LEG-81
(3505)

STATE OF CALIFORNIA | Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 4, 2004

To: The Commission
(Meeting of May 6, 2004)

From: Alan LoFaso, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1276 (Bowen) - Telecommunications: telephone service rates**
As Amended April 1, 2004

Legislative Subcommittee Recommendation: Support.

Summary: This bill would extend the High Cost A and B Fund programs for four additional years.

Digest: Existing law, P.U. Code sec. 739.3, authorizes the Commission High Cost Fund A (for small, traditional cost-of-service regulation telephone corporations) and B (for NRF-regulated telephone corporations) programs to establish a fair and equitable local rate structure aided by transfer payments to small independent telephone corporations serving rural and small metropolitan areas, effective until January 1, 2005.

This bill would extend this provision until January 1, 2009.

Analysis: In accordance with PU Code section 739.3, the Commission created the CHCF-A and CHCF-B programs to provide a source of supplemental revenues to local telephone exchange (LECs) carriers for the purpose of minimizing any rate disparity of basic telephone services between rural and metropolitan areas, in furtherance of the goals of universal service. Both the CHCF-A and the CHCF-B programs are funded by an all-end-user surcharge billed and collected by telecommunications carriers.

CHCF-A: The CHCF-A provides supplemental revenues to 17 small, rural LECs providing services in high cost areas. The 17 small LECs are: Calaveras Telephone Company, California-Oregon Telephone Company, Citizens Telecommunications Company Of The Golden State, Citizens Telecommunications Company Of Tuolumne, Ducor Telephone Company, Evans Telephone Company, Foresthill Telephone

Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, Verizon West Coast Incorporated, The Volcano Telephone Company, and Winterhaven Telephone Company. These companies currently serve, in total, approximately 125,000 access lines and the surcharge rate for the CHCF-A is 0.170% of the intrastate telephone bill.

CHCF-B: The CHCF-B provides subsidy to large and mid-size LECs providing services in high cost areas. These LECs are SBC, Verizon California, Inc., Citizens Telecommunications of California, and Roseville Telephone Company. The purpose of the subsidy is to keep basic telephone service affordable and to meet the Commission's universal service goals. These carriers serve approximately 3.6 million access lines, and the surcharge rate for this program is 2.20% of the intrastate telephone bill.

The carriers remit the surcharge monies to the financial institutions, as recommended by the Commission and authorized by the State Treasury and State Controller, for deposits into the CHCF-A and CHCF-B administrative committee funds, in accordance with PU Code sections 275 and 276 respectively.

In Fiscal Year (FY) 2002-03, the transfer payments or subsidies granted under the CHCF-A amounted to $36 million. The Telecommunications Division (TD) estimates that approximately $37 million will be granted in FY 2003-04 and approximately $36 million in FY 2004-05. With respect to the CHCF-B program, the Commission granted $434 million in subsidies in FY 2002-03. TD estimates that approximately $515 million in FY 03-04 and approximately $433 million in FY 2004-05 will be granted.

PU Code Sections 275 and 276: The Commission created the CHCF-A and CHCF-B advisory boards in accordance with PU Code section 275 and 276 respectively. These code sections also require the Commission to transfer moneys received from the carriers for the CHCF-A and CHCF-B programs to the State Controller for deposits into the CHCF-A and CHCF-B administrative committee funds. Sections 275 and 276 will expire on January 1, 2006. Thus, while section 739.3 is scheduled to sunset on January 1, 2005, sections 275 and 276 are not scheduled to sunset until January 1, 2006.

Given the difference in the sunset dates, it is unclear as to what will happen with the CHCF-A and CHCF-B advisory boards if SB 1276 does not pass and the CHCF-A and CHCF-B programs cease to exist.

Fiscal Impact: If SB 1276 does not pass, both the CHCF-A and CHCF-B programs will cease to exist after January 1, 2005 and the following would result as a consequence:

1. Loss of transfer payments or subsidies currently received by telephone corporations from the CHCF-A and CHCF-B programs;

2. Substantial increases in telephone rates in the areas served by the CHCF-A and CHCF-B carriers in order to recover the cost of providing telephone service in the high cost areas; and
3. Ratepayers will be adversely affected.

Sindy Yun of the Commission's Legal Division wrote substantial portions of this analysis.

LEGISLATIVE HISTORY

Sen E.U&C: 5-1 (do pass) (4/13/04)
Sen. Appropos.: 8-2 (do pass) (5/3/04)

SUPPORT/OPPOSITION

Support: SBC, California Telephone Association, AT&T, Roseville Telephone.

Opposition: None on file.

LEGISLATIVE STAFF CONTACT

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Date: May 4, 2004

BILL LANGUAGE:

BILL NUMBER: SB 1276 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 1, 2004

INTRODUCED BY Senator Bowen

FEBRUARY 13, 2004

An act to amend Section ~~874~~ *739.3* of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1276, as amended, Bowen. Telecommunications: ~~lifeline~~ telephone service rates.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, and authorizes the commission to fix just and reasonable rates and charges. Existing law, until January 1, 2005, requires the commission to develop, implement, and maintain a program to establish a fair and equitable local rate structure designed to reduce any disparity in rates charged by small independent telephone corporations serving rural and small metropolitan areas, and a competitively neutral, and broadbased program to provide for transfer payments to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. Pursuant to this requirement, the commission has imposed a surcharge to intrastate telephone service to fund the transfer payments.

This bill would extend this program until January 1, 2009. By extending the program, the bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

~~The Moore Universal Telephone Service Act established the Universal Lifeline Telephone Service (ULTS) program in order to provide low-income households with access to affordable basic residential telephone service. ULTS rates are required to be set at no more than 50% of either the basic rate for measured service or the basic flat rate service, as applicable, exclusive of federally mandated end user access charges, that are available to the residential subscriber.~~

~~This bill would specify that ULTS rates are required to be set at no more than 50% of the basic rate for measured service or the basic flat rate service, as applicable, exclusive of federally mandated end user access charges, that are available to the residential subscriber from the telephone corporation offering the service.~~

Vote: ~~majority~~ *2/3* . Appropriation: no. Fiscal committee: ~~no~~ *yes* .
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section ~~874~~ *739.3* of the Public Utilities Code is amended to read:

~~874. The lifeline telephone service rates and charges shall be~~

739.3. (a) The commission shall develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by transfer payments to small independent telephone corporations serving rural and small metropolitan areas. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies.

(b) For purposes of this section, small independent telephone corporations means those independent telephone corporations serving rural areas, as determined by the commission.

(c) The commission shall develop, implement, and maintain a suitable, competitively neutral, and broadbased program to establish a fair and equitable local rate support structure aided by transfer payments to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. The commission shall develop and implement the program on or before October 1, 1996. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies. The commission shall structure the program required by this subdivision so that the amount of each transfer payment reasonably equals the value of the benefits of universal service to the transferor entity and its subscribers. Except as otherwise explicitly provided, this subdivision does not limit the manner in which the commission collects and disburses funds, and does not limit the manner in which it may include or exclude the revenue of transferring entities in structuring the program.

(d) The commission shall investigate subsidy reduction, or elimination of subsidies in service areas with demonstrated competition.

(e) Not later than February 1, 2001, the Legislative Analyst shall conduct a review of the state's universal telephone service program, including subsequent modifications as appropriate, and report to the Governor and the Legislature as part of the Legislative Analyst's analysis of the Budget Bill to be issued in February 2001. In evaluating the program, the Legislative Analyst shall consider all of the following:

(1) The findings of the report required by subdivision (e).

(2) An assessment of whether any identified problems are issues that affect the continued implementation of this chapter or issues that warrant revisions of statutes or regulations.

(f) This section shall remain in effect until January 1, ~~2005~~ *2009*, and as of that date is repealed, unless a later enacted statute ~~, which~~ *that* becomes effective on or before January 1, ~~2005~~ *2009*, deletes or extends that date.

~~as follows:~~

~~(a) In a residential subscriber's service area where measured service is not available, the lifeline telephone service rates shall not be more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential subscriber from the telephone corporation offering the service.~~

~~(b) In a residential subscriber's service area where measured service is available, the subscriber may elect either of the following:~~

~~(1) A lifeline telephone service measured rate of not more than 50 percent of the basic rate for measured service, exclusive of federally mandated end user access charges, available to the residential subscriber from the telephone corporation offering the service.~~

~~(2) A lifeline flat rate of not more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential subscriber from the telephone corporation offering the service.~~

~~(c) The lifeline telephone service installation or connection charge, or both, shall not be more than 50 percent of the charge for basic residential service installation or connection, or both. The commission may limit the number of installation and connection charges, or both, that may be incurred at the reduced rate in any given period.~~

~~(d) There shall be no charge to the residential customer who has filed a valid eligibility statement for changing out of lifeline service.~~

~~(e) The commission shall assess whether there is a problem with customers who fraudulently obtain lifeline telephone service. If the commission determines that there is a problem, it shall recommend and promulgate appropriate solutions. This assessment and the solutions determined by the commission shall not, in and of themselves, change the procedures developed pursuant to Section 876.~~