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Decision 98-10-050 October 22, 1998

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

Rulemaking on the Commission's Own Motion  
into Universal Service and to Comply with the  
Mandates of Assembly Bill 3643.

Investigation on the Commission's Own Motion  
into Universal Service and to Comply with the  
Mandates of Assembly Bill 3643.

Rulemaking 95-01-020  
(Filed January 24, 1995)

**ORIGINAL**

Investigation 95-01-021  
(Filed January 24, 1995)

**INTERIM OPINION**

**I. Summary**

This decision modifies Decision (D.) 97-12-105 to eliminate the requirement that a market study of low-income households be completed prior to any marketing of the Universal Lifeline Telephone Service (ULTS) program<sup>1</sup> by the ULTS Marketing Board (ULTSMB). This decision also orders the ULTSMB to conduct a mass-marketing campaign for the ULTS program as soon as possible. Finally, this decision increases the ULTS marketing budget for the 1999 calendar year by \$2 million.

**II. Background**

The Commission has long considered marketing to be an important part of the ULTS program since marketing is one of the primary means by which low-income households are informed about the existence of the ULTS program and how to participate in the program. For many years, local exchange carriers

<sup>1</sup> The ULTS program subsidizes the provision of affordable basic telephone service to low-income households.

(LECs) were responsible for marketing the ULTS program.<sup>2</sup> With the advent of local exchange competition, the Commission became increasingly concerned that LECs might use their ULTS marketing activities as a means to gain a competitive advantage. As a result, in D.96-10-066 the Commission relieved LECs of their responsibility to market the ULTS program and created the ULTSMB<sup>3</sup> to serve as a Commission advisory body responsible for ULTS marketing. The specific responsibilities delegated to the ULTSMB were as follows: (1) develop annual ULTS marketing budgets, (2) devise competitively neutral marketing strategies, and (3) oversee the implementation of ULTS marketing campaigns.

To ensure that ULTS marketing campaigns are based on sound information, the Commission in D.97-12-105 directed the ULTSMB to refrain from marketing the ULTS program until after the Board had completed a market study of low-income households.<sup>4</sup> The Commission also ordered the ULTSMB to follow State procurement rules when contracting for the market study and ULTS marketing campaigns.<sup>5</sup> However, because State procurement rules include many procedural steps, the ULTSMB may need 12 to 24 months from today's decision to contract for a market study, conduct the study, evaluate the study results, formulate marketing campaigns based on the study, and, finally, contract with third parties to implement ULTS marketing campaigns.

To accelerate the start of ULTS marketing campaigns by the ULTSMB, assigned Commissioner Knight issued a ruling on July 23, 1998, in which he proposed to modify D.97-12-105 so as to allow the ULTSMB to conduct an

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<sup>2</sup> The ULTS program reimbursed LECs for their ULTS marketing costs.

<sup>3</sup> In D.96-10-066, the Commission created the ULTS Marketing Working Group which was renamed the "ULTSMB" in D.97-12-105.

<sup>4</sup> D.97-12-105, Ordering Paragraph (OP) 12.

<sup>5</sup> D.96-10-066, mimeo., p. 234 and Conclusion of Law 164; D.97-12-105, mimeo., pp. 5-9, and OPs 6, 7, 13.

interim mass-marketing campaign pending the completion of the market study. The Commissioner stated that funds for the interim mass-marketing campaign would come from the ULTSMB budget,<sup>6</sup> and that the request for proposal (RFP) and contract(s) for the interim mass-marketing campaign would have to comply with State procurement rules. Under the Commissioner's proposal, the ULTSMB could begin marketing the ULTS program in as little as six months.

Comments on Commissioner Knight's proposal were submitted by Pacific Bell (Pacific) and the Latino Issues Forum (LIF).<sup>7</sup> Pacific stated the interim mass-marketing campaign is crucial to the public's continued awareness of the ULTS program; while LIF stated the interim mass-marketing campaign would help to maintain existing telephone penetration levels among low-income households. LIF also recommended that the interim ULTS mass-marketing campaign utilize community-based organizations (CBOs). In addition, LIF urged the Commission to increase the ULTSMB's annual budget from the current \$5 million per year to at least \$10 million per year. Finally, LIF recommended that the interim ULTS mass-marketing campaign "provide education on the 'free toll-blocking' choice that will now be offered to ULTS customers."<sup>8</sup>

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<sup>6</sup> D.96-10-066 set the ULTSMB's marketing budget equal to the average annual ULTS marketing expenses incurred by LECs during the three-year period of 1994-1996. Resolution T-16176, issued on August 6, 1998, authorized a 1998 calendar year budget for the ULTSMB of \$2.9 million, including \$2.7 million for ULTS marketing activities (e.g., market study and marketing campaigns) during the last five months of 1998.

<sup>7</sup> Pacific submitted opening comments on August 7, 1998, and LIF submitted reply comments on August 21, 1998. No party requested an evidentiary hearing on Commissioner Knight's proposed modification to D.97-12-105.

<sup>8</sup> There is no requirement under the ULTS program for utilities to provide free toll blocking. We assume LIF is referring to the federal Lifeline program requirement that eligible telecommunications carriers (ETCs) must (1) offer toll-limitation services and (2) not require a service deposit if the Lifeline customer elects toll blocking (see Resolution T-16105, issued on December 16, 1997, p. 5).

### III. Discussion

The ULTS program serves a vital public purpose by providing low-income households with access to affordable basic telephone service. Marketing is an important adjunct to the ULTS program since marketing helps inform low-income households about the existence of the ULTS program and how to participate in the program. Given the importance of marketing to the ULTS program, we shall adopt Commissioner Knight's proposal to (1) require the ULTSMB to commence, as soon as possible, a mass-marketing campaign for the ULTS program, and (2) modify D.97-12-105 to remove the requirement that a market study of low-income households be completed prior to any marketing of the ULTS program by the ULTSMB. Once the market study is complete, the ULTSMB should develop and implement marketing strategies in accordance with the Commission's instructions in D.97-12-105.<sup>9</sup>

The ULTSMB shall use advertising agencies and other organizations qualified to conduct the interim mass-marketing campaign.<sup>10</sup> To provide for Commission oversight and control of the interim mass-marketing campaign, the ULTSMB shall submit the following documents to the Commission for the Commission's review and approval: (1) a plan for conducting the interim mass-marketing campaign, (2) a budget for the interim mass-marketing program, and (3) a proposed RFP for soliciting vendors to conduct the mass-marketing campaign. The Director of the Telecommunications Division (Director) shall then prepare for the Commission's consideration a resolution adopting a plan, budget,

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<sup>9</sup> In D.97-12-105, we stated that the ULTSMB should use the market study to help devise and implement competitively neutral marketing campaigns focused on market segments characterized by a prevalence of low-income households without phone service and/or not participating in the ULTS program.

<sup>10</sup> Pursuant to D.97-12-105, OP 13, the ULTSMB must comply with State procurement rules and keep records sufficient to demonstrate its compliance with these rules.

and RFP for the interim mass-marketing campaign. Once an RFP has been approved by the Commission, the ULTSMB should issue the RFP, select one or more vendors to conduct the interim mass-marketing campaign, and submit the proposed vendor contract(s) to the Commission for review and approval. The Director shall then prepare for the Commission's consideration a resolution adopting contract(s) for the interim mass-marketing campaign.

We shall not adopt LIF's recommendation that the interim mass-marketing campaign include information on free toll blocking since there is no requirement under the ULTS program for utilities to offer this service. Nor shall we adopt LIF's recommendation that CBOs should be used to conduct the interim mass-marketing campaign. While we would welcome CBOs' participation, and we encourage CBOs to respond to the forthcoming RFP soliciting vendors for the interim mass-marketing campaign, the ULTSMB shall only contract with those entities which the ULTSMB determines will provide the most cost-effective means for conducting the interim mass-marketing campaign.

We disagree with LIF's recommendation that the ULTSMB's budget should be doubled from the current \$5 million per year to \$10 million per year. Pursuant to Section 214(e) of the Telecommunications Act of 1996 and § 54.201(d) of the FCC's rules, ETCs are required as of January 1, 1998, to advertise the availability of universal service.<sup>11</sup> Given this new federal mandate, we conclude it is unnecessary to permanently increase the ULTSMB's budget at this time.

Although we do not adopt LIF's proposal to permanently increase the ULTSMB's budget, we believe a temporary increase is warranted. This is because

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<sup>11</sup> Resolution T-16105 designated 22 carriers as ETC effective January 1, 1998. This same resolution ordered ETCs to advertise the availability of universal service in (1) bill inserts, (2) public tariffs, (3) white page directories, and (4) one or more of the following media: newspapers, radio, or television.

there has been no ULTS marketing during the past two years which may have resulted in an erosion of the public's awareness of the ULTS program. Therefore, in order to provide adequate resources to reverse any erosion in public awareness of the ULTS program, we shall temporarily increase the ULTSMB's marketing budget by \$2 million for the 1999 calendar year. The ULTSMB's marketing budget shall then revert to the amount specified in D.97-12-105 beginning in the year 2000 and for all years thereafter. We shall leave it to the ULTSMB to recommend whether the additional \$2 million for 1999 should be spent on the interim mass-marketing campaign, on more targeted marketing once the market study is complete, or some combination of the two.<sup>12</sup>

#### **Findings of Fact**

1. D.97-12-105 directed the ULTSMB to conduct a market study to identify market segments characterized by a prevalence of low-income households without phone service and/or not participating in the ULTS program. The decision also required the market study to be completed prior to any marketing of the ULTS program by the ULTSMB.
2. The ULTSMB will need 12 to 24 months to complete the market study ordered by D.97-12-105 and to implement ULTS marketing campaigns.
3. On July 23, 1998, assigned Commissioner Knight issued a ruling which proposed to modify D.97-12-105 so as to allow the ULTSMB to conduct a mass-marketing campaign for the ULTS program prior to the completion of the market study. Under this proposal, marketing of the ULTS program by the ULTSMB could start in as little as six months.

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<sup>12</sup> The ULTSMB should present its recommendations for using the additional \$2 million in its plan for the mass-marketing campaign that this decision requires the ULTSMB to submit to the Commission.

4. Pacific and LIF supported Commissioner Knight's proposal described in Finding of Fact 3. There was no opposition to the proposal, and no party requested a hearing on the proposal.

5. In D.96-10-066, the Commission set the annual ULTSMB marketing budget equal to the average annual ULTS program marketing expenses for the three-year period of 1994-1996.

6. There has been no marketing of the ULTS program for over two years. As a result, the public's awareness of the ULTS program has likely diminished.

7. Increased marketing of the ULTS program, funded by a temporary increase in the ULTSMB's marketing budget, could reverse some or all of the erosion in the public's awareness of the ULTS program that may have occurred during the last two years.

#### **Conclusions of Law**

1. There is no need to convene an evidentiary hearing on Commissioner Knight's proposal to (i) eliminate the requirement in D.97-12-105 to complete a market study of low-income households prior to any marketing of the ULTS program by the ULTSMB, and (ii) require the ULTSMB to conduct a mass-marketing campaign for the ULTS program as soon as possible.

2. Commissioner Knight's proposal identified in Conclusion of Law 1 is reasonable.

3. Conclusion of Law 8 and Ordering Paragraph 12 in D.97-12-105, which require the ULTSMB to complete a market study prior to marketing the ULTS program, should be deleted.

4. The ULTSMB should implement a mass-marketing campaign for the ULTS program as soon as possible. The ULTSMB should comply with State procurement rules as it implements the mass-marketing campaign.

5. The ULTSMB should submit the following documents to the Commission for review and approval: (i) a plan for the ULTS mass-marketing campaign, (ii) a budget for the mass-marketing campaign, and (iii) an RFP to solicit the services of vendors qualified to conduct the mass-marketing campaign.

6. The Director of the Telecommunications Division should prepare for the Commission's consideration a resolution adopting (i) a plan for the mass-marketing of the ULTS program, (ii) a budget for the mass-marketing campaign, and (iii) an RFP to solicit vendors for the mass-marketing campaign.

7. The ULTSMB should issue the Commission-approved RFP for the ULTS mass-marketing campaign. After issuance of the RFP, the ULTSMB should select organizations qualified to conduct the mass-marketing campaign and submit proposed vendor contract(s) to the Commission for review and approval.

8. The Director of the Telecommunications Division should prepare for the Commission's consideration a resolution adopting the vendor contract(s) for the ULTS mass-marketing campaign.

9. Once the market study ordered by the Commission in D.97-12-105 is complete, the ULTSMB should develop and implement marketing strategies in accordance with the Commission's instructions in D.97-12-105.

10. The ULTSMB's marketing budget should be temporarily increased by \$2 million for the 1999 calendar year to fund an expanded ULTS marketing effort intended to reverse any decline in public awareness of the ULTS program that may have occurred due to the absence of ULTS marketing during the two previous years.

11. The following order should be effective immediately.



## INTERIM ORDER

IT IS ORDERED that:

1. Conclusion of Law 8 and Ordering Paragraph 12 in Decision (D.) 97-12-105 are deleted. The remaining conclusions of law and ordering paragraphs in D.97-12-105 are renumbered accordingly.
2. The Universal Lifeline Telephone Service Marketing Board (ULTSMB) shall implement, as soon as possible, a mass-marketing campaign for the Universal Lifeline Telephone Service (ULTS) program. As its implements the mass-marketing campaign, the ULTSMB shall at all times comply with State procurement rules and procedures.
3. The ULTSMB shall submit the following documents to the Commission for the Commission's review and approval: (a) a plan for the ULTS mass-marketing campaign, (b) a budget for the mass-marketing campaign, and (c) a request for proposal (RFP) to solicit advertising agencies and other organizations qualified to conduct the mass-marketing campaign.
4. The Director of the Telecommunications Division (Director) shall prepare for the Commission's consideration a resolution adopting a plan for the ULTS mass-marketing campaign, associated budget, and RFP. The ULTSMB shall then issue the Commission-approved RFP.
5. Following the issuance of the RFP for the ULTS mass-marketing campaign, the ULTSMB shall select one or more vendors qualified to conduct the marketing campaign and submit proposed vendor contract(s) to the Commission for the Commission's review and approval.
6. The Director shall prepare for the Commission's consideration a resolution adopting vendor contract(s) for the ULTS mass-marketing campaign.

7. Once the market study ordered by the Commission in D.97-12-105 is complete, the ULTSMB shall develop and implement marketing strategies in accordance with the instructions in D.97-12-105.

8. The ULTSMB's marketing budget for the 1999 calendar year is increased by \$2 million over what was specified in D.97-12-105. For the year 2000 and all years thereafter, the ULTSMB's marketing budget shall revert to the amount specified in D.97-12-105.

This order is effective today.

Dated October 22, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners