Decision 18-02-006 February 8, 2018

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

DECISION REVISING CALIFORNIA LIFELINE ELIGIBILITY CRITERIA PROVISIONS

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DECISION REVISING CALIFORNIA LIFELINE ELIGIBILITY CRITERIA PROVISIONS

Summary

This decision augments California-only Eligibility Criteria for the California Universal Telephone Service (California LifeLine or Program) Program. This decision restores Low-Income Home Energy Assistance Program, Temporary Assistance for Needy Families, California Work Opportunity and Responsibility to Kids, Stanislaus County Work Opportunity, Welfare-to-Work, Greater Avenues for Independence, National School Lunch Program, and Women, Infants and Children Program to the list of qualifying public assistance programs for California LifeLine. This decision also restores the income-based criterion, which requires a household income to be at or below 150 percent of the Federal Poverty Guideline for the corresponding household size. If needed, we also authorize the California LifeLine Program Fund to temporarily make up for loss of federal funds for participants who only qualify under California-only eligibility criteria but who do not meet federal Lifeline eligibility criteria. This proceeding remains open.

1. Procedural Background

On January 25, 2017, the California Public Utilities Commission (Commission) issued Decision (D.) 17-01-032, *Decision Modifying the California LifeLine Program in Accordance with Assembly Bill 2570 and the Federal Communications Commission's Third Report and Order* to, among other things, modify the California LifeLine Program's (California LifeLine or the Program) eligibility criteria to mirror the Federal Lifeline eligibility criteria that changed as a result of the Federal Communications Commission's (FCC) *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).[1] On March 14, 2017, the Commission held an all-party meeting to discuss retaining the California LifeLine eligibility criteria, including but not limited, to the creation of California-only eligibility criteria, implementation issues, current and future broadband issues, and procedural administration.

On May 24, 2017, the assigned Commissioners issued an *Assigned Commissioners Ruling Notifying California LifeLine Providers of the California LifeLine Annual Income Limits and Specifying that Revised Eligibility Criteria Shall Become Effective November 1, 2017* (ACR). The ACR notified providers of the changes to the California LifeLine income limits. The ACR also specified that the changes to the California LifeLine eligibility criteria, made by D.17-01-032, would become effective on November 1, 2017 unless the Commission took a subsequent action.

On June 28, 2017, the assigned Administrative Law Judge (ALJ) issued a ruling seeking comment on the following questions:

1. Whether the Program or the Participant should pay all or a portion of the lost federal Lifeline support for participants who would qualify under California's eligibility criteria but not the federal eligibility criteria?
2. What changes would be required for the data exchange with the California LifeLine Administrator?
3. What changes would be required to the claim form?
4. What changes would be required to the phone bills?

[1] D.17-01-032 addressed the reimbursement of service connection/activation charges for California Universal Telephone Service (California LifeLine) wireless telephone services, implemented a 60-day benefit portability freeze for California LifeLine, added California LifeLine enrollment request freeze, and added the Veterans and Survivors Pension Benefit Program as a qualifying program for California LifeLine effective December 2, 2016.

5. What changes would be required to the application and renewal forms?
6. What changes would be required to General Order 153?
7. What changes would be required for participants living on federally recognized Tribal lands?
8. Are there additional implementation issues the Commission should consider?

On July 10, 2017, opening comments were timely filed by Virgin Mobile USA, L.P. (U 4327 C) d/b/a/ "Assurance Wireless Brought to You by Virgin Mobile" (Assurance Wireless), TracFone Wireless, Inc. (U4321C) (TracFone), The Center for Accessible Technology, The Utility Reform Network, and the Greenlining Institute (collectively the Joint Consumers), Calaveras Telephone Company (U1004C), Cal-Ore Telephone Co. (U1006C), Ducor Telephone Company (U1007C), Foresthill Telephone Co. (U1009C), Happy Valley Telephone Company (U1010C), Hornitos Telephone Company (U1011C), Kerman Telephone Co. (U1012C), Pinnacles Telephone Co. (U1013C), The Ponderosa Telephone Co. (U1014C), Sierra Telephone Company, Inc. (U1016C), The Siskiyou Telephone Company (U1017C), Volcano Telephone Company (U1019C) and Winterhaven Telephone Company (U1021C) (collectively the Small LECs), the Office of Ratepayer Advocates (ORA), Cox California Telecom, L.L.C. d/b/a Cox Communications (U 5684 C) (Cox), and Pacific Bell Telephone Company d/b/a AT&T California (U1001C) and its affiliates AT&T Corp. (U5002C); Teleport Communications America, LLC (U5454C); and AT&T Mobility LLC (New Cingular Wireless PCS, LLC (U3060C); AT&T Mobility Wireless Operations Holdings, Inc. (U 3021 C); and Santa Barbara Cellular Systems, Ltd. (U3015C)) (collectively referred to AT&T). On July 17, 2017, reply comments were filed by the Small LECs, Cox, Consolidated

Communications of California Company (U1015C) (Consolidated); AT&T; TracFone; Joint Consumers; and The California LifeLine Coalition (Telrite Corporation dba Life Wireless, i-wireless, LLC, Boomerang Wireless, LLC, TruConnect Communications, Inc., and AmeriMex Communications Corp. d/b/a SafetyNet Wireless) (Coalition).

On August 10, 2017, the Commission issued D.17-08-013, *Decision Suspending LifeLine Eligibility Criteria Provisions of Decision 17-01-032 Until the Later of November 1, 2017 or a Further Extension Date Granted by the Federal Communications Commission.* D.17-08-013 ratified the May 24, 2017 assigned Commissioners' Ruling suspending implementation of changes to the eligibility criteria made by D.17-01-032 until November 1, 2017 or a further extension date granted by the FCC.

On September 5, 2017, the CPUC filed a Motion for Extension of Time requesting additional time to comply with the federal Lifeline program's revised eligibility rules. On October 25, 2017, the FCC granted the CPUC until April 30, 2018 to complete the implementation.

2. Background

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

> 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.

Beginning 2012, the FCC made numerous changes to modernize and reform the federal Lifeline program. In its last 2016 Lifeline Modernization Order, the FCC specifically made the following changes to federal Lifeline eligibility:

1. Removed from the list of qualifying programs
    a) Low-Income Home Energy Assistance Program (LIHEAP),
    b) National School Lunch Program (NSLP), and
    c) Temporary Assistance for Needy Families (TANF);
2. Added to the list of qualifying programs the Veterans Pension benefit or Survivors Pension benefit; and
3. Removed state-specific eligibility criteria.

As a result, the FCC revised 47 CFR § 54.409 (a)(2) to read:

> 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 also amended the income-based criterion for eligibility by 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). Following the FCC 2016 Lifeline Modernization Order, the Commission in January, 2017, through D.17-01-032, revised the California LifeLine eligibility criteria to conform to the federal Lifeline eligibility criteria as follows:

1. Adopted 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*.;

2. Adopted the Veterans Pension Benefit and Survivors Pension Benefit program and added to the list of qualifying public assistance programs for California LifeLine as of December 2, 2016, General Order (GO) 153 § 5.1.5;

3. Removed Section 8, LIHEAP, TANF, California Work Opportunity and Responsibility to Kids (CaLWORKs), Stanislaus County Work Opportunity (StanWORKs), Welfare-to-Work (WTW), Greater Avenues for Independence (GAIN), National School Lunch Program (NSLP), Women, Infants and Children Program (WIC), and Healthy Families Category A from the list of qualifying public assistance programs for California LifeLine, GO 153 § 5.1.5;

4. Adopted the income-based criterion, which requires a household income to be at or below 135 percent of the FPG for the corresponding household size;

5. Authorized the Communications Division (CD) to cease annually adjusting the California LifeLine income limits for inflation based on the Federal Consumer Price Index - Urban Areas; and

6. Authorized CD to no longer provide to California LifeLine service providers a notice of 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.

The Commission directed CD to work with California LifeLine Service Providers and the California LifeLine Program Administrator (Program Administrator) to develop administrative guidelines implementing the changes to the eligibility criteria.

As noted above, the Commission has suspended implementation of the revised California LifeLine eligibility criteria until the later of November 1, 2017 or a further extension date granted by the FCC.

3. Party Positions

3.1. Maintaining Current Eligibility Criteria

TracFone, the Small LECs, AT&T, Consolidated, and Cox support aligning California LifeLine eligibility criteria with those of the federal Lifeline program because it would result in the least disruption to the Program, minimize participant confusion, and avoid a host of implementation issues. AT&T argues that the Commission's time would be better spent on understanding forward-looking issues related to broadband rather than reworking well-considered program changes undertaken by the FCC. The Small LECs do not believe that California should utilize its own set of programs to meet eligibility criteria absent a showing of the negative impact of eliminating these programs. The Small LECs offered to support an effort at the federal level to reinstate the eliminated federal programs.

Cox cautions the Commission against taking action to reverse its seven-month old D.17-01-032 until additional efforts have been undertaken to identify whether there is a substantive problem that the Commission can and should remedy by maintaining a state-specific eligibility criteria. Cox maintains that data needs to be obtained and analyzed to determine the impact of the revised federal eligibility criteria on California consumers. Cox reiterates concerns regarding customer confusion resulting from different eligibility criteria, including the increased draw and thereby, size of the California LifeLine fund, the increased surcharge non-LifeLine customers could be required to pay, as well as an even-more complex California LifeLine Program, that will be more difficult and burdensome to administer. In addition, Cox warns, there is the issue of the Commission potentially not complying with Pub. Util. Code § 875(b). Cox argues the Commission should instead begin efforts to develop a record to allow it to determine and evaluate the impact of upcoming changes taking place with the federal Lifeline program, including the reduction in support for voice-only service beginning in 2019.

Although the Small LECs support harmonizing state and federal eligibility criteria, the Small LECs suggest that if California deviates from these criteria, it should consider retaining only the higher income eligibility of 150 percent of the FPG. The Small LECs agree that Californians with income of up to 150 percent of FPG are deserving of California LifeLine discounts.

Assurance Wireless, ORA, and the Joint Consumers support maintaining the California–specific eligibility criteria. The Joint Consumers explain that adopted federal changes to the California LifeLine Program run the risk of weakening the Program by offering only limited discounts for sub-standard services, low data speeds and minimum data caps for stand-alone broadband services. These changes, the Joint Consumers maintain, justify the Commission's work to develop a robust state-only program that will allow customers to continue to qualify under state-specific eligibility criteria and that will offer different features and benefits for both carriers and customers.

The Joint Consumers urge the Commission to maintain the current eligibility criteria as part of a two-year pilot program. They encourage the Commission to utilize this period of time to collect data and conduct a detailed analysis of forecasted participation rates and expenses before definitively resolving how to manage lost federal subsidies for customers who qualify under California's eligibility criteria but not federal eligibility criteria.

3.2. Loss of Federal Support

All parties favor that the Program Fund make up any lost federal support if the Commission creates California-specific eligibility criteria. TracFone states that without federal support or substitute funding from California, providers will not be able to recover their costs unless participants pay the difference or providers reduce Program benefits such as free data. In reply comments, AT&T states that if the Commission takes any other course, AT&T will not be able to implement the necessary changes to its billing and ordering system. Absent the Program making-up lost or unavailable federal support, TracFone also foresees several negative outcomes as probable consequences of establishing California-specific eligibility criteria including:

1. California LifeLine participants who are ineligible for federal Lifeline support will be required to pay $9.25 per month to maintain their current service.
2. Participants who cannot afford $9.25 will receive reduced service that excludes broadband internet and free smart devices.
3. Participants who fail to pay the $9.25 monthly charge will be disconnected and potentially subject to collection enforcement.
4. California LifeLine providers will require deposits or advance payments to verify a participant's ability to pay $9.25 per month.

TracFone argues that while the Commission's authority to make up lost or unavailable support is well established, the failure to provide replacement funding would contradict long-standing state policy and the Commission's long imposed universal service goal of 95 percent.[2]

[2] D.94-09-065 at 6.

If the Commission creates California-only eligibility criteria and does not authorize the Program to make up for loss of federal support, TracFone contends that participants will be segregated into three classes: those who receive the federal subsidy, those who can afford to pay $9.25 per month, and those who cannot. Such segregation, TracFone argues, is inconsistent with the Moore Act's direction that the Commission implements the California LifeLine program in a way that is "equitable and non-discriminatory" including[3]" equitable distribution of the funding burden."[4]

The Joint Consumers propose that, during the two-year pilot program it proposes, the Commission could allow carriers to collect some or all of the lost subsidies via additional surcharges paid from the Program Fund for customers who are not eligible for federal support. In addition to the two options posed by the Ruling, to have either the Program or Participant make up all or part of the federal portion of the subsidy for customers who qualify under the California-only eligibility criteria, the Joint Consumers raise a third option that carriers could accept a lower subsidy payment. The Joint Consumers contend it is a reasonable option because carriers have maintained robust California LifeLine plans at minimal or no costs to participants over the past few years, even as subsidy levels have fluctuated.

The Joint Consumers contend it is imperative that policymakers obtain concrete data, projections, forecasts and specific proposals to quantify how an increase in the state subsidy from $13.75 to $23.00 per participant would impact the Fund and how, in turn, that increase in subsidy would impact the surcharges

[3] Pub. Util. Code § 871.5(d).

[4] Pub. Util. Code § 871.5(d)(2).

paid by all wireline, wireless, and VoIP intrastate voice customers. Next the Joint Consumers urge the Commission to obtain cost data, evidence or testimony from participating California LifeLine service providers regarding how or whether the loss of the federal subsidy for some but not all participants would impact carriers' business decisions and service plans.

In reply comments, AT&T and the Small LECs vigorously disagree with the Joint Consumers proposal for carriers to absorb the difference resulting from the lack of federal support. The Small LECs argue this would be unlawful and unconstitutional. The Small LECs explain that the Small LECs California LifeLine and residential service rates are established by the Commission and are set forth in their respective Commission authorized tariffs. The companies must follow these tariffs and cannot modify the rates to compensate for losses in federal funding. It would upset the rate and revenue expectations set in carriers' rate cases, and, the Small LECs argue, would ensure that the Small LECs would not have a fair opportunity to earn their authorized rate of return. The Coalition and AT&T vigorously disagree with the Joint Consumers.

3.3. Program Administration and Implementation Issues

TracFone recommends that the Commission hold one or more workshops to address technical issues such as data exchange processes but also suggested several changes to improve reporting and compliance in the interim. TracFone recommends an enhanced inquiry tool to view customer profiles and verify customer data without the need for help desk tickets; data base and API user accounts for the purpose of querying the database; enhancing the ability to submit claim revisions; and enhanced data export and import capabilities for data analysis purposes.

The Small LECs, Cox, AT& T, and Assurance Wireless, identified certain changes that would be required for the data exchange with the Program Administrator if the Program makes up the lost federal support. Cox, AT&T, Assurance Wireless state that the Weighted Average Report and the Monthly True-Up Report would require some modification to show whether a participant met California-only or federal eligibility criteria. Cox adds that the Commission should reimburse carriers to the extent that they are required to develop and make significant IT changes to implement new rules as the Commission has done in the past.

The Small LECs, Cox, TracFone, and Assurance Wireless state that the claim reimbursement form for the California LifeLine Fund should be modified so that the service provider can indicate to Commission staff administering the fund the number of customers for whom a larger reimbursement is claimed to make up for the lost federal subsidy. The Joint Consumers concerns with respect to administration of the Program and implementation issues resulting from creating California-only eligibility criteria are simply that the Program Administrator be able to easily and quickly track participants that qualify under a state-only program as distinguished from those participating in both the federal and state programs. In addition, the Joint Consumers believe it is important for the Program Administrator to track duplicates with the National Verifier.

The Joint Consumers maintain customer bills should clearly present information on the subsidies customers receive. The Joint Consumers propose that for customers who participate in the state-only program, line items should indicate the base subsidy and the additional subsidy. The Small LECs add that the bill would have to be changed to show the correct source of the additional funds. AT&T asked for some flexibility to modify the bill phrase language to change two line items (Federal LifeLine Credit and California LifeLine Credit) to a more generic phrase such as "LifeLine Credit" for each item. In reply comments, AT&T opposed rewriting customer bills at this point because there is insufficient time to do so. Cox explained that because wireless carriers generally offer California LifeLine wireless service at no cost to the subscriber and on a prepaid basis, these subscribers do not receive or see a bill that shows the California LifeLine discounts.[5] Cox therefore urges the Commission to relax the current line-item requirements and allow carriers to show the LifeLine rate on the bills they issue, and the flexibility to display or not display the state and federal discounts.

The Joint Consumers, TracFone support an application/renewal form that encourages consumers who qualify under the federal eligibility standards to enroll in both the federal and state programs. The Small LECs comment that the application/renewal forms may need to be modified to include both the state and federal income threshold levels. Cox, AT&T, and Assurance Wireless, do not believe any changes would be required if the Program makes up the lost federal support.

The Small LECs state Tribal discounts would be unaffected because they are driven entirely by federal rules and support mechanisms. These rules and mechanisms, the Small LECs estimate, are not altered by the proposals the Commission is considering. TracFone asks the Commission to ensure that no current Tribal LifeLine participant loses federal support as a result in changes in

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[5] Wireless carriers identify such discounts in the eligible service plans and rates that they submit to the Commission.

eligibility criteria. TracFone contends that under federal law, Tribes may set their own eligibility criteria to ensure none of their members lose federal Lifeline support. TracFone suggest that the CD notify Tribes of the changes to federal Lifeline and suggest ways tribes could help their members maintain eligibility. In reply comments, the Small LECs strongly oppose the TracFone's suggestion because it would be a tremendous burden on the California LifeLine Fund to make up for a shortfall of lost federal funds.

All parties support the revision of GO 153 and some parties proposed specific revisions. The Small LECs propose modifications to GO 153, Section 9.3.13 to specify that the Program Fund would make up for unavailable federal funding. AT&T asks the Commission to relax the requirements of GO 153, Section 8.6 so California LifeLine service providers would not have to separately identify federal versus state discounts on the customer's bill. AT&T also asks the Commission to modify GO 153, Section 9.3.3 to reflect that California LifeLine Service providers may claim the lost federal support, including any additional support for residents of Tribal lands from the California LifeLine Fund for participants enrolled under the California-only eligibility criteria. However, the Small LECs, TracFone, Assurance Wireless, and the Joint Consumers comment that although GO 153 needs to be updated, this is not the time for a major revision.

4. Discussion

Approximately 81,395 California LifeLine participants may become ineligible for the California LifeLine discounts as a result of the more restrictive eligibility criteria adopted by the federal Lifeline program.[6] The Commission gathered new information gathered from the renewal process for these same 81,395 participants. CD Staff (Staff) and the Program Administrator tracked what happened to these 81,395 participants during the renewal process. The renewal process begins 105 days prior to a California LifeLine participant's anniversary date. For a majority of these 81,395 participants, the renewal process has concluded.

The result of this renewal process demonstrates that there is insufficient redundancy with the remaining qualifying public assistance programs (Medi-Cal, CalFresh, Supplemental Security Income (SSI), Veterans Pension Benefit and Survivors Pension Benefit program, and Federal Public Housing Assistance) to mitigate the impacted participants' loss of their California LifeLine discounts. In our initial evaluation, the Commission believed that the impacted participants can likely continue receiving the discounts by qualifying under Medi-Cal, CalFresh, SSI, Veterans Pension Benefit and Survivors Pension Benefit program, and Federal Public Housing Assistance. However, this is not the case for these 81,395 participants. This new information now motivates the Commission to ensure access to the California LifeLine discounts for participants impacted by the more restrictive eligibility criteria adopted by the federal Lifeline program. There is no reason to risk access to the California LifeLine discounts for these low-income Californians, especially, given the limited impact on the Program.

The Commission can, and should, establish a more inclusive program to

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[6] *See* Attachment A in D.17-01-032.

serve those who fall in between the eligibility gaps of the revised federal program. The Moore Act guides our decision today as we are charged to make high quality basic telephone service at affordable rates to the greatest number of Californians. We can achieve that goal by creating California-specific eligibility criteria to serve those California LifeLine participants and low-income Californians that fail to meet the revised federal eligibility criteria.

We reiterate that this decision makes no change to the addition of the federal Veterans Pension Benefit and Survivors Pension Benefit program to the eligibility criteria. This decision:

1. Augments California-only Eligibility Criteria;
2. Authorizes the Program Fund to temporarily make up for loss of federal funds for customers who qualify under California-only eligibility criteria but who do not meet federal Lifeline eligibility criteria; and
3. Provides Staff with discretion to work with the Program Administrator and California LifeLine service providers to efficiently and quickly implement the California-only eligibility program utilizing the guidance provided herein.

4.1 California LifeLine Eligibility Criteria

The Commission strives to further the provision of high quality basic telephone service at affordable rates to the greatest number of California residents by making residential service affordable to low-income citizens through the creation of a lifeline class of service. The FCC's 2016 Lifeline Modernization Order will reduce the number of Californians who may qualify for the California LifeLine discounts because it lowers the income threshold and eliminates programs from the eligibility criteria. The number of eligible households decreases by more than 322,000 if the income threshold lowers to 135 percent of the Federal Poverty Guideline.[7] Also, about 4 percent of California LifeLine participants will be impacted by the more restrictive eligibility criteria.[8] A majority (62 percent) of the 81,395 California LifeLine participants impacted by the federal Lifeline program's restrictive eligibility criteria would continue to ***only*** qualify under the more inclusive eligibility criteria, *i.e.*, the existing California LifeLine eligibility criteria.[9]

Two of the eliminated programs, WIC and NSLP, target specific groups of consumers – women and children – who also comprise the majority of impacted participants. WIC, NSLP, and LIHEAP do not require Social Security Numbers to participate in these programs. Elimination of WIC, NSLP, and LIHEAP would disproportionately affect women and children who do not necessarily continue to qualify under the programs remaining in the federal eligibility criteria.

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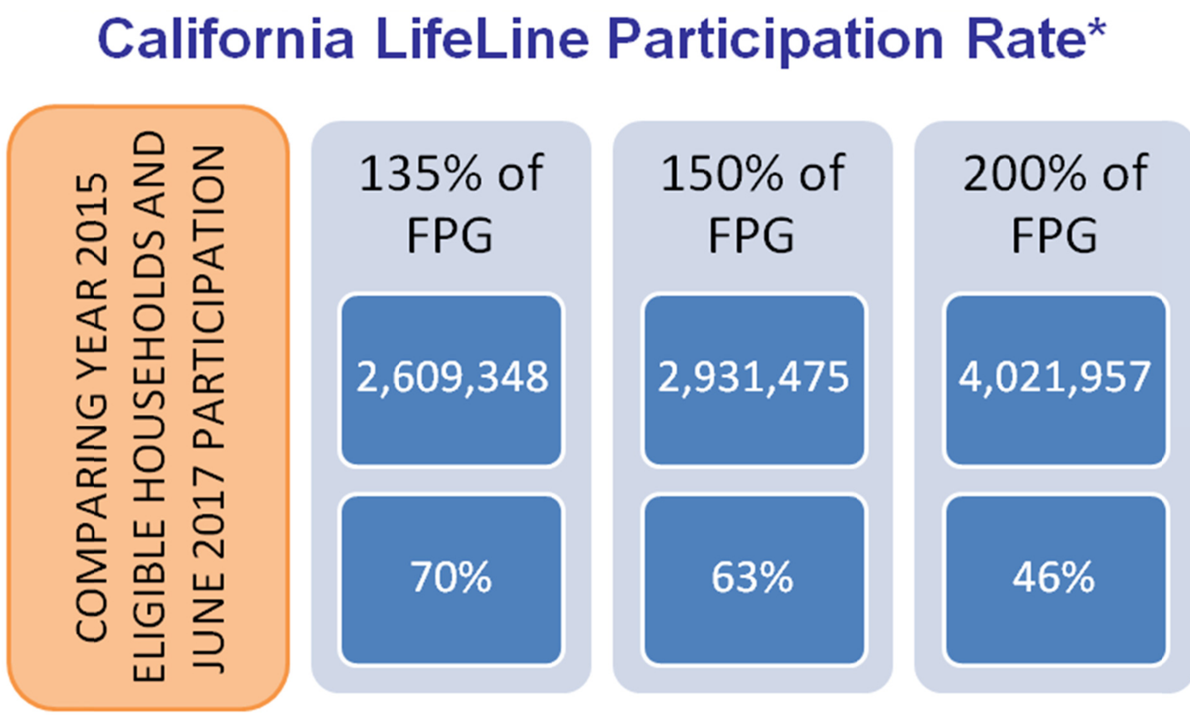
[7] *See* Chart 1.

[8] *See* Chart 2.

[9] *See* Attachment A to this decision, "Federal Lifeline Outcasts' Story in California."

Chart 1: California LifeLine Participation Rate Based on Varying Income Thresholds



*June 2017 volume of participants was **1,838,767**. California Department of Finance provided the volume of eligible households using the 2015 American Community Survey. FPG is the acronym for Federal Poverty Guideline.

Chart 2: Volume of Impacted California LifeLine Participants

	8/31/2015	8/31/2016	2/28/2017	7/28/2017
WIC Only	38,438	26,663	25,778	20,529
TANF Only	8,176	5,708	3,974	1,726
NSLP Only	14,439	10,610	8,959	7,843
LIHEAP Only	16,725	13,255	11,842	11,016
Combination of 2 or More Programs	4,232	2,760	2,184	1,930
Program-Based	82,010	58,996	52,737	43,044
Income-Based	25,448	21,579	20,960	30,081
Both Program-Based and Income-Based	1,076	820	733	810
VOLUME of IMPACTED CALIFORNIA LIFELINE PARTICIPANTS	**108,534 (4.8%)**	**81,395 (3.8%)**	**74,430 (3.7%)**	**73,935 (4.1%)**

Initially, the Commission harmonized the California eligibility criteria to the revised federal eligibility criteria on the assumption that the impact to an estimated 81,395 California LifeLine participants could be mitigated by the retained qualifying programs, the addition of the Veterans Pension Benefit or Survivors Benefit program and the broader program of Federal Public Housing Assistance. None of the impacted California LifeLine participants utilized the newly added, Veterans Pension Benefit and Survivors Pension Benefit program, in the renewal process. Also, a mere 76 of the impacted California LifeLine participants who completed the renewal process actually chose to only qualify under the Federal Public Housing Assistance program. Therefore, these two qualifying public assistance program (Veterans Pension Benefit or Survivors Benefit program and the broader program of Federal Public Housing Assistance) did not lower or reduce, as estimated by the Commission in D.17-01-032, the total number of the impacted California LifeLine participants who can potentially lose their California LifeLine discounts.

Upon further consideration of these new data and events, the Commission finds that restoring the Program's more inclusive eligibility criteria will enable those who fall in between the eligibility gaps of the revised federal program to retain affordable communications services consistent with the Moore Act. Because of the potential harm to impacted California LifeLine participants who risk losing the ability to afford communications services, the Commission prefers to create California-only eligibility criteria and to continue to gather data regarding the number of California LifeLine participants who are impacted. Losing federal support of $9.25 per month could severely impact an already vulnerable California LifeLine participant and result in the participant's inability to participate in the California LifeLine Program. This decision augments California-specific eligibility criteria as follows:

1. Restores Low-Income Home Energy Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF), California Work Opportunity and Responsibility to Kids (CaLWORKs), Stanislaus County Work Opportunity (StanWORKs), Welfare-to-Work (WTW), Greater Avenues for Independence (GAIN), National School Lunch Program (NSLP), and Women, Infants and Children Program (WIC) to the list of qualifying public assistance programs for California LifeLine, GO 153 § 5.1.5;
2. Adopts the income-based criterion, which requires a household income to be at or below 150 percent of the FPG for the corresponding household size;
3. Directs Staff to annually calculate by April 15 the California LifeLine income limits for inflation based on the Federal Consumer Price Index - Urban Areas; and
4. Directs Staff to provide an annual notice to the California LifeLine service providers of changes to the California LifeLine income limits no later than June 1 of each year.

This decision also clarifies the following:

1. Section 8 is subsumed in the broader Federal Public Housing Assistance program; and
2. Healthy Families Category A transitioned to Medi-Cal starting in January 1, 2013[10] - the removal of the reference to Healthy Families Category A in GO 153 was merely to reflect this previously accomplished transition.

[10] See http://www.dhcs.ca.gov/provgovpart/Documents/Waiver%20Renewal/AppendixCHFP.PDF (last visited August 1, 2017).

4.2 California LifeLine Fund to temporarily make up for loss of federal support through November 30, 2019

The California LifeLine Program serves low-income individuals. The Commission and stakeholders are cognizant of the difficulty Program participants face. In recognition of this fact, no party to this proceeding supported requiring participants to make up for the loss of federal support where a participant meets California eligibility criteria but fails to meet federal eligibility criteria. As a result, the Commission should temporarily authorize the California LifeLine Fund to make-up for the loss of federal support up to $9.25 per month per participant where the California LifeLine participant fails to meet federal eligibility criteria but qualifies under California-only eligibility criteria. The California LifeLine Fund should temporarily make up for this type of loss in federal support through November 30, 2019. This decision does not supplant the existing policy of using the weighted-average methodology[11] to calculate how much a California LifeLine service provider can claim for the Specific Support Amount (SSA) and for administrative costs. We also note that by allowing the Program Fund to make up for the loss in federal support, the Commission has time to consider major policy considerations such as the federal Lifeline program's move away from voice-only support towards federal Lifeline support of broadband-only service.

4.3 Implementation of California-only Eligibility Criteria

4.3.1. Data Exchange with Program Administrator

The Program Administrator must be able to identify which participants qualify under California-only eligibility criteria and which participants meet

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[11] *See* GO 153 §§ 9.3.2 and 9.3.11.

federal eligibility criteria. California LifeLine service providers rely on data received from the Program Administrator to properly submit federal claims to USAC and California LifeLine claims to the Commission. As a result, changes will need to be considered to the monthly weighted average report, the monthly true-up report, and the list of status codes for the daily return feed.

In order to effect the necessary changes in an efficient manner, we agree that we should limit such changes to only those necessary at this point. The weighted average report should differentiate between the weighted average counts for participants qualifying under the California-only eligibility criteria or the federal eligibility criteria. The true-up report should include an indicator for each participant to show whether the participant's approved eligibility is by California-only eligibility criteria or federal eligibility criteria. Additional status codes should be added to assist California LifeLine service providers from inadvertently claiming federal Lifeline support for a participant qualifying under the California-only eligibility criteria.

When trying to determine a consumer's eligibility, the Program Administrator should first assess whether the consumer qualifies under the federal eligibility criteria. If the consumer does qualify under the federal eligibility criteria, then the Program Administrator should attribute the eligibility accordingly. We authorize Staff to work with the Program Administrator and California LifeLine service providers to determine any additional changes for the data exchange.

4.3.2. Claim Form and Instructions

Staff should modify the claim form (Claim Form Summary tab, Weighted Average tab, SSA tab, and applicable supporting tabs) and instructions to enable California LifeLine service providers to claim the appropriate amounts from the

Program Fund. Staff can consider how the claim form accounts for the second discounted telephone lines[12] when modifying the claim form pursuant to this decision. Staff should finalize the claim form and instructions to the California LifeLine Working Group by April 30, 2018. Staff should post the finalized claim form and instructions on the Commission's Web site by May 1, 2018.

4.3.3. Phone Bills

Currently, the Commission requires California LifeLine service providers to specifically show reductions on a participant's phone bill due to federal support and to any California LifeLine support.[13] AT&T, Cox, and Small LECs ask the Commission to relax the requirement to separately identify the federal versus state discounts on participants' phone bills. Parties' comments reflect that billing is very different between the post-paid wireline and pre-paid wireless telephone service providers.

The Commission should temporarily relax this requirement for one year. During this limited duration, California LifeLine service providers can have the flexibility to either show the federal and state discounts on a combined or on a separate basis on the participant's phone bills.[14] Nonetheless, the phone bills should still reflect the California LifeLine discounted service rates such that the public may discern how the federal or state support actually decreased the participant's phone bills. California LifeLine service providers should provide

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[12] The California LifeLine Program fully funds the second discounted telephone line for Deaf and Disabled Telecommunications Program participants and for teletypewriter users.

[13] *See* GO 153 § 8.6.

[14] California LifeLine service providers may, as examples, use the label, "Universal Service Credit "or "LifeLine Credit," to temporarily identify the federal or state support on a participant's phone bill.

their proposed changes to the phone bill to Staff for Staff's review and approval. This should provide the development time, as necessary, for California LifeLine service providers to fully comply with GO 153 §8.6.

4.3.4. Application and Renewal Packets

At this time, the application and renewal packets do not need modifications to reflect the adoption of California-only eligibility criteria. First, there is insufficient time to implement changes to the application and renewal packets by May 1, 2018 while allowing sufficient testing. Second, despite three (WIC, NSLP, and LIHEAP) of the four programs appearing early on in the list of qualifying public assistance programs on the forms,[15] less than 3 percent of the 81,395 impacted participants chose WIC, NSLP, LIHEAP, and TANF. Third, the existing forms will still allow the Program Administrator to determine whether the consumer qualifies for the federal program, and if not, whether the consumer is eligible for California LifeLine. Cox suggests that using the existing form would save time and resources of the Commission, the Program Administrator, and service providers.

Nevertheless, it is prudent for the Commission to track and report the incremental cost incurred to maintain the California-only eligibility criteria. In the second quarter of 2019 after gathering some data, Staff can assess whether the Program should consider modifying the application and renewal packets to encourage consumers to qualify under the federal eligibility criteria instead of the California-only eligibility criteria. After gathering the data, Staff should

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[15] https://www.californialifeline.com/en/sample_forms, https://www.californialifeline.com/pdf/new/applications/st_en_10_app_0617.pdf and https://www.californialifeline.com/pdf/new/renewals/st_en_10_ren_0617.pdf (last visited August 1, 2017).

work with the stakeholders and the Program Administrator to determine if any changes need to be made to the application and renewal packets and the timeline for making any such changes.

5. Enhanced Lifeline Participants on Federally-Recognized Tribal Lands

There have consistently been fewer than 200 enhanced Lifeline participants in California.[16] If a consumer living on a federally-recognized Tribal land in California qualifies under the California-only eligibility criteria, then the Program should also make up for the loss of federal support up to $34.25 ($9.25 + $25 = $34.25). The Program Administrator should identify these participants in the weighted average report and the true-up report. If additional status codes are necessary for the daily return feed to account for this situation, then Staff can instruct the Program Administrator to develop them. We reiterate the weighted average methodology will still be in effect even with this policy change.

6. General Order 153

GO 153 needs revision. The Commission issued several decisions that modify or change provisions of GO 153 over the past several years. This decision also makes changes to procedures for administration of the Moore Act that should be incorporated into GO 153. However, we find this is not the time to undertake such extensive revisions. As a result, we will defer full revision of GO 153 to a later date. It may also be necessary to open a separate rulemaking for such a revision. The 2016 Lifeline Modernization Order sets out a number of

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[16] http://www.usac.org/about/tools/fcc/filings/2017/q3.aspx, http://www.usac.org/about/tools/fcc/filings/2016/q3.aspx, and http://www.usac.org/about/tools/fcc/filings/2015/q3.aspx (last visited August 1, 2017).

significant changes to be made over the course of the next four years. Additionally, the FCC is also embarking on another set of substantial policy changes for the federal Lifeline program. As a result, the Commission will need to actively work to determine the shape of the California LifeLine Program in the face of a changing federal landscape.

7. Comment Period

The proposed decision of the assigned Commissioner Guzman Aceves was mailed to the parties in accordance with § 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. On January 29, 2018, Cox, the Small LECs, the Joint Consumers, and AT&T filed comments on the proposed decision. On February 5, 2018, the Small LECs, AT&T, the Joint Consumers and ORA filed reply comments. The proposed decision has been edited to correct typographical errors and improve the proposed decision's clarity.

8. Assignment of Proceeding

Commissioner Martha Guzman Aceves is the assigned Commissioner for all non-Voice over Internet Protocol issues in this rulemaking and Katherine Kwan MacDonald is the assigned ALJ in this proceeding.

Findings of Fact

1. Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program 11-03-013 was filed on March 24, 2011.

2. On April 27, 2016, the FCC issued its 2016 Lifeline Modernization Order, FCC 16-38, making significant changes to the federal Lifeline eligibility criteria and program.

3. On January 19, 2017, the Commission issued D.17-01-032 revising the California LifeLine eligibility criteria to be identical to the federal Lifeline eligibility criteria.

4. On May 24, 2017, the assigned Commissioners issued *Assigned Commissioner Ruling Notifying California LifeLine Providers of the California LifeLine Annual Income Limits and Specifying that Revised Eligibility Criteria Shall Become Effective November 1, 2017.*

5. On June 28, 2017, the assigned ALJ issued a ruling seeking comment on creating California-only eligibility criteria and related implementation issues.

6. On August 10, 2017, the Commission issued D.17-08-004 suspending the revised LifeLine eligibility criteria set by D.17-10-032 until November 1, 2017 or until a further extension date granted by the FCC.

7. D.17-08-013 made no changes to the addition of the Veteran's Pension Benefit and Survivors Pension Benefit Programs to the list of qualifying programs.

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

9. 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.

10. On September 8, 2017, the Commission filed a Motion for Extension of Time with the FCC to request additional time to implement the revised federal eligibility rules.

11. On October 25, 2017, the FCC granted the CPUC until April 30, 2018 to finish the implementation of the revised federal eligibility rules.

12. Staff estimates that 4 percent of California LifeLine participants will become ineligible for the California LifeLine discounts as a result of the more restrictive criteria adopted by the federal Lifeline program.

13. Staff estimates that a majority of the impacted California LifeLine participants qualify under WIC and NSLP.

14. WIC and NSLP target specific groups of consumers; women and children.

15. Staff concluded that none of the impacted California LifeLine participants qualify under the Veteran's Pension Benefit and Survivors Pension Benefit programs.

16. Staff estimates that a majority of impacted California LifeLine participants will lose their California LifeLine discounts if the Program retained the federal Lifeline program's more restrictive eligibility criteria.

17. There is insufficient redundancy with consumers qualifying under these public assistance programs, Medi-Cal, CalFresh, SSI, Veterans Pension Benefit and Survivors Pension Benefit program, and Federal Public Housing Assistance, to mitigate the loss of California LifeLine discounts.

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. The Commission should retain LIHEAP, TANF, CalWORKS, StanWORKS, WTW, GAIN, NSLP, and WIC on the list of qualifying programs to the California LifeLine Program.

3. The Commission should retain the income-based criterion, which requires a household to be at or below 150 percent of the FPG for the corresponding household size.

4. The Commission should establish a more inclusive program to serve those who fall in between the eligibility gaps of the revised federal Lifeline program's eligibility criteria.

5. California LifeLine participants should not be asked to make up for the loss of federal support with regards to the revised federal Lifeline program's eligibility criteria.

6. The California LifeLine fund should temporarily make up for the loss of federal support, up to $9.25 per month per participant who does not live on federally recognized Tribal lands (or up to $34.25 per month per California LifeLine participant who lives on federally recognized Tribal lands, from May 1, 2018 through November 30, 2019.

7. Changes to the monthly weighted average report, the monthly true-up report and the list of status codes should be considered to allow the Program Administrator to be able to identify which participants qualify under California-only eligibility criteria and which participants meet federal eligibility criteria.

8. The Commission should authorize Staff to work with the Program Administrator and California LifeLine service providers to determine additional changes needed for the data exchange.

9. The Commission should authorize Staff to work with the stakeholders, California LifeLine service providers, and the Program Administrator to implement the changes adopted by this Decision.

10. GO 153, § 8.6 requirement that California LifeLine providers specifically show reductions on a participant's phone bill due to federal support and to any

California LifeLine Support should be relaxed for one year because of the limited time available for implementation of the changes made by this decision.

11. 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.

O R D E R

IT IS ORDERED that:

1. California LifeLine Eligibility Criteria are modified to include:

   a. 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, and Women, Infants, and Children Program to the list of qualifying public assistance programs for the California LifeLine Program, General Order 153 Section 5.1.5;

   b. Adopt the income-based criterion, which requires a household income to be at or below 150 percent of the Federal Poverty Guideline for the corresponding household size;

   c. Staff shall annually adjust the California LifeLine income limits for inflation based on the Federal Consumer Price Index - Urban Areas;

   d. Staff, at its discretion, may publish an administrative letter to provide notice of changes to the California LifeLine income limits.

   e. These modifications are effective through November 30, 2019.

2. The California LifeLine fund shall temporarily make up for the loss of federal support, up to $9.25 per month per California LifeLine participant, who

does not live on federally recognized Tribal lands (or up to $34.25 per month per California LifeLine participant who lives on federally recognized Tribal lands), from May 1, 2018 through November 30, 2019.

3. General Order 153, Section 8.6 shall be relaxed for one year from the issuance of this decision to allow California LifeLine service providers the flexibility to show the federal and state discounts on a combined or on a separate basis on the participant's phone bill. At a minimum, phone bills shall show the California LifeLine discounted service rates so that the public may discern how the federal or state support decreased the participants' phone bills.

4. Staff 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.

5. Rulemaking 11-03-013 remains open.

This order is effective today.

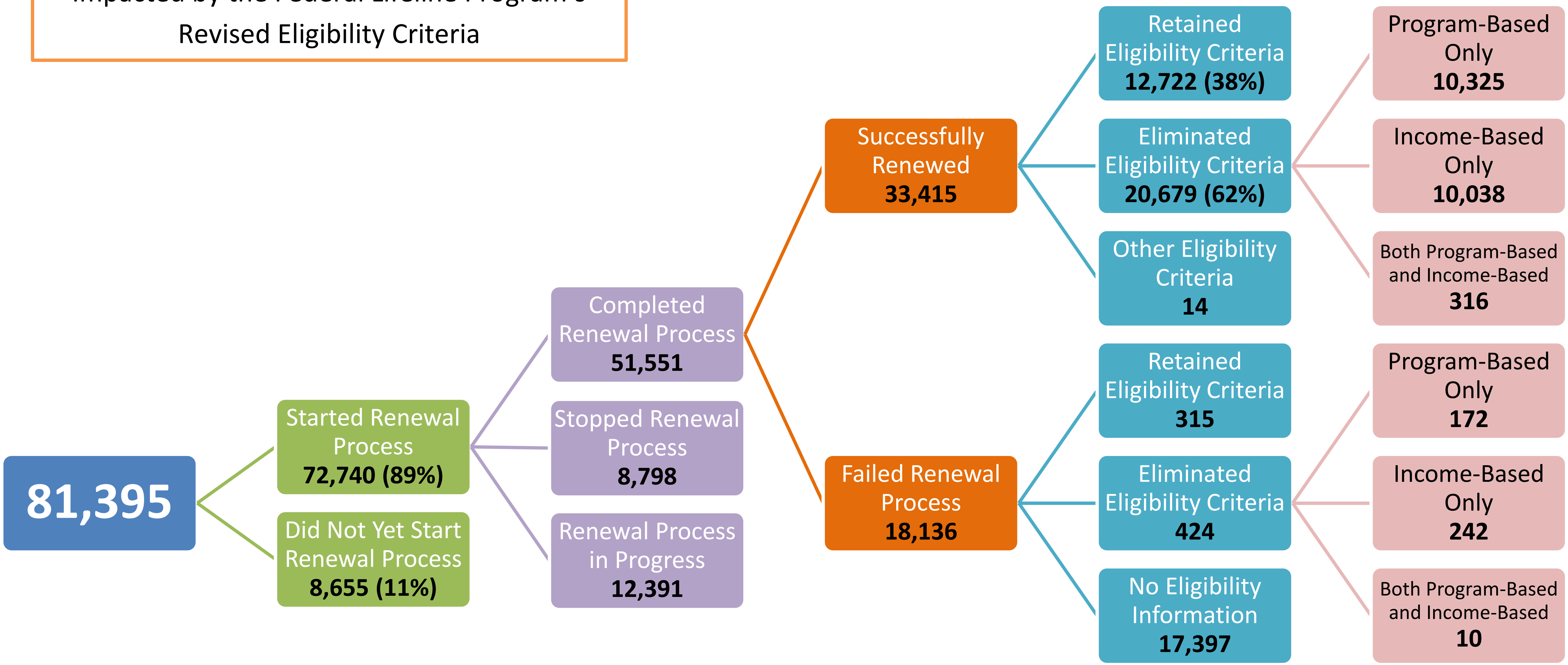
Dated February 8, 2018, at San Francisco, California.

MICHAEL PICKER
President
CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
Commissioners

Attachment A

Federal Lifeline Outcasts' Story in California

Renewal and Participation Status of the 81,395 California LifeLine Participants Who May Be Impacted by the Federal Lifeline Program's Revised Eligibility Criteria



(End of Attachment A)

Data as of July 24, 2017