

BEFORE THE PUBLIC UTILITIES COMMISSION OF  
THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding  
Emergency Disaster Relief Program.

Rulemaking 18-03-011  
(Filed March 22, 2018)



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**APPLICATION FOR REHEARING OF DECISION 25-04-006**



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## I. INTRODUCTION AND SUMMARY

Pursuant to Rule 16.1 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (TURN) timely submits this application for rehearing of Decision (D.) 25-04-006, which closed the Commission’s Disaster Relief rulemaking (R.18-03-011).<sup>1</sup> D.25-04-006 closed the Disaster Relief rulemaking based on the erroneous finding that the issue of permanent disaster relief protections for LifeLine customers was beyond the scope of this case. Because the decision to close the docket relies on this erroneous finding, the decision is contrary to numerous requirements of Public Utilities Code Section 1757.1, and the Commission must correct it on rehearing.

## II. BACKGROUND

The Commission’s Disaster Relief rulemaking among other things, established protections for customers of regulated electric, natural gas, water, sewer, and telecommunications providers in the wake of a disaster. These measures help residential and small business utility customers affected by a disaster maintain service by waiving fees and deposit requirements, suspending or reducing disconnections, and temporarily waiving rules of low-income programs to maintain enrollment.

The Commission first developed *interim* disaster relief measures for utility customers through resolutions in response to California’s 2017 and 2018 wildfire seasons.<sup>2</sup> Then, in this proceeding, it enacted permanent measures for electric, natural gas, water, and sewer utility

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<sup>1</sup> The Commission issued D.25-04-006 on April 8, 2025. Rule 16.1(a) sets the deadline for filing an application for rehearing as “within 30 after the date the Commission mails the order or decision.” Therefore, TURN’s application for rehearing is timely.

<sup>2</sup> Resolution M-4833, issued Nov. 13, 2017; Resolution M-4835, issued Jan. 11, 2018. *See also* D.18-08-004, issued Aug. 20, 2018 (affirming the disaster relief measures set forth in Resolutions M-4833 and M-4835 as “interim, minimum disaster relief emergency protocols and protections”).

customers in D.19-07-015 and certain permanent, but not comprehensive, measures for customers of wireless and wireline communications service providers in D.19-08-025. While the interim disaster relief measures included protections specific to LifeLine customers, D.19-08-025 acknowledged that the decision did not create permanent protections for California LifeLine subscribers, and instead determined that the Commission would separately address LifeLine disaster relief measures at another point in the Disaster Relief proceeding. Specifically, D.19-08-025 stated:

We adopt the consumer protections from Resolutions M-4833, M-4835, and D.18-08-004 for customers of the following communications companies within our jurisdiction as set forth below, *with the exception of the protections specific to the California LifeLine Program*. [fn. 82] *The protections for California LifeLine Program participants will be addressed separately from this Decision.*<sup>3</sup>

Elsewhere in D.19-08-025, the Commission clarified that the separate consideration of permanent protections for LifeLine customers would take place “in this proceeding.”<sup>4</sup>

Indeed, prior to the issuance of D.19-08-025, the Commission had begun developing the record on permanent LifeLine disaster relief measures by issuing a staff proposal and soliciting party comment on the issue on multiple occasions.<sup>5</sup> Thus, when it issued D.19-08-025, the Commission had already begun laying the groundwork to fulfill its pledge to develop permanent LifeLine consumer protections.

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<sup>3</sup> D.19-08-025 at p. 31 (emphasis added). Footnote 82 identified the “[interim] protections specific to the California Lifeline program adopted in D.18-08-004” that were not being addressed in D.19-08-025 as “the delay of the California Lifeline Renewal Process, suspension of the de-enrollment for non-usage rules, and the outreach methods stipulated in Res. M-4835.”

<sup>4</sup> D.19-08-025 at p. 35 (“Protections specific to California LifeLine Program participants . . . will be addressed separately in this proceeding.”), OP 1 at p. 65 (“The interim protections for California LifeLine participants adopted in Decision 18-08-004 remain in effect until permanent protections for the California LifeLine Program are adopted separately in this proceeding”).

<sup>5</sup> Administrative Law Judge’s Ruling Noticing Workshops and Ordering Workshop Statements, filed Oct. 1, 2018, at pp. 6-8 (including questions 2(e), and 4(a)-(d) about LifeLine disaster relief measures); Administrative Law Judge’s Ruling Seeking Comment on Disaster Relief Staff Proposal for California LifeLine Participants (LifeLine Staff Proposal), issued May 14, 2019.

This follow-up never occurred. The Disaster Relief rulemaking moved on to address other issues in two other phases and then entered a period of dormancy, during which the Commission solicited party comments on closing the rulemaking.<sup>6</sup> In response to this ruling, TURN raised the interim nature of LifeLine disaster relief measures, noting that “the Commission has not yet addressed the issues raised in response” to the May 2019 Staff Proposal.<sup>7</sup> When the Commission issued a proposed decision that would close the rulemaking without creating permanent LifeLine disaster relief measures, TURN and the Center for Accessible Technology again brought up “the longstanding and ongoing need to address Lifeline-related issues.”<sup>8</sup> Less than two months later, the Commission voted out D.24-06-005, which made no substantive changes to the proposed decision. D.24-06-005 closed the docket and did not expressly address the Commission’s previous commitment to address permanent LifeLine disaster relief measures or intervenors’ comments on that point. Instead, D.24-06-005 summarized some of the unresolved issues that intervenors had raised and declared them all “beyond the scope of the current proceeding.”<sup>9</sup>

This application for rehearing will demonstrate that this conclusion resulted from the Commission disregarding key parts of the record and committing legal and procedural error. The Commission should grant rehearing on this matter to correct a legally unsound decision.

### **III. STANDARD OF REVIEW**

Per Rule 16.1(c) of the Commission’s Rules of Practice and Procedure, an application for

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<sup>6</sup> Administrative Law Judge’s Ruling Requesting Comment on Closing Rulemaking 18-03-011, issued Mar. 21, 2022.

<sup>7</sup> Comments of TURN on the Administrative Law Judge’s Ruling Requesting Comment on Closing Rulemaking 18-03-011, filed Apr. 1, 2022, at pp. 2-3.

<sup>8</sup> Center for Accessible Technology’s Comments on Proposed Decision Closing Rulemaking 18-03-011, filed Mar. 20, 2025, at pp. 4-5; Opening Comments of TURN on the Proposed Decision of Commissioner Alice Reynolds, filed Mar. 20, 2025, at pp. 1-7.

<sup>9</sup> D.25-04-006 at p. 4-5, FOF 2.

rehearing must “set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous.” An application for rehearing is intended to “to alert the Commission to a legal error, so that the Commission may correct it expeditiously.”<sup>10</sup> Section 1757.1 of the Public Utilities Code<sup>11</sup> sets forth the standard of review for decisions in this quasi-legislative proceeding.<sup>12</sup> Under Section 1757.1, a reviewing court may annul a Commission decision if it contains any of six enumerated defects, including: (1) the order of decision was an abuse of discretion; (2) the Commission has not proceeded in the manner required by law; (3) the Commission acted without, or in excess of, its powers or jurisdiction; and (4) the decision of the Commission is not supported by the findings.<sup>13</sup>

The Commission acts in excess of its powers and fails to proceed in the manner required by law when it “fail[s] to comply with required procedures, appl[ies] an incorrect legal standard, or commit[s] some other error of law,”<sup>14</sup> which includes failing to comply with its own procedural rules.<sup>15</sup> The Commission abuses its discretion when it issues a decision that is arbitrary or exceeds the bounds of reason.<sup>16</sup>

**IV. D.25-04-006 COMMITS LEGAL ERROR BY CLOSING THE PROCEEDING WITHOUT ESTABLISHING PERMANENT LIFELINE DISASTER RELIEF MEASURES.**

**A. D.25-04-006 relies on a Finding of Fact about the scope of the proceeding that is demonstrably incorrect.**

The second Finding of Fact in D.25-04-006 states that “[t]he matters identified by some of the parties as outstanding, while important, extend beyond the intended scope of R.18-03-

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<sup>10</sup> Rule 16.1(c).

<sup>11</sup> Unless otherwise specified, all statutory references or citations are to the California Public Utilities Code.

<sup>12</sup> § 1757.1(a).

<sup>13</sup> § 1757.1(a)(2).

<sup>14</sup> *Pedro v. City of Los Angeles*, 229 Cal. App. 4<sup>th</sup> 87, 99 (2014).

<sup>15</sup> *Southern California Edison Co. v. Public Utilities Comm.*, 140 Cal. App. 4<sup>th</sup> 1085, 1106 (2006).

<sup>16</sup> *Ponderosa Tel. Co. v. Calif. Pub. Util. Comm. (Ponderosa)*, 36 Cal. App. 5<sup>th</sup> 999, 1019 (2019).

011.”<sup>17</sup> Given the record of this proceeding, that finding is obviously incorrect as it pertains to LifeLine disaster relief measures.

As discussed above, the Commission had already begun its inquiry into permanent LifeLine disaster relief measures in this docket by seeking party comment on potential permanent Lifeline disaster relief measures, first in pre-workshop statements in 2018, and then in response to a May 2019 Staff Proposal. The Commission would not have issued a staff proposal, solicited party comment, or committed in D.19-08-025 to address this issue if it was outside the scope of the proceeding. Nor has the Commission ever stated that LifeLine disaster relief measures were otherwise outside the scope of this proceeding or that it erred by taking any of the procedural steps it did to discuss and consider them.

In fact, permanent LifeLine disaster relief measures are in the scope of the Disaster Relief rulemaking. The first scoping memo issued in this proceeding expressly identified disaster relief measures for residential communications customers as a scoped issue.<sup>18</sup> As part of the inquiry into protections for residential communications customers, this scoping memo asked whether the Commission should “adopt the customer protections from Resolutions M-4833 and M-4835 . . . with or without modifications.”<sup>19</sup> Resolutions M-4833 and M-4835, which established interim disaster relief measures, included two disaster relief measures specific to LifeLine customers: the suspension of the annual renewal requirement and suspensions of subscriber disconnections for non-usage of LifeLine service.<sup>20</sup> The Commission accordingly developed the record on these and

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<sup>17</sup> D.25-04-006 at FOF 2.

<sup>18</sup> Assigned Commissioner’s Scoping Memo and Ruling (Phase 1 Scoping Memo), issued June 29, 2018, at p. 5.

<sup>19</sup> Phase 1 Scoping Memo, at p. 6. The full text of this question asks whether the Commission should adopt customer protections “for electric and gas customers.” Given that this question is a sub-part of a scoped issue specific to residential communications customers and that it is preceded by an issue specific to electric and gas customers, this wording appears to be a scrivener’s error.

<sup>20</sup> Resolution M-4833 at p. 11; Resolution M-4835 at p. 9.

other potential LifeLine disaster relief measures.

LifeLine disaster relief measures are both an outstanding matter raised by parties to this rulemaking *and* within the intended scope of R.18-03-011. Therefore, D.25-04-006 bases its decision to close the proceeding on a Finding of Fact that is clearly incorrect. Such a decision violates Section 1757.1 in that it constitutes an abuse of discretion, a failure to proceed in a manner required by law, and a failure to support the outcome with correct findings. To avoid legal error, the Commission must correct D.25-04-006 to acknowledge that permanent LifeLine disaster relief measures are within the scope of this proceeding.

**B. D.25-04-006 closes the Disaster Relief rulemaking without resolving a scoped issue.**

As shown, the decision to close the proceeding without addressing permanent LifeLine disaster relief measures rests on an incorrect factual foundation. To address this error, the Commission's most logical option would be to grant rehearing, reopen the Disaster Relief rulemaking, and take the remaining steps needed to establish permanent LifeLine disaster relief measures.

However, if the Commission believes that another procedural avenue is a better means to ensure that LifeLine subscribers can maintain access to essential phone service in the wake of a disaster, it needs to explain its plan for resolving the issue of permanent LifeLine disaster relief measures. For example, if the Commission intends to address this issue in a timely manner in a new docket, it should clearly state so in the decision granting rehearing. D.25-04-006 offers the non-committal statement that "some of these [unresolved] matters *may be* ripe to be addressed in a successor rulemaking."<sup>21</sup> However, because LifeLine disaster relief measures have already been the subject of significant work and record development in this docket, this vague and

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<sup>21</sup> D.25-04-006 at p. 5 (emphasis added).



general statement is not sufficient to avoid legal error.<sup>22</sup>

In the (hopefully) unlikely event that the Commission is considering whether to break from the record and its stated intention by determining that LifeLine disaster relief measures do not warrant further attention or development, the Commission should explain its reasoning and solicit party comment on whether further Commission action is needed. In this scenario, simply dropping this scoped and developed issue without explanation would be arbitrary action constituting an abuse of the Commission's discretion and a failure to proceed in the manner required by law.<sup>23</sup>

## V. CONCLUSION

For the foregoing reasons, the Commission should grant rehearing to correct the legal errors identified in this application for rehearing.

Dated: May 8, 2025

Respectfully submitted,

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<sup>22</sup> The Commission fails to follow its own procedure and proceed in the manner required by law when it identifies and scopes an issue, draws significant Staff and party attention to that issue, and then inexplicably drops the issue, all of which have also occurred in this docket. *See Southern California Edison Co. v. Public Utilities Comm.*, 140 Cal. App. 4th 1085 (2006) (finding the Commission failed to follow its own rules regarding the scope of a proceeding by considering a new issue beyond those identified in the scope and giving parties insufficient time to respond to proposals on that new issue). *See also City of Huntington Beach v. Public Utilities Comm.*, 214 Cal.App.4th 566 (2013) (finding the Commission had abused its discretion by preempting city ordinances after prior stipulations and a scoping memo established that the Commission would not address the validity of those ordinances).

<sup>23</sup> Section 1757.1(a)(1) and (2).