Decision 10-09-028 September 23, 2010

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)

ORDER EXTENDING DEADLINE FOR RESOLVING RULEMAKING

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).

The then-assigned Commissioner issued her scoping memo on July 13, 2007, setting forth the issues to be resolved, and indicating that the Commission's review of these programs may require a multiple-phase proceeding with separate decisions for some of the programs. Pursuant to Pub. Util. Code § 1701.5(a), the Commission should endeavor to resolve the issues in a quasi-legislative proceeding like this one within 18 months after the issuance of a scoping memo that delineates the issues to be decided. Accordingly, the Commission should have resolved all issues raised in the scoping memo by January 13, 2009.

Decision (D.) 08-06-020 addressed four of the five Telecommunications Public Policy Programs at issue in this proceeding. The CTF was expanded to include community colleges, with an initial monetary cap of $7.2 million

annually. An Office of CTF Outreach and Assistance was established. The CTF was made more competitively and technologically neutral. We further removed the tariff requirements related to CTF for non-rate-of-return carriers, and finally, ensured that all participants in the California Telehealth Network were eligible to receive CTF discounts.

The Payphone Enforcement Program was combined with our existing enforcement efforts. In addition, a Public Policy Payphone Program was reestablished, and we delegated to the Executive Director the task of establishing the most appropriate surcharge mechanism, including utilizing an existing program. The ongoing wireless equipment pilot for the DDTP will be monitored for further action as needed.

On February 23, 2009, the Commission issued D.09-02-027 granting the Latino Issues Forum $14,370.73 in intervenor compensation for its substantial contributions to D.08-06-020.

A proposed decision resolving the Commission's review of the remaining Telecommunications Public Policy Program—the Lifeline Program—was mailed for comment on February 11, 2009. A narrowly focused workshop was held on March 6, 2009, with comments and reply comments soon thereafter. All-party meetings were also held. Due to the novelty of the issues presented, the proposed decision was subject to further review, and was subsequently withdrawn from the agenda.

On December 23, 2009, this proceeding was reassigned to Commissioner John A. Bohn. A proposed decision is anticipated to be mailed soon.

Prior to the 18-month deadline established by Pub. Util. Code § 1701.5(a), the Commission had completed its review of four of the five Telecommunications Public Policy Programs and issued a decision on an

intervenor compensation request. The first proposed decision on the final program review was mailed and subject to comment and further Commission review. The record shows that the Commission was diligently pursuing completion of its review of these five programs during the statutory period, and finished its review of four of the five programs within the allotted time period. The final program review will be completed soon.

In view of all these circumstances, we conclude that it would not be inconsistent with the intent of Pub. Util. Code § 1701.5(a), or of our own rules, to extend until November 22, 2010, the deadline for resolving the issues that remain outstanding in this proceeding.

Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving quasi-legislative proceedings. Accordingly, the otherwise applicable period for public review and comment is being waived.

Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The scoping memo was issued on July 13, 2007, and the 18-month deadline was January 13, 2009.

2. The Commission extended the deadline to May 26, 2009, in D.09-03-035; to August 17, 2009, in D.09-06-042; to October 19, 2009, in D.09-08-018; to December 28, 2009, in D.09-10-048; to February 15, 2010, in D.09-12-032; to

April 16, 2010, in D.10-02-028; to June 15, 2010, in D.10-04-019; and to August 23, 2010, in D.10-06-040.

3. The decision completing the Commission's review of four out of the five Telecommunications Public Policy Programs was issued well before the 18-month deadline.

4. A proposed decision was issued in this proceeding on February 11, 2009, resolving the outstanding Lifeline Program issues, and it was to be placed on the Commission's agenda for March 26, 2009, but further review and revisions were required.

Conclusions of Law

1. The intent of Pub. Util. Code § 1701.5(a) is that the Commission decide the issues presented in a quasi-legislative proceeding within 18 months of the time those issues have been delineated, unless the Commission makes findings in a particular case why this 18-month deadline cannot be met.

2. The Commission has been proceeding diligently to resolve all issues in this proceeding.

3. It is consistent with the legislative intent behind Pub. Util. Code § 1701.5(a) to issue an order extending the time within which to decide the issues presented by this Rulemaking.

4. It is appropriate to issue an order extending until November 22, 2010, the time for resolving the remaining issues in this proceeding.

IT IS ORDERED that the time for resolving the issues presented by this quasi-legislative Rulemaking be extended through and including November 22, 2010.

This order is effective today.

Dated September 23, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

Commissioner John A. Bohn, being necessarily absent, did not participate.