Decision **DRAFT DECISION OF ALJ JONES (Mailed 3/4/2005)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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)

DECISION ADOPTING NEW UNIVERSAL LIFELINE TELEPHONE SERVICE CERTIFICATION AND VERIFICATION PROCESSES

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DECISION ADOPTING NEW UNIVERSAL LIFELINE TELEPHONE SERVICE CERTIFICATION AND VERIFICATION PROCESSES

I. Summary

California's Universal Lifeline Telephone Service (ULTS) program is, by far, the most comprehensive telephone lifeline service program in the United States. Currently we have 3.4 million authorized participants signed up for the ULTS program.[1]

In this decision, we take the initial steps necessary to make certain that the state will continue to receive the $330 million in federal Lifeline/Link-Up funds to protect the financial viability of the ULTS program. Specifically, we adopt a program of income certification and annual verification, as required by the Federal Communications Commission's (FCC's) Lifeline Order.[2]

At the same time, we adopt program-based eligibility, to facilitate participation in the program by all eligible customers. Program-based eligibility is based on the customer's participation in specific means – tested programs. It is our goal to maximize to the greatest extent possible the number of eligible households that subscribe to ULTS. To that end we are adopting two options for low income customers—income documentation or program-based eligibility—to qualify for the ULTS program. We make other program changes to facilitate ULTS enrollment.

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[1] Based on reimbursement requests from the telecommunications carriers, there were 3.427 million low-income households enrolled in ULTS in December 2004.

[2] *Lifeline and Link-Up Report and Order and Further Notice of Proposed Rulemaking,* WC Docket No. 03-109, FCC 04-87 (rel. April 29, 2004).

We have determined that the certification and verification processes adopted here should be performed by a Third Party Administrator (TPA).

We have crafted a program that satisfies the FCC requirements, but also meets the universal service goals of the California Legislature and ensures continued strong enrollment by all segments of eligible populations, including the disabled population, non-English speakers, and those that may have difficulty documenting their income.

II. Background

A. The FCC's Lifeline/Linkup Order

On June 22, 2004, the FCC released the Lifeline/Link-Up Order (Lifeline Order or Order) modifying the requirements for eligible telecommunications carriers (ETCs) to receive federal Lifeline/Link-Up funds. At the present time, all of the state's incumbent local exchange carriers (ILECs) are ETCs and entitled to federal Lifeline/Link-Up funds.

The Federal Lifeline program provides low-income customers with discounts of up to $10.00 from the monthly cost of telephone service for a single telephone line in their principal residence.[3] The Federal Link-Up program provides low-income customers with 50% discounts, to a maximum of $30.00, from the initial costs of installing telephone service.[4]

Under the FCC rules, states and territories have the authority to establish their own Lifeline/Link-Up programs that provide additional support to low-income consumers that incorporate the unique characteristics of each state. Some states and territories, however, have elected to use the federal criteria as their default standard. These are known as "federal default states." We have established our own program in California, the ULTS program.

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[3] 47 C.F.R. § 54.401(a)(2).

[4] 47 C.F.R. § 54.411(a)(1).

In its Order, the FCC expands the list of means-tested programs eligible under the federal program-based criteria and amends the federal default eligibility criteria to include an income-based criterion. Furthermore, the Order requires all states, like California, that operate their own income-based Lifeline programs to document low-income customers' income qualification for their income-based program.

Currently, California's ULTS is a $570 million program. Of this amount, approximately $330 million is financed by federal Lifeline/Link-Up funds and $240 million is from an all-end-user surcharge assessed on consumers' intrastate telephone bills. California, however, could lose the $330 million of federal Lifeline/Link-Up funds if California does not implement the FCC's new program eligibility requirements.

B. Implementation of FCC's Order

We issued our Order Instituting Rulemaking (OIR) on December 2, 2004 and established a schedule for the conduct of the proceeding. Opening Comments were filed on January 21, 2005,[5] and Reply Comments, on February 1 and 4, 2005.[6] The steps we have taken here, once implemented, will move the

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[5] Opening Comments were filed by: Adir International Export Ltd. d/b/a La Curacao (La Curacao); AT&T Communications of California, Inc. (AT&T); Blue Casa Communications (Blue Casa); Cox California Telcom, L.L.C. (Cox); Disability Rights Advocates (DRA); Fones4All Corporation (Fones4all); The Greenlining Institute (Greenlining); Latino Issues Forum (LIF); NECA Services (NECA); Office of Ratepayer Advocates (ORA); Pacific Bell Telephone Company d/b/a SBC California (SBC); The Small Local Exchange Companies (Small LECs); Surewest Telephone and Sure West Televideo (Surewest); The Utility Reform Network (TURN); and Verizon California Inc. (Verizon).

[6] Reply Comments were filed by: AT&T, Cox, Fones4All, Greenlining, La Curacao, LIF, MCI, Inc. (MCI), NECA, ORA, SBC, Small LECs, Surewest, TURN and National Consumer Law Center (TURN/NCLC), and Verizon.

state toward compliance with the requirements of the FCC's Lifeline/Link-Up Order.

C. Implementation Timeline

In their Opening Comments, three parties (SBC, Surewest and the Small LECs) indicate that numerous sections of Report 04-87 pertaining to certification and verification remain at the Office of Management and Budget and have not been published in the Federal Register to date. According to those parties, the one-year compliance requirement has not technically begun to run. SBC states that California may have additional time to implement and commence its certification and verification processes. SBC recommends that the Commission confirm the timeline for compliance to determine the correct timeframe for implementing all changes to the ULTS program.

Staff from the Telecommunications Division (TD) contacted the FCC for clarification, and the result was DA 05-262 in WC Docket No. 03-109, issued by Mark G. Seifert, Assistant Chief, Telecommunications Access Policy, Wireline Competition Bureau at the FCC. In his brief Erratum released January 31, 2005, Appendix A of the Lifeline Order is corrected to replace the phrase "By one year from the effective date of these rules," with "On June 22, 2005." The FCC's Erratum makes clear the FCC's target implementation date. We were aware of that date when we released our OIR.[7]

Our staff has had several conversations with the FCC and will shortly file a Petition for Extension of Time until January 1, 2006, to meet the deadline. The extension is necessary because we need additional time to get a TPA in place using the state's contracting process. We will instruct staff to continue dialogues

[7] See OIR at 15.

with the FCC over the coming months and keep the FCC apprised of our progress.

Several parties express concern that the Commission should take all steps necessary to ensure continued federal funding. We have done so. As a first step, we reviewed our implementation timeline in the OIR and have shortened that time considerably. We have also made a commitment to make periodic status reports to the FCC. We believe that these steps will convince the FCC to grant us an extension.

Some parties encourage the Commission to slow the process of this proceeding, by bifurcating the proceeding. The first decision would give a very general framework, with specific details to be ironed out in workshops, and approved by later Commission decision. We do not have the luxury of operating at a leisurely pace in this proceeding. Fortunately, parties have provided comments with creative solutions that enable us to move forward and make definitive decisions on the big issues before us.

Shortly after we approve this order, the TD will convene a workshop to deal with some outstanding issues that need to be resolved before they can start the lengthy state process to obtain a TPA. TD cannot begin the bid process until all the major issues have been resolved, and the sooner we begin the contracting process, the sooner we will have a contractor in place.

Following is the revised timeline for implementation of the FCC's Lifeline/Link-Up Order:

Date	Events
4/7/2005	Commission adopts decision
4/20/2005	TD conducts workshop seeking input and comments on implementation of Commission order.
5/13/2005	TD issues Request for Approval for the role of certifying agent.
6/8/2005	TD conducts workshop revising/updating General Order (GO) 153 consistent with Commission orders.
8/1/05	Parties file comments on workshop report
8/10/2005	Commission submits contract to Department of General Services (DGS) for approval
8/23/2005	ALJ issues draft decision adopting revised GO 153 and resolving miscellaneous implementation issues.
9/2/2005	Certifying Agent contract approved by DGS
9/19/2005	Certifying Agent contract begins
9/22/2005	Commission adopts decision approving revisions to GO 153 and resolving miscellaneous implementation issues.
1/1/2006	Kickoff of the new certification/verification process by all parties including the certifying agent, carriers and consumers.

D. Scope of Proceeding

Some parties (LIF, Greenlining, MCI) criticize the scope of the rulemaking for being too narrow and propose a more comprehensive review of the state's universal service program. They urge the Commission to broaden the scope of

this rulemaking or to initiate a new rulemaking to address issues of changes in technology and other issues. We reiterate our statement in the OIR that initiated this proceeding, namely, that this proceeding is necessarily narrow in scope. It is our goal to ensure that the state does not lose $330 million in federal funds. This is not the forum for a through reexamination of the current program.

We agree that a more comprehensive review of our program is overdue, and will consider issuing a new rulemaking in the near future.

III. Income-Based Eligibility Requirements

A. The FCC's Income-Based Requirement

The Lifeline/Link-Up Order added an income-based criterion for participation in Lifeline/Link-Up in federal default states, if the ETC customer's household income is at or below 135% of the Federal Poverty Guideline. Each ETC must certify, under penalty of perjury, that a customer is qualified for Lifeline/Link-Up based on: 1) Customer self-certification, under penalty of perjury, of his/her qualification, and 2) Income document(s) supporting the income level of the customer.

ETCs in states that do not mandate state Lifeline support must implement certification procedures to document consumer income-based eligibility for Lifeline prior to that consumer's enrollment. This OIR was issued to address this issue since California does not currently require documentation of income-based eligibility.

The OIR asked parties to comment on whether the Commission should adopt an income certification program. Several parties (AT&T, Blue Casa, Cox, Fones4All, NECA, ORA, SBC, and TURN) support implementation of an income certification program, although they do not agree on how it should be structured.

LIF declares the program is too costly and suggests that the Commission seek a waiver of the requirement from the FCC. Both LIF and Greenlining prefer

to retain the current system of self-certification. LIF suggests that the Commission should seek a waiver from the FCC for a defined period while it is ascertained how the ULTS program will be funded for the long term. LIF's suggestion is not viable. The FCC addresses the use of self-certification as follows:

> …states that operate their own Lifeline/Link-Up programs should maintain the flexibility to develop their own certification procedures other than self-certification, including acceptable documentation to certify consumer eligibility under an income-base criterion.[8]

While LIF/Greenlining's proposal to retain the current system of self-certification is admirable, such a proposal would put over $300 million of federal funding in jeopardy. As demonstrated above, the FCC specifically eliminates self-certification as an acceptable method of certification so Greenlining's proposal to seek a one-year extension to fashion a study to determine the impact of replacing the current self-certification process with an income documentation requirement will not help us to meet the FCC's requirement.

Greenlining suggests that the California Public Utilities Commission (CPUC) devise a creative strategy that will allow for self-certification without jeopardizing the Commission's receipt of federal funding. Greenlining believes that a certification program would disproportionately impact California's most vulnerable consumers, such as undocumented immigrants, limited-English speakers, the poor, and other underserved communities. While Greenlining encourages the Commission to "work diligently to avoid losing eligibility for

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[8] *Lifeline Order* ¶29.

continued federal funding," it makes no concrete proposal for how to accomplish that. Nor has any other party provided a concrete proposed for alternative ways to retain federal funding.

SBC states the obvious, if the Commission loses the $330 million in federal support, it will have to either increase surcharges paid by consumer or decrease benefits. SBC opines that neither option is palatable considering the funds available through the federal Lifeline/Link-Up programs. We agree. Also, as SBC states, those parties who oppose these changes have failed to offer any acceptable way to compensate for the lost federal revenues.

We therefore adopt income-based eligibility requirements. This will enable us to comply with the FCC's Order and retain state eligibility for federal Lifeline/Link-Up funds.

B. Income Certification for Non-ETCs

Blue Casa and Fones4All propose that income certification apply only to the ETCs, since non-ETCs do not receive federal monies. Instead, they receive the full reimbursement from the state's ULTS fund. Therefore, they assert it is not necessary for them to institute any form of income certification.

A number of parties (Cox, ORA, SBC, Surewest, Small LECs, and TURN) express concerns that if we allow non-ETCs to continue to operate under the current rules, it could undermine the Lifeline program and violate the law. While LIF does not take a position on the issue, it finds it troubling for there to be separate universal service rules for different carriers because customers will not understand the distinctions and will be adversely affected in the process. These parties point to the fact that that ULTS-eligible consumer lucky enough to live in an area served by a non-ETC would be able to enroll in the program without proper documentation.

This would disturb the competitively neutral system designed in Decision 96-10-066, which structured the present ULTS program. ETCs would face a higher burden for securing ULTS benefits for their customers. Verizon states that non-ETCs would have a competitive advantage by marketing themselves as a "no hassle" way to obtain ULTS. Cox and Surewest/Small LECs point to Pub. Util. Code § 871.5 which reads as follows:

> [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.

We find that allowing non-ETC CLECs to comply with a lower standard for eligibility while ETCs are required to comply with a higher standard would be inequitable and discriminatory. This special treatment of non-ETCs also violates PU Code requirements. Therefore, we conclude that the income certification program we are adopting here will apply to both ETCs and non-ETCs. However, we recognize that some non-ETCs have been rigorous in their outreach to underserved communities, and we urge them to continue to do so. Fones4All describes its innovative outreach work in which the company works cooperatively with Community Based Organizations (CBOs) and state and local agencies that provide services to eligible populations and asserts that the company has been extremely effective in identifying and enrolling eligible customers. Nothing in this order precludes Fones4All from continuing its outreach efforts and hopefully it will continue to reach out to under-served communities.

C. Impact of Not Implementing the FCC's Order

In its Opening Comments, TURN asked the assigned Administrative Law Judge (ALJ) to provide information on what the impact would be to the

California ULTS surcharge if the Commission does not comply with the FCC's order. The assigned ALJ provided information obtained from TD in an e-mail to the parties on January 26, 2005. That e-mail indicates that the ULTS surcharge would have to be increased from 1.55%[9] to 3.35% to make up for the shortfall if the $330 million in federal funds is eliminated.

As SBC states in its Reply Comments, "Restricting ULTS funding sources to California surcharges is fiscally irresponsible and is likely to cause substantial harm to this program."[10] We agree, and it is our goal to ensure that California continues to receive funding under the federal programs.

D. Adoption of Income Certification Process

We hereby adopt the income certification process delineated in the OIR. Adoption of income certification will ensure that the Commission continues to receive the $330 million in federal Lifeline/Link-Up funds.

E. Acceptable income documentation

Under the federal rules, acceptable documentation of income eligibility includes:

- Prior year's state, federal, or tribal tax return,
- Current income statement from an employer or paycheck stub,
- Statement of benefits from Social Security, Veterans Administration,
- Statement of benefits from retirement/pension, Unemployment/Workmen's Compensation,

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[9] The ULTS surcharge rate is currently 1.1%, but TD will shortly have a Resolution (T-16917) before the Commission to increase the surcharge to 1.55%.

[10] SBC Reply Comments at 2.

- Federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance,
- A divorce decree
- Child support document, or
- Other official document.

Cox, NECA, SBC, TURN and Verizon provide comments on the specific documents customers should be required to provide. TURN believes all of the forms of documentation listed in the FCC's Lifeline Order should be included. TURN states that the Commission should also consider other forms of income verification, including letters from employers and letters from legal aid and community assistance organizations, while possibly requiring those who provide such letters to affirm that the content is true to the best of their knowledge. SBC also supports the documentation listed above, and suggests that additional categories of documents may increase the cost of administering the ULTS program.

Cox supports the first four types of documents from the above list, but also adds student financial aid applications. Cox states that divorce decrees and child support documents should not be used as they are not necessarily updated annually and may not reflect total income.

NECA and Verizon indicate that tax returns are preferable, as they reflect income from most sources. Also, tax returns are certified under the potential for audit and threat of severe sanctions if false. NECA finds pay stubs to be problematic unless they represent at least an entire year's salary. NECA asserts that applicants should also be instructed to document any non-taxable income. By signature, they should be required to attest, under penalty of perjury that the documents they submit accurately reflect all household income.

We will adopt the list developed by the FCC. However, we support the FCC's conclusion that if a consumer chooses to proffer any document other than a previous year's tribal, federal, or state income tax return as evidence of income, such as current pay stubs, the consumer must present three consecutive months worth of the same type of statements within the calendar year.[11] Also, if someone provides a divorce decree or child support document, that person must certify that he or she receives no other source of income. Since we are adopting program-based eligibility (see following section), it may not be necessary to have an exhaustive list of documents that participants can use to certify their income. As SBC says, it adds to the cost if the TPA must be familiar with a wide variety of income documents.

We are concerned that TURN's proposal to accept letters from employers or local organizations familiar with the family's financial situation would result in those organizations serving as de facto certifying agents. The TPA itself would not have an opportunity to review the documentation and would simply have to accept the word of the entity writing the letter. This would conflict with § 54.410(b)(ii). ETCs must certify that the consumer has presented documentation of his/her household income.

IV. Program-based Eligibility

We have adopted income certification for our ULTS program, but a number of parties raise concern that the net result will be that many eligible customers will not be able to qualify for the program. DRA and SBC point to the disabled with their special needs, and the difficulties for them in gathering income documentation.

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[11] *Lifeline Order* ¶ 30.

At the same time, LIF, TURN, Blue Casa, La Curacao and Greenlining point out that many low-income people, particularly undocumented immigrants, live in a cash economy, and they have no proof of income. LIF asserts that many employers pay day workers, gardeners and domestic workers in cash, and thus, the workers have no payroll stubs, social security records or other paperwork. Other immigrants come from countries where they have a basic distrust of the government and would be unwilling to supply personal income information to the phone company, which in many countries is a government entity.

While DRA acknowledges that people with disabilities constitute only a fraction of the population that is eligible to participate in the ULTS program, DRA states that effectively meeting the needs of people with disabilities can be complex. With program-based eligibility, people with disabilities who receive Supplemental Security Income (SSI) benefits or Medicaid or who participate in any other program will automatically be eligible for ULTS and can self-certify. According to DRA, this will reduce the barriers to participation in the ULTS program by the disabled.

We will examine how adoption of program-based eligibility, in conjunction with the income certification that we have adopted, could meet the needs of these constituencies. First we examine how the FCC addresses program-based eligibility.

A. Program–based Eligibility in the FCC's Order

The FCC employs program-based criteria in the federal default states. Under the FCC's rules, Lifeline/Link-Up eligibility is based on participation in various means-tested programs. In order to be eligible for Lifeline/Link-Up assistance under the federal default eligibility criteria for federal default states, a consumer must certify, under penalty of perjury, that he/she participates in at least one of the following federal programs:

- Medicaid[12]
- Food Stamps
- SSI
- Federal Public Housing Assistance (Section 8) (FPHA)
- Low Income Home Energy Assistance Program (LIHEAP)
- Temporary Assistance for Needy Families (TANF)
- National School Lunch's free lunch program (NSL)
- Tribal TANF
- Bureau of Indian Affairs General Assistance
- Tribal NSL
- Tribal Head Start

The FCC asserts that in states that have their own Lifeline/Link-Up programs, the consumer must meet the eligibility criteria established by the state, consistent with §§ 54.409 and 54.415 of the Commission's rules.[13] Clearly, the FCC's order supports the adoption of program-based criteria, to be used at the consumer's option, in lieu of income-based certification.

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[12] Medi-Cal is California's Medicaid health care program.

[13] *Lifeline Order*, ¶7.

B. The Need for Program-based Eligibility

No commenter in the proceeding opposed the adoption of program-based criteria. In fact, TURN points out that allowing low-income households to qualify for ULTS based on program eligibility would mirror the FCC's approach to eligibility for the default states.[14]

A number of parties made compelling arguments supporting program-based criteria. Several parties[15] point out that program-based eligibility would offer another avenue for customers to qualify for ULTS and would eliminate the need for many ULTS customers to submit income documents. SBC supports what it calls a hybrid certification program that utilizes both income and program-based eligibility criteria for certifying new customers. SBC sees a certification process that incorporates these two criteria is the best approach for sustaining the program's present telephone subscribership rate. According to SBC, providing consumers a second eligibility criterion should significantly reduce the number of customers who may be inappropriately excluded from the program due to their inability to prove their income level through one of the approved document categories. SBC indicates that consumers tend to qualify under program-based criteria when given the choice. In Ohio, for instance, only 20% of all Lifeline/Link-Up customers qualified via income in 2003.[16]

DRA notes that program-based eligibility would simplify or eliminate income documentation for many ULTS participants and could substantially

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[14] TURN Opening Comments at 6-7.

[15] Cox Comments at 2, SBC comments at 7, DRA Comments at 2, LIF comments at 5, TURN Comments at 6.

[16] SBC Opening Comments at 8.

reduce the workload for the certifying agent by reducing the number of participants that must provide actual income documentation. DRA also states that this will result in benefits for people with disabilities, who will likely be able to take part in a more streamlined program-based eligibility system.

DRA points out that the Lifeline Order is clear that self-certification is permitted for states that receive and distribute federal funding on a program eligibility basis. (Lifeline Order at ¶ 27.) The order notes that the ease of self-certification encourages consumers to participate, and that participation in needs-based programs is easy to verify.

While acknowledging that people with disabilities constitute only a fraction of the population that is eligible to participate in the ULTS program, DRA states that access for people with disabilities will be simpler in a program-based eligibility system.

TURN sees program eligibility coupled with self-certification is a critical means of minimizing the barriers to enrollment.

We find that adopting a hybrid program of income certification or program-based eligibility would best meet the needs of California's consumers. It is important that this approach is consistent with the FCC's Order. Providing consumers an alternative eligibility criterion should reduce the number of customers who are inappropriately excluded from participating in the ULTS program. Program-based eligibility will give a second avenue for consumers to establish eligibility.

The FCC allows for self-certification under its program-based eligibility track, and we adopt self-certification as well. As the FCC says, it is easy to verify participation in need-based programs.

In addition, it will reduce the costs of the TPA to have a hybrid system. The program-based eligibility is much less labor-intensive than the income certification process in which TPA employees need to review and approve the income documentation submitted by the customer.

C. When Does Certification Occur?

Several parties point out that the FCC's Order requires consumers qualifying under an income-based criterion to present documentation of their household income **prior** to enrollment in the ULTS program. This is contrary to the current process employed in California, where customers are signed up for the ULTS program, pending their completion of the proper paperwork. Several parties urge the Commission to change its rule to bring it into compliance with the FCC's new requirement.

The only party with a differing opinion is SBC. SBC cites paragraphs 29 and 30 in the FCC's Order in support of its position that federal rules governing the Lifeline/Link-Up program do not prohibit non-default states from applying ULTS discounts at the time of enrollment contingent on certification. According to SBC, while Report 04-87 explicitly requires consumers in default states to provide documentation of income eligibility at enrollment, it offers non-default states wide latitude in developing its certification procedures as long as the program is not compromised.

We do not agree with SBC's interpretation of the FCC's order. While the dicta in Report 04-87 appear to provide some latitude to the non-default states in developing their certification programs, FCC Rule § 54.410(a) is quite specific as to what the FCC requires:

> (a) C*ertification of Income.* Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Lifeline.

Subsections (i) and (ii) to Rule § 54.410 (a) reiterate that the requirement to document income prior to enrollment applies in both default states and in states that do not mandate state Lifeline support.

It is interesting to note that this rule applies only to customers applying for the ULTS program under the income eligibility track, not to those applying under the program-based eligibility track.

We do not want to delay establishment of a consumer's telephone service pending certification for participation in the Lifeline or Link-Up programs. We will direct staff to file two Petitions for Waiver or Clarification with the FCC, one for Lifeline and the other for Link-Up. We are concerned that the impact of implementing the FCC's order as written would have on our ULTS customers. For instance, under both Federal and state rules, ULTS customers are exempt from deposit requirements. However, if customers are signed up as regular customers, pending approval of their application for ULTS, they could have to pay a deposit. In addition, the Link-Up program which pays for part of the non-recurring cost of service establishment, must be paid at the time the customer initiates service. Under the FCC's rule, §54.416, there is no way the customer could receive that Link-Up benefit unless he/she waits to establish phone service after being certified as a ULTS customer.

Also, we need to understand at what point the ETCs bill the FCC the service establishment charge. We will defer to workshops, further discussion of this issue.

D. List of programs

ORA states the Commission should base its list of appropriate "partner programs" on those allowed under federal Universal Service regulations, possibly with the addition of some state programs. ORA recommends that the Commission discuss specific potential partner programs in a workshop setting.

SBC expresses concern that the government assistance programs used for program-based criteria should be as inclusive as possible to reach the greater population.

Verizon expresses concern about the potential for a mismatch between the qualification requirements for various public programs and the income and household size criteria for ULTS eligibility. According to Verizon, only if the income limit for a public program is equal to or below the California ULTS income limit for each household size, would all participants in that program be eligible for ULTS. Verizon also points out that some programs will not meet the FCC Lifeline Order requirements. For example, LIF suggests that those in the California Alternates Rates for Energy (CARE) program be automatically enrolled in ULTS, but the CARE program has higher income limits and different household size definition than ULTS. Verizon cautions against allowing programs with higher income limits, saying that it would expand the ULTS program requirements and participation inadvertently.

However, we determine that the FCC's rules do not preclude inclusion of programs with higher income limits:

> To qualify to receive Lifeline service in a state that does not mandate state Lifeline support, a consumer's income, as defined in § 54.400(f), must be at or below 135% of the Federal Poverty Guidelines **or** a consumer must participate in one of the following federal assistance programs: Medicaid; Food Stamps; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families.[17]

[17] § 54.409(b) (emphasis added).

In other words, eligibility under the program-based option is not subject to the FCC's income requirements.

TURN and LIF mention other possible state programs that could be added to the list. LIF mentions the Women, Infants and Children program (WIC), but we do not see the need to add that program since participants are automatically signed up for WIC if they are enrolled in the Food Stamp program. Since Food Stamps is already one the list of qualifying federal programs, it would be redundant to add the WIC program as well.

LIF also suggests that we add the Healthy Families program. Under that program we could reach families where the children meet citizenship/immigration rules, whether or not the parents do.

LIF also suggests adding the CARE program, but since participants to CARE self-certify as their income, that would not comply with the FCC's rules.

However, while the Category A Healthy Families sets eligibility at 140% of Federal Poverty Guidelines (FPG), Healthy Family Category B is 233% of FPG. Therefore, we will include only Healthy Families Category A.

V. Verification

The FCC requires states to establish a process to verify customers' continued eligibility for the ULTS program. Verification occurs annually after a customer has already been enrolled in ULTS. Verification procedures may include random beneficiary audits, periodic submission of documents, or annual self-certification.[18] In our OIR, we propose that at verification, customers must self-certify, under penalty of perjury, as to the number of individuals in their household and that they meet the ULTS income guidelines.

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[18] *Lifeline Order*, ¶ 33.

A. Scope of Verification

Several parties (ORA, DRA, Greenlining, SBC, Cox, Verizon, and TURN) support self-certification as a means of verifying continued eligibility for the ULTS program. SBC states that self-certification is the most efficient and cost effective means of ensuring customer compliance with ULTS eligibility rules.

In addition, some parties support random audits of customer eligibility (Cox, ORA, and Verizon), ORA strongly supports periodic audits of the ULTS program. ORA's stand is consistent with its position that regular audits should be conducted of various public purpose programs. ORA cites the following from the Lifeline Order in support of its position:

> All ETCs must maintain records to document compliance with all [Federal Communications] Commission and state requirements governing the Lifeline/Link-up programs and provide that documentation to the Commission or Administrator upon request.[19]

Several parties oppose random audits. According to NECA, unless random beneficiary audits are conducted frequently and in very large numbers, they would fail to verify the continued eligibility of most Lifeline beneficiaries, and should therefore be rejected as an alternative to the periodic submission of documents.

SBC asserts that conducting random audits or requiring proof of ongoing eligibility in conjunction with self certification is superfluous. According to SBC, the FCC's Lifeline Order approved annual self-certification as a suitable procedure for verifying consumers' continued eligibility under Lifeline/Link-Up for both program-and income-based criteria. The Commission is not required to

[19] *Lifeline Order*, ¶ 39.

impose additional verification requirements on consumers as long as self certification is done annually.

TURN asserts that by maintaining the current self-certification process for verification of continued eligibility it will avoid placing another barrier in the way of participants to continue their enrollment.

We adopt annual self-certification as the means of verifying continued eligibility for the ULTS program. The annual verification process will include those who qualified under the income-based and program-based tracks. This is consistent with the requirements of the FCC Order. For those customers who apply for the program under program-based eligibility, the verification process will be almost identical to the initial certification process, which should facilitate program participation.

We are not going to require random audits at this time. However, GO 153 includes a section whereby we can conduct periodic audits. When we make our revisions to GO 153, we will retain that section. The Commission has ongoing oversight over the ULTS program, and can institute audits as it deems necessary.[20]

B. Certification of Existing ULTS Customer Base

Verizon and AT&T suggest that the verification program should apply to the existing ULTS customer base. According to AT&T, the OIR is silent on the logistics of implementing the new procedures to existing ULTS participants.

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[20] The right to audit our public programs rests in Pub. Util. Code § 274 which reads as follows: "The Commission may on its own order, whenever it determines it to be necessary, conduct compliance audits on the compliance with commission orders with regard to each program subject to this chapter."

AT&T states that applying the new requirements to the existing base of ULTS customers is consistent with the underlying intent of the federal requirement.

Verizon states the Commission should conduct a statistically valid audit of a small sample of current ULTS customers and if the results indicate that a significant portion of the sample is not eligible, then all existing ULTS customers should be required to re-certify by providing income documentation.

ORA encourages the Commission to clarify its interpretation of whether the FCC Order requires documentation of the continuing eligibility of current participants. ORA states that if it is not required to retain federal funding, asking all participants to provide documentation in order to remain in the program seems unnecessarily cumbersome and expensive. ORA also believes that such a process might discourage some qualified participants from continuing in the program.

We find that the FCC's Order does not address documentation of eligibility for current ULTS customers. It would be costly and time-consuming to recertify all the current 3.4 million ULTS subscribers, and it is not cost-effective to do so, since the requirement for annual verification would cover existing customers, as well as new customers. We do not want to institute a process which could have the effect of discouraging qualified consumers from continued participation in the program.

VI. Third-Party Administrator

In the OIR that initiated this proceeding, we ask parties to comment on whether we should designate a single entity as certifying agent, or if each carrier should serve as certifying agent for its customers. The FCC grants the states latitude in how their programs are administered:

> …states that operate their own Lifeline/Link-Up programs should maintain the flexibility to develop their own certification procedures… and to determine the certifying entity, whether it is a state agency or an ETC.[21]

We believe that our proposal to have a TPA administer the program is consistent with the FCC's requirements stated above, since the TPA would be under the direction of a state agency, namely the Commission.

We first need to explore the option of having the ETCs assume the certification/verification function. Most ETCs[22] in California are parties to this proceeding, and they are outspoken in their unwillingness to assume that function. The ETCs express strong support for use of a TPA.

Having a third party to administer the certification and verification process has wide support among the parties. The exceptions were Blue Casa, Fones4All, La Curacao and LIF that express a desire for carriers to perform the function.

Parties point to the benefits of using a TPA, namely, standardization of the document review and information-handling policies. Another administrative benefit is that with a single centralized agency, a subscriber could move within California, change telephone carriers, and not have to reapply for the discount. TURN sees this as an important consideration since anecdotal evidence demonstrates low income customers tend to be more transient and move more frequently.[23]

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[21] *Lifeline Order* ¶ 29.

[22] The ETCs that have actively participated in this proceeding by the filing of comments include: SBC, Verizon, Surewest and 14 Small LECs.

[23] TURN Opening Comments at 12.

A third party will be more capable of ensuring privacy and security of the data. This will limit the number of eyes to view the sensitive material. TURN, and SBC see this as a key consideration in the era of increased identity theft. SBC stresses that confidential information the TPA has should not be shared with carriers. The TPA can be restricted to informing the carriers whether the customer meets ULTS eligibility requirements. NECA states that an experienced TPA would have developed mechanisms to safeguard proprietary information and ensure that data accumulated from individuals and entities is protected from unauthorized disclosure. Such measures should include physical security and data access controls, signed non-disclosure agreements, employee education, and a business continuity plan.

Surewest and the Small LECs point out that the TPA will be required to understand and authenticate a variety of different documents reflecting income levels. The TPA could develop a high level of expertise in reviewing income information. Carriers have neither the resources nor the institutional expertise to fulfill this role. Surewest/Small LECs and Cox point out that if each carrier does the work of certification/verification, carriers would be forced to devote significant time to training employees in addition to the increased amount of time dedicated to determining eligibility. Those expenses in personnel and training would be duplicated by each carrier in California, unnecessarily inflating the size of the ULTS program budget. Having a centralized TPA would likely reduce administrative costs of the program.

As NECA points out, single TPA would greatly simplify the Commission's oversight and monitoring responsibilities.

LIF expresses concern that the TPA will not reach out to the immigrant populations. We remind LIF that the TPA is not charged with outreach for the program. That is the purview of the marketing and outreach contractor, in

conjunction with CBOs. Those entities will continue their outreach to the immigrant and disabled and other low-income communities, and CBOs will be an extraordinarily valuable resource in disseminating information about how to apply for the ULTS program.

We find that having a centralized TPA will ensure consistency in review of documents and asure privacy of personal documents. It will also be more cost effective than having 40 different carriers all performing the same function. With a single data base, customers will be able to move from one carrier to another, or to another area of the state, and not have to go through the eligibility process again.

A. Cost of Establishing TPA

SBC believes a single TPA is much more cost effective than reimbursing costs for each individual carrier, and states that the ongoing administrative costs of the individual carriers will be reduced by having the TPA manage the state's entire certification and verification process. Cox, Surewest and the Small LECs agree that having a TPA would likely reduce administrative costs of the program.

Fones4All has a different opinion. Fones4All expresses concern that a TPA will be unduly expensive and needlessly add an additional level of bureaucracy to the ULTS program infrastructure. Fones4All adds that it makes no sense to assume such costs, particularly when the state's budget is under increasing pressure. However, as various parties point out, the state is going to pay to have the certification/verification process done, either by the carriers themselves or by a TPA.

We find that having a TPA handle the certification/verification process for all carriers will be more cost-effective. We do not agree that that approach will be more costly. As TURN/NCLC states in their Reply Comments, when

redundant costs of ETC-administered programs are taken into consideration, especially in light of customers who move and/or change service providers within California, use of a third-party verifier will actually have the result of reducing costs. There will also be economies of scale in training the employees who need to review the incoming documents.

In response to comments by various parties, we clarify that the cost of establishing a TPA will come from the ULTS surcharge revenues. This is consistent with the way the program is handled today, namely the individual carriers can apply for reimbursement of most program administration costs through the Fund.

B. Safeguarding Customer Information

Privacy of customer information is a key concern of the parties.[24] TURN/NCLC point out that a recent study by Michigan State University indicates that 50-70% of all instances of identify theft are perpetrated by dishonest employees who have access to personal information.[25]

TURN/NCLC also indicated that the Privacy Rights Clearinghouse (PRC), a nonprofit organization that educates consumers about privacy issues, has been contacted by California consumers whose personal information was misused by a phone company customer service representative or whose personal information was given to an outside party. TURN/NCLC say that the Privacy Rights Clearinghouse has the understanding that many carriers provide a

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[24] TURN/NCLC, Surewest, the Small LECs

[25] TURN/NCLC citing MSNBC, Study: ID theft usually an inside job. Up to 70 percent of cases start with employee heist, May 20, 2004.

preliminary probation period for new hires before conducting background checks.

For these reasons, TURN/NCLC recommend using a TPA to implement certification and verification for the ULTS program. The TPA should be required to conduct employee background checks before allowing access to personal information. Further, the data provided should not be used for marketing additional services. TURN/NCLC state that the PRC recommends a number of conditions be imposed on the amount of information a potential participant is required to provide to any certifying entity.

We are concerned that program participants' personal information be kept confidential and intend to establish mechanisms to safeguard personal information handled by the TPA. However, other parties have not had an opportunity to consider and comment on the extensive list of requirements in the TURN/NCLC Reply Comments. We will have the TD address this issue further in the April workshop. The information gathered will enable TD to set up the proper framework to ensure the confidentiality of customers' personal information. TD shall incorporate the safeguards it believes to be appropriate into its bid document.

C. Web-based system

In their opening comments, both DRA and SBC propose that the Commission adopt a web-based system. SBC states that verifying exclusively through the use of mailers may exclude a number of persons who are not capable of completing forms or mailing letters due to physical disabilities or other challenges. Therefore, SBC recommends that a select population who are unable to conveniently verify their ongoing eligibility by mail, such as the disabled and visually-impaired, be given the option of self-certifying over the internet.

No party opposes the web-based system, although some parties (ORA, TURN/NCLC, Surewest, and the Small LECs) propose addressing the idea further in workshops. We see a web-based system as desirable as one alternative for **all** customers who are applying for ULTS based on program eligibility. With program-based eligibility, the participant does not need to provide papers documenting income or program involvement so that form of certification would lend itself to an internet application. The internet access would be an alternative to completion of paper documents, which would then be mailed to the TPA. This would give participants two avenues for demonstrating program-based eligibility to the TPA.

The web-based alternative is not viable for those customers that are applying using the income-based criteria, since those customers need to provide the TPA with copies of their income documentation. That process would have to be conducted by mail.

In addition, the web-based system could be used for the annual verification process, again to complement a paper system. The annual verification process lends itself to an internet-based system, since all participants would self-certify their continued eligibility, and no income documents would be submitted as part of that process. This would facilitate the process for participants, provide updated and accurate information with less administrative and logistical complexity.

We will require that the TPA establish a web-based system. However, we will defer to workshops as to how that web-based system should be structured. DRA mentions some issues that face disabled consumers; parties should take those, and other issues into account in their workshop discussions. We will finalize the parameters of the web-based system in a subsequent Commission decision.

D. The Role of CBOs

A number of parties urge the Commission to craft a role for CBOs in the certification/verification process. TURN and LIF propose that local CBOs be permitted to certify the customers unable to document their income. LIF urges the Commission to subcontract with CBOs who have gained the trust and confidence of the minority language communities. LIF references the CARE program where the CBOs are paid a small "capitation" fee for each eligible enrollment.

SBC states that it is imperative that the scope of CBOs' participation be strictly defined by the Commission to avoid unnecessary expenditures to the program and disruptions to the TPA's overall administration of the certification and verification processes.

Verizon expresses concern that having the CBOs assigned a role in the certification process could potentially result in a dozen different certification agents which would make consistency in the verification process much more difficult and weaken administrative controls over the program.

ORA welcomes the assistance of CBOs and even state and local service agencies to assist potential ULTS participants in filling out applications, but ORA sees those applications as going to a central certifying agent on behalf of applicants.

DRA focuses on how CBOs could assist the disabled community in completing the necessary paperwork. DRA points out that people with mental disabilities or developmental disabilities may not be able to complete complex forms and find appropriate income documentation independently. Similarly, people with limited mobility may need assistance with paperwork. DRA asserts that personal assistance must be available in the local communities. DRA suggests that local in-person assistance can be provided by existing CBOs, such

as Independent Living Centers (ILCs). ILCs are community-based non-profit corporations that are designated by the California Department of Rehabilitation to assist people of all ages with any disability in leading more independent and productive lives. California has 29 such centers with 52 locations to service consumers across the state.[26] DRA says that in order to provide assistance to people with disabilities who need accommodation in the application process for ULTS, personnel at the ILCs would need to be properly trained by the TPA as to the necessary documentation that must be obtained, and compensation must be provided to the ILCs to allow their staff to take on this additional responsibility.

SBC points out that CBOs already work with a third party vendor to market ULTS. These organizations have been trained on the mechanics of this program and have substantial experience educating the public on its benefits. SBC sees CBOs, because of their background, as the best candidates for performing further outreach efforts in relation to ULTS' new procedures. Accordingly, SBC recommends expanding CBOs' roles to include promotion of ULTS' new certification and verification process, in cooperation with the TPA.

SBC states that all certification and verification of customer eligibility must remain within the TPA's control. Otherwise the program may face duplicative costs and conflicting results. In its Reply Comments, Cox expresses concern that having CBOs handle the certification/verification process might not meet the FCC's requirements.

While we believe there is a role for CBOs in the certification/verification process, we will have a single entity—the TPA--to be responsible for the certification and verification process. However, we recognize that CBOs are

[26] DRA Opening Comments at 10.

uniquely qualified to assist consumers to understand the paperwork and use of the web-based system to seek certification.

In its Opening Comments, SBC indicates that it enrolls 100,000 ULTS customers each month. The total for the year would be in the neighborhood of 1.2 million, and that does not include other carriers. Any sort of capitation program in which CBOs would be compensated for assisting program participants in completing their paperwork is potentially cost prohibitive. We will not compensate CBOs a capitation fee for signing up program participants.

However, we do see that CBOs currently involved in our ULTS outreach program are uniquely qualified to reach target populations. We intend to work with the ULTS marketing vendor and the CBOs it has under contract to assist in education of the process for signing up for ULTS. We see the CBO involvement as a key element to the success of this new ULTS certification system. The CBOs can assist in educating as to the methods of certification available, the types of income documentation required, and the specific programs that can be used to establish eligibility. They will be trained in the forms used and use of the web-based system through their contracts with the marketing vendor. In this way, we will be able to target certain hard-to-reach communities, the immigrant population, those with limited English skills, and the disabled.

SBC, Surewest and the Small LECs indicate that the ULTS marketing vendor is in a good position to perform some or all of the duties of the proposed TPA. We see that there could potentially be overlap between the marketing and outreach process and this certification/verification process. The current contract with the marketing contractor and the call center are still in effect. Under state contracting rules, we do not have the option of simply adding additional functions to a contract. We anticipate that we will go out to bid to obtain the TPA. However, we recognize that there could be economies of scale in having

the functions combined so we authorize the TD to combine the contracts for marketing and outreach, the call center, and/or the third party administrator for certification/verification at some point in the future if TD deems it to be cost effective to do so.

E. Exchange of Information Between the TPA and Carriers

Surewest, the Small LECs and Cox all ask how the TPA will notify the carrier when customers' paperwork has been approved and customers may be enrolled in the ULTS program. Verizon suggests that the process should be mechanized to the extent possible because it is crucial that communication of eligibility between the TPA and carriers be efficient and timely. Verizon anticipates that the volume of transactions for certifications, verification and termination will be high. Based on the statistics that SBC provided in its Comments, we concur that the volume will be significant, and we need to take that into account in designing our program. We will direct the TPA to develop a mechanized process for the exchange of information with carriers. TD shall include that requirement in its bid document.

With a mechanized system in place, we will be able to get consumers enrolled in the program more quickly. However, due to our concerns about maintaining the privacy of customers' personal information, carriers should not be allowed access to personal information about the customer, other than the information they need, e.g., the customer's address, to enroll the customer in the ULTS program.

We anticipate that all the carriers, and CBOs involved in ULTS program outreach, will have copies of the form to be completed by the potential ULTS customer. Those forms will be mailed to the TPA, to an address shown on the form itself. We anticipate that those forms should be available in a variety of languages, and we defer to the TD-led workshop, to develop a list of the

languages. We are also mindful of DRA's comments regarding the need for specially designed forms to meet the needs of the disabled. We will defer to the workshop to assist TD in development of the necessary forms.

At the same time, we have adopted a web-based system for enrollment, and that would be available to customers applying on the basis of program-based criteria.

Any additional implementation details should be addressed in the upcoming workshop.

IX. Auto Enrollment

In its Order, the FCC encourages all states to adopt automatic enrollment as a means of certifying that consumers are eligible for Lifeline/Link-Up. The FCC made this suggestion on the basis of a recommendation by the Federal-State Joint Board on Universal Service (Joint Board). Automatic enrollment is accomplished through an electronic interface between a state agency and the carrier that allows low-income individuals to automatically enroll in ULTS following enrollment in a qualifying public assistance program. Automatic enrollment is premised on program-based eligibility, not income-based eligibility.

The FCC recognizes the benefits of automatic enrollment, but also recognizes that requiring automatic enrollment may deter ETCs from participating in the Lifeline/Link-Up program because of the technical requirements associated with interfacing with government agencies or third party administrators. In its Lifeline Order, the FCC declines to require states to adopt automatic enrollment, but encourages those states that currently do not employ automatic enrollment to consider states that operate automatic enrollment as a model for future implementation.

In our OIR, we asked parties to provide information on how automatic enrollment works in other states and to comment on whether it is feasible to implement automatic enrollment in California.

Most parties are opposed to instituting auto enrollment in the short term and urge the Commission to defer the issue to a later phase of this proceeding, or to a separate new proceeding.

Verizon asserts that automatic enrollment reaches non-subscribers only with considerable additional effort. Verizon sees the process of matching information from state agencies with its customer files as labor-intensive and time-consuming. Matching also becomes difficult if the PG&E bill is in the name of one consumer at an address, while the telephone bill is in his spouse's name. Verizon adds that some customers may be socially self-conscious about being automatically enrolled in a government subsidy program because of their limited income.

Verizon also sees that auto enrollment is not necessary since California provides many opportunities for consumers to learn about ULTS, including the marketing program, annual ULTS notification requirements, and information in telephone directories.

SBC states that one drawback to an auto enrollment program is that the customer is not given the option of registering for ULTS benefits. The qualified customer is simply notified by the carrier of his enrollment in the program. The burden is then placed on the customer to contact the carrier and cancel participation if he is not interested. Auto enrollment is also criticized on the grounds that it may violate privacy rights. SBC stresses that auto enrollment may also be considerably more expensive to implement due to information technology costs. The TPA will be required to develop and maintain software programs that could compare the carriers' databases to government lists.

ORA and SBC assert that implementing program-based eligibility obviates the need for an auto enrollment system. The simple program-based option avoids the technical and confidentiality concerns while accomplishing the same results automatic enrollment has achieved in other states, but with significantly lower cost to the program.

Two parties that support implementation in the short-term of automatic enrollment are DRA and NECA. NECA, which references its own experience with auto enrollment, states that auto enrollment has been successful in Texas. To qualify for Lifeline service in Texas, residents must have either an income at or below 125% of the federal poverty guidelines or receive benefits from one of six federal programs.

The Texas Health and Human Services Commission (HHCS) maintains electronic records about residents receiving benefits under the six Lifeline-eligible programs. Each month, HHSC provides NECA with electronic files that identify all their residential customers. NECA matches the HHCS records to ETC records, using specialized software that handles the complexities of name and addresses standardization. Upon completion of the records-matching process, NECA notifies each ETC of its Lifeline-eligible customers by posting this information on a secure site. The data are encrypted during transfer, and each ETC has password access to information for its own customers, only.

NECA and DRA both stress that automatic enrollment would augment the conventional program and income eligibility processes that allow consumers to submit applications to the certifying agent.

DRA states that auto enrollment that relies on program-based eligibility may address some of the difficulties for disabled Californians who are ill-equipped to deal with the enrollment process. DRA states that the TPA can receive data from the administrators of low income assistance programs and

match this information with a database of subscribers from eligible carriers. DRA asserts that this model has been used by other states, including Massachusetts, New Jersey and Texas, which have found automatic enrollment to be an efficient way to increase enrollment in their lifeline programs.

AT&T, Surewest, the Small LECs and SBC support incorporating program-based enrollment, without auto enrollment. AT&T sees any form of auto enrollment as being difficult and "extraordinarily expensive"[27] to implement. They all see auto enrollment as unnecessary, if customers are offered what SBC describes as a "hybrid eligibility program" that accepts income and program based criteria.

We will not adopt automatic enrollment at this time. We are making significant changes to the program, and we need to implement those before making further changes to the program. We need to see if the adoption of program-based eligibility does make it unnecessary to implement any form of auto enrollment. We will not know that until these new rules are fully implemented and we have an opportunity to evaluate their impact. We will defer the issue of auto enrollment to be addressed in the anticipated Commission proceeding to take a comprehensive look at our universal service program.

VII. Miscellaneous Implementation Issues

ORA expresses concern that the schedule in the OIR provides for only a single workshop to revise the language of GO 153 after the Commission issues its decision adopting enrollment and verification rules. ORA would have us conduct another workshop prior to issuance of this decision. After reviewing the record of this proceeding, we determined that we have an adequate record to

[27] AT&T Reply Comments at 4.

move forward to adopt the framework for a new certification/verification system for the ULTS program. However, there are some issues where the record could be augmented, and we will do that in a workshop setting. We will defer to TD, as to the number and length of workshops needed.

Cox indicates that carriers should be permitted to recover the administrative costs of transitioning to a single certification entity. We concur that carriers should be permitted to recover administrative costs during the transition period, but we will defer to the workshop to develop a more detailed plan.

ORA expresses the need to have a transition period that allows service providers and customers to adjust to the new procedures and minimize program disruption. This issue should also be addressed in workshops.

VIII. Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. Comments were filed on_____ and Reply Comments, on _____.

IX. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Karen A. Jones is the assigned ALJ in this proceeding.

Findings of Fact

1. Parties who oppose implementation of income certification have failed to offer any acceptable way to compensate for the lost federal revenues.
2. The income certification program will apply to both ETCs and non-ETCs.
3. The ULTS surcharge would have to be increased from 1.55% to 3.35% to make up for the shortfall if the $330 million in federal funds is eliminated.

4. Restricting ULTS funding sources to California surcharges is fiscally irresponsible and is likely to cause substantial harm to the ULTS program.

5. The FCC employs program-based criteria in the federal default states.

6. In Ohio only 20% of all Lifeline/Link-Up customers qualified via income in 2003.

7. Adopting a hybrid program of income certification or program-based eligibility would best meet the needs of California's consumers.

8. It is easy to verify participation in need-based programs.

9. A hybrid system will reduce the costs of the TPA.

10. Program-based eligibility is much less labor-intensive than the income certification process.

11. Establishment of telephone service should not be delayed pending enrollment in the ULTS program.

12. Verification occurs annually after a customer has already been enrolled in ULTS.

13. The Commission has ongoing oversight over the ULTS program and can institute audits as it deems necessary.

14. The FCC's Order does not address documentation of eligibility for current ULTS customers.

15. It would be costly and time-consuming to recertify all the current 3.4 million ULTS subscribers.

16. Most ETCs in California are parties to this proceeding

17. The ETCs that have participated in this proceeding express strong support for use of a TPA.

18. Use of a TPA would facilitate standardization of the document review and information-handling policies

19. With a single centralized agency, a subscriber could move within California, change telephone carriers, and not have to reapply for the discount.

20. A third party will be more capable of ensuring privacy and security of the customers' personal data

21. Having a centralized TPA would be likely to reduce administrative costs of the program.

22. A single TPA will greatly simplify the Commission's oversight and monitoring responsibilities.

23. It is more cost-effective to have a single TPA, than to have 40 different carriers all performing the same function.

24. With a TPA, there are economies of scale in training the employees who need to review the incoming documents.

25. Program participants' personal information must be kept confidential.

26. A web-based system is a desirable alternative for all customers who are applying for ULTS using program-based eligibility.

27. With program-based eligibility, the participant does not need to provide papers documenting income or program involvement so that form of certification lends itself to an internet application.

28. The web-based access would be an alternative to completion of a paper document which would then be mailed to the TPA.

29. The web-based alternative is not viable for those customers that are applying using income-based criteria.

30. The web-based system could be used for the annual verification process, and would complement a paper system.

31. The TPA will be the only entity responsible for the certification and verification process.

32. Any sort of capitation program where CBOs are compensated for assisting program participants in completing their paperwork is potentially cost-prohibitive.

33. The CBOs currently involved in our ULTS outreach program are uniquely qualified to reach target populations.

34. The CBOs currently involved in ULTS outreach activities will assist in education of the process for signing up for ULTS.

35. CBO involvement is a key element to the success of the new ULTS certification system.

36. The TPA will train CBOs in the forms used and use of the web-based system.

37. There would be economies of scale in having the outreach, call center and certification/verification functions handled by a single entity.

38. A significant volume of information will need to be exchanged between the TPA and carriers.

39. A mechanized system will enable consumers to be enrolled in the program more quickly.

40. Adoption of program-based eligibility may make it unnecessary to implement any form of automatic enrollment.

Conclusions of Law

1. Adopting income-based eligibility requirements will move California toward compliance with the requirements of the FCC's Lifeline Order and retain state eligibility for federal Lifeline/Link-Up funds.

2. Allowing non-ETC CLECs to comply with a lower standard for eligibility would be inequitable and discriminatory.

3. Allowing non-ETC CLECs to comply with a lower standard for eligibility violates Public Utilities Code requirements.

4. Adoption of income certification will ensure that the Commission continues to receive the $330 million in federal Lifeline/Link-Up funds.

5. The FCC's order supports the adoption of program-based criteria, to be used at the consumer's option, in lieu of income-based certification.

6. Self-certification is permitted for states that receive and distribute federal funding on a program eligibility basis.

7. Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Lifeline.

8. Eligibility for ULTS under the program-based option is not subject to the FCC's income documentation requirements.

9. The FCC requires states to establish a process to verify customers' continued eligibility for the ULTS program.

10. Verification procedures may include random beneficiary audits, periodic submission of documents, or annual self-certification.

11. The cost of establishing a TPA should come from the ULTS surcharge revenues.

12. CBOs should not be compensated a capitation fee for signing up ULTS program participants.

13. The forms to sign up for ULTS should be available in a variety of languages.

14. The issue of auto enrollment should be deferred to a separate Commission proceeding.

O R D E R

Therefore, **IT IS ORDERED** that:

1. Income documentation requirements are adopted for the Universal Lifeline Telephone Service (ULTS) program.
2. Acceptable income documentation are the following:
    a. Prior year's state, federal, or tribal tax return,
    b. Current income statement from an employer or paycheck stub,
    c. Statement of benefits from Social Security, Veterans Administration,
    d. Statement of benefits from retirement/pension, Unemployment/Workmen's Compensation,
    e. Federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance,
    f. A divorce decree, or
    g. Child support document.
3. ULTS eligibility is expanded to include program-based eligibility.
4. The following programs shall be used to demonstrate eligibility:
    a. Medicaid/Medi-Cal
    b. Food Stamps
    c. Supplemental Security Income
    d. Federal Public Housing Assistance (Section 8)
    e. Low Income Home Energy Assistance Program
    f. Temporary Assistance for Needy Families (TANF)
    g. National School Lunch's free lunch program (NSL)

h. Tribal TANF

i. Bureau of Indian Affairs General Assistance

j. Tribal NSL

k. Tribal Head Start

l. Healthy Families Category A

5. Annual self-certification is adopted as the means of verifying continued eligibility for the ULTS program.

6. A Third Party Administrator (TPA) shall perform the certification and verification functions for ULTS.

7. The Telecommunications Division (TD) shall incorporate adequate safeguards to protect participants' personal information into its bid document.

8. The TPA shall establish a web-based system for program-based eligibility and for annual verification.

9. The role of Community Based Organizations involved in the ULTS outreach program shall include promotion of the new certification and verification process.

10. The TD is authorized to combine the contracts for marketing and outreach, the call center, and/or the third party administrator for certification and verification at any point in the future if TD deems it to be cost-effective to do so.

11. The TPA shall develop a mechanized process for the exchange of information with carriers.

12. The TD shall convene a workshop within 30 days of the effective date of this order to discuss the following open issues:

- Security and privacy issues relating to the TPA
- Web-based certification/verification system
- Timing of Eligible Telecommunications Carriers billing the Federal Communications Commission for Lifeline and Link-Up Funds.
- Implementation issues.

13. The TD shall convene a second workshop to discuss revisions to General Order 153.

This order is effective today.

Dated _____, at San Francisco, California.