



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

01-18-08

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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)

**REPLY COMMENTS OF THE DIVISION OF RATEPAYER
ADVOCATES ON PHASE 2 ISSUES OF ASSIGNED COMMISSIONER'S
NOVEMBER 14, 2007 RULING**

I. INTRODUCTION

Pursuant to the Assigned Commissioner's November 14, 2007 Ruling ("Ruling") in the above-captioned proceeding, the Division of Ratepayer Advocates ("DRA") submits these Phase 2 Reply Comments. DRA continues to advocate the positions set forth in our December 14, 2007 Opening Comments. DRA is not commenting on every issue raised in the Ruling; silence on a particular issue should not be construed as assent.

II. SUMMARY

Currently, the record lacks sufficient evidence to warrant any significant modifications to the LifeLine certification/verification processes or its eligibility requirements. In contrast, the record shows that the burdens of initial customer costs and the undue delay in starting service will cause significant harm to eligible LifeLine subscribers if the Commission adopts a strictly pre-qualification enrollment process and strictly program-based eligibility. As discussed below, DRA recommends that the Commission maintain, but improve, its current LifeLine enrollment process and eligibility requirements by *supplementing* them with the proposals set forth in the Ruling.

Finally, the Commission should open another proceeding or conduct workshops to evaluate the legality and feasibility of coordinating the LifeLine enrollment process with other Commission-regulated low-income programs.

III. WHILE PRE-QUALIFICATION MAY BENEFIT *INELIGIBLE* LIFELINE SUBSCRIBERS, IT WOULD BE TO THE DETRIMENT OF *ELIGIBLE* LIFELINE SUBSCRIBERS.

The purpose of the LifeLine program is to make “telephone service accessible to low-income consumers,”¹ a goal that the current “first contact” enrollment policy accomplishes. In contrast, a strictly pre-qualification enrollment process would only reduce the availability of telephone service by imposing added expense and time on subscribers. While most of the utility companies² focused their comments on how pre-qualification could benefit some participants – non-eligible LifeLine subscribers, the companies, and the program Administrators – they failed to consider pre-qualification’s negative impact upon *eligible* subscribers: the most important and intended beneficiaries of the LifeLine Program.

Cox and Joint Consumers³ raised concerns, similar to DRA, regarding hardships that eligible subscribers would face with pre-qualification enrollment. Cox correctly noted, “[w]hile the pre-qualification system may have administrative benefits, it is not clear that subscribers will benefit.”⁴ Not only will eligible subscribers not benefit from pre-qualification, they will, more significantly, be burdened with “larger-than-necessary up front recurring and non-recurring costs”⁵ and undue delay in receiving necessary telephone service. With these added hurdles, LifeLine eligible customers will likely be

¹ Cox at 2.

² See Opening Comments of AT&T, Verizon, Surewest, Small LECs, and San Diego Gas & Electric Company and Southern California Gas Company (“Joint Utilities”).

³ Joint Consumers consist of The Utility Reform Network (“TURN”), National Consumer Law Center (“NCLC”), Disability Rights Advocates, and Latino Issues Forum (“LIF”).

⁴ Cox at 2 (footnote omitted).

⁵ Joint Consumers at 4.

deterred from even applying for the Program, a foreseeable consequence that the Commission should consider and strive to avoid.

Moreover, the record lacks sufficient data regarding backbilling or other problems to justify the significant change to the LifeLine program that pre-qualification would entail. As Joint Consumers argued, the Commission should “first document the severity of the back billing problem to see if it warrants a substantial change in enrollment practices.”⁶ Though the Commission strives to resolve one problem by considering a pre-qualification process, it could inadvertently create greater problems – not only for eligible subscribers, but for carriers as well. Cox specified several added costs that would likely result for carriers that they would otherwise not incur with the current system, including “modifying scripts for customer service agents, increased calls to carriers’ call centers and increased credit and collections activity, as well as other internal practice and procedures.”⁷

The significant problems imposed by a strictly pre-qualification enrollment process, therefore, warrants the Commission’s commitment to continue its efforts to fix the current process, rather than its adoption of a new one. The Commission should “ensure that the current program has completely stabilized [rather than, and] prior to adopting significant changes that are not imminently necessary.”⁸ As discussed more fully in DRA’s Opening Comments, a dual enrollment process – with the subscriber choosing to enroll via “first contact” or pre-qualification – would better address the simultaneous issues of backbilling and losing eligible LifeLine subscribers than a strictly pre-qualification system.

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⁶ Joint Consumers at 5.

⁷ Cox at 3.

⁸ *Id.*

IV. IF THE COMMISSION ELIMINATES ELIGIBILITY BASED UPON INCOME IT MAY DETER OR PREVENT LIFELINE ELIGIBLE CUSTOMERS FROM BENEFITING FROM THE PROGRAM.

Most parties, including DRA, opposed the idea of eliminating income-based eligibility for the LifeLine program and criticized the apparent shortcomings of establishing LifeLine eligibility based solely on an applicant's participation in other, non-related, public programs. Cox questioned why the Commission was even considering eliminating income-eligibility, noting the lack of data in the record and indicating that it was "not clear to Cox what the Commission seeks to achieve by eliminating eligibility based on income or the impact of such decision on Lifeline consumers."² Like DRA, all commenting parties,¹⁰ except AT&T and Verizon, generally cautioned the Commission against eliminating income-eligibility for fear of losing LifeLine subscribers who would otherwise qualify for the program. No proponent of a strictly program-based eligibility requirement articulated any basis for assuming, expecting, or requiring that those subscribers would or should participate in the other eligibility linked low-income programs.

More importantly, as Joint Consumers highlighted, many LifeLine eligible households "may simply not be eligible for the other programs through which they could establish [LifeLine] eligibility."¹¹ Thus, the consequence of a strictly program-based eligibility would be particularly devastating to "households without children, elderly or disabled persons who do not rent housing through the Section 8 program" because they would not be eligible for a majority of the programs in which they need to participate in to receive LifeLine discounts.¹² Disparate treatment of any population of eligible

² Cox at 4.

¹⁰ See Comments of DRA at 5-6, Joint Consumers at 9-11, Cox at 4, SureWest and Small LECs at 7, and Joint Utilities (Opening at 3 and Reply at 2-3).

¹¹ Joint Consumers at 10.

¹² Joint Consumers at 9.

LifeLine subscribers, regardless of the size of that population, would be contrary to the goal of universal telephone service for all Californians.

While AT&T and Verizon argue that a strictly program-based eligibility will improve the LifeLine program, the benefits they discuss are minimal in contrast to the substantial potential loss that would be suffered by LifeLine subscribers with the elimination of income-based eligibility. As discussed above, the intended beneficiaries of the LifeLine program are the subscribers, not the carriers. Therefore, when the Commission evaluates any proposal to modify the Program, DRA urges the Commission to focus primarily on the impact those modifications would have on the customer. Here, the record demonstrates that the harm of a strictly program-based eligibility significantly outweighs its purported benefits, thereby warranting the retention of dual eligibility.

V. THE COMMISSION SHOULD CONSIDER A SEPARATE PROCEEDING OR WORKSHOPS TO PROPERLY EVALUATE WHETHER THE LIFELINE PROGRAM COULD BE COORDINATED WITH OTHER COMMISSION-REGULATED LOW-INCOME PROGRAMS.

Several parties¹³ recommended that the Commission open a separate proceeding or conduct workshops to evaluate the Commission's proposal to synergize the LifeLine program with other low-income programs. DRA supports the Commission's efforts to explore the *possibility* of beginning a broad based collaborative process to consider the coordination of low-income programs. However, DRA requests that the Commission first consider the following issues before it sets the scope of any further proceeding:

- Notice requirements for all interested parties;
- Whether synergy would modify any aspect of any low-income programs;
- Whether synergy would require legislative action;
- The differing eligibility standards between the programs;

¹³ See Comments of DRA at 7-8, AT&T at 9, and Joint Utilities at 4.

- The need to also coordinate the different Commission low-income program administrative committees;
- The content and format of a universal enrollment form;
- The implementation role played by the different industries and the respective Commission Divisions.

As this long list shows, there are many preliminary considerations that the Commission should address before it could coordinate the different low-income programs.

VI. CONCLUSION

The record does not support the considerable negative changes to the LifeLine program that would result from moving to a strictly pre-qualification enrollment process and a strictly program-based eligibility system. As explained above, eligible Lifeline subscribers would be harmed by both proposals. And, because the Commission has an obligation to ensure that universal service goals are met, it should continue its efforts to maintain and increase the number of LifeLine subscribers. To accomplish those goals, the Commission should continue to flesh out the problems with the current LifeLine processes, rather than adopt the proposals in the Ruling. DRA looks forward to working with the Commission to improve the LifeLine program and respectfully requests that the Commission consider all of DRA's recommendations as set forth in this proceeding.

Respectfully submitted,

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January 18, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON PHASE 2 ISSUES OF ASSIGNED COMMISSIONER'S NOVEMBER 14, 2007 RULING** in **R.04-12-001** by using the following service:

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Executed on January 18, 2008 at San Francisco, California.

/s/ NANCY SALYER

NANCY SALYER

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