

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division
Policy Analysis Branch

RESOLUTION T-17226
February 4, 2010

RESOLUTION

Resolution T-17226 Approving Termination of the Public Policy Payphone Program as Ordered in Decision (D.) 08-06-020, Due to a Lack of Payphone Providers' Interest in the Program.

SUMMARY

This Resolution terminates the Public Policy Payphone Program (PPPP), pursuant to Decision (D.) 08-06-020, Interim Decision Addressing the California Teleconnect Fund, Payphone Enforcement, the Public Policy Payphone Program, and the Deaf and Disabled Telecommunications Program, issued in Rulemaking (R.) 06-05-028, Rulemaking on the Commission's own Motion to Review the Telecommunications Public Policy Programs. In D.08-06-020, the Commission established a new PPPP and discontinued the old PPPP. The decision also provided for termination of the new PPPP if there are fewer than ten applicants for Public Policy Payphones.

BACKGROUND

D.90-06-018 established, among other things, the original PPPP. D.90-06-018 ordered the Commission's then Advisory and Compliance Division to administer workshops to address the installation of public policy payphones. Following the workshops, the Commission implemented the original PPPP to provide 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 original program and its funding mechanism applied only to the service territories of Pacific Bell (now AT&T) and GTE California Inc. (now Verizon).

D.98-11-029 implemented several changes to the PPPP, including a statewide expansion of the program. D.98-11-029 also refined and added several criteria defining how PPPP locations are selected and established a uniform PPPP funding mechanism and a payphone surcharge rate through which to fund these locations.¹ The public policy

¹ D.98-11-029, O.P. 5: "The public policy payphone program shall continue to be funded from a payphone line surcharge as set forth in the body of this order." O.P. 6: "Pacific Bell (Pacific) and GTE

payphone placement application review and approval process, established as part of the settlement agreement in D.90-06-018, remained in place.²

In 2006, the Commission opened a Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs (R.06-05-028). In this Rulemaking on June 12, 2008, the Commission issued D.08-06-020, an Interim Decision Addressing the California Teleconnect Fund, Payphone Enforcement and Public Policy Payphone Programs, and the Deaf and Disabled Telecommunications Program.

D.08-06-020 discontinued the then existing PPPP and established a new PPPP, by approving funding for (1) the statewide installation of up to fifty public payphones, and (2) paying for up to 50% of each payphone's otherwise applicable monthly charges, supported by a surcharge levied on all intrastate telephone service ratepayers. The decision set several criteria for consideration in selecting placement of public policy payphones.

In D.08-06-020, the Commission stated:

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... However, we agree ...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.³

The Commission also stated:

As set forth by CPA [the California Payphone Association], the plain facts are that this state does not now have a functioning Public Policy Payphone Program. Thus, we can conclusively 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.⁴

California, Incorporated's (GTC) public policy payphone program surcharge rates shall remain in effect until a uniform surcharge rate is adopted." and O.P.7: "All Local Exchange Carriers (LECs) and Competitive Local Exchange Carriers (CLCs) providing intrastate payphone line service shall be subject to the same \$0.10 enforcement program surcharge rate set forth in Resolution T-16181."

² D.98-11-029 at 15. See also Finding of Fact (FOF) 20.

³ Id. at 43.

⁴ Id. at 44-45.

The Commission continued that “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.”⁵ The Commission concluded that “[s]hould 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.”⁶ D.08-06-020 ordered that the program begin by July 1, 2009.

Finally, D.08-06-020 set forth the following criteria for selecting placement of 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.⁷

NOTICE/PROTESTS

Communications Division notified all parties to R.06-05-028 of this draft resolution on January 5, 2010.

DISCUSSION

D.08-06-020 ordered the new PPPP to be implemented by July 1, 2009, with funding provided by remaining funds from the previously established PPPP accounts. To the extent that any additional program funds should be needed, the decision gave authority to the Communications Division (CD) Director to determine an appropriate means to levy a surcharge on all intrastate telephone service ratepayers, and included authority to utilize funds from an existing program.⁸ As of December 1, 2009, The PPPP had a program balance of \$222,196.97.⁹ If the program is discontinued and existing program funds remain unused, resulting fund balances are subject to legislative direction.

To comply with the Commission’s order, CD staff reviewed the existing PPPP application form, and with the cooperation of the Payphone Enforcement Section of the Utility Enforcement Branch in the Commission’s Consumer Protection and Safety Division, updated the form as needed to reflect data requirements for the new PPPP

⁵ Id. at 45.

⁶ Id. at 46. See also O.P. 25.

⁷ Id. at 46. See also O.P. 23.

⁸ Id. at O.P. 22

⁹ Per CPUC Fiscal Office, December 4, 2009.

application form. CD then posted the updated application for the new program with detailed submittal directions on the Commission's internet CD page at ftp://ftp.cpuc.ca.gov/Telco/PPPP_app_2.09.pdf.

For the purpose of forecasting the potential financial impact on the PPPP program balance and its future sustainability, CD staff sent data requests to carriers requesting detailed material and labor costs to estimate potential installation and monthly recurring costs for a payphone in their respective service territories. The carriers provided data indicating that forecast installation costs for up to fifty payphones could reduce the available PPPP program fund by as little as 40% and as much as 60% of the fund balance, with sufficient funds remaining to cover 50% of monthly recurring charges for each payphone without exhausting the fund or reinstating a payphone surcharge for at least five years.

The old PPPP program had approximately twelve payphone sites listed as program participants, ranging in location from Trinity County in the north to Inyo County in the southeast. Additionally, CD staff had seven pending PPPP applications on file submitted between August 2007 and December 2008. Staff contacted each of the old program participants and those who had submitted the now-pending applications via memorandum to notify them of the elimination of the old program, to solicit their interest in the new program, and to request updated information for the new program application process. The memorandum included detailed program selection criteria along with the updated application form. CD staff documented a complete lack of response from old program participants and pending applicants.

Staff also implemented an electronic outreach process to contact all other parties that might be interested in this program. Outreach included (1) all parties on the R.06-05-028 proceeding service list; (2) telecommunications carriers, including the organization which purchased Pacific Bell's (AT&T) payphone network; (3) state payphone associations, which forwarded this notification to their respective proprietary lists of association members; (4) county supervisors and local government entities; (5) the Commission-established Universal Lifeline Telephone Service Trust Committee; (6) the state's Office of Emergency Management; and (7) other public interest groups. Again, staff sent out a memorandum that included detailed program selection criteria along with the updated application form.

CD staff received minimum public response from its outreach effort. In all, staff documented no updated application responses from old program members or pending applicants. Staff documented three telephone inquiries associated with the program; one inquiry from a local government entity, one from a payphone service provider, and one from a rural business (campground) owner. None of these inquiries resulted in a PPPP application. In total, CD received one new PPPP application from a state park.

Due to the public's lack of response, the Commission's news bureau issued a press release in May 2009 titled "CPUC seeks applications for Public Policy Payphone Program", with detailed instructions and contact information. The news bureau also posted this press release on the internet website at http://docs.cpuc.ca.gov/PUBLISHED/NEWS_RELEASE/100772.htm. This posting has yielded no additional PPPP applications to date.

During the PPPP's existence, the need for this program has been discussed at length. Before the issuance of D.98-11-029, workshop participants raised the issue of whether a California PPPP is needed, given that several other states had already determined that there is no need for similar programs. Workshop participants cited the steep decline in potential public policy payphone locations and the overall decline in total payphone locations. In D.98-11-029, the Commission stated: "The public policy payphone program is not intended to be a perpetual program. To this end we concur with the parties' proposals and encourage the parties, to the extent possible, to replace the public policy payphones with alternative services, thereby reducing the need for this program. We also expect that the need for this program will subside."¹⁰

In view of the trend towards fewer payphone service providers provisioning fewer payphone locations due to technology alternatives and reduced revenues, the Commission in D.08-06-020 gave further consideration to whether to continue or discontinue the PPPP program, or replace the old program with a new one. While ultimately ordering a new PPPP program, D.08-06-020 cited data indicating that the number of payphones in California had declined by 36.5% (from approximately 295,000 to approximately 187,000) during a five-year period from March 1999 through March 2004, while a "typical" payphone that yielded approximately \$200 or more in monthly revenue in 1999 now yielded approximately \$120 per month.¹¹ As of April 2006, the number of payphones in California had further diminished to approximately 136,000.¹² The number of statewide payphone access lines continues to decrease.

Extensive outreach and subsequent press releases have failed to attract interest in the new PPPP program. Staff has performed due diligence in following compliance with PPPP-associated orders in D.08-06-020. The new program solicited one application, leaving the new program with fewer than ten participants. Therefore, the Communications Division recommends to the Commission that the PPPP program be terminated.

¹⁰ Id. at 11. See also FOF 17, 18.

¹¹ Id. at 15-16.

¹² R.06-05-028 at 7.

COMMENTS

Public Utilities Code section 311(g)(1) requires that a draft resolution must be served on all parties and subject to a at least 30 days public review and comment period prior to a vote of the Commission. Accordingly, this draft resolution was distributed for comments on January 5, 2010.

FINDINGS

1. D.90-06-018 established a Public Policy Payphone Program in the Pacific Bell (now AT&T) and the GTE California Inc. (now Verizon) service territories to provide payphones to the general public in the interest of public health, safety, and welfare at locations where there would otherwise not be a payphone.
2. D.98-11-029 expanded the PPPP on a statewide basis and implemented several modifications to the program.
3. D.98-11-029 also refined and added several criteria defining how PPPP locations are selected, and established a uniform PPPP funding mechanism and payphone surcharge rate through which to fund payphone locations.
4. In D.08-06-020, the Commission acknowledged that the PPPP is nonfunctional, but that payphones continue to play an important role in meeting the Commission's universal service goals.
5. During 2007, over 5% of all 9-1-1 calls in California (over 900,000) came from payphones.
6. To promote the protection of public safety, health, and welfare, the Commission in D.08-06-020 determined that a new PPPP should be put in place for up to 50 payphones, to be implemented by July 1, 2009.
7. D.08-06-020 set forth the following criteria for selecting placement of 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.

8. In D.08-06-020, the Commission stated: "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."
9. If the program is discontinued and existing program funds remain unused, resulting fund balances are subject to legislative direction.
10. As of December 1, 2009, the PPPP program fund balance was \$222,196.97.
11. To comply with the Commission's order in D.08-06-020, Communications Division (CD) staff, with the cooperation of the Consumer Protection and Safety Division, updated and electronically posted the existing PPPP form on the Commission's CD internet page, and provided new program notification to all old program members and pending applicants.
12. CD staff also performed extensive electronic outreach by memorandum to (1) all parties on the R.06-05-028 proceeding service list; (2) telecommunications carriers including the organization which purchased Pacific Bell's (AT&T) payphone network; (3) state payphone associations, which forwarded this notification to their respective proprietary lists of association members; (4) county supervisors and local government entities; (5) the Commission-established Universal Lifeline Telephone Service Trust Committee; (6) the state's Office of Emergency Management; and (7) other public interest groups. The outreach included detailed program selection criteria along with the updated application form.
13. CD received only one PPPP application in response to the new program established by D.08-06-020.
14. The Commission's news bureau issued a press release in May 2009 to further publicize the Public Policy Payphone Program, with detailed instructions and contact information. The news bureau also posted this press release on the internet website at http://docs.cpuc.ca.gov/PUBLISHED/NEWS_RELEASE/100772.htm. This posting yielded no additional PPPP applications.
15. D.98-11-029 cited an expectation that the need for the PPPP program will eventually subside.
16. There has been a steep decline in the number of statewide payphone locations since the late 1990s.

THEREFORE, IT IS ORDERED that:

1. The Public Policy Payphone Program established in Decision (D.) 08-06-020 is hereby terminated.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on February 4, 2010, the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director