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

Order Instituting Rulemaking to Update the )  
California Universal Telephone Service )  
(California LifeLine) Program. )

Rulemaking 20-02-008  
(Issued March 4, 2020)

**COMMENTS OF THE CALIFORNIA EMERGING TECHNOLOGY FUND  
TO PROPOSED DECISION ESTABLISHING SPECIFIC SUPPORT AMOUNTS  
AND MINIMUM SERVICE STANDARDS FOR CALIFORNIA LIFELINE AND  
AUTHORIZING REPLACEMENT OF FEDERAL SUPPORT  
FOR WIRELINE PARTICIPANTS**

Sunne Wright Peak, President and CEO  
Susan E. Walters, Senior Vice President  
California Emerging Technology Fund  
414 13<sup>th</sup> Street, Suite 200B  
Oakland, California 94612  
Telephone: (415) 744-2385  
Email: [sunne.mcpeak@cetfund.org](mailto:sunne.mcpeak@cetfund.org)  
Email: [susan.walters@cetfund.org](mailto:susan.walters@cetfund.org)

Rachelle Chong, Special Counsel to California  
Emerging Technology Fund  
Law Office of Rachelle Chong  
345 West Portal Avenue, Suite 110  
San Francisco, California 94127  
Telephone: (415) 735-0378  
Email: [rachelle@chonglaw.net](mailto:rachelle@chonglaw.net)

September 24, 2020

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Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, the California Emerging Technology Fund (“CETF”) hereby files its Opening Comments on the Proposed Decision of Commissioner Shiroma, entitled “Decision Establishing Specific Support Amounts and Minimum Service Standards for California Lifeline and Authorizing Replacement of Federal Support for Wireline Participants” (“Proposed Decision” or ‘PD’), dated September 4, 2020. In its prior filings as a party, CETF recommended that, in light of the essential nature of broadband service to California residents for education, health, economic and social activities, this Commission move swiftly to approve affordable and reliable Broadband LifeLine plans for all eligible consumers with both wireline and wireless options. We appreciate the speed at which the PD issued. The need for the LifeLine plans in this PD is more urgent given the continuing COVID-19 pandemic which has confined persons to their homes for extended periods of time. *Broadband is the literal lifeline for these consumers to interact with the outside world.*

**I. Summary**

Overall, CETF is pleased with the direction of the PD, and focuses its comments on increasing the skimpy data allowances in the wireless and wireline plans which ignore the data from the FCC’s 2018 Communications Marketplace Report (FCC Report), more clarity in the wireless plans (particularly the Family Plan), providing an “affordability” definition for the Tier 2 advice letter process to provide guidance to Communications Division staff, supporting the elimination of the measured rate plans, and instituting a rulemaking on contribution reform.

## **II. CETF Supports the Proposed Decision and Praises Swift Action to Bring Broadband to LifeLine Eligible Households**

CETF appreciates the difficult job before the Commission in this decision. All eyes are on this Commission to bring robust and affordable broadband service to low-income households in our state during these difficult times, which include the COVID-19 pandemic emergency, the resulting economic recession, wildfire disasters, rolling blackouts and Public Safety Power Shut offs. The need for affordable broadband and voice for critical communications has never been so acute in our state's history. CETF again commends the Commission for defining broadband as "an essential utility service" in Decision No. (D.) 20-07-032. There, the Commission also stated "the Commission has a role in closing the digital divide in California and bringing advanced communications services, including broadband internet access, to all Californians."<sup>1</sup> This important leadership is critical at this moment in time.

Overall, CETF supports the PD with minor exceptions, and urges the Commission to move quickly to approve it and thus bring affordable wireless and wireline broadband to all eligible households. There is clearly more work to be done, and CETF is pleased to see Commission recognizes this in its quest to improve access to affordable, high quality broadband plans in the proceeding. CETF specifically agrees that more information needs to be collected as to program participant needs, affordability of plans, program design issues being looked at in the Program Assessment that is underway, and meaningful contribution reform.<sup>2</sup>

## **III. CETF Supports the Greater Data Allowance Reflected in the PD's Revised Wireless SSA and MSS Tiers but Argues for More Data Based on the FCC Report**

CETF is encouraged by the PD's wireless specific support amount (SSA) and minimum service standard (MSS) plans which increase data allowance offerings for LifeLine users but also took into consideration the important aspect of affordability of the plans for users. CETF continues to advocate for increased data allowances in Attachment 1 for the Basic and Standard Plans based on the FCC Report. Overall, however, CETF finds that the Proposed Decision puts

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<sup>1</sup> D.20-07-032, at Conclusion of Law 3 and 4.

<sup>2</sup> PD, at 7.

forward a fair and reasonable framework for the next year of the LifeLine program. These are hard choices; the Commission has done its best to make a fair choice.

CETF makes these suggestions and comments on the key aspects of the wireless tiers at page eleven of the PD. CETF agrees that no-cost plans remain critically important during the difficult times. In Attachment 1 to the PD, CETF advocates that the Basic Plan have an increased mobile data allowance of 6 GB instead of 4 GB, and that the Standard Plan have an increased mobile broadband allowance of 8-11 GB, instead of 6 GB. The PD itself states that the Commission will rely on the FCC's 2018 Communications Marketplace Report, the best source of data available. CETF agrees. The FCC Report shows that average general market data consumption for customers was 6.6 GB per month in 2018, with mobile data consumption increasing by 30% annually from 2015 to 2018. **The PD then estimates that average general market data consumption in 2019 will be over 8.5 GB per customer and over 11 GB in 2020.**<sup>3</sup> In CETF's August 6, 2020 Comments, based on survey data, CETF recommended that wireless tiers be adjusted to allow a single student up to 6 GB of mobile data and two students to access 12 GB of mobile data for distance learning.<sup>4</sup> (This excludes the needs of any adults in the household, however.) **Either source argues for the Basic Plan to have at least 6 GB and the Standard Plan to have a data allowance in the range of 8-11 GB.** Yet the PD does not create plans with data allowances consistent with the FCC Report on which it says it will rely. CETF would find 6-8 GB of data acceptable given the Upgrade Plan would provide 12 GB, and urges this Commission to amend Attachment 1, Basic Plan to allow 6 GB and the Standard Plan to have 8 GB for the mobile broadband allowance/month.

CETF finds the revised and renamed Upgrade Plan a positive develop which it can support. Given the FCC Report, CETF supports a minimum of 12 GB of mobile data and urges providers to have various tiers of speeds at affordable rates.

CETF finds the "Family Plan" in Attachment 1 to the PD to be very confusing and unclear as written. First, CETF finds the "Family Plan" inappropriately named since only one line is provided at the rate set forth in Attachment 1. The "Family Plan" name implies more than

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<sup>3</sup> PD, at 7-8.

<sup>4</sup> Reply Comments of CETF to Straw Proposal Addressing Specific Support Amount for LifeLine Program, at 3 (dated Aug. 6, 2020) (CETF Reply Comments).

one line, which is what it means in most retail wireless provider parlance.<sup>5</sup> Second, CETF is pleased to see a 12 GB data allowance provided in this plan, supported by the FCC Report on per person data. Third, the description of the Family Plan in Attachment 1, in footnote \*\*\* does not make logical sense. Footnote \*\*\* initially says the Family Plan additional line do not receive a California LifeLine subsidy. The footnote goes on to state that a Family Plan line is an addition to the Standard Plan, and if the participant fails to make the Family Plan copayments, the Family Plan Line 1 reverts to the Standard Plan. This implies one must buy a Standard Plan line to be eligible to buy a Family Plan line for a second person in the household. Yet, under the Family Plan, it lists a CA SSA as \$14.85 (same as the Standard Plan CA SSA amount). Only one LifeLine CA SSA may be given to one household. Thus, CETF suggests that the \$14.85 CA SSA (and the Federal MSS Subsidy \$9.25) should be removed for the Family Plan in the chart. Better and more accurate explanation is warranted for the Family Plan to make it clear that purchase of a Standard Plan is a prerequisite to be eligible to buy an additional line under the Family Plan. CETF infers that the purpose of the Family Plan is to let a household first buy a Standard Plan line, then through the LifeLine Program obtain an additional line for another family member on the Family Plan at a particular “co-payment or prepayment” (the rate of which must be approved by Communications Division staff via the Tier 2 advice letter process). If so, CETF requests clearer discussion of this aspect in the PD and on Attachment 1. In addition, the PD should clearly address whether the Family Plan line provides an CA SSA and Federal MSS subsidy to the provider.

CETF supports the Tier 2 Advice Letter review for affordability for the Upgrade and Family Plan, but urges additions be made to the PD giving the Staff firm guidance as to the definition of “affordability”<sup>6</sup> so that the advice letters are swiftly processed within 30 days, and not held up for months. CETF suggests again that the affordability range is \$10-\$20/person for low-income households based on our focus group surveys and based on existing affordable broadband offers in the state.<sup>7</sup>

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<sup>5</sup> If the Standard Plan must be purchased first to be eligible to buy the Family Plan, then a better name might be “Additional Line Plan”, but not “Family Plan” which implies more than one line.

<sup>6</sup> One source of affordability criteria should be the Commission Affordability decision in R.18-07-066 in which the importance of fixed broadband as an essential service was recognized.

<sup>7</sup> CETF Reply Comments, at 2.

Further, CETF strongly agrees with TURN’s point enumerated in PD Footnote 33 that Commission should not allow providers to use misleading descriptions of high data plans as “unlimited” if data speeds are throttled after a certain data allowance, or there is in fact a data allowance cap.

CETF requests clarification of the statement in the PD which asserts, “We find that California should exercise *its bulk purchasing power to secure volume discounts for participants*.”<sup>8</sup> This language seems to infer a state California entity will somehow “bulk purchase” wireless service for the LifeLine program and then resell it to users, but this is not what is proposed in the PD. This bulk purchasing language should be amended or removed. The PD language following this bulk purchasing language argues that California pays more to its Wireless LifeLine providers particularly through its highest supplemental state subsidy level of \$14.85 (more than any other state) and a generous \$39 service connection/activation fee reimbursement. The PD asserts that describe this rich package to providers, California participants do not get higher service levels than participants in other states. California participants by and large receive the same 3 GB of mobile data, same 3G data speeds, unlimited voice (instead of 1,000 minutes) and unlimited texts (not required in other states). The wholesale costs are roughly the same, although wireless providers argue (absent evidence) that administrative costs are higher in California.<sup>9</sup> At the end of this line of argument in the PD, CETF must ask, if this is all true, why is this Commission not requesting a 12 GB data allowance per person or more to be provided, given the rich package of payments provided to wireless providers, and the FCC Report’s evidence of data usage? All of this supports CETF’s request for increased data to at least 6 GB for the Basic Plan and the 8-11 GB level for the Standard Plan. Otherwise, there will be created a two-part wireless market: one subpar market for low-income persons with inadequate data allowances for everyday applications (even more critical in the pandemic era), and one market for middle and high income persons with high data allowances and steep price tags.

CETF is pleased that subscribers may add more broadband data through the LifeLine program if needed by a specific household through the “bolt on” approach. The key here is that

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<sup>8</sup> PD, at 9. (emphasis added).

<sup>9</sup> PD, at 10.

the “bolt on” data be offered at an affordable rate. Again, the Commission needs to promulgate a clear definition of affordability to Staff for the Tier 2 advice letter process.

#### **IV. CETF Would Increase the Data Allowance on the Wireline Tiered B Plan to Match the Data Allowed Either in the Wireless Basic Plan or the FCC MSS, Whichever Is Higher**

On the Wireline plans, CETF appreciates the wise decision in the PD to have LifeLine support VoIP service bundled with fixed broadband service, so long as the VoIP service connects to the Public Switched Telephone Network and meets E-911 obligations.<sup>10</sup> CETF recommends increasing the Wireline Plan Tier B Fixed Broadband Allowance to match the Wireless Basic Plan data allowance or the FCC MSS, whichever is higher. This finding should be anchored in the FCC Report data findings, discussed above.

Finally, CETF supports the correct decision to end Measured Service Rates for the state. This is an outdated service under modern technology. CETF appreciates the efforts in the PD to ensure repeated notice to consumers, a long 4-6 month transition period, and providing a \$2 monthly bill credit to ease the transition from measured rate to flat rate plans by subscribers.<sup>11</sup>

#### **V. CETF Supports the Replacement of the \$2/Month of Reduced Federal Lifeline Support for One Year**

CETF supports the PD’s decision that the California Universal Telephone Service Program (UTSP) replace the \$2.00 per month of reduced federal Lifeline support for service plans that do not meet federal broadband service standards from December 1, 2020 through November 30, 2021.<sup>12</sup> CETF agrees that this limited, interim step must be taken to prevent low-income LifeLine subscribers from being disconnected during the pandemic, the resulting economic recession, and other emergencies (e.g. wildfires, rolling blackouts, Public Safety Power Shutoffs) currently besieging the State. While a modest step, it does assist LifeLine subscribers in this unprecedented time while also heeding the serious budget constraints faced by the Commission relating to the surcharge base issue. CETF urges the Commission to revisit this issue in a year.

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<sup>10</sup> PD, at 17.

<sup>11</sup> PD, at 20-21.

<sup>12</sup> PD, at 22-23.

## **VI. This Commission Should Initiate an OIR on Contribution Reform**

As to the surcharge base issue, CETF again urges the Commission to tackle the difficult but necessary contribution reform issues next because it limits the state LifeLine program from providing the amount of broadband data necessary for low-income users in today's shelter in place environment. In the PD, the Commission recognizes that, "The surcharge base is shrinking, and the burden is increasingly borne by fewer ratepayers."<sup>13</sup> The logical solution is to tackle the problem of placing the burden of supporting the entire universal service program on the backs of telephone ratepayers and instead spread it more uniformly across all telephone and broadband Internet access subscribers. Outdated jurisdictional arguments aside, it is patently unfair for broadband providers to draw from the fund to provide voluntary broadband services while not paying into the fund based on its broadband revenues. The PD in a footnote brushes away the contribution reform issue by saying "the surcharge base issue affects multiple Commission programs and their stakeholders and therefore is outside the scope of this proceeding."<sup>14</sup> This rather dodgy language is contrary to one of the major goals: accomplishing meaningful and sustainable reform to the benefit of low-income residents and ratepayers. Surely, the Commission wants to demonstrate leadership in this area, especially given the digital inequities laid bare during this pandemic. The Commission has the eyes of the state and the nation upon it. The right and proper action at this pivotal moment is to take up the contribution issue. If the Commission needs a strategy other than this proceeding, then issue an OIR on all UTSP programs and begin the hard work necessary to bring the stakeholders together to lead to true contribution reform.

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<sup>13</sup> PD, at 6.

<sup>14</sup> PD, at 6, footnote 12.



Wherefore, CETF requests that the PD be amended to reflect its concerns as to whether parts of the PD are supported by the record or data.

Sincerely yours,

*/s/ Sunne McPeak*

*/s/ Susan Walters*

Sunne Wright McPeak, President and CEO  
Susan Walters, Senior Vice President  
California Emerging Technology Fund  
414 13<sup>th</sup> Street, Suite 200B  
Oakland, California 94612  
Telephone: (415) 744-2385  
Email: [sunne.mcpeak@cetfund.org](mailto:sunne.mcpeak@cetfund.org)  
Email: [susan.walters@cetfund.org](mailto:susan.walters@cetfund.org)

*/s/ Rachelle Chong*

Rachelle Chong  
Special Counsel to California Emerging  
Technology Fund  
Law Offices of Rachelle Chong  
345 West Portal Avenue, Suite 110  
San Francisco, California 94127  
Telephone: (415) 735-0378  
Email: [rachelle@chonglaw.net](mailto:rachelle@chonglaw.net)

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