



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Into
Implementation of Federal Communications
Commission Report and Order 04-87, as It
Affects the Universal LifeLine Telephone
Service Program.

Rulemaking 04-12-001
(Filed December 2, 2004)

**OPENING COMMENTS
OF THE DIVISION OF RATEPAYER ADVOCATES
ON MAY 7, 2008 ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING BACK-BILLING ISSUE**

I. INTRODUCTION

The Division of Ratepayer Advocates (“DRA”) submits these opening comments pursuant to the May 7, 2008 Assigned Commissioner’s Ruling (“ACR”) on the back-billing issue concerning the Lifeline program. The ACR seeks specific comment on the back-billing data gathered by the Commission’s Communication’s Division (“CD”) as it relates to the proposal to shift to a system of pre-qualification for LifeLine enrollment.¹ On January 20, 2008 CD sent an email to LifeLine carriers asking for the following information: the number of customers back-billed because they were deemed ineligible (July 2006-January 2008), whether carriers provided payment plans for back-billed customers, and what carriers’ customer service representatives said to new LifeLine customers about back-billing. The data compiled by CD showed that backbilling affected almost 1.2 million customers from July 2006 to January 2008, most responding carriers offered some sort of payment plan option, and responding carriers differed in their

¹ ACR at 3.

discussion of back-billing to customers. According to D.07-05-030, issued May 3, 2007, nearly 3.5 million Californians were enrolled in the LifeLine program.

Regardless of the significance of the back-billing data, however, the Commission should not allow back-billing problems to overshadow the more significant problems that a pre-qualification system would unfairly create for *eligible* LifeLine customers – the intended beneficiaries of the LifeLine program.² In addition, the back-billing data gathered by CD has limited usefulness; it is ambiguous and fails to adequately reflect the recent changes that the Commission has taken to improve the LifeLine certification and verification processes. Therefore, based on the potential dangers of a pre-qualification system and the flaws described below with the back-billing data, DRA recommends that the Commission maintain the “first contact” policy for LifeLine enrollment and consider pre-qualification only as a supplemental process for LifeLine enrollment.³

II. THE BACKBILLING DATA IS ONE DIMENSIONAL

The LifeLine Program was mandated by the Moore Universal Telephone Service Act (“Moore Act”) to “achieve universal service by making basic residential telephone service affordable to low-income citizens....”⁴ However, a strictly pre-qualification enrollment process would contravene that universal service goal by significantly reducing the availability of *affordable* telephone service to eligible LifeLine customers by imposing undue costs (and time) to enrollment. Pre-qualification would also violate the Moore Act’s requirement for the Commission to administer the LifeLife program in an equitable way⁵ – *ineligible* LifeLine subscribers would be favored over *eligible* LifeLine subscribers and potential subscribers. As discussed extensively in DRA’s opening and reply comments, while the pre-qualification system may have administrative benefits for

² Cal. Pub. Util. Code § 871.5(b).

³ See DRA Opening Comments (December 14, 2007); DRA Reply Comments (January 18, 2008).

⁴ Cal. Pub. Util. Code § 871.5(b).

⁵ Cal. Pub. Util. Code § 871.5(d).

carriers, Solix, and ineligible customers, eligible subscribers would be burdened with “larger-than-necessary up front recurring and non-recurring costs and undue delay.”⁶ These pre-conditions would unduly force low-income citizens to allocate their income away from other important necessities, like food or rent, to pay for the significant upfront deposits and connection costs currently absorbed by the “first-contact” policy.⁷

DRA does not dispute that back-billing may have been a significant problem from July 2006 to January 2008. However, the data collected by CD provides little significance or usefulness beyond that general finding. The data fails to take into account the improvements that the Commission has made to the LifeLine Program, specifically the option for subscribers to complete their certification and annual verification forms electronically.

On May 5, 2008, the Commission began a rollout of an interactive website for the LifeLine Program. The website allows customers the option of completing their certification and annual verification forms online. Given that 80%⁸ of new enrollees have the option to enroll in LifeLine online and applications and renewals can be completed and verified in minutes, as opposed to days or weeks,⁹ DRA expects that these improvements will significantly reduce the number of back-billed subscribers as well as the amounts back-billed. Moreover, the burden on ineligible subscribers who are back-billed may not be so significant, as most carriers offer payment plans to reduce the impact of a lump sum repayment.¹⁰ Though a web-based enrollment process would not remedy the digital divide, it would alleviate some of the documented problems that caused a significant number of eligible subscribers to be deemed ineligible for undeliverable or

⁶ Joint Consumers Opening Comments at 4 (December 14, 2007).

⁷ See e.g., DRA Opening Comments at 1-4 (December 14, 2007); DRA Reply Comments at 2-5 (January 18, 2008).

⁸ The other 20% of new enrollees chose “income” to qualify, which still requires the submission of forms and documentation to Solix (the third party certifying agent) via the postal service. ACR at 2.

⁹ <https://www.californialifeline.com/online/Login.aspx>.

¹⁰ ACR at Appendix p. 2.

unscannable mail in 2006.¹¹ Thus, the new web-based enrollment system may have already significantly alleviated the back-billing problems that the Commission seeks to remedy with pre-qualification.

Another flaw with the back-billing data is that it does not make the important distinction between those subscribers that were subsequently back-billed because they were terminated at the certification stage versus being terminated at the verification stage. The back-billing problems at these two stages are distinct problems requiring distinct remedies. For instance, the Commission knows from CD's *Report on Strategies to Improve the California LifeLine Certification and Verification Processes* (revised May 3, 2007) that many problems with verification were due to problems concerning the method of mailing the forms, yet, of the data gathered showing that 1.2 million customers were being back-billed, it is unclear as to how many of those customers were back-billed due to those mailing issues.¹²

The Report also noted that carriers had been providing Solix with old records about LifeLine customers and that such records caused database errors that ultimately led to the rejection of LifeLine forms.¹³ DRA believes that this inaccurate exchange of customer data may have added to the significant number of customers who were being back-billed improperly, but, the back-billing data does not account for this problem either.

III. THE BACK-BILLING DATA FAILS TO SHOW WHETHER CARRIERS FULLY COMPLY WITH GENERAL ORDER 153

According to data compiled by CD, most carriers either advise customers about back-billing or work with customers on payment plans. However, the data is unclear as

¹¹ See e.g., DRA Opening Comments at 6.

¹² *Id.*

¹³ DRA Opening Comments at 3.

to whether customers are well-informed and/or fully understand the eligibility requirements for LifeLine service. In the March 28, 2007 ACR, the Commission noted that “AT&T and Verizon were not complying with portions of General Order (G.O.) 153, Section 4.2 and D.06-11-017; customers complained to the Commission that neither AT&T nor Verizon call center representatives were providing complete nor accurate LifeLine information at all times.”¹⁴ While some carriers offer and inform customers of extended payment options and offer help *after the fact*, DRA recommends that the Commission ensures that utilities comply with G.O. 153 by fully explaining to customers the eligibility requirements for LifeLine *before* signing up customers for the program. That is another cause of the problems with the LifeLine program that the back-billing data does not reflect.

IV. CONCLUSION

Based on the foregoing reasons, DRA respectfully requests that the Commission continue to maintain and improve its “first contact” enrollment process for the LifeLine program. The back-billing data provides little insight into how the Commission could improve the program to carry out the state’s goal of “offering high quality basic telephone service at affordable rates to the greatest number of citizens”¹⁵ because a shift to a strictly pre-qualification system would actually hinder the ability of eligible LifeLine customers to utilize LifeLine services. Thus, DRA recommends that the Commission

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¹⁴ *Assigned Commissioner’s Ruling Clarifying the February 28, 2007 Assigned Commissioner’s Ruling* at 2 (March 28, 2007).

¹⁵ Cal. Pub. Util. Code § 871.5(a)

give little weight to the back-billing data and instead, focus on proposals that strive to provide the greatest benefits to consumers who are eligible for the LifeLine program.

Respectfully submitted,

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May 19, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **OPENING COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON MAY 7, 2008 ADMINISTRATIVE LAW JUDGE'S RULING REGARDING BACKBILLING ISSUE** in **R.04-12-001** by using the following service:

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/s/ JANET V. ALVIAR

Janet V. Alviar

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