

Decision 17-01-032 January 19, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 11-03-013
(Filed March 24, 2011)

**DECISION MODIFYING THE CALIFORNIA LIFELINE PROGRAM
IN ACCORDANCE WITH ASSEMBLY BILL 2570 AND
THE FEDERAL COMMUNICATIONS COMMISSION'S
THIRD REPORT AND ORDER**

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Summary

This decision modifies the California LifeLine Program to harmonize it with elements of the newly revised federal Lifeline program.¹ We resolve questions regarding the status of discounts and reimbursements for service connection/activation non-recurring charges for California LifeLine wireless telephone services. Finally, we implement changes to California LifeLine required by Assembly Bill 2570 (Quirk) approved by the Governor on September 24, 2016.²

This proceeding remains open.

1. Procedural Background

The California Public Utilities Commission (Commission) opened this rulemaking on March 24, 2011. During the course of this rulemaking, the Commission issued several decisions expanding and modernizing the California LifeLine Program (Program or California LifeLine). In 2014, the Commission issued Decision (D.) 14-01-036 Adopting Revisions to Modernize and Expand the California LifeLine Program. D.14-01-036 adopted minimum service elements for California LifeLine wireless telephone services. On October 27, 2016, the Commission further expanded the Program to allow fixed-Voice over Internet Protocol (VoIP) service providers without Certificates of Public Necessity and Convenience to qualify as California LifeLine Program service providers.³ As of October 31, 2016, and before the impact of VoIP service providers could be

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Dkt Nos. 11-42, 09-0197, *Third Report and Order, Further Report and Order, and Order on Reconsideration* (2016 Lifeline Modernization Order), FCC 16-38 (rel. April 27, 2016).

² Added as Section 878.5 to the Public Utilities Code (Pub. Util. Code).

³ D.16-10-039.

tracked, the Program had grown to 2.15 million California LifeLine participants, of which 1.62 million were wireless telephone service subscribers. California has the largest number of federal Lifeline participants of any state, representing some 17 percent of the nation's federal Lifeline subscribers.⁴

On December 24, 2015, the assigned Commissioner issued the Amended Scoping Memorandum and Ruling of the assigned Commissioner, and Presiding Officer's Ruling Granting, in Part, the Motion of Telrite Corporation DBA Life Wireless, I-Wireless LLC, and Total Call Mobile, Inc. (Joint Filers) for Reinstatement [of] Service Connection, Activation, Conversion Discounts and Reimbursements (Amended Scoping Ruling). The Amended Scoping Ruling established the procedural schedule and scope of the proceeding, including workshops, for Phase II in the proceeding. Parties filed comments regarding the proceeding's prioritization of California LifeLine issues on January 25, 2016. On January 28, 2016, parties filed comments regarding the reimbursement of non-recurring charges for service connection/activation and service conversion charges. Parties filed reply comments on this issue on February 22, 2016.

On March 4, 2016, parties filed comments on the remaining issues identified in the Amended Scoping Ruling. On March 7, 2016, the assigned Commissioner issued the Ruling Providing Guidance on Interim Rules Reinstating Reimbursements for Non-Recurring Charges (Guidance Ruling). Reply comments on the Guidance Ruling were filed on March 30, 2016. On April 25-26, 2016, the Commission's Communications Division (CD) hosted a California LifeLine Program Workshop (April Workshop).⁵

Shortly after the April Workshop, both the Federal Communications Commission (FCC) and the California Legislature took actions that significantly affect the California

⁴ See

<http://www.usac.org/about/tools/fcc/filings/2016/Q4/LI08%20Lifeline%20Subscribers%20by%20State%20or%20Jurisdiction%20-%20January%202016%20through%20June%202016.xlsx> (last visited October 26, 2016).

⁵ See April 25-26, 2016 Workshop Documents at <http://cpuc.ca.gov/General.aspx?id=3045> (last visited November 4, 2016).

LifeLine Program. First, on April 27, 2016, the FCC issued *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Dkt Nos. 11-42, 09-0197, *Third Report and Order, Further Report and Order, and Order on Reconsideration*, FCC 16-38 (rel. April 27, 2016) (2016 Lifeline Modernization Order) making significant changes to the federal Lifeline program, including the adoption of Broadband Internet Access Service (BIAS or broadband service) as a supported service with the eventual elimination of voice telephony service as a federally supported service. Second, Assembly Bill (AB) 2570, signed into law by Governor Brown on September 24, 2016, directs the Commission to adopt a state-specific portability freeze rule for the Program by January 15, 2017.⁶

On September 22, 2016, the assigned Commissioner and Administrative Law Judge (Judge) issued a ruling (Comment Ruling) requesting comments on a variety of issues including the April Workshop, posed a detailed list of questions on the 2016 Lifeline Modernization Order, asked parties to specifically address the federal Lifeline 60-day discount transfer freeze and its potential implementation in California, the impact of BIAS requirements for bundled plans, which may include phone service and BIAS, and issued a data request to the California LifeLine wireless telephone service providers. Parties filed comments on October 11, 2016 and reply comments on October 19, 2016. On October 14, 2016, CD held a workshop (October Workshop) to address the question of a portability freeze and its implementation.⁷ In timely filed reply comments, parties also discussed the October 14, 2016 workshop.

On November 23, 2016, the assigned Commissioner issued an assigned Commissioner Ruling (ACR) to remove the December 23, 2016 expiration date for reimbursements for service connection/activation charges for California LifeLine

⁶ AB 2570 (Quirk) is codified at Public Utilities Code Section (Pub. Util. Code.) § 878.5.

⁷ Judge's Ruling Setting Workshop on Portability Freeze in the California LifeLine Program, Sept. 28, 2016.

wireless telephone services until a Commission decision addresses the issue. This decision addresses the issue.

2. Background

The Commission designed the California LifeLine Program to ensure that high quality basic service remains affordable for low-income Californians consistent with the Moore Universal Telephone Service Act (Moore Act). As Public Utilities (Pub. Util.) Code Section 871.7(a) states:

The Moore Universal Telephone Service Act, enacted in 1987, was intended to offer high quality basic telephone service at affordable rates to the greatest number of California residents, and has become an important means of achieving universal service by making residential service affordable to low-income citizens through the creation of a lifeline class of service.

In addition, Pub. Util. Code § 709 enjoins us to focus our efforts on affordability and availability, economic growth and investment, state-of-the-art services, bridging the digital divide, assuring competitive choices, and fair treatment of consumers regardless of telecommunications technologies.

The Commission provides all stakeholders in the California LifeLine Program rulemaking with an inclusive, open, and transparent process, and venue to assist the Commission in constructing the Program's rules. The Commission takes a holistic approach in crafting Program policies by simultaneously weighing the possible challenges to implementation of such significant policies, accounting for all stakeholders' input, maximizing consumer choice, and fostering a competitive California LifeLine marketplace with a restrained hand in regulations in order to meet the communications needs of California's low-income households. The Commission values giving stakeholders the appropriate notice and due process before making substantial Program changes.

Since the California LifeLine Program's inception, the Commission allowed California LifeLine participants to freely select their California LifeLine service provider without restriction. Provided a Program participant chose a telephone service provider

authorized by the Commission to provide California LifeLine service, the Program participant could receive California LifeLine discounted telephone services from any authorized Program service provider. The Commission consistently adopted policies to preserve consumer choice and reinforce the principles of competition and of a competitive marketplace, as well as to ensure just and reasonable prices for low-income households. In maintaining these decades-long Program policies, the Commission also recognized the potentially volatile economic circumstances California's low-income households may experience.

When California LifeLine was limited to only supporting landline telephone service, eligible subscribers had little reason to change California LifeLine service providers; and only those telephone corporations which the Commission required to offer California LifeLine telephone services, such as carriers of last resort, actually did so. On January 16, 2014, the Commission modified the Program to adopt California LifeLine wireless telephone service elements for the first time. As a result, the Program experienced a significant increase in the number and type of competitors offering different technologies, plans, and options, and raised the question of whether there should be limits on the ability of Program participants to switch California LifeLine service providers when unchecked switching itself posed administrative strains on providers and the Program.

Implementation of AB 2570 therefore occurs in the context of the Program's longstanding policies, its modernization, and our universal service obligations. The Commission also recognizes the Legislature's goal of promoting investment in high-quality California LifeLine services, while also preventing fraud and abuse. AB 2570 requires the Commission to implement a portability freeze and provides the Commission the flexibility to circumscribe the scope of the Program's portability freeze rule to meet both the bill's and the Program's goals.

In addition, in this decision, the Commission addresses some of the changes resulting from the 2016 Lifeline Modernization Order. In California, the Commission

administers federal Lifeline as well as California LifeLine. California designed its own eligibility criteria and enrollment process as required by the FCC back in 2004.⁸ In 2005, the Commission transferred the responsibilities for the eligibility determination and enrollment process from the California LifeLine service providers to a third-party administrator.

Most California LifeLine participants also receive support through federal Lifeline but do not need to distinguish between the support provided by each program. Most California LifeLine landline and wireless telephone service plans combine both state and federal discounts. A California LifeLine participant gets minutes of use (unlimited incoming calls/outgoing local calls for landline; for wireless, at least 501 minutes for \$5.75 in California LifeLine monthly support and at least 1,000 minutes for the full California LifeLine monthly support of \$13.20) as a part of the Program's minimum service elements. The participant may also get text and data from the California LifeLine service provider. As FCC rules change, however, California must consider whether to change its state Program to parallel FCC rules so that bundled state-federal service support remains feasible.

The recent 2016 Lifeline Modernization Order adopted new benefit portability rules for the federal Lifeline program to "further incentivize investment in high-quality Lifeline service offerings...that will give providers greater certainty when planning new or updated Lifeline offerings." Unless they qualify for an exception, the FCC's benefit portability rules require federal Lifeline participants to remain with the same eligible telecommunications carrier (ETC) for 60 days for voice telephony service and 12 months for broadband internet access service before they can switch to another ETC.

Prior to the 2016 Lifeline Modernization Order, Universal Service Administrative Company (USAC) independently had implemented a 60-day benefit portability freeze at

⁸ *Lifeline and Link-Up Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 03-109, FCC 04-87 (rel. April 29, 2004).

the administrative level for states participating in the National Lifeline Accountability Database (NLAD).² California received an exemption from NLAD participation in light of our state’s extensive third-party verification process, California’s LifeLine eligibility database, and California LifeLine’s robust enrollment process, which the FCC had used to model its National Eligibility Verifier and NLAD. For nearly the past three years in NLAD states, federal Lifeline subscribers were prohibited from changing ETCs for 60 days, unless the federal Lifeline subscriber first disconnected her/his service with the “losing” ETC prior to acquiring service from the “winning” ETC. The 60-day benefit portability freeze has been largely without controversy in the NLAD states.

Although the FCC announced a 12-month port freeze for BIAS and other changes to the federal Lifeline program in its 2016 Lifeline Modernization Order, it provided scant detail regarding administration of such a freeze and its other new rules. Because of the lack of clarity, this Commission, along with several other states and service providers, filed petitions for clarification, reconsideration, and temporary waivers regarding the 12-month BIAS port freeze, eligibility criteria, and other federal Lifeline changes. On December 1, 2016 the FCC responded to the Commission’s waiver request.¹⁰ The FCC granted in part and denied in part the Commission’s request for a waiver of the December 2, 2016 effective date of the federal Lifeline program’s eligibility criteria and benefit portability rules. The FCC granted the Commission until October 31, 2017 to implement the eligibility criteria and until June 1, 2017 to implement the benefit portability rules. However, the FCC made clear that all states would be required to include the Veterans and Survivors Pension Benefit Program as a qualifying program for the federal Lifeline program by December 2, 2016. This Commission plans to implement

² USAC implemented an administrative process that denied an ETC’s request to transfer a subscriber’s benefit to another ETC if that subscriber had enrolled or had the benefit transferred within the past 60 days.

¹⁰ See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Dkt Nos. 11-42, FCC DA 16-1324, (rel. December 1, 2016).

the changes to the eligibility criteria and to address the 12-month port freeze for BIAS in a future decision.

As soon as the 2016 Lifeline Modernization Order was released, the Commission began consideration of both the policy impact and the practical challenges that the 2016 Lifeline Modernization Order will have on the California LifeLine Program. At the October Workshop the Commission and stakeholders discussed the following process steps and procedural factors:

1. The Commission's request to the FCC for waiver of the deadline for implementing the transfer and revised eligibility rules. The Commission filed this request on October 28, 2016.¹¹
2. The Commission's consideration of a 60-day portability freeze for California LifeLine telephone services, and a 12-month portability freeze for broadband services when it is bundled with California LifeLine telephone services.
3. The need to develop a common "matching logic" as a basis for identifying consumers in real time. Several providers argued that standardizing addresses and other identifying factors across providers and with the California's Administrator, at the "front-end" of the application process would improve the provider's ability to ascertain an applicant's status.
4. California LifeLine implementation of a real-time process of matching logic must be coordinated with the FCC's National Verifier. The FCC stated "Once the Commission [FCC] has announced the launch of the National Verifier in a particular state, the ETCs, including LBPs, designated in that state must enroll subscribers through the National Verifier and in accordance with any enrollment guidance provided by the Commission [FCC] or USAC, as set out in the Commission's [FCC] rules."¹²

¹¹ The request for waiver is attached as Attachment B.

¹² FCC Guidance, September 30, 2016, ¶ at 13.

5. The need for an enrollment freeze in addition to the 60-day port freeze for telephone services and 12-month port freeze for broadband services. An enrollment freeze would prevent a customer who enrolls with one carrier from going to another carrier and enrolling while that [earlier] application is still pending.¹³ The California LifeLine wireless telephone service providers in attendance generally agreed that an enrollment freeze would begin with the subscriber's application with a provider and end when the application was approved and service initiated by the subscriber, at which time the 60-day portability freeze for telephone service and the 12-month portability freeze for broadband service would begin.
6. The California LifeLine wireless telephone service providers in attendance asked the Commission to require California LifeLine participants to contact their provider first regarding the applicability of the exceptions to the FCC's benefit portability freeze in any particular instance. Workshop participants discussed examples such as exceptions for a change of address and service at the new address or an alleged failure to provide service by the provider, or where the exception is indeed applicable, the return of the device.
7. The estimated time-frame for implementation of process and software development changes to the California LifeLine Program is three to six months.¹⁴ Regarding the time needed for implementation, there again was no consensus; estimates ranged from three to six months.¹⁵

Given that the FCC's readjustments to federal Lifeline remain in a state of development at this writing, the conclusions we reach in this decision are made in a context of some uncertainty. We expect the adjustments ordered today, along with the changes we anticipate, to take several months, if not years, to fully implement because of

¹³ October Workshop Transcript at 15.

¹⁴ October Workshop Transcript at 31.

¹⁵ See October Workshop Transcript at 31. Because the Program Administrator must work with all the carriers, testing and retesting potential solutions, implementation of program changes are estimated to require three to six months for development plus a period of time for testing.

the time needed to develop and test new process technologies. We must also adjust our arrangements and those of our Program Administrator with the FCC's National Verifier, USAC, CD's oversight, and the operations of participating federal Lifeline/California LifeLine telephone and broadband service providers. It is not our intent in this decision to resolve all of the challenges, issues, and policy questions surrounding federal Lifeline rule changes. Instead, the Commission may address additional issues through future decisions, resolutions, or rulings; through gathering more detailed comments from parties, hosting more workshops; and by encouraging informal discussions during California LifeLine Working Group meetings.

3. Reimbursement of Service Connection/Activation Charges for California LifeLine Wireless Telephone Services

3.1. Current Status

D.14-01-036 stated in Footnote 57 that support for service connection/activation discount for California LifeLine wireless telephone services would end as of June 30, 2015. As a result, support was discontinued in mid-2015 pursuant to D.14-01-036. However, because the relevant language was not carried forward within the body of the decision, nor supported by any Findings of Fact, Conclusion of Law, or carried forward to an Ordering Paragraph (OP), on December 24, 2015, the assigned Commissioner issued the Amended Scoping Ruling that reinstated support for service connection/activation discounts and reimbursements for California LifeLine wireless telephone services through December 2016 or until the Commission adopted a decision addressing the issue, whichever occurred first. In reinstating this support, the Amended Scoping Ruling noted that California LifeLine wireless enrollment declined measurably following the suspension of this support, reversing a steady growth trend since California LifeLine wireless telephone services launched in March 2014.

The Amended Scoping Ruling specified that each eligible household could qualify for California LifeLine discounts of non-recurring service connections/activations charges no more than twice annually upon that customer's switch to a different California LifeLine service provider. The two-time annual limit for the discounts for service

connection/activation charges was chosen to balance customer choice and competition, with Program administration and integrity.

Subsequently, the Guidance Ruling provided additional instruction regarding the status of the reinstated reimbursement of service connection/activation charges for California LifeLine wireless telephone services. The Guidance Ruling clarified that the effective date for the reinstated service connection/activation discounts and reimbursements of up to \$39.00 for California LifeLine wireless telephone services, with a limit of two per year per eligible California LifeLine household, would be December 24, 2015, through December 23, 2016, or until the Commission adopts a decision addressing this issue, whichever came first.¹⁶ The Guidance Ruling also made clear that these reinstated discounts and reimbursements would not apply to changes in a California LifeLine participant's phone number, service address, or service plan, but was limited to (1) the initial establishment of California LifeLine wireless telephone service from a consumer who has never been on the Program; and (2) to switching California LifeLine wireless telephone service from one California LifeLine wireless telephone service provider to another.¹⁷ The Guidance Ruling also ordered CD to identify disallowed reimbursements of service connection charges for California LifeLine wireless telephone services in its payment letters to California LifeLine wireless telephone service providers.¹⁸ Lastly, the Guidance Ruling affirmed the consumer education and notice requirements of D.14-01-036, compliance advice letter requirements, the reimbursement mechanism and effective start date, and requirements for tracking and reporting by the California LifeLine Administrator of the allowed reimbursements of service connection/activation charges.

¹⁶ Guidance Ruling at 11-12.

¹⁷ *Id.* at 13.

¹⁸ *Id.* at 11.

The Comment Ruling thereafter modified the two types of reimbursable activities for these reinstated discounts and reimbursements to (1) when the California LifeLine participant establishes California LifeLine wireless telephone service for the first time; and (2) when switching from one California LifeLine telephone service provider, whether wireline or wireless, to a California LifeLine wireless telephone service provider.¹⁹ Furthermore, the Comment Ruling reaffirmed the expiration date of December 23, 2016 for these reinstated discounts and reimbursements.²⁰

3.2. Party Positions

California LifeLine wireless telephone service providers generally support the continuation of reimbursement for service activation/connection charges.²¹ In Comments filed on October 11, 2016, the Coalition²² favored extension of reimbursement for service activation/connection charges for a minimum of two years in order to secure regulatory certainty and to cover “substantial connection and activation costs (these include account acquisition, setup and training; compliance and audit; order fulfillment labor; network

¹⁹ Comment Ruling at 3-4.

²⁰ *Id.* at 4.

²¹ In comments filed on May 28, 2013, TracFone argued that California Lifeline should not support non-recurring or connection charges. TracFone noted the FCC had considered a similar question. In its Lifeline Reform Order, the FCC eliminated the Link Up program. Link Up provided a one-time \$30 subsidy to ETCs to offset the charges to commencing Lifeline service to low-income consumers. The record before the FCC showed that Link Up support was not being used for the purpose of offsetting providers’ costs of physically connecting Lifeline customers to their networks — costs which, for wireless providers, are minimal, and which, for Incumbent Local Exchange Carriers, have declined dramatically in recent years. Rather, Link Up support was being used to cover providers’ costs of advertising and marketing, regulatory compliance, enrollment, and other costs which are basic costs of doing business and not appropriate for USF subsidization. This will be no less true with California Lifeline than it is for federal Lifeline; therefore, TracFone concluded, there is no longer any justification for the Commission’s allowing the state fund’s resources to be diverted to cover costs which are properly the providers’ responsibility.

²² Comments of California LifeLine Coalition (Telrite Corporation DBA Life Wireless (U4442C), I-Wireless, LLC (U4372C), Boomerang Wireless, LLC (U4436C), Blue Jay Wireless, LLC (U4437C), TruConnect Communications, Inc. (U4380C), and Amerimex Communications Corp. DBA SafetyNet Wireless (U4458C)) on Connection/Activation Discounts and Workshops and Federal Communications Commission’s Third Report and Order in Rulemaking 11-03-013 (California Wireless Coalition or Coalition). *See* subsequent Reply Comments by California LifeLine Coalition, October 19, 2016.

activation and provisioning; and customer support and operational support systems).”²³ In Reply Comments, the Coalition added that “the non-recurring cost reimbursements should be available to offset the cost of providing smartphones to low-income Californians because consumers are increasingly turn to mobile communications and often struggle with affordability.”²⁴ The Coalition believes that “A substantial reason for the success of the wireless LifeLine program in California is the ability of the wireless eligible telecommunications carriers (ETCs) to offer attractive LifeLine plans, often at no charge to the California LifeLine consumers, which are generally unavailable outside California.”²⁵ According to the Coalition, the \$39.00 California LifeLine reimbursement for service connection/activation charges, when added to the revenue streams from federal Lifeline and California LifeLine, sustain these expanded offerings in the state.²⁶

The Commission’s Office of Ratepayer Advocates (ORA) recommended that the \$39.00 reimbursement of the service connection charge be discontinued because there is no available cost justification for it and the fiscal impact on the California LifeLine Fund is significant. ORA maintains the Program should not be subsidizing devices.²⁷ In its Reply Comments, ORA repeated its objection to maintaining the \$39.00 service connection charge reimbursement but added that, if maintained, the reimbursement should be no more than \$4.00 per California LifeLine participant. ORA based this recommendation on data responses from the California LifeLine wireless telephone service providers regarding service activation costs less “the cost of the wireless device and sales and marketing costs,” and the average retail service activation charge of

²³ Coalition Comments at 3; cf., Coalition Reply Comments, October 19, at 2-3.

²⁴ Coalition Reply Comments, Oct. 19, at 3.

²⁵ *Id.*

²⁶ *Id.*, at 3-4.

²⁷ See Opening Comments of the ORA on Assigned Commissioner and Administrative Law Judge’s Ruling Requesting Comments on Workshops and Federal Communications Commission’s Third Report and Order, October 11, 2016, at 4-5.

California's four largest wireless carriers for non-LifeLine customers.²⁸ ORA concluded that "It is not appropriate to maintain an artificially high [Service Connection Charge] reimbursement to facilitate a non-transparent subsidy for wireless handsets."²⁹

3.3. Discussion

The Commission capped the reimbursement for the service connection/activation discount at \$39.00 because it was that amount for landline service for many years, reflecting costs associated with the connection of new landline service. We are persuaded by the Coalition's assessment that \$4.00 is not an appropriate level of support for service activation/connection charges. This number does not fully account for the costs necessary to enable California LifeLine wireless telephone service functions. Landline telephone service devices are fairly simple, but for wireless telephone service the device is more sophisticated and is more expensive to support voice, text, and broadband services.

In 2014, the Commission affirmed that California LifeLine service providers may use the California LifeLine reimbursement to support text and broadband service, in addition to minimum levels of voice minutes. We are cognizant that the FCC shifted many of its federal Lifeline program rules to focus on support for broadband service and that it intends to phase out support for voice telephony service over the next several years. For participants to receive the full benefit of California LifeLine, providing support for service connection/activation fees capped at \$39.00 for California LifeLine wireless telephone services no more than two times per year per California LifeLine participant remains appropriate at this time.

Given the uncertainty surrounding the implementation of the federal Lifeline program and the changing dynamic between its support for voice telephony and for

²⁸ See Reply Comments of the ORA on Assigned Commissioner and Administrative Law Judge's Ruling, Oct. 19, 2016, at 2-3.

²⁹ *Id.* at 4.

broadband services, with the attendant impact on our Program, we will maintain our reimbursement rate capped at \$39.00 for service connection/activation charges for California LifeLine wireless telephone services with a limit of no more than two discounts per California LifeLine participant per year. This period will provide the Commission time to gain experience and gather data about the impacts of the continued reimbursement rate on enrollment, service offerings, and the financial integrity of California LifeLine in relation to the modified federal Lifeline program.

We also expect that the implementation of enrollment and portability freezes (port freeze) will reduce the frequency of service connections and transfers. A 60-day port freeze for California LifeLine telephone service puts a brake on some customer switching, limiting resort to the service connection/activation support. The Commission will gain valuable experience through implementing the 60-day port freeze for California LifeLine telephone services and by monitoring the federal 12-month broadband service port freeze before any modification to the continued capped reimbursement of \$39.00 with a limit of two discounted service connection/activation charges per year for a California LifeLine participant. Parties to this proceeding continue to express diverse opinions regarding the reimbursement for the service connection activation charges in comments and reply comments to this decision. The Commission will revisit the reimbursement for the service connection/activation discount in the next phase of this rulemaking or subsequent rulemaking addressing the Program.

As a result, we will maintain the current policy regarding the discounts and reimbursements for service connection/activation charges for California LifeLine wireless telephone services at this time, and will extend the duration of these discounts and reimbursements until a subsequent Commission Decision or resolution addressing this issue.

3.3.1. Treatment of Reinstated Reimbursements of Service Connection/Activation Charges for California LifeLine Wireless Telephone Services

As we discuss in detail below, we adopt the guidance provided in the Guidance Ruling on consumer education, advice letters, reimbursement mechanism, and tracking reimbursements. We reaffirm the Guidance Ruling’s clarification that the governing reinstatement of reimbursements for service connection/activation charges and the rules provided here are applicable only to California LifeLine wireless telephone services. General Order (GO) 153 Section 8.1.1 establishes the rules governing the discounts and reimbursements for California LifeLine wireline telephone services, which this Decision does not modify.

3.3.1.1. Consumer Education and Notice Requirements

D.14-01-036 requires California LifeLine wireless telephone service providers to “prominently disclose and disseminate terms and conditions, including their rates and fees.”³⁰ With respect to the reinstated discounts and reimbursements for service connection/activation charges for California LifeLine wireless telephone services, we specifically require California LifeLine wireless telephone service providers inform consumers verbally prior to service initiation and in writing of two main restrictions:

- 1) The California LifeLine Program will not subsidize service connection/activation charges more than twice per year; and
- 2) The consumer or the California LifeLine wireless telephone service provider will be responsible for paying the service connection/activation charges beyond the two for which reimbursement is provided, and if such additional charges are incurred, specify how much that charge will be.

³⁰ D.14-01-036, Attachment D, GO 153, Appendix A-2, Service Elements of California LifeLine Wireless, at D9.

This consumer education requirement shall continue until the Commission adopts or modifies this disclosure requirement.

To satisfy the written notice requirement, California LifeLine wireless telephone service providers shall file a Tier 2 Advice Letter (AL) within 30 days of the effective date of this decision, conforming their terms and conditions, including rates and charges, to this decision. California LifeLine wireless providers shall also include the information in their annual notice.³¹ To satisfy the verbal notice requirement, California LifeLine wireless telephone service providers shall verbally inform new consumers prior to service initiation of the rules as described in the Amended Scoping Ruling and Guidance Ruling and as affirmed in this decision.

In addition, California LifeLine wireless telephone service providers shall comply with any applicable customer notice requirements in GO 153 and GO 96-B. GO 96-B, General Rule 4.2 and Telecommunications Industry Rules 3 and 3.3 require utilities to give affected customers at least 30-day notice before the effective date of an AL requesting approval of higher rates or charges, or more restrictive terms or conditions, than those currently in effect. The Guidance Ruling clarified that we did not waive GO 96-B General Rule 4.2; and we affirm that requirement here. California LifeLine wireless telephone service providers must continue to comply with GO 96-B, General Rule 4.2 and Telecommunications Industry Rules 3 and 3.3.

GO 153 Section 4.7 requires California LifeLine providers to give a 30-day notice to existing California LifeLine participants if they make any changes to their California LifeLine service offerings that result in an increase in California LifeLine rates or new service restrictions. The Guidance Ruling clarified that we did not waive this 30-day notice requirement; and we further affirm this requirement here. To the extent there are higher service rates and/or further service restrictions, California LifeLine service

³¹ See GO 153, Section 4.3.1.

wireless telephone service providers shall continue to comply with this 30-day notice requirement.

If the California LifeLine wireless telephone service provider's schedule of rates and charges, terms and conditions filed through an advice letter does not state that the California LifeLine wireless telephone service provider will waive the service connection fee for California LifeLine participants who become ineligible for the service connection discounts, then the California LifeLine wireless telephone service provider must give at least 30-day notice of those new restrictions and/or higher rates to affected customers.

California LifeLine wireless telephone service providers that do not waive the service connection fees for California LifeLine participants ineligible for the service connection discounts may continue to utilize alternative means (e.g., text messages, letters, postcards, bill messages or inserts, etc.) to inform existing consumers in writing of the aforementioned two main points of the consumer education requirement, if required. California LifeLine wireless telephone service providers may also use such methods to inform all new customers of the limits on service connection fee support, including customers who have switched from another California LifeLine provider.

The Commission requires all California LifeLine service providers to submit their California LifeLine related marketing materials, including scripts, to CD for review and approval prior to their dissemination to the public. The Guidance Ruling clarified that it did not alter this requirement. California LifeLine wireless telephone service providers shall continue to submit their materials, including the notice(s) and verbal disclosures to CD for review and approval prior to public dissemination.³²

3.3.1.2. Compliance Advice Letter Requirement

D.14-01-036 requires California LifeLine service providers to file a Tier 2 AL to revise any previously approved California LifeLine service or plan, and to include their

³² Please e-mail the conforming materials to CaLLmarketing@cpuc.ca.gov.

tariff(s) or schedule of rates and charges in the advice letter.³³ We reiterate here that all California LifeLine wireless telephone service providers must file a Tier 2 AL when revising any previously approved California LifeLine service or plan. If CD finds the advice letter deficient, CD will ask the California LifeLine wireless telephone service provider to supplement its AL. The California LifeLine wireless telephone service provider shall continue to offer and provision its existing California LifeLine services until its Tier 2 AL is approved consistent with GO 96-B.

California LifeLine wireless telephone service providers shall not terminate the California LifeLine participant's service or encourage California LifeLine participants to terminate and reinstate service for the purpose of collecting reimbursement for service connection charges. Termination for non-payment of bills, consistent with the California LifeLine wireless telephone service providers published terms and conditions, shall continue to be permitted, but California LifeLine wireless telephone service providers shall not churn existing California LifeLine participants to generate reimbursement claims for service connection charges. California LifeLine wireless telephone service providers that appear to be churning existing California LifeLine participants to artificially generate reimbursements will be subject to audit or review by Commission staff or its designee. If, after audit or review, Commission staff (or staff's designee) determines that a California LifeLine wireless telephone service provider is artificially churning an existing California LifeLine participant to receive monetary support for service connection charges, Commission staff shall disallow reimbursement for the service connection/activation charge(s) the provider claimed for the affected California LifeLine participant.

When evaluating the Tier 2 advice letter filings, CD shall ensure that:

³³ See D.14-01-036 at OPs 24.b. and 24.b.iii.

- a) California LifeLine wireless telephone service providers' terms and conditions of service do not enable discriminatory or predatory practices;
- b) California LifeLine wireless telephone service providers demonstrate how and when the required consumer education will occur;
- c) California LifeLine participants are provided a detailed description of any applicable non-recurring charges consistent with GO 153 Section 2.46 and this Decision; and
- d) California LifeLine wireless telephone service providers comply with customer notice requirement in GO 96-B, General Rule 4.2, and Telecommunications Industry Rules 3 and 3.3, and GO 153, Section 4.7, as applicable.

3.3.1.3. Reimbursement Mechanism and Effective Start Date

There have been questions regarding the definition of the word “conversion” as used in the Amended Scoping Ruling. The Amended Scoping Ruling used the word “conversion” in the phrase, “nonrecurring charges for service connection, activation, and conversion,” where conversion was intended to mean, as with other words in the phrase, a conversion of subscriber from one provider to another provider. We did not, and do not now intend, “conversion” to be a conversion or change of a service plan the subscriber has to a different service plan with the same provider. As a result, California LifeLine participants who change to a different service plan offered by their current California LifeLine service provider, to a different service address, or to a different phone number, shall not be eligible for discounts for service activation/connection charges.

We further reiterate that the reinstatement of reimbursement of service connection charges for California LifeLine wireless telephone services is limited to two activities: (1) the California LifeLine participant establishing California LifeLine wireless telephone service for the first time; and (2) switching from one California LifeLine telephone service provider, whether wireline or wireless, to a California LifeLine wireless

telephone service provider. Changes unrelated to service connection/activation such as changing wireless telephone service plans, phone numbers, or service address updates within the same California LifeLine wireless telephone service provider do not qualify for service connection/activation support. The continuation of reimbursement of service connection charges for California LifeLine wireless telephone services shall continue until the California Public Utilities Commission addresses the issue in a subsequent decision or resolution.

3.3.1.4. Tracking Reimbursements

The California LifeLine Administrator shall continue its monthly reporting of the allowed reimbursements of service connection charges for California LifeLine wireless telephone services to CD. The California LifeLine Administrator shall also continue its monthly reporting to each California LifeLine wireless telephone service provider of the total number of the provider's California LifeLine participants who are eligible for reimbursement of service connection charges. California LifeLine wireless telephone service providers shall also continue to track their own California LifeLine participants' activities relevant to determining eligibility for reimbursement of service connection charges for auditing purposes. When submitting claims for reimbursements of service connection charges, a California LifeLine wireless telephone service provider may compare its data with the monthly reports provided by the California LifeLine Administrator.

CD will identify disallowed reimbursements of service connection charges, as applicable, for California LifeLine wireless telephone services in its payment letters to the reporting California LifeLine wireless telephone service provider.

4. Portability Freeze

In adopting a portability freeze rule as required by AB 2570, the Commission looks to its own experience with the California LifeLine Program, the experience of the FCC in administration of the federal Lifeline program, and the input of parties to this proceeding. First, AB 2570, codified at Pub. Util. Code § 878.5, requires the

Commission to adopt a portability freeze rule for California LifeLine by January 15, 2017. It directs the Commission to consider the following:

- (a) A 60-day duration for the portability freeze;
- (b) Allowing a period of time when a subscriber is able to terminate California LifeLine service without penalty, similar to provisions established D.14-01-036;³⁴
- (c) A requirement that the administrator of the Program provide real-time information concerning whether a subscriber has enrolled with another telephone corporation during the period of the portability freeze administered by the Commission ... and, if the subscriber enrolled during this period, the date of enrollment.

Parties to this proceeding were generally supportive of a 60-day benefit portability freeze. Certain consumer groups argued that such a freeze should be limited only to California LifeLine wireless telephone service providers. Pub. Util. Code § 878.5 requires implementation of a portability freeze for all California LifeLine participants and service providers.

In adopting benefit portability rules, the FCC sought to “incentivize investment in high-quality Lifeline service offerings.”³⁵ The FCC observed: “In areas where there are many ETCs, eligible subscribers churning often reduces the incentive for Lifeline providers to participate in the program.”³⁶ In addition to a 60-day constraint for

³⁴ See D.14-01-036, Section 4.13.5, which requires that California LifeLine participants shall have the ability to terminate service “for any reason within 14 days of service activation without incurring any charges, including an early termination fee.” California LifeLine subscribers must be allowed time to determine whether the service works inside the home, as such service is required under program rules. In addition, if a participant terminates service within three business days of service activation (excluding national holidays) service providers must refund in full any and all applicable service connection charges and deposits. Service providers are not allowed to charge a restocking fee if the handset device is returned within three business days, but participants are responsible for paying for usage from the date of activation. California LifeLine service providers shall not require contracts longer than two years.

³⁵ 2016 Lifeline Modernization Order at ¶385; cf. 389.

³⁶ *Id.*, at 387.

transferring federal Lifeline benefits between ETCs, the FCC also mandated a 12-month benefit portability rule for federal Lifeline supported broadband. In doing so, the FCC provides a longer duration for a guaranteed payment stream from the federal government to ETCs provisioning broadband service that meets the FCCs minimum standards. The FCC concluded that “allowing broadband providers the security of a longer term relationship with subscribers will incentivize greater up-front investments from providers.”³⁷ The FCC considered the potential consumer harms resulting from implementation of a benefit portability rule and these potential harms will be discussed in our consideration of exceptions to benefit portability rules.

The FCC framed its portability rule as a limitation on federal Lifeline providers, rather than directly on subscribers.

A Lifeline provider... may not seek or receive reimbursement through the Lifeline program for service provide to a subscriber who used the Lifeline benefit to enroll in a qualifying Lifeline-supported voice telephony service offering with another Lifeline provider within the previous 60 days....³⁸

The FCC determined that “since the service and device costs associated with standalone voice telephony service are generally lower than costs for comparable broadband offerings,” the benefit portability freeze for federal Lifeline-supported voice telephony need be only 60 days. “...[W]e find that the existing 60-day period administered by USAC is sufficient to encourage investment and quality offerings for voice services, and we accordingly codify that period in our rules.”³⁹

As we noted above, prior to adopting a formal portability freeze rule in the federal Lifeline program, USAC independently implemented an administrative process that effectively operated as a 60-day portability freeze. USAC denied an ETC’s request to

³⁷ *Id.*, at 389.

³⁸ *Id.* at 392, codified in 47 CFR Part 54 (¶ 54.411).

³⁹ *Ibid.*

transfer a subscriber's benefit to another ETC if that subscriber had enrolled or had their benefit transferred within the past 60 days.⁴⁰ NLAD states have had this 60-day portability freeze since March 2014, which coincidentally was the same timeframe during which California LifeLine wireless telephone services launched. Despite the existence of a 60-day portability freeze in NLAD states for years, this administrative limitation has not yielded meaningful improvements to federal Lifeline service offerings. In mid-June 2015, the FCC released a notice of proposed rulemaking seeking comment on its proposals for obtaining value for ratepayers' monetary contributions so that federal Lifeline participants may fully partake in today's society.⁴¹ Notably, none of the FCC's proposals at that time included a portability freeze rule.

Prior to our Decision here, California LifeLine participants were able to transfer their California LifeLine discounts and approved eligibility status to another California LifeLine service provider or principal place of residence (residential or service address) at their discretion as long as they maintained their eligibility in all other respects.⁴² In accordance with Pub. Util. Code § 878.5, we revise our portability policies for California LifeLine discounted telephone services to incorporate a benefit portability freeze of 60 days.⁴³

4.1. Revised Portability Policies for California LifeLine

We adopt the following modifications to the California LifeLine Program:

1. California LifeLine participants must remain with the same California LifeLine service provider for 60 days in order to continue to receive California LifeLine discounts unless the

⁴⁰ See <http://www.usac.org/li/tools/nlad/benefit-transfers.aspx> (last visited November 23, 2016).

⁴¹ See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Dkt Nos. 11-42, 09-0197, and 10-90, *Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order (NPRM)*, FCC 15-71, (rel. June 22, 2015).

⁴² See GO 153 §§ 4.2.1.1 and 5.4.5.

⁴³ As we noted above, we decline at this time to address the FCC's 12-month benefit portability rule for BIAS, reserving its consideration for a future proceeding or decision.

California LifeLine participant qualifies for at least one of the exceptions to the benefit portability freeze.

2. After 60 days, the California LifeLine participant may choose to switch to a different California LifeLine service provider or remain with the same California LifeLine service provider.
3. The 60-day benefit portability freeze duration applies to consumers with approved eligibility status who are receiving California LifeLine discounted telephone services. A California LifeLine participant who has completed the 60-day benefit portability freeze duration would no longer be subject to the benefit portability freeze unless the California LifeLine participant switched to another California LifeLine service provider, at which time, the 60-day benefit portability freeze duration would begin anew.

We preserve the following existing Program rules:

1. California LifeLine participants shall retain the ability to take their approved eligibility status anywhere in California at their discretion;⁴⁴
2. GO 153 §§ 4.2.1.1 and 5.4.5, allow a California LifeLine participant to change his/her California LifeLine service provider and/or residential address without having to undergo an application process as long as the California LifeLine participant maintains his/her eligibility in all other respects.
 - a. The Administrator and California LifeLine service providers shall not require California LifeLine participants who change their California LifeLine service providers and/or residential address to establish their eligibility anew.
 - b. The California LifeLine participant will continue to be subject to the annual renewal process at which time the California LifeLine participant must re-certify her/his

⁴⁴ A change of residential address meets one of the exceptions from the federal Lifeline program's benefit portability freeze duration.

continued eligibility in order to continue receiving the California LifeLine discounts for another year.

4.2. Exceptions to the 60-Day Benefit Portability Freeze for California LifeLine

The federal Lifeline program provides four exceptions to the 60-day benefit portability freeze duration for voice telephony. According to the FCC, a federal Lifeline subscriber may transfer the federal Lifeline benefit to a different ETC within the 60-day benefit portability freeze period if:

1. The subscriber changes residence;
2. The provider ceases operation or otherwise fails to provide service;
3. The provider has imposed late fees for non-payment related to the supported service(s) greater than or equal to the monthly end-user charge for service;
4. The provider is found to be in violation of the FCC's rules during the benefit year and the subscriber is impacted by such violation.⁴⁵

We conclude that California LifeLine participants should similarly be authorized to transfer their California LifeLine discounts and approved eligibility status between California LifeLine service providers. We adopt and add to the California LifeLine Program all four federal Lifeline benefit portability exceptions. In addition, we add to the list of exceptions that if the California LifeLine service provider has violated one or more of the Commission's or the Program's rules and the California LifeLine participant was impacted by such violation, that California LifeLine participant should be authorized to switch California LifeLine service providers prior to the completion of the portability freeze. The Program Administrator or Consumer Affairs Branch (CAB) shall use

⁴⁵ 2016 LifeLine Modernization Order at 393. These exceptions are codified in a new § 54.411 to 47 CFR Part 54. See Order, Appendix A.

information regarding a California LifeLine service provider's rule violation to allow a California LifeLine participant to switch to a new California LifeLine service provider prior to the completion of the portability freeze duration when the rule violation has impacted the subscriber. Additionally, once the 60-day benefit portability freeze duration has ended, the California LifeLine participant shall have the ability to choose and receive California LifeLine discounted telephone services from a different California LifeLine service provider.

At this time, California LifeLine participants shall not be required to provide evidence to substantiate that they meet the criteria to qualify for one of the exceptions to the 60-day benefit portability freeze duration. The Program Administrator will continue to actively monitor Program participation after the 60-day benefit portability freeze is implemented. The Commission may reexamine the need to provide evidence in the future after it has gained some experience through implementation and management of the 60-day benefit portability freeze. Nonetheless, the CD may, upon its discretion, determine that a California LifeLine participant should provide a written confirmation under penalty of perjury that he/she meets the criteria to qualify for one of the exceptions to the 60-day portability freeze duration. We reiterate that Commission staff may determine the type and frequency of information provided by California LifeLine service providers and participants.⁴⁶

4.2.1. Participant Change of Residential Address

A California LifeLine applicant or participant may only have one address in California as the principal place of residence.⁴⁷ A California LifeLine participant may change California LifeLine service providers during the 60-day benefit portability freeze duration if he/she has a change of residential address. At this time, a California LifeLine participant does not have to affirmatively state or confirm that he/she is changing a

⁴⁶ See D.14-01-036 OPs 28-29 and D.10-11-033 OP 36.

⁴⁷ Pub. Util. Code § 878.

residential address. The Program Administrator shall confirm the change of residential address as follows:

- 1) First, the Program Administrator shall standardize the service address contained in the pending request;
- 2) Second, the Program Administrator shall compare the standardized service address with the existing service address associated with the California LifeLine participant;
- 3) If the addresses are different, the Program Administrator shall enable the California LifeLine participant to change California LifeLine service providers prior to the completion of the portability freeze duration.

4.2.2. California LifeLine Provider Fails to Provide California LifeLine Discounted Service or Ceases Operation

We conclude that where a California LifeLine service provider fails to provide California LifeLine discounted telephone service or ceases to operate, a California LifeLine participant should be allowed to switch to another California LifeLine service provider prior to the completion of the benefit portability freeze duration. We direct CD to draft a resolution for Commission approval setting forth specific requirements and process to implement this exception, specifically, for failure to provide service. The following are the primary elements for this exception:

- a) A California LifeLine participant must confirm the California LifeLine service provider has failed to provide service; and confirm the choice to change to another California LifeLine service provider. The Program Administrator or the Commission's Consumer Affair Branch (CAB) must have this information to permit the change in California LifeLine service providers prior to the completion of the benefit portability freeze duration.
- b) The California LifeLine service provider shall be afforded the opportunity to resolve the service failure with the California LifeLine participant that asserted his/her California LifeLine service provider failed to provide California LifeLine discounted service;

- c) If the California LifeLine service provider is unable to fix the service failure, the Administrator or CAB shall allow the California LifeLine participant to switch to a new California LifeLine service provider prior to the completion of the benefit portability freeze duration.

The Commission currently requires California LifeLine service providers to inform and obtain approval from the Commission before they withdraw California LifeLine telephone services and/or exit from the California LifeLine Program or make material changes to their service plans. California LifeLine service providers shall continue to comply with this process before ceasing operations. We direct CD to inform the Program Administrator and CAB when a California LifeLine service provider ceases operations. The Program Administrator or CAB shall use this information to allow a California LifeLine participant to switch to a new California LifeLine service provider prior to the completion of the benefit portability freeze if her/his current California LifeLine service provider has ceased or will cease operations during the benefit portability freeze duration.

4.2.3. California LifeLine Provider imposes late fees for non-payment greater than or equal to monthly end-user charge for California LifeLine Discounted Telephone Service

The Commission currently requires California LifeLine service providers to submit a schedule of rates and charges. In order to implement this exception to the benefit portability freeze, we direct CD to inform the Program Administrator and CAB when a California LifeLine service provider's late fees for non-payment are greater than or equal to the monthly end-user charge for the California LifeLine discounted telephone service. The Program Administrator or CAB shall use this information to allow a California LifeLine participant to switch to a new California LifeLine service provider prior to the completion of the portability freeze if her/his current California LifeLine service provider has late fees for non-payment greater than or equal to the monthly end-user charge for the California LifeLine discounted telephone service.

4.2.4. FCC Determination that an ETC that is also a California LifeLine Service Provider is in Violation of FCC Rules

In instances where the FCC determines that an ETC is in violation of the FCC's rules and the participant is impacted by this violation, the participant shall be allowed to change to another ETC prior to the end of the benefit portability freeze.

4.2.5. Roles of the Consumer Affairs Branch and the California LifeLine Administrator in Evaluating Requests for Exceptions to Benefit Portability Freeze

Only the California LifeLine Administrator or CAB shall receive and evaluate requests for exceptions to the benefit portability freeze, and determine whether a California LifeLine participant meets the criteria adopted by this decision for one of the permissible exceptions to the benefit portability freeze. Consumers may go directly to the California LifeLine Administrator or to CAB to request an exception to the benefit portability freeze.

The Program Administrator and CAB shall be responsible for communicating information regarding the Program's revised portability policies. Our objective is to ensure that consumers receive the information they need regarding benefit portability policies adequate to enable them to change their California LifeLine providers, when justified. The California LifeLine Administrator and CAB shall communicate the benefit portability freeze, the possibility of exceptions, and status of requests for exceptions in multiple ways, including, but not limited to, the following: electronic, mail, and phone methods, the application and renewal forms, new forms or letters, and in scripts used by the Program Administrator or CAB staff. We direct CD to determine the appropriate methods/program materials and to develop the content for these materials related to these communications.

4.2.6. Role of the California LifeLine Service Providers in Educating Consumers about the Program’s Benefit Portability Policies

California LifeLine service providers shall inform consumers verbally prior to service initiation and in writing, including the annual notice, of the Program’s revised benefit portability policies adopted in this Decision. All California LifeLine service providers shall submit their consumer education and/or marketing materials to CD for review and approval prior to their dissemination to the public. CD may, upon its discretion, develop content of which California LifeLine service providers may use in their consumer education materials regarding the Program’s revised benefit portability policies.

4.2.7. Implementation

CD shall work with the Program Administrator, CAB, and stakeholders to determine how to best implement the benefit portability freeze adopted by this Decision, and may determine if a resolution for Commission’s consideration is needed. CAB requested sufficient time to bring the necessary resources to the Commission to perform its augmented responsibilities associated with the Program’s revised benefit portability policies. CD has the ministerial discretion appropriate to sustain the activities required by this decision and to direct the Program Administrator to implement the changes consistent with what we adopt herein. As a result, Commission staff may revise the administrative guidelines required to implement this Decision and to determine the type and frequency of information provided by California LifeLine service providers and participants.⁴⁸ CD may, hold one or more workshops or develop processes to implement this policy for the Commission’s consideration via a resolution.

⁴⁸ See D.14-01-036 OPs 28-29 and D.10-11-033 OP 36.

5. California LifeLine Enrollment Request Freeze

Consistent with the Commission’s objectives of maximizing consumer choice and of fostering competition in the California LifeLine marketplace, a consumer’s ability to submit requests to participate in the Program was not previously restricted. Consumers could submit requests to alter information within his/her records, or to change California LifeLine service providers without limitation. We recognize that there are instances where consumers may not have actually taken advantage of the “meaningful opportunity to test the service at home and in the areas they frequent”⁴⁹ as we have intended.

In their January 28, 2016 Comments, the Coalition identified a problem with the enrollment process not resolved by a portability freeze duration. As some wireless telephone service providers noted, the California LifeLine applicant seeking service may “enroll with one LifeLine provider and then another while the first application [is] still pending with the California LifeLine Administrator....” This may result in a situation where the customer receives a “free” device and service from the first provider even though the Administrator has not processed the applicant’s application. If the Program Administrator approves the more recent application from applicant with the second (or a third) California LifeLine service provider, the earlier California LifeLine service provider(s), will not qualify for non-recurring cost or service reimbursements. The Coalition urges the Commission to “impose adequate controls on both the non-recurring cost reimbursements and automatic benefit ports to protect the LifeLine program and service providers.” This issue was again raised at the October Workshop.⁵⁰

The Coalition recommends “a temporary port freeze on pending orders to give the Program Administrator time to complete its enrollment vetting process...” California LifeLine service providers, according to the Coalition, must be informed of an applicant’s eligibility “at the time of enrollment...” or, as the Coalition puts it, “on a real-time

⁴⁹ D.14-01-036 at 105.

⁵⁰ October Workshop Transcript at 15.

basis.” Real-time processing would allow the California LifeLine service provider to know whether the applicant’s application for California LifeLine has been approved by the Program Administrator before provision of a device or concurrent with it, and also indicate whether the applicant may have exhausted eligibility for reimbursement of non-recurring costs or have exceeded the limits imposed by the portability freeze.

The Coalition recognizes that a real-time vetting process will require the Program Administrator to “identify the applicant in real-time” by performing “the Lexis Nexis identity validation check at the time of the application or service transfer...” For the Program Administrator, the Coalition asserts, the duplicate detection step must be moved to the ‘front end’ of the application process. The Coalition recognizes that the “Administrator’s duplicate detection process is currently split and performed in part at the front end (time of application) and in part at the back end of the enrollment process (after eligibility determination).” The Coalition recommends that “The full process should be performed at the front end to provide the necessary information regarding eligibility....” Thus the Coalition believes there is a need to develop an enrollment freeze to supplement the portability freeze so that consumers and California LifeLine service providers (and subscribers) are aware of eligibility status “up front.”

5.1. Discussion

Although the Commission reminds California LifeLine wireless telephone service providers that they are under no obligation to provide a device in advance of an approved California LifeLine application, we understand the concern regarding the loss in investment resulting from the provision of a “free” phone to a California LifeLine applicant with a pending status should the Program Administrator ultimately deny Program participation by the end of the application process. We therefore adopt an enrollment request freeze for California LifeLine wireless telephone services with a maximum duration of 30 days, as suggested by the Joint Consumers and the Coalition.

A 30-day enrollment request freeze shall be applicable for each request where the Program Administrator generates an application packet or evaluates an inter-carrier

transfer whereby the portability freeze duration does not apply. The 30-day duration for the enrollment request freeze shall begin when the Program Administrator generates an application packet for a consumer or confirms that the request is an inter-carrier transfer request whereby the portability freeze duration does not apply. However, application packets generated by the Program Administrator to enable a consumer to correct previous applications shall not trigger the start of the 30-day enrollment request freeze nor shall the subsequent application packets disseminated to prompt the consumer to actually apply represent an enrollment freeze trigger.

In order for the Program Administrator to more accurately identify the consumer at the time of the request, and determine whether the consumer should be subject to the enrollment request freeze, the Program Administrator must have the consumer's personal information, i.e., name, residential address, date of birth, and last four digits of the social security number. If a consumer has a Tribal ID instead of a social security number, then the Tribal ID shall suffice. If the Program Administrator has the consumer's name, residential address, date of birth, and last four digits of the social security number (or Tribal ID) at the time of the request, the Program Administrator may perform the matching process using the matching logic. If the matching process does not yield any matches, then the Program Administrator may perform the first step, i.e., query a third-party identity verification service, in the Program's Identity Authentication Process (ID Check). Absent the Program Administrator's access to the consumer's name, residential address, date of birth, and last four digits of the social security number (or Tribal ID) at the time of the request, the enrollment request freeze duration shall not be imposed.

The three possible activities triggering the completion of the enrollment freeze are as follows:

1. The Program Administrator sends the final eligibility decision to the consumer;
2. The consumer or California LifeLine service provider cancels the request; or

3. Thirty days have passed since the Program Administrator generated the application packet or confirmed that the request is an inter-carrier transfer request whereby the portability freeze duration does not apply.

As soon as one of these three activities occurs, the enrollment request freeze shall end for the particular request. Beyond these considerations, there shall be no exceptions to the enrollment freeze. The Program Administrator shall enable CAB staff to electronically transmit to the Program Administrator any requests to cancel an enrollment request of which CAB staff has received. We direct CD to work with the Program Administrator, CAB, and interested stakeholders to enable a consumer to cancel an enrollment request in real-time, as with the enrollment request freeze.

California LifeLine wireless telephone service providers shall inform consumers verbally prior to service initiation and in writing, including the annual notice, of the Program's enrollment request freeze policy adopted in this Decision. All California LifeLine service providers shall submit their consumer education and/or marketing materials to CD for review and approval prior to their dissemination to the public. CD may, upon its discretion, develop content which California LifeLine service providers may use in their consumer education materials regarding the Program's enrollment request freeze policy.

Should California LifeLine *wireline* telephone service providers desire an enrollment freeze for California LifeLine wireline telephone services, we authorize CD, the Program Administrator, and CAB to develop a comparable process for a real-time enrollment request freeze and enrollment cancellation.

We shall monitor the California LifeLine marketplace and consumers' changing needs in order to determine whether exceptions to the enrollment request freeze should be adopted.

5.2. Implementation

Commission staff may work with stakeholders and the Program Administrator to develop processes to implement the enrollment request freeze adopted by this decision. CD may, upon its discretion, hold one or more workshops or develop processes to implement this policy for the Commission’s consideration via a resolution. We reiterate that Commission staff has the ministerial authority to revise administrative guidelines to determine the type of information to be provided by California LifeLine service providers and by consumers regarding the 30-day enrollment request freeze we impose today.

6. FCC Revised Eligibility Criteria – Impact on California LifeLine

6.1. 2016 Lifeline Modernization Order

In its 2016 Lifeline Modernization, the FCC revised the eligibility criteria for federal Lifeline to “develop long-term technological efficiencies by easily accessing systems and databases from other assistance programs.” The FCC stated, “The ability to access eligibility databases for federal assistance programs is key to success of the National Verifier.” The FCC also cited its commitment to preventing waste, fraud and abuse in the federal Lifeline program by easily accessing “Federal assistance programs that have demonstrated limited eligibility errors....” Further, the FCC amended its rules “to remove state-specified eligibility criteria for Lifeline support.” The FCC explained its removal of state-specified eligibility criteria for the federal Lifeline as a way:

...to simplify the administration of the Lifeline program. Lifeline currently allows for unique eligibility criteria depending on the state in which the consumer resides. This approach complicates administration at a federal level. Allowing the states to continue to develop tailored rules for federal Lifeline assistance would eliminate many of the efficiencies the Commission gains by modernizing the eligibility criteria. Streamlining the default federal eligibility criteria allows the Commission to transition the program to modern approaches for eligibility determinations, verification, and annual recertification. The selected list of federal assistance programs allows for a technology-based system by leveraging existing databases. Further, the programs are tailored to allow the Commission to reach needed data sharing agreements with the stakeholders in an efficient manner and state-specific eligibility

criteria would minimize or eliminate the efficiencies the Commission is working to achieve.

The FCC removed from the federal Lifeline program's eligibility criteria these federal assistance programs:

- Low-Income Home Energy Assistance Program (LIHEAP),
- National School Lunch Program (NSLP), and
- Temporary Assistance for Needy Families (TANF).

It added the Veterans Pension benefit or Survivors Pension benefit as meeting the qualifying program criteria for Lifeline eligibility. The FCC revised 47 CFR § 54.409 to read:

(2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit.

The FCC amended the income-based criterion for eligibility but only to the extent of aligning the federal Lifeline program with the Internal Revenue Service's definition of gross income in determining whether the household was at or below 135 percent of the Federal Poverty Guideline (FPG).

6.2. Discussion

Cox California Telecom, LLC dba Cox Communications (Cox) among others, urges us to conform to the FCC's newly adopted federal Lifeline eligibility criteria. At a minimum, Cox argues, the Commission should modify section 5.1.5 of GO 153 to include the qualifying federal assistance programs identified in 47 CFR § 54.409 as revised, and exclude those not identified by the FCC, add the new definition of gross income, set the income limit to 135 percent of the FPG, and remove the annual inflation adjustment to the income limit.

We recognize that California LifeLine subscribership will be impacted when the Commission decreases the income limit from about 150 percent to 135 percent of the

FPG and drops Women, Infants, and Children (WIC), TANF, NSLP, and LIHEAP from the list of qualifying public assistance programs for California LifeLine. However, the impact will likely be limited. Using figures from August 2016, CD estimates that a total of 81,395 California LifeLine participants would be impacted out of approximately 2.1 million California LifeLine participants. The table entitled Volume of Impacted California LifeLine Participants Due to the Federal Lifeline Program's Revised Eligibility Criteria is attached to this Decision as Attachment A.

CD's own estimates support the FCC's conclusion that the retained qualifying programs cover the overwhelming bulk of federal Lifeline subscribers.⁵¹ Adoption of the federal Lifeline program's revised eligibility criteria results in relative low (estimated at less than four (4) percent) impact to Program participation. Also, the estimated impact to the Program is potentially blunted by the possibility that low-income households may now also qualify if they are on the Veterans Pension benefit or Survivors Pension benefit program or on the broader program of Federal Public Housing Assistance (instead of just Section 8). Lastly, once the Program implements the promise of expanded accessibility to eligible low-income California-resident households without Social Security Numbers where the eligible adult has some form of valid government-issued identification, the impact on Program participation may be lessened even further.

With these considerations in mind, we shall revise the California LifeLine Program's eligibility criteria as follows:

- We adopt the federal definition for income 47 CFR § 54.400(f) - "Income" as gross income as defined under Internal Revenue Code, 26 USC § 61, for all members of the household. This means all income actually received by all members of the household from whatever source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 USC §101 *et. seq.*;

⁵¹ 2016 Lifeline Modernization Order at 170: "In considering improvements [in the eligibility process], we first look to the federal assistance programs most used by low-income consumers who enroll in the Lifeline program."

- We adopt the Veterans and Survivors Pension Benefit program and add it to the list of qualifying public assistance programs for the California LifeLine Program as of December 2, 2016, GO 153 § 5.1.5;
- We remove Section 8, LHIEAP, TANF, CaLWORKs, StanWORKs, WTW, GAIN, NSLP, WIC, and Healthy Families Category A from the list of qualifying public assistance programs for the California LifeLine Program, GO 153 § 5.1.5;
- We adopt the income-based criterion, which requires a household income to be at or below 135 percent of the FPG for the corresponding household size;
- CD shall cease annual adjustment of the California LifeLine income limits for inflation based on the Federal Consumer Price Index - Urban Areas; and
- CD is no longer required to notify California LifeLine service providers of any changes to the California LifeLine income limits, but may, at its discretion, publish an administrative letter to provide notice of changes to the California LifeLine income limits.

6.3. Implementation

Implementation of the revised eligibility criteria requires the Program Administrator to make significant changes. The Program Administrator needs to revise the California LifeLine inbound and outbound mail processes, redesign application and renewal forms, update customer tracking system, change web and phone enrollment systems, and revise training manuals and update websites. In addition, the Program Administrator must revise its direct application process, change carrier information exchange process, modify the interactive voice response system, and perform user acceptance testing. The California LifeLine service providers will also need to make information technology and other operational changes on their end and align their process with the Program Administrator's.

7. Future Issues for the California LifeLine Rulemaking

The 2016 Lifeline Modernization Order institutes many changes in the federal Lifeline program with uncertain impacts on the Lifeline programs of states, like California, offering their own universal service support for basic telephone services. We previously highlighted several of the major policy areas the Commission would likely need to address, including:

...the future role of the California LifeLine Program, the services supported by California LifeLine, the defining characteristics of a low-income household, and the entity tasked with the responsibility for enrolling customers.⁵²

Given that we face something of a moving target, this Decision has modest and proximate objectives. As we stated at the outset, we seek here to take the initial steps needed to harmonize California LifeLine with the changing federal Lifeline program. We do so where we can to the extent the full implications of the federal changes are known. We also do so with the intent to reaffirm our commitment to universal service. We have accordingly addressed only the status of support for activation/connection charges and the guidance to administer them, the portability and enrollment request freezes, and the modified eligibility criteria. We will revisit these issues and related questions after we have more data about customer choices and customer churn, given implementation of the portability freeze ordered by AB 2570, and after further implementation rulings from the FCC.

As noted earlier, the FCC announced a 12-month portability freeze for BIAS in its recent 2016 Lifeline Modernization Order. Due the limited information provided by the FCC, this Commission requested, as did others, an extension of time to implement some of the new rules, including this 12-month portability freeze for BIAS. Questions remain regarding several issues important to California, such as the possible interaction of the

⁵² *Id.*

California LifeLine database with NLAD for the 12-month port freeze. As a result, the Commission will address this in a future decision.

In initiating an enrollment request freeze to supplement the benefit portability freeze, the Commission will monitor its impact on consumers' experiences, California LifeLine applications, and California LifeLine service provider interaction with our third-party Administrator. In harmonizing our eligibility rules with those newly adopted by the FCC we also propose to monitor the impact on California LifeLine participants and service providers.

As Cox notes in providing a draft revision to sections of GO 153 consistent with its recommendations for conformity with the 2016 Lifeline Modernization Order, GO 153 has not yet been updated to reflect D.14-01-036 or D.16-10-039. With this in mind, we direct CD to begin a process to revise GO 153 consistent with previous Commission California LifeLine decisions and subsequent rulings and decisions, including this one, unaccounted for in the current GO 153.⁵³ We direct CD to begin this process within the 12 months from the issuance of this decision.

The issues we identified in the September 22, 2016 assigned Commissioner Ruling (ACR) and Comment Ruling not resolved by this decision remain for the Commission's further development and consideration. The Commission may address these and arising issues relating to the 2016 Lifeline Modernization Order through future decisions, resolutions, or rulings; through gathering more detailed comments from parties; by hosting additional workshops; and through encouraging informal discussions during California LifeLine Working Group meetings.

8. Comments on Proposed Decision

The proposed decision of Commissioner in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's rules of Practice and Procedure

⁵³ The proposed Cox revision may be useful as a starting point for comments and possible workshops.

On January 4, 2017, the Coalition, the Joint Consumers, Cox, Tracfone and CTIA filed comments on the proposed decision. On January 9, 2017, AT&T, TracFone, the Joint Consumers, and the Small LECs filed reply comments. We considered the comments and reply comments filed. Changes have been made where appropriate.

9. Assignment of Proceeding

President Michael Picker is the assigned Commissioner and Katherine Kwan MacDonald is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. On April 27, 2016, the FCC issued its 2016 Lifeline Modernization Order, FCC 16-38, making significant changes to the federal Lifeline program, including BIAS as a supported service with the eventual elimination of voice telephony service as a federally supported service.
2. On September 24, 2016, Governor Brown signed AB 2570 into law.
3. On January 16, 2014, the Commission modified the Program by adopting California LifeLine wireless telephone service elements for the first time in D.14-01-036.
4. On October 27, 2016, the Commission further expanded the Program to allow fixed-VoIP service providers without Certificate of Public Convenience and Necessity to qualify as California LifeLine Program service providers in D.16-10-039.
5. In 2004, California designed its own eligibility determination and enrollment process as required by the FCC.
6. In 2005, the Commission transferred the responsibilities for eligibility determination and enrollment process from the California LifeLine service providers to a third-party administrator.
7. Prior to the 2016 Lifeline Modernization Order, USAC independently implemented a 60-day benefit portability freeze at the administrative level for states participating in the NLAD.
8. California received an exemption from NLAD participation in light of our state's extensive third-party verification process and California LifeLine eligibility database.

9. D.14-01-036 in footnote 57 stated support for service connection/activation discount for California LifeLine wireless telephone services would end as of June 30, 2015.

10. The Amended Scoping Ruling reinstated support for service connection/activation discounts and reimbursements for California LifeLine wireless telephone services after suspension of that support through December 23, 2016 or until the Commission adopted a decision addressing the issue, whichever occurred first.

11. The November 23, 2016 ACR removed the December 23, 2016 expiration date for reimbursement of the service connection/activation discounts and reimbursements for California LifeLine wireless providers.

12. The Amended Scoping Ruling specified that each eligible household could qualify for California LifeLine discounts of non-recurring service connections/activations charges no more than twice annually.

13. The Guidance Ruling of March 7, 2016, ordered CD to identify disallowed reimbursements of service connection charges for California LifeLine wireless telephone services in the payment letters to California LifeLine wireless telephone service providers.

14. The Guidance Ruling affirmed the consumer education and notice requirements of D.14-01-036, compliance advice letter requirements, the reimbursement mechanism and effective start date, and requirements for tracking and reporting by the Program Administrator of the allowed reimbursements of service connection/activation charges.

15. The Comment Ruling specified the two types of reimbursable activities for discounts and reimbursements of service connection/activation charges for California LifeLine wireless telephone services as: 1) when the California LifeLine participant establishes California LifeLine wireless telephone service for the first time; and 2) when switching from one California LifeLine telephone service provider, whether wireline or wireless, to a California LifeLine wireless telephone service provider.

16. At this time, providing support for service connection/activation fees capped at of \$39.00 for California LifeLine wireless telephone services no more than two times per year per eligible household is necessary for Program participants to receive the full benefit of California LifeLine.

17. A 60-day benefit portability freeze for California LifeLine telephone service reduces some customer switching, limiting resort to the service connection/activation support.

18. There is uncertainty surrounding the implementation of the federal Lifeline program and the changing dynamic between its support for voice telephony and for broadband services.

19. The FCC framed its benefit portability rule as a limitation on federal Lifeline providers, rather than directly on subscribers.

20. The federal Lifeline program provides four exceptions to the 60-day benefit portability freeze duration for voice telephony service that allow federal Lifeline subscribers to switch to another ETC during that 60-day period.

21. The Commission currently requires California LifeLine service providers to inform and obtain approval from the Commission before they withdraw California LifeLine telephone services and/or exit from the Program.

22. The Commission currently requires California LifeLine service providers to submit a schedule of rates and charges for California LifeLine service offerings.

23. A consumer's ability to submit enrollment requests to participate in the Program was not previously restricted.

24. The 2016 Lifeline Modernization Order revised the eligibility criteria for federal Lifeline by removing LIHEAP, NSLP, and TANF. The FCC added the Veteran's Pension benefit or Survivors Pension as a qualifying program.

25. The Commission filed with the FCC a Petition for Temporary Waiver to implement changes regarding the federal Lifeline eligibility criteria and the 12-month benefit portability freeze for BIAS.

26. The FCC granted in part and denied in part the Commission's Petition for Temporary Waiver to implement the changes regarding the federal LifeLine eligibility criteria and the 12-month benefit portability freeze for BIAS.

Conclusions of Law

1. The Moore Act was intended to offer high quality basic telephone service at affordable rates to the greatest number of California residents, and has become an important means of achieving universal service by making residential service affordable to low-income citizens through the creation of a lifeline class of service.

2. Pub. Util. Code § 709 enjoins us to focus the Commission's efforts on affordability and availability, economic growth and investment, state-of-the-art services, bridging the digital divide, assuring competitive choices, and fair treatment of consumers regardless of telecommunications technologies.

3. AB 2570 requires the Commission to implement a portability freeze for telephone service and provides the Commission with the flexibility to determine the scope of the Program's benefit portability freeze rule.

4. Absent clarity and certainty from the FCC regarding inclusion of BIAS and the addition of LBP into the federal Lifeline program, it is prudent for the Commission to consider separately the 60-day port freeze for telephone service and the 12-month benefit portability freeze for BIAS.

5. The Commission should maintain the reimbursement rate capped at \$39.00 for service connection/activation charges for California LifeLine wireless telephone services with a limit of no more than two discounts per California LifeLine participant per year while it assesses the impact of the changes to the federal Lifeline program.

6. A 60-day benefit portability freeze for California LifeLine telephone service should reduce some customer switching, limiting resort to the service connection/activation support.

7. Limited reimbursements of service connection/activation charges for the California LifeLine Program apply only to California LifeLine wireless telephone services.

8. Conversion is defined as the conversion of subscriber from one provider to another provider.

9. GO 153 Section 8.1.1 establishes the rules governing the discounts and reimbursements for California LifeLine wireline telephone services.

10. D.14-01-036 requires California LifeLine wireless telephone service providers to prominently disclose and disseminate terms and conditions, including their rates and fees.

11. California LifeLine wireless telephone service providers should be required to inform consumers verbally prior to service initiation and in writing that: 1) the California LifeLine Program will not subsidize service connection/activation charges more than twice per year; and 2) the consumer or the California LifeLine wireless telephone service provider will be responsible for paying the service connection/activation charges beyond the two for which reimbursement is provided, and if such additional charges are incurred, specify how much that charge will be. This consumer education requirement should continue until the Commission adopts or alters this disclosure requirement. California LifeLine wireless telephone service providers should also include the information in their annual notice.

12. California LifeLine wireless telephone service providers should file a Tier 2 AL within 30 days of the effective date of this Decision conforming their terms and conditions, including rates and charges.

13. California LifeLine wireless telephone service providers should continue to comply with customer notice requirements in GO 153 and GO 96-B, General Rule 4.2, and Telecommunications Industry Rules 3 and 3.3.

14. GO 153 Section 4.7 requires California LifeLine providers to give a 30-day notice to existing California LifeLine participants if they make any changes to their California

LifeLine service offerings that result in an increase in California LifeLine rates or new service restrictions.

15. To the extent there are higher service rates and/or further service restrictions, California LifeLine service wireless telephone service providers should continue to comply with this 30-day notice requirement of GO 153 Section 4.7.

16. California LifeLine wireless telephone service providers that do not waive the service connection fee for California LifeLine participants who become ineligible for the service connection discounts should be required to give a 30-day notice of those new restrictions and/or higher rates to affected customers.

17. California LifeLine service providers shall submit their California LifeLine related consumer education and/or marketing materials, including scripts, notices, and verbal disclosures, to CD for review and approval prior to their dissemination to the public.

18. D. 14-01-036 requires California LifeLine service providers file a Tier 2 AL to revise any previously approved California LifeLine service or plan and to include their tariff(s) or schedule of rates and charges in the advice letter.

19. California LifeLine wireless telephone service providers should continue to file a Tier 2 AL when revising any previously approved California LifeLine service or plan, consistent with D.14-01-036.

20. The California LifeLine wireless telephone service provider should continue to offer and provision its existing California LifeLine services until its Tier 2 AL is approved consistent with GO 96-B.

21. California LifeLine wireless telephone service providers should not terminate the California LifeLine participant's service or encourage California LifeLine participants to terminate and reinstate service for the purpose of collecting reimbursement for service connection charges.

22. Termination for non-payment of bills, consistent with the California LifeLine wireless telephone service providers published terms and conditions, should continue to be permitted but California LifeLine wireless telephone service providers should not

churn existing California LifeLine participants to generate reimbursement claims for service connection charges.

23. Commission staff should disallow reimbursement for the service connection/activation charge(s), as applicable.

24. California LifeLine wireless telephone service providers' terms and conditions of service should not enable discriminatory or predatory practices.

25. California LifeLine wireless telephone service providers should demonstrate how and when the required consumer education will occur.

26. California LifeLine wireless telephone provider should provide consumers with a detailed description of any applicable non-recurring charges consistent with GO 153 Section 2.46 and this Decision.

27. California LifeLine participants who change to a different service plan offered by their current California LifeLine service provider, to a different service address, or to a different phone number should not be eligible for discounts for service activation/connection charges.

28. The reimbursements for service activation/connection charges should continue until a subsequent Commission Decision addresses this issue.

29. The Program Administrator should continue its monthly reporting of the allowed reimbursements of service connection charges for California LifeLine wireless telephone services to CD.

30. The Program Administrator should continue monthly reporting to each California LifeLine wireless telephone service provider of the total number of the provider's California LifeLine participants who are eligible for reimbursement of service connection charges.

31. California LifeLine wireless telephone service providers should continue to track their own California LifeLine participants' activities relevant to determining eligibility for reimbursement of service connection charges for auditing purposes.

32. CD should identify disallowed reimbursements of service connection charges, as applicable for California LifeLine wireless telephone services, in the payment letters to the reporting California LifeLine wireless telephone service provider.

33. Pub. Util. Code § 878.5 directs the Commission to adopt a benefit portability freeze rule for California LifeLine by January 15, 2017 and to consider: (1) a 60-day duration for the portability freeze; (2) allowing a period of time when a subscriber is able to terminate California LifeLine service without penalty; (3) a requirement that the administrator of the Program provide real-time information concerning whether a subscriber has enrolled with another telephone corporation during the period of the portability freeze administered by the Commission and, if the subscriber enrolled during this period, the date of enrollment.

34. Pub. Util. Code § 878.5 requires implementation of a benefit portability freeze for all California LifeLine participants and service providers.

35. In accordance with Pub. Util. Code § 878.5, we should revise our portability policies for California LifeLine discounted telephone services to incorporate a benefit portability freeze of 60 days.

36. California LifeLine participants should remain with the same California LifeLine service provider for 60 days in order to continue to receive California LifeLine discounts unless the California LifeLine participant qualifies for at least one of the exceptions to the portability freeze.

37. After 60 days, the California LifeLine participant should be able to switch to a different California LifeLine service provider or remain with the same California LifeLine service provider.

38. The 60-day portability freeze duration should apply to consumers with approved eligibility status that are receiving California LifeLine discounted telephone services.

39. A California LifeLine participant who has completed the 60-day benefit portability freeze duration should no longer be subject to the portability freeze unless the

California LifeLine participant switched to another California LifeLine service provider at which time, the 60-day benefit portability freeze duration should begin anew.

40. The Commission should preserve existing program rules that allow Program participants to take their approved eligibility status anywhere in California at their discretion and in accordance with GO 153 §§ 4.2.1.1 and 5.4.5.

41. California LifeLine participants should be authorized to transfer their California LifeLine discounts and approved eligibility status between California LifeLine service providers during the 60-day benefit portability freeze under similar exceptions to those provided under the federal Lifeline program.

42. The Commission should add to the California LifeLine Program all four federal Lifeline benefit portability exceptions in 47 C.F.R. § 54.411(c) as follows:

1) The subscriber changes residence; 2) The provider ceases operation or otherwise fails to provide service; 3) The provider has imposed late fees for non-payment related to the supported service(s) greater than or equal to the monthly end-user charge for service; and 4) The provider is found to be in violation of the FCC's rules during the benefit year and the subscriber is impacted by such violation.

43. The Commission should add to our list of exceptions to the benefit portability freeze duration that if the California LifeLine service provider has violated one or more of the Commission's or the Program's rules and the California LifeLine participant was impacted by such violation, that California LifeLine participant should be authorized to switch California LifeLine service providers prior to the completion of the benefit portability freeze duration.

44. At this time, California LifeLine participants should not be required to provide evidence to substantiate that they meet the criteria to qualify for one of the four exceptions to the benefit portability freeze rules.

45. A California LifeLine applicant or participant should only be permitted one address in California as the principal place of residence.

46. A California LifeLine participant should be able to change California LifeLine service providers during the 60-day benefit portability freeze duration if he/she has a change of residential address.

47. A California LifeLine participant should not have to affirmatively state or confirm that he/she is changing a residential address.

48. Communications Division may, upon its discretion, determine that California LifeLine participants should provide a written confirmation under penalty of perjury that he/she meets the adopted criteria to qualify for one of the exceptions to the 60-day benefit portability freeze duration.

49. The Program Administrator should confirm the change of residential address by comparing the consumer's existing address in the database with the address in the pending request.

50. Where a California LifeLine service provider fails to provide California LifeLine discounted telephone service or ceases to operate, a California Line participant taking service from that provider should be allowed to switch to another California LifeLine service provider prior to the completion of the benefit portability freeze duration.

51. CD should draft a resolution for Commission approval setting specific requirements and processes to implement the allowed exception, failure to provide service, to the benefit portability freeze.

52. California LifeLine service providers should continue to inform and acquire approval from the Commission before they withdraw California LifeLine telephone services and/or exit from the California LifeLine Program.

53. The Program Administrator or CAB should use information regarding the withdrawal or exit of a Program provider to allow a California LifeLine participant to switch to a new California LifeLine service provider prior to the completion of the benefit portability freeze duration if her/his current California LifeLine service provider has ceased or will cease operations prior to the completion of the benefit portability freeze duration.

54. The Program Administrator or CAB should use the late fee information for non-payment to allow a California LifeLine participant to switch to a new California LifeLine service provider prior to the completion of the benefit portability freeze duration if her/his current California LifeLine service provider has late fees for non-payment greater than or equal to the monthly end-user charge for the California LifeLine discounted telephone service.

55. Where the FCC determines that an ETC is in violation of the FCC's rules and the participant was impacted by this violation, the participant should be allowed to change to another ETC prior to the end of the benefit portability freeze duration.

56. Only the Program Administrator and CAB should receive and evaluate exceptions to the benefit portability freeze, and determine whether a California LifeLine participant meets the criteria for one of the permissible exceptions to the benefit portability freeze.

57. Consumers should go directly to the Program Administrator or to CAB to request an exception to the benefit portability freeze.

58. The Program Administrator, CAB, and California LifeLine service providers should be responsible for communicating information regarding the Program's revised benefit portability policies.

59. California LifeLine service providers shall inform consumers verbally prior to service initiation and in writing, including the annual notice, of the Program's revised benefit portability policies adopted in this Decision.

60. CD should work with the Program Administrator, CAB, and stakeholders to implement the benefit portability freeze adopted by this Decision.

61. CD should have the discretion to determine the necessary activities and how much time it will take to work with CAB, the California LifeLine providers and the Program Administrator to implement the changes we adopt in this Decision.

62. Commission staff has the authority to revise administrative procedures as necessary consistent with this decision, including the type and frequency of information

provided by California LifeLine service providers and by consumers to enroll and participate in the Program.

63. We should adopt an enrollment request freeze for California LifeLine wireless telephone services with a maximum duration of 30 days to address the California LifeLine wireless service provider concern regarding the loss of investment from the provision of a phone at no cost to the Program participant with a pending status.

64. A 30-day enrollment request freeze should be applicable for each request where the Program Administrator generates an application packet or evaluates an inter-carrier transfer whereby the benefit portability freeze duration does not apply.

65. Application packets generated by the Administrator to enable a consumer to correct previous applications should not trigger the start of the 30-day enrollment request freeze nor should the subsequent application packets disseminated to prompt the consumer to actually apply.

66. The Program Administrator should have the consumer's personal information, i.e., name, residential address, date of birth, and last four of the social security number.

67. A Tribal ID, instead of a social security number, should be sufficient for Tribal members.

68. The enrollment request freeze duration should end for a particular request when the Program Administrator (a) sends the final eligibility decision to the consumer; (b) the consumer or California LifeLine service provider cancels the request; or (c) thirty days have passed since the Program Administrator generated the application packet or confirmed that the request is an inter-carrier transfer request whereby the benefit portability freeze duration does not apply.

69. There should be no exceptions to the enrollment request freeze duration at this time.

70. We should monitor the California LifeLine marketplace and consumers' changing needs in order to determine whether, if any, exceptions to the enrollment request freeze should be adopted.

71. CD should work with the Program Administrator, CAB, and interested stakeholders to enable a consumer to cancel an enrollment request.

72. The 2016 Lifeline Modernization Order revised the eligibility criteria for federal Lifeline to develop long-term technological efficiencies by easily accessing systems and databases from other assistance programs.

73. We should adopt the federal definition of “Income” found at 47 CFR § 54.400(f) “Income” as gross income under Internal Revenue Code, 26 USC § 61, for all members of the household. This means all income actually receive by all members from whatever source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 USC §101 et. seq.

74. The eligibility criteria for California LifeLine should be revised to add the Veterans and Survivors Pension Benefit Fund to the list of qualifying programs for the Program effective December 2, 2016.

75. The Commission should remove LHIEAP, TANF, CalWORKS, StanWORKS, WTW, GAIN, NSLP, WIC, and Healthy Families Category A from the list of qualifying programs to the Program.

76. The Commission should adopt the income-based criterion, which requires a household to be at or below 135 percent of the FPG for the corresponding household size.

77. CD should stop annually adjusting (April 15) of the California LifeLine income limits for inflation based on the Federal Consumer Price Index-Urban Areas.

78. The requirement that CD notify California Service Providers of changes to the California LifeLine income limit should be eliminated.

79. The Commission should provide its staff with the discretion to work with the stakeholders, California LifeLine service providers, and the Program Administrator to implement the changes adopted by this Decision.

80. The 2016 LifeLine Modernization Order institutes many changes in the federal Lifeline program with uncertain impacts on the California LifeLine Program that the Commission may need to address in the future.

81. The Commission should monitor the impact of the 60-day benefit portability freeze and the enrollment request freeze on consumers' experiences, California LifeLine applications, and California LifeLine service provider interaction with the Program Administrator.

82. The Commission should monitor the impact of our new eligibility rules and those newly adopted by the FCC on California LifeLine participants and service providers.

83. Within one year of the effective date of this Decision, CD should begin the process to revise GO 153 to reflect D.14-01-036, D.16-10-039, and subsequent decisions and rulings, including this decision.

O R D E R

IT IS ORDERED that:

1. The reimbursement rate capped at \$39.00 for service connection/activation charges for California LifeLine wireless telephone services, with a limit of not more than two discounts per California LifeLine participant per year, shall continue until the California Public Utilities Commission addresses the issue in a subsequent decision or resolution. The two types of reimbursable activities for reimbursements of service connection/activation charges for California LifeLine wireless telephone services are i) when the California LifeLine participant establishes California LifeLine wireless telephone service for the first time; and ii) when switching from one California LifeLine telephone service provider, whether wireline or wireless, to a California LifeLine wireless telephone service provider.

2. California LifeLine wireless telephone service providers shall file a Tier 2 Advice Letter within 30 days of the effective date of this decision conforming their terms and conditions, including rates and charges.

3. The Communications Division shall ensure, through evaluation of the Tier 2 Advice Letter filings, that:

- a. California LifeLine wireless telephone service providers' terms and conditions of service do not enable discriminatory or predatory practices;
- b. California LifeLine wireless telephone service providers demonstrate how and when the required consumer education will occur;
- c. California LifeLine participants are provided a detailed description of any applicable non-recurring charges consistent with General Order (GO) 153 Section 2.46 and this decision; and
- d. California LifeLine wireless telephone service providers comply with customer notice requirement in GO 96-B, General Rule 4.2, and Telecommunications Industry Rules 3 and 3.3, and GO 153, Section 4.7, as applicable.

4. California LifeLine wireless telephone service providers shall inform consumers prior to service initiation, verbally and in writing, of two restrictions:

- (a) The California LifeLine Program will not subsidize service connection/activation charges more than twice per California LifeLine participant per year; and
- (b) The consumer or the California LifeLine wireless telephone service provider shall be responsible for paying the service connection/activation charges beyond the two for which reimbursement is provided, and if such additional charges are incurred, specifying how much that charge will be.

5. California LifeLine wireless telephone service providers shall also include the information regarding the limited reimbursement of service connection charges in their annual notice as ordered by this decision.

6. California LifeLine wireless telephone service providers shall comply with any applicable customer notice requirements in General Order (GO) 153 and GO 96-B, including General Rule 4.2 and Telecommunications Industry Rules 3 and 3.3.

7. All California LifeLine service providers shall submit their consumer education and/or marketing materials, including the notice(s) and verbal disclosures, to the Communications Division for review and approval prior to public dissemination.

8. California LifeLine wireless telephone service providers shall not terminate the California LifeLine participant's service or encourage California LifeLine participants to terminate and reinstate service for the purpose of collecting reimbursement for service connection charges. California LifeLine wireless telephone service providers must also comply with the following to receive reimbursement for service connection charges:

- (a) Termination for non-payment of bills, consistent with the California LifeLine wireless telephone service providers' published terms and conditions, shall continue to be permitted but California LifeLine wireless telephone service providers shall not churn existing California LifeLine participants to generate reimbursement claims for service connection charges.
- (b) California LifeLine wireless telephone service providers will be subject to audit or review by Commission staff or its designee. If, after audit or review, Commission staff (or staff's designee) determines that a California LifeLine wireless telephone service provider is artificially churning an existing California LifeLine participant in order to receive monetary support for service connection charges, Commission staff shall disallow reimbursement for the service connection/activation charge(s) the provider claimed for the affected California LifeLine participant.

9. The Communications Division shall identify disallowed reimbursements of service connection charges, as applicable, for California LifeLine wireless telephone services in the payment letters to the reporting California LifeLine wireless telephone service providers.

10. The California LifeLine Administrator shall continue monthly reporting of the allowed reimbursements of service connection charges for California LifeLine wireless telephone services to the Communications Division.

11. The California LifeLine Administrator shall continue monthly reporting to each California LifeLine wireless telephone service provider of the total number of the

provider's California LifeLine participants who are eligible for reimbursement of service connection charges.

12. California LifeLine wireless telephone service providers shall continue to track their own California LifeLine participants' activities relevant to determining eligibility for reimbursement of service connection charges for auditing purposes.

13. The California LifeLine Program's benefit portability rules shall be modified as follows:

- a) California LifeLine participant must remain with the same California LifeLine service provider for 60 days in order to continue to receive California LifeLine discounts unless the California LifeLine participant qualifies for at least one of the exceptions to the benefit portability freeze.
- b) The 60-day benefit portability freeze duration applies to consumers with approved eligibility status who are receiving California LifeLine discounted telephone services.
- c) After 60 days, the California LifeLine participant may choose to switch to a different California LifeLine service provider or remain with the same California LifeLine service provider.
- d) A California LifeLine participant who has completed the 60-day benefit portability freeze duration would no longer be subject to the benefit portability freeze unless the California LifeLine participant switched to another California LifeLine service provider, at which time, the 60-day benefit portability freeze duration will begin anew.

14. The following shall be exceptions from the 60-day benefit portability freeze duration:

- a) The subscriber changes residence;
- b) The provider ceases operation or otherwise fails to provide service;
- c) The provider has imposed late fees for non-payment related to the supported service(s) greater than or equal to the monthly end-user charge for service;
- d) The provider is found to be in violation of the Federal Communications Commission's rules during the benefit year and the subscriber is impacted by such violation; and
- e) The provider is found to be in violation of one or more of the California Public Utilities Commission's or the California LifeLine

Program's rules and the California LifeLine participant was impacted by such violation.

15. The California LifeLine Program Administrator shall confirm the change of residential address.

16. The Communications Division shall work with the California LifeLine Program Administrator, the Consumer Affairs Branch, and stakeholders to implement the revised portability rules adopted by this decision.

17. Only the California LifeLine Administrator and Consumer Affairs Branch shall receive and evaluate exceptions to the benefit portability freeze, and determine whether a California LifeLine participant meets the criteria for one of the permissible exceptions to the benefit portability freeze.

18. The California Lifeline Program Administrator, Consumer Affairs Branch, and California LifeLine service providers shall be responsible for communicating information regarding the California LifeLine Program's revised benefit portability policies.

19. California LifeLine service providers shall inform consumers verbally prior to service initiation and in writing, including the annual notice, of the California LifeLine Program's revised benefit portability policies adopted in this Decision.

20. California LifeLine participants shall not be required to provide any evidence to substantiate that they meet the criteria to qualify for one of the exceptions to the 60-day benefit portability freeze duration.

21. California Public Utilities Commission staff maintain the ministerial authority to revise administrative guidelines and to determine the type and frequency of information provided by California LifeLine service providers and by consumers to enroll and participate in the California LifeLine Program.

22. A 30-day enrollment request freeze shall be applicable for each request where the California LifeLine Administrator (Program Administrator) either, i) generates an application packet, or ii) evaluates an inter-carrier transfer whereby the portability freeze duration does not apply. The 30-day enrollment request freeze shall contain the following features:

- a) The 30-day duration for the enrollment request freeze shall begin when the Program Administrator generates an application packet or confirms that the request is an inter-carrier transfer request whereby the benefit portability freeze duration does not apply.
- b) Application packets generated by the Program Administrator to enable a consumer to correct previous applications shall not trigger the start of the 30-day enrollment request freeze nor shall the date of the subsequent application packets intended to prompt the consumer to actually apply.
- c) The Program Administrator must have the consumer's personal information to accurately identify the consumer at the time of enrollment request.
- d) The 30-day enrollment request freeze shall not be imposed where the Program Administrator does not have access to the consumer's name, residential service address, date of birth, and last four digits of the social security number or Tribal Identification.
- e) The 30-day enrollment freeze ends when one of the following occurs:
 - i) The Program Administrator sends the final eligibility decision to the consumer;
 - ii) The consumer or California LifeLine service provider cancels the request; or
 - iii) Thirty days have passed since the Program Administrator generated the application packet or confirmed that the request is an inter-carrier transfer request whereby the benefit portability freeze duration does not apply.

23. California LifeLine service providers shall inform consumers verbally prior to service initiation and in writing, including the annual notice, of the California LifeLine Program's enrollment request freeze policy adopted in this decision.

24. The Communications Division shall work with the California LifeLine Program Administrator and stakeholder to implement the administrative guidance for the 30-day enrollment request freeze adopted by this decision.

25. California LifeLine Eligibility Criteria are modified to:

- a) Adopt the federal definition for income 47 CFR § 54.400(f) - "Income" as gross income as defined under section 61 of the Internal Revenue Code, 26 USC § 61, for all members of the household.

This means all income actually received by all members of the household from whatever source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 USC §101 et. seq.;

- b) Add the Veterans and Survivors Pension Benefit program to the list of qualifying public assistance programs for the California LifeLine Program effective December 2, 2016, General Order (GO) 153 § 5.1.5;
- c) Remove Section 8, Low Income Home Energy Assistance Program, Temporary Assistance for Needy Families, California Work Opportunity and Responsibility to Kids, Stanislaus County Work Opportunity and Responsibility to Kids, Welfare-to-Work, Greater Avenues for Independence, National School Lunch Program, Women, Infants, and Children Program, and Healthy Families Category A from the list of qualifying public assistance programs for the California LifeLine Program, GO 153 § 5.1.5;
- d) Adopt the income-based criterion, which requires a household income to be at or below 135percent of the Federal Poverty Guideline for the corresponding household size;
- e) The Communications Division shall cease annual adjustment of the California LifeLine income limits for inflation based on the Federal Consumer Price Index - Urban Areas.
- f) The Communications Division, at its discretion, may publish an administrative letter to provide notice of changes to the California LifeLine income limits.

26. The Communications Division may work with California LifeLine service providers and the California LifeLine Program Administrator to develop administrative guidelines implementing the changes to the eligibility criteria adopted by this decision.

27. Within 12 months of the issuance of this decision, the Communications Division shall make recommendations to the California Public Utilities Commission regarding the process to revise General Order 153 to conform it with Decision 14-01-036, Decision 16-10-039, this decision, and any applicable resolutions and decisions.

28. Rulemaking 11-03-013 shall remain open.

This order is effective today.

Dated January 19, 2017, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

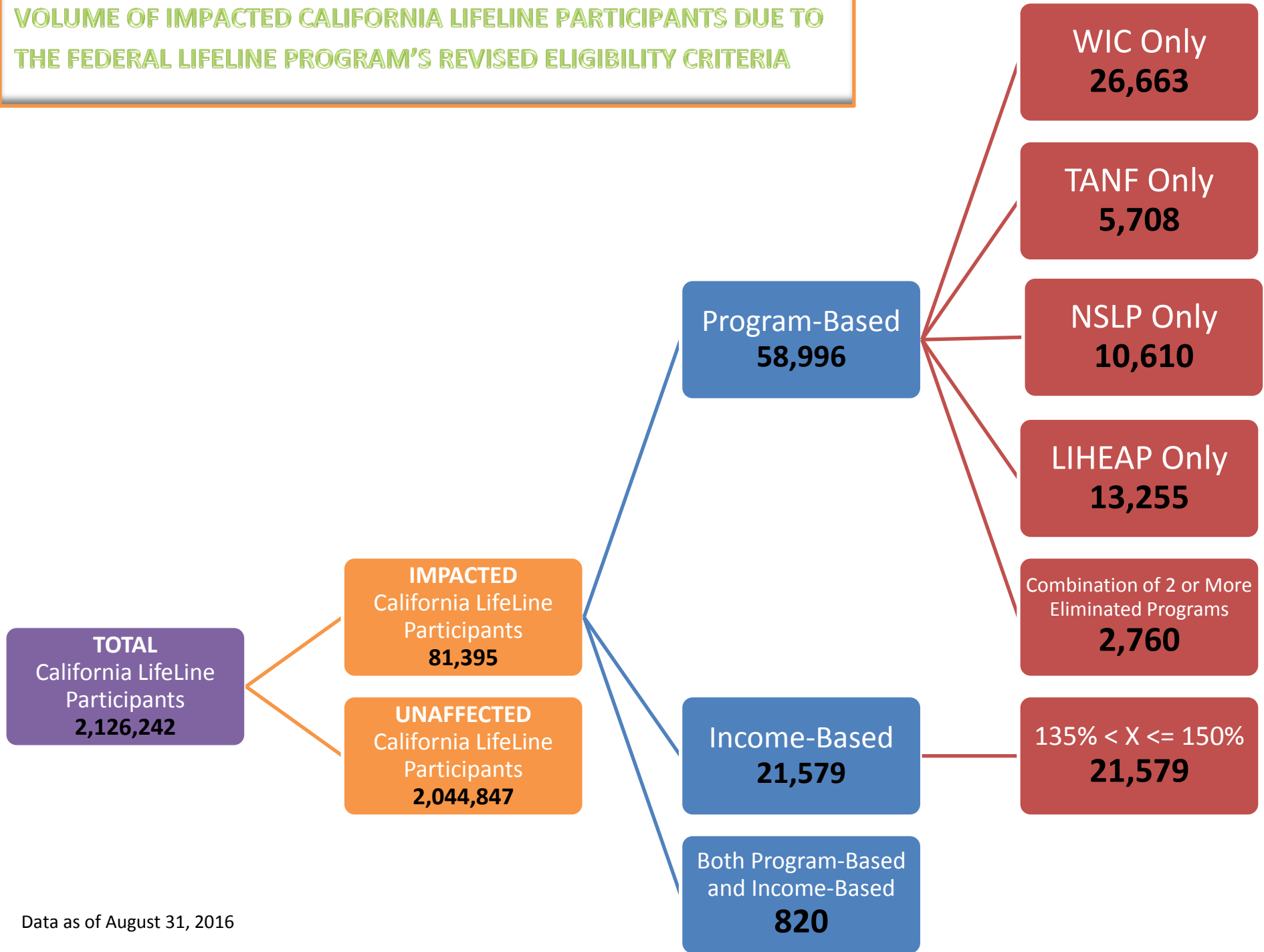
CLIFFORD RECHTSCHAFFEN

Commissioners

ATTACHMENT A

**Volume of Impacted California LifeLine Participants Due to the
Federal LifeLine Program's Revised Eligibility Criteria**

VOLUME OF IMPACTED CALIFORNIA LIFELINE PARTICIPANTS DUE TO THE FEDERAL LIFELINE PROGRAM'S REVISED ELIGIBILITY CRITERIA



Data as of August 31, 2016

ATTACHMENT B

Petition for Temporary Waiver

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of:

Lifeline and Link Up Reform and
Modernization

Telecommunications Carriers Eligible for
Universal Service Support

Connect America Fund

WC Docket No. 11-42

WC Docket No. 09-197

WC Docket No. 10-90

**PETITION OF
THE CALIFORNIA PUBLIC UTILITIES COMMISSION
FOR TEMPORARY WAIVER**

AROCLES AGUILAR
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October 28, 2016

I. INTRODUCTION

Pursuant to Section 1.3¹ of the Federal Communications Commission's (Commission) rules, the California Public Utilities Commission (CPUC or California) requests a temporary waiver of the revised federal Lifeline eligibility rules, §§ 54.400(f) and (j)² and 54.409,³ and the federal Lifeline benefit portability rules, § 54.411. These rules are scheduled to go into effect on December 2, 2016.

The CPUC requests a temporary waiver to implement these rules and their supporting processes by October 31, 2017 because the California LifeLine Administrator (Administrator) and the California LifeLine providers need more time to make technical, administrative, and operational changes. They have informed the CPUC that they need 11 to 18 months to make these changes to their systems. California currently has the

¹ See 47 C.F.R. § 1.3 – “The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”

² See 47 C.F.R. § 54.4009(f) *Income*. “Income” means gross income as defined under section 61 of the Internal Revenue Code, 26 U.S.C. 61, for all members of the household. This means all income actually received by all members of the household from whatever source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 U.S.C. 101 *et seq.*; (j) - *Qualifying assistance program*. A “qualifying assistance program” means any of the federal or Tribal assistance programs the participation in which, pursuant to §54.409(a) or (b), qualifies a consumer for Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; Veterans and Survivors Pension Benefit; Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations (FDPIR).

³ See 47 C.F.R. § 54.409 - Consumer qualification for Lifeline.(a) To constitute a qualifying low-income consumer: (1) A consumer's household income as defined in §54.400(f) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or (2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit.

largest Lifeline subscriber base in the nation,⁴ with over 2 million subscribers that receive federal and state subsidies. Because so many California Lifeline subscribers will be affected by the changes to the federal rules, the CPUC, the Administrator, and service providers must carefully plan, implement, and test the changes before rolling them out.

In addition, the CPUC must adopt state-specific benefit portability rules by January 15, 2017 in response to recently enacted state legislation. The CPUC is in the process of adopting these rules through its California LifeLine proceeding (CPUC Rulemaking 11-13-013). In this proceeding, the CPUC is also examining the impact of the *Lifeline Modernization Order*⁵ to the California LifeLine Program. By December 2016, the CPUC will have adopted a policy framework that will enable the Administrator to start developing administrative, information technology, and electronic mechanisms and procedures.

A. Changes to Federal Lifeline Eligibility Criteria

In the *Lifeline Modernization Order*,⁶ the Commission revised the federal eligibility criteria by eliminating the Low Income Home Energy Assistance Program (LIHEAP), the Temporary Assistance for Needy Families (TANF) and the National School Lunch Program (NSLP) from the list of qualifying assistance programs. The

⁴ See

<http://www.usac.org/about/tools/fcc/filings/2016/Q4/LI08%20Lifeline%20Subscribers%20by%20State%20or%20Jurisdiction%20-%20January%202016%20through%20June%202016.xlsx>

⁵ See *Lifeline Link Up Reform and Modernization et al.*, WC Docket 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (*Lifeline Modernization Order*).

⁶ *Id.*

Commission also added to the list, the Veterans and Survivors Pension Benefits Program, which was not previously on the list.

In addition, the Commission determined that states may no longer use state-specific eligibility criteria, such as an income threshold of 150% below the federal poverty guideline, to enroll consumers in federal Lifeline. The Commission held that these program eligibility changes would allow for more efficient administration of the program and curb waste, fraud and abuse.

To implement the federal eligibility changes and any requisite modification to our rules, the Administrator will need to revise the California LifeLine inbound and outbound mail processes, redesign application and renewal forms, update customer tracking system, change web and phone enrollment systems, revise training manuals and update websites. The Administrator will also need to revise its direct application process, change carrier information exchange process, modify the interactive voice response system, and perform user acceptance testing. The California LifeLine providers will also need to make IT and other operational changes on their end and align their process with the Administrator's.

Because the *Lifeline Modernization Order* has eliminated state-specific criteria, the CPUC must re-examine its eligibility rules and enrollment process. The CPUC uses one enrollment process for both federal and state LifeLine. This was done to allow consumers to avoid submitting two separate forms and undergo two separate enrollments, duplicate checks, and identity checks, in order to receive both federal and state subsidies. Since the *Lifeline Modernization Order* no longer allows states to use their own state-

specific criteria to qualify consumers for federal Lifeline, the CPUC must now determine whether to align its state criteria with the federal criteria or to create a separate process for each program. These are difficult issues facing the California LifeLine Program at this time and they require time and effort to resolve consistent with our rules for approval by the full California Commission. The CPUC requests extra time from the Commission to resolve these implementation issues and to develop the complementary technical adjustments to make implementation efficient for providers, our Administrator, and subscribers alike.

B. New Benefit Portability Rules

In the *Lifeline Modernization Order*, the Commission adopted new benefit portability rules, 47 C.F.R. § 54.411⁷, to “further incentivize investment in high-quality Lifeline service offerings... that will give providers greater certainty when planning new

⁷ See 47 C.F.R. § 54.411 - Lifeline benefit portability - (a) A provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported broadband Internet access service offering with another Lifeline provider within the previous 12 months. (b) A provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported voice telephony service offering with another Lifeline provider within the previous 60 days. (c) Notwithstanding paragraphs (a) and (b) of this section, a provider may seek and receive reimbursement through the Lifeline program for service provided to a subscriber prior to the completion of the 12-month period described in paragraph (a) of this section or the 60-day period described in paragraph (b) of this section if: (1) The subscriber moves their residential address; (2) The subscriber's current provider ceases operations or otherwise fails to provide service;(3) The provider has imposed late fees for non-payment greater than or equal to the monthly end-user charge for the supported service; or (4) The subscriber's current provider is found to be in violation of the Commission's rules during the 12-month period and the subscriber is impacted by such violation. (d) If a subscriber transfers his or her Lifeline benefit pursuant to paragraph (c) of this section, the subscriber's Lifeline benefit will apply to the newly selected service until the end of the original 12-month period. In these circumstances, the subscriber is not required to re-certify eligibility until the end of the original 12-month period. The subscriber's original provider must provide the subscriber's eligibility records to either the subscriber's new provider or the subscriber to comply with the 12-month service period.

or updated Lifeline offerings.”⁸ These rules require federal Lifeline subscribers to remain with the same eligible telecommunications carrier (ETC) for a set period of time (60 days for voice telephony service and 12 months for broadband internet access service) before they can switch to another ETC, unless they qualify for an exception.

Implementing these rules will also require significant changes to the Administrator’s enrollment process and the California LifeLine database. The California LifeLine Program’s inbound and outbound mailing processes, forms and letters, customer service capabilities, customer tracking system, enrollment methods, data exchange processes, and websites will need to be modified. The California LifeLine Program’s identity check and matching logic process will also need to be changed, as well as process documents and training manuals.

In addition, the California Legislature recently passed a new law, Assembly Bill 2570, codified in California Public Utilities Code § 878.5⁹, which requires the CPUC to adopt state-specific portability rules by January 15, 2017. The CPUC is in the process of adopting these rules through its California LifeLine Rulemaking proceeding.

⁸ See *Lifeline Modernization Order*, para. 385.

⁹ See CA Pub. Util. Code § 878.5 -“The commission [CPUC] shall adopt a portability freeze rule for the lifeline program by January 15, 2017. The commission shall consider including all of the following in the rule: a) A 60-day duration of the portability freeze. b) A period of time when a subscriber would be able to terminate lifeline service without penalty, similar to provisions established in Section 4.13.5 of commission Decision 14-01-036 (January 16, 2014), Decision Adopting Revisions to Modernize and Expand the California LifeLine Program. c) A requirement that the administrator of the lifeline program provide a telephone corporation providing lifeline service with real-time information concerning whether a subscriber has enrolled with another telephone corporation during the period of the portability freeze adopted by the commission pursuant to this section and, if the subscriber enrolled during this period, the date of enrollment.”

Implementing the new federal Lifeline benefit portability rules will also be challenging because the California LifeLine Program does not subsidize broadband service at this time. The CPUC needs to determine how best to implement the federal benefit portability rules that meets the needs of California consumers, is consistent with state and federal law, and harmonizes both programs. The CPUC is in the process of exploring the possibility of leveraging the National Lifeline Accountability Database with the Universal Service Administrative Company which we hope will aid us in resolving these issues and implementing the benefit portability rules. These prudent state-federal synergies require time to work out.

II. CONCLUSION

For the foregoing reasons, the CPUC requests permission to implement the revised federal eligibility and benefit portability rules by October 31, 2017. The CPUC also requests approval to continue to enroll consumers in the federal Lifeline program under the CPUC's existing rules and process and allow consumers to receive federal support during this time.

Respectfully submitted,

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By: /s/ SINDY J. YUN

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October 28, 2016

(End of Attachment B)