

Date of Issuance: 2/26/2010

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Policy Analysis Branch**

**RESOLUTION T-17226  
February 25, 2010**

**R E S O L U T I O N**

**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 or PPP program), 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**

Pursuant to Public Utilities (P.U.) Code section 279(a) and as set forth in D.90-06-018, the Commission created the Payphone Service Providers Committee (PSPC), an advisory board to advise the Commission regarding the development, implementation, and administration of programs to educate payphone service providers, ensure compliance with the Commission's requirements for payphone operations, and educate consumers on matters related to payphones. In D.90-06-018, the Commission also established the PPP and Payphone Service Providers Enforcement (PSPE) programs. P.U. Code section 279 requires that the Commission (1) deposit all revenues the Commission collects to fund the payphone programs into the State Controller's "PSPC Fund"; and (2) only use such revenues for the payphone programs specifically established by D.90-06-018 and section 279. (i.e., the PPP and PSPE programs).<sup>1</sup>

---

<sup>1</sup> P.U. Code §§ 279(b) and (c).

D.90-06-018 also ordered the Commission's then Advisory and Compliance Division (now the Consumer Protection and Safety Division, or CPSD) to administer workshops to address the installation of public policy payphones. Following the workshops, the Commission allocated funds from the 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 line surcharge rate through which to fund these locations.<sup>2</sup> The public policy payphone placement application review and approval process, established as part of the settlement agreement in D.90-06-018, remained in place.<sup>3</sup>

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 (50) 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. D.08-06-020 ordered that the program begin by July 1, 2009. 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

---

<sup>2</sup> D.98-11-029, OP 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 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."

<sup>3</sup> Id. at 15. See also Finding of Fact (FOF) 20.

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.<sup>4</sup>

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.<sup>5</sup>

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."<sup>6</sup> 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."<sup>7</sup>

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.<sup>8</sup>

### **NOTICE/PROTESTS**

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

---

<sup>4</sup> Id. at 43.

<sup>5</sup> Id. at 44-45.

<sup>6</sup> Id. at 45.

<sup>7</sup> Id. at 46. See also OP 25.

<sup>8</sup> Id. at 46. See also OP 23.

## 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.<sup>9</sup> As of February 9, 2010, The PPPP had a program balance of \$220,803.33.<sup>10</sup>

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 CPSD, updated the form as needed to reflect data requirements for the new PPPP 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](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 asking for 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

---

<sup>9</sup> *Id.* at OP 22

<sup>10</sup> Per CPUC Fiscal Office, February 9, 2010.

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](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."<sup>11</sup>

In view of the trend towards fewer payphone service providers provisioning fewer payphone locations due to technology alternatives and reduced revenues, the

---

<sup>11</sup> D.98-11-029 at 11. See also FOF 17, 18.

Resolution T-17226  
CD/FVR

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.<sup>12</sup> As of April 2006, the number of payphones in California had further diminished to approximately 136,000.<sup>13</sup> 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, CD recommends to the Commission that the PPPP program be terminated.

Pursuant to P.U. Code section 279, the remaining balance of monies collected via the PPPP surcharge may be retained within the PSPC Fund which the Commission’s Budget and Fiscal Services Office of the Information and Management Services Division designates as the “0491 Fund.” Historically, CPSD has tracked 0491 monies separately between the PPP and PSPE programs. Nothing in section 279, however, explicitly separates the PSPC Fund into two different accounts for the PPP and PSPE programs.

The PPPP was originally funded by a per payphone line surcharge that was eliminated by Resolution T-16590, effective December 1, 2001. The accumulated PPPP balance remains in this account. The PSPE was originally funded by a Payphone Enforcement Program surcharge that was eliminated by D.08-06-020, which determined that due to the declining number of payphones, this surcharge could no longer continue to support an enforcement staff.<sup>14</sup> Instead, D.08-06-020 determined that CPSD should continue to administer payphone enforcement duties funded through the general PUC fee established by Public Utilities Code section 431.<sup>15</sup> As such, the PSPE is now funded by the PUC Utilities Reimbursement Account, the “0462 Fund”. D.08-06-020 further authorized the Commission’s Executive Director to make efforts to augment the Commission budget to include payphone enforcement duties as required by Public Utilities Code section 742.<sup>16</sup> This Resolution reiterates the Executive Director’s authority to augment the Commission budget to support payphone enforcement duties, which includes the authority to use remaining funds from the terminated PPPP

---

<sup>12</sup> D.08-06-020 at 15-16.

<sup>13</sup> R.06-05-028 at 7.

<sup>14</sup> D.08-06-020 at 43. See also Conclusion of Law (COL) 28, OP 19.

<sup>15</sup> I.d. at 44. See also COL 27, OP 18.

<sup>16</sup> I.d. at 44. See also OP 20.

program, as is now being done by annually appropriating the remaining Fund 0491 balance to fund the PSPE, until this fund is exhausted.

Thus, the fund balance from the discontinued PPPP may be retained for the purpose of administering the remaining payphone enforcement program, the PSPE program, as authorized by D.90-06-018 and P.U. Code section 279. The Commission's Executive Director is authorized to use these remaining funds to administer the PSPE program until such funds are exhausted.

### COMMENTS

In compliance with Public Utilities Code § 311(g), Communications Division mailed a notice letter on January 5, 2010, informing all parties on the R.06-05-028 service list of the availability of the draft of this resolution for public comments at the Commission's website at [http://docs.cpuc.ca.gov/WORD\\_PDF/COMMENT\\_RESOLUTION/112011.PDF](http://docs.cpuc.ca.gov/WORD_PDF/COMMENT_RESOLUTION/112011.PDF). This letter also informed parties that the final conformed resolution adopted by the Commission will be posted and will be available at this same website. The Commission's Division of Ratepayer Advocates (DRA) and the California Payphone Association (CPA) submitted separate comments on January 20, 2010. We address each set of comments below.

#### DRA Comments

DRA concurs with the Draft Resolution's finding that the PPPP is not effectively meeting the Commission's universal service goals due to the small number of these payphones placed in service, and the lack of public interest in installing additional payphones after the Commission issued D.08-06-020.

DRA observes, however, that the Commission's goal "of providing payphones in the interest of public healthy, safety, and welfare at locations where there would otherwise be no payphone, consequently remains unmet." DRA states that while the increase in cellular phone availability increases the availability of telephone communication during emergencies, "it is not enough." DRA believes that "reliable and broadly available emergency telecommunications systems should remain a goal in California", citing recent local and international emergencies that underscore the importance of dependable telecommunications service during natural disasters.

DRA questions the draft Resolution's statement that allocation of the remaining balance of revenues collected via the PPPP surcharge and deposited into the 0491 Fund is subject to legislative direction. So that the Commission can continue to pursue the objectives of health, safety and welfare, DRA recommends that the Commission use

such balance be used for similar purposes and that the Commission express to the legislature the need to pursue emergency telecommunications systems other than payphones. Specifically, DRA recommends that program funds be used to pursue emergency telecommunications systems that are capable of contacting 911-linked emergency services. For example, DRA states that “[existing] roadside emergency telephones may be a good model for an expanded network of emergency telephones, although DRA does not recommend any particular administrative or funding mechanism at this point.”

We limit our response to DRA’s recommendation. Since issuing the Draft Resolution, we have learned that these funds are not subject to legislative direction and may appropriately remain under the Commission’s direction. We have so revised the Draft Resolution to reflect that the Commission may retain the discontinued PPPP monies to administer the remaining payphone enforcement program, the PSPE program.

#### CPA Comments

CPA also concurs with the Draft Resolution. CPA agrees that the Draft Resolution presents an accurate history of the PPPP and supports the recommendation that the PPPP be terminated, but also asserts that the decline in payphone availability supports a presumption that the remaining payphones serve essential public needs. Additionally, CPA asserts that “given the increasing cost of landline residential telephone service, the unregulated status of wireless rates, and the serious financial hardships facing a substantial segment of California’s population, access to public telephone service is arguably an essential element of Universal Lifeline Telephone Service (ULTS).” CPA concludes that the Commission should remain sensitive to the needs of payphone users and payphone service providers so that payphone services continue to remain available as an important means of telecommunications network access in the future.

We limit our response to CPA’s statement that public telephone service and access remains essential, while promoting that the Commission considers future support of payphone service and access through the ULTS. The Commission’s consideration of payphone service and access for support through the ULTS should be addressed through other appropriate proceedings. As such, CPA is free to participate in other proceedings that address ULTS policy.

#### FINDINGS

1. Pursuant to D.90-06-018 ordered and Public Utilities Code section 279, the Commission created the Payphone Service Providers Committee and a funding

mechanism for the development of payphone programs, which included the Public Policy Payphone Program (PPPP), and the Payphone Service Providers Enforcement (PSPE) Program.

2. D.90-06-018 also ordered workshops to discuss the installation of Public Policy Payphones. Following the workshops, the Commission allocated funds from the 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 Pacific Bell (now AT&T) and the GTE California Inc. (now Verizon) service territories.
3. D.98-11-029 expanded the Public Policy Payphone Program on a statewide basis and implemented several modifications to the program.
4. D.98-11-029 also refined and added several criteria defining how Public Policy Payphone Program locations are selected, and established a uniform Public Policy Payphone Program funding mechanism and payphone surcharge rate through which to fund payphone locations.
5. D.08-06-020 discontinued the existing Public Policy Payphone Program and established a new PPPP, for installation up to fifty (50) payphones, to be implemented by July 1, 2009.
6. In D.08-06-020, the Commission acknowledged that the existing Public Policy Payphone Program is nonfunctional, but that payphones continue to play an important role in meeting the Commission's universal service goals.
7. During 2007, over 5% of all 9-1-1 calls in California (over 900,000) came from payphones.
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. 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.

10. As of February 9, 2010, the Public Policy Payphone Program fund balance was \$220,803.33.
11. To comply with the Commission's order in D.08-06-020, Communications Division staff, with the cooperation of the Consumer Protection and Safety Division, updated and electronically posted the existing Public Policy Payphone Program form on the Commission's CD internet page, and provided new program notification to all old program members and pending applicants.
12. Communications Division 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. Communications Division received only one Public Policy Payphone Program 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](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 Public Policy Payphone Program will eventually subside.
16. There has been a steep decline in the number of statewide payphone locations since the late 1990s.
17. D.08-06-020 discontinued the Payphone Enforcement Program surcharge that originally funded the Payphone Service Providers program, and ordered that the program be funded through the PUC fee established by Public Utilities Code section 431. The Consumer Protection and Safety Division continues to administer these responsibilities, and the program is now funded through the PUC Utilities Reimbursement Account.

18. D.08-06-020 further authorized the Commission's Executive Director to make efforts to augment the Commission budget to include payphone enforcement duties as required by Public Utilities Code section 742. As such, the remaining balance from Fund 0491 is being appropriated annually for payphone enforcement duties until this fund is exhausted.
19. The Commission may retain the remaining PPPP fund balance collected via the Public Policy Payphone Program surcharge within the 0491 Fund for the purpose of administering the remaining payphone program, the Payphone Service Providers Enforcement program, as authorized by D.90-06-018 and P.U. Code section 279.
20. A notice letter was emailed on January 5, 2010 informing all parties on the R.06-05-028 service list of the availability of the draft of this resolution for public comments at the Commission's website at [http://docs.cpuc.ca.gov/WORD\\_PDF/COMMENT\\_RESOLUTION/112011.PDF](http://docs.cpuc.ca.gov/WORD_PDF/COMMENT_RESOLUTION/112011.PDF). This letter also informed parties that the final conformed resolution adopted by the Commission will be posted and available at this same website.
21. The Commission's Division of Ratepayer Advocates submitted timely comments on January 20, 2010. The comments are addressed in this resolution.
22. The California Payphone Association submitted timely comments on January 20, 2010. The comments are addressed in this resolution.

**THEREFORE, IT IS ORDERED** that:

1. The Public Policy Payphone Program established in Decision (D.) 08-06-020 is hereby terminated.
2. The Commission shall retain revenues tracked separately for the terminated Public Policy Payphone Program, and use these funds until exhausted to administer the remaining payphone enforcement program, the Payphone Service Providers Enforcement program, as authorized by D.90-06-018 and P.U. Code section 279.

