

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

**Communications Division  
Consumer Programs Branch**

**RESOLUTION T- 17707  
September 10, 2020**

**R E S O L U T I O N**

**Resolution T-17707: Denying TruConnect's LifeLine Reimbursement  
Claims for Customers Who Did Not Receive LifeLine Service.**

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**SUMMARY**

This Resolution clarifies General Order (GO) 153, Section 9, regarding the rules for recoverable California LifeLine costs and lost revenues. We find that GO 153 only permits carriers to recover costs and lost revenues incurred as a result of providing LifeLine service to qualified persons, pursuant to Section 9 of GO 153.<sup>1</sup> GO 153 does not permit carriers to recover costs and lost revenues for customers who were not deemed eligible for and never received that carrier's LifeLine service.

One of our goals, as embodied in the Moore Universal Telephone Service Act (Public Utilities Code Section 871, *et seq.*), is to ensure access to affordable telephone service for low-income households in a fair and equitable way.<sup>2</sup> A critical component of that oversight is ensuring that LifeLine telephone service is financially supported through reimbursement of carriers' costs and lost revenues to provide that service in a fair and equitable way. This ensures the ongoing health and viability of the Universal LifeLine Telephone Service (ULTS) fund.

TruConnect Communications, Inc. (TruConnect) has submitted LifeLine reimbursement claims exceeding \$9 million to Communications Division (CD) for lost revenues associated with customers who were not deemed eligible for and never received TruConnect's LifeLine service. TruConnect alleges these customers did not receive

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<sup>1</sup> GO 153 Sections 9.4.3 and 9.4.8 prohibit recovery of costs associated with providing non-California LifeLine services and activities or the provision of non- LifeLine lines to California LifeLine subscribers.

<sup>2</sup> Public Utilities Code Section 871.5(c) and (d). D.00-10-028, at p.111. "[T]he fundamental purpose of the ULTS program [is] providing affordable telephone service to low-income households."

service as a result of problems with the California LifeLine Third-Party Administrator<sup>3</sup> verification process.<sup>4</sup> TruConnect seeks reimbursement of these costs and lost revenues.

GO 153, Section 9, permits recovery of costs and lost revenues for carriers that provide LifeLine service to subscribers who are found eligible for LifeLine service.<sup>5</sup> Section 2.50 defines a “subscriber” as “[a] person who is qualified for and receiving California LifeLine service, set forth in this General Order, at his or her principal place of residence.” There is no provision for recovery of costs or lost revenues for customers who never received the carrier’s LifeLine service because they were not deemed eligible, failed to complete the enrollment or renewal process, or for some other reason. Allowing recovery for such “lost opportunities” costs violates GO 153 and jeopardizes the ongoing health of the ULTS fund.

We therefore direct CD to deny carriers’ claims (including TruConnect) involving reimbursement claims for costs and lost revenues for customers who were never deemed eligible by the TPA, and did not receive that carrier’s LifeLine service, for whatever reason. We direct CD to recover any amounts paid to carriers (including TruConnect) in the past related to reimbursement claims for costs and lost revenues for customers who were not approved for and did not receive LifeLine service.

## **BACKGROUND**

The LifeLine program permits carriers to provide basic residential telephone service (BRTS) to ULTS customers at discounted rates and charges.<sup>6</sup> Providing BRTS at a discounted rate causes a carrier to lose an amount of revenue for each ULTS customer it serves equal to the difference between (1) the utility’s normal rates and charges for BRTS and (2) the discounted ULTS rates and charges.<sup>7</sup> GO 153 provides that the ULTS Fund will reimburse carriers for their lost revenues as a result of providing discounted BRTS to eligible subscribers.

TruConnect (formerly Telscape Communications) is a wireless carrier that provides LifeLine service to eligible California residents pursuant to GO 153. TruConnect is based in Southern California and serves approximately 273,000 LifeLine customers.

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<sup>3</sup> GO 153, Section 2.10 defines “California LifeLine Administrator” as “[a] third-party administrator designated by the Commission to qualify applicants and verify the continued eligibility of subscribers.

<sup>4</sup> Attachment 1, January 22, 2020, email from Alex Gudkov to Tina Lee.

<sup>5</sup> GO 153, Section 9.1: “Any California LifeLine Service Provider that provides California LifeLine may submit a claim for the reimbursement of its California LifeLine-related costs and lost revenues.” (Emphasis added.)

<sup>6</sup> D.00-01-028 at 101; See also, D.96-10-066, Appendix B, Rules 5.A.1.b and 5.A.1.d.

<sup>7</sup> D.00-01-028 at 101.

In 2019, the Commission changed the vendor which serves as the Third-Party Administrator (TPA) for LifeLine eligibility verification. On May 20, 2019, June 24, 2019, and August 19, 2019, CD sent notices to LifeLine service providers outlining and explaining an interim process for them to use for their April through August 2019 reimbursement claims during the transition period.<sup>8</sup> CD's May 20<sup>th</sup> notice informed the carriers that reimbursement claims for these months would be subject to a true-up once the new TPA final month-end reports became available to CD.<sup>2</sup>

During its true-up review for TruConnect, CD staff noticed that TruConnect had been claiming reimbursement for a category of costs called "lost opportunities" on its reimbursement claim forms. On January 22, 2020, CD staff requested an explanation for this category of costs.<sup>10</sup>

On January 22, 2020, TruConnect informed CD that:

"Missed Opportunities are the list of consumers that wanted to become our customers and wanted to receive our services (subsidized by CPUC) but were rejected by the TPA. We missed the opportunity with these potential customers and therefore didn't have a chance to provide them with service and assign a phone number to them."<sup>11</sup>

To calculate the amount of money lost as a result of failing to sign up potential customers, TruConnect stated that it used the following calculation: "we looked at the average percentage of missed opportunities (number of rejected status check DAP calls/number of total status check DAP calls) in the months leading up to the launch of the new TPA and compared it with the missed opportunities after the new TPA launched. The delta between the pre and post launch percentages of missed opportunities out of the total population of potential customers is the basis for our calculations for our amendments."<sup>12</sup>

As part of its true-up review of TruConnect's reimbursement claims for April through August 2019, CD determined that TruConnect received \$9,063,022.66 in subsidies from the ULTS fund relating to "lost opportunities" costs. On March 4, 2020, CD notified TruConnect that its reimbursement claims improperly sought recovery of costs and lost

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<sup>8</sup> Attachment 2, CD notices to carriers re: LifeLine interim claims forms instructions; May 20, 2019, June 24, 2019, August 19, 2020.

<sup>2</sup> Attachment 2.

<sup>10</sup> Attachment 1, email from Tina Lee to Alex Gudkov, dated January 22, 2020.

<sup>11</sup> Attachment 1, email from Alex Gudkov to Tina Lee, dated January 22, 2020.

<sup>12</sup> Attachment 1, email from Alex Gudkov to Tina Lee, dated January 22, 2020.

revenues “for consumers that did not meet Program requirements.”<sup>13</sup> CD provided the following explanation to TruConnect:

“TruConnect may only recover LifeLine support if it meets the following requirements: 1) it must provide LifeLine service; 2) the service must be provided to LifeLine subscribers; and 3) subscribers are persons that are qualified and receiving LifeLine service.”

On April 13, 2020, TruConnect responded that deducting \$9,063,022.66 from its subsidies would cause it “irreparable harm” and requested a 90-day continuance before any deductions were put into place.<sup>14</sup> TruConnect also threatened immediate litigation if its reimbursement claims were reduced.<sup>15</sup> To date, CD has not deducted any amounts from TruConnect’s current claims and has not arranged for repayment.

## **DISCUSSION**

We recognize that there may have been some administrative difficulties in determining eligibility of potential LifeLine subscribers in 2019 due to the change in the TPA vendor. We are sympathetic to carriers who suffered from complications during this process, and we are grateful to CD staff and carriers for resolving the TPA problems expeditiously.

However, we agree with CD staff that the LifeLine program rules prohibit recovery of unrealized revenues relating to not providing LifeLine service to persons who were not deemed eligible for and did not receive LifeLine service. Costs or revenues not earned as a result of “missed opportunities” are not permitted, for several reasons.

First, GO 153 expressly forbids “lost opportunities” or “missed opportunities” costs, which, as described by TruConnect, relate to potential customers who were not deemed eligible by the TPA and who never received LifeLine service from TruConnect.

GO 153, Section 9.1.1, defines the class of carriers that are eligible for recovery of LifeLine-related costs.<sup>16</sup> Recovery of those costs and lost revenues is proscribed by the rest of Section 9.

GO 153, Section 9.2.1, permits LifeLine carriers to recover from the California LifeLine Fund costs and lost revenues up to the “Specific Support Amount” (SSA), including

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<sup>13</sup> Attachment 3, letter from CD to TruConnect dated March 4, 2020.

<sup>14</sup> Attachment 4, letter from TruConnect to CD dated April 13, 2020.

<sup>15</sup> Attachment 4.

<sup>16</sup> GO 153, Section 9.1: “Any California LifeLine Service Provider that provides California LifeLine may submit a claim for the reimbursement of its California LifeLine-related costs and lost revenues.” (Emphasis added.)

applicable taxes/surcharges, interest, one-time Implementation Costs, other amounts expressly delineated, and administrative expenses as set forth in Sections 9.3.10, 9.3.12 and 9.3.13 of GO 153.

GO 153, Section 2.49, defines the SSA as “[a] maximum support amount reimbursed to California LifeLine Service Providers for the monthly recurring charge of California LifeLine service to subscribers.” Section 2.50 defines a “subscriber” as “[a] person who is qualified for and receiving California LifeLine service, set forth in this General Order, at his or her principal place of residence.”

Thus, the plain language of GO 153 prohibits recovery of costs or lost revenues associated with a “missed opportunity” or “lost opportunity” to provide service to potential customers, because the customers at issue were not found to be qualified for LifeLine and did not receive LifeLine service. A carrier may only seek reimbursement costs for a customer who is qualified to receive LifeLine and is actually receiving it. If a customer is either not deemed eligible for LifeLine service, or did not actually receive LifeLine service, a carrier may not seek reimbursement.

GO 153, Section 9, contains detailed rules for recoverable and prohibited costs. However, among those provisions there is none, and TruConnect has not pointed to any, that permits “lost opportunities” costs. Section 9.4 contains a list of prohibited costs and expenses, including: costs associated with non-California LifeLine services and activities, and any costs or lost revenues associated with the provision of non-LifeLine lines to California LifeLine subscribers. These rules, as well as the long history of the Commission’s decisions that carefully proscribe permitted and prohibited costs, lead us to the conclusion that “lost opportunities” costs were not intended to be recoverable.

Second, it is the Commission’s obligation to ensure that the LifeLine program is administered in a fair and equitable way.<sup>17</sup> While our goal is “to ensure that every household qualified to receive lifeline telephone service is informed of and is afforded the opportunity to subscribe to that service,” we also must be vigilant and protect the ongoing health of the fund. Allowing ineligible or non-qualified customers to subscribe to LifeLine service is contrary to the law and would damage the health and reputation of the fund; likewise, allowing a carrier to receive subsidies for a service it never provided, to customers who were not deemed eligible, makes no sense. If TruConnect can do so, other carriers will be encouraged to submit similar claims.

Third, not only is recovery for “lost opportunities” costs prohibited by law, it raises difficult practical issues. For example, if a customer is rejected by the TPA, perhaps incorrectly, on what basis does TruConnect find them to be eligible? Can we assume each customer was “lost” as a result of the TPA changeover, or for some other reason? If

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<sup>17</sup> Section 871.5.

the “lost” customer did not sign up with TruConnect, do we know whether the customer successfully enrolled for LifeLine service with a different provider so that the ULTS fund could be double-charged?

It is speculative to assume that these alleged “lost” customers would have been qualified for LifeLine, that TruConnect would have provided LifeLine to these customers for exactly 5 months each, and that no other carrier has signed them up. Even if “lost opportunities” costs were not prohibited by law, the proposed recovery of those costs is too vague and uncertain to calculate with any precision.

For these reasons, we conclude that CD shall reject any LifeLine reimbursement claims for “lost opportunities” or “missed opportunities” costs as described above, and take appropriate action as required by GO 153 to recover the overpayment of ULTS funds to TruConnect or any other carrier that attempts to seek reimbursement on these grounds.

In the event of an overpayment, GO 153, Section 9.8.7, requires staff to take all appropriate actions to recover the funds, including but not limited to: (i) adjusting the overpayment against the current claim; (ii) offsetting the overpayment against future California Lifeline claims; (iii) making payment arrangements with the California LifeLine Service Provider, or (iv) any other reasonable arrangement with the California LifeLine Service Provider to ensure that the California LifeLine Service Provider properly reimburses the California LifeLine Fund for the overpayment of California LifeLine claims. We herein order CD to take appropriate steps consistent with Section 9.8.7 to recover the overpayment of ULTS funds to TruConnect.

## **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

## **FINDINGS OF FACT**

1. In 2019, the Commission changed the vendor that serves as the Third-Party Administrator (TPA) for California LifeLine eligibility verification.
2. On May 20, 2019, June 4, 2019, and August 19, 2019, CD sent notices to LifeLine service providers outlining and explaining an interim process for them to use for their April through August 2019 reimbursement claims during the TPA transition period.
3. CD’s notices informed the carriers that reimbursement claims for these months would be subject to a true-up once the new TPA final month-end reports became available to CD.

4. TruConnect is a wireless carrier that provides LifeLine service to eligible California residents pursuant to GO 153.
5. TruConnect alleges it missed an opportunity to sign up a number of customers in 2019 due to complications with the changeover of the TPA in 2019.
6. The TPA did not determine that the customers in question were eligible for LifeLine service, and TruConnect never provided service to these customers.
7. From April to August 2019, TruConnect sought reimbursement for “lost opportunities” costs for missed customers on its LifeLine reimbursement claim forms, in the amount of \$9,063,022.66.
8. On March 4, 2020, CD notified TruConnect that its reimbursement claims for April through August of 2019 improperly sought recovery of costs and lost revenues for consumers that did not meet LifeLine program requirements, and sought recovery of the overpayment of \$9,063,022.66.
9. On April 13, 2020, TruConnect stated that deducting \$9,063,022.66 in subsidies would cause it “irreparable harm” and requested a 90-day continuance before any deductions were put into place, and threatened immediate litigation if its reimbursement claims were reduced.
10. To date, CD has not deducted any amounts from TruConnect’s current claims and has not arranged for repayment.

### **CONCLUSIONS OF LAW**

1. GO 153, Section 9, proscribes the rules for the recovery of LifeLine-related costs and lost revenues.
2. GO 153, Section 9.1.1, defines the class of carriers that are eligible for recovery of LifeLine-related costs, not the costs that are permitted to be recovered.
3. GO 153, Section 9.2.1, permits LifeLine carriers to recover from the California LifeLine Fund costs and lost revenues up to the “Specific Support Amount” (SSA), including applicable taxes/surcharges, interest, one-time Implementation Costs, other amounts expressly delineated, and administrative expenses as set forth in Section 9.3.10, 9.3.12 and 9.3.13 of GO 153.
4. GO 153, Section 2.49, defines the SSA as “[a] maximum support amount reimbursed to California LifeLine Service Providers for the monthly recurring charge of California LifeLine service to subscribers.”
5. GO 153, Section 2.50, defines a “subscriber” as “[a] person who is qualified for and receiving California LifeLine service, set forth in this General Order, at his or her principal place of residence.”

6. GO 153 prohibits recovery of costs associated with a missed opportunity to provide service to potential customers that were not found to be qualified for and did not receive LifeLine service.
7. A carrier may only seek reimbursement costs from the ULTS fund for a customer who is qualified to receive LifeLine service and is actually receiving it.
8. One of the Commission's goals, as embodied in the Moore Universal Telephone Service Act (Public Utilities Code Section 871, *et seq.*), is to ensure access to affordable telephone service for every household in a fair and equitable way.
9. A critical component of the Commission's oversight of the LifeLine program is ensuring that LifeLine telephone service is financially supported by reimbursement of carriers' costs and lost revenues in a fair and equitable way.
10. Allowing ineligible or non-qualified customers to subscribe to LifeLine service is contrary to GO 153 and would damage the health and reputation of the fund.
11. Allowing LifeLine service providers to receive subsidies for LifeLine service they never provided, to customers who were not eligible, is prohibited by GO 153.
12. TruConnect's claims for "lost opportunities" or "missed opportunities" costs are prohibited by GO 153, which does not permit LifeLine service providers to recover costs and lost revenues for customers who were not deemed eligible for and never received TruConnect's LifeLine service.
13. The ULTS fund overpaid TruConnect as a result of TruConnect's LifeLine reimbursement claims for prohibited "lost opportunities" costs in the amount of \$9,063,022.66.
14. GO 153, Section 9.8.7, requires staff to take all appropriate actions to recover overpayment of ULTS funds, including but not limited to: (i) adjusting the overpayment against the current claim; (ii) offsetting the overpayment against future California Lifeline claims; (iii) making payment arrangements with the California LifeLine Service Provider, or (iv) any other reasonable arrangement with the California LifeLine Service Provider to ensure that the California LifeLine Service Provider properly reimburses the California LifeLine Fund for the overpayment of California LifeLine claims.

**THEREFORE, IT IS ORDERED that:**

1. Communications Division (CD) shall deny any LifeLine service providers' claims (including TruConnect) involving reimbursement claims for costs and lost revenues for customers who were not deemed eligible by the TPA and did not receive that carrier's LifeLine service.



2. CD shall use whatever method it deems appropriate under GO 153, Section 9.8.7, to recover any amounts paid to LifeLine service providers (including TruConnect) in the past related to reimbursement claims for prohibited costs and lost revenues for customers who were not deemed eligible by the TPA and did not receive that carrier's LifeLine service.

This Resolution is effective today.

I certify that the foregoing resolution was adopted by the California Public Utilities Commission at its regular meeting of \_\_\_\_\_, and the following Commissioners approved favorably thereon:

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Alice Stebbins  
Executive Director