cost Fund B program.¹⁰⁷

¹⁰³ Reply Comments of The Greenlining Institute on Scoping Memo of The Commissions’ Rulemaking to conduct a Comprehensive Review of its Telecommunications Public Policy Programs. (September 14, 2007).

¹⁰⁴ Reply Comments of Disability Rights Advocates on Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge, at 2 (September 14, 2007).

¹⁰⁵ *Id.* at 2-3.

¹⁰⁶ Reply Comments of Sprint Nextel on Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding at 14-17 (September 14, 2007).

¹⁰⁷ *Id.* at 2, 4-6, 12-13.

4.2. Opportunity to Update Information and Provide Supplemental Comments

In response to a September 19, 2008 Assigned Commissioner's Ruling Reopening The Record And Setting Filing Date For Comments On LifeLine Program In Light Of Transition Plan For Basic Local Service Rates Commission Rule of Practice and Procedure (the "ACR"), parties were afforded the opportunity to refresh the record and provide any new information, proposals, or other input. Parties submitted supplemental comments on October 3, 2008, and reply comments on October 8, 2008. The comments are useful in that we can determine that the parties' positions and arguments did not substantially change over the course of a year. With the exception of AT&T's proposal to expand income qualification above its current 150% of federal poverty guidelines level, parties largely restated previous positions and offered no new ideas to assist the Commission in addressing necessary changes to the LifeLine program. Thus, parties' supplemental comments did not substantially contribute to this decision.

AT&T called for the Commission to adopt an interim LifeLine rate for 2009 and move to a fixed benefit system in 2010.¹⁰⁸ AT&T stated that the \$0.81 rate cap burdens all consumers and that the rates for non-URF companies were not addressed in D.08-09-042.¹⁰⁹ AT&T again called for a technology neutral LifeLine program that includes wireless carriers.¹¹⁰ AT&T noted that the Commission has considerable leeway with the Universal Service Funds, and that \$270 million less is being collected than in 2007 from all the Commission programs (mostly due to

¹⁰⁸ AT&T Opening ACR Comments at 1 (October 3, 2008).

¹⁰⁹ *Id.* at 3.

¹¹⁰ *Id.* at 2. AT&T ACR Reply Comments at 8-9 (October 8, 2008).

reduction in CHCF-B), and that the total surcharge reduction of 1.10% gives leeway to avoid rate shock.¹¹¹ AT&T also called for enhanced outreach and the expansion of the income qualification above its current 150% level.¹¹²

Verizon called for the 2009 LifeLine rate to be 50% of the AT&T rate, not just an increase of \$0.81.¹¹³ They noted that LifeLine customers purchase more than just basic services, and can afford more.¹¹⁴ Verizon also explained how other states have high penetration rates with even higher LifeLine rates than California.¹¹⁵ Verizon reiterated its opposition to a Specific Support Amount as not practical at this time.¹¹⁶ Verizon also said it would cost too much since a \$12 support level would cost \$143 million per year and require a 2.05% surcharge rate.¹¹⁷ Verizon did call for further review for possible implementation in 2011 to allow time for a transition plan to address fixed benefit plan, statutory changes, and to implement the change.¹¹⁸ Verizon again called for the Commission to require ETC status for all carriers participating in California LifeLine.¹¹⁹ Verizon also said that California does not need increased wireless penetration (already 5th highest), and that expanding LifeLine to wireless would be too expensive.¹²⁰

¹¹¹ AT&T Opening ACR Comments at 9 (October 3, 2008).

¹¹² *Id.* at 10.

¹¹³ Verizon Opening ACR Comments at 16-17 (October 3, 2008).

¹¹⁴ *Id.* at 20-22.

¹¹⁵ *Id.* at 7-11, Exhibit F.

¹¹⁶ *Id.* at 11-14.

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 14, 16.

¹¹⁹ *Id.* at 24-26.

¹²⁰ *Id.* at 19-23.

Verizon asked for a minimum of nine months to implement system changes for any changes to California LifeLine.¹²¹ Verizon also believed that public participation hearings would be resource-intensive events that would add little to the results of the Affordability Study.¹²²

SureWest reiterated that the LifeLine rate must be independent of AT&T's rates.¹²³ SureWest renewed its call to fix the California LifeLine rate at \$8.00 or 50% of carrier's basic rate, whichever is lower.¹²⁴ SureWest explained that such a rate could be established annually by Resolution and adjusted by changes to the Consumer Price Index, or other reliable method.¹²⁵ They explained again their objection to a Specific Support Amount as being too difficult to determine a fair amount.¹²⁶ They also called again for expansion of the funding base to include VoIP providers.¹²⁷ SureWest explained that it would need 60 days to implement any changes to the California LifeLine program.¹²⁸

The Small Local Exchange Carriers provided comments similar to those of SureWest.¹²⁹

¹²¹ *Id.* at 31-32.

¹²² Verizon ACR Reply Comments at 13-14 (October 8, 2008).

¹²³ SureWest Opening ACR Comments at 3 (October 3, 2008).

¹²⁴ *Id.* at 3-5.

¹²⁵ *Id.*

¹²⁶ *Id.* at 5-7.

¹²⁷ *Id.* at 7-8.

¹²⁸ *Id.* at 2.

¹²⁹ Small Local Exchange Carriers Opening ACR Comments (October 3, 2008), Small Local Exchange Carriers ACR Reply Comments (October 8, 2008).

DRA restated its position that market forces cannot be relied on to protect low-income consumers and called again for a freeze of the LifeLine rate, until a due diligence review (affordability study) is done.¹³⁰ DRA called for the LifeLine budget to fund such an affordability study.¹³¹ DRA also called for more public hearings, and additional customer notification.¹³² DRA did not provide any analysis of fiscal impact on the Fund.¹³³

The Utility Reform Network (“TURN”), the National Consumer Law Center (“NCLC”), and Disability Rights Advocates (“DisabRA”) also wanted LifeLine rates frozen at current rates until 2011,¹³⁴ and provided an updated study by Dr. Trevor R. Roycroft.¹³⁵ TURN reiterated that any vouchers should be geographically specific,¹³⁶ and that after 2011, a review of rates should occur every two years.¹³⁷ TURN again objected to expanding LifeLine to include wireless at this time,¹³⁸ and proffered that additional interactive outreach should be conducted by the Commission.¹³⁹ TURN also complained that some cable/VoIP carriers state they do not have to offer LifeLine.¹⁴⁰

¹³⁰ DRA Opening ACR Comments at 5-7 (October 3, 2008).

¹³¹ *Id.* at 7-8.

¹³² *Id.* at 9, 11-12.

¹³³ DRA ACR Reply Comments at 4 (October 8, 2008).

¹³⁴ TURN/NCLC/DisabRA Opening ACR Comments at 5 (October 3, 2008).

¹³⁵ *Id.* at 6-9, 13, Affidavit of Trevor R. Roycroft, Ph.D.

¹³⁶ TURN/NCLC/DisabRA Opening ACR Comments at 14 (October 3, 2008).

¹³⁷ *Id.* at 5.

¹³⁸ *Id.* at 15.

¹³⁹ *Id.* at 16-18.

¹⁴⁰ *Id.* at 3-4.

Cox supported a single fixed benefit amount as easy to administer, pro-competitive and technology neutral. They reiterated their support for adopting the technology-neutral Federal universal service rules that more readily allow participation of wireless and other services. Cox supported a consumer education program and said that they would need six months to implement new rules. Cox advocated that California LifeLine should continue to make up the EUCL for those that do not participate in the Federal program and that bundles should continue to be allowed. Cox noted that prequalification will continue to reduce participation in California LifeLine. Cox opined that funding for an affordability study should be requested from the Legislature.

Sprint Nextel reiterated support for decoupling the California LifeLine rate from that of AT&T and their support for a voucher system. Sprint Nextel again called for expanding “basic service” to include wireless in line with the pro-competition and technology neutrality requirements of the Public Utilities Code. Sprint agreed that it will cost approximately an additional \$140 million in 2010 based on the \$0.81 customer rate increase.

T-Mobile supported a Specific Support Amount as it would promote stability in the California LifeLine program and would be consistent with consumer choice. They also called on the Commission to expand the definition of “basic service” to include wireless and consolidate the CHCF-B and ULTS proceedings on this matter. T-Mobile supported retaining the LifeLine rate, as modified in D.08-09-042 for 2009 while transitioning to a Specific Support Amount in 2010. T-Mobile explained how such a Specific Support Amount was consistent with the Moore Act and that the ability to take a wireless phone out of the house is no reason to deny that residential customer its choice of provider. T-Mobile called for further study of moving to an eligibility level of 200% of the

Federal Poverty Guideline as such a change is not necessary to achieve a 95% penetration rate and would result in higher surcharges and a larger LifeLine program.

5. Discussion

The Commission recognized in opening this Rulemaking in 2006 that consumers are purchasing communication services in new ways. Consequently, our current public purpose programs, including LifeLine, must be revised to reflect these new communications options. Through this Rulemaking, the Commission set out to reform California LifeLine in a way that would “continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.”¹⁴¹

These changes to the California LifeLine methodology we adopt today take the best elements from the various options proposed by parties and blend them into a new methodology that offers consumers a sufficient level of certainty and a great deal of flexibility. The changes to California LifeLine methodology adopted by this decision will best ensure consumers in California have affordable access to the communication service of their choosing. We also include a proposal that will provide additional protection for low income ratepayers during this period of change.

Throughout this proceeding, parties welcomed the review of the California LifeLine Program and agreed on the need to de-link the California LifeLine rate

¹⁴¹ Pub. Util. Code § 709(a).

from AT&T's basic rate.¹⁴² We believe this is a necessary step to take at this time. Among other things, we believe the California LifeLine rate must be de-linked from the AT&T basic rate in order to ensure ongoing compliance with Section 874 of the Public Utilities Code.¹⁴³ Parties had different views as to how the California LifeLine Program should operate after it is de-linked from the AT&T basic rate.

DRA suggested the Commission should develop an independent basis for determining what low-income customers find affordable.¹⁴⁴ In the recent decision extending the basic rate caps for two more years until the end of 2010, D.08-09-042, the Commission took note that approximately 25% of households in California are subscribers to California LifeLine, and that as part of the overall reforms to the California LifeLine Program, an update to the Affordability Study would be useful in ensuring that our policies continue to meet the goal of 95% subscribership.

Subsequent to D.08-09-042, the Legislature adopted SB 780, which among other things requires the Commission to "prepare and submit to the Legislature

¹⁴² See, e.g., DRA Reply Comments to the Commission's May 26, 2006 OIR at 24 ("DRA generally supports the idea of de-linking the ULTS rate (given that AT&T's residential rates will not be subject to rate caps after the next two years), but observes that any change to the ULTS rate could potentially have a huge impact on California LifeLine customers and lifeline penetration rates, which would be contrary to statutory goals.")

¹⁴³ Pub. Util. Code § 874 requires carriers to charge no more than half their basic rate to California LifeLine customers. If we do not de-link the California LifeLine Rate from AT&T's basic rate, the Commission can only ensure statutory compliance as long as AT&T's basic rate is the lowest in the state.

¹⁴⁴ DRA Comments at 24-30 (Nov. 9, 2007), DRA Comments at 5-6 (Oct. 3, 2008), cf. Cox Comments at 9 (Oct. 3, 2008) (affordability study by June 30, 2010...should provide the Commission with insight into affordability issues...)

a report on the affordability of basic telephone service in areas funded by the California High-Cost Fund-B" by July 2010.¹⁴⁵ The Legislature authorized funding in the Fiscal Year 2009-2010 budget so that the affordability study could accomplish the goals of both SB 780 and D.08-09-042.

The survey was conducted during the first half of 2010, and Commission Staff published its report on September 30, 2010. The study includes a report on the affordability of basic telephone service in areas funded by the California High-Cost Fund-B Administrative Committee Fund as required by Sec. 739.3(f) and gathers information on prices and costs of basic telephone service, and penetration and utilization rates by income, ethnicity, age, and other relevant demographics. The statewide survey facilitates analysis of the impacts of LifeLine in California so that we can ensure the reforms to the LifeLine program adopted in this proceeding continue to meet the goals of the Legislature and the Commission. We have taken the results of the 2010 Affordability Study into account in making the changes to California LifeLine adopted today.

In reviewing data from the affordability study, we see that the typical cost for phone service has not changed significantly for the median consumer between 2004 and 2010, and in constant dollars has slightly declined.¹⁴⁶ Further, study results for 2010 indicate that 71 percent of consumers find their total telephone service bills affordable and 80 percent in high cost areas find basic

¹⁴⁵ Stats. 2008 Chapter 342.

¹⁴⁶ Survey results show that the relative median monthly bill for phone service has actually decreased between 2004 and 2010. The 2004 median of \$46, which when adjusted for inflation is \$52.90, 5.8% greater the 2010 median bill of \$50. *Affordability of Telephone Service 2010, Statewide Survey of California Households*, rel. September 2010 (Affordability Study of 2010).

rates including surcharges and taxes affordable.¹⁴⁷ The result is consistent with the 2004 result when 81 percent said that phone service was either very easy, or somewhat easy to afford.¹⁴⁸ Additionally, according to the Commission's most recent Universal Service Report, the price of basic telephone service and the price of LifeLine service in inflation adjusted dollars is respectively the same as, and more affordable than when the Moore Act was adopted in 1984.¹⁴⁹ Such information in conjunction with the 2010 Affordability Study and other studies underscore the continuing affordability of basic telephone service rates.¹⁵⁰ In addition, the study shows that the typical bill for LifeLine consumers is \$10.90 less than that of non-LifeLine consumers.¹⁵¹ Such a result is consistent with the rate structure of the current LifeLine program as LifeLine consumers pay between \$9.61 and \$13.15 less than the basic rate offered by any carrier.¹⁵² Finally, during the course of this proceeding, no party presented an argument why the affordability study would drive changes to the LifeLine methodology,

¹⁴⁷ See, Affordability Study of 2010, Volume 1, Table 4.2, and Appendix B, Page 91, Q.10 Frequency Table.

¹⁴⁸ See, Affordability Study of 2004, Volume 1, Table 5.8c. The change between 2004 and 2010 is not statistically significant given the magnitude of the change and the sizes of the samples used.

¹⁴⁹ See, Universal Residential Service Telephone Report to the Legislature, 2009, Chart 9, AT&T and Verizon California Wireline Basic and LifeLine Rates, 1984-2010.

¹⁵⁰ *Id.* See also, FCC Trends in Telephone Service at Table 3.3 Personal Consumption Expenditures (August 2008) (Telephone service as a percentage of all goods and services has gone down from 1.7% in 1984 to 1.5% in 2007 and wireline as a percent of all telephone service has gone down from 100% to 49%).

¹⁵¹ See, Affordability Study of 2010, Volume 1, Table 2.7, Qualified and Subscribed compared to Qualified and Not-Subscribed.

¹⁵² For example, the difference between AT&T's basic service rate of \$16.45 and \$6.84.

and we do not find the results compelling any different action than what we enact in this decision. If anything the study reinforces the approach we take in reforming the methodology to a Specific Support Amount.

The Affordability Study is helpful in providing a snapshot of the overall picture of consumer affordability based on current costs, but there are many other data points for the Commission to consider in evaluating the effectiveness of the LifeLine program and the overall success of California's universal service policies. For example, the Commission's Subscribership Report shows that households having an annual income of less than \$10,000 consistently have a penetration rate below the 95 percent goal, and only just recently have households under \$20,000 annual income exceeded the 95 percent goal.¹⁵³ There are still thousands of households that report they do not have access to phone service and most of those have the lowest household incomes in the state. Another relevant factor is the increasing reliance on wireless service in lieu of landline service. The Affordability Study estimates that 23 percent of California households subscribe only to wireless service, 59 percent subscribe to both landline and wireless service, and 18 percent subscribe to landline only service.¹⁵⁴

¹⁵³ See, Universal Residential Service Telephone Report to the Legislature, 2009, Chart 5, California Telephone Penetration by Income.

¹⁵⁴ See, Affordability Study of 2010, Volume 1, 1.4b. The California wireless substitution rate is consistent with national figures where 24.5% of U.S. households had only wireless telephones at the end of 2009. See, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2009, U.S. Center for Disease Controls, available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>. See also, Wireless substitution: State-level estimates from the National Health Interview Survey, January-December 2007, U.S. Center for Disease Control, available at

Footnote continued on next page

Further, about half of all LifeLine subscribed households also subscribe to wireless, whereas 83 percent of non-Lifeline subscribers do. Another factor is the ability and willingness of consumers to pay for phone service.

The Affordability Study shows that the current discount provided by the California LifeLine Program reduces the landline phone bill for low income consumers compared to those non-subscribers having similar income. While the study shows that most subscribers earning under \$24,000 or less annually would tolerate a 37 percent increase in bills and shift to wireless service should bills increase too-much, there remains a small segment of about 1.6 percent of customers who may forgo phone service entirely if rates exceed a tolerable amount.¹⁵⁵ In reviewing all of the changes to the communications environment, and taking into consideration the proven success in the current program, we recognize there are many considerations to take into account in structuring how California LifeLine should work to keep phone service affordable going forward.

5.1. Methodology to Calculate California LifeLine Subsidy

Our objective in opening this proceeding was to assess whether the Telecommunications Public Policy Programs are meeting their respective statutory purposes and requirements, and to identify and remedy any deficiencies. The Commission has long considered the 95 percent¹⁵⁶

<http://www.cdc.gov/nchs/data/nhsr/nhsr014.pdf>. (In 2007, 9% of California households were wireless only compared to 13.6% of U.S. households.)

¹⁵⁵ See, Affordability Study of 2010, Volume 1, Table 1.16, and Volume 2, 6.1 through 6.5.

¹⁵⁶ Telephone subscribership is at 96.7%, surpassing our 95% subscribership goal. See CPUC Report to the California Legislature, Residential Telephone Subscribership and Universal Services (June 2008).

subscriber goal as the best measure of affordability when evaluating the universal service programs, including California LifeLine, and because of its universal service programs, California continues to exceed that standard.¹⁵⁷ We conclude that California LifeLine should be updated to reflect the principle of competitive and technological neutrality consistent with federal and state law in order to continue to meet the 95% subscriber goal.¹⁵⁸ We determine that our changes to California LifeLine must consider that LifeLine customers need to have some amount of consistency with regard to the rate they pay. We have scrutinized numerous options for reforms to California LifeLine and select the best option to ensure the long-term success of California LifeLine in the future.

We also examine in Section 5.2 why the reasons the Commission previously has relied on in excluding non-traditional wireline providers from participating in California LifeLine are no longer valid and why providers using alternative technologies, such as wireless and VoIP, should be eligible to participate in the California LifeLine Program just as any other provider of service. Further, we confirm that other services that include the basic service elements and provide residential telephone service are also eligible to participate in California LifeLine throughout the State. Providers of those services are eligible today to seek reimbursement from the California LifeLine Fund.

5.1.1. Delinking LifeLine Price from Basic Residential Service Rate

Effective January 1, 2011, URF carriers will be authorized to change at will the price for basic residential service, without regard to carrier costs. The 1983

¹⁵⁷ *Id.*

¹⁵⁸ Pub. Util. Code §§ 709(a), (c)-(g), 709.5(a). 47 U.S.C. § 254.

Moore Act did not contemplate this evolution in regulation resulting from changes in telecommunications services and markets.

To develop a forward-looking LifeLine program, the LifeLine price must be set based on something other than the otherwise applicable price for basic residential service. Most parties agree that delinking the two is essential. The parties have posited the following three scenarios: (1) a Set Price; (2) a Floating Subsidy (tied to each carrier's actual basic rate); or (3) a Specific Support Amount (\$10-\$12 initially). The assigned Commissioner sought comments in the July 2007 ruling and scoping memo on the ideas of Set Price and the Specific Support Amount. We have summarized the three options below.

5.1.1.1. Set Price Option

The "Set Price" option would effectively continue the existing program, because the Commission has designated that 50% of the AT&T basic rate is the California LifeLine Rate (set price) for all carriers. Under the Set Price option, if the Commission designates, for example, \$6.11, as the monthly rate to be paid by California LifeLine customers, for each California carrier, the Commission would pay the difference between each carrier's basic rate and the \$6.11 from the California LifeLine Fund. Adopting a Set Price for all customers who qualify for California LifeLine offers the advantage of having the same price for all California LifeLine customers no matter who the telecommunications provider is.

The most positive attribute of the Set Price methodology is the consistency in marketing California LifeLine with the existing marketing campaign. A California LifeLine customer would have certainty as to his LifeLine phone cost and could budget for it, though non-California LifeLine customers would have more volatility as adjustments in the surcharge amount would occur more

frequently. These positive attributes would be outweighed by the negative attributes of the Set Price option

The cost to California consumers of the Set Price option would be the highest of the three options because the Set Price would be half the lowest basic rate reported by any carrier that provides service to California LifeLine customers. The Commission would have to monitor the market to ensure that the Set Price is appropriately adjusted over time (e.g., at least yearly) as prices fluctuate. The result is that the Commission would have a significant level of uncertainty in the program size.

The Set Price option would also limit choices for low-income consumers. By setting the price that carriers could charge to California LifeLine customers, the Commission may inadvertently cause only the minimum services to be provided to those customers, thus restricting LifeLine subscribers' options.

While the Set Price scenario can be accomplished in a manner that largely comports with the California LifeLine statute, it would be administratively burdensome. It would require the Commission to monitor the basic rates of all the carriers providing California LifeLine service and adjust the LifeLine price to ensure it remains below 50 percent of the lowest of the carriers' basic rates.

While the Set Price option would carry the highest program cost because it would result in the highest surcharge and thus have the most negative impact on non-California LifeLine customers, it also would offer a large benefit to low-income customers as they would pay just half of the lowest basic rate in the state.

5.1.1.2. Floating Subsidy Option

The second option is a "Floating Subsidy" of 50 percent of each individual company's lowest priced service that includes all the components of basic

service. This option would not have the Commission set either the rate all LifeLine customers pay, or the specific benefit amount by which carriers would have to reduce LifeLine customer bills. In allowing both components of the LifeLine program to move with the market or “float,” the Commission would create a flexible program that would treat the LifeLine customers of each carrier in a comparable manner and adjust for the individual circumstances of each carrier.

The positive attributes of the Floating Subsidy include the ease of statutory compliance. California LifeLine customers would have reasonable price certainty in that each carrier’s LifeLine rate would be half of the carrier’s basic rate. California non-LifeLine customers, however, would experience more rate volatility as adjustments in the surcharge amount would occur more frequently to peg collections to disbursements.

Projecting the fund size of the Floating Subsidy option would be less certain, but it undoubtedly would be less than the other two alternatives. However, it is not the preferred option because the uncertainty in pricing and the challenges in marketing this option could reduce the number of participants. The Floating Subsidy projects to be the least cost option, but carries a high opportunity cost as it is the approach least likely to maintain the current high subscriber level (95 percent) reflected in our universal service goals.

In letting the California LifeLine rate for each carrier float with its individual basic rate, California LifeLine rates could vary greatly, which would complicate our marketing efforts if the message were based simply on rates. Moreover, the number of carriers providing California LifeLine service and their ability to frequently adjust rates may leave marketing efforts outdated before they are launched.

The Floating Subsidy would be the most difficult option administratively as per-customer distribution amounts could vary monthly by carrier and would be different for each carrier. The Floating Subsidy option also presents uncertainty in LifeLine program cost expectations each month and makes the annual planning cycle a difficult challenge.

As the Floating Subsidy option would carry the lowest LifeLine program cost, it would result in the lowest surcharge and thus have the most positive impact on non-LifeLine customers. However, most low-income customers would be worse off as the average low-income rate would be highest under the Floating Subsidy option, and some low-income customers could even end up paying more than non-low-income customers of other carriers.

5.1.1.3. Specific Support Amount Option

Under the Specific Support Amount option, the Commission would designate an initial monthly subsidy of some amount, for example, \$5.00, to be paid to carriers to directly reduce the monthly bills of California LifeLine customers. Adopting a Specific Support Amount for all customers who qualify for California LifeLine, without regard to the telecommunications service provider or technology may provide greater flexibility to low-income customers to select services beyond basic residential landline phone service, including wireless communications services. The actual amount received by each carrier may be less depending on the rate charged to the California LifeLine customer. Such an approach would acknowledge the range of providers of voice communications services beyond traditional wireline service providers, and would enhance technological neutrality by allowing a LifeLine customer to choose the provider that best meets his or her unique needs.

Using the rates known at this time (which are all less than the caps authorized in D.08-09-042 for 2009), a hypothetical example of how the Specific Support Amount (based on \$12.00 from California LifeLine) for the four URF companies in 2009 would be is as follows:

		Specific Support					
1/1/2009		<u>AT&T</u>	<u>Verizon</u>	<u>SureWest</u>	<u>Frontier</u>		
Lifeline Rate		\$1.50	\$7.91	\$7.99	\$5.85		
Basic Rate		\$13.50	\$19.91	\$19.99	\$17.85		
California LifeLine Amount		\$12.00	\$12.00	\$12.00	\$12.00		
Total CA Lifeline Reimbursement		\$12.00	\$12.00	\$12.00	\$12.00		

In its initial comments, AT&T provided the most comprehensive proposal for the Specific Support concept, which AT&T calls a “fixed benefit.” AT&T acknowledged that moving to a fixed benefit would require significant changes to GO 153. AT&T proposed that the Commission set a fixed benefit amount structured to meet the needs of low-income customers, which would be credited on the customer’s bill. Providers would seek reimbursement for the fixed amount from the claims process. Such an approach would simplify administration of the California LifeLine program because the reimbursement amount would no longer be calculated based on the provider’s usual rate but rather would be limited to the actual benefit distributed to customers.

As explained more fully below, we adopt this option for setting the California LifeLine subsidy, with some modifications to only permit carriers to update their LifeLine rate once a year and to cap each carrier’s LifeLine rate at 50 percent of its basic rate.

5.1.2. Adopted Rate Scheme: Specific Support Amount

After evaluating all of the options against the goals of the Moore Act and our overall universal service goals, we have determined that the Specific Support Amount methodology is the best option. A Specific Support Amount process for California LifeLine will provide the greatest flexibility to low-income customers to select the communication service that best meets their unique needs.

We are aware that participation in California LifeLine has decreased over the past few years, specifically after implementation of the third party application and renewal processes. The basic per-subscriber cost figures used here to evaluate the program, however, have not changed significantly:

2010 LifeLine Rate:		\$6.84
Average Monthly 2010 LifeLine Customers:		1,884,006
2010 Total Estimated Annual ULTS Claims:		\$209,348,628
Current ULTS Surcharge Rate		1.15%
Average California Support (per month):		\$9.26
	California LifeLine Payment	\$8.90
	Recoverable Costs	\$0.36
Federal Support available:	Lifeline (Tiers 2-3) up to:	\$3.50
	EUCL (Tier 1) up to:	\$6.50

We have studied these issues closely over the course of this proceeding and continue to agree with the majority of parties who support the selection of a

Specific Support Amount, with some modifications.¹⁵⁹ Parties disagreeing with the changes claim that more time is needed to further study potential LifeLine reforms. As shown in Appendix A, the record in this proceeding is quite extensive and complete. The issues to be addressed have not materially changed over the last four years and parties have provided no new ideas or facts which could be further explored, despite even more time allotted by the assigned Commissioner in 2009. The time has come to make a decision and move forward.

One of the concerns with the Specific Support Amount option is that LifeLine customers could potentially pay varying amounts during the year as a carrier's basic rate changes. Since 2008, the basic rate has changed over time and for each URF carrier, albeit within a capped range until 2011. We realize that LifeLine customers have become accustomed to having a fixed rate that does not vary over time. We do not believe that a LifeLine rate fixed in perpetuity recognizes the dynamic nature of the telecommunications industry or marketplace.

We are, however, mindful of the concern that many LifeLine customers may need some consistency in their monthly expenses for phone service so that they may properly budget their monthly living costs.¹⁶⁰ If we simply adopted

¹⁵⁹ AT&T Reply Comments on the Proposed Decision at 1-4 (April 13, 2009), Cox Opening Comments on the Proposed Decision at 3 (April 8, 2009), Frontier Opening Comments on the Proposed Decision at 2 (April 8, 2009), Greenlining Opening Comments on the Proposed Decision at 1 (April 8, 2009), Sprint Nextel Opening Comments on the Proposed Decision at 10 (April 8, 2009), T-Mobile Opening Comments on the Proposed Decision at 2 (April 8, 2009).

¹⁶⁰ See, e.g., DRA Comments at 8 (April 8, 2010).

the Specific Support Amount methodology, LifeLine customers could end up paying different amounts throughout the year because the amount of the subsidy would remain constant over the period of a year, but carriers may change their basic rates whenever they wish.¹⁶¹ Therefore, we will set the LifeLine rate of each participating carrier only once a year.¹⁶² The LifeLine rate will be calculated by subtracting the Specific Support Amount and the federal Lifeline subsidy from the carrier's basic rate as of a particular date, as determined by CPUC staff. Each carrier's LifeLine rate will be updated on an annual basis. This is consistent with what was contemplated by the Moore Act, which states, in relevant part, "[t]he Commission shall annually do the following . . . Set the rates and charges for that service . . ."¹⁶³ The methodology we adopt today does not limit carriers from changing their basic service rates.¹⁶⁴

¹⁶¹ The Commission receives a 30-day notice of rate changes from landline carriers but does not receive any notice from wireless or other non-traditional carriers.

¹⁶² We note that wireless and other non-traditional carriers' participation in the California LifeLine program is voluntary. However, in order to participate in the California LifeLine program, wireless, VoIP and other non-traditional carriers, must abide by the rules of the program. Imposing a requirement in this order that carriers must comply with our rules in order to provide LifeLine service does not constitute traditional "regulation" of those carriers.

¹⁶³ California Public Utilities Code § 873(a) (emphasis added).

¹⁶⁴ This Consistent with the URF decision, which did not resolve any issues related to LifeLine: ". . . we find that continued pricing regulation is warranted in a few specific circumstances relating to public policy programs. Some restrictions are appropriate when a service receives a social program subsidy, such as California LifeLine program (LifeLine) residential service . . . Thus, we cap the price of basic residential service until January 1, 2009 in order to address the statutorily-mandated link between the LifeLine rate and basic residential service rates." (D.06-08-030 at 2.) As previously discussed, we extended the rate cap on basic service until January 1, 2011 in D.08-09-042.

The Specific Support option can be implemented immediately and would not be impacted by the end of the basic rate cap on January 1, 2011. After 2010, the Specific Support option would be consistent with the communications market because it would provide low-income consumers choices in service providers and types of service. Low-income consumers would have the same option in choosing communication services as non-low-income consumers, and would not be limited to only wireline service options. By setting the benefit that carriers must pass through to California LifeLine customers, the Commission ensures that low-income consumers are not restricted in purchasing the types of services they need.

The fund size of the Specific Support Amount option falls generally in the middle of the three options and the Specific Support Amount fund size would be dependent on the size of the benefit provided to each California LifeLine subscriber. The Commission would not have to monitor the market each month and could easily ensure the Specific Support Amount is appropriately adjusted over time as prices fluctuate. The result is that the Commission would have reasonable certainty as to LifeLine program size without the uncertainty the other two options would pose.

The following chart provides a high, middle, and low estimate of the total fund size after 2011 for the Specific Support Amount option:

Specific Support LifeLine Fund Size Options				Current Program	Projected 2011
	Large Fund	Midsize Fund	Small Fund	Comparison	Comparison
Monthly Lifeline Payment	\$14.00	\$12.50	\$10.00	\$9.71	\$12.96
Average Lifeline Rate	\$6.00	\$7.50	\$10.00	\$5.47	\$8.72
Total Lifeline Fund	\$398,469,456	\$355,776,300	\$284,621,040	\$276,367,030	\$368,868,868

The range of possible outcomes is based on whether the Specific Support Amount is sized to keep average rates at a level similar to today's fixed rate, or some other higher level. The size of the fund would impact the consumers that will be paying the surcharge and the chart shows how varying the benefit impacts other consumers. The average rate and California LifeLine payment amounts would vary based on how much the low-income consumer pays, ranging from a rate similar to today up to half the \$20.00. The California LifeLine Program pays for the remaining amount of the service. The chart also shows the current program and projects a 2011 figure based on current figures increased by the \$3.25 amount allowed by the Commission in D.08-09-042 for URF carriers, apportioned to both the consumer and the California LifeLine Program.¹⁶⁵

The Specific Support Amount has the advantage of being easier to administer because the amount needed for collection depends on only one variable - the number of California LifeLine customers. Further, every carrier, including wireless and VoIP providers, gets the same per California LifeLine customer subsidy from the fund. As the California LifeLine Program would provide the same amount per customer to the carrier, its billing systems could easily handle the process once any initial adjustments are made.¹⁶⁶ Strong

¹⁶⁵ This illustration is solely for the purpose of showing that the size of the fund is not a dispositive factor in choosing between options, and cannot be used for any other purpose.

¹⁶⁶ The Commission would have to allow sufficient time for billing system changes to properly reflect this change so as to be transparent to customers. It would be reasonable to allow carriers to continue their current billing format for a reasonable period after enacting a new support methodology. As long as the end result reflects the correct amount the customer has to pay each month for service, a reasonable transition

Footnote continued on next page

arguments have been made that the Specific Support Amount could also cover all carrier administrative costs and other fees. The Specific Support Amount is both provider- and technology-neutral consistent with Section 871.5(d).¹⁶⁷ In addition, it is the easiest of the options to administer for reporting and payment purposes.

Compared to the other options, waste, fraud, and abuse issues would also be the least likely to occur with the Specific Support option as carriers would be paid a fixed amount for each California LifeLine customer served. The Specific Support amount should be at least \$3.50 in order to maximize the Federal Lifeline support available to California consumers.¹⁶⁸

The Specific Support Amount complies with Section 874 of the Public Utilities Code, which requires that California LifeLine customers not be charged more than half of the basic rate. As the basic rate may fluctuate over time for all carriers, and for each URF carrier after 2010, the California LifeLine subsidy would have to be set sufficiently greater than 50% of the average basic rate in order to ensure statutory compliance. If the amount is set at 55% of the highest basic rate of the URF Carriers of Last Resort (COLRs), we can establish reasonable certainty in program revenue and costs and help manage the market expectations of California LifeLine customers. We must ensure, however, that

would be at least 12 months and could be as long as 24 months from the effective date of the new methodology.

¹⁶⁷ See Pub. Util. Code § 871.5(d) (“[T]he commission, in administering the lifeline telephone service program, should implement the program in a way that is equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California.”).

¹⁶⁸ 47 C.F.R. § 54.403(a)(3).

carriers do not charge LifeLine customers more than half of their basic rate, pursuant to Section 874. Therefore, we also cap each carrier's LifeLine rate at 50% of its basic service rate. Where possible, when implementing a program to meet specific statutory goals, the program should not depend on actions outside of the Commission's control. As the terms of the Federal Lifeline program are beyond the Commission's jurisdiction, the Specific Support Amount should be set at a level that will ensure compliance with the Moore Act.¹⁶⁹

In adopting the Specific Support Amount approach, the Commission may seek statutory changes to the Moore Act after 2010 to avoid having to continuously update the support amount. Statutory changes, however, are not necessary to design and implement a change to a Specific Support amount based on the methodology set forth in this decision.

5.1.2.1. Calculation

After December 31, 2012, each carrier will establish a LifeLine rate that is no more than 50% of its basic service rate and no less than \$5.00 per month on an annual basis. The LifeLine rate should be computed by first deducting from a carrier's basic rate the Federal Tiers 2-3 Subsidy¹⁷⁰ (currently \$3.50) available to the carrier and then deducting up to the full value of the Specific Support Amount. If a carrier's basic rate minus the combined subsidy from the Federal

¹⁶⁹ Pub. Util. Code §§ 871.5–880. Setting the Specific Support Amount this way may slightly increase its costs compared to the other options, but it also increases the benefit available to low income consumers. In Section 5.2 we discuss how, on balance, the increased benefit is more desirable at this point given the economic conditions in California and how the extra cost is reasonable as the alternative would actually reduce the per subscriber California LifeLine payment and the overall cost to consumers is roughly equivalent for all of the options considered.

¹⁷⁰ 47 C.F.R. § 54.403(a)(2) – (3).

subsidy and the Specific Support Amount would result in a LifeLine rate that is lower than \$5.00 per month, then the carrier shall only deduct from a customer's bill the portion of the Specific Support Amount that would result in a \$5.00 LifeLine rate for the customer. This portion of the Specific Support Amount would limit the amount of reimbursement of monthly recurring charges that a carrier is authorized to seek from the California LifeLine Program. In situations where a carrier's basic rate minus both the matching Federal subsidy and the Specific Support Amount results in a LifeLine rate that is more than 50% of the carrier's basic service rate, a carrier's LifeLine rate will be capped at no more than 50% of the basic service rate.

Thus, the new LifeLine rate shall be no more than 50% of the carrier's basic service rate and no less than \$5.00. On August 1 of each year, URF COLRs will file with the CPUC's Communications Division (CD) their basic rates that were in effect on July 31 of that year. CD will establish the Specific Support Amount based on 55 percent of the highest URF COLR's basic rate. Each carrier participating in the California LifeLine Program will establish a LifeLine rate for its customers to become effective January 1 and must notify its customers at least 30 days in advance of any change its LifeLine rate. The LifeLine rate in affect on January 1 shall not be changed until January 1 of the following calendar year unless a change in the carrier's basic rate would result in a LifeLine customer paying more than 50 percent of the basic service rate. In such situations, a carrier must lower its LifeLine rate to ensure that LifeLine customers pay no more than 50 percent of the carrier's basic rate.¹⁷¹

¹⁷¹ There is still a \$5.00 floor for the LifeLine rate.

Prior to December 31, 2012, the same methodology for setting the Specific Support Amount will apply . As discussed below, as of the effective date of this decision until December 31, 2012, carriers may only charge a LifeLine rate of no more than \$6.84. Some LifeLine customers currently have LifeLine rates greater than \$6.84, such as those that have an Extended Area Service rate. Carriers for such customers may seek additional reimbursement from the LifeLine fund only to the extent the resultant LifeLine rate would be greater than it is today. Customers that currently have LifeLine rates greater than \$6.84 should continue to pay no more than the LifeLine rate they are paying today.¹⁷²

CD staff will annually review the basic rate amounts charged by carriers in California and establish a Specific Support Amount based on 55 percent of the highest URF COLR's basic rate. Carriers shall reduce California LifeLine customers' monthly bills by the Specific Support Amount such that the customer pays no less than a \$5.00 LifeLine rate. Carriers may seek reimbursement from the California LifeLine Program for discounts provided to eligible low-income customers.¹⁷³ Changes to the California LifeLine rules and GO 153 in accordance with the revised Specific Support Amount process shall be made.

CD staff will prepare a Resolution proposing a methodology for calculating the Specific Support Amount in upcoming years based on the formula discussed above. To summarize here, the California LifeLine Specific

¹⁷² For example, today basic service customers in some EAS areas have a \$20.53 rate and LifeLine customers in that area have a rate of \$10.36. That \$10.36 LifeLine rate may not be exceeded in 2011 and 2012 for those customers in EAS areas, and additional support may be provided if the Specific Support Amount and federal support do not result in a rate that is less than that \$10.36 cap.

¹⁷³ See Pub. Util. Code § 277.

Support Amount shall be set at 55% of the highest basic rate of the URF COLRs as reported to the Commission. In its resolution, Staff should propose the method for determining the highest basic rate of the URF COLRs and a proposed process for making the annual changes. Staff should also include in the resolution the proposed Specific Support Amount for 2011 and shall include an annual date (i.e., July 1 of each year) when carriers may set their LifeLine rate for the year. To facilitate preparation of the resolution, we order that URF COLRs shall provide to the CD Director on or before August 1, 2011, their basic rate(s) effective as of July 31, 2011. The resolution will also describe the process for setting the Specific Support Amount for subsequent years, including how Commission staff will prepare a letter to the carriers detailing the new Specific Support Amount.

On an annual basis, CD staff will review carriers' rate changes and adjust the Specific Support Amount to ensure that all LifeLine customer receive at least a 50 percent reduction in his/her basic service rate, in compliance with the Moore Act and Commission universal service decisions. On an annual basis, CD staff will also set the annual LifeLine rate as described in this order, for each carrier participating in the California LifeLine Program.

The initial California LifeLine Specific Support Amount is calculated by using the 2010 Verizon Basic Rate of \$20.91. We establish an \$11.50 California LifeLine discount - 55% of 20.91 is slightly more than \$11.50, which we round up or down in five cent increments¹⁷⁴ for ease of administration to \$11.50.¹⁷⁵ The

¹⁷⁴ We will round down to the nearest five cent increment if the number is not a full cent above a five cent increment and round up to the nearest five cent increment if it is full cent above a five cent increment.

actual reimbursed amount received by each carrier may be less depending on the rate charged to the California LifeLine customer. Further, as discussed infra, we will calculate the amount owed to the carrier after application of the \$3.50 in matching Federal support before applying the California LifeLine Specific Support Amount. The initial total discount would thus be as much as \$15.0 (\$11.50 from California LifeLine and \$3.50 from Federal Lifeline). Carriers shall reduce customer bills by the total reimbursement amount they receive from both the state and federal governments. By January 1, 2013, carriers shall specifically show such reduction as separate line items on the bill so that the basic rate, the LifeLine discount (from both the state and federal programs), waiver of the CPUC user fee and public program surcharges, and the resultant LifeLine rate are all provided to the customer. Carriers shall only update their LifeLine rate on an annual basis.

In order to ensure an orderly phase-in of the new methodology and provide a transition period to both carriers and LifeLine customers, we will cap the LifeLine rate at \$6.84 for the next two years for most customers. The \$5.00 price floor for the LifeLine rate will also be in effect during this transition period. Thus, carriers shall not charge less than \$5.00 or more than \$6.84 from the effective date of this decision until January 1, 2013. Carriers will receive a Specific Support Amount subsidy up to \$11.50 during this time period. For

¹⁷⁵ This calculation satisfies the requirement for an annual review of the basic rates of the URF COLRs to ensure eligible California LifeLine customers are paying no more than 50% of the applicable basic service rate satisfies the requirements of the Moore Act. Cal. Pub. Util. Code § 874(a). Future calculations should all round up to the closest five cent increment so that the actual support amount may be slightly higher than 55% of the highest basic rate of the COLRs.

customers that have a LifeLine rate greater than \$6.84 today, such as those in EAS areas, the cap is their current LifeLine rate instead of \$6.84.

We also cap the LifeLine rate for subscribers of regular measured service (1MR) at \$3.66.¹⁷⁶ A \$2.50 floor for measured service will be in effect during this transition period.

In summary, from the effective date of this decision until January 1, 2013, carriers may charge LifeLine customers less than \$6.84 or \$3.66 for regular basic or measured service, respectively. The California LifeLine support will be reduced in cases where a carrier has a rate lower than the combined Federal and state subsidy amounts. However, in no case will California LifeLine support be provided where the resulting rate is less than \$5.00 for regular basic LifeLine service.¹⁷⁷ Similarly, California LifeLine support will not be provided where the resulting 1MR rate would be less than \$2.50. URF carriers will establish prices based solely on market forces after 2010 and the Specific Support Amount will be established by the Commission on an annual basis in order to maintain compliance with the California LifeLine statutory scheme.¹⁷⁸

After the transition period, non-ETCs that do not claim Federal Lifeline/Linkup funds will be presumed to have received the full Federal

¹⁷⁶ See, Cal. Pub. Util. Code § 874(b)(1).

¹⁷⁷ Based on initial calculations, California LifeLine will be reduced to any carrier that has a basic rate less than \$21.34 so that the rate charged to most LifeLine subscribers will be \$5.00. We select \$5.00 as the lowest price as the lowest reported basic rate of the past few years was \$10.00 and half of that amount will ensure compliance with Pub. Util. Code § 874.

subsidy in calculating the state Specific Support Amount. During the transition period in 2011 and 2012, non-ETCs may receive up to the full \$11.50 Specific Support Amount in order to reduce their rate to an amount between \$5.00 and \$6.84.¹⁷⁹ See examples in the table below:

During the Transition Period 2011-2012

	ETC	Non-ETC
Current Rate	\$17.00	\$17.00
Federal Lifeline Subsidy	\$3.50	\$0.00
Specific Support Amount Carrier Receives	\$8.50	\$11.50
Customer pays	\$5.00	\$5.50

After 2012

	ETC	Non-ETC
2013 Rate	\$17.00	\$17.00
Federal Lifeline Subsidy	\$3.50	\$0.00
Specific Support Amount Carrier Receives	\$8.50	\$8.50
Customer pays	\$5.00	\$8.50

¹⁷⁸ The Commission will similarly adjust the resulting LifeLine rate amount to the lesser of \$5.00 or the half the lowest reported basic rate on an annual basis. Pub. Util. Code § 874.

¹⁷⁹ In order to allow sufficient time for the Commission to consider applications for LifeLine-only ETC certification, non-ETCs will continue to be able to claim an additional \$3.50 in matching support, if needed, during the transition period, in addition to the \$11.50 Specific Support Amount.

California LifeLine will continue to allow carriers to provide additional services bundled with the basic service elements. A contrary result would be a significant change in California policy and is not necessary to accomplish our universal service goals. We do not agree with the concern that allowing consumers to bundle the services they purchase would result in overcompensation to the carrier. Carriers are limited to the same specific subsidy as they would have received if the customer had not purchased the bundled service.¹⁸⁰

The Commission recognizes that a monthly \$11.50 subsidy is somewhat larger than the current per customer average payment to LifeLine carriers, but it is within the range for what that average payment could be in the future based on historic growth rates and changes to the basic rate. Such a figure also results in a fund size that is well within the range that has previously been realized by LifeLine. In addition, the \$3.50 in matching federal support could bring the total discount to LifeLine customers to \$15.00. An \$11.50 California LifeLine subsidy whether coupled with the matching Federal support or not will ensure continued high subscribership levels of low-income customers in California.

5.1.2.2. Carrier Requirements

The Specific Support Amount is provider- and technology-neutral consistent with the goals outlined in Public Utilities Code section 871.5(d).¹⁸¹

¹⁸⁰ We do not alter the GO 153 provisions at sections 7.7 and 8.1.8 that prevent carriers from completely disconnecting customers for failure to pay non-LifeLine-related charges. *See* October 18, 2010 Comments of DisabRA/NCLC at 22-23.

¹⁸¹ *See* Pub. Util. Code § 871.5(d) (“[T]he commission, in administering the lifeline telephone service program, should implement the program in a way that is equitable,

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Each carrier¹⁸² will receive the same California LifeLine per-customer support from the fund with a few exceptions noted in this decision. Because the California LifeLine Program will provide a uniform subsidy amount per customer to the carrier, carrier billing systems will need to be adjusted to reflect the discounted rate. Based on the input of the parties, annual adjustments to the California LifeLine support amount should be easily accommodated by the carriers' billing systems.

We recognize that carriers will need time to implement the revised California LifeLine process.¹⁸³ However, because customers will see significant benefits from the new California LifeLine Specific Support Amount program and in light of current economic conditions,¹⁸⁴ we conclude that the new LifeLine methodology should be implemented as expeditiously as possible. Accordingly, we establish July 1, 2011 as the effective date for completing the transition from the current program to the California LifeLine Program based on the Specific Support Amount methodology. We direct CD staff to establish a schedule and convene at least the first workshop within 45 days of the effective date of this

nondiscriminatory, and without competitive consequences for the telecommunications industry in California.”).

¹⁸² Non-traditional carriers such as wireless and VoIP providers will receive the same Specific Support Amount as all other carriers.

¹⁸³ See e.g., AT&T Response to Scoping Memo at 2 (August 24, 2007).

¹⁸⁴ See Fitch: U.S. Telecom and Cable Credit Profiles to Weaken in 2009, December 3, 2008, available at http://www.fitchratings.com/corporate/events/press_releases_detail.cfm?pr_id=451798, as reported at Fitch: Poor Economy May Boost Pace Of Switch To Wireless, By Kathy Shwiff, Dow Jones Newswires, December 8, 2008, available at http://money.cnn.com/news/newsfeeds/articles/djf500/200812081426DOWJONESDI ONLINE000520_FORTUNE5.htm.

decision. This implementation workshop is part of this Phase I decision and is on a more accelerated schedule than the Phase II schedule discussed at the end of this decision. We also direct CD staff to address all the implementation requirements for traditional wireline carriers, including proposed changes to GO 153, and to present a proposed resolution to the Commission within 120 days of the last workshop.

Currently, carriers are required to track and report by month a number of factors, including weighted average number of LifeLine customers, administrative costs, number of minutes their employees spend discussing LifeLine with customers, balancing accounts for pass-through costs (Federal excise taxes), etc., and to report the data on a 28-line claim form and attach supporting documentation to that form.¹⁸⁵ Continuing the current administrative process is problematic given the other proposed program reforms. Accordingly, Commission staff will redesign the claim form to gather information needed to process, verify, and audit carrier LifeLine claims. CD shall have a draft redesigned claim form prepared within 30 days of the effective date of this decision. Parties may discuss any further suggested revisions to the draft redesigned claim at the first workshop.

Under current rules, LifeLine customers are not assessed surcharges for our public programs (CTF, CHCF-A, etc.). LifeLine customers also do not pay the Federal excise tax, the CPUC user fee, or any state/local taxes. These charges are currently claimed by carriers from California LifeLine and passed through to the respective taxing authorities.

¹⁸⁵ Competitive Local Carriers can opt out from filing carrier specific cost data and receive an average amount designed to compensate smaller, less efficient carriers.

With this Decision, the California LifeLine program will continue to reimburse carriers for non-LifeLine Federal excise and state/local taxes and carriers may include those taxes on LifeLine consumer bills. California LifeLine customers will also still be exempt from paying into the state public purpose program funds and from paying CPUC user fees on LifeLine services. California LifeLine customers should not be included in the calculation of those fees such that there should be no flow of funds associated with customer bills or carrier reimbursements. However, carriers may no longer claim from the LifeLine fund reimbursement for any Federal makeup costs resulting in not having ETC status.¹⁸⁶ This includes the End User Common Line (EUCL) charge or Service Line Charge (SLC).

Beginning with implementation of this Decision, CD staff will collect end-of-month (EOM) customer counts by carrier from the California LifeLine Administrator. The Specific Support Amount will be paid based on these counts. In addition, carriers will continue to be responsible for ensuring their claims properly apportion connection and conversion incidents during the month for reimbursement, as well as the breakdown between 1FR and 1 MR LifeLine customers. Staff will propose a revised claim form within 30 days of the issuance of this decision that will include instructions for how carriers will report their apportionment of connection and conversion incidents as well as the Flat/Measure split based on the LifeLine Administrator counts to aid in the

¹⁸⁶ See *infra* Section 5.7. The current California LifeLine program provides additional compensation equal to the support that a carrier could have received from the Federal Lifeline program if the carrier is not an ETC. This federal “makeup” reimbursement will end with at the end of the phase-in period at the end of 2012 to provide those carriers sufficient time to obtain a Lifeline-only ETC designation.

claims process. LifeLine will continue to reimburse carriers for California LifeLine benefits passed through to the customer for connection and conversion discounts. The Commission may revisit this issue in the future to ensure that carriers are not inappropriately claiming multiple connection/conversion charges for the same customer and that they are keeping their connection charges at a reasonable price.¹⁸⁷

Carriers will continue to have the responsibility for reporting with each claim their rate both before and after application of California LifeLine and Federal Lifeline support payments as well as the number of eligible customers. Carriers shall reduce California LifeLine customers' monthly bills by the Specific Support Amount, and, in no case, shall the LifeLine rate be more than 50% of a carrier's basic rate. For voluntary providers, the LifeLine rate shall be calculated based on the lowest cost rate plan that meets our basic service requirements. California LifeLine customers should have transparency in understanding the benefits they are receiving and carriers should adjust their bills to reflect not only the resulting LifeLine rate but also the starting point for the discount, the Specific Support Amount credit and the starting point and the credit for connection and conversions.¹⁸⁸ We recognize that such billing system changes may not be made easily. While we encourage carriers to make such changes as expeditiously as possible, we require such changes be implemented no later than January 1, 2012. In addition, we remind carriers that they are required to give thirty-days' notice

¹⁸⁷ See General Order 153 § 8.1.1, *cf.* 47 C.F.R. § 54.411(c).

¹⁸⁸ Carriers have flexibility in formatting their bills to provide LifeLine consumers this information.

to their customers whenever a change is made to the Specific Support Amount that would result in an increase to the rate paid by the customer.¹⁸⁹

5.1.2.3. Impact on Customers and Low-Income Customers

The Specific Support Amount approach would maximize the types of services and providers a customer could choose. Marketing the Specific Support Amount alternative would be consistent with the current marketing campaign designed around the concept of buying telephone service for less than 25 cents a day. Marketing could be designed to dovetail with that theme, emphasizing an \$11 to \$15 discount on a low-income consumer's communication services.

Adopting the Specific Support Amount option would result in a surcharge amount that is less than the Set Price option and more than the Floating Subsidy option. Thus, the Specific Support Amount option would have a fair impact on non-LifeLine customers as the surcharge would not be unduly high. The Specific Support Amount option would also result in a higher subscribership rate to the LifeLine Program than either the Set Price or Floating Subsidy options. It would also benefit low-income customers as they would have the choice of paying a low basic rate and not be limited in the types of services or providers from which they make their purchase. Such a result is most likely to satisfy broad statutory goals set forth in the Public Utilities Code.¹⁹⁰

¹⁸⁹ See URF Decision, D.06-08-030 *mimeo.* at 183, 201-202, FoF 78, Ordering Paragraph 9.

¹⁹⁰ See e.g., Pub. Util. Code §§ 709, 871, 872. For example, a migrant farm worker may desire a wireless phone in order to follow fruit and produce picking work at different locations. Or, a deaf person may desire a wireless texting device in order to communicate at a job outside of his or her home.

5.1.2.4. Setting a Price Floor for California LifeLine Rates

Setting a Specific Support option raises the question of whether a price floor is still necessary for basic rates, as well as whether there should be a separate minimum price for LifeLine service. In maintaining a basic rate price floor in D.06-08-030, the Commission was concerned that funding for the California LifeLine Program would be unpredictable given the potential fluctuation in carrier draws.¹⁹¹ The Commission was also concerned about the need to address the potential for dramatic swings in end-user surcharges.¹⁹² In a competitive marketplace, we do not see any reason to maintain the current price floor on 1MR and 1FR service, and our experience over the past few years has dissuaded us of concerns that carrier draws would be unpredictable.

Accordingly, we remove this last price floor on 1MR and 1FR service so that carriers can charge customers less than AT&T's 2006 basic service rates.

However, for purposes of the California LifeLine Program, it makes sense to adopt a price floor of \$5 for the program so that every customer is contributing some amount to LifeLine, and to help moderate the price fluctuations among the different carriers. We believe that the LifeLine customer should be invested in the purchase of phone service to understand that there is a cost associated with it. Thus, the Commission shall limit California LifeLine support paid to carriers

¹⁹¹ D.06-08-030, *mimeo.* at 152.

¹⁹² *Id.*

to the lesser of the Specific Support Amount or the amount that results in the California LifeLine subscriber having a \$5.00 monthly rate.¹⁹³

A similar limitation applies to subscribers of regular measured service (1MR) such that the support paid to carriers is the lesser of the Specific Support Amount or the amount that results in the California LifeLine subscriber having a \$2.50 monthly rate. Enhanced Federal Lifeline may further reduce rates for qualifying low-income individuals living on tribal lands.

5.2. Voluntary Participation in California LifeLine for Non-Traditional Carriers

In initiating this OIR, we acknowledged that our programs need to evolve to keep up with changing technology.¹⁹⁴ We have heard significant support from consumers for continuing to allow voluntary participation of wireless carriers in California LifeLine.¹⁹⁵ We pursued this issue through the scoping memo, proposing a fixed benefit approach, and plan to consider this issue in a subsequent phase of this proceeding.¹⁹⁶ Comments did not support undertaking such a two-step process.¹⁹⁷

¹⁹³ The Commission will similarly adjust the resulting LifeLine rate amount to the lesser of \$5.00 or the half the lowest reported basic rate on an annual basis. Pub. Util. Code § 874.

¹⁹⁴ Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs 06-05-028 at 2 (R.06-05-028).

¹⁹⁵ See, R.06-05-028 Public Participation Hearings Volumes 1-3 (Sept. 25, 2006, Oct. 26, 2006, and Nov. 3, 2006).

¹⁹⁶ Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding at 7 (July 13, 2007).

¹⁹⁷ See, e.g., Cox Opening ACR Comments at 2-5 (October 3, 2008), AT&T Opening ACR Comments at 2 (October 3, 2008) ("This proceeding's record also contains

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After reviewing the parties' comments, we remain convinced that the contemplated two-step approach, i.e., adopt a fixed benefit, then extend it to other providers, is not necessary as the program already allows for other providers to participate.¹⁹⁸ As discussed below, in today's decision we adopt a new approach to LifeLine rates and carrier reimbursement. This proceeding's record contains overwhelming evidence supporting the continuation of LifeLine in a technology-neutral manner. California LifeLine should serve as a channel to greater access as technologies are employed in residential use by consumers.¹⁹⁹

The Commission determined in D.00-10-028 that the circumstances of residential use were substantially different from what they were in 1996 and that "residential use" could include wireless services.²⁰⁰ Given the more dramatic shifts to wireless-only households over the last decade, with more than one million homes in California relying on wireless as their only communication service, California²⁰¹ LifeLine should subsidize wireless telephone service when consumers choose that service as their residential service. In addition, there is no limitation on any type of technology or service provider to offer LifeLine service

overwhelming evidence supporting the expansion of Lifeline to alternative technologies, such as wireless telephones"), T-Mobile Opening ACR Comments at 4-5 (October 3, 2008).

¹⁹⁸ D.00-10-028, 8 CPUC3d at 641.

¹⁹⁹ Pub. Util. Code §§ 871.5(b), 872, 878.

²⁰⁰ D.00-10-028, 8 CPUC3d at 642.

²⁰¹ Wireless substitution: State-level estimates from the National Health Interview Survey, January-December 2007, U.S. Center for Disease Control, available at <http://www.cdc.gov/nchs/data/nhsr/nhsr014.pdf> (9% of California households were wireless only in 2007); *Enhanced Data Collection Could Help FCC Better Monitor Competition in the Wireless Industry*, United States Government Accountability Office Report 10-779, at 1 (rel. July 2010).

as long the basic service elements are part of the service delivered to the low-income customer.²⁰² Therefore, all carriers that are able to comply with the requirements of GO 153 may participate in the California LifeLine Program, including wireless and VoIP carriers.

D.00-10-028 eliminated Conclusion of Law 157 in D.96-10-066,²⁰³ and that conclusion has not limited participation by wireless providers in the LifeLine program.²⁰⁴ Thus, D.00-10-028 clearly enunciated that wireless carriers could participate in California LifeLine.²⁰⁵ Similarly, other services that include the basic service elements (as defined in Appendix B of D.96-10-066) are eligible for LifeLine benefits and providers of those services may seek reimbursement from California LifeLine. We will not change the determination in that decision that wireless carriers can participate in LifeLine. In fact, it is clear that this option is

²⁰² Verizon is correct that the Commission cannot compel wireless participation in California LifeLine, but there is also nothing prohibiting their participation in the program. *See* Verizon Initial Comments at 11-12 (Aug. 24, 2007), Sprint Comments at 11-12 (Oct. 3, 2008).

²⁰³ *See* DRA Comments at 24 (July 28, 2006) (“There is no need for statutory changes to include wireless services in the ULTS program.”).

²⁰⁴ We have determined that any remaining issues identified in D.00-10-028 have been resolved through the record developed in this proceeding such that we can adopt revisions to prior Commission orders, the ULTS program, and General Order 153, as necessary, to permit wireless providers to participate in California LifeLine. *See* D.00-10-028, 8 CPUC3d at 641-643.

²⁰⁵ D.00-10-028, 8 CPUC3d at 641 provides: “The outline of our proposal is simple: CMRS carriers should be allowed to provide ULTS if they comply with all ULTS program rules. Under our proposal, CMRS carriers would have to provide ULTS to low-income households at the same rates and under the same terms and conditions as landline utilities. Similarly, CMRS carriers could seek reimbursement from the ULTS Fund for their costs to provide ULTS under the same terms and conditions as landline utilities.”

more relevant than ever as 40% of consumers rely primarily on wireless as their residential phone, completely eschewing the landline.²⁰⁶ This is especially true for low-income residential users.²⁰⁷ We agree with Greenlining that it is imperative that LifeLine will “ensure access to current technology for low-income consumers.”²⁰⁸

We recognize that, because of the current structure of the program, no wireless or other non-traditional carrier has chosen to participate in California LifeLine. While we do not propose any immediate changes to California LifeLine to accommodate voluntary participation by wireless, VoIP and other non-traditional providers, we will have a Phase II in this proceeding to consider issues regarding implementation of LifeLine for wireless and other non-traditional carriers to offer guidance for their participation in the LifeLine Program. Some parties have raised vague concerns that the definition of basic service will remain an impediment to non-traditional carrier participation in California LifeLine.²⁰⁹ We disagree. It is clear to us that the basic service

²⁰⁶ *Enhanced Data Collection Could Help FCC Better Monitor Competition in the Wireless Industry*, United States Government Accountability Office Report 10-779, at 1 (rel. July 2010).

²⁰⁷ *Id.* (Approximately 40% of all wireless-only adults are living in households with income below 200% of the Federal Poverty Level.). *See also*, Opinion Research Corporation, *Prepaid Phones In The U.S.: Myths, Lack of Consumer Knowledge Blocking Wider Use*, prepared for the New Millennium Research Council (December 4, 2008); Low-income users latch on to iPhone, comScore, Inc., October 27, 2008 (iPhone sale data indicates an early signal that wireless smartphone service is moving from luxury to necessity).

²⁰⁸ Greenlining Reply Comments at 6 (September 14, 2006).

²⁰⁹ *See, e.g.*, October 18, 2010 Comments of DisabRA/NCLC at 11, October 18, 2010 Comments of TURN at 20. We are skeptical of the doubts raised by these parties that non-traditional carriers can successfully provide LifeLine service. *See, Federal-State Joint*

elements in place today can be provided by non-traditional carriers. To the extent the basic service definition changes, it would change as part of the proceeding in R.09-06-019. Our decision to have a Phase II to provide guidance how non-traditional carriers would participate in LifeLine simply recognizes that our processes should be reviewed and may need clarification in some areas. However, we fail to see a reason to limit any non-traditional provider that seeks to provide service to LifeLine consumers just as ILECs and CLECs are required to do today.²¹⁰

The Commission has adequate controls to ensure that the size of the fund is not adversely affected by the voluntary participation of wireless, VoIP and other non-traditional carriers.²¹¹ In addition, the Commission can put in place additional controls if they are necessary to ensure only one LifeLine service is provided to a subscriber's principal place of residence. We note that all carriers participating in the California LifeLine Program, including VoIP providers, must pay public purpose program surcharges.

There is nothing unique or different about the technology used or voluntary participation that changes this directive to prevent waste, fraud, and abuse, and the Commission will remain vigilant in this area. The goals of the

Board on Universal Service, Lifeline and Link Up Referral Order (rel. May 4, 2010) at ¶ 11, discussing how the Federal Lifeline program might double since the FCC allowed wireless-Lifeline only ETCs six years ago.

²¹⁰ See AB 2213 (Fuentes) Chapter 381, Statutes of 2010, clarifying the Legislative intent to allow wireless participation in California LifeLine.

²¹¹ See Pub. Util. Code § 878; *see e.g.*, D.08-08-029 (“Adopting a pre-qualification requirement for California LifeLine”).

Legislature are clearly laid out in the Moore Act.²¹² While not mandating a change, the Legislative directive reinforces the evolving level of communication services that this Commission has adopted as its evaluative measure for considering universal service within California.²¹³

We are mindful of the requirement in GO 153 Rule 3.3 that telecommunications carriers offering LifeLine must file “ULTS” tariffs. In order to clearly effectuate D.00-10-028, it is our intention to modify GO 153 consistent with the LifeLine reforms contained in this order. We anticipate modifying the General Order prior to full implementation of the changes set forth herein.

Consistent with the voluntary nature of how LifeLine is applicable to some wireless carriers, we do not find any conflict between a filing of a LifeLine schedule of rates and charges for wireless carriers that voluntarily subscribe to the California LifeLine Program and 47 U.S.C. Sec. 332(c)(3)(A).²¹⁴ In this regard, we note that “[w]ireless service is a substitute for wireline service.”²¹⁵ We also note that “California regulatory policy should reflect the fact that wireless telecommunications services compete with wireline services.”²¹⁶ Given this finding and conclusion, we find that requiring wireless carriers that voluntarily offer California LifeLine to potential customers to file a schedule of rates and charges for services offered to LifeLine potential customers to be consistent with

²¹² See, e.g., Pub. Util. Code §§ 709, 709.5(a), 871.5(d).

²¹³ See D.07-09-020, *mimeo.* at 63.

²¹⁴ 47 U.S.C. § 332(c)(3)(A).

²¹⁵ D.06-08-030, FoF 39.

²¹⁶ *Id.* at CoL 13.

the language in 47 U.S.C. Sec. 332(c)(3)(A).²¹⁷ Moreover, since we are not *requiring* wireless carriers to participate in the LifeLine Program, we need not reach the question of whether this specific provision of the California LifeLine Program conflicts with the Communications Act of 1934, as amended.

We recognize that voluntary providers such as wireless carriers may not have the same geographic coverage as the incumbent telephone companies in the state. We do not place any geographic restrictions on such voluntary providers in order for wireless carriers to participate in California LifeLine. There is already significant wireless carrier overlap with many of the rate-of-return carriers and we can foresee no circumstance under which our universal service goals or objectives would be furthered by eliminating the ability of some consumers to choose alternative LifeLine providers. Further, the rate-of-return carriers' overall financial results will not differ if wireless carriers receive LifeLine support for customers living in the rate-of-return carriers' service territory.

We are committed to being frugal stewards of the LifeLine fund and do not embark on a new program that has the potential to harm the currently

²¹⁷ We note that the Communications Act of 1934, as amended, states, "Notwithstanding sections 152(b) and 221(b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile service. **Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such state) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates.** ." (42 U.S.C. § 332(c)(3) (emphasis added).)

successful California LifeLine Program. We have adequate controls in place today,²¹⁸ and can put in place additional controls if they are necessary to ensure only one LifeLine service is provided to an eligible subscriber's principal place of residence. In addition, Commission staff has the authority to revise administrative procedures, consistent with this decision, to help ensure the efficient operation of the California LifeLine Program and address any irregularities or other issues. Staff authority includes determining the type and frequency of information provided by carriers and consumers to enroll and participate in the program. In addition, Staff has the authority to initiate carrier program compliance audits, and adjust the percentage of program participants audited.²¹⁹ There is nothing unique or different about wireless service that changes this directive to prevent waste, fraud, and abuse, and the Commission will remain vigilant in this area.

5.2.1. AB 2213

In February of this year Assemblymember Felipe Fuentes introduced AB 2213 to amend Sections 871.5, 872, 873 and 878 of the Public Utilities Code. The purpose of the bill was to replace the term "residential" with the term "households" in order to require that a lifeline telephone service subscriber be provided with one LifeLine subscription, as defined by the Commission, at his or her principal place of residence. The Governor signed AB 2213 into law on September 25, 2010. While we continue to maintain that we have legal authority to allow wireless and non-traditional carriers to participate in LifeLine and that

²¹⁸ See Pub. Util. Code § 878; see e.g., D.08-08-029 ("Adopting a pre-qualification requirement for California LifeLine").

²¹⁹ Staff has the authority to audit all carriers that participate in the LifeLine program.

we exercised this power a decade ago, this legislation removes any alleged ambiguity in our ability to allow such participation in California LifeLine going forward. The amendments to the Moore Act do not make dramatic changes to the statutory scheme, but they are helpful adjustments in maintaining California's leadership in narrowing the digital divide.

5.3. California LifeLine Discounts for Data Services for DDTP Equipment Recipients

In the public participation hearings, we heard testimony that persons with disabilities have acute needs for various types of wireless services, depending on the person's specific and unique disability.²²⁰ Some of the required services are expensive, and particularly difficult for disabled, low-income persons to afford.

Testimony from the public pointed out that people with disabilities have a higher chance of being low-income.²²¹ Testimony also focused on how the availability of a wireless service is essential for security, safety and access to services for people with disabilities.²²² The most informative testimony

²²⁰ See, R.06-05-028 Public Participation Hearings Volume 1 at 8-11, 28-31, 35-37, 48-49, 62-65 (Sept. 25, 2006), R.06-05-028 Public Participation Hearings Volume 2 at 83, 88-89, 101-102, 108-109 (Oct. 26, 2006), R.06-05-028 Public Participation Hearings Volume 3 at 193-203, 214-222 (Nov. 3, 2006).

²²¹ Among people between the ages of 25 and 64 with a severe disability, 27 percent were in poverty, compared with 12 percent for people with a nonsevere disability and 9 percent for those without a disability. Matthew W. Brault, *Americans with Disabilities: 2005, Current Population Reports, P70-117*, U.S. Census Bureau (rel. December 2008), available at <http://www.census.gov/prod/2008pubs/p70-117.pdf>. See also, Statement of Mr. Glenn, R.06-05-028 Public Participation Hearings Volume 2 at 101-102.

²²² Comments of the California Coalition of Agencies Serving the Deaf and Hard of Hearing at 7-8 (July 28, 2006). Statement of Ms. Pagano, R.06-05-028 Public Participation Hearings Volume 1 at 8-11 ("I am a physically disabled mother and wife and student, and I live with my cell phone about 2 feet away from me at all times. The

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addressed the specific need for affordable text messaging plans and equipment for deaf and hard of hearing individuals so they can be “unshackled” from the teletypewriter (TTY) systems and get out of the house to work and be more self sufficient.²²³

Ms. Nora Sinclair put it best during the Workshop on the Staff Report in April of 2006 when she explained her circumstances as a newly deafened adult living on a fixed income:

I currently don't have a Sidekick or any PDA service, and if I were going to buy one, which I do need to become employed, it's about a third of my one month's salary. And that's just the purchase of the unit. In terms of monthly service, then, it would be about 30 to \$40 a month. So you can do the math on that.²²⁴

The opportunity and need for synergy between DDTP and California LifeLine became clear through the input received in the Workshops and Public

landline, we've abandoned it. You know, the world has go[ne] wireless.”). Statement of Mr. Kristen, R.06-05-028 Public Participation Hearings Volume 1 at 35-37. Statement of Ms. Murtti, R.06-05-028 Public Participation Hearings Volume 3 at 197-203 (“act swiftly now to both the national technology and improvement in 911 emergency services for people who are deaf and hard of hearing”).

²²³ Statement of Ms. Sinclair, R.06-05-028 Workshop on Universal Service Public Purpose Programs, April 26, 2006 (“So if I had a Sidekick or PDA of some sort and access to wireless service for free or at least a discounted price, I could communicate with the hearing world and the deaf world both.”). Statement of Mr. Obrey. R.06-05-028 Public Participation Hearings Volume 3 at 193-195. Statement of Mr. Singleton, R.06-05-028 Public Participation Hearings Volume 3 at 196.

²²⁴ Statement of Ms. Sinclair, R.06-05-028 Workshop on Universal Service Public Purpose Programs, April 26, 2006.

Participation Hearings.²²⁵ We addressed part of this problem through the initiation of the wireless equipment pilot project where we sought to provide wireless equipment to individuals certified as having difficulty using the telephone through the DDTP program.²²⁶ We knew that in many respects, the requirements of the DDTP Wireless Pilot differed from the standard operating procedures of a typical wireless carrier. For instance, given its statutory authority, the DDTP/CTAP can only offset the equipment component costs. Since the equipment and service are usually marketed and sold as one, this aspect presented a hurdle in terms of paying the monthly service cost for participants, which was critical considering that the Pilot was directed specifically low-income users. We discovered in the pilot project that consumers who were eligible for both DDTP and LifeLine were reluctant to sign-up to receive the wireless device as the monthly recurring costs were a disproportionately high percentage of their low incomes.

In response to this concern, Staff recommended expanding the California LifeLine Program to provide a discount on the communication service that is essential to the low-income individuals who receive wireless equipment through

²²⁵ See also Statement of Mr. Obrey, R.06-05-028 Public Participation Hearings Volume 3 at 193-195. Statement of Mr. Singleton, R.06-05-028 Public Participation Hearings Volume 3 at 196.

²²⁶ Resolution T-17089 (May 2007) directed Communication Division staff to implement a multi-phase Pilot program whereby eligible participants would be issued a credit which would be applied to the equipment component of a wireless communications device; the monies for the credit would come from the DDTP fund. Further, the Pilot would not exceed two years total, with a cap of 500 Pilot participants in aggregate. Communication Division was directed to monitor the progress of the Pilot and has provided detailed reports to the Commission and Executive Director.

the DDTP program.²²⁷ By expanding the California LifeLine Program to participants of the DDTP program, the Commission can ensure that the equipment purchased by the DDTP program will be effective in meeting the communications needs of eligible low-income users. In addition, staff noted that there is no way to provide the extension of the LifeLine benefit to allow it to be used for wireless data services needed by someone who is deaf or hard of hearing without first addressing participation by wireless carriers in LifeLine.

We determine that customers who meet the eligibility requirements for both the DDTP program and the California LifeLine Program have particular needs that justify a targeted subsidy. We conclude that California LifeLine support should be provided for a communications service purchased by participants in the DDTP equipment program. Certified participants in the DDTP equipment program who also qualify under LifeLine requirements will be eligible for two LifeLine access lines, similar to the rules for TTY users.

A voice communications service is not useful in most situations for someone who is deaf or hard of hearing. The primary reason the Commission created the equipment program was to provide TTY devices for deaf and hard of hearing individuals so that they could communicate using wireline telephone facilities. Technology has advanced significantly over the past thirty years since TTY devices were first provided through the DDTP. Data-only services that include text messaging are readily available from most wireless providers and even some wireline providers. As text messaging is a highly effective means of communication for the deaf and hard of hearing communities, it is reasonable,

²²⁷ CPUC Communications Division DDTP Wireless Pilot 2nd Report at 3 (Nov. 2008).

pursuant to the goals of the Moore Act, to provide a similar discount on data services for eligible members of those same communities. The California LifeLine Program will provide the same monthly discount for data-only services now available to individuals who qualify for both LifeLine and the DDTP programs. In this way, we will permit California LifeLine eligible DDTP participants to purchase just data plans that allow them to communicate by text message.

The DDTP wireless equipment pilot program was limited to a few hundred participants, and one of the barriers identified by Staff in implementing the program was finding individuals who were eligible for both DDTP and LifeLine. As there are only a few hundred participants at this time, the cost impact of expanding the California LifeLine Program in this manner will be relatively minimal and could not exceed \$34,500 in the first year.²²⁸ Although we see merit in AT&T's proposal to continue the trial program, we also believe that these benefits are critical to its success and that eligible customers should not have to put off receiving the benefit while we conduct further analysis. The trial numbers also show us that, while the number of customers participating may not be large, this program is decisive in connecting them to the communications network. Thus, we do not believe additional tests or trials are necessary. Accordingly, given the impact of the pilot program and the addition of the LifeLine discount, we remove the pilot status from the program and make the wireless equipment program a permanent part of the Deaf and Disabled Telecommunications Program/California Telephone Access Program.

²²⁸ Based on the initial contract of 250 units (half the total authorized) multiplied by \$11.50 for 12 months.

Commission staff is directed to take the steps necessary to make the wireless equipment program a permanent part of the DDTP/CTAP and to conduct additional outreach to remaining wireless carriers to encourage them to participate in the program. In addition, we clarify that the dual eligibility requirement for purposes of the equipment program was a requirement of the pilot. The DDTP equipment program should use the results of the pilot in acquiring and distributing wireless equipment as part of the normal operation of the program. Commission staff should establish parameters consistent with current DDTP/CTAP requirements for the provision of wireless equipment based on the experience gleaned from the pilot program.

We believe that staff will be able to work out the nuances of state contract requirements and provider equipment plans, and that providers will appropriately apply the LifeLine discount to eligible customers. We agree with TADDAC that other assistance devices have always been eligible within the DDTP Equipment Program, but we do not agree that the two-line limit should be extended to other forms of disability at this time. We clarify that the LifeLine DDTP discount applies only to LifeLine customers who receive their equipment from the DDTP Equipment Program and applies only for non-voice services (as those DDTP customers already are eligible for two LifeLine discounts, one may be used for data). DDTP Equipment LifeLine support is also limited to no more than the Specific Support Amount, initially \$11.50, unlike a second basic service line that is used for a TTY where California LifeLine also provides additional support to reimburse carriers for funds that would have been paid by the Federal Lifeline program.

We believe that by expanding the California LifeLine Program in this manner, we are fulfilling the statutory goals of the Moore Act²²⁹ and addressing a significant barrier identified in the DDTP wireless pilot program.

**5.4. Expanded Discount – Matching California
Alternate Rates for Energy’s (CARE) 200%
Federal Poverty Guideline**

In comments submitted in response to the September 2008 ACR, AT&T proposed changing the 150% guideline to provide LifeLine benefits to a greater number of the “near poor.”²³⁰ At the end of 2007, 2.7 million households subscribed to California LifeLine and almost 3.7 million were enrolled in CARE. If we assume that after increasing eligibility, we end up at the same number of subscribers as CARE, and the average discount provided to companies in 2007 (\$8.39) would result in an additional \$95.4 million in California LifeLine costs each year (increasing the size of the program by almost 30%).²³¹

This may be a conservative estimate.²³² DRA recently estimated that 75% of eligible households enrolled in California LifeLine and 70% of eligible households enrolled in CARE. This means the number of households enrolled in

²²⁹ Pub. Util. Code §§ 871.5–880.

²³⁰ AT&T October 3, 2008 Comments at 10.

²³¹ The average discount provided by California LifeLine was \$8.39 per month per customer in 2007. The average discount grew to \$9.71 for the first part of 2008. If we were to apply the first half of 2008 amount against the nearly one million subscriber difference between LifeLine and CARE, the additional amount would exceed \$110 million.

²³² See generally Final Report on Phase 2 Low Income Needs Assessment prepared by KEMA, Inc., September 7, 2007, prepared for the Commission to assess the energy related needs of California’s low-income population, available at <http://docs.cpuc.ca.gov/published/GRAPHICS/73106.PDF>.

CARE is about equal to the current number of households eligible for California LifeLine. If California LifeLine maintains the 75% subscriber to eligible household ratio an additional \$34 million in California LifeLine costs would be incurred above the \$95 million calculated above.²³³ This would increase the size of the California LifeLine program to close to \$500 million per year. This cost increase presumes that all the eligible households that would be added by expanding the income-based criteria are not already eligible and participating in California LifeLine. The impact of increasing the eligibility guidelines for the LifeLine Program is uncertain.

One of the primary arguments in support of adjusting the income-based criteria is that it will allow the Commission to standardize outreach and marketing efforts with the low-income energy programs by using the same income-based criteria for all programs. However, to do this on a permanent basis would ignore the fact that the low-income energy programs expanded eligibility to 200% of the federal poverty guideline in 2005 as a temporary measure.²³⁴ The Commission has yet to finish its review of the “costs and the benefits of this CARE program expansion, to help us determine whether the expansion of CARE should remain in effect.”²³⁵

²³³ An amount that could be as high as nearly \$40 million if the \$9.71 average for the first part of 2008 is used.

²³⁴ Interim Opinion Approving Various Emergency Program Changes in Light of Anticipated High Natural Gas Prices in the Winter of 2005-2006, D.05-10-044, *mimeo.* at 18 (“While a strict benefit-cost analysis is not always controlling in the context of the low-income programs, when considering a temporary program change, it is instructive to consider the change’s economic effect.”).

²³⁵ *Id.* at OP 20.

The remaining reason to adjust the income-based criteria for California LifeLine is to align it with other Commission programs targeted to low-income households is at best temporary given the operation of both programs. Further, the LifeLine income-based criteria are no longer directly tied to the 150% of the poverty guidelines as CD is required to adjust the Household Income Limitation requirement for California LifeLine every April 15 based on the change in the Federal Consumer Price Index – Urban Area (CPI-U). Accordingly, any adjustment to the LifeLine income-based criteria would also be an interim measure and would be explicitly tied to the outcome of the review the Commission is conducting of the interim CARE income-based criteria.

We will not modify the California LifeLine income-based criteria to match the CARE income-based criteria on an interim basis pending the outcome of the review the Commission is conducting of the interim CARE income-based criteria. We encourage Energy Division and Communications Division staff to continue to work on a comprehensive approach to align the qualification and participation processes for both programs.

5.5. Reimbursement of Administrative Costs and Bad Debt Losses

One of the primary objectives of this proceeding is to “seek ways to streamline program administration and increase efficiency.”²³⁶ In the process of this review, we have examined the share of program costs that are attributable to administrative costs. These costs are incurred by the carriers and reimbursed through the claims process. These costs are in addition to the overhead or administrative costs incurred by the Commission. Such costs had gotten so far

²³⁶ PPP OIR at 2.

out of control that in 2003 the Commission capped the administrative fee for Competitive Local Exchange Carriers (CLECs).²³⁷ The capped amount was \$1.79 per customer per month for Fiscal Year 2008-2009. The weighted average for 2009 (that would have been used from July 2010 to June 2011 had the limitation been in effect) was \$0.44 and was calculated by summing all of the recurring administrative costs (this excludes one-time administrative costs and bad debt expenses) for the year and dividing by the total number of customers served during the year. As carriers will continue to report administrative expenses with their claim submission, staff should not require any additional data to update the per customer maximum administrative reimbursement allowed. The lowest per customer administrative expense reported by a carrier was \$.03 and the lowest per customer expense reported will be viewed as the most efficient provider. If a carrier is not able to adequately justify claimed administrative expenses but still seeks reimbursement for some of those expenses, it will only be compensated at the rate of the most efficient provider. Carriers must claim their administrative costs in their claim filing at least every three months, or they will not receive any reimbursement.

Reimbursing administrative costs is a vestige of cost of service ratemaking, or at best a throw back to “Z Factor Treatment” of the New Regulatory Framework era.²³⁸ Under cost-of-service regulation, utilities recover their reasonable costs from ratepayers and changes in a utility’s costs would directly result in changes in its rates. Under the New Regulatory Framework, in contrast,

²³⁷ See D.03-01-035 OPs 3-6.

²³⁸ See *e.g.*, Alternative Regulatory Frameworks for Local Exchange Carriers, D.89-10-002, 33 CPUC2d at 161-162 (D.89-10-002).

the primary factors considered in adjusting rates were not changes in the utility's costs, but rather, inflation and productivity factors, with one exception.²³⁹ Cost increases for "exogenous factors" were allowed to be reflected in rates through "Z factor adjustments" in the price cap index.²⁴⁰ The Commission ultimately adopted nine criteria to evaluate whether costs met the requirement for Z factor treatment.²⁴¹ Administrative costs associated with the LifeLine program are not likely to have met those requirements.²⁴² However, when the ULTS program was instituted by the Commission, it adopted GO 153 to govern the administration of the ULTS program and provided that carriers could "seek

²³⁹ See, Investigation on the Commission's own motion into the matter of post-retirement benefits other than pensions; Application of Pacific Gas and Electric Company for authority among other things, to increase its rates and charges for electric and gas service; And related matters, 56 CPUC2d 613, 615 note 1 (D. 94-10-037) *citing* Alternative Regulatory Frameworks for Local Exchange Carriers, 33 CPUC2d at 159-162, 228 (D.89-10-002).

²⁴⁰ RE Alternative Regulatory Frameworks for Local Exchange Carriers, D.89-10-002, 33 CPUC2d at 161-162 (D.89-10-002).

²⁴¹ Investigation on the Commission's own motion into the matter of post-retirement benefits other than pensions; Application of Pacific Gas and Electric Company for authority among other things, to increase its rates and charges for electric and gas service, D.97-04-043, 71 CPUC2d 653 (April 9, 1997). These criteria are: (1) an exogenous event; (2) after implementation of NRF; (3) clearly beyond management's control; (4) not a normal cost of doing business; (5) disproportionately impacts telephone utilities; (6) not reflected in the economy wide inflation factor; (7) timing has a major impact on the utility's costs; (8) actual costs can be used to measure the impact of the change, or the impact can be measured with reasonable certainty and minimal controversy; and (9) the costs proposed for z-factor treatment are reasonable.

²⁴² As LifeLine requirements were implemented prior to establishment of the New Regulatory Framework (NRF), they would fail the second criterion. In addition, most components of the administrative costs, such as bad debt expenses, would clearly have had a difficult time passing the "not a normal cost of doing business" criterion.

reimbursement of expenses incurred and revenues lost as a result of providing ULTS.”²⁴³

The Commission chose not to change the framework associated with reimbursement of California LifeLine administrative costs after it adopted the New Regulatory Framework. As California has moved beyond the New Regulatory Framework to the Uniform Regulatory Framework, the arguments for retaining this reimbursement under the California LifeLine Program are not persuasive. The Commission could eliminate reimbursement of administrative costs in their entirety and such costs could be recovered like any other cost of the carrier.

Recent program changes and the modifications we adopt today for the California LifeLine Program significantly decrease the administrative burden of the program. More importantly, the market based ratemaking we have adopted for AT&T, Verizon, SureWest and Frontier, the four largest local exchange carriers, who are also among the largest California LifeLine service providers, put these carriers on equal footing with their competitors by allowing them to set their prices without regard to cost for most products and services with full pricing freedom commencing on January 1, 2011. After the recent reforms to California LifeLine and the pricing flexibility available to most carriers, there is no longer a distinguishable difference between carrier costs associated with California LifeLine and normal costs of operations. While there is no requirement to have a separate California LifeLine recovery for carrier

²⁴³ D.96-10-066, 68 CPUC2d at 639 *quoting* subdivision 5 of GO 153 *citing* former Revenue and Taxation Code sections 44181, 44182, and 44184 that indicated that the

Footnote continued on next page

administrative functions, we have determined that maintaining a limited administrative reimbursement will benefit consumers.

5.5.2. Calculating Allowing Administrative Costs

Currently, carriers are required to track and report by month a number of factors, including weighted average number of LifeLine customers, administrative costs, number of minutes their employees spend discussing LifeLine with customers, balancing accounts for pass-through costs (federal excise taxes), etc., and to report the data into a 28-line claim form and attach supporting documentation. Competitive Local Carriers can opt out from filing carrier specific cost data and receive a higher ILEC carrier averaged amount designed to compensate smaller, less efficient carriers.

Continuing the current process is problematic. First, as noted previously, there is little, if any, additional cost associated with signing up a California LifeLine customer compared to a non-LifeLine customer, and, in fact, there are additional revenue opportunities that the carrier would not have otherwise realized without the California LifeLine Program. We agree with DRA that the costs of acquiring new customers is a normal cost of doing business, and that the California LifeLine subsidy enables these customers to afford service that they might not otherwise have been able to afford. California LifeLine also makes it possible for carriers to acquire and serve revenue generating customers that would otherwise disdain service.²⁴⁴

telephone corporations were to be reimbursed for providing universal telephone. (See Stats. 1983, Ch. 1143, sec. 3; Stats. 1987, Ch. 163.)

²⁴⁴ DRA Opening Comments at 7 (August 24, 2007). DRA also observes that the carrier benefits when the LifeLine customer purchases additional, non-LifeLine services. *Id.*

Footnote continued on next page

Second, the reasons that were initially proffered to pay the administrative costs do not make much sense in a competitive communications market. A goal of the California LifeLine Program is to ensure the full cost of serving LifeLine customers is paid to the carrier providing service. Just as the cost of serving non-LifeLine customers is recovered through the prices of the services offered by the carrier, the cost of serving California LifeLine customers should be recovered through the prices of the services purchased by the customer plus the California LifeLine subsidy. The administrative burden of the process is not clear in a competitive environment. Further, the additional benefit of the process to obtaining additional subscriber revenue outweighs any additional burden.²⁴⁵ We are persuaded that the Commission will enhance carrier incentives to provide efficient service by adopting a “reasonable fixed amount per customer.”²⁴⁶

Third, we have been concerned by the considerable amount of Commission resources necessary to review and audit administrative cost

We disagree with carrier claims that the expenses associated with explaining available rate schedules to prospective customers is anything other than a normal cost of doing business in California. In fact, carrier disclosures to customers is well embedded in existing California policy. *See, e.g., Consumer Protection Initiative Decision Issuing Revised General Order 168, Market Rules to Empower Telecommunications Consumers and to Prevent Fraud*, D.06-03-013 at FoF 7.

²⁴⁵ DRA Opening Comments at 7 (August 24, 2007). There are numerous examples of the additional benefits realized by carriers some of which have already been enumerated, such as the addition of subscribers that would otherwise not subscribe without LifeLine. As the societal benefits also enumerated above dovetail with the economic benefits to carriers, the California LifeLine program is an instance of a “win-win” for the industry and society at large.

²⁴⁶ Sprint Nextel Opening Comments at 6, note 7 (August 24, 2007).

reimbursement claims.²⁴⁷ Over the years, Commission staff has had concerns about the apparent misuse of this component of the LifeLine claim program and denied numerous claims for reimbursement submitted by carriers. Thus, while we have removed many of the administrative burdens from carriers, we have simply shifted those costs to California LifeLine as the Commission has taken on more administrative burden. Simplifying the separate tracking of administrative costs by carriers and the associated cost to the program of Commission review and audit of those costs will result in tangible benefits to consumers. We believe that the costs associated with administering the carrier administrative cost reimbursement outweigh the benefits such reimbursement provides to California LifeLine and consumers.

The provision of California LifeLine is not voluntary for certain carriers, but rather, those carriers assume the universal service responsibilities upon being certificated or licensed by the Commission to operate within California.²⁴⁸ The regulatory framework provides great flexibility to carriers to determine the best means of operation and how to recover their costs of operation, but it does not alleviate the decade's old obligation that all carriers are responsible for ensuring universal service throughout California. The provision of California LifeLine service is an integral part of the regulatory framework.

Thus, while the Commission has significantly adjusted the administrative costs associated with California LifeLine over the years, it has not considered the

²⁴⁷ See generally D.03-01-035, D.00-10-028, 8 CPUC3d at 654, 672, FoFs 180-184, OPs 48-49.

²⁴⁸ While wireline carriers are required to, wireless carriers are not required, but encouraged to participate in the California LifeLine program.

reasonableness of continuing to pay carrier administrative costs nor comprehensively delineated what constitutes reasonable administrative costs.²⁴⁹

Although we determine that costs associated with administration of LifeLine service are a carrier obligation of providing service in California and, therefore, we could conclude that they are not separately recoverable from the program, we will continue to reimburse carriers for some of their administrative costs as discussed below. We have considered alternatives such as a simplified process that would use a per customer recurring cost factor and per customer non-recurring cost factor.

5.5.3. Reimbursement of Administrative Costs and Bad Debt Losses

Carriers will be reimbursed for administrative costs related to implementation of program changes and other one-time activities. Further, carriers will be reimbursed for ongoing costs based on the weighted average per customer per month of the reported costs or their actual expenses, whichever is lower. Carriers will have to report their administrative costs with their monthly LifeLine claims. Carriers that do not wish to separately track and report their costs can continue to receive reimbursement at the current lowest reported rate of \$0.03 per customer per month. Staff shall update the reporting process so that carriers can separately report one-time and ongoing costs.

We select the weighted average limit based on the monthly weighted average of the annual claims on a per customer basis. As many carriers have

²⁴⁹ D.00-10-028 outlined the administrative expenses that carriers can recover from California LifeLine, but did not provide guidelines to aid in making the determination that a particular carrier's costs were reasonable. D.03-01-035 adopted a cap for CLEC costs.

actual costs on a per customer basis that are lower than the weighted average, we limit their reimbursement to their actual reported costs. On an annual basis, effective each July 1, staff will update the allowable administrative claim amount based on the previous calendar year's weighted average. Any increase from the previous calendar year's weighted average will be limited by the CPI-U, rate of inflation.²⁵⁰

Carrier reimbursement for the purposes of the Specific Support Amount and administrative costs will be made using a weighted average figure provided by the California LifeLine Administrator. The California LifeLine Administrator will compute a per-carrier customer count on a daily basis, and provide the figures at the end of the month to both Communications Division staff and the carriers. Carriers will input their weighted average customer count into their claim form, and multiply that figure by their Specific Support Amount (up to \$11.50) and administrative cost (initially \$0.50).²⁵¹

In addition, carriers will be provided an end of month figure of "inward" or new customers for the month. One half of this figure can also be claimed and multiplied by the Specific Support Amount to capture those customers who are eligible for back-credits for having certified in the current month (and were eligible in the prior month).

²⁵⁰ See D.07-90-20 at FoF 30.

²⁵¹ The weighted average cost calculation was provided by staff. The final 2010 calculation that will be in effect for the July 1, 2011 implementation date may be different.

We take this action as we are persuaded that some level of reimbursement of administrative costs is a further incentive to carrier participation.²⁵² We limit the reimbursement for the reasons previously explained and to ensure no one carrier improperly shifts administrative costs to the program. We expect staff to continue to closely monitor carrier administrative claims and perform audits as necessary.

Rate-of-return LECs must continue to report their LifeLine administrative costs and will obtain reimbursement based on the methodology above. For any costs reported above the allowable LifeLine administrative claim, such carriers are permitted to include those costs in their general administrative costs. Until their next rate case, such carriers are permitted to claim reimbursement for any difference from the CHCF-A.²⁵³ We are particularly concerned about the costs of these companies as many are disproportionately high. Historically, staff has not performed the same level of review of these costs as we have with the costs included in a general rate case. Thus, while we recognize the need to ensure that these carriers can recover these costs, we continue to believe it is more appropriate to include the majority of these costs in the general costs of the company. We agree with the arguments of the small LECs that “carriers are entitled to claim LifeLine-related costs from the CHCF-A, and the Commission should explicitly state that these costs may be recovered ... outside of the normal

²⁵² AT&T Opening Comments on the Proposed Decision at 13 (April 8, 2009), Frontier Opening Comments on the Proposed Decision at 3 (April 8, 2009), Small LECs Opening Comments on the Proposed Decision at 18 (April 8, 2009), SureWest Opening Comments on the Proposed Decision at 16 (April 8, 2009), Verizon Opening Comments on the Proposed Decision at 22 (April 8, 2009).

²⁵³ Small LECs Opening Comments on the Proposed Decision at 20 (April 8, 2009).

annual CHCF-A process.”²⁵⁴ For carriers that have gone through the rate case process in the past five years, this process will continue until their next rate case at which time no further recovery outside of the normal annual CHCF-A process will continue. For carriers that have not gone through the rate case process in the past five years, they may recover such funds for twelve months after the implementation of this decision.

5.5.4. Discontinuing the Payment of Bad Debt Losses

Currently, carriers have the option of claiming that portion of LifeLine rates that are not recovered as bad debt from the fund. While large carriers such as AT&T and Verizon do not claim bad debt against the fund, a small group of carriers have very high bad debt claims. The disparity in claims between carriers is troubling.

Most businesses experience bad debt losses, which are certainly not unique to LifeLine customers. Full reimbursement of all these types of costs²⁵⁵ is not consistent with our goal to ensure funds obtained from the surcharges are being wisely spent with efficient administration. We note as well that recording, tabulating, and submitting these costs for reimbursement places additional administrative costs on the carriers.

We believe it would be more equitable to all customers if we eliminate bad debt as a recoverable from the fund, thereby treating bad debt as a business expense. Additionally, we are concerned that under the current system some

²⁵⁴ *Id.*

²⁵⁵ The specific costs are: bad debt expense, admin-data processing, admin-notification, admin-accounting, admin-legal, admin-service rep, and admin-other.

carriers do not make adjustments to bad debt claims due to subsequent recovery of money from the customer.

5.5.5. Administrative Costs and Bad Debt Losses

The “blank check” approach to administrative costs bad debt losses, at a minimum, provides no incentive for efficiency and, at the extreme, is a means for unscrupulous carriers to allocate unjustified costs to the fund. The FCC does not include these costs in its LifeLine program and we are aware of no other state that does. However, we recognize that there is value in continuing to have the LifeLine program pay for taxes and fees of general applicability because the Affordability Study indicated that taxes and fees were the central cost that made phone service unaffordable.

We will, therefore, modify GO 153 related to separate reimbursement for administrative costs and eliminate separate reimbursement for bad debt losses. The current separate reimbursement for administrative costs from the California LifeLine Program shall change on June 30, 2011. Consistent with the findings of the Affordability Study, the LifeLine Program will continue to pay the taxes for low-income consumers. Moreover, LifeLine customers will continue to be exempt from paying into the public purpose program funds and from paying CPUC user fees.

Carriers will have until September 30, 2011, to submit all claims for reimbursement of administrative costs as defined above incurred before July 1, 2011. No claims shall be accepted after September 30, 2011, and any claim for reimbursement not timely submitted is deemed void and denied. Further, after September 30, 2011, carriers with more than 100 LifeLine subscribers shall submit initial claims for LifeLine reimbursement no later than 60 days after the conclusion of the month during which service was provided. Carriers with

fewer than 100 LifeLine subscribers should submit initial claims at least every six months. No initial claims shall be accepted after the end of that 60-day period, and any initial claim for LifeLine reimbursement not timely submitted is deemed void and denied. To aid administration of California LifeLine, the Commission should limit the period carriers may file adjusted claims for LifeLine reimbursement. Carriers will have up to one year to submit adjustments to timely filed initial claims consistent with GO 153 Rule 9.10.2. Phase II of this proceeding will consider whether the time allowed for adjustments will be shortened.

5.6. Pre-Qualification

In its comments, SureWest raised the issue of changing Commission policy to require that prospective LifeLine customers complete the certification process prior to receiving discounted service. SureWest contended that the current policy confuses customers who incorrectly conclude that no further action is required for certification once they begin receiving the discount, and can lead to back-billings of \$100 or more where the customer fails to successfully complete the certification process.²⁵⁶ SureWest and the small LECs recommended that the Commission adopt a process whereby a prospective LifeLine customer would be charged full tariffed rates at initiation of service, but then credited for a LifeLine discount if the customer is deemed eligible.

On November 14, 2007, the Assigned Commissioner issued her scoping memo for Phase II of Rulemaking 04-12-001 and included pre-qualification of

²⁵⁶ Opening Comments of SureWest at 5 (August 24, 2007).

LifeLine customers as an issue for comment by the parties.²⁵⁷ Such a requirement was adopted in D.08-08-029 making further consideration of this issue in this docket moot.

However, we do recognize the need to reimburse carriers for implementation costs related to the recent Decision requiring changes to implement pre-qualification for customers beginning July 1, 2009. At this point all claims for pre-qualification expenses have been filed, though the two year amendment window is still open. Subsequent costs must be born out in rates as discussed above.²⁵⁸

Pre-qualification requirement was successfully implemented on July 1, 2009.

5.7. Non-ETC Make-Up

Pursuant to section 254(e) of the Communications Act,²⁵⁹ only eligible telecommunication carriers (ETCs) designated pursuant to section 214(e)²⁶⁰ are eligible to receive Federal Lifeline and Link-Up support. The Federal Lifeline program provides low-income consumers with discounts of up to \$10.00 (\$6.50 for EUCL, \$3.50 for basic service) off of the monthly cost of telephone service for

²⁵⁷ Assigned Commissioner Ruling Setting Scope of Phase II, R.04-12-001 at 5 (November 14, 2007).

²⁵⁸ All carriers are permitted to claim reimbursement for one-time costs such as those incurred implanting D.08-08-029.

²⁵⁹ 47 U.S.C. § 254(e).

²⁶⁰ 47 U.S.C. § 214(e) (setting forth the requirements for ETC designation).

a single telephone line in their principal residence.²⁶¹ Federal Link-Up provides low-income consumers with discounts of up to \$30.00 off of the initial costs of installing telephone service.²⁶² Enhanced Lifeline and Link-Up may provide qualifying low-income individuals living on tribal lands with additional support.²⁶³

In opening this review of the Telecommunications Public Policy Programs, we explained our interest in carefully managing our programs to capture the maximum federal funding. The April 2006 staff report contained a table depicting the 2004 differences between ETC qualified carriers and non-ETC qualified carriers.²⁶⁴ Our staff has updated the tables²⁶⁵ showing the amounts:

²⁶¹ See 47 C.F.R. § 54.401(a)(2); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8957 (1997) (*1997 Universal Service Order*).

²⁶² See 47 C.F.R. § 54.411(a)(1).

²⁶³ See 47 C.F.R. §§ 54.405(a)(4), 54.411(a)(3).

²⁶⁴ Staff Report on Public Policy Programs, Staff of Telecommunications, Strategic Planning, and Legal Divisions at 9 (April 14, 2006).

²⁶⁵ Federal amounts come from USAC Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2008, Appendix LI05 - Annual Low Income Support Amounts by State and Company through 4Q2007.

2006 Annual Support

	End of Year Number of LifeLine Customers	Federal	California		California Cost per customer/mont h
			LifeLine	Non-ETC Make-up	
ETCs	2,980,109	\$294,699,335	\$197,482,845	\$0	\$5.52
Non-ETCs	240,004	\$0	\$15,448,921	\$24,125,634	\$13.74

2007 Annual Support

	End of Year Number of LifeLine Customers	Federal	California		California Cost per customer/month
			LifeLine	Non-ETC Make-up	
ETCs	2,473,019	\$271,406,206	\$171,406,059	\$0	\$5.78
Non-ETCs	273,839	\$0	\$70,173,693	\$34,894,380	\$31.97

	End of Year Number of LifeLine Customers	2008 Annual Support			
		Federal	California		California Cost per customer/month
			LifeLine	Non-ETC Make-up	
ETCs	1,927,200	\$224,711,454	\$155,823,832	\$0	\$6.74
Non-ETCs	173,357	\$0	\$46,716,681	\$6,331,149	\$22.46

	End of Year Number of LifeLine Customers	2009 Annual Support			
		Federal	California		California Cost per customer/month
			LifeLine	Non-ETC Make-up	
ETCs	1,775,808	\$194,731,835	\$166,571,440	\$0	\$7.82
Non-ETCs	147,151	\$0	\$36,904,478	\$2,943,562	\$20.90

These tables show that making up the “lost” federal support due to lack of ETC status for some carriers has fallen to almost \$3 million from a high of \$35 million in 2007 as we have considered this issue. On a per customer basis, the federal program provides up to \$30 in one time connection fees and \$7.73 per month for recurring costs. This “lost” amount could be obtained from the Federal Lifeline program provided that these carriers obtain ETC status. The

federal requirements are already being met by most if not all carriers so those service requirements do not prevent carriers from obtaining ETC status.²⁶⁶

Initially the amounts paid to non-ETCs by the California LifeLine Program to make up for the “lost” federal support was small. Such a policy made some sense in the 1980s and most of the 1990s when competitive options were not as widely available as they are today. In providing extra California LifeLine support in place of federal support, the Commission could foster additional competitive options for low-income consumers while those carriers move toward becoming ETCs. However, instead of being a transitional mechanism toward carriers applying for and receiving ETC status, the Commission has allowed these carriers to significantly increase their draw from California LifeLine without limitation or control.

There are substantial benefits to California consumers in requiring ETC designation. Section 214(e) of the Communications Act prevents eligible carriers from attracting only the most desirable customers by limiting eligibility to common carriers²⁶⁷ and by requiring eligible carriers to offer supported services and advertise the availability of these services throughout the service area. We believe that policies designed to encourage ETC designation will allow for a more predictable level of service to consumers and assist the Commission

²⁶⁶ See 47 C.F.R. § 54.101, which includes e.g., voice grade access to the public switched network, single party service, access to emergency and operator services, and toll limitation for low-income customers.

²⁶⁷ The Communications Act requires common carriers to furnish “communications service upon reasonable request therefore,” 47 U.S.C. § 201(a), and states that “[i]t shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services” 47 U.S.C. § 202(a).

improve the long-term sustainability of California LifeLine, as only fully qualified carriers that are capable of, and committed to, providing universal service would be able to receive both state and federal support. In addition, ETC designation allows the Commission to more closely evaluate whether the carrier has the financial resources and ability to provide quality services throughout the designated service area. We believe that it would neither be prudent nor serve the public interest to permit a financially unsound carrier to receive universal service support but not be able to achieve long-term viability that is sufficient to sustain its operations. We believe ETC designations provide greater opportunity for the Commission to ensure multiple service providers maintain the capability and commitment to provide service throughout the designated service area. As ETCs have demonstrated the ability to remain functional in emergency situations, we believe the security of a carrier's network and the ability to protect critical telecommunications infrastructure is an important public interest. Finally, the ETC designation process adds to our ability to ensure consumer protection requirements, consistent with the public interest, convenience and necessity and will help ensure consumers are able to receive an evolving level of universal service.

When we opened this docket, we indicated that maximizing federal support would be one of our goals. The best course for maximizing federal support for the LifeLine program is to discontinue making up the federal amounts paid to non-ETCs. Such an approach allows carriers the freedom to make their own business decisions regarding ETC certification but not burden California consumers with insulating these carriers from the consequences of those decisions.

This decision modifies the subsidies non-ETCs may recover from the California Lifeline fund. This is a logical outcome of the goals of the proceeding and was explicitly delineated in the OIR.²⁶⁸ We do not completely eliminate the California LifeLine support available to non-ETCs, but we adopt a policy that encourages non-ETCs to become ETCs so as to obtain more federal funding and reduce their draw on the California Lifeline fund. Further, we will maintain the non-ETC make-up payments during the transition period of 2011 and 2012 up to the full Specific Support Amount. Finally, we note that as the implementation date for the changes made herein is July 1, 2011, there is ample time for any non-ETC California LifeLine participant to become an ETC prior to the implementation of these changes. Further, as we have included an additional transition period by capping the maximum amount LifeLine consumers pay until 2013, we will continue to pay the federal make-up charge for non-ETCs between July 1, 2011 and December 31, 2012, to the extent it is necessary.

We, therefore, direct that GO 153 be modified to exclude all costs that could have been reimbursed pursuant to the Federal Lifeline program, regardless of whether the costs are actually reimbursed to the carrier.

5.8. Consumer Education Plan

We will seek further input on a consumer education plan to inform California LifeLine consumers about the changes adopted herein. Staff should

²⁷⁸ “[O]nly 11% of California’s customers are not served by registered carriers, but the absence of federal fund contributions is made up with California LifeLine revenue. Consequently, these carriers cost the California LifeLine program approximately twice as much to serve a LifeLine customer as a federally registered carrier.” (R.6-05-028 at 3.)

continue to work with all interested parties to establish a robust and thorough consumer education plan at least three months prior to the effective date of the changes adopted herein. We direct CD staff to convene one or more workshops within 75 days of the effective date of this decision to develop a consumer education plan and prepare and serve on all the parties to this proceeding within 60 days of the last workshop a report to conform our existing outreach and education plans to today's decision (including in-language training, access to emergency services, and the ability to reach emergency services from inactive wireline or wireless phones). We encourage everyone interested in this topic to participate in developing the marketing and education plans.

6. Next Steps

In this decision, we clarify that all providers may participate in California LifeLine and lay out some additional effort the Commission will undertake to allow consumers to apply the California LifeLine discount to the communication service of their choosing. Within 45 days of the effective date of this decision, CD staff must convene a Phase I workshop to address implementation issues, including updates to Go 153, consistent with this decision. Within 120 days of the effective date of this decision, CD must prepare a resolution addressing implementation issues and changes to GO 153, consistent with this decision.

We continue to encourage the participation of all providers during the pendency of these additional actions. To the extent that non-traditional carriers, including wireless carriers, are able to meet the current requirements of GO 153, they may participate in the LifeLine program as of the effective date of this decision. We will have a Phase II of this proceeding to clarify any outstanding issues with regard to the participation of non-traditional carriers, including wireless and VoIP carriers, in the LifeLine and DDTP Programs.

As part of the Phase II in the proceeding, we specifically direct the CD to hold at least one workshop on how non-traditional providers will participate in California LifeLine within 45 days of the issuance of a decision adopting a definition of “basic service” in the High Cost Fund-B docket, R.09-06-019.²⁶⁹ All Phase II workshops must be concluded within 90 days of issuance of a decision adopting a definition of “basic service” in R.09-06-019, and CD must prepare a resolution adopting any further changes to the LifeLine program to facilitate the inclusion of wireless, VoIP and other non-traditional carriers in the LifeLine Program, consistent with the Moore Act and this decision within 120 days of issuance of a decision adopting a definition of “basic service” R.09-06-019.

In the Phase II workshop(s), the CD shall explore what additional information can be provided to consumers opting for non-traditional LifeLine service, including for example, disclosure of how a charged wireless handset can always access 911 service even when the handset no longer is tied to a particular wireless service plan²⁷⁰ and the ineffectiveness of cordless telephones when the power is out at a residence.²⁷¹ We note that subsequent to the initiation of this proceeding, these issues have largely been addressed in the Rulemaking 07-04-015 that culminated with the Decision Adopting Guidelines for Customer

²⁶⁹ Communications Division may elect to hold a series of workshops.

²⁷⁰ 47 C.F.R. § 20.18 (CMRS providers subject to this section must transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point, or, where no Public Safety Answering Point has been designated, to a designated statewide default answering point or appropriate local emergency authority pursuant to § 64.3001 of this chapter, provided that “all wireless 911 calls” is defined as “any call initiated by a wireless user dialing 911 on a phone using a compliant radio frequency protocol of the serving carrier.”).

²⁷¹ Cf. October 18, 2010 Comments of DisabRA/NCLC at 20-21.

Education Programs Regarding Backup Power Systems D.10-01-026. Thus, the workshop may be limited to any additional information that should be provided to LifeLine customers by a non-traditional carrier related to public safety or access to emergency services unique to non-traditional carrier participation in LifeLine, such as the availability of emergency services pursuant to 47 C.F.R. § 20.18. The workshop and any new direction to carriers as to information disclosures should be completed before the effective date of the new support methodology so that any non-traditional carrier that chooses to participate using the new methodology can do so using the additional information disclosures.

Other issues that CD should discuss in the Phase II workshops include, but are not limited to, the following:

- (a) May wireless and/or other non-traditional carriers, such as VoIP providers, charge LifeLine customers early termination fees (ETFs)?
- (b) May wireless and/or other non-traditional carriers, such as VoIP providers, require LifeLine customers to sign service contracts?
- (c) What types of services would LifeLine customers of wireless and/or other non-traditional carriers, such as VoIP providers, need?
- (d) Would LifeLine customers of wireless and other non-traditional carriers such as VoIP providers receive the same level of service as other customers?
- (e) What happens if a LifeLine subscriber of a wireless, VoIP, or other non-traditional provider does not renew its contract or wish to continue with the LifeLine program with that particular carrier?
- (f) What happens if a wireless or non-traditional carrier terminates their LifeLine program?
- (g) Does the subsidy for connection/conversion costs apply to activation fees?
- (h) What methodology should the Commission use to ensure compliance with the provision of the Moore Act which states that non-recurring connection charges shall not be more than 50 percent of the charge for

basic residential service, particularly with respect to non-traditional carriers?

- (i) How is LifeLine pricing determined for data plans?
- (j) How will the LifeLine program be implemented for data services for DDTP – eligible consumers?
- (k) Should the time allowed (one year under this decision) for adjustments for timely filed initial claims be shortened?

As previously discussed, the definition of basic service is currently being considered in R.09-06-019. The definition adopted in that proceeding will apply statewide and this definition will be applicable to the California LifeLine Program. We will clarify any outstanding details regarding the LifeLine DDTP in Phase II. Issues considered in the workshop may include changes to Commission and provider processes set forth in GO 153. Many of these issues were discussed in the 2009 LifeLine Forum sponsored by Assemblymember Fuentes and DRA and held on December 17 and 18, 2009.²⁷² In Phase II, we will not discuss or debate proposals that are not consistent with current law, specifically, that are not in compliance with the Moore Act. We also will not further discuss the Set Subsidy Amount for wireless, VoIP, data services for DDTP – eligible consumers, and other non-traditional carriers in Phase II as this decision determines that the Set Support Amount shall apply to all carriers participating in the LifeLine program.

²⁷² In addition to Assemblymember Fuentes, Commissioners Grueneich and Simon were also present at the 2009 LifeLine Forum. DRA prepared a report dated January 26, 2010 summarizing the discussions in the Forum.

We note that the Phase I implementation workshops for wireline carriers are not a part of Phase II and are on a shorter timeframe than the Phase II workshops.

7. Comments on Proposed Decision

The proposed decision (PD) of Commissioner Bohn in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Opening comments were filed on October 18, 2010 by DRA, Greenlining, TURN, Disability, Rights Advocates jointly with National Consumer Law Center, AT&T, Verizon, SureWest, Frontier, the Small Local Exchange Carriers (Small Carriers) and Cox.

DRA commented that the PD did not go far enough toward extending the LifeLine program to wireless service and emphasized that unless and until the Commission resolves the issue of what a wireless "basic service" should consist of, a wireless Lifeline option cannot be created.

DRA supported the interim Lifeline rate caps as a reasonable compromise between uncontrolled rates and the current fixed rates. DRA, however, contended that the cap on carrier draws from the Fund should be set at each carrier's draw as of December 31, 2010, not at \$11/customer/month after 2012. According to DRA, two years of unlimited carrier draws could lead to unchecked growth in the size of the Fund needed to compensate carriers for the difference between the capped LifeLine rate and their unlimited basic service rates, resulting in substantial increases to the surcharge in a difficult economic environment. DRA also opposed allowing carriers to receive reimbursements from the LifeLine Fund for administrative expenses because customer

administration costs are an ordinary cost of doing business for all of a carrier's customers.

Greenlining opposed the PD because it fails to achieve Greenlining's overarching goals for this proceeding: (1) a LifeLine subsidy accessible for customers who prefer wireless service or other non-traditional telecommunications service, and (2) a reliably, affordably priced LifeLine rate.

Greenlining explained that while the Specific Support Amount may bring the possibility of wireless LifeLine closer to reality, too much work needs to be done to develop a framework under which wireless LifeLine could effectively operate. According to Greenlining, the Specific Support Amount is also inconsistent with the longstanding objective of the LifeLine program - providing affordable basic telecommunications service - by placing customers at "the mercy of market forces." Greenlining contended that once price restrictions for basic service for carriers regulated under URF are lifted in January 2011, the only thing to prevent escalating prices for basic service will be market competition and price of basic service could become unaffordable to many. Greenlining recommended that the price for basic service under the LifeLine program should not be left to market forces, and that the PD should be modified to include a price cap for basic service. Wireless LifeLine service, when offered, would have a different price cap. In any event, Greenlining recommended that the LifeLine rate be monitored by the Commission, in collaboration with the Low-Income Oversight Board.

Greenlining stated that it remains a strong proponent of providing flexibility in the LifeLine subsidy so that it may be applied to wireless service, and advocated for more guidance for Phase II of this proceeding including confirmation that any basic service subsidized by the LifeLine program must be

affordable because wireless service “is swiftly becoming the new ‘basic’ among the various communications options presented to consumers today.”²⁷³

Greenlining also supported modifying the eligibility guidelines for the LifeLine program to 200% of the federal poverty level to make it consistent with the electric utility low income program.

Greenlining emphasized the any change in the LifeLine program will require extensive customer outreach and education to ensure that LifeLine recipients will be able to use the LifeLine subsidy to their best advantage. Specifically, Greenlining stated that the Specific Support Amount will allow Lifeline recipients to be able to bundle their basic telecommunications service with other services and that carriers should clearly inform LifeLine recipients that they are not required to choose more expensive bundles of services. Greenlining strongly supported giving LifeLine recipients the choice to apply the LifeLine subsidy to the telecommunications service of their choice, including wireless. The wireless LifeLine option, however, “must not be seen by carriers as an opportunity to upsell low income customers unfamiliar with the marketplace for wireless services” and create “a predatory communications crisis enabled by wireless LifeLine.”²⁷⁴

TURN urged that the Commission to reject the PD and address the numerous errors and inconsistencies within the document. Specifically, TURN argued that the PD continues to reward carriers for raising basic rates by failing to cap subsidy amounts, and by ignoring the benefits that the LifeLine program

²⁷³ Greenlining Comments at 273.

²⁷⁴ Greenlining Opening Comments at 274.

provides carriers through the sale of non-basic services to LifeLine customers. TURN reiterated its proposal that both LifeLine rates and the carrier draw from the LifeLine fund be capped and allowed to adjust at the rate of CPI inflation, in contrast to the Specific Support approach adopted by the PD would reward carriers for increasing basic rates, which are “completely divorced from any cost basis.”²⁷⁵ TURN also pointed out that the PD does not address the impact of basic rate geographic deaveraging on the objectives of LifeLine program. TURN also questioned the logic of requiring LifeLine customers to pay taxes on LifeLine services, thus increasing bills and threatening affordability, while at the same time making carriers whole for basic service price increases that have no demonstrated relationship to the carrier’s underlying costs.

TURN focused much of its comments on the unresolved issues inherent in providing LifeLine subsidies for wireless services. TURN concluded that until these issues are fully resolved it is premature to include wireless carriers in the program.

The Disability Rights Advocates, jointly with the National Consumer Law Center, expressed several concerns with the PD. While not opposing the Commission’s apparent objective of expanding the LifeLine program to include non-wireline forms of telecommunications, these parties stated that the Commission must address in a “comprehensive and orderly” fashion the “vexing” legal and procedural hurdles that have been long-pending in this proceeding.²⁷⁶ Specifically, the service quality standards for non-traditional

²⁷⁵ TURN Opening Comments on the PD at 8.

²⁷⁶ The Disability Rights Advocates and National Consumer Law Center, Opening Comments on the PD at 2, 4, and 5.

providers and other issues put over until Phase II must be addressed before non-traditional providers can even decide whether to participate in the program. These parties explained that the affordability study “suffers from acute shortcomings” and should not be used as the evidentiary basis for proposed fundamental changes to the LifeLine program.²⁷⁷ These parties also shared TURN’s concern that the PD’s failure to cap subsidy amounts effectively rewards carriers for raising basic rates and risks increasing the size of the fund, but does nothing to ensure affordable service for LifeLine customers. They recommended that the Commission once again return to the drawing board and, based on accurate and up-to-date information, resolve the hard issues of service quality, fund size, and customer affordability before implementing any fundamental changes to the LifeLine program.²⁷⁸

AT&T generally supported the PD but contended that numerous clarifications were necessary to avoid unintended consequences that “restrict LifeLine participants from the benefits of true market pricing, require carriers to subsidize their LifeLine customers’ benefits, restrict the full pricing flexibility rule for ILECs, or unnecessarily burden the fund with low LifeLine rates.”²⁷⁹ AT&T focused on the once-a-year change to LifeLine rates as causing significant price changes for LifeLine customers and AT&T suggested that two or three changes per year to gradually increase the LifeLine price. AT&T also noted that the discount and reimbursement structure for connection and conversion charges should be modified. For the second LifeLine subsidized line authorized for

²⁷⁷ *Id.* at 9.

²⁷⁸ *Id.* at 24.

²⁷⁹ AT&T Opening Comments on the PD at 2.

DDTP customers, AT&T explained that the Federal LifeLine program does not supply a second subsidy so there would not be a second subsidy amount from the Federal program. AT&T also pointed out that the PD is inconsistent in its use of the basic service rate to be used for determining the support amount and indicated that Verizon's basic rate is currently the highest at \$20.91. AT&T noted similar inconsistency for LifeLine rates in Extended Area Service exchanges.²⁸⁰ AT&T also supported retaining the two-year correction period for claims and reimbursement for carrier surcharges, and opposed placing additional information on the bill to prevent customer confusion.

Verizon California recommended several further improvements to the PD to ensure that the subsidy is properly targeted to achieve the goal of universal service without overly burdening other customers with fund surcharges. Verizon recommended including the Federal support amount in calculating the amount carriers' receive as a means to limit the cost of the California LifeLine program.²⁸¹ Similarly, Verizon supported a LifeLine price floor equal to the current AT&T lifeline rate, \$6.84, as a means to avoid inflating the cost of the LifeLine program during the two-year transition.²⁸² Verizon also opposed setting the LifeLine rate based on the previous year's July 31 basic service price because carriers would be unable to charge LifeLine customers any price increases adopted in the ensuing year.

²⁸⁰ *Id.* at 9-10.

²⁸¹ Verizon California Opening Comments on the PD at 2-3.

²⁸² *Id.* at 4.

Frontier²⁸³ generally supported the direction of the PD but recommended a few changes. Rather than adopting a specific LifeLine rate for a year, Frontier suggested that the Commission adopt a range of prices to allow the pricing flexibility. Frontier stated that all carriers should be required to obtain ETC certification, and the effective date should be at least three months after the workshop report is completed to allow for adequate time to implement changes. A reconciliation process should be adopted for inconsistencies between the carrier LifeLine customer count and the third-party administrator, and Frontier's basic rate should be corrected to \$17.85 from the incorrect amount shown in the PD of \$16.85.

SureWest opposed the PD and recommended that the Commission adopt a set rate structure based on the data in the affordability study.²⁸⁴ SureWest questioned the PD's "fundamental premise" of extending the LifeLine Program to wireless services because the PD used an "empty statement to designed to support the outcome in the Proposed Decision" without any analysis of whether the new technologies "wills serve the public policy goal of reliably connecting low-income consumers to the telephone network."²⁸⁵ SureWest argued that "common sense" required that the differences between wireline and wireless service and the likely impact on the fund should be analyzed as part of the

²⁸³ Citizens Telecommunications Company of California, d/b/a/ Frontier Communications of California, Frontier Communications West Coast, Inc., and Frontier Communications of the Southwest, Inc.

²⁸⁴ SureWest Opening Comments on the PD at 1.

²⁸⁵ *Id.* at 5.

decision on “how to allocate valuable public subsidies.”²⁸⁶ According to SureWest, if the Commission adopts a specific support amount, the Commission should use the actual highest priced basic service, \$20.25, include administrative costs, and either allow carriers to charge a deposit or allow recovery of bad debt costs.²⁸⁷

The Small Local Exchange Carriers²⁸⁸ (Small Carriers) echoed SureWest’s comments.

Cox generally supported the PD but contended that carriers should be authorized three changes in the amount received from the fund. First, carriers that do not have ETC certification should continue to receive the non-ETC make-up payments until January 1, 2013. Second, carriers should continue to receive full reimbursement for actual administrative costs. Third, carriers should not be required to meet billing line-item specifications as set forth in the PD.

Reply comments were filed on October 25, 2010, by DRA, Greenlining, TURN, National Consumer Law Center jointly with Disability Rights Advocates, Verizon, Small Carriers, SureWest, Frontier, AT&T, Cricket and Cox and T-Mobile.

²⁸⁶ *Id.* at 6.

²⁸⁷ *Id.* at 10–15.

²⁸⁸ Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company and Winterhaven Telephone Company.

DRA replied that, like Greenlining, TURN, the Disability Rights Advocates, and the National Consumer Law Center (NCLC), it finds that the PD lacks assurances that service will be affordable and sustainable for LifeLine customers after the rate cap expires. To provide a remedy, DRA recommended that should basic service rates continue to increase, the Commission should extend the LifeLine rate cap with small cost of living increases beyond the two years contemplated in the PD. DRA also too issue with LifeLine fund size needed to effectuate the changes the PD proposes. DRA predicted that the LifeLine fund size would likely see a dramatic increase as a result of adopting the SSA approach, allowing non-traditional carriers to participate in the LifeLine program, and expanding the LifeLine program to include data services for consumers that receive wireless equipment through the Commission's DDTP program. DRA observed that all of these changes would require that non-LifeLine customers pay higher surcharges, but the PD lacks any estimate of the impact on the non-LifeLine customers and on the surcharge rate itself.²⁸⁹ DRA agreed with TURN that the PD appears to continue to reward carriers for raising basic rates by failing to cap carrier subsidy draws DRA also noted that LifeLine carriers sell high-margin non-basic services to LifeLine customers. Therefore, DRA recommended that the Commission to freeze carrier per-line subsidy draws at their level as of December 31, 2010.

Greenlining supported TURN's mechanism to restrict the carrier draw on the LifeLine fund to the rate of inflation, and the small LECs similar mechanism for governing the price for LifeLine service, a set price that adjusts with the rate

²⁸⁹ DRA Reply Comments on the PD at 5.

of inflation. Greenlining stated that such mechanisms are necessary, as the Proposed Decision does not provide any means of controlling the LifeLine rate or carrier draws once the transition period is over.²⁹⁰ Greenlining also restated that the workshops and Phase II must assure that the statutorily required affordability and high quality of service be maintained for nontraditional LifeLine carriers, and that these very challenging matters will require more workshops and time than included in the PD.

TURN, National Consumer Law Center and Disability Rights Advocates replied in opposition to the carriers' arguments that they must be made whole in real time as "predictable but ironic – the carriers want to have their 'deregulation' cake of rate-setting flexibility while being rewarded with additional LifeLine revenues every time they raise basic rates."²⁹¹ These parties claimed that the carriers will earn significant additional revenues off of the sale of additional services to LifeLine customers. These parties reiterated their recommendation that the Commission cap uniform statewide LifeLine rates and the carrier draw subject to a CPI-based inflation adjustment.

Verizon recommended that in adopting changes to the LifeLine program, the Commission should carefully evaluate the manner in which it structures subsidies to ensure that they serve the goals of affordability and increased subscribership for low-income consumers. Specifically, Verizon presented evidence that telephone service penetration increased despite decreased participation in the LifeLine program in recent years, and that controlling

²⁹⁰ Greenling Reply Comments on the PD at 2.

²⁹¹ TURN, The National Consumer Law, and The Disability Rights Advocates Reply Comments on the PD at 1.

program size through prudent and targeted reforms must be a significant consideration in moving forward. Verizon showed that the overwhelming evidence is that telephone penetration levels are increasing, despite the fact that LifeLine participation levels are dropping. The data showed that despite a 40 percent decrease in LifeLine program participation, from 2006 to 2010, overall telephone penetration in California has increased.²⁹² In short, Verizon concluded, these data indicate that consumers are obtaining telephone service at increasing levels without the benefit of the LifeLine program, and this trend of increasing telephone penetration is evident at even the lowest household income levels, despite declining LifeLine program participation.

Verizon opposed TURN's claim that the revenue of other products and services purchased by LifeLine subscribers should be included in capping the Specific Support Amount. Verizon responded that TURN ignores Commission precedent and market reality because the fact that some LifeLine customers may choose to purchase other non-price regulated services is not a legitimate source of statutory funding to compensate carriers for the regulatory obligation to sell discounted basic service as required by Public Utilities Code Section 874.²⁹³

The Small Carriers replied that that opening comments raise a variety of policy, legal, evidentiary, and implementation issues that militate against adoption of the Proposed Decision in its current form. These carriers agreed with several of the comments from the consumer groups that the Specific Support Amount approach is not preferable for California's low-income consumers and

²⁹² Verizon Reply Comments at 3.

²⁹³ *Id.* at 6.

that the proposed expansion of the LifeLine program to wireless and other alternative technologies is premature at best. The Small Carriers went on to state that if the PD is adopted, further changes are necessary to avoid customer confusion and unfairness to carriers who participate in the program, especially with regard to LifeLine-related administrative costs and bad debt, and that the schedule for implementation of the Phase I Decision needs to be clarified to ensure an orderly implementation.

The Small Carriers explained that expanding the LifeLine program to wireless providers and other alternative technologies will threaten the success of the current program, to the detriment of California consumers. The Small Carriers stated that a variety of significant differences in the pricing, functionality, and terms and conditions of wireless service that make it a mismatch for the LifeLine program and implicate important policies about how to direct scarce public resources toward the objectives that will best promote California's universal service policies amongst low income consumers. The Small Carriers concluded that opening up the program to new participants should not compromise the level of service provided to low-income consumers, nor should it put traditional providers at a competitive disadvantage by allowing their non-traditional competitors to avoid costly but important regulatory obligations.²⁹⁴

SureWest echoed the Small Carriers' reply comments and stated that allocating LifeLine subsidies to wireless providers and other alternative service providers would raise serious problems that will ultimately result in harm to

²⁹⁴ Small Local Exchange Carriers' Reply Comments on the PD at 1-3.

low-income customers. SureWest agreed with various consumer groups that the PD does not sufficiently justify its Specific Support Amount proposal, and that the "Set Rate" approach has been dismissed unjustifiably. The Proposed Decision does not contain any projections of the actual fund size, nor participation in the program. Absent these projections, SureWest agreed with DRA that the Commission cannot be sure that the Specific Support Amount proposal will preserve a reasonable fund size. SureWest urged the Commission to reconsider whether the Affordability Study provided sufficient factual and policy support for the proposed Specific Support Amount. SureWest agreed with TURN'S opening comments setting forth a careful analysis of the methodological problems with the Specific Support Amount, and concluded that the current Affordability Study did not provide quantitative support for the Specific Support Amount.²⁹⁵

Frontier supports the direction of the PD and believes that the reforms proposed will improve the LifeLine program. However, Frontier supports holding additional workshops and another full round of comments to build the record and to fully address the many concerns expressed in comments. Frontier's primary concern with the PD is that it does not require ETC designation by all carriers who want to participate in the LifeLine Program.

AT&T generally supported the PD if modified as set forth in their opening comments. AT&T opposed proposals to limit a carrier's draw from the fund as anti-competitive and unfairly burdensome to carriers that have a higher proportion of LifeLine customers in their customer base. Such a cap, AT&T

²⁹⁵ SureWest Reply Comments on the PD at 2-4.

contended, necessarily forces each carrier to cover the unfunded benefit by spreading the additional cost over its non-LifeLine customers, to the extent competition would even allow such pricing. AT&T stated that as result, carriers that serve a higher proportion of LifeLine participants would experience a disproportionate upward pressure on prices.

Cricket agrees with AT&T that the PD should affirm that (i) the Commission's authority over alternative LifeLine providers will be limited to the administration of LifeLine benefits; (ii) that participation by alternative providers will not be a pretext for jurisdiction over quality of service or other disputes that are exclusively under the jurisdiction of the FCC; (iii) the Commission has no authority to regulate pricing or services; and (iv) audits shall be limited to the provider's administration of LifeLine benefits only.

Cox agreed with AT&T and Verizon that LifeLine subscribers should continue to pay AT&T's current LifeLine rate during the transition period based on Verizon's comments that the Affordability Study supports LifeLine subscribers paying more than \$5.00 in that the median LifeLine bill is \$29.10. Cox strongly recommended that the Commission revise the schedule to allow wireline carriers a minimum of six months from the date any new rules resulting from the implementation workshop are adopted. Cox also stated that carriers that are not presently designated as ETCs should continue to collect from the California LifeLine fund amounts that may be available to such carrier from both Federal and state LifeLine funds until the Commission approves such carrier's ETC advice letter. Cox also believes that the record does not clearly support the Commission adopting the proposal that LifeLine customers pay taxes. Finally, Cox opposed comments from consumer groups and stated that the record in this proceeding supports the Commission allowing wireless carriers to voluntarily

participate in the LifeLine program without more time comments on service quality standards.

T-Mobile filed reply comments stating that setting the rate floor at \$5.00 is inappropriate and anticompetitive. T-Mobile opposed tying the carrier reimbursement rate to the highest basic service price of an URF COLR in the state as “misguided and unduly burdensome on consumers who fund ULTS through their surcharges.”²⁹⁶ Because basic service rates will soon be completely unregulated, California consumers would be required to fund a subsidy which could fluctuate in lock-step with changes to basic rates that are no longer necessarily cost-based or otherwise regulated by the Commission. T-Mobile concluded that the LifeLine program envisioned by the Moore Act contemplated regulated basic service rates provided by monopoly landline carriers and did not anticipate unregulated basic service prices. Moreover, at least for the next two years, the PD would provide LifeLine carriers with a subsidy for any difference between their basic service price and the maximum LifeLine rate of \$6.84, and T-Mobile does not believe it is sound public policy to foist the cost of those types of subsidies on consumers. T-Mobile recommended a specific support amount set by a more objective standard such as average per consumer subsidy under the current fund program and not on the highest basic service rates in the state.²⁹⁷

The Commission has thoroughly considered the comments and reply comments supplied by the parties. Where warranted, the Proposed Decision has been modified in response to the comments and reply comments. Specifically,

²⁹⁶ T-Mobile Reply Comments on the PD at 3-4.

²⁹⁷ *Id.* at 4.

the PD has been modified to make the following changes in response to comments:

- We increase the Specific Support Amount to \$11.50. Verizon recently raised their basic service rate to \$20.91 and their rate now surpasses that of SureWest that we were using to calculate the \$11 support amount.
- We change the description of the rate cap to be the greater of the current LifeLine rate for the customer or \$6.84.
- We clarify that during the two year transition period, from the effective date of this decision until January 1, 2013, carriers may only charge a LifeLine customers a LifeLine rate up to \$6.84 a month (for most customers), and may only receive a LifeLine subsidy up to the maximum Specific Support Amount.
- We modify the billing requirement so that the specific layout of the bill is up to the carrier as long as the full extent of the discount is shown somewhere on the bill.
- The LifeLine Program will continue to pay the fees and taxes applicable to the LifeLine service in addition to the Specific Support Amount.

Lastly, Disability Rights Advocates and National Consumer Law Center pointed out that this decision failed to address the May 2009 Motion by TURN and DRA to refer the matter to alternative dispute resolution (ADR).²⁹⁸ As pointed out by the Assigned Commissioner in her Ruling Denying the Motion, a significant share of the parties did not express support for initiating such a process at that late stage of the proceeding. We affirm that denial.

²⁹⁸ October 18, 2010 Comments of DisabRA/TURN at 4.

8. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. California LifeLine has helped achieve the universal service goal of a 95% penetration rates for many years.
2. The California LifeLine Program should be updated to reflect the principle of competitive and technological neutrality consistent with Federal and State law.
3. The Commission has extended the basic rate cap until January 1, 2011.
4. Based on the information we have available to us, it appears that the market has yielded a system of rates that approximates the costs of providing the service.
5. Based on information we have available to us, it appears that market-based rate regulation has produced just and reasonable basic service rates.
6. The Commission has closely monitored all of the rate changes and will continue to closely watch the cost of basic service to ensure it remains just and reasonable.
7. There is no evidence that usage patterns of low-income customers differ from those of other customers, or that competition in the voice communications market will not benefit low-income customers.
8. The goals of the Moore Act and California's universal service goals will be fulfilled by modifying California LifeLine to use a Specific Support Amount methodology.

9. Under the Specific Support Amount methodology, the Commission would designate a state monthly subsidy amount, initially \$11.50, to be paid to carriers to directly reduce the monthly bills of California LifeLine customers

10. California LifeLine will be a larger program with or without changes; however, fixing the current LifeLine price in perpetuity is more likely to result in the most expensive option to consumers.

11. Commission staff has the ability to annually review the basic rate amounts charged by URF COLRs in California and establish a Specific Support Amount.

12. URF COLRs will submit basic rates as of July 31, 2011, to the Director of the Communications Division by August 1, 2011.

13. Commission staff has the ability to develop a proposal for a) a method for determining the highest basic rate of the URF COLRs, b) a process for making the annual changes, and c) the Specific Support Amount for 2011 and each year thereafter.

14. Commission staff can review rate changes on an ongoing basis, and adjust the Specific Support Amount as necessary to ensure compliance with the 50% subsidy requirement in the Moore Act.

15. An initial \$11.50 California LifeLine support amount for July 2011 is calculated by multiplying 55% by 20.91 (Verizon's current basic rate) and rounding down to the nearest five cent increment because the 55% calculation is within a penny of a five cent increment.

16. An \$11.50 California LifeLine support amount is consistent with the amount of funding currently provided to carriers and will result in a total fund size within historical levels.

17. The actual reimbursable amount for each carrier may be less than the calculated California LifeLine support amount depending on the rate charged to

the California LifeLine customer after deducting the matching Federal support, currently \$3.50.

18. California LifeLine support may be provided to a carrier up to an amount such that a California LifeLine subscriber has a resulting minimum \$5.00 rate, taking the Federal subsidy amount into account first.

19. Carriers will establish prices based solely on market forces after 2010 and the Specific Support Amount will be established by the Commission on an annual basis in order to maintain compliance with the California LifeLine statutory scheme.

20. There is no reason to maintain the current price floor on 1MR and 1FR service for carriers that are not rate-of-return regulated.

21. A Specific Support Amount, which is initially \$11.50, California LifeLine subsidy, whether or not coupled with the matching federal support, will ensure continued high subscribership levels of low-income customers in California.

22. Carriers should charge LifeLine customers at least \$5.00, and they will not be reimbursed beyond the payment floor.

23. The LifeLine payment floor may go down over time if carriers lower their rates, but it should not increase above the initial \$5.00 amount.

24. The Commission will adjust the resulting LifeLine rate amount to the lesser of \$5.00 or the half the lowest reported basic rate on an annual basis.

25. Low-income consumers who wish to subscribe to Lifeline measured service should be allowed to apply an amount up to the Specific Support Amount, which is initially of \$11.50, to reduce the charge for carrier's regular measured service to an initial payment floor of \$2.50.

26. Allowing carriers participating in the LifeLine Program to change their LifeLine rate once a year provides a reasonable amount of stability and certainty to LifeLine customers.

27. This proceeding's record contains overwhelming evidence supporting the expansion of LifeLine in a technology neutral manner because low-income consumers deserve the same choice of technology and services they prefer as all other customers.

28. The Commission has controls in place today and Commission staff can adopt additional controls if they are necessary to ensure only one LifeLine service is provided to a subscriber's principal place of residence.

29. All carriers participating in the LifeLine program, including all non-traditional carriers such as wireless and VoIP carriers, must pay public purpose program surcharges.

30. Commission staff has the authority to revise administrative procedures pursuant to the direction provided in this decision to help ensure the efficient operation of the California LifeLine Program and address any California LifeLine program irregularities or other issues.

31. Commission staff authority includes determining the type and frequency of information provided by carriers to consumers to enroll and participate in the program.

32. Commission staff has the authority to initiate carrier program compliance audits, and adjust the percentage of program participants audited for all carriers participating in the LifeLine program.

33. The circumstances of residential use are substantially different than they were in 1996 and now encompass wireless services.

34. Wireless services are commonly found in residential use, and a substantial number of residential users use only wireless service.

35. There is already significant wireless carrier overlap with many of the rate-of-return carriers and the Commission can foresee no circumstance under which our universal service goals or objectives would be furthered by eliminating the ability of some consumers to choose alternative LifeLine providers.

36. If wireless, VoIP and other non-traditional carriers wish to voluntarily participate in the California LifeLine program, they will report their rates and charges for services offered to LifeLine eligible customers with the filing of each LifeLine claim form.

37. Imposing a requirement in this order that carriers must comply with our rules in order to provide LifeLine service does not constitute traditional “regulation” of those carriers. Rather, our authority to regulate providers derives from statutory and common law sources. Here, we seek only to ensure both consistency and competitive fairness in the delivery of universal service.

38. In the public participation hearings, the Commission was repeatedly informed that disabled persons have acute needs for various types of wireless services, and that some of the required services are expensive, and particularly difficult for disabled, low-income persons to afford.

39. Customers who meet the eligibility requirements for both the DDTP and the California LifeLine Programs have particular needs that justify a targeted subsidy.

40. The record supports allowing customers who meet the eligibility requirements for both the DDTP and California LifeLine Programs to be allowed to apply their California LifeLine discount, initially up to \$11.50, to non-voice communication services.

41. Data-only services that include text messaging are readily available from most wireless providers and even some wireline providers.

42. Given the impact of the pilot program and the addition of the LifeLine discount, it is reasonable to remove the pilot status from the wireless equipment program and make the wireless equipment program a permanent part of the Deaf and Disabled Telecommunications Program/California Telephone Access Program.

43. The dual eligibility requirement for purposes of the equipment program was a requirement of the pilot. The DDTP equipment program should use the results of the pilot in acquiring and distributing wireless equipment as part of the normal operation of the program.

44. At the end of 2007, 2.7 million households subscribed to California LifeLine and almost 3.7 million households were enrolled in CARE.

45. Seventy-five percent of eligible households are enrolled in California LifeLine.

46. In 2005 the low-income energy programs expanded eligibility to 200% of the federal poverty guideline as a temporary measure.

47. The LifeLine income-based criteria are no longer directly tied to the 150% of the poverty guidelines as the Communications Division is required to adjust the Household Income Limitation requirement for California LifeLine every April 15 based on the change in the Federal Consumer Price Index – Urban Area (CPI-U).

48. The LifeLine income-based criteria should not be further changed until the outcome of the review the Commission is conducting of the interim CARE income-based criteria.

49. Carrier administrative costs had gotten so far out of control that in 2003 the Commission capped the administrative fee for Competitive Local Exchange Carriers (CLECs).

50. There is no longer any need or requirement to have a separate California LifeLine recovery for carrier administrative expenses, however, continuing to reimburse providers at some basic level will provide benefits to low income consumers and all consumers in general.

51. The Commission has been concerned by the considerable amount of Commission resources necessary to review and audit administrative cost reimbursement claims.

52. Commission staff has had concerns about the apparent misuse of the administrative expense component of the LifeLine claim program and denied numerous claims for reimbursement submitted by carriers.

53. The Commission has shifted administrative costs from carriers to California LifeLine as the Commission has taken on more administrative burden.

54. Simplifying the separate tracking of administrative costs by carriers and the associated cost to the program of Commission review and audit of those costs will result in tangible benefits to consumers.

55. Costs associated with administration of LifeLine service are a carrier obligation of providing service in California.

56. The California LifeLine Administrator (CertA) collects and vets customer counts by carrier and can provide that information for claims purposes.

57. The expenses associated with explaining available rate schedules to prospective customers, especially subsidized rate schedules, benefit customers.

58. Carrier claims will apportion the customer counts by type of service in order to determine the total amount claimed for any month.

59. A small group of carriers have very high bad debt claims, while large carriers do not claim bad debt against the fund.

60. Full reimbursement of bad debt losses is not consistent with our goal to ensure funds obtained from the surcharges are being wisely spent with efficient administration.

61. Adopting a Specific Support Amount that encompasses all carriers will simplify Commission oversight and carrier implementation of California LifeLine, as well as provide incentives for efficient administration for all participants.

62. Reimbursement for administrative costs from the California LifeLine Program should be modified once the Specific Support Amount methodology is in place on July 1, 2011.

63. Fees, taxes and surcharges significantly impact the affordability of phone service. Fees taxes and surcharges related to the customers' LifeLine billings should continue to be reimbursed by California LifeLine.

64. Separate reimbursements for federal excise and state/local taxes related to customers' LifeLine billings should not end once the Specific Support Amount methodology is in place on July 1, 2011.

65. Carriers should have a reasonable period after July 1, 2011 to submit claims for reimbursement of administrative costs incurred before July 1, 2011.

66. Separate reimbursement for billing surcharges should not end once the Specific Support Amount methodology is in place on July 1, 2011.

67. The CPUC user fee and public purpose program fees are directly tied to the universal service goals of the state and LifeLine customers will continue to be exempt from paying into the public purpose program funds and from paying CPUC user fees.

68. To aid administration of California LifeLine, the Commission should limit the period carriers may submit claims for LifeLine reimbursement to a reasonable period after the conclusion of the month during which service was provided.

69. To aid administration of California LifeLine, the Commission should limit the period carriers may file adjusted claims for LifeLine reimbursement.

70. The Federal Lifeline program currently provides low-income consumers with discounts of up to \$10.00 (\$6.50 EUCL and \$3.50 basic service) off of the monthly cost of telephone service for a single telephone line in their principal residence.

71. Federal Link-Up currently provides low-income consumers with discounts of up to \$30.00 off of the initial costs of installing telephone service once per customer per address.

72. Enhanced Federal Lifeline and Link-Up provides qualifying low-income individuals living on tribal lands with additional support.

73. California LifeLine make-up of "lost" federal support due to lack of ETC status for some carriers has been as much as \$35 million in one year.

74. This additional support currently provided by California LifeLine could be obtained from the Federal Lifeline program provided that those carriers obtain ETC status.

75. The Federal Lifeline program reimburses only one telephone line per household. If Federal support is not available to California LifeLine customers' second line, and such customers are eligible for two LifeLine discounts, carriers may recover the equivalent of the Federal support amount from California LifeLine for that second line.

76. There are substantial benefits to California consumers in encouraging ETC designation.

77. The Commission encourages, but does not require, non-ETC carriers to obtain ETC certification.

78. Costs that could have been reimbursed pursuant to the Federal Lifeline program should no longer be recovered from California LifeLine, and carriers who do not claim from the Federal program will be reimbursed as if they have received the federal subsidy as an offset.

79. There will be a Phase II in this proceeding, discussed in this decision, to address outstanding implementation issues, particularly with regard to the participation of non-traditional carriers in the LifeLine program.

80. As the Moore Act requires that the non-recurring connection charges shall not be more than 50 percent of the charge for basic residential service, the methodology for ensuring compliance should also be addressed with the participation of non-traditional carriers in the LifeLine program in Phase II of this proceeding.

81. Commission staff should hold a Phase I workshop within 45 days of the effective date of this decision. Within 120 days of the effective date of this decision, Commission Staff must prepare a resolution for the Commission's consideration addressing implementation issues and changes to GO 153, consistent with this decision.

82. Commission Staff should conduct all necessary Phase II workshops and complete all General Order modifications through a resolution within 120 days of the issuance of a decision in R.09-06-019 adopting a definition of "basic service."

Conclusions of Law

1. State policies governing California LifeLine are clearly stated in the Moore Universal Telephone Service Act, Pub. Util. Code §§ 871–884.

2. With respect to our universal service commitment, Pub. Util. Code § 709 instructs us to seek to ensure continued affordable and widespread availability of high quality telecommunications services for all Californians.

3. Universal service is defined as an evolving level of telecommunications services taking into account advances in telecommunications and information technologies and services.

4. It is reasonable to continue considering the 95% subscribership goal as the best measure of affordability when evaluating the universal service programs including California LifeLine.

5. California's LifeLine Program should reflect the changes in conditions that result from the dramatic growth in Internet and wireless communications technologies and the fact that these technologies compete with wireline services.

6. The circumstances of residential use are substantially different than they were in 1996 and now encompass wireless services.

7. California LifeLine policy should reflect the fact that VoIP technology competes with circuit-switched technology in the provision of voice communications services.

8. The Commission does not need additional data and evidence to allow wireless services to participate in California LifeLine throughout the State.

9. This proceeding's record contains substantial evidence supporting the expansion of LifeLine in a technology neutral manner.

10. Wireless providers are eligible to participate in the LifeLine program just as any other provider of service. Similarly, other services that include the basic

service elements are eligible for LifeLine benefits and providers of those services may seek reimbursement from California LifeLine.

11. Participation in California LifeLine should not make any participant subject to additional Commission jurisdiction beyond what exists today.

12. The requirement that the LifeLine discount be reflected in tariffed rates should be discontinued for LifeLine services offered on a detariffed or non-regulated basis. Until such revisions are adopted Rule 3.3 of GO 153 shall be waived for wireless providers seeking to offer LifeLine service on a voluntary basis.

13. A wireless provider or other voluntary provider may withdraw from the program at any time and remove the LifeLine benefits after 30-days' notice has been given to its customers and fulfillment of any contractual obligation or other term instituted by the provider at the beginning of the LifeLine customer's service.

14. The current price floor on Measured Rate Residential Service and Flat Rate Residential Service for carriers that are not rate-of-return regulated should be removed so that carriers can charge customers less than AT&T's 2006 basic service rates.

15. Statutory changes are not needed to design and implement a change to a Specific Support Amount process.

16. The Commission may seek statutory changes to the Moore Act to simplify the administrative process after 2010 when it will have to continuously update the support amount.

17. A Specific Support Amount set at 55% of the highest basic rate of the URF COLRs as reported to the Commission on August 1 of each year is reasonable to comply with the Moore Act and other universal service statutes.

18. An annual review of the basic rates of all participating carriers to ensure eligible California LifeLine customers are paying no more than 50% of the applicable basic service rate satisfies the requirements of the Moore Act.

19. In order to ensure that the Specific Support Amount methodology is consistent with the Moore Act, a carrier's LifeLine rate will be capped at no more than 50% of its basic service rate.

20. Allowing carriers that are participating in the California LifeLine Program to change their LifeLine rate once a year is consistent with the Moore Act.

21. LifeLine benefits related to connection and conversion should remain consistent with current GO 153 rules and should not be affected by the implementation of the Specific Support Amount methodology.

22. Commission staff should redesign the claim form to gather only information needed to process, verify, and audit carrier LifeLine claims and have a draft redesigned form completed within 30 days of issuance of this decision.

23. Since carriers who serve the majority of LifeLine customers in California are no longer cost regulated, there is no legal obligation to continue the payment of administrative costs and other fees by California LifeLine for those carriers.

24. Carriers have the responsibility for reporting with each claim their rate both before and after application of California LifeLine and Federal Lifeline support payments and the number of eligible customers.

25. The Commission staff can adopt additional controls if they are necessary to ensure only one LifeLine service is provided to a subscriber's principal place of residence.

26. The reasons proffered as a basis for the Conclusion of Law 157 in D.96-10-066 are no longer valid and there is no requirement to amend the Moore Act so that wireless services can participate in the California LifeLine Program.

27. If non-traditional carriers opt to offer LifeLine to their customers, they must file the required schedule of rates and charges for services offered to LifeLine eligible customers.

28. A wireless carrier's act of voluntarily participating in LifeLine and filing its rates and charges with the Commission pursuant to the LifeLine program would not and could not constitute Commission jurisdiction over rates and entry to market.

29. While wireless, VoIP and other non-traditional carriers are not required to participate in our LifeLine program, should they choose to participate, they must abide by the rules of the program; in doing so, the Commission is not exercising jurisdiction over these non-traditional carriers.

30. The Legislature adopted AB 2213 (Fuentes) to replace the term residential with the term households in order to remove any alleged ambiguity in our ability to allow wireless participation in California LifeLine going forward.

31. A significant share of the parties did not express support for initiating an alternative dispute resolution process at a late stage of the proceeding in May, 2009.

32. By expanding the California LifeLine Program to include data services for consumers that receive wireless equipment through the DDTP program, we are fulfilling the statutory goals of the Moore Act and addressing a significant barrier identified in the DDTP wireless pilot program.

33. A barrier to fulfilling the universal service goals of California is eliminated through the targeted initiative to provide California LifeLine support for data services purchased by consumers that receive wireless equipment through the DDTP program.

34. The Commission has yet to finish its review of the costs and the benefits of the CARE program expansion, to help us determine whether the expansion of CARE should remain in effect.

35. There is no need to adjust the LifeLine income-based criteria before the outcome of the review the Commission is conducting of the interim CARE income-based criteria is finished.

36. Carriers may continue to receive California LifeLine recovery for carrier administrative functions.

37. Limiting recovery of carrier costs associated with California LifeLine is consistent with the Moore Act.

38. The cost of serving California LifeLine customers can be recovered through the prices of the services purchased by the customer plus the California LifeLine subsidy.

39. Continuing to reimburse providers at some basic level will provide benefits to low income consumers and consumers in general.

40. Carriers must reduce customer bills by the total amount received from the Federal LifeLine fund and by the Specific Support Amount reimbursement they receive from the California LifeLine fund.

41. Expenses associated with explaining available rate schedules to prospective customers, especially subsidized rate schedules, benefit customers.

42. GO 153 sections 9.3.9, 9.3.10, and 9.3.13 should be modified to reflect the new reimbursement process for administrative costs and elimination of recovery of separate bad debt losses.

43. LifeLine customers should continue to be exempt from paying into the public purpose program funds for customers' LifeLine billing.

44. Commission staff has the authority to initiate carrier program compliance audits.

45. A customer pre-qualification requirement was adopted in D.08-08-029 making further consideration of the bad debt issue in this docket moot.

46. Pursuant to section 254(e) of the Communications Act, only eligible telecommunication carriers (ETCs) designated pursuant to section 214(e) are eligible to receive Federal Lifeline and Link-Up support.

47. There are substantial benefits to California consumers in encouraging ETC designation.

48. GO 153 should be modified to exclude all costs that could have been reimbursed pursuant to the Federal Lifeline program, regardless of whether the costs are actually reimbursed to the carrier.

49. During the transition period in 2011 and 2012, non-ETCs may recover up to the Specific Support Amount, initially \$11.50, as well as the amount designated ETCs may obtain from the Federal Lifeline program, subject to the payment floor.

50. Carriers should be reimbursed for administrative costs related to implementation of program changes and other one-time activities.

51. Changes to the California LifeLine rules and GO 153 in accordance with this revised Specific Support process are appropriate.

52. Phase II in this proceeding will address outstanding implementation issues discussed in this decision, particularly with regard to the participation of non-traditional carriers, including wireless carriers and VoIP carriers, in the LifeLine program.

O R D E R

IT IS ORDERED that:

1. The current price floor on Measured Rate Residential Service and Flat Rate Residential Service for carriers that are not rate-of-return regulated is removed.
2. Wireless, VoIP and other non-traditional carriers may participate in the LifeLine program on a voluntary basis.
3. All providers that participate in the LifeLine program are required to report to Communications Division (CD) staff, under penalty of perjury, their rate and charges for the LifeLine service on an annual basis and upon request from CD staff.
4. All providers participating in the LifeLine Program must pay public purpose program surcharges.
5. Effective July 1, 2013, the California LifeLine Program shall provide eligible subscribers a subsidy using a Specific Support Amount. To reflect California LifeLine Program support, carriers shall reduce California LifeLine Program subscribers' monthly bills by the Specific Support Amount plus any applicable Federal Lifeline and Linkup subsidy. During the transition period, until January 1, 2010, non-ETCs may recover up to the Specific Support Amount (after deducting the set rate of up to \$6.84 or the applicable EAS LifeLine rate) in addition to the amount that designated ETCs may obtain from the Federal LifeLine fund.
6. The California LifeLine Specific Support Amount shall be set at 55% of the highest basic rate (as of July 31) of the Carriers of Last Resort as reported to the Commission on August 1 of the previous year. The Specific Support Amount shall be effective as of January 1 of each year.

7. Commission staff shall annually review the basic rate amounts submitted by URF Carriers of Last Resort in California on August 1 of each year, and establish the Specific Support Amount based on the methodology set forth in this decision.

8. If a carrier's basic rate less the matching Federal subsidy less the Specific Support Amount results in a LifeLine rate that is more than 50% of the basic service rate, the carrier shall cap its LifeLine rate at no more than 50% of its basic service rate.

9. Beginning January 1, 2013, customer LifeLine rates are adjusted based on the Specific Support Amount on January 1 of each year, and can only be further adjusted if a carrier's basic rate decreases such that a LifeLine customer would end up paying more than 50% of the carrier's basic rate if the LifeLine rate were not adjusted. In such cases, a carrier must reduce the LifeLine rate so that is not more than 50% of its basic rate, in compliance with the Moore Act.

10. After the transition period, beginning January 1, 2013, carriers may only change their LifeLine rate once annually, to be effective on January 1 of each year.

11. Commission staff shall prepare a resolution that proposes a methodology and process for determining the Specific Support Amount consistent with this decision and the resolution shall also propose the Specific Support Amount for each year beginning with 2012. The Specific Support Amount will be determined annually based on the highest URF Carrier of Last Resort basic rate.

12. Commission staff will review rate increases by Carriers of Last Resort and all other participating carriers on an ongoing basis to ensure compliance with the Moore Act. Carriers may not charge LifeLine subscribers more than 50% of their basic service rate at any time.

13. Beginning July 1, 2011, the Specific Support Amount will be \$11.50.

14. Beginning January 1, 2013, the Commission will limit California LifeLine Program support paid to carriers to the lesser of the Specific Support Amount or the amount that results in the California LifeLine subscriber having a \$5.00 monthly rate. A similar limitation applies to subscribers of regular measured service (1MR) such that the support paid to carriers is the lesser of the Specific Support Amount or the amount that results in the California LifeLine subscriber having a \$2.50 monthly rate. Enhanced Federal Lifeline may further reduce rates for qualifying low-income individuals living on tribal lands. Carriers shall not claim more than the amount of support provided to a subscriber.

15. From the effective date of this decision until January 1, 2013, no carrier participating in the LifeLine Program may have a customer LifeLine rate greater than \$6.84 or the current LifeLine rate in EAS exchanges. During this transition period, carrier compensation will be capped at the Specific Support Amount for this transition period, initially \$11.50.

16. Separate reimbursement for administrative costs and other fees from the California LifeLine shall be modified on July 1, 2011.

17. Carriers will continue to be reimbursed for administrative costs related to implementation of program changes and other one-time activities.

18. Carriers will be reimbursed for ongoing costs based on the weighted average per customer per month of the reported costs or their actual expenses, whichever is lower. Carriers will report their administrative costs with each claim filing. If a carrier is not able to adequately justify claimed administrative expenses but still seeks reimbursement for some of those expenses it will be compensated at a rate no greater than \$0.03 per customer per month.

19. Staff will update the allowable administrative claim amount on an annual basis based on the previous calendar year's weighted average. Such updates shall not increase the previous calendar year's weighted average by more than the CPI-U, rate of inflation, and will be effective on July 1 of each year.

20. Rate-of-return LECs must continue to report their LifeLine administrative costs and may obtain reimbursement from California LifeLine based on the weighted average cost methodology.

21. For any costs reported above the allowable LifeLine administrative claim amount, rate-of-return carriers are permitted to seek recovery from the CHCF-A through the general rate case process.

22. Carriers shall continue to receive separate reimbursements for pass-through taxes (Federal excise and State/local taxes).

23. California LifeLine Program customers will continue to be exempt from paying into the public purpose program funds, including the CPUC User Fee, for customers' LifeLine billings, for LifeLine services.

24. Carriers shall reduce customer bills by the total reimbursement amount they receive from California LifeLine Program. By January 1, 2012, carriers shall specifically show such all reductions as a separate line item, or its equivalent, on the bill. If the reductions are not shown as separate line items, carriers shall provide a revised sample bill format to the Public Advisor that includes a section showing the discounts being provided to the customer by July 2011. Carriers must, at a minimum, delineate the LifeLine reductions on customers' bills in a manner discernible by the public.

25. No later than September 30, 2011, carriers shall submit to Commission staff all claims for reimbursement of administrative costs and pass-through taxes as defined above incurred before July 1, 2011. No claims for bad debts shall be

accepted after June 2011, and any claim for reimbursement not timely submitted is deemed void and denied.

26. Carriers with 100 or more LifeLine customers shall submit claims for California LifeLine Program reimbursement no later than 60 days after the conclusion of the month during which service was provided. No claims for carriers with more than 100 LifeLine customers shall be accepted after the end of that period, and any claim for California LifeLine Program reimbursement not timely submitted is deemed void and denied.

27. Carriers with fewer than 100 LifeLine customers may submit claims on a monthly basis and shall submit claims for California LifeLine Program reimbursement and administrative costs at least every six months. No claims for carriers with fewer than 100 LifeLine customers shall be accepted if it is for more than six months after service was provided, and any claim for California LifeLine Program reimbursement not timely submitted is deemed void and denied.

28. Carriers will have up to one year to submit adjustments to timely filed claims consistent with General Order 153 Rule 9.10.2. Phase II of this proceeding will consider whether the time allowed for adjustments will be shortened.

29. Carriers will continue to report their administrative costs with their monthly LifeLine claims.

30. Changes to California LifeLine Program adopted in Decision 08-09-042 at Ordering Paragraphs 5, 6, and 11 cease to be effective on December 31, 2010.

31. The California LifeLine income-based criteria shall remain unchanged at this time.

32. Communications Division staff will establish a schedule and convene at least the first workshop within 45 days of the effective date of this decision to

address all the new requirements, including proposed changes to General Order 153.

33. Communications Division staff will establish a schedule and convene at least the first workshop within 75 days of the effective date of this decision to develop a consumer education plan and shall prepare and serve on all the parties to this proceeding within 60 days of the last workshop a report to conform our existing outreach and education plans to today's decision.

34. Commission staff shall prepare and serve on all parties to this proceeding within 120 days of the effective date of this decision a resolution for Commission consideration on Phase I issues conforming California LifeLine Program rules and General Order 153 to today's decision. Such resolution shall include but not be limited to the following:

- a. Commission staff shall modify the claim form to require the information needed to process, verify, and audit carrier California LifeLine Program claims consistent with the program modifications adopted herein.
- b. To further simplify the claims process, California LifeLine Program participant counts by carrier shall be collected from the Certifying Agent and shall be used to calculate and pay claims.
- c. Carriers shall report with each claim their rate applicable to the California LifeLine Program subscriber both before and after application of California LifeLine Program and federal Lifeline support payments. Such reports shall include the weighted average customer count by type of service at the end of the month. Carriers shall also provide their end of month count of new LifeLine customer for flat and measured service for the month. Carriers may calculate on-half of the flat and measured figures to be claimed to reflect those customers eligible for credits for having certified in the current month and were eligible in the prior month.

- d. Each California LifeLine Program subscriber shall be limited to one Specific Support Amount per month. Subscribers that have a medical certificate may receive an additional Specific Support Amount each month.
- e. Carrier claims shall not include reimbursement for bad debt losses.
- f. Carriers will include a report of their monthly administrative costs in their claim filing. Carrier reimbursements for administrative costs will be based on the weighted average per customer per month of the reported costs or their actual expenses, whichever is lower. Carriers with 100 or more administrative customers will include their administrative costs in their claim filing at least every three months, or will receive reimbursement.
- g. After 2012, carrier claims shall not include any amounts for replacement of federal funds available to Eligible Telecommunications Carriers, but not obtained by the carrier.

35. The requirement that the LifeLine discount be reflected in tariffed rates should be discontinued for LifeLine services offered on a detariffed or non-regulated basis. Until such revisions are adopted, Rule 3.3 of General Order 153 shall be waived for wireless providers seeking to offer LifeLine service on a voluntary basis.

36. Commission staff has the authority to revise administrative procedures as necessary consistent with this decision to ensure the efficient operation of the California LifeLine Program and address any California LifeLine Program irregularities or other issues, including the type and frequency of information provided by carriers and subscribers to enroll and participate in the program. California LifeLine is expanded to include wireless text messaging/data services for consumers that receive wireless equipment through the Deaf and Disabled Telecommunications Program.

37. Subscribers eligible for both the Deaf and Disabled Telecommunications Program and California LifeLine Program may apply their California LifeLine Specific Support Amount to wireless text messaging/data services provided by carriers.

38. The California LifeLine Program provides one discount per household; however, if there is a member of the household who is hearing impaired and has a medical certificate, that household may qualify for a second California LifeLine Program discount.

39. For customers who meet the eligibility requirements for both the Deaf and Disabled Telecommunications Program and California Lifeline Program, carriers may apply a LifeLine discount to either landline or wireless text messaging services. Customers who meet the eligibility requirements of the Deaf and Disabled Telecommunications Program do not have to also meet the eligibility requirements for the California LifeLine Program to receive wireless equipment as part of the Deaf and Disabled Telecommunications Program/California Telephone Access Program.

40. Wireless equipment is included as eligible equipment within the Deaf and Disabled Telecommunications Program/California Telephone Access Program.

41. The Commission should continue to carefully manage our universal service programs to maximize federal universal service support.

42. TURN's August 16, 2010, Motion for Clarification does not substantially contribute to the resolution of this proceeding and is dismissed as moot.

43. All providers participating in California LifeLine will follow the directions of the Commission and its staff with respect to the administration, adjudication, and oversight of the LifeLine program.

44. We direct Communications Division staff to establish a schedule and convene at least the first workshop within 45 days of the effective date of this decision, to address all the implementation requirements for traditional wireline carriers, including proposed changes to General Order 153, consistent with this decision, and to present a proposed resolution to the Commission within 120 days of the effective date of this decision.

45. We affirm the denial of the Motion to Initiate Alternative Dispute Resolution issued on May 22, 2009.

46. We direct the Communications Division to hold at least one workshop, consistent with this decision, on how non-traditional providers, including wireless and VoIP carriers, will participate in California LifeLine in a manner different than CLECs within 45 days of the issuance of a decision adopting a definition of "basic service" in Rulemaking 09-06-019 as part of Phase II of this proceeding.

47. We direct Communications Division to prepare a resolution for the Commission's consideration on Phase II issues within 120 days of issuance of a decision adopting a definition of "basic service" in Rulemaking 09-06-019.

48. Rulemaking 06-05-028 remains open to address outstanding issues with regard to the implementation of LifeLine for non-traditional carriers, such as wireless and VoIP carriers, in Phase II.

This order is effective today.

Dated November 19, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

I reserve the right to file a concurrence.

/s/ TIMOTHY ALAN SIMON
Commissioner

I reserve the right to file a concurrence.

/s/ DIAN M. GRUENEICH
Commissioner

APPENDIX A

Summary of the record of this proceeding:

- On April 14, 2006, Staff issued its first report on the Commission's Public Policy Programs (PPPs), in which staff provided history and status on the PPPs. Comments were provided by parties on the PPP Staff Report and a good deal of the two-day workshop held by Commissioner Chong focused on the LifeLine program.
- Comments on the OIR were received on July 25, 2006, with reply comments filed on September 15, 2006. Twenty-five parties submitted comments, with many focusing exclusively on California LifeLine.
- On July 20, 2006, an ALJ Ruling was issued setting three Public Participation Hearings (PPHs), setting date for filing notices for intent to claim intervenor compensation and directing AT&T and Verizon to distribute copies of the 2004 affordability study to all parties.
- During the summer of 2006, companies responded to DRA's discovery requests.
- PPHs were held in San Diego, Oxnard, and Sacramento in September, October, and November of 2006 after mandatory notice of the hearings was included in *all* consumer telephone bills that summer. Public comments focused on changes needed to the LifeLine program including the affordability of telephone service as many California LifeLine consumers wanted to purchase additional communication services without losing the discount and the need to include wireless services in the LifeLine program.
- On July 13, 2007, the assigned Commissioner and ALJ issued a scoping memo that defined the specific issues to be addressed, set the timeline, and set the California LifeLine workshop for August 15, 2007.
- On August 15, 2007, a half day workshop session was held, in which parties discussed modernizing the California LifeLine rate and implementation issues. In preparation for that workshop, the Communications Division issued on August 2, 2007 a workshop notice in which it requested comments on eight implementation issues.
- On September 18, 2007 Staff issued its report summarizing a California LifeLine workshop that included their implementation recommendations for the adoption of a monthly set amount of subsidy per LifeLine household.

- August 2007 and September 2007 – several rounds of Opening and Reply Comments were filed by the parties in this proceeding in response to the July scoping memo.
- October 2008 – The record was reopened to allow additional comment in light of changes made to extend the basic rate cap and limit adjustments to that cap and to the California LifeLine rate in 2009 and 2010 in D.08-09-042.
- March 2009 – A workshop was held to provide an opportunity for clarification regarding numerical representations in the Proposed Decision prior to submitting comments and reply comments.
- April 2009 – Comments were filed on the Proposed Decision released in February 2009. The comments addressed various options on how to reform the methodology used to provide support to carriers that participate in the California LifeLine program along with other proposed changes to the program.

(END OF APPENDIX A)

APPENDIX B

BRIEF HISTORY OF LIFELINE IN CALIFORNIA

- The California Commission created the California LifeLine service to primarily “take care of the needs of the poor, the infirm, and the shut-ins.”¹ The Commission modified the California LifeLine service from 1969 to 1984 through general rate cases of the telephone companies.
- **Pub. Util. Code § 871** was codified in by the enactment of AB 1348 (1983), known as the Moore Universal Service Telephone Act, requiring the Commission to provide low-income households with access to affordable basic residential telephone service.
- **D.84-04-053** as modified by **D.84-11-028** established General Order (GO) 153 for the implementation, funding, and administration of the Moore Universal Telephone Service Act. The Universal Service Telephone Program (ULTS) was created to provide a 50% discount on residential telephone service to low-income families. This program was funded by a tax administered by the State Board of Equalization.
- **D.87-07-090**, in response to AB 386 (1987), repealed the ULTS tax and implemented a 4% all end user surcharge assessed on intrastate interLATA services.
- **D.87-10-088** established a ULTS trust for the deposits of the surcharge monies, and an administrative committee for the administration of the ULTS program. The administrative committee, ULTS-AC, was comprised of five members including 1 large LEC, 1 small LEC, 1 IEC, and 2 public interest groups.
- **Annual Budgets** for the ULTS program are adopted by the Commission through the resolution process. Information about CPUC mandated telecommunications all-end-user surcharges can be found at: <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>.
- **D.94-09-065** standardized the ULTS rates to the lower of 50% of the LEC’s tariffed rate or 50% of Pacific Bell’s basic service rate and revised the

¹ Re General Telephone Company (1969) 69 CPUC 601, 676, See also Re Pacific Telephone & Telegraph (1969) 69 CPUC 55, 83.

assessment of the surcharge from intrastate interLATA services to all intrastate telecommunications services. This decision also required the large LECs to perform ULTS outreach to undersubscribed communities, and established a 95% subscribership goal for low-income and non-English speaking households.

- **D.96-10-066** required all competitive local exchange carriers (CLEC) to provide ULTS, extended the 95% subscribership goal for all customer groups, removed the large LECs' outreach requirement, established a marketing working group to perform ULTS outreach in a competitively neutral manner, and set the budget for the marketing working group to the annual total average ULTS marketing expenses reimbursed to the large LECs over the last 3 years (1993 to 1995).
- **D.97-12-105** established a nine-member ULTS Marketing Board (ULTS-MB), and ordered the board to use 80% of its marketing budget to bring basic telephone service to qualifying households currently without telephone service and the remaining 20% to close the gap between the total number of residential customers eligible for the ULTS program and total number of customers who actually use the ULTS program.
- **Annual Outreach Budgets** are included in the ULTS annual budgets. Resolution T-16176, the first annual budget for the outreach, set the marketing budget at \$5 million a year.
- **D.98-10-050** increased the ULTS-MB 1999 budget from \$5 million to \$7 million.
- **Resolution T-16353** (1999) approved a 12-month marketing program and the operation of a call center for the ULTS program. These marketing and outreach efforts were conducted from November 1999 through October 2000.
- **D.00-10-028** revised GO 153 to reflect changes to the ULTS program that occurred subsequent to 1984, set standards for carriers' service representatives in informing subscribers on the availability of ULTS program, etc.
- **Pub. Util. Code § 270-281** et seq. were codified by the enactment of SB 669 (1999) requiring a ULTS Trust Administrative Committee Fund be created in the State Treasury, limiting moneys in this fund to only be expended for the purpose of the program and upon appropriation in the annual Budget Act, changing the role of the ULTS-AC from administrative to advisory, and

requiring the Commission to submit a transition plan on or before July 1, 2000.

- **SB 742** (2001) mandated that the remaining funds of the ULTS Trust be transferred to the State Treasury on October 1, 2001.
- **Resolution T-16561** (2001) approved a proposed contract with Richard Heath & Associates (RHA) in the amount of \$4,983,241 for a 12-month marketing program submitted by the ULTS-MB.
- **Resolution T-16606** (2001) approved a proposed contract with RHA in the amount of \$1,481,990 for a 36-month operation of a call center submitted by the ULTS-MB.
- **D.01-09-064** revised the charters of ULTS-AC and the ULTS-MB to conform to SB 669, and directed the Information and Management Services Division (IMSD) and the Telecommunications Division (TD) to take over the administration of the ULTS program starting October 1, 2001.
- **D.02-04-059** merged the ULTS-MB (disappearing committee) and the ULTS-AC (surviving committee) into one committee, and established a nine-member board for the merged committee. The Commission solicited participation from over 4,000 groups and organizations to participate on the advisory committee process.
- **D.02-07-033** directed the Low Income Oversight Board (LIOB) to solicit public input and develop recommendations for coordinated customer outreach between the ULTS and CARE programs.
- **D.03-01-035** provided CLECs the option of using the cost factor developed by the Commission, rather than calculating their incremental costs as delineated in T-16591. Issued opinion denying Fones4All's amended petition to modify D.00-10-028 and modifying ULTS administrative expense process.
- **D.05-04-026** adopted new LifeLine certification and verification processes, as required by the Federal Communications Commission's (FCC's) Lifeline Order. Ensured California continues to receive \$330 million in federal Lifeline/Link-Up funds to protect the financial viability of the ULTS program. Adopted program-based eligibility, to facilitate participation in the program by all eligible customers.
- **D.05-12-013** adopted the revisions to GO 153 as they appear in the Telecommunications Division's August 2005 Workshop Report on Revision

and Update of GO 153, as further amended by this order; and addresses various implementation issues related to the changes in GO 153.

- **D.06-11-017** confirmed, with some modifications, the November 1, 2006 Assigned Commissioner's Ruling, suspending portions of GO Order 153 that relate to the annual LifeLine verification process. Begins process to review initial certification and verification processes to address problems experienced during the first few months of the new process.
- **D.07-05-030** adopted strategies to improve the California LifeLine certification and verification processes, and reinstated portions of GO 153.
- **D.08-08-029** adopted a pre-qualification requirement for the California LifeLine Program and resolved remaining Phase 2 issues. Pre-qualification requirement was implemented on July 1, 2009.

(END OF APPENDIX B)

**Concurrence of Commissioner Timothy Alan Simon
November 19, 2010 Commission Meeting – Item 55 R.06-05-028
Decision Adopting Forward Looking Modifications to California LifeLine in Compliance
with the Moore Universal Telephone Service Act**

Introduction

At its business meeting of November 19, 2010, the California Public Utilities Commission voted in favor of a Proposed Decision [Agenda Item 55] regarding California Lifeline. I voted in favor of the proposed decision and file this Concurrence.

Background and Discussion

Four years after the Commission opened this Rulemaking to evaluate whether California's universal service public policy programs should be updated, we finally begin the process of reforming the California LifeLine Program by adopting Commissioner John A. Bohn's proposed decision making forward looking modifications in compliance with the Moore Universal Telephone Service Act (Pub. Util. Code § 871). The Commission sets out to reform California LifeLine in order to guarantee that much needed communication services are affordable and widely available to all since the current methodology is not in the best long-term interest of consumers.

This decision adopts a two year phase-in period, temporarily capping Lifeline rates while also making the carriers whole. This methodology is technology neutral, allowing for voluntary participation by wireless and non-traditional carriers. While there are concerns about the growth and size of the fund with the addition of non-traditional carriers, the Commission has adequate safeguards.

As we adopt the new methodology, the Commission will continue to monitor impacts on ratepayers and ensure that the basic rate remains just and reasonable and LifeLine rates remain affordable. The decision appropriately defers various implementation issues to subsequent phases, including updates to General Order 153. Our decision to implement a Phase Two provides guidance on how wireless and non-traditional carriers would participate in LifeLine, and recognizes that our processes should be reviewed and may need clarification in some areas.

Other issues will be scrutinized in subsequent phases and workshops, including how the LifeLine program will include data services for consumers that receive wireless equipment through the CPUC's Deaf and Disabled Telecommunications Program.

Now is the time to begin the process of reforming an important public purpose program since affordable and reliable telephone service is essential to many in California. It provides an economical way to stay connected with family, friends, businesses, information, and emergency services. Needless to say, the benefits afforded through the Moore Universal Telephone Service Act and subsequently ratified and adopted by this Commission through various proceedings and

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rulemakings provide invaluable protections that cannot be given up during these difficult economic times.

Wireless is far from a luxury to some; it is a necessity. The inclusion of non-wireline carriers in California LifeLine will provide a critical choice that many low income consumers already are employing in increasing numbers and also spur the development of products that provide quality service. While California LifeLine has helped move closer to the Universal Service goal of a 95 percent penetration rate, assisting almost 2 million households, its policies should provide an evolving level of telecommunications services and take into account advances in telecommunications and information technologies and services in order to help connect low income communities in the 21st century. This decision is the crucial first step.

Conclusion

It is for these reasons provided above that I respectfully concur on this Order.

/s/ TIMOTHY ALAN SIMON

Timothy Alan Simon
Commissioner

Concurrence of Commissioner Dian M. Grueneich

A top priority of my office has been protecting customers—especially at risk customers. This decision, though not perfect, adopts rules to protect LifeLine customers during the next two years, while the Commission and carriers implement revisions to the LifeLine program. These revisions, in theory, should provide more stability and choice to LifeLine customers while controlling the costs of the program for non-LifeLine customers.

In December 2009, I sat with State Senator Felipe Fuentes as we listened to many parties express concerns about proposed changes to the LifeLine program. During our forum on LifeLine, hosted by the Division of Ratepayer Advocates, I heard two things. First, LifeLine customers are on a limited budget and need to have more stability in their monthly expenditures. Second, the Commission should have more control over the costs for the LifeLine program. I also heard the desire by many communities to have better access to wireless service and therefore more choice in their overall telephone service.

Compounding these issues is the looming January 1, 2011 deregulation of the basic service rate for incumbent local exchange carriers who provide telephone service to the majority of California customers. I was concerned that with this Commission's decision to relinquish control over rates for basic service, California would experience a decrease in the number of financially at-risk households being able to afford basic telephone service. Two years ago, I worked with former Commissioner Rachelle Chong to provide protection to LifeLine customers in the form of limited lifeline rate increases during the final two years of regulated basic service rates. Because of my continuing concern for LifeLine customers, I recommended early in 2010 that until we fully implemented the new LifeLine program, we needed to include safeguards such as a rate freeze. Commissioner Bohn's decision recognizes the needs of the low income community and includes a two-year freeze on LifeLine rates.

During last year's forum on LifeLine, I came to better understand that low income households have a limited income and need to know ahead of time what their monthly finances look like. Thus, I recommended that the LifeLine rate or discount be determined on an annual basis so as to provide stability for the low income household. I am pleased that Commissioner Bohn included this crucial piece of policy in this decision.

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Also in the final version of the decision, Commissioner Bohn includes a cap on subsidies that carriers can collect from the LifeLine fund. This will go a long way towards ensuring non-LifeLine customers that the Commission is controlling the size of the fund, and thus, the size of their monthly contribution to the fund.

I remain concerned about what happens to LifeLine customers after we remove the freeze and have relinquished regulatory control over basic service rates. Will customers experience \$35 or higher monthly rates for basic service? Will low income customers see their monthly costs rise exponentially from less than \$7 to more than \$20? Will California, a state that has consistently ranked in the top tier nationally for providing universal service, experience a decrease in the number of California households with telephone service? These are important issues that the Commission must monitor and ensure that the solutions, as they unfold, are in the best interest of the public and do not leave California's low income residents stranded.

This decision, albeit not perfect, adopts policies that attempt to balance the needs of LifeLine households with those of non-LifeLine households. Thus I will support Commissioner Bohn's decision modifying the LifeLine program.

Dated November 22, 2010, at San Francisco, California.

/s/ Dian M. Grueneich
Dian M. Grueneich