

Decision 23-11-062 November 16, 2023

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the Operations and Practices of TC Telephone to determine Whether Respondents Violated the Laws, Rules, and regulations of this State Governing the California Universal LifeLine Program

Investigation 22-10-007

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding until April 30, 2024.

1. Background and Justification

Public Utilities Code § 1701.2(i) provides that adjudicatory cases must be resolved within 12 months of the date they were filed with the Commission unless the Commission makes findings why that statutory deadline cannot be met and issues an order extending the 12-month deadline. In this proceeding, the statutory deadline is October 11, 2023.

2. Background

On October 11, 2022, the Commission initiated this investigation to determine whether Respondent, TC Telephone LLC (TC Telephone) violated any

provisions of General Orders (GO) 153¹ and 96(B),² Resolutions T-17321³ and T-17687,⁴ Decisions (D.) 92-11-063, D.94-10-046, D.00-10-28, and Rule 1.1, when it collected fees out of the LifeLine Fund from customers participating in the Universal LifeLine Program.⁵ The investigation maintains that TC Telephone engaged in improper conduct by exclusively providing Measured Rate Services (MRS) to its low-income customers, submitted unauthorized and unlawful reimbursement claims, used the advice letter unlawfully, and mislead the Commission. Specifically, TC Telephone was ordered to show cause as to why the Commission should not (1) order TC Telephone to return to the Commission \$8.1 million in overcollection from the LifeLine Fund from 2018 to 2020; (2) reject TC Telephone's May to October 2020 claims in the amount of \$1.67 million; (3) revoke TC Telephone's operating authority; and (4) impose penalties and/or other remedies for TC Telephone's unlawful reimbursement claim submissions

¹ Procedures for the Administration of the Moore Universal Telephone Service Act. Section 9.1.1 states: "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."

² Contains General Rules, Energy Industry Rules, Telecommunications Industry Rules, and Water Industry Rules.

³ Resolution T-17321 Revises GO 153 to reflect revisions to the California LifeLine Program as adopted in D.10-11-033.

⁴ Resolution clarified rules in GO 153 regarding carrier reimbursement of Universal LifeLine Telephone Service cost so that carriers are not permitted to seek reimbursement on a per minute basis for lost revenues from the LifeLine fund.

⁵ The Fund is part of the California Universal LifeLine Program that was established by the Moore Universal Telephone Service Act (codified by Public Utilities (Pub. Util.) Code §§ 871 *et seq.*), the purpose of which is to ensure universal telephone service throughout California through the provision of discounted, affordable basic telephone service to low-income households. Discounts for basic telephone service are funded through the Commission's Universal LifeLine Trust Fund. California telecommunications providers collect a LifeLine surcharge on the bills of all end-users of intrastate telecommunications services and remit them to the Commission's LifeLine Fund, which is used to reimburse certain telecommunications carriers for the discounts they provide to LifeLine customers.

and for imposing ongoing harm to the regulatory process, including a prohibition against some or all of the members and officers of TC Telephone from benefiting from or participating any Commission program for a period of at least 10 years. The Order Instituting Investigation (OII) set forth a preliminary scoping memo pursuant to Rule 7.1(c) to which TC Telephone was ordered to file a response.

After being granted an extension of time, on December 9, 2022, TC Telephone filed its response to the preliminary scoping memo contained in the OII.

On December 19, 2022, CPED filed its Reply Comments to TC Telephone's Response to the preliminary scoping memo.

The prehearing conference (PHC) was held on February 28, 2023, and PHC statements were filed in advance of the hearing. Based on the PHC statements and the comments made by counsel at the hearing, the parties were ordered to meet and confer to agree, if possible, on the factual record and exhibits for the Commission to consider in resolving the OII, determine if there were any undisputed material facts, and if an evidentiary hearing would be needed.

After the completion of the meet and confer process, the parties filed the following pleadings:

- Response of TC Telephone to Administrative Law Judge (ALJ) Directive to Submit Table of Undisputed Facts, dated March 16, 2023;
- Response of TC Telephone to ALJ Directive to Submit Supplemental Documents for Evidentiary Record, dated March 17, 2023;
- Motion of the Consumer Protection and Enforcement Division for Leave to File a Confidential Portion Under Seal [of] its Status Update, dated March 17, 2023; and

- The Consumer Protection and Enforcement Division's status Update Pursuant to the ALJ's Order (Public Version), dated March 17, 2023.

After considering the pleadings identified above and discussion at the prehearing conference, the Assigned Commissioner issued her Scoping Memo and Ruling on June 12, 2023. The Scoping Memo identified the issues to be resolved, determined that evidentiary hearings were not needed, and set a schedule for additional briefing.

On July 6, 2023, TC Telephone filed its Opening Brief.

On July 10, 2023, CPED filed its Amended Opening Brief.

On July 14, 2023, TC Telephone filed its Motion to Submit Late-Filed Documents for Inclusion in the Evidentiary Record.

On July 18, 2023, CPED filed its Objection to TC Telephone's Motion.

On July 24, 2023, TC Telephone and CPED filed their respective Reply Briefs.

3. Justification

There are a number of reasons why this proceeding cannot be resolved by the October 11, 2023 deadline.

First, staff report attached to the OII references a number of GOs and Commission decisions that must be evaluated to determine whether TC Telephone should be required to pay surcharges, user fees, interest, or penalties. Second, as the briefing was only completed on July 24, that is insufficient time to draft the Presiding Officer's Decision and have it resolved by the current statutory deadline.

Even if the Presiding Officer's Decision could be completed by the current statutory deadline, that would not bring this proceeding to a close. After the Presiding Officer's Decision is issued, both TC Telephone and CPED may file an

appeal, and any Commissioner may request review, pursuant to Rule 14.4 of the Commission's Rules of Practice and Procedure.

Therefore, a six-month extension of the statutory deadline until April 30, 2024 is appropriate.

4. Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the deadline for resolving adjudicatory proceedings set forth in Pub. Util. Code § 1701.2(i). Under the circumstances of this proceeding, it is appropriate to waive the 30-day period for public review and comment.

5. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Robert M. Mason III is the assigned ALJ and the presiding officer in this proceeding.

Findings of Fact

1. The current statutory deadline for resolving Investigation (I.) 22-10-007 is October 11, 2023.
2. I.22-10-007 cannot be completed by October 11, 2023.
3. An extension of the statutory deadline until April 30, 2024 is necessary to allow adequate time to complete this proceeding.

Conclusion of Law

Pursuant to the authority granted to the Commission under Pub. Util. Code § 1701.2(i), the statutory deadline should be extended to April 30, 2024.

IT IS ORDERED that the statutory deadline for completion of this proceeding is extended until April 30, 2024.

This order is effective today.

Dated November 16, 2023, at El Centro, California.

ALICE REYNOLDS
President
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners