Decision **PROPOSED DECISION OF COMMISSIONER CHONG**
(Mailed May 12, 2008)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs.	Rulemaking 06-05-028 (Filed May 25, 2006)

INTERIM DECISION ADDRESSING CALIFORNIA TELECONNECT FUND, PAYPHONE ENFORCEMENT AND PUBLIC POLICY PAYPHONE PROGRAMS, AND THE DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM

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INTERIM DECISION ADDRESSING CALIFORNIA TELECONNECT FUND, PAYPHONE ENFORCEMENT AND PUBLIC POLICY PAYPHONE PROGRAMS, AND THE DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM

1. Summary

This decision addresses four of the five Telecommunications Public Policy Programs at issue in this proceeding. Issues relating to the Universal Lifeline Telephone Service program will be dealt with separately in a future decision. The California Teleconnect Fund (CTF) is expanded to include community colleges, with an initial monetary cap of $7.2 million annually. An Office of CTF Outreach and Assistance is established. The CTF is made more competitively and technologically neutral. We further remove the tariff requirements related to CTF for non-rate-of-return carriers, and finally, ensure that all participants in the California Telehealth Network are eligible to receive CTF discounts.

The Payphone Enforcement Program is combined with our existing enforcement efforts. In addition, a Public Policy Payphone Program is reestablished, and we delegate to the Executive Director the task of establishing the most appropriate surcharge mechanism, including utilizing an existing program. The on-going wireless equipment pilot for the Deaf and Disabled Telecommunications Program will be monitored for further action as needed.

2. Background

On May 25, 2006, the Commission opened this rulemaking to conduct a comprehensive review of its Telecommunications Public Policy Programs—the Universal Lifeline Telephone Service (LifeLine), Payphone Programs, Deaf and Disabled Telecommunications Program (DDTP), and California Teleconnect Fund (CTF). To initiate the review, the Commission posed a series of questions regarding these programs and set filing dates for initial comments and proposals

as well as reply comments. The Commission also stated that at least three public participation hearings would be held at locations throughout the state.

Initial comments and proposals were filed on July 28, 2006,[1] with reply comments following on September 15, 2006. Public participation hearings were held in San Diego, Oxnard, and Sacramento.

In initiating this proceeding, the Commission sought comment on a wide range of issues related to the four Telecommunications Public Policy Programs and the funding mechanism for those programs. The Commission believed review of these programs was long overdue, particularly given vast changes in the communications marketplace due to new federal and state laws mandating competition, new voice technologies that have developed,[2] and the fact that some of the new technologies, particularly wireless phones, have been adopted by consumers in large numbers.[3] The Commission performed outreach around the

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

[2] Examples of new voice technologies include wireless and satellite phones and Voice over Internet Protocol (VoIP).

[3] More Californians have wireless phones than landline phones. At the end of June 2007, California had over 30.2 million wireless phone customers, and 21.4 million

Footnote continued on next page

state via public participation hearings to talk to consumers directly impacted by these important programs. The Commission directed that all proposals for change "explicitly address consistency with statutory goals, necessity, feasibility, and cost effectiveness" and set forth "estimated costs" and "projected, specific benefits."[4] To assist the parties, the Commission provided a list of questions.

On July 13, 2007, the assigned Commissioner and Administrative Law Judge (ALJ) issued a ruling and scoping memo to define the specific issues to be addressed for each program. The ruling determined that while some of the new communications services not currently subject to surcharges to fund the public policy programs, such as Internet-based telephone service, may undermine the funding mechanism as customers migrate to other providers, no significant, near-term threat to the current intrastate surcharge methodology had been identified. Accordingly, the ruling concluded the prudent course was to monitor any impacts to our funding mechanism, as well as potential changes on the federal level[5] and in other states.

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landline phone customers. FCC Local Telephone Competition Report at Tables 7 an 14, March 2008, available at http://www.fcc.gov/wcb/iatd/comp.html.

[4] Order Instituting Rulemaking to Review the Telecommunications Public Policy Programs, R.06-05-028, at 1 (May 25, 2006).

[5] On September 6, 2007, the Federal-State Joint Board on Universal Service issued a Statement on Long Term, Comprehensive High-Cost Universal Service Reform, in WC Docket No. 05-337 and CC Docket No. 96-45. It stated: "The Joint Board is taking a fresh look at high-cost universal service support. The Joint Board has tentatively agreed that: 1. Support mechanisms for the future will focus on: a. Voice; b. Broadband; c. Mobility. 2. In addition to the principles set forth in the statute, support mechanisms for the future will be guided by the following principles: a. Cost control; b. Accountability; c. State participation; d. Infrastructure build out in unserved areas. 3. The equal support rule will not be part of future support mechanisms." The FCC is now seeking comment on these recommendations.

The ruling next considered changes necessary to the California LifeLine[6] Program in light of the Commission's Uniform Regulatory Frameworks Decision (D.) 06-08-030 lifting price regulation on most local exchange service in California, but freezing basic rates until January 1, 2009. The ruling included a series of questions surrounding a proposal to adopt a specific support amount for all customers who qualify for California LifeLine, and scheduled a workshop.

The ruling noted that the Deaf and Disabled Telecommunications Program is currently implementing a Commission approved pilot project that will bring wireless devices to DDTP participants to encourage increased mobility and personal security for people with disabilities. This pilot program is limited to those persons also eligible for the LifeLine low-income program.[7] The ruling asked the Communications Division to monitor evaluation of the pilot program and bring forward any proposals for permanent implementation.

In addressing the CTF, the ruling set forth several issues for further consideration:

1. Expanding the CTF to include the California Community Colleges;

2. For schools and libraries, expanding the list of CTF-eligible services to mirror the services included in the federal E-rate program;

3. Improving overall statewide E-rate application and participation rates by dedicating Commission staff or a third-party consultant to provide E-rate application assistance to nonparticipating

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[6] This program is authorized in the Moore Universal Telephone Service Act, Pub. Util. Code §§ 871 – 884.

[7] CPUC Resolution T-17089, adopted May 3, 2007.

potential applicants, particularly those in low performing schools, low income, or disadvantaged areas, and rural or remote settings;

4. Expanding the CTF to fund 50% of the remaining costs in California Telemedicine projects selected for funding by the FCC's Telemedicine Pilot Program;[8] and

5. Requiring telephone service providers that are certificated by the Commission to provide CTF discounts on E-rate eligible services (telecommunications and Internet access) to all qualifying CTF entities.

The final topic addressed by the ruling was the Payphone Provider Enforcement and Public Policy Payphone Programs. The ruling sought comment on the California Payphone Association's recommendations to terminate the Public Policy Payphone Program and combine the Payphone Provider Enforcement Program with the Commission's general enforcement program, including funding.

On September 18, 2007, the assigned Commissioner and ALJ issued a ruling to seek comment on the proposal to add the Public Policy Payphone Program to CTF for administration and funding.

In today's decision, we resolve the issues identified with the CTF, Payphone, and DDTP programs. Lifeline will be addressed in a separate future decision. We first set out the positions of the parties on each program, and then address each program in the Discussion section.

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[8] *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, FCC 07-198 (rel. Nov. 19, 2007) as corrected by *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Erratum, DA 07-5018 (rel. Dec. 17, 2007). *See also*, *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 21 FCC Rcd 11111 (2006) (*2006 Pilot Program Order*), *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order on Reconsideration, 22 FCC Rcd 2555 (2007) (*Pilot Program Reconsideration Order*).

3. Positions of the Parties

3.1. CTF

AT&T supported expanding the CTF to include California community colleges so long as the additional funding needed to serve these new recipients not decrease the amount available for K through 12 schools.[9] AT&T opposed expanding the list of CTF-eligible services to mirror the federal E-rate program because the E-rate program funds many costly services not currently included in the CTF.[10] AT&T estimated that the CTF budget would need to increase by about 100% to adequately fund all E-rate services, and stated that the Commission lacks jurisdiction over many of the services, such as broadband.[11] AT&T opposed using CTF funds to provide E-rate outreach, training, and support for non-participating schools and libraries, or for nonrecurring construction costs in telemedicine projects funded by the FCC.[12] AT&T stated that the Commission does not have jurisdiction to require telephone service providers to offer CTF discounts on E-rate eligible services.[13] AT&T also recommended that the Commission consider moving CTF to a need-adjusted flat benefit, rather than discount percentage, and streamlining the E-rate stacking methodology.[14] AT&T also proposed that the Commission eliminate the requirement of intrastate

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[9] AT&T California Opening Comments in Response to Scoping Memo at page 7 (Aug. 24, 2007) (hereinafter "AT&T Opening Comments").

[10] *Id.* at 8.

[11] *Id.*

[12] *Id.* at 9.

[13] *Id.* at 10.

[14] *Id.* at 11.

tariffed telecommunications services, and encourage such offerings on a voluntary basis by turning over program administration to a third-party administrator.[15]

The Division of Ratepayer Advocates (DRA) stated that more research is needed before expanding the CTF to include community colleges.[16] DRA cited the possible financial strain on the CTF and called for prioritizing the funding requirements of community-based nonprofit organizations over community colleges.[17] DRA sought clarification regarding the specific services covered by the E-rate program that the CTF is proposed to mirror.[18] DRA opposed making the E-rate application process a prerequisite for schools to receive CTF funding.[19] DRA agreed that CTF funds could be used for the federal Telemedicine program recipients but only for telecommunications service costs, not infrastructure costs.[20] DRA supported requiring all certificated carriers to provide CTF discounts on E-rate eligible telecommunications services and Internet access services.[21]

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[15] AT&T OIR Comments at 23 (July 28, 2006) (hereinafter "AT&T OIR Comments").

[16] Division of Ratepayer Advocates Reply Comment on CTF at 10 (Sept. 14, 2007) (hereinafter "DRA CTF Reply Comments").

[17] *Id.* at 10-11.

[18] *Id.* at 12.

[19] *Id.* at 13.

[20] *Id.* at 14.

[21] DRA Comments on Scoping Memo at page 15 (Aug. 24, 2007) (hereinafter "DRA Scoping Comments").

DRA offered qualified support for modifying the CTF program to more closely track the federal E-rate program. DRA agreed that certificated carriers should be required to offer CTF discounts on E-rate eligible telecommunications and Internet access services, but expressed concern that the E-rate program's complex and expensive administrative processes would also be necessary for a modified and expanded CTF. DRA pointed out that the simple, one-page CTF application results in perpetual eligibility, in contrast to the complex, multi-part, annual application required by the federal E-rate program. DRA concluded that the simplicity of the CTF ensures lower administrative costs for the schools (as well as the Commission and carriers) and that this feature could be lost by conforming the CTF to the E-rate process. [22]

Verizon California Inc. recommended that the Commission carefully evaluate the surcharge impacts of including community colleges in the CTF program, and also make participation in the federal E-rate program a prerequisite to participation in the CTF program.[23] Verizon argued that the Commission could not require telephone service providers to offer CTF discounts on Internet service because this Commission lacks jurisdiction over facilities-based landline broadband Internet access service.[24]

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[22] DRA CTF Reply Comments at 13.

[23] Verizon California Inc., Verizon Wireless Comments at 16 (Aug. 24, 2007) (hereinafter "Verizon Comments").

[24] Verizon Comments at 17 citing *Appropriate Framework for Broadband, Access to the Internet over Wireline Facilities, Universal Service Obligations of Broadband Providers, Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services, Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements, Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided Via Fiber to the Premises;*

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The California Community Technology Group and Latino Issues Forum urged caution in expanding CTF eligibility without a procedure to evaluate the costs and benefits of eligibility expansion.[25] They also opposed focusing outreach and application assistance solely on the E-rate program, without instituting similar assistance for the CTF program.[26] They supported requiring all telephone service providers to give discounts on qualifying services.[27]

The small local exchange carriers and SureWest[28] recommended that the Commission carefully consider funding and jurisdictional limitations before expanding the CTF to include services such as Internet access or making community colleges eligible for the program.[29]

Cox suggested that prior to including community colleges in the CTF program, the Commission must find that community colleges require access to and would benefit from CTF funds.[30] Then, the Commission must balance the

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Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises, Consumer Protection in the Broadband Era, Report and Order and NPRM in CC Dkt. Nos. 02-33, 01-337, 95-20, 98-10 and WC Dkt. Nos. 04-242, and 05-271, FCC 05-150 (rel. Sept. 23, 2005) (*Wireline Broadband Ruling*).

[25] California Community Technology Group and Latino Issues Forum Scoping Comments at 7 (Aug. 24, 2007) (hereinafter "CCTG & LIF Scoping Comments").

[26] *Id.* at 9.

[27] *Id.* at 10.

[28] SureWest Telephone and SureWest Televideo.

[29] SureWest Comments at page 6 (Aug. 24, 2007), and "Small LEC" Comments at 6 (Aug. 24, 2007).

[30] Cox Communications & Time Warner Cable Information Services (California) Comments (Aug. 24, 2007) at 5.

economic burden to customers paying the CTF surcharge with the benefit to community colleges from participating in the CTF program.[31] Cox supported including Internet access as a service eligible for CTF discount, and allowing non-certificated providers to draw from the CTF.[32]

The California Community Colleges Chancellor's Office stated that California's community colleges serve about 2.5 million adults each year, and that about 30% of the students qualify for fee waivers due to income levels below the poverty line.[33] The Chancellor's Office explained that all community colleges offer technology centers with computers for Internet access and technology assistance.[34] The community college system has 109 colleges and 64 approved educational centers located in all areas of the state serving 250,000 full-time equivalent students.[35] The Chancellor's Office conducted a study to estimate the likely CTF draw for the community colleges, which resulted in a figure of $7.2 million a year.[36] The Chancellor observed that the CTF budget is

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[31] *Id.*

[32] *Id.* at 5-6.

[33] California Community College Chancellor's Office Comments at 2 (Aug. 21, 2007) (hereinafter "Chancellor Comments").

[34] *Id.*

[35] *Id.* at 3.

[36] *Id.* at 4. Though the Chancellor Comments used a figure of $7.4 million per year, we believe the actual number should have been $7.2 million per year based on the components of the calculation contained in the comments. The Commission will use the $7.2 million figure as the expected amount of CTF support to be provided the community colleges.

$33.2 million, with a cap of $55 million.[37] The Chancellor concluded that the community colleges provide California residents with access to technology and Internet services in much the same way as the 587 community-based organizations (CBOs) and 2,123 schools and libraries do and should be included as eligible participants in the CTF program.[38]

The College of the Sequoias filed comments echoing the Chancellor's comments.[39]

The State Librarian of California stated that community colleges are tax-exempt organizations that provide education, including computing centers, throughout the state.[40] The State Librarian supported extending the CTF discount to community colleges to increase the efficient use of state money and resources by stimulating cooperation among public libraries and community colleges.[41] The State Librarian explained that the E-rate process is complex and offered a national study showing that the most common reason for libraries not receiving E-rate discounts was the complexity of the process.[42] Moreover, the districts most in need of the support—low-income, disadvantaged, and rural—do not normally have the "telecommunications expertise and experience" needed to successfully navigate the E-rate process.[43] The State Librarian also

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[37] *Id.*

[38] *Id.* at 5.

[39] College of Sequoias Comments at 1-2 (Aug. 17, 2007).

[40] State Librarian Comments at 3 (Aug. 24, 2007).

[41] *Id.* at 3-4.

[42] *Id.* at 5.

supported expanding the CTF list to mirror all services included in the federal E-rate program and providing a Commission-supported technical expert to assist with applications.[44]

The Butte County Office of Education (BCOE)[45] found that the CTF is a critical element in support of the significant technology needs of California's K-12 districts and schools.[46] The BCOE expressed concern that current CTF participants continue to have access to sufficient funds to meet growing needs.[47] The BCOE noted that the 2008-2009 budget is nearly $10 million more than historic levels, due to increased needs of current recipients.[48] The BCOE supported expanding eligibility and services offered through the CTF if the level of funding remains sufficient to meet current and future needs.[49] The BCOE agreed that additional staff resources be designated for E-rate support, but asked this Commission to provide those resources to the California Department of Education.[50] Their comments explained that the Department of Education works

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[43] *Id.*

[44] *Id.* at 4-6.

[45] The comments were submitted by the Butte County Office of Education in "conjunction with the California Department of Education" and signed by the Chair of the CTF Administrative Committee/Primary K-12 Representative.

[46] Butte County Office of Education Comments at 1, filed by the CTF Administrative Committee Chair (Aug. 24, 2007).

[47] *Id.* at 2.

[48] *Id.* at 2.

[49] *Id.* at 2.

[50] *Id.* at 3.

directly with the Universal Service Administrative Company to provide validation and confirmation for the Head Start eligibility, technology plan certifications, free and reduced lunch validations, eligible entity validations, and numerous other items for the Universal Service Administrative Company. This relationship and other work done by the California Department of Education would enable the Department to quickly and effectively deploy additional resources.[51]

3.2. Payphone Programs

On July 28, 2006, the California Payphone Association (CPA) filed its initial comments in this proceeding. The comments set forth the history and current status of the Commission's Payphone Programs.

CPA explains that the two payphone programs arose out of a 1988 docket at the Commission.[52] The purpose of the Public Policy Payphone Program was to provide payphones to the general public in the interest of public health, safety and welfare at no charge in locations where there would otherwise not be a payphone.[53] Public Policy Payphones are placed at locations designated as emergency gathering places or locations where residents cannot individually subscribe to phone service because of the unavailability of facilities.[54] Over the

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[51] *Id.*

[52] *Operations, Practices and Regulation of Coin and Coinless Customer-owned Pay Telephone Service; and Related Matters*, D.90-06-018, 36 CPUC2d 446, 1990 Cal. PUC LEXIS 326 (closing the "*COPT Investigation*," I.88-04-029).

[53] *Statewide Expansion of Public Policy Pay Telephones*, D.98-11-029, 83 CPUC2d 41, 1998 Cal. PUC LEXIS 753; s*ee also*, CPUC Resolution PSPC-1 at 3, adopted May 7, 2005.

[54] *Id.*

past three years, there have been only 12 applications for the placement of Public Policy Payphones and only two of the applications have met the program requirements.[55] No funding has ever been provided for any payphones designated as Public Policy Payphones.

The purpose of the Payphone Enforcement Program is to enforce the rules and regulations of the Commission including signage requirements and rate caps.[56] The program implements this responsibility by, among other things, inspections of payphones for compliance with applicable law and regulations.[57] Initially, this program was handled by the Payphone Enforcement Committee on a quasi-independent, non-civil-service basis, but 1999 legislation moved the program to Commission staff. Increasing costs caused the per line surcharge to go from $0.10/month to $0.25/month.[58] At the same time, the number of payphones and the return per payphone has diminished substantially.[59] From March 1999 through March 2004, the number of payphones in California has declined from 294,734 to 187,047 stations (representing a 36.5% decrease in stations).[60] A typical payphone once generated $200 or more in revenue a month,

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[55] California Payphone Association Initial Comments at 6 (Jul. 28, 2006) (hereinafter "CPA Initial Comments").

[56] PSPC Committee Letter at Aug.10, 2005 (summarizing CPUC Decision 98-11-029).

[57] See *Id*.

[58] CPA Initial Comments at 4.

[59] *Id.* at 11.

[60] *Id.* at 11, citing FCC *Trends in Telephone Service,* Table 8.5 (Aug. 2001) and Table 7.5 (Apr. 2005). CPUC data indicates that the steady decline in the number of payphones

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whereas a "good" payphone now is one that generates $120 or more.[61] CPA implores us to discontinue the Public Policy Payphone Program and to roll the Enforcement program into our extant enforcement efforts.[62]

AT&T stated that the Public Policy Payphone Program "adds no value to the payphone industry or universal service," is a "waste of scarce Commission resources," and should be "eliminate[d]."[63] In reply comments, AT&T opposed the parties' calls for additional expenditure of funds to study the diminishing payphone market as "unnecessary and wasteful."[64] AT&T also opposed the proposal to move the Public Policy Payphone Program to the CTF, but suggested as an alternative a limited pilot program to assess need.[65]

On the Payphone Enforcement Program, AT&T supported CPA's recommendation to move payphone enforcement to the Commission's enforcement staff in the Consumer Protection and Safety Division (CPSD).[66]

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cited by CPA has accelerated. In July 2007, there were 101,694 payphones in the state, a 21.4% reduction from July 2006 total of 129,369 payphones. A year prior to this period, in July of 2005, there were a total of 156,769 payphones in the state.

[61] CPA Initial Comments at 11. CPSD data shows that by the end of 2007 the number of payphones had fallen further still to less than 91,000 stations (representing a 51.3% decrease in stations since 2004 and a 69.1% decrease since 1999).

[62] *Id.* at 18-20.

[63] AT&T Comments on PPEP and PPP programs at 1 (Sept. 7, 2007) (hereinafter "AT&T Comments on PPEP and PPP programs").

[64] AT&T Reply Comments at 2 (Sept. 28, 2007) (hereinafter "AT&T Reply Comments").

[65] AT&T suggested a one-year program for up to 50 payphones, each sponsored by an approved CTF recipient with a limit of one phone per location. AT&T Reply Comments at 2.

[66] AT&T Comments on PPEP and PPP programs at 2.

AT&T stated that due to the declining payphone industry, payphone enforcement efforts are less necessary to ensure compliance and have dwindled to isolated complaints.[67] AT&T concluded that "continuing the administration of a program that demands a sizable budget and yields such little results is unjustified."[68] AT&T made the following specific recommendations:[69]

1. Eliminate the Enforcement Program and incorporate the enforcement of payphone regulations in the Commission's general consumer protection program administered by CPSD;
2. Mandate the posting of the Commission's 800 number for service complaints on all payphones, with an implementation deadline of 12 months from the date of the Commission's order;
3. Incorporate payphone oversight into CPSD's operations, including training enforcement personnel on handling payphone complaints;
4. Eliminate the monthly Coin Operated Payphone Enforcement Report, which lists payphones and locations to facilitate random inspections; and
5. As necessary, have CPSD staff inspect and evaluate persistent payphone service complaints.

The Small Local Exchange Carriers also supported CPA's proposals.[70] Verizon offered three reasons for eliminating the Public Policy Payphone

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[67] See *Id*. See also, *AT&T to hang up on pay phones*, Los Angeles Times, December 4, 2007, available at http://www.latimes.com/business/la-fi-payphones4dec04,0,4312775.story?coll=la-home-center.

[68] See AT&T Comments on PPEP and PPP programs at 2.

[69] See *Id.*

[70] Small LECs Comments at 1 (Sept. 7, 2007).

Program: (1) lack of interest, (2) dramatic decline in the number of payphones (36.5% decrease from March 1999 through March 2004), and (3) an equally dramatic increase in wireless phones (from December 1999 through December 2004, the number of mobile wireless telephone subscribers in California increased from 8,544,941 to 23,457,761 (a 175% increase in five years).[71]

DRA opposed CPA's proposals and recommended that the Commission reform rather than eliminate the payphone programs.[72] DRA explained that any Commission action on these programs must continue to carry out the Commission's policy objectives of supporting public health, safety, and welfare.[73] DRA contended that the "old technology of payphones is still important in an earthquake prone state like California."[74] DRA also posited that payphone dependence may increase in poorer neighborhoods as a result of the future deregulation of the price for basic services.[75] DRA makes similar recommendations with regard to the enforcement program, i.e., conduct a workshop to allow the parties to address consumer protection safeguards, as well as administrative costs and funding mechanism.[76]

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[71] Verizon Reply Comments at page 2 (Sept. 28, 2007); FCC *Trends in Telephone Service* Table 8.5 Aug. 2001 and Table 7.5 Apr. 2005.

[72] DRA Comments on PPEP and PPP programs at 1, 3 (Sept. 7, 2007) (hereinafter "DRA Comments on PPEP and PPP programs").

[73] *Id.* at 2.

[74] DRA Comments on PPEP and PPP programs at 3.

[75] See *Id.*

[76] *Id.* at 5.

DRA made recommendations for additional study to develop a "fair and efficient application process" and a set of "objective criteria" for identifying locations for public policy payphones.[77] DRA recognized that the current funding mechanism for these payphones, a surcharge on each payphone line, is not sustainable on a shrinking number of payphones.[78] DRA, therefore, proposed creating a new surcharge applicable to all telephone end users to fund the improved payphone programs.[79]

The Latino Issues Forum also contended that public purpose payphones continue to serve a vital public need, particularly among households without access to basic residential service.[80] Latino Issues Forum and the California Community Technology Policy Group opposed funding public policy payphones through the CTF as CTF is used to provide discounted rates to qualifying schools, libraries, hospitals, health clinics and community organizations.[81]

The Utility Reform Network and the National Consumer Law Center supported further analysis of the public interest in continuing the public purpose payphone program, and opposed moving the program to the CTF.[82]

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[77] DRA Reply Comments on the Order Instituting Rulemaking at 62, 63 (hereinafter "DRA OIR Reply Comments").

[78] *Id*.

[79] *Id.* at 62.

[80] Latino Issues Forum Comments at 1- 2 (Sept. 7, 2007).

[81] The California Community Technology Policy Group and Latino Issues Forum Comments at 1-2 (Sept. 25, 2007).

[82] The Utility Reform Network and the National Consumer Law Center Comments at 6-7 (Sept. 7, 2007) (hereinafter "TURN/NCLC Comments").

Cox recommended that the Commission determine whether payphones remain a necessary component of the Commission's universal service goals, and obtain data that supports a sound public policy program with respect to such goals.[83] Cox expressed concern that expanding the CTF to include public policy payphones could jeopardize funding for existing recipients.[84]

In reply, CPA decried the parties' call for "belabored inquiry" and sought "decisive action."[85] CPA argues that the declining payphone industry can not afford to participate in such inquiries, and that the current funding mechanism is rendering more payphones uneconomic, exacerbating any negative impacts on communities.[86] CPA conceptually supported the proposal to shift the Public Policy Payphone Program to the CTF, but identified several issues which required resolution.[87] These issues included:

- Expanding the list of services eligible for funding by the CTF program to include Customer Owned Pay Telephone ("COPT") service;
- Redefining the potential recipients of CTF support to include Payphone Service Providers (PSPs) by amending Pub. Util. Code § 280; and
- Revising the CTF application form to accommodate the broader scope of qualifying entities proposed for inclusion.

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[83] Cox Payphone Program Comments at 5 (Sept. 28, 2007).

[84] See *Id.*

[85] CPA Reply Comments at 6 (Sept. 28, 2007).

[86] *Id.* at 2-3.

[87] *Id.* at 7-11.

Also in reply, the Butte County Office of Education opposed folding the Public Policy Payphone Program into the CTF and stated that the Commission should focus on improving the existing CTF program for its intended beneficiaries, not adding new recipients.[88]

3.3. Deaf and Disabled Telecommunications Program (DDTP)

The Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC) filed comments opposing the income limitation in the pilot wireless program.[89] TADDAC supported the implementation of a voucher system within an expanded wireless program and the retention of the current administrative contractor, California Communications Access Foundation.[90] TADDAC and DRA agreed that a voucher system should be implemented and that the DDTP should be made more efficient by consolidating the California Relay Service Advisory Committee and the Equipment Program Advisory Committee into the TADDAC.[91]

The California Council for the Blind supported expanding the California Telephone Access Program to include wireless devices but desired a regional roll out of the program, rather than the current limited pilot program.[92] The Council

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[88] Butte County Office of Education Comments at 1-3 (Sept. 28, 2007).

[89] Telecommunications Access for the Deaf and Disabled Administrative Committee Comments at 1-2 (Aug. 20, 2007).

[90] *Id*. at 3-4.

[91] DRA OIR Reply Comments at 37, 30, 31.

[92] California Council for the Blind Comments at 3 (Aug. 28, 2007).

also found the LifeLine program's payment of half the monthly wireless service cost to be an "elegant solution."[93]

4. Discussion

Our objective in opening this proceeding was to assess whether the five telecommunications Public Policy Programs are meeting their respective statutory purposes and requirements, whether any updates are necessary given the competitive telecommunications market, and to identify and remedy any deficiencies going forward. In our order initiating this rulemaking, we adopted the following inquiry plan for this proceeding:

- Determine whether the programs remain necessary to achieve the fundamental statutory goal of enhancing universal service and, if so, whether changes are necessary to further this goal in today's competitive and technologically varied telecommunications environment.
- Ensure that funds obtained from the surcharges are being wisely spent to provide the most advanced telecommunications services to all Californians, with efficient administration demonstrating progress toward defined goals.
- Maximize the benefits of similar federal programs.

Below, we apply these inquiries to the California Teleconnect Program, the Deaf and Disabled Telecommunications Program, and the Payphone Provider Enforcement and Public Policy Payphone Programs.

4.1. CTF

The Commission established the CTF in D.96-10-066 to provide discounted basic and advanced services to schools, libraries, qualifying hospitals and health

[93] See *Id*.

facilities, community, and government organizations.[94] Subsequent resolutions and legislation have expanded and modified the program to increase benefits, expand the number of eligible hospitals, and create a one-time discount on installation cost for advanced services.[95] The Staff Report on Public Policy Programs explained the current program structure with this chart:

Qualifying Entity	Eligible Services	CTF Discount
School and/or Library, Municipal, County Government or Hospital District Owned and Operated Hospital and Health Clinic, Community Based Organization	All Measured Business Service lines, Switched 56 lines, ISDN, DSL, T-1, DS-3 and up to and including OC-192 services or their functional equivalents	50%

The CTF is capped at $55 million per year, but, if necessary, can be raised by staff recommendation via a Commission resolution at any time.[96] Effective June 1, 2008, the current program surcharge is 0.079%. The fiscal year 2007-2008

[94] D.96-10-066, 68 CPUC2d 524, 571, *citing* AB 3643, Stats. 1994, Ch. 278, Sec. 2(b)(6).

[95] CPUC Communications Division Administrative Letter No. 15 issued on December 1, 2006 pursuant to Pub. Util. Code § 884.

[96] See, e.g., CPUC Resolution T-16542, adopted July 12, 2001 (raising CTF cap to current $55 million level).

budget is $25.131 million[97] and the fiscal year 2008-2009 budget is $33.202 million.[98]

We find that the CTF program is successfully enhancing our universal service goals by bringing discounted telecommunications services to California's educational institutions, libraries, medical clinics, and CBOs. No party challenged the overall success of this program. As discussed below, we consider proposed efficiency improvements and issues relating to the comparable federal E-rate program. We address each issue from the scoping ruling in order. The expansions we authorize in today's decision are projected to increase the overall CTF budget by $8.35 million and to increase the surcharge to 0.11% in FY 2008-2009.[99]

Our review of the CTF program shows that the program is working well to advance our universal service goals. The users of this program particularly appreciate its simplicity. We are concerned by one aspect of this simplicity however, and will seek additional comment on what procedures should be adopted to ensure that entities deemed eligible remain functional, eligible entities. A regular periodic review at least every five years should be conducted to ensure the most current information about the eligibility of the entities is evaluated by the Commission.

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[97] CA Governor's Budget; http://www.ebudget.ca.gov//pdf/GovernorsBudget/8000/8660.pdf.

[98] CPUC Resolution T-17104, adopted August 23, 2007.

[99] We are unable to quantify the financial impact of allowing wireless carriers to provide CTF-eligible services due to a lack of historical information.

1. Expanding the CTF to include the California Community Colleges

Currently, only educational institutions serving students in kindergarten through 12th grade are eligible to participate in the CTF. This mirrors the federal E-rate program.[100] The California Community Colleges Chancellor's Office asked that California's community colleges be deemed eligible to participate in the CTF. The Chancellor stated that the community colleges offer technology centers with computers for Internet access and technology assistance, and provide residents with access to technology and Internet services in a similar fashion to that provided by 587 CBOs and 2,123 K-12 schools and libraries which are currently participating in the CTF.[101] The Chancellor estimates the cost of including the community colleges in the CTF to be about $7.2 million a year. We find it important that the Chancellor's Office states that 30% of the community college students are low income. Both the Legislature and this Commission have found that an important state goal is to ensure that low income citizens benefit from advanced communications services.[102] Further, in June 2007, Commission partnered with the Department of Insurance, CalPERS and the State Bar of California in the California Aspire Achieve Lead Pipeline Project (California AAL) to provide for educational opportunities for diversity students leading them to successful careers in the legal, investment/finance, technology and

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[100] D.96-10-066, Universal Service and Compliance with the Mandates of Assembly Bill 3643, 68 CPUC2d 524, 575 and Appendix B Rule 8.B.(1).

[101] As of March 31, 2008, there are 807 CBOs and 2,204 K-12 school and library participants.

[102] See, e.g., Pub. Util. Code § 709(d).

public policy arenas. We believe that expanding our CTF program to the community colleges—30% of whose students are low income—will provide many benefits: encourage universal service goals at community colleges, bridge the digital divide, and serve to enhance diversity goals relating to the California AAL project.[103]

The parties opposing this expansion of CTF eligibility primarily focused on the budgetary impact, and concerns that there will be a reduction in funding for other CTF participants.

The California Community Technology Policy Group and Latino Issues Forum cite Pub. Util. Code § 884 as somehow limiting expansion of schools eligible for CTF funds to exclude community colleges.[104] We find their arguments unpersuasive. Numerous statutes and laws, including California Pub. Util. Code § 884(a), clearly indicate that discounts should be provided to schools and libraries.[105] We acknowledge that initial CTF rules mirrored the federal E-rate program and used the federal definition of school[106] for convenience. We believe, however, that revisiting such determinations is consistent with the goal of this proceeding to ensure CTF is meeting its statutory and regulatory goals.

Nowhere does the Public Utilities Code limit CTF to only K-12 schools. We have not found any such limitation in our consideration of any other state

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[103] California Aspire Achieve Lead Pipeline Project (adopted June 21, 2007).

[104] The California Community Technology Policy Group and Latino Issues Forum Comments at 7-8 (Aug. 24, 2007).

[105] See also, Pub. Util. Code § 280(a), *cf.*, Pub. Util. Code § 709(b).

[106] 47 U.S.C. § 254(h)(1)(B).

telecommunication policy.[107] In fact, the seemingly interchangeable use of schools and educational institutions throughout the code conveys the opposite meaning—that the Legislature has provided discretion to delineate the range of educational institutions eligible for the programs as the Commission deems appropriate. The Commission thus may expand the definition of eligible schools to include community colleges, and does so subject to the limitations herein.

We are persuaded that the role of community colleges in California is similar to that of schools, libraries, and community-based technology centers, that the goals of our Teleconnect program are completely consistent with extending program benefits to them.[108] Thus, we expand eligibility for the CTF program to include California's community colleges. The community colleges serve a large population of 2.5 million adults per year, 30 percent of which are of low income students. Allowing the community colleges to increase access to advanced communications technology will help the community colleges to better train and serve their students. We find that it will enhance this Commission's goals to help bridge the digital divide in the communities served by such colleges.[109]

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[107] See e.g., AB 3643, Stats. 1994, Ch. 278, § 2(a)(1) ("Define the goals of universal service given the new technologies and increasingly competitive markets, with emphasis on the role of basic service in education, health care, and in the workplace.").

[108] AB 3643, Stats. 1994, Ch. 278, § 2(b)(6) ("Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age."); see also, Pub. Util. Code § 709(a)-(e).

[109] *Id.*

We share, however, the other parties' concerns for the integrity of the CTF program. The Chancellor estimates a cost of $7.2 million to include the community colleges as eligible participants in the CTF program.[110] The CTF fund can accommodate this amount without exceeding its cap, based on current budgets and projections.[111] To ensure that this program expansion does not negatively impact the other CTF program participants, we will limit the participation of community colleges in the CTF program to $7.2 million[112] per year. Further, we note that should the entire CTF fund approach the Commission mandated cap, the Commission's staff may make a recommendation to the Commission to increase the program's cap, or make other recommendations as necessary.

2. For schools and libraries, expanding the list of CTF-eligible services to mirror the services included in the federal E-rate program

This proposal was aimed at addressing the concerns raised by CCTPG and LIF[113] that service providers have refused to honor the CTF discount for DSL and

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[110] $7.2 Million is 50% of the sum of $4,780,581 (2006-2007 total CalREN network expense) and $9,694,245 (telephone and data circuit expenses other than CalREN expense).

[111] More than a quarter of the $55 million capped CTF amount (adopted in Resolution T-16542 on July 12, 2001) will not be used even after including the entire $7.2 million for community colleges and adopted $33.2 budget for FY 08-09 in Resolution T-17104, issued August 23, 2007.

[112] Based on 2007 dollars, adjusted annually based on the Western-CPI rate. Carriers shall promptly submit claims for reimbursement for services provided to community colleges. Payment will be made based on the date a valid claim was received.

[113] The California Community Technology Policy Group and Latino Issues Forum Comments at 10 (Aug. 24, 2007). *See also* DRA Reply Comments at 38 (Sept. 15, 2006),

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other advanced communication services (Internet services), arguing that they are interstate information services not subject to this Commission's regulatory authority.[114]

AT&T opposed expanding the list of CTF-eligible services to mirror the federal E-rate program because the E-rate program funds many services not currently included in the CTF, including non-telecommunication services, internal connection, and Voice over Internet Protocol (VoIP) services.[115] AT&T stated that administering services of this magnitude and complexity could require a 100 percent increase in the CTF budget.[116] DRA recommended mirroring E-rate offerings only with respect to Internet service connection services.[117] The BCOE offered qualified support for the proposition, conditioned on the availability of funds.

Cox succinctly summarized the issue by explaining that the federal E-Rate and Rural Health Care programs allow non-telecommunications service providers to participate in the programs to provide Internet access services. Cox further explained that to only provide CTF funds for DSL services (provided by incumbent LECs) and not for cable broadband and wireless Internet services unfairly skews the competitive marketplace for broadband access services. Cox

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and Order Instituting Rulemaking to Review the Telecommunications Public Policy Programs, R.06-05-028, at 22 (May 25, 2006).

[114] California Cable and Telecommunications Association at 4 (May 25, 2006), AT&T Reply Comments at 7 (Sept. 14, 2007).

[115] AT&T Opening Comments at 8.

[116] See *Id.*

[117] Division of Ratepayer Advocates Comments at 13-14 (Aug. 24, 2007).

believes that "[a]s with other services, the Commission could make clear that such participation is voluntary and that participation by an otherwise unregulated provider would not thereby make that provider subject to the Commission's jurisdiction, except to the extent necessary to administer the program."[118]

We agree with AT&T that expanding the list of CTF-eligible services to mirror the federal E-rate program would be administratively burdensome. Absent a compelling need and furtherance of our universal service goals, we will not expand the list of CTF-eligible services at this time.

However, we remain troubled that "that some telephone service providers did not properly facilitate application and eligibility for the CTF discount"[119] We agree with Cox that voluntary participation by providers of cable broadband and wireless Internet access services is an acceptable alternative to getting CTF discounts to all qualifying entities who desire such services. We also agree that participation would not thereby make an otherwise unregulated provider subject to the Commission's jurisdiction.[120] The Commission's authority with respect to

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[118] Cox Comments at 10 (July 28, 2006).

[119] The California Community Technology Policy Group and Latino Issues Forum Comments at 10 (Aug. 24, 2007). As explained by these groups, while qualified CBOs are "entitled to a discounted rate for switched 56, ISDN service, and T-1, or their functional equivalents," the telephone companies are not providing discounts on these services, and they are not applying for the CTF subsidy from the Commission. This fact is borne out by CTF projections submitted by carriers for 2009-2010 that show claims related to CBOs will be approximately $5.5 million, which is half of what it should be as CBOs make up 26% of all eligible entities.

[120] D.06-06-010, p. 5, *mimeo.* ("The FCC has determined that it, not the states, will prescribe what regulations apply to IP-enabled services"), *See also*, *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, Declaratory

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unregulated providers would be limited to the administration of the CTF program. This Commission will not adjudicate or be a forum for billing, quality of service, service, or other disputes relative to broadband Internet access services or interstate broadband services except to the extent necessary to administer the CTF program.

Accordingly, we adopt the mechanism used in the implementation of the California Advanced Services Fund[121] to allow telephone corporations, including registered providers,[122] to provide advanced services eligible for CTF discounts through affiliated entities or through partnerships.[123] In such situations, the

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Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798, 4801, para. 4 (2002) (*Cable Modem Declaratory Ruling*), *aff'd,* Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs., 125 S. Ct. 2688 (2005) (*NCTA* v. *Brand X*). *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, CC Docket No. 02-33, FCC 05-150, Report and Order and Notice of Proposed Rulemaking (August 5, 2005) (*Wireline Broadband Internet Acccess Order and Broadband Consumer Protection Notice*), *In the Matter of Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, WT Docket No.07-53, FCC 07-30, 22 FCC Rcd 5901 (rel. Mar. 23, 2007)(*Wireless Broadband Internet Acccess Order*), *Petition of AT&T Inc. for Forbearance Under 47 U.S. C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services; Petition of BellSouth Corporation for Forbearance Under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services*, WC Docket No. 06-125, Memorandum Opinion and Order, FCC 07-180 (rel. Oct. 12, 2007) (*AT&T Title II and Computer Inquiry Forbearance Order*).

[121] D.07-12-054, *mimeo.*, p. 34.

[122] "Wireless Identification Registration." (*See* D.94-10-032, Ordering Paragraphs 1 and 4.) Wireless carriers registered with the Commission are eligible to seek CTF funding for advanced services on the same basis as other telecommunications carriers.

[123] Our expectation is that wireless and cable providers will offer discounted broadband Internet access services to eligible CBOs and apply to the CTF for the discounted amount. We direct our staff to facilitate this new set of providers as CTF-eligible providers offering discounted services.

certificated entity awarded CTF funding will be held responsible for compliance with all CTF requirements. Thus, even if the certificated entity relies on one or more affiliates to carry out its commitments for the deployment of broadband facilities and services, the certificated entity shall remain legally responsible for any failure of its affiliates to fully meet those commitments. With this change we seek to make CTF as competitively neutral as possible and encourage broadband providers that are affiliated with entities that have CPCNs, such as cable Internet providers, to provide discounted service to eligible CBOs and apply to CTF for funding.

We also recognize that a similarly narrow reading of the CTF rules have prevented non-profit CBOs providing 2-1-1 Information and Referral Services from receiving CTF discounts.[124] We believe that had such entities existed at the creation of CTF they would have explicitly been included in the types of CBOs that are eligible to receive CTF discounts and clarify here that those CBOs that are 2-1-1 Information and Referral Service providers should be included in the list of types of entities eligible for CTF discounts, and we order any necessary rule changes.

Currently Universal Service Rules 8.B.(3), 8.C.(1), and 8.D.(3)[125] require carriers offering CTF-eligible services to provide in their tariffs that the rates for those service for entities qualified to receive the CTF discount shall be 50 percent

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[124] See D.03-02-029, p. 38, Findings of Fact 4, *mimeo.* ("The use of the 2-1-1 dialing code has the potential to provide Californians with easy access to information concerning child care services, housing assistance, physical and mental health resources, aging and hospice services, educational and other programs.").

[125] D.96-10-066, Appendix B, 68 CPUC2d at 678-679.

below the rates charged to other businesses for those services.[126] It is clear that the requirement that the CTF discount be reflected in tariffed rates is an impediment to CBOs receiving discounted advanced services and as DSL.

Further, for local exchange carriers not subject to rate of return regulation, the Commission recently removed tariffing requirements for retail services, with certain exceptions, including basic services,[127] and we find no reason to continue to require such a requirement for CTF.

Therefore, we will eliminate this CTF tariffing requirement for all carriers that provide CTF-eligible services on a detariffed basis or other providers not regulated by this Commission. We believe that this change will have no impact on the market for these services other than to make it easier for CBOs to receive CTF-eligible services. In addition, removing the tariff requirements related to CTF is consistent with the original goals of CTF.[128]

However, in order to facilitate Commission oversight of the CTF program, all detariffed or non-regulated providers claiming reimbursement from the CTF program will be required to include with their claim submittals the rates of the services that were in effect at the time of the provisioning of the services for which the claim is submitted or an electronic link to a website with such information.

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[126] See AT&T OIR Comments at 23 (July 28, 2006).

[127] D.07-09-018, *mimeo.* at 50-51.

[128] D.96-10-066, 68 CPUC2d at 579 ("the establishment of a competitively neutral fund permits any telecommunications carrier serving an eligible institution or organization to draw from the fund").

We instruct the Commission staff to update the CTF processes to reflect these changes.

3. Requiring telephone service providers that are certificated by the Commission to provide CTF discounts on E-rate eligible services (telecommunications and Internet access) to all qualifying CTF entities

This was another proposal aimed at addressing the concerns raised by CCTPG and LIF[129] that service providers have refused to honor the CTF discount for advanced communication services (Internet services), arguing that they are interstate information services not subject to this Commission's regulatory authority.[130]

As we addressed the problem identified in response to another topic above in section 4.2, we decline to specifically require telephone service providers that are certificated by the Commission to provide CTF discounts on all E-rate eligible services (telecommunications and Internet access) to all qualifying CTF entities at this time.

We fully expect that all eligible providers will provide the appropriate CTF discount to qualified CTF entities and seek reimbursement from CTF for the discounted amount on a going forward basis. If the changes adopted in this

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[129] The California Community Technology Policy Group and Latino Issues Forum Comments at 10 (Aug. 24, 2007). *See also* DRA Reply Comments at 38 (Sept. 15, 2006), and Order Instituting Rulemaking to Review the Telecommunications Public Policy Programs, R.06-05-028, at 22 (May 25, 2006).

[130] California Cable and Telecommunications Association Comments at 4 (May 25, 2006), Verizon Comments at 17 (August 24, 2007), AT&T Reply Comments at 7 (September 14, 2007).

proceeding do not result in CTF entities receiving discounted communications services, impacted parties may seek further action from this Commission.

4. Improving overall statewide E-rate application and participation rates by dedicating Commission staff or a third-party consultant to provide E-rate application assistance to nonparticipating potential applicants, particularly those in low performing schools, low income, or disadvantaged areas, and rural or remote settings

As stated above, one of our goals in this proceeding is to fully utilize all available federal programs for similar services. The federal E-rate program provides substantial need-based funding for telecommunications services in schools; the CTF discount is applied only to remaining amounts. Schools and libraries that do not participate in the federal E-rate program nevertheless have their CTF funding calculated as if they were participating in the E-rate program. We do believe that the E-rate application, however, is lengthy and complicated; some schools and libraries do not have the personnel or other resources to submit the annual application.[131] Because the CTF discount is applied as if the schools or libraries had received E-rate funding, these schools are, in effect, penalized for not participating in the federal program.

When the Commission established CTF more than a decade ago, it sought to foster the development of advanced telecommunications infrastructure in California. "[B]y providing qualifying schools, libraries, hospitals, health clinics, and CBOs with discounts, we will foster innovation in the use of advanced

[131] In contrast, the CTF application is one page long and does not require annual resubmission.

telecommunications services."[132] To the extent we are assuming the school or library has received E-rate funding, but not doing anything to ensure that these schools and libraries are receiving such funding, we are limiting innovation.

Further while CTF was created to "reduce[] the dichotomy between the information rich and the information poor,"[133] we believe that over the past decade that the "information rich" have availed themselves of consultants and other assistance to successfully complete the federal E-rate process.[134] This is the logical result of a complex federal process built largely around funding for many services not currently included in the CTF, including non-telecommunications services, internal connection, and VoIP services.[135] In order to ensure that CTF accomplishes its goals, we should do more to make sure there are no "information poor" in California.

Given our "presumption of participation" on schools and libraries, we find it in the public interest to actively encourage and assist non-participating schools and libraries to participate in the federal and state programs. We will, therefore, direct the Executive Director to establish a special CTF Outreach and Assistance Unit within the CPUC or other agency of state government. The Unit will be dedicated to outreach to non-participating California schools and libraries, and establishing instruction manuals and best practices for obtaining funding for California schools and libraries from the federal E-Rate and California

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[132] D.96-10-066, 68 CPUC2d at 579.

[133] *Id.*

[134] See, e.g., California Dep't of Education E-Rate/CTF Training Slides for 2004 available at http://www.cde.ca.gov/ls/et/ft/eraterefbinder.asp.

[135] See, AT&T Opening Comments at 8.

Teleconnect programs. The CTF Outreach and Assistance Unit should have no fewer than two full-time equivalent professional-level positions.[136] This Unit should be fully functional no later than July 1, 2009, and should actively coordinate its efforts with the California Department of Education and other agencies.

The duties of the Unit should include, but not be limited to, one-on-one coaching on filling out the appropriate forms; setting up an easy to use website to assist applicants with the procedures and forms; regular outreach efforts to non-participating schools and libraries; presentations at school and library organization functions to encourage participation; and other creative solutions. The unit shall also provide outreach support to other CTF-eligible entities.

The Unit's goal is 100% participation of eligible schools and libraries in the federal E-rate and CTF programs. When this goal is achieved, or as close to it as reasonably practicable, the Executive Director may discontinue or redeploy the Unit staff.

5. Expanding the CTF to fund 50 percent of the remaining costs in California Telemedicine projects selected for funding by the FCC's Rural Telemedicine Pilot Program[137]

On September 26, 2006, the FCC established a pilot program, pursuant to Section 254(h)(2)(A) of the Telecommunications Act of 1996 (Act),[138] to examine

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[136] While these need not be new positions, the costs associated with the Unit should be included in the annual CTF administrative budget as Unit staff will be dedicated to outreach and education about the E-Rate and CTF programs.

[137] Rural Health Care Support Mechanism, WC Docket No. 02-60, Order (rel. Sept. 29, 2006); Order on Reconsideration (rel. Feb. 6, 2007).

[138] 47 U.S.C. § 254(h)(2)(A).

how the universal service rural health care funding mechanism can be used to enhance public and non-profit rural health care providers' access to advanced telecommunications and information services.[139] The FCC pilot program will provide funding to support up to 85 percent of the cost of the construction of state or regional broadband networks and advanced telecommunications and information services provided over those networks, including:

- Initial network design studies;
- Transmission facilities;
- Recurring and non-recurring costs of advanced telecommunications and information services, such as connection to the public Internet; and
- If requested, costs of connecting the regional or state networks to Internet2 or National LambdaRail, which are both dedicated nationwide backbones.[140]

Applicants will be required to fund the remaining costs of 15% or more, depending on the amount of the funding awarded to the applicant under the pilot program.

In reviewing the applications, the FCC will consider whether an applicant has a plan for:

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[139] See generally *Rural Health Care Support Mechanism*, WC Docket No. 02-60, *Order*, 21 FCC Rcd 11111 (2006) (*2006 Pilot Program Order*).

[140] See *2006 Pilot Program Order* at p. 11115, ¶ 14, *Rural Health Care Support Mechanism*, WC Docket No. 02-60, *Order on Reconsideration*, 22 FCC Rcd 2555 (2007) (*Pilot Program Reconsideration Order*) (reconsidering the *2006 Pilot Program Order* to permit funding to connect a state or regional health care network to NLR or to the public Internet, in addition to Internet2).

- Aggregating (pooling) the specific needs of health care providers, including providers that serve rural areas, within a state or region.
- Leveraging (utilizing) existing technology to adopt the most efficient and cost effective means of connecting those providers.
- How the applicant plans to fully utilize a newly-created dedicated broadband network to provide health care services.
- Whether the applicant has a successful track record in developing, coordinating, and implementing a successful telehealth/telemedicine program within their state or region.
- The number of health care providers that would be included in the proposed network. Considerable weight will be given to applications that propose to connect the rural health care providers in a given state or region.

In May 2007, the State of California submitted an application seeking funding for more than $7 million annually for three years to connect 319 health care sites to form a statewide California Telehealth Network (CTN). The California Emerging Technology Fund, created by this Commission in 2005, pledged $3.6 million in matching funds to the CTN.

In November 2007, the FCC approved $22.1 million over three years to help develop the CTN.[141] Through this award, the CTN will begin to establish a statewide broadband telehealth network aimed at improving the rural health care infrastructure throughout California.[142] In addition, the Commission is participating on the Advisory Committee that will oversee the CTN.

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[141] *Rural Heath Care Support Mechanism*, WC Docket No. 02-60, *Order*, 22 FCC Rcd 20,360 (2007) (*2007 RHC PP Selection Order*).

[142] The CTN is comprised of a large and diverse group of partners that will connect California's rural communities to a broad range of technology-enhanced services to

Footnote continued on next page

The CTN and other new resources will help California develop an effective, sustainable and forward-looking telehealth network, focusing first on rural and tribal land communities. Over the course of the three-year pilot, the CTN will connect more than 300 rural sites with each other, and with a network of specialty providers at academic medical centers and other nonprofit and for-profit health providers statewide.[143]

AT&T and DRA argued that CTF funds could not be used for non-recurring construction costs in telemedicine projects.[144] We agree, as completely matching CTF support to the FCC Pilot Program is not necessary at this point in time. However, one of the purposes of the CTF is to provide discounted telecommunications services to qualifying hospitals and health clinics that are owned and operated by a municipal or county government or a hospital district. Connecting rural medical facilities to urban health care providers furthers the health care goals of the CTF.

The goal of the FCC's Rural Health Care Pilot program is to "stimulate deployment of the broadband infrastructure necessary to support innovative telehealth and, in particular, telemedicine services to those areas of the country

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improve the quality of health care services. Up to $8.6 million in additional financial commitments have been secured from the California Emerging Technology Fund (CETF) and UnitedHealth Group Inc. to help support the successful implementation of the new telehealth network. *Rural health care gets a boost*, The Eureka Reporter, Nov. 25, 2007, available at http://eurekareporter.com/node/94575.

[143] The CTN will also be used as a resource for emergency services and disaster preparedness, and ultimately link California providers to a nationwide broadband network dedicated to health care. *Id.*

[144] AT&T Opening Comments at 10, DRA Scoping Comments at 14-15.

where the need for those benefits is most acute."[145] This goal falls squarely within the scope of CTF's objectives.[146] Funding these FCC-selected projects is consistent with CTF purposes and we explicitly include them as eligible to receive CTF discounts.[147]

CTF already can provide discounts on CTF-eligible monthly recurring telecommunications service charges for most CTN participants, so we do not expect a significant difference in CTF funding levels based on this change. Further, as we limit funding to the monthly recurring charges for telecommunications services not paid for by the FCC's Rural Health Care Pilot Program we know that the funding will be no more than $650,000 per year for the three-year pilot.[148] Thus, participants within the CTN are eligible to receive the 50 percent discount from CTF for the monthly recurring CTF-eligible telecommunications services integral to the CTN not paid for by the FCC's Rural Health Care Pilot Program. However, any CTN participant that does not meet the current CTF eligibility criteria will be qualified to receive the CTF discount only on CTF-eligible services related to the CTN.

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[145] *2007 RHC PP Selection Order* at ¶ 1.

[146] D.96-10-066, 68 CPUC2d at 578-579 ("The CTF is an important strategy in fostering the development of a state of the art telecommunications infrastructure for California").

[147] *See also*, AB 3643, Stats. 1994, Ch. 278, § 2(b)(6) ("Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age.").

[148] The total cost estimate of the CTN submitted to the FCC was in excess of $26 million over three years. The FCC Pilot pays 85% of those costs, leaving $1.3 million per year not funded by the federal program. At most CTF would pay half that annual cost, but as noted above, some of those costs are for ineligible services so the actual payments from CTF will be less than $650,000 per year.

The CTN participants may apply as a consortium to receive the CTF discount.

We direct the Commission staff to update expeditiously the CTF process to include the CTN projects in accordance with this decision.

4.2. Payphone Enforcement and Public Policy Payphone Programs

Since 1990, the Commission has had two public policy programs for payphones. In D.90-06-018, the Commission established a Public Policy Payphone Program with the purpose of providing payphones to the general public in the interest of public health, safety, and welfare at locations where there would otherwise not be a payphone. The Public Policy Payphone Program has been funded by a monthly surcharge assessed on each payphone access line.[149] However, by Resolution T-16590, the Commission reduced the Payphone Program surcharge from a rate of $0.08 per line per month to zero, effective December 1, 2001, where it remains today.

In 1990, the Commission established the Payphone Enforcement Program to enforce tariffs, rules and regulations such as signage requirements, access to 9-1-1, call re-routing and rate caps for local, long distance, and directory assistance calls by inspecting pay telephones. The program is funded by a

[149] The number of payphone access lines statewide has decreased significantly:

	2002	2003	2004	2005	2006-April	2007
Total	231,106	205,477	187,105	170,614	136,003	91,000

monthly surcharge assessed on each payphone access line, which is currently set at $0.25. The fiscal year 2005-2006 budget was $786,000.[150]

In today's decision, we must assess whether these payphone programs remain necessary to achieve our universal service goals and whether the funds are being wisely spent.

No party disputes that the Public Policy Payphone Program is nonfunctional. We further acknowledge that this Commission has not done an adequate job in ensuring the program's success. Parties also do not dispute that the declining number of payphones cannot continue to support a dedicated enforcement staff. However, we agree with DRA, Latino Issues Forum, TURN and the National Consumer Law Center[151] that payphones continue to play an important role in meeting our universal service goals. The California 9-1-1 Emergency Communications office estimates that 5.1% (931,933) of the total 9-1-1 calls for 2007 come from payphones. We find it significant that nearly a million 9-1-1 calls came from payphones last year. This fact clearly shows a continuing need by our citizens for public payphones. Due to competition from technologies such as wireless phones, the payphone industry is under increasing economic pressure, which is exacerbated by the payphone enforcement surcharge. Retaining the maximum number of payphones, in furtherance of our universal service and access to emergency services goals, requires that the payphone enforcement surcharge be lifted immediately while retaining the

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[150] Currently the payphone enforcement effort consists of three payphone inspectors.

[151] TURN/NCLC Comments at 26.

monthly reporting of payphone location and owner information to aid in the Commission's enforcement efforts.[152]

The Commission's CPSD carries out enforcement of our statutes, decisions, and rules, which apply to all types of public utilities. This enforcement effort is funded by the PUC fee which is imposed on all public utility end users (see Pub. Util. Code § 431). Payphone enforcement duties, as with the Commission's myriad other enforcement obligations, should be carried out by CPSD and funded through the general PUC fee. The Commission directs the Executive Director to make efforts to augment the Commission budget to include payphone enforcement duties as required by Pub. Util. Code § 742.

Although we eliminate the separate Payphone Enforcement Program, to aid in the Commission's enforcement efforts we will retain the current requirement that local exchange carriers report monthly on payphone location and owner information.

A payphone in an isolated, rural or remote location without wireless telephone service or areas where basic residential landline phone service is not present—yet where the public travels—has significant value in achieving our universal service and access to emergency service goals. Our history of administering the Public Policy Payphone Program has been disappointing, and we intend to establish a narrowly focused, simple process for a limited group of truly necessary public policy payphones.

As set forth by CPA, the plain facts are that this state does not now have a functioning Public Policy Payphone Program. Thus, we can conclusively

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[152] With this change we believe that Pub. Util. Code § 279 is no longer needed. We will seek comment on this and any other statutory changes needed in light of the new structure of the program in the next phase of this proceeding.

determine that this program is not meeting our universal service goals. We do have concerns, however, that there is a genuine need for public policy payphones in some select locations. Our goals for this program are protection of public safety, health and welfare. The fact that nearly a million calls to 9-1-1 come from payphones convinces us that payphones still play an important role in summoning emergency services. As advocated by DRA and LIF, low income or economically disadvantaged communities may have special needs in order to summon help.[153] Other examples of areas where a public payphone may be warranted include remote or isolated areas where access to emergency services are necessary, such as a public park, campground or recreational area; an interstate rest area; isolated gas stations; or communities on tribal lands. Again, these are payphones whose revenues would not otherwise support them, but which serve a public purpose for our citizens.

As a result, we believe that a very limited Public Policy Payphone Program should be put in place for no more than 50 public payphones, funding up to 50% of the otherwise applicable monthly charges and supported by a surcharge levied on all intrastate telephone service ratepayers. We delegate to the Executive Director the task of setting up the most appropriate surcharge mechanism, including utilizing an existing program.[154] We order any funds

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[153] DRA Comments on PPEP and PPP programs at 3, Latino Issues Forum Comments at 1-2 (Sept. 7, 2007).

[154] The Executive Director may bring the new program before the Commission for any necessary approval.

leftover in the public payphone program be used first for this new program, which is consistent with the goals of the prior program.[155]

The new program shall consider the following criteria in designating a public policy payphone: (1) enhance public safety; (2) rural or remote area that is nonetheless trafficked by the public, even if seasonally; (3) interstate or state highway rest stop; (4) low income or disadvantaged community setting with little or no landline phone availability; (5) demonstrated need for a public payphone, with the request supported by a governmental entity or local community group willing to pay at least half the costs, or (6) presentation of other facts justifying the need for a publicly funded payphone. We order this program begun by July 1, 2009, and that it be administered in a streamlined manner with an eye to controlling costs. Should the number of public payphones in the program fall below 10 public payphones, the staff may recommend to the Commission a permanent termination of this program.

4.3. Deaf and Disabled Telecommunications Program

On May 3, 2007, the Commission issued Resolution T-17089 which established a pilot program to offset the cost of wireless equipment for California Telephone Access Program-certified participants. Eligible participants will be issued a credit of up to $300 to be applied to the equipment component of a wireless communications device, once every three years. The pilot program is authorized for one year, with the possibility of an additional one-year extension

[155] We shall seek to obtain any necessary legislation to accomplish this transfer to the new program. *See* Pub. Util. Code § 270.

upon written approval of the Executive Director. The pilot is expected to serve 100-200 customers, but may reach up to 500 total participants.

In addition to qualifying for the California Telephone Access Program, the wireless pilot program also requires that participants be certified to be eligible for the Lifeline Telephone Service, which is limited to low-income individuals.

The Commission adopted the second criterion to control costs and offer the pilot program where it would have the most economic and societal impact, noting that the Legislature also requires that the Commission assist in expanding access to newer technologies specifically to low-income and disabled Californians.

In the scoping ruling, the assigned Commissioner and ALJ favorably noted the adoption of the pilot project, and asked the Communications Division to monitor evaluation of the pilot program and bring forward any proposals for permanent implementation.

The Telecommunications Access for the Deaf and Disabled Administrative Committee filed comments opposing the income limitation in the pilot wireless program, and supporting administrative reform and the implementation of a voucher system. In reply comments, DRA agreed that administrative reforms are necessary and that the implementation of a voucher system should be studied. The California Council for the Blind supports the Lifeline program's payment of half the monthly wireless costs as an "elegant solution."

While we acknowledge the comments critical of the income limitation in the pilot program, the Commission approved that pilot program with income

limitations and will continue to exercise oversight of it. The Legislature has directed the Commission to consider income limitations.[156]

As we stated in opening this docket, our goal is to ensure that "funds obtained from the surcharges are being wisely spent." Limiting participation in the wireless pilot program to low-income individuals directs the available funds to those least likely to be able to otherwise afford to purchase the more costly wireless devices vis-à-vis landline phones for people with disabilities. We find that this objective is consistent with the direction received from the Legislature and our duties to ratepayers.

While some additional changes may be necessary to fully realize the goals of the DDTP programs, overall, the DDTP programs are working well to advance our universal service goals. At the outset of this proceeding we did not contemplate consideration of administrative reforms.[157] Thus, while we may consider changes in the operational process and procedures related to the DDTP programs in a subsequent phase of this proceeding, we will not consider other administrative reforms in this proceeding.

5. Comments on Proposed Decision

The proposed decision of assigned Commissioner Rachelle B. Chong in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3 of the Commission's Rules of

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[156] *See* Pub. Util. Code § 2881(c) ("The Commission shall … study the feasibility of, and implement if determined to be feasible, personal income criteria, in addition the medical certification of disability, for determining a subscriber's eligibility under this subdivision."), and Pub. Util. Code § 2881(g)(2) ("The establishment of a means test for persons to qualify…").

[157] R.06-05-028, *mimeo.* at 21-22.

Practice and Procedure. Comments were filed on June 2 and reply comments on June 9, 2008.

AT&T generally supported the Proposed Decision's expansion of the CTF, but suggested several implementation and administration improvements. AT&T sought a workshop to better define how the funding cap Community Colleges will be implemented. To encourage providers of Internet access services to voluntarily participate in the CTF, AT&T recommended that the Commission disavow jurisdiction over broadband Internet access service and interstate broadband service, and exempt all such service from public policy surcharges, e.g., the CTF surcharge. AT&T emphasized that unregulated entities offering CTF-eligible services is voluntary, and that this Commission lacks the jurisdiction to compel such participation.

AT&T stated that CBOs that provide 2-1-1 referral services do not meet the CTF eligibility requirements because providing referral services is not "directly offer[ing] health care, job training, job placement . . ." as required by the CTF rules. AT&T supported expanding the rules to include 2-1-1 referral services.

AT&T opposed requiring CTF participants that offer services on a non-tariffed basis to include price documentation with claims. AT&T contended that this requirement would be "over burdensome" and that non-tariffed providers should be allowed to present claims based on "summarized" customer numbers and asserted service prices, all subject to later audit by the Commission staff.

AT&T raised several implementation issues with regard to bringing the CTN in the CTF. AT&T first questioned whether any additional support was needed as the funds available from the Federal Communications Commission and the California Emerging Technology Fund appeared to cover anticipated costs. AT&T then questioned whether large, urban, for-profit hospitals that are participating in the Telehealth Network should be included in the CTF; AT&T

recommended limiting the participants to rural clinics and medical centers. AT&T suggested CD conduct a working session to provide carriers appropriate guidance in applying CTF discounts to CTN participants.

AT&T also reiterated its request for reimbursement of CTF administration costs. AT&T recommended that regular reports on the Deaf and Disabled Telecommunications Program projects be distributed to the service list for this proceeding to enable the parties to assist the Commission in developing successful programs for this customer group.

Verizon, while supporting including Community Colleges in the CTF, pointed out practical difficulties of implementing a funding cap. For example, should the cap be reached, how will outstanding claims be treated? Claims may be submitted by a CTF provider up to 410 days after providing the CTF-eligible service.

DRA expressed concern for the including Community Colleges in the CTF because the Proposed Decision's maximum funding level for these schools of $7.2 million would move the current total CTF budget of $47 million, very close to its funding cap of $55 million. DRA stated it would be a legal error if the Commission simply relies upon the assertions of the CCC Chancellor's Office for the estimated cost and it would be legal error not to afford parties an opportunity to review any data the Commission relies upon in establishing this funding level. DRA is also concerned that the estimated costs may include expenses that would not be CTF eligible. DRA is also concerned that the infrastructure components of the CTN are not eligible for funding through the CTF. DRA pointed out that enforcement for moving companies and passenger carriers is not funded by the same PUC fee that funds utility enforcement, as stated in the Proposed Decision, but rather through a different PUC fee. DRA

also raised questions about winding down the existing Public Policy Payphone Program.

The California Payphone Association found the Proposed Decision's general direction to be "well justified and correct" but offered two suggested modifications. The first is to correct the reference to the payphone providers reporting monthly on payphone location and provider. This information is reported, but by the local exchange carrier, not the payphone provider. Second, the Association recommended against adopting a requirement for the new Public Policy Payphone Program that there be little or no wireless service available. The Association pointed out that economically disadvantaged persons may not have access to available wireless service.

TURN, the National Consumer Law Center, and Disability Rights Advocates jointly supported the new Public Policy Payphone Program but suggested keeping open the possibility of increasing the number of phones from 50, should actual need be demonstrated. These parties also opposed the requirement of little or no wireless service, and suggested areas with a high concentration of senior citizens and disabled persons be preferred for payphone locations. These parties also opposed using CTF funds for Public Policy Payphones because the Commission is limited to using CTF funds for purposes enumerated when the CTF was created, and which do not include payphones. The parties also opposed limiting any Deaf and Disabled programs to low-income participants.

Cox Telecom generally supported the Proposed Decision and stated that the CTF list of eligible services should be expanded to include all forms of Internet access services, not just DSL. Cox also requests the Proposed Decision be modified to make it clear that carriers that offer regulated services included in the CTF continue to do. Cox also recommends that the CTF Outreach and

Assistance Unit should offer assistance to all entities that may or do qualify for CTF.

Comcast Phone of California, LLC, suggested requiring an empirical analysis of the CTF budget and program goals should the CTF reach its funding cap, prior to raising the cap. Comcast also requested that the Communications Division hold an informational workshop regarding requirements for new participants in the CTF.

Latino Issues Forum (LIF) and CCTPG suggest that the Outreach Unit be expanded to provide outreach to help CBOs with their CTF applications. LIF/CCTPG also question the authority of the CPUC to fund the Public Policy Payphone Program through the CTF fund.

Butte County Office of Education states the Proposed Decision's Outreach Assistance Unit proposal does not recognize the current outreach efforts to schools and libraries being conducted jointly by the California Department of Education and the Butte County Office of Education. Butte County notes that this effort is seriously undermanned but the DOE has been unable to get funding for new staff position. It suggests that instead of hiring new CPUC personnel to staff a new Unit in the CPUC, the CPUC should outsource this function to the Department of Education.

Reply comments were filed by AT&T, Verizon, DRA, Cox, and T-Mobile. AT&T and Verizon opposed the requirement that CTF providers include price information in their claim forms. T-Mobile supported other comments to remove the "spotty wireless" criterion for the new Public Policy Payphone Program. DRA and Verizon opposed using CTF funds for the Payphone Program. Cox and Verizon emphasized the voluntary and unregulated nature of CTF offerings by non-regulated providers. The Corporation for Education Initiative in

California raised a new issue regarding sharing of circuits which we ask staff to review and bring forward at an appropriate time, if warranted.

6. Assignment of Proceeding

Rachelle B. Chong is the assigned Commissioner and Maribeth Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. The CTF was established in D.96-10-066 to provide discounted basic and advanced services to schools, libraries, qualifying hospitals and health facilities, and CBOs.

2. The review of the CTF, as initiated by this proceeding, is required by Commission directives in D.96-10-066.

3. The Commission adopted a uniform regulatory framework in D.06-08-030, generally eliminating restrictions on pricing of telecommunications services.

4. The CTF is capped at $55 million per year, but, if necessary, can be raised by staff recommendation via a Commission resolution at any time.

5. The Commission's goals to help bridge the digital divide are enhanced by reaching communities served by community colleges.

6. Service providers have refused to honor the CTF discount for DSL and other advanced communication services.

7. The federal E-Rate and Rural Health Care programs allow non-telecommunications service providers to participate in the programs to provide Internet access services.

8. Providing California Teleconnect Fund support for DSL services (provided by incumbent LECs), cable broadband and wireless Internet services and their equivalents will avoid skewing the competitive marketplace for broadband access services.

9. Voluntary participation by providers of cable broadband and wireless Internet access services is an acceptable means to getting CTF discounts to all qualifying entities who desire such services.

10. The requirement that the CTF discount be reflected in tariffed rates is an impediment to CBOs receiving advanced discounted service, such as DSL.

11. Schools and libraries that do not participate in the federal E-rate program nevertheless have their CTF funding calculated as if they were participating in the E-rate program, effectively penalizing these schools and libraries for not participating in the federal program.

12. In order to ensure that CTF accomplishes its goals, the Commission should do more to make sure there are no "information poor" in California.

13. In November 2007, the FCC approved $22.1 million over three years to help develop the CTN, which will connect more than 300 rural health care locations with each other, and with a network of specialty providers at academic medical centers and other nonprofit and for-profit health providers statewide.

14. In D.90-06-018, the Commission established a Public Policy Payphone Program with the purpose of providing payphones to the general public in the interest of public health, safety, and welfare at locations where there would otherwise not be a payphone.

15. The Public Policy Payphone Program has been funded by a monthly surcharge assessed on each payphone access line. However, by Resolution T-16590, the Commission reduced the Payphone Program surcharge from a rate of $0.08 per line per month to zero, effective December 1, 2001, and where it remains today.

16. The Public Policy Payphone Program is nonfunctional.

17. It is significant that nearly a million 9-1-1 calls came from payphones in 2007.

18. A payphone in an isolated, rural or remote location or areas where basic residential landline phone service is not present—yet where the public travels—has significant value in achieving our universal service and access to emergency service goals.

19. Our goals for the Public Policy Payphone Program are protection of public safety, health and welfare.

20. In 1990, the Commission established the Payphone Enforcement Program to enforce tariffs, rules and regulations such as signage requirements, access to 9-1-1, call re-routing and rate caps for local, long distance, and directory assistance calls by inspecting pay telephones.

21. The Payphone Enforcement Program is funded by a monthly surcharge assessed on each payphone access line, which is currently set at $0.25.

22. The declining number of payphones cannot continue to support a dedicated enforcement staff.

23. The payphone industry is under increasing economic pressure, which is exacerbated by the payphone enforcement surcharge,

24. On May 3, 2007, the Commission issued Resolution T-17089 which established a pilot program to offset the cost of wireless equipment for California Telephone Access Program-certified participants.

25. Limiting participation in the wireless pilot program to low-income individuals directs the available funds to those least likely to be able to otherwise afford to purchase the more costly wireless devices vis-à-vis landline phones for people with disabilities.

Conclusions of Law

1. The CTF is successfully enhancing our universal service goals by bringing discounted telecommunications services to California's educational institutions, libraries, government-owned hospitals and health clinics, and CBOs.

2. The Commission continues to have an obligation to ensure that universal service goals are met through the CTF and the Deaf and Disabled Telecommunications Program.

3. The Commission will seek additional comment on what procedures should be adopted to ensure that entities deemed eligible for the CTF continue to function as eligible entities, and should review the Program at least every five years to ensure that eligibility information is current.

4. Neither Pub. Util. Code § 884, nor any other section of the Public Utilities Code limits CTF to only K-12 schools; the Legislature has left it to the Commission's discretion to delineate the range of educational institutions eligible for the programs

5. The Commission may define schools eligible for CTF to include community colleges.

6. The CTF should be expanded to include the California community colleges.

7. The Commission should limit the participation of community colleges in the CTF program to $7.2 million per year, adjusted annually based on Western-CPI.

8. Participation in the CTF should not make an Internet access service provider subject to the Commission's jurisdiction; the Commission's authority over such providers should be limited to the administration of the CTF program.

9. The Commission should not adjudicate or be a forum for billing, quality of service, service, or other disputes relative to broadband Internet access services or interstate broadband services except to the extent necessary to administer the CTF program.

10. The Commission should allow telephone corporations, including registered providers, to provide CTF advanced services through affiliated entities or through partnerships.

11. CBOs that are 2-1-1 Information and Referral Service providers should be included in the list of types of entities eligible for CTF discounts.

12. To only provide California Teleconnect funds for DSL services and not for cable broadband and wireless Internet services unfairly skews the competitive marketplace for broadband access services.

13. Telephone corporations, including registered providers may provide CTF advanced services through affiliated entities or through partnerships as the certificated or registered entity shall remain legally responsible for any failure of its affiliates to fully meet those commitments.

14. The requirement that the CTF discount be reflected in tariffed rates should be discontinued for CTF-eligible services offered on a detariffed or non-regulated basis. Universal Service Rules 8.B.(3), 8.C.(1), and 8.D.(3) of D.96-10-066, Appendix B, 68 CPUC2d at 678-679, should be conformed to this modification.

15. The public interest requires creating a CTF Outreach and Assistance Unit to actively encourage and assist non-participating schools and libraries to participate in the federal E-rate and CTF programs, and to assist other CTF-eligible entities.

16. The duties of the CTF Outreach and Assistance Unit should include, but not be limited to, one-on-one coaching on filling out the appropriate forms; setting up an easy to use website to assist applicants with the procedures and forms; regular outreach efforts to non-participating schools and libraries; presentations at school and library organization functions to encourage participation; establishing instruction manuals and best practices for obtaining funding; and other creative solutions.

17. The CTF Outreach and Assistance Unit should have no fewer than two full time equivalent professional-level positions.

18. Should the CTF Outreach and Assistance Unit attain a participation rate of 100%, or as close as practicable, by eligible schools and libraries for two consecutive years, the Executive Director may discontinue or redeploy the Unit.

19. On September 26, 2006, the FCC established a rural health care pilot program, pursuant to Section 254(h)(2)(A) of the Telecommunications Act of 1996 (Act), and in November 2007, approved $22.1 million over three years to help develop the CTN.

20. Connecting rural medical facilities to urban health care providers furthers the health care goals of the CTF and funding the CTN projects is consistent with CTF purposes.

21. The CTF can already provide discounts on monthly recurring telecommunications service charges for most, but not all, CTN participants.

22. All participants in the CTN should be eligible to receive the 50 percent discount from California Teleconnect Fund for the monthly recurring CTF-eligible telecommunications services related to the CTN not paid for by the FCC's Rural Health Care Pilot Program.

23. The current Public Policy Payphone Program does not work and is not helpful in reaching our universal service goals.

24. Payphones have an important role in meeting our universal service goals, and Californians continue to use public payphones, especially in emergency situations.

25. The public interest requires a modified Public Payphone Policy Program initially for no more than 50 public payphones, supported by a surcharge levied on all California telephone users, in order to further our universal service goals.

26. The Payphone Enforcement Program is not sustainable as a stand-alone program with a separate surcharge.

27. Payphone enforcement duties should continue to be carried out by CPSD and funded through the general PUC fee.

28. The Payphone Enforcement Program surcharge should be discontinued immediately; however, local exchange carriers should continue to report on a monthly basis all payphone location and owner information to aid in the Commission's enforcement efforts.

29. The DDTP programs are working well to advance our universal service goals.

INTERIM ORDER

IT IS ORDERED that

1. Issues relating to the Universal Lifeline Telephone Service (LifeLine) program shall be addressed separately in a future decision.

2. The category of schools eligible to participate in the California Teleconnect Fund (CTF) is expanded to include California community colleges. Appendix B, Rule 8, Section B(1) of D.96-10-066, is amended to read:

> "Public or nonprofit schools providing elementary or secondary education which do not have endowments of more than $50 million and California community colleges shall qualify for the discounted rates for schools."

3. The total CTF discount received by California community colleges is subject to an annual limit of $7.2 million, based on 2007 dollars, adjusted annually based on the Western-CPI rate. Carriers shall promptly submit claims. Payment of claims shall be made on a priority basis determined by the date a properly filed and valid claim is submitted, subject to the annual funding cap.

4. Certificated or registered carriers, separately or jointly with their affiliates or partners, may voluntarily offer Internet access services pursuant to the CTF program, and such offerings shall not be subject to state tariff requirements or Commission regulation. All such offerings shall comply with the CTF rules and requirements and the certificated or registered carrier shall remain responsible for ensuring compliance with CTF rules and requirements.

5. The list of services eligible for the CTF program adopted in Resolution T-16742 (May 8, 2003) shall be expanded to include Internet access services.

6. The Commission will not adjudicate or be a forum for billing, quality of service, or other disputes relative to broadband Internet access services or interstate broadband services except to the extent necessary to administer the CTF program.

7. Non-profit Community-Based Organizations providing 2-1-1 Information and Referral Service shall be eligible to participate in the CTF Program, and the program rules shall be modified to conform to this requirement.

8. The tariff requirements in Universal Service Rules 8.B.(3), 8.C.(1), and 8.D.(3)[158] shall not apply to providers that offer CTF services on a detariffed or non-regulated basis. Therefore, Universal Service Rules 8.B.(3), 8.C.(1), and 8.D.(3) are revised to read:

> 8.B.(3): All carriers that provide on a tariffed basis the services listed in subdivision B. above, shall provide in their tariffs that the rates for qualifying schools and libraries for such services shall be 50% below the rates charged to other businesses for those services.
>
> 8.C.(1): All carriers that provide on a tariffed basis the services listed in this subdivision, shall provide in their tariffs that the rates for

[158] D.96-10-066, Appendix B, 68 CPUC2d at 678-679.

qualifying government owned hospitals and health clinics for such services shall be 50% below the rates charged to other businesses for those same services, or their functional equivalents.

8.D.(3): All carriers that provide on a tariffed basis the services listed in this subdivision, shall provide in their tariffs that the rates for qualifying CBOs for such services shall be 50% below the rates charged to other business for those same services, or their functional equivalents.

9. All carriers that provide CTF services on a detariffed basis and all voluntarily participating providers claiming reimbursement from the CTF program shall include with their CTF claim submittals to the Commission the rates for CTF-eligible services that were in effect at the time of the provisioning of the services for which the claim is submitted or a electronic link to a website with such information.

10. Commission staff shall update the CTF processes to reflect these changes.

11. The Executive Director shall create a California Teleconnect Fund Outreach and Assistance Unit (Unit), either within the CPUC or other state agency, to encourage and assist non-participating schools and libraries to participate in the federal and state programs, and may also provide outreach support for other CTF-eligible entities.

12. The Unit shall have no fewer than two full-time equivalent professional-level positions.

13. The duties of the Unit shall include, but not be limited to, one-on-one coaching on filling out the appropriate forms; setting up an easy to use website to assist applicants with the procedures and forms; regular outreach efforts to non-participating schools and libraries; and presentations at school and library organization functions to encourage participation.

14. The Unit shall be fully functionally no later than July 1, 2009, and should actively coordinate its efforts with the California Department of Education and other agencies as appropriate.

15. The Executive Director may discontinue or redeploy the CTF Outreach and Assistance Unit's functions after two consecutive years of 100%, or as close as practicable, participation by eligible schools and libraries in the federal and state programs has been achieved.

16. All participants in the California Telehealth Network (CTN) granted federal funding by the *2007 RHC PP Selection Order* (*Rural Heath Care Support Mechanism*, WC Docket No. 02-60, *Order*, 22 FCC Rcd 20,360 (2007)) shall be eligible to receive the 50 percent discount from the CTF for the monthly recurring charges for CTF eligible communications services integral to the CTN not otherwise paid for.

17. The CTN participants may apply as a consortium to receive the CTF discount.

18. The duties of the Payphone Enforcement Program are combined with existing enforcement duties within CPSD funded by the fee established by Pub. Util. Code § 431.

19. The Payphone Enforcement Program surcharge applicable to all local exchange carriers and competitive local exchange carriers providing intrastate payphone line service as ordered by D.98-11-029 and as amended in subsequent resolutions is eliminated. To aid in the Commission's enforcement efforts, we will retain the requirement that local exchange carriers report monthly on payphone location and owner information.

20. The Executive Director shall make all reasonable efforts to augment the Commission budget to provide for payphone enforcement duties as required by Pub. Util. Code § 742.

21. The existing Public Policy Payphone Program established pursuant to D.90-06-018 and modified and expanded statewide by D.98-11-029 is eliminated.

22. No later than July 1, 2009, the Executive Director shall implement a limited Public Policy Payphone Program that provides for payment of up to 50% of the otherwise applicable monthly charges subject to the following limitations:

a. No more than 50 public payphones shall initially be funded by the program.

b. The program shall be funded initially by all remaining funds in the existing Payphone Programs' accounts.

c. To the extent additional funds are needed, the Executive Director shall determine an appropriate means to levy a surcharge on all intrastate telephone service ratepayers, which may include utilizing an existing program.

23. Determinations to fund Public Policy Payphones pursuant to the new Program shall be based on the following criteria:

a. enhance public health and safety;

b. rural or remote area with significant public traffic, even if only seasonally;

c. interstate or state highway rest stop;

d. low income or disadvantaged community setting with limited landline telephone availability;

e. demonstrated need for a public payphone, with the request supported by a governmental entity or local community group willing to pay at least half the costs; or

f. presentation of other facts justifying the need for a publicly supported payphone.

24. The new Public Policy Payphone Program shall be administered in a streamlined manner with an eye toward controlling costs.

25. Should the number of public policy payphones in the new Public Policy Payphone Program fall below ten, the Executive Director may recommend to the Commission that the program be terminated.

26. Commission staff shall continue to monitor the Deaf and Disabled Telecommunications wireless equipment pilot program and report back on its results along with any further recommendations to enhance the program.

27. Commission staff shall hold such workshops as may be necessary and helpful in implementing these changes to the Telecommunications Public Policy Programs.

This order is effective today.

Dated _____, at San Francisco, California.