

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking Regarding
Revisions to the California High Cost Fund B
Program.

Rulemaking 09-06-019
(Filed June 18, 2009)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON ASSIGNED COMMISSIONER'S RULING ON THE STATUS
OF REVERSE AUCTION PROCESS**

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I. INTRODUCTION

Pursuant to the February 11, 2010 Assigned Commissioner's Ruling on the Status of Reverse Auction Process (Reverse Auction ACR) and as clarified in the March 5, 2010 Administrative Law Judge's Ruling Extending Schedule for Comments on Reverse Auction Issues (ALJ Ruling), the primary focus and purpose of comments solicited by the Reverse Auctions ACR is whether the Commission should continue to explore implementation of a reverse auction or pursue some other approach, such as cost modeling or indexing, to update California High-Cost Fund B (B Fund) support levels. As further described in the ALJ Ruling, parties filed extensive comments in Rulemaking (R.)06-06-028 on reverse auction issues, including how basic service should be defined for purposes of bidding protocols, and extensively discussed these issues through the reverse auction working groups.¹

DRA believes that the Commission should not pursue a reverse auction pilot. Additionally, DRA does not propose an alternative cost modeling or indexing approach to update B Fund levels, because the B Fund is no longer needed to ensure basic service to all Californians. There is no evidence that companies need B Fund monies to provide basic service, particularly given that the prior reductions in census block groups (CBGs) receiving B Fund monies from 7652 CBGs in January 2007 to 991 CBGs in July 2009 has not led to an associated lack of basic service in the non-B Funded areas. Thus, DRA's comments below instead focus on the need to eliminate the B Fund going forward.

II. DISCUSSION

A. Reverse Auctions Do Not Make Practical Sense

Reverse auctions are too complex to implement successfully, and the fundamental economic requirements for success are missing. The Commission's reduction in the number of CBGs eligible for Fund B monies has reduced the pool of CBGs upon which to bid that the Commission would consider for a reverse auction pilot. As such, reverse

¹ ALJ Ruling at 3.

auction bids are likely only from incumbent local exchange carriers (ILECs), or perhaps cable companies, which are already Carriers of Last Resort (COLRs). Given that reverse auctions fundamentally rely on a large number of willing bidders to work, which is unlikely to happen in any pilot project, reverse auctions would be a waste of time and ratepayer money.

B. The Commission Should Resolve the Definition of Basic Service in the LifeLine Docket; Changing that Definition for the Purposes of a Reverse Auction Pilot Would Create Unequal Treatment between Similarly-Situated Customers

In the event the Commission correctly chooses not to pursue a reverse auction pilot, there is no need to redefine basic service in this proceeding, given that this docket is only for the limited purpose of a reverse auction pilot. The basic service definition, however, does serve a critical broader purpose for the California LifeLine Telephone Program (LifeLine), because it is needed to encourage wireless companies to offer basic service to LifeLine customers. Thus, the Commission should resolve any changes to the definition of basic service in the LifeLine proceeding, R.06-05-028.

In the basic service discussions at the reverse auction working groups and at the LifeLine Wireless Forum in December 2009, it became clear that the Commission should explore developing a different basic service definition in order for California to implement a workable *wireless* LifeLine option. That said, DRA does not support changing the definition of basic service for *wireline*, because it might result in a less stringent definition that would ultimately create a lower class of service for LifeLine customers. As DRA has explained on repeated occasions, DRA is convinced that California needs a functionally equivalent definition of basic service for wireless service that does not inadvertently reduce current wireline basic service provision.

In the event that the Commission goes forward with a reverse auction pilot against DRA's recommendation, using any definition of basic service that is different than the current one would create unequal treatment among similarly-situated residential customers. That is, residential customers in a CBG that is participating in the pilot (and

presumably using a different definition of basic service developed to address the wireless service option) would potentially receive a different – and perhaps less favorable -- class of service from the winning bidder than their neighbors in an adjoining CBG that is not part of the reverse auction pilot program. The Commission can avoid creating such an inequity by abandoning the reverse auction pilot program and considering the definition of basic service in the LifeLine proceeding.

C. There Is No Demonstrated Need for the B Fund

In DRA's experience, cost modeling generally takes a very long time, anywhere from two to five years. In addition, and as parties pointed out during the reverse auction working groups, it is unclear which costs would be modeled given that ILEC, competitive local exchange carrier (CLEC), and cable company networks are structured so differently. Indexing (i.e. using the Consumer Price Index) would be somewhat less complicated, but neither cost modeling nor indexing is needed at this juncture, because the Commission simply should eliminate the B Fund.

Although the Commission already eliminated 87% of CBGs from B Fund eligibility, to the best of DRA's knowledge this reduction has not resulted in customers losing basic service. Conversely, there is no evidence that B Fund monies are needed to ensure basic service. Companies apply because they are eligible, not because the funds are needed for them to provide basic service availability. Moreover, they are not required to demonstrate need.

III. CONCLUSION

In sum, DRA recommends that the Commission not pursue a reverse auction pilot, because (1) a reverse auction is too complicated; (2) there are so few potential bidders that a reverse auction would fail; and (3) a reverse auction could potentially result in inequitable treatment between those residential customers located in a pilot program area versus those who are not. Rather, the Commission should eliminate the B Fund altogether, as B Fund monies are not necessary to ensure basic service. Finally, DRA

respectfully requests that the Commission address the definition of basic service in the Lifeline docket (R.06-05-028).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON ASSIGNED COMMISSIONER'S RULING ON THE STATUS OF REVERSE AUCTION PROCESS** to the official service list in **R.09-06-019** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

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Executed on **March 19, 2010** at San Francisco, California.

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