BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Update the California Universal Telephone Service (LifeLine) Program.	Rulemaking 20-02-008

OPENING COMMENTS OF THE PUBLIC ADVOCATES OFFICE ON THE PROPOSED DECISION OF COMMISSIONER SHIROMA ESTABLISHING SPECIFIC SUPPORT AMOUNTS AND MINIMUM SERVICE STANDARDS FOR CALIFORNIA LIFELINE AND AUTHORIZING REPLACEMENT OF FEDERAL SUPPORT FOR WIRELINE PARTICIPANTS

VANESSA M. BALDWIN
Attorney for

Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-3942
E-Mail: Vanessa.Baldwin@cpuc.ca.gov

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TABLE OF CONTENTS

Pages

TABLE OF AUTHORITIES

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Update the California Universal Telephone Service (LifeLine) Program.	Rulemaking 20-02-008

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I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission ("Cal Advocates") submits these Opening Comments on the September 4, 2020 Proposed Decision of Commissioner Shiroma Establishing Specific Support Amounts And Minimum Service Standards For California LifeLine And Authorizing Replacement Of Federal Support For Wireline Participants ("PD"). The Commission takes an important and necessary step towards expanding access to essential broadband services for low-income families by incorporating wireline broadband service in the California Universal LifeLine Telephone Service Program ("LifeLine"). The inclusion of wireline broadband service in LifeLine is essential to support distance learning, telehealth, and telework needs of low-income families especially during the current COVID-19 pandemic. Given more than six months have passed since the start of the pandemic and many Californians may be in need of affordable broadband options to perform these essential activities, Cal Advocates urges the Commission to implement the PD's interim rules swiftly and with urgency. Distance learning, for instance, has already commenced in many schools across California and may be unachievable for those students who do not have reasonably priced broadband options.

Cal Advocates identifies the following legal, technical, and factual errors and inconsistencies in the PD related to Wireless Specific Support Amounts ("SSA") and Minimum Service Standards ("MSS") and Measured Rate Service of LifeLine:

1. The PD incorrectly states that the Commission authorized LifeLine to reimburse wireless service providers a $39 service connection charge to offset the costs of free mobile devices. Commission Decision (D.)17-01-032 does not allow LifeLine service providers to use the $39 service connection charge reimbursement to offset the costs of free mobile devices. The PD should be revised to remove references that the $39 service connection charge reimbursement offsets the costs of mobile devices.
2. The Commission should direct the Communications Division to develop and adopt a process with guidelines to review the Tier 2 Advice Letters proposing wireless LifeLine Service Plans.
3. The PD is inconsistent with regard to the start and end dates for the $2 monthly bill credit for measured rate customers transitioning to flat rate service and should therefore be revised to specify a clear start and end date for the disbursal of the $2 bill credit.

II. DISCUSSION

A. Wireless SSA and MSS Proposals

1. The Commission Has Not Authorized the $39 Service Connection Charge Reimbursement to Offset the Cost of Mobile Devices.

The PD errs in concluding that "...the Commission authorized the Program to pay $39 service connection fees to offset the costs of free mobile devices."[1] No such authorization exists. Instead, in D.17-01-032 the Commission authorized LifeLine to pay the $39 service connection charge reimbursement in only two circumstances: i) when the LifeLine participant establishes LifeLine wireless telephone service for the first time; and ii) when switching from one LifeLine telephone service provider, whether wireline or wireless, to another LifeLine wireless telephone service provider.[2] The Commission never authorized the $39 service connection subsidy to apply to the cost of mobile devices. Consequently, the Commission should correct this error by removing the PD's conclusion that it authorized LifeLine to pay the $39 service connection charge to offset the cost of free mobile devices.

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[1] Proposed Decision Establishing Specific Support Amounts and Minimum Service Standards for California Lifeline and Authorizing Replacement of Federal Support for Wireline Participants, R. 20-02-008, September 4, 2020 [hereafter "Proposed Decision"], Conclusions of Law 8, p. 27.

[2] Decision Modifying the California Lifeline Program in Accordance with Assembly Bill 2570 and the Federal Communications Commission's Third Report and Order, R. 11-03-013, January 19, 2017, Ordering Paragraph 1, p. 56.

In addition, the Commission should address a citation error in the discussion of Section 4.1 '*Calibrating the wireless tiers*' where the PD notes that, "wireless providers previously asserted that they use LifeLine's $39 wireless service connection charge reimbursements to offset the costs of providing free mobile devices."[3] The PD cites the discussion in D.17-01-032, pages 15-16, to support this claim.[4] However, pages 15-16 of D.17-01-032 outline the cap (i.e. $ 39) and disbursement limit (i.e. no more than twice per LifeLine participant per year) of the reimbursement amount[5] rather than wireless providers' use of this amount to provide free mobile devices. The only reference to providing free mobile devices in D.17-01-032 is on page 14 where wireless carriers assert that "…non-recurring cost reimbursements should be available to offset the cost of providing smartphones."[6] This assertion is a recommendation to the Commission rather than a statement of current practice.

The Commission has not authorized wireless LifeLine service providers to use the $39 service connection charge reimbursement to offset the costs of providing free mobile devices. The PD should therefore correct the factual error in Section 4.1 to clarify that D.17-01-032 prohibits the use of LifeLine subsidies to offset the costs of providing free mobile devices to participants.

2. The Commission Must Ensure the Communications Division Develops and Adopts a Process with Guidelines to Review the Tier 2 Advice Letters.

Public Utilities Code section 709(a) establishes the policy to "continue universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians." Consistent with this policy, the Commission should require the Communications Division to develop a process with consistent guidelines to review and provide Tier 2 Advice Letters. This is necessary to ensure that LifeLine will continue to offer affordable and high-quality services. The PD currently lacks the specificity needed to

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[3] Proposed Decision, p. 10.

[4] Proposed Decision, p. 10 at footnote 30.

[5] Decision Modifying the California Lifeline Program in Accordance with Assembly Bill 2570 and the Federal Communications Commission's Third Report and Order, R. 11-03-013, January 19, 2017, p. 15-16.

[6] Decision Modifying the California Lifeline Program in Accordance with Assembly Bill 2570 and the Federal Communications Commission's Third Report and Order, R. 11-03-013, January 19, 2017, p.14.

implement the LifeLine program consistent with Pub. Util. Code section 709(a).[7] For example, if the Communications Division reviewed Advice Letter applications on a rolling basis, it could receive service provider A's "Upgrade" plan offering 12 Gigabytes ("GB") of Data with $30 out of pocket costs at one point in time and then service provider B's application at a later date proposing an "Upgrade" plan offering 12 GB Data with $30 out of pocket costs that also includes hotspot functionality. Because the proposed plans were not submitted at the same time, the Communications Division would not be able to ensure a consistent approval or review of service providers' plans. Specifically, if the Communications Division approved service provider A's plan since it was submitted first, it would be difficult to continue to justify provider A's plan when service provider B later offered a nearly identical data plan with additional features for the same cost. If service plans were approved on a rolling basis without clear guidelines for review, customers may not have the opportunity to purchase the most competitive plan at the most affordable price, which is inconsistent with the policy goal of ensuring the "widespread availability of high-quality telecommunications services to all Californians."[8]

As an example, the Communications Division could require all service providers to submit their applications on the same timeline, such as January 1 of each calendar year, with instructions to include specific information about their plans, including at a minimum, the amount of wireless data offered per month, additional features such as hotspot capabilities, out of pocket costs, and any other terms and conditions. Establishing a process such as this would allow for greater uniformity and consistency for staff to compare the proposed plans to similar plans available on the retail market and apply the metrics adopted in the affordability decision, D.20-07-032.

Cal Advocates recommends modifying Ordering Paragraph 2 to direct the Communications Division to develop a consistent process with standardized criteria and timeline

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[7] Proposed Decision, p. 13. The PD does mention using D.20-07-032 as a basis for review, D.20-07-032 adopted three separate metrics with which the Commission may assess the relative affordability of various utility services, including telecommunications. However, no thresholds for affordability were defined in the Decision and the Decision specifically excludes the impacts of low-income subsidy programs such as LifeLine in its affordability metrics.

[8] Pub. Util. Code section 709(a).

for assessing the wireless plans proposed in Advice Letters. The modified Ordering Paragraph, as indicated by the underlined text, should add:

> 2. Within 45 days from the adoption of this Decision the Communications Division shall develop and adopt standardized timeline and criteria for the review of the Family or Upgrade Plans using the metrics adopted in D.20-07-032.

B. Measured Rate Service

1. The Commission Should Specify the Start and End Dates for the $2 Bill Credit for Measured Rate Customers transitioning to Flat Rate Service.

The PD correctly states that measured rate wireline voice service is an outdated, costly arm of the LifeLine program that should be eliminated.[9] However, the proposed plan for transitioning existing measured rate customers to flat rate service is ambiguous and should be clarified. The PD proposes a $2 per month transitional bill credit for measured rate LifeLine customers for the duration of the six month transition period.[10] Regarding this six months transition period, the PD's Findings of Fact states that, "[r]eimbursing wireline providers for providing a $2.00 transition bill credit per participant that transitions from a measured rate plan to a flat rate plan for the first six months after the transition would cost the Program an estimated $75,000."[11] However, the PD is unclear if the six month transition period would be individualized for each customer, for each LifeLine service provider, or if there will be a standardized six month transition period for all measured rate customers regardless of service provider. Cal Advocates recommends that the PD should clarify that each individual customer should have their own six-month transition period commencing on the day they successfully transition from measured rate to flat rate service and ending six months afterwards. This approach would avoid customers being penalized for the service providers' delay in transitioning them from a measured rate to a flat rate service, as would be the case if there was a fixed window for claiming the $2 transitional bill credit. For additional clarity, the PD should also specify the last date by which all measured rate customers will transition to flat rate service. The Commission should update the PD to clarify the start and end dates for this six-month transition

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[9] Proposed Decision, pp. 17-18.

[10] Proposed Decision, p. 21.

[11] Proposed Decision, Findings of Fact 14, pp. 25-26.

period as well as the transition deadline. Ordering Paragraph 5, as indicated by the underlined text, should be modified as follows:

> 5. The California Universal Telephone Service Program fund is authorized to reimburse wireline providers for providing a $2.00 transition bill credit per participant that transitions from a measured rate plan to a flat rate plan for the first six months after the participant's transition. The $2.00 bill credits shall not impact the Specific Support Amounts calculation and shall not be included in the lost revenue calculation. The LifeLine wireline providers shall transition all existing measured rate plan customers to flat rate plans by no later than nine months from the time a Decision is adopted.

III. CONCLUSION

For the reasons stated herein, the Commission should adopt Cal Advocates' recommended changes to the PD as contained in Appendix A to these comments. The changes are necessary to address factual, legal and technical errors and to ensure the prudent fiscal management of LifeLine's funds and that LifeLine participants have access to affordable service plans that meet their needs.

Respectfully submitted,

/s/ VANESSA M. BALDWIN

Vanessa M. Baldwin
Attorney for

Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-3942
E-Mail: Vanessa.Baldwin@cpuc.ca.gov

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Appendix A

(Proposed Modifications to Findings of Fact and Conclusions of Law)
Underline indicates an addition; strikethrough indicates removal.

Findings of Fact –

14. Reimbursing wireline providers for providing a $2.00 transition bill credit per participant that transitions from a measured rate plan to a flat rate plan for first six months after each participant's ~~the~~ transition would cost the Program an estimated $75,000.

18. Establishing a process with consistent guidelines to review and provide Tier 2 Advice Letters is necessary so that LifeLine continues to offer affordable and high-quality services.

Conclusions of Law –

8. Wireless SSA and MSS levels should not be designed to offset the costs of free mobile devices. ~~since the Commission authorized the Program to pay $39 service connection fees to offset the costs of free mobile devices.~~

~~9. California LifeLine should exercise its bulk purchasing power to secure volume discounts for participants.~~

12. Wireless providers should be required to file a Tier 2 advice letter to request the Communications Division's review of terms and conditions of the proposed Family Plans or Upgrade Plans, including the affordability of out-of-pocket costs for participants and any consequences of non-payment of copayments. Communications Division shall create a standardized criteria and timeline for the review of the Family or Upgrade Plans using the metrics adopted in D.20-07-032. The Tier 2 advice letter shall include the web address for the provider's California LifeLine web page.

21. Each provider should file a Tier 2 advice letter to implement the transition of participants from measured rate plans to flat rate plans, including its plan to notice the participants about the expected bill impacts of the transition to flat rate plans during the participant's six-month transition period and thereafter.

23. The Commission should reimburse wireline providers for providing a $2.00 transition bill credit per participant that transitions from a measured rate plan to a flat rate plan for the first six months after the participant's transition.