

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
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TO PARTIES OF RECORD IN RULEMAKING 20-02-008

This is the proposed decision of Commissioner Genevieve Shiroma. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's November 5, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Pursuant to Rule 14.6(c) of the Commission's Rules of Practice and Procedure, parties of record may file opening comments by October 23, 2020 and reply comments by October 30, 2020.

/s/ ANNE E. SIMON

Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER SHIROMA**
(Mailed 10/15/2020)**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

**DECISION MODIFYING DECISION 19-04-021
REGARDING FOSTER YOUTH PILOT PROGRAM****Summary**

This decision modifies Commission Decision 19-04-021 to raise the monthly subsidized amount for foster youth pilot participants without increasing the budget for the pilot program. This proceeding remains open.

1. Background

In Decision (D.) 19-04-021, the California Public Utilities Commission (Commission) authorized two pilot programs within the California Universal Telephone Service Program (California LifeLine), including the iFoster pilot program to provide California LifeLine discounts to foster youth (iFoster Pilot).

In that decision, we approved a budget of \$22,295,000 for an estimated 33,000 foster youths to participate in the iFoster Pilot over a two-year duration. In the iFoster pilot, eligible foster youth receive a smartphone and monthly prepaid mobile services free of charge. The budget includes a Program subsidy of \$25 per month for each participant for mobile phone services.¹

¹ D.19-04-021 at Section 4.1.2.

On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist in the State of California as a result of the threat of COVID-19. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 to direct all California residents to shelter in place to slow the spread of COVID-19, except to access necessities and maintain critical infrastructure sectors (Stay at Home Order). On August 14, 2020, Governor Newsom signed Executive Order N-73-20, which directed the Commission to seek opportunities to use programs under its jurisdiction to accelerate broadband deployment and to leverage utility infrastructure to increase access to existing fiber and cost-effectively deploy new fiber.

On August 25, 2020, iFoster filed a Petition for Modification of D.19-04-021 (PFM) to raise the monthly subsidized amount to \$40 per month per participant from the authorized amount (\$25 per month per participant) without increasing the budget for the pilot. Parties filed comments on the Petition for Modification in September 2020.³

2. Issues Before the Commission

The issues before the Commission are (a) whether the PFM was timely filed, and (b) whether to grant the relief requested in the PFM.

3. Whether the PFM was timely filed

The PFM was filed more than one year after May 3, 2019, the effective date of D.19-04-021. Pursuant to Rule 16.4(d) of the Commission's Rules of Practice and Procedure, a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than

³ TruConnect Communications, Inc. (TruConnect) timely filed a response on September 4, 2020. Administrative Law Judge (ALJ) Wang granted The Utility Reform Network, the Center for Accessible Technology, and the Greenlining Institute (Joint Consumers) permission to late file their response on September 25, 2020.

one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision.

iFoster explained that it filed the PFM after discovering that participants' data consumption increased by 2.5 times during the pandemic. We acknowledge that it was reasonable for iFoster to gather data about increased data consumption before filing the PFM. We conclude it was reasonable for iFoster to file the PFM more than one year after the issuance of D.19-04-021.

4. Whether to grant the relief requested in the PFM

In the PFM, iFoster requests to raise the California LifeLine subsidized amount for communications services for each foster youth pilot participant to \$40 per month from the authorized amount of \$25 per month for the current school year without increasing the pilot program budget.

iFoster asserts that this increase in the subsidized amount for communications services is necessary to support distance learning. iFoster found that pilot participants became more reliant on the pilot for distance learning, visitations and supportive services as a result of the Stay at Home Order. In the PFM, iFoster reported that pilot data usage increased from pre-COVID levels of 1,000 MB per day to over 2,500 MB per day post-COVID. iFoster explained that while the iFoster Pilot service plan provides for unlimited data, it limits high speed data and hotspot data to a combined total of 3 GB per month, shutting off hotspot usage when 3 GB is reached. This severely limits participants' ability to stream classes, complete homework assignments online, and access tutoring, telehealth and visitation. For example, iFoster estimates that distance learning classes average 1.35 GB per hour.

iFoster, in partnership with Boost Mobile/T-Mobile, proposes in the PFM to increase high speed data service by 10 times (from 3 GB to 30 GB) to enable

participants to stream classes for 80-160 hours per month or access 360 hours of hotspot Internet connectivity.

Since nearly all pilot participants are enrolled in school, iFoster proposes to increase service levels for all pilot participants. iFoster estimates that it would cost up to \$2,430,000 to increase the monthly California LifeLine subsidy per participant from \$25 to \$40 through the end of the current school year. Based on iFoster's estimates of pilot enrollment in the PFM, we anticipate that it would cost up to \$4,335,000 to increase the monthly subsidy to \$40 through the end of the term of the pilot.

iFoster proposes to leverage unspent pilot funds to pay for the increased monthly subsidy. In the PFM, iFoster reports that over \$6,000,000 in approved funds were not spent during the first year of the pilot program due to lower enrollment levels than anticipated. This proposal requires no increase in the overall approved budget for the pilot program.

Joint Consumers (The Utility Reform Network, the Center for Accessible Technology, and the Greenlining Institute) support the PFM and improved services for distance learning for foster youth. However, they raise concerns that the PFM could commit millions of California LifeLine funds to support fewer foster youth than originally estimated. Joint Consumers also note that it is unclear how long the requirement for distance learning and other health and safety measures will continue beyond this school year.

Joint Consumers recommend that the Commission approve the PFM with conditions. We agree that it is reasonable to approve the PFM with conditions and address each of Joint Consumers' recommendations below.

1. Do not increase the authorized budget for the pilot. We agree and will not authorize additional funding for this pilot.

2. Require iFoster to notify the Commission if and when it spends 75% of the total pilot budget. We conclude that it is reasonable to require this notification.
3. Require iFoster to continue efforts to increase enrollment beyond the estimated 1,000 per month noted in the PFM. The Commission's Communications Division staff will continue to monitor iFoster's efforts to increase enrollment.
4. Only authorize additional funding for higher levels of broadband access for program participants that can document enrollment in an education program. iFoster asserted in the PFM that nearly 100% of pilot participants are enrolled in an education program. We do not find it necessary to create an additional hurdle for pilot participants to access more data for distance learning.
5. Ensure that the decision to increase per customer spending is revisited and not automatically continued in the event that this pilot is extended. We will only authorize this level of increased spending for the second year of the approved pilot.
6. Serve a report on the service list of this proceeding with the status of the pilot program to date including a full budget analysis, aggregate data regarding geographic and demographic descriptions of current participants, and the metrics and evaluation plan required in D.19-04-021 to be submitted on a monthly or quarterly basis, plus any relevant data to be provided by Boost pursuant to D.19-04-021. The Commission approved an evaluation plan for this pilot in D.19-04-021. We do not find it necessary to expand the evaluation or reporting requirements at this time.

In response to the PFM, TruConnect urged the Commission to (a) not authorize additional funds for the pilot, and (b) re-evaluate the selection of the wireless provider authorized to facilitate the pilot. We agree with the first point as discussed above. As for the second point, re-evaluating the selected partners for this approved pilot is not in scope for this decision.

5. Reduction of Comment Period

Pursuant to Rule 14.6(c)(10), we reduce the 30-day public review and comment period required by Section 311 of the Public Utilities Code to serve a public necessity in alignment with Governor Newsom's Executive Order N-73-20. Opening comments were filed by _____ on October 23, 2020, and reply comments were filed by _____ on October 30, 2020.

6. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Stephanie S. Wang is the assigned ALJ in this proceeding.

Findings of Fact

1. The Commission issued D.19-04-021 approving the iFoster Pilot on May 3, 2019.
2. In D.19-04-021, the Commission approved a budget of \$22,295,000 for an estimated 33,000 foster youths to participate in the iFoster Pilot over a two-year duration. The budget includes a Program subsidy of \$25 per month for each participant.
3. On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist in the State of California as a result of the threat of COVID-19.
4. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 to direct all California residents to shelter in place to slow the spread of COVID-19, except to access necessities and maintain critical infrastructure sectors.
5. On August 14, 2020, Governor Newsom signed Executive Order N-73-20, which directed the Commission to seek opportunities to use programs under its jurisdiction to accelerate broadband deployment and to leverage utility infrastructure to increase access to existing fiber and cost-effectively deploy new fiber.

6. Nearly all iFoster Pilot participants are enrolled in an education program and need more data services to support distance learning as a result of the COVID-19 emergency.

7. It is unclear whether distance learning and other health and safety measures for COVID-19 will continue beyond the current school year.

8. The estimated maximum cost of increasing the monthly California LifeLine subsidy from \$25 to \$40 per participant for the second year of the pilot is \$4,335,000.

9. The iFoster Pilot underspent over \$6,000,000 in approved funds during the first year of the pilot program due to lower enrollment levels than anticipated.

Conclusions of Law

1. It was reasonable for iFoster to file the PFM more than one year after the effective date of D.19-04-021.

2. California LifeLine should be authorized to increase the monthly subsidy from \$25 to up to \$40 per participant to support distance learning during the second year of the iFoster Pilot.

3. This decision should not increase the pilot budget authorized in D.19-04-021.

4. The Commission should revisit the monthly subsidy for pilot participants before authorizing any extension of the iFoster Pilot.

5. iFoster should notify the service list of this proceeding if and when it spends 75% of the total pilot budget.

O R D E R

IT IS ORDERED that:

1. Decision (D.) 19-04-021 is modified to authorize the California Universal Telephone Service Program (California LifeLine) to provide a monthly subsidy of

up to \$40 per participant to support distance learning during the second year of the iFoster pilot program. This decision does not increase the iFoster pilot budget authorized in D.19-04-021.

2. iFoster and T-Mobile shall file a Tier 2 advice letter within 30 days of this decision with the proposed service plan, implementation plan and monthly subsidy for pilot participants. The advice letter shall propose a date for the new pilot service plan to be available that is no later than 90 days after the date of this decision. iFoster and T-Mobile shall also send a copy of the Tier 2 advice letter to the California LifeLine Section of the Communications Division of the California Public Utilities Commission at CaLLAdviceLetter@cpuc.ca.gov referencing this decision number.

3. iFoster shall notify the service list of this proceeding within 10 days if and when it spends 75 percent of the total pilot budget.

4. Rulemaking 20-02-008 remains open.

This order is effective today.

Dated _____, at San Francisco, California