Decision DRAFT DECISION OF ALJ KENNEY (Mailed 1/18/2000)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Consider Modifications to the Universal Lifeline Telephone Service Program and General Order 153.	FILED PUBLIC UTILITIES COMMISSION SEPTEMBER 3, 1998 SAN FRANCISCO OFFICE RULEMAKING 98-09-005

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O P I N I O N

I. Summary

This decision adopts the following revisions to the Universal Lifeline Telephone Service (ULTS) program and General Order (GO) 153. First, GO 153, which contains ULTS program rules, is revised to reflect the changes to the ULTS program that have occurred since GO 153 was issued in 1984. Second, the ULTS program is revised to conform to specific aspects of the federal Lifeline and Link Up programs. Third, ULTS program benefits are expanded to provide more low-income households with access to affordable basic telephone service. Finally, ULTS program administrative procedures are revised to make the program more effective and efficient. The specific revisions to GO 153 and the ULTS program adopted by this decision include the following:

- ULTS program benefits are expanded to allow ULTS customers to pay a discounted service-connection charge each time they re-establish ULTS at the same residence, move to a new address, or switch from one ULTS provider to another.
- ULTS program benefits are expanded to provide two ULTS lines to low-income households that have (1) a disabled member who needs "two-line voice carryover" to access basic telephone service, or (2) at least two members, one of whom is disabled and uses a text-telephone devise.
- Utilities and the Deaf and Disabled Telecommunications Program (DDTP) are required to develop and deploy a system by July 1, 2001, to provide utilities with real-time access to the DDTP's data base of customers who satisfy the disability and equipment-related eligibility criteria for two ULTS lines.
- Utilities are prohibited from requiring customers who have an unpaid toll bill to post a service deposit in order to initiate ULTS if such customers elect to subscribe to toll blocking.

- The amount of lost revenues that utilities may recover from the ULTS Fund to serve a particular ULTS customer is limited to the amount that the customer's carrier of last resort may recover from the ULTS Fund.
- Utilities that are qualified to become federal "eligible telecommunications carriers" (ETCs), but which are not currently ETCs, are not required to seek designation as an ETC in order to draw from the ULTS Fund.
- Utilities that sell ULTS to customers in a language other than English are required to provide these customers with Commission-mandated ULTS notices that (i) are in the same language in which ULTS was originally sold, and (ii) include the toll-free number of customer service representatives fluent in the language in which ULTS was originally sold.
- Utilities are required to (i) inform potential ULTS customers during the screening process about ULTS eligibility criteria, and (ii) ask potential ULTS customers if they meet the ULTS eligibility criteria without having to disclose specific household income levels.
- Carriers that are late in remitting ULTS surcharge revenues are required to pay interest equal to a 10% annual rate beginning on the date that the remittances are due.
- The scope of Commission audits of ULTS surcharge remittances and ULTS claims is limited to five calendar years following the year in which the surcharge revenues are remitted or the claims submitted, except in cases where there appears to be malfeasance. Where there is an indication of malfeasance, the scope of an audit shall depend on the circumstances at the time the malfeasance is suspected or discovered.
- The charter of the ULTS Administrative Committee (ULTSAC) is revised to replace the members of the Committee who represent carriers and utilities with the Directors of the Commission's Consumer Services Division, Legal Division, and the Office of Ratepayer Advocates, or their designees.

This decision also orders the Telecommunications Division (TD) to convene a workshop to develop a comprehensive proposal for using Commercial Mobile Radio Service (CMRS) to provide ULTS. If the workshop results in such a

proposal, then TD and the Administrative Law Judge Division shall jointly prepare for the Commission's consideration a draft order instituting rulemaking to consider and adopt the comprehensive proposal.

II. Regulatory Background

The ULTS program was created in 1983 in response to the enactment of the Moore Universal Telephone Service Act.[1] The purpose of the ULTS program is to provide low-income households with access to affordable basic telephone service. To achieve this purpose, telecommunications utilities providing local exchange residential service (utilities)[2] are required to provide basic telephone service to low-income households at substantially reduced rates. Utilities are able to recover from the ULTS Fund their costs to provide ULTS, including the difference between each utility's normal tariffed rates for basic service and the discounted rates charged to customers participating in the ULTS program.

As of December 31, 1998, there were 3,215,000 households participating in the ULTS program.[3] The ULTS program budget for 2000 is approximately $276,000,000. Of this amount, $268,600,000 is for subsidies paid to utilities to provide ULTS, $6,557,989 is for marketing and outreach efforts, and the remainder is for ULTS program administrative costs.[4] Money to fund the ULTS program comes from the ULTS surcharge paid by the end users of intrastate telecommunications services. Intrastate telecommunications carriers (carriers) are responsible for collecting the ULTS surcharge from their customers and

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[1] Pub. Util. Code § 871, et seq.

[2] This decision uses the terms "utilities" and "ULTS providers" interchangeably.

[3] Resolution T-16366, issued on December 2, 1999.

[4] Ibid.

remitting the money to the ULTS Fund. Money deposited into the ULTS Fund is then used to pay for ULTS program costs.

ULTS program rules are contained in GO 153 which was adopted by the Commission in Decision (D.) 84-11-028. However, the ULTS program has been significantly revised since GO 153 was adopted in 1984, but most of these revisions have not been incorporated into the General Order. As a result, GO 153 has become outdated and of marginal use.

Like GO 153, the ULTS program has become outdated. For example, the federal Lifeline and Link Up programs have been substantially revised in recent years, but the ULTS program has not kept pace with these national trends. In addition, there is little standardization in how carriers implement key aspects of the ULTS program. With more than 1000 carriers now operating in California, the lack of standardization has made administration of the ULTS program difficult, complex, and costly. Finally, most ULTS program rules were developed when there was little or no competition in the provision of ULTS. Consequently, the rules do little to facilitate competition in the provision of ULTS, and some rules may even impede competition.

The Commission has repeatedly recognized the need to update and revise GO 153 and the ULTS program.[5] In D.94-10-046, the Commission ordered workshops to develop proposals for revising GO 153.[6] Workshops were held, and a workshop report was issued in December 1995 (the 1995 Workshop Report). Several of the proposals in the 1995 Workshop Report were

[5] The Commission recognized as early as 1987 that GO 153 had become obsolete. (D.87-10-088, Finding of Fact 36.)

[6] D.94-10-046, Ordering Paragraph (OP) 3, as modified by D.95-04-008.

implemented by the Commission,[7] but no formal action was taken to adopt or reject the remaining proposals. In D.96-10-066, the Commission indicated that the ULTS program should be modified, as appropriate, to conform to the federal Lifeline and Link Up programs.[8] Finally, in Resolution T-16128, issued on March 12, 1998, the Commission stated that the time had come to consider substantial modifications to GO 153 and the ULTS program:

> "The Commission recognizes the pressing need to revise…[GO 153] to reflect all the changes that have been adopted to date. The Commission also believes that the ULTS program has to be revisited in its entirety to be consistent with competitive developments in the local exchange telecommunications market. The FCC's revised Lifeline and Link Up programs are further impetus for the Commission to reconsider its ULTS program service requirements and to institute changes that may be necessary to make them more consistent with the federal program and more beneficial to California customers…the Commission, therefore, deems it necessary to allow for further consideration of…major ULTS program changes…To accomplish this task…[TD] and the Administrative Law Judge Division [shall] undertake the steps necessary to prepare an order to initiate the appropriate proceeding…At the end of this process, the Commission expects to issue an order revising the ULTS program and adopting an updated G.O. 153." (Resolution T-16128, pp. 9-10.)

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[7] The following proposals from the 1995 Workshop Report have been adopted by the Commission: (1) The definition of the billing base subject to the ULTS surcharge (Resolution T-15826 issued on December 20, 1995); (2) The ULTS surcharge remittance form (Ibid.); and (3) The ULTS Claims Form (D.96-10-066, Appendix B, Rule 5.A.1.e). The proposals from the 1995 Workshop Report adopted by the Commission were never incorporated into GO 153.

[8] D.96-10-066, OP 17.

In D.98-06-007, the Commission ordered the 1995 Workshop Report and comments on the report to be included in the formal record of the proceeding ordered by Resolution T-16128.[9]

On May 28, 1998, TD held a workshop to obtain comments on the scope of the modifications to the ULTS program and GO 153 that should be considered in the proceeding ordered by the Commission in Resolution T-16128. As a prelude to the workshop, TD developed a comprehensive proposal for revising the ULTS program and GO 153, and mailed its proposal to more than 1,000 parties. Several parties submitted written comments on TD's proposal,[10] and TD's proposal was discussed at length during the workshop.

III. Procedural Background

Order Instituting Rulemaking (OIR) 98-09-005 was issued on September 3, 1998. The OIR proposed to (i) update GO 153 to reflect the changes to the ULTS program that have occurred since GO 153 was issued in 1984, (ii) adopt uniform standards for use by telecommunications utilities and carriers in complying with ULTS program requirements, and (iii) adopt several revisions to the ULTS program that were intended to (a) foster competition in the provision of ULTS, and (b) conform the ULTS program with federal universal service programs. The OIR was based, in large part, on TD's proposals unveiled at the workshop held prior to the issuance of the OIR.

As required by Rule 6(c)(2) of the Commission's Rules of Practice and Procedure (Rule), the Commission preliminarily determined in OIR 98-09-005

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[9] D.98-06-007, OP 1.

[10] The following parties submitted written comments regarding TD's proposed revisions to the ULTS program and GO 153: Pacific Bell; GTE Service Corporation and affiliated companies;

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that: (1) the category for the proceeding is quasi-legislative[11]; (2) a hearing would be held for the receipt of legislative facts but not adjudicative facts[12]; (3) the scope of the proceeding consisted of the matters identified in Appendices B through F of the OIR; and (4) the schedule for the proceeding consisted of the milestones in Appendix A of the OIR. The OIR also informed parties that Commissioner Knight and Administrative Law Judge (ALJ) Kenney were assigned to this proceeding. Commissioner Neeper became the assigned Commissioner after Commissioner Knight retired from the Commission on December 31, 1998.

Parties filed written comments on October 9, 1999, and reply comments on November 6, 1999.[13] Motions for evidentiary hearings were filed on

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Office of Ratepayer Advocates (ORA); Department of Consumer Affairs; Cooper, White, and Cooper on behalf of small local exchange companies; and the Latino Issues Forum.

[11] Rule 5(d) defines a "quasi-legislative" proceeding as one in which the Commission establishes policy or rules affecting a class of regulated entities.

[12] Rule 8(f)(3) defines "legislative facts" as general facts that help the tribunal decide questions of law, policy, and discretion. Rule 8(f)(1) defines "adjudicative facts" as answers to questions such as who did what, where, when, how, and why.

[13] Comments were filed by the following parties: AT&T Communications of California, Inc. (AT&T), California Cable Television Association (CCTA), Cellular Carriers Association of California (CCAC), Cox California Telcom, L.L.C. (Cox), MCI Telecommunications Corporation (MCI), ORA, Pacific Bell (Pacific), Roseville Telephone Company (Roseville), Sprint Communications Company L.P. (Sprint), and The Utility Reform Network (TURN). Joint comments were filed by: (1) AT&T, AT&T Wireless of California, Inc., Redding Cellular Partnership, Santa Barbara Cellular Systems Ltd., and MCI (referred to collectively as "AT&T/MCI"); (2) Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., The Ponderosa Telephone Co., and Sierra Telephone Company (referred to collectively as "Calaveras"); (3) Citizens Telecommunications Company of California Inc., Citizens Telecommunications Company of the Golden State, Citizens Telecommunications Company of Tuolumne, and Citizens Telecommunications Company (referred to collectively as "Citizens"); (4) Evans Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Company, The Siskiyou Telephone Company, The Volcano Telephone Company, and Winterhaven Telephone Company (referred to collectively as "Evans"); (5) GTE California Incorporated, GTE West Coast Incorporated, GTE Wireless, and GTE Communications Corporation Company (referred to collectively as

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November 6, 1998, and responses to the motions were filed on November 23, 1998. On December 17, 1998, the DDTP Administrative Committee (DDTPAC) filed a motion for leave to submit late-filed comments. There was no response to DDTPAC's motion, and the motion was granted in a ruling issued by ALJ Kenney on January 12, 1999.

As required by Rule 6.3, assigned Commissioner Neeper issued a ruling on February 10, 1999, that (1) determined that the category of this proceeding is quasi-legislative,[14] (2) finalized the scope and schedule of this proceeding, and (3) denied the motions for evidentiary hearings. The ruling also revised the scope of the proceeding to:

(i) Exclude the issues set forth in Appendix B, Sections IV.2 and IV.3 of the OIR of whether Pacific is receiving double compensation for certain ULTS-related costs.

(ii) Include the issue of whether low-income disabled customers should receive the ULTS discount on two residential telephone lines if both lines are required to access basic telephone service.

(iii) Include the issue of whether GO 153 should be revised to require carriers that sell ULTS in languages other than English to provide their customers with Commission-mandated ULTS notices in languages other than English.

In his ruling, the assigned Commissioner also permitted parties to submit additional comments on two matters. First, parties were permitted to submit comments on the issue of whether low-income disabled customers should receive

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"GTE"); (6) The Greenlining Institute and Latino Issues Forum ("Greenlining/LIF"); and (7) Filipinos for Affirmative Action, Korean Youth and Community Center, National Council for La Raza, Oakland Chinese Community Council, Oakland Citizens Committee for Urban Renewal, Southern Christian Leadership Conference, and Spanish Speaking Citizens' Foundation (referred to collectively as "Public Advocates").

[14] No party exercised its right under Rule 6.4 to appeal the assigned Commissioner's ruling on the category of this proceeding.

the ULTS discount on two residential telephone lines if both lines are required to access basic telephone service.[15] Comments on this matter were submitted on March 1, 1999, and reply comments on March 12, 1999.[16] Second, parties were permitted to submit comments that contained proposals for using commercial mobile radio service (CMRS) to provide ULTS. Comments on this matter were submitted on March 26, 1999, and reply comments on April 9, 1999.[17]

Because the assigned Commissioner's ruling altered the scope of the proceeding as set forth in OIR 98-09-005, the assigned Commissioner asked the full Commission to approve the revised scope of the proceeding. The Commission gave its approval in D.99-03-036. In that decision, the Commission also expanded the scope of this proceeding to include the issue of whether GO 153 should be modified to require utilities to (1) provide all residential customers with Commission-mandated ULTS notices in seven languages (i.e., Spanish, Mandarin, Cantonese, Vietnamese, Korean, Japanese, and Tagalog); and (2) include in their ULTS notices the toll-free telephone number of customer service representatives who speak the languages in which ULTS is sold by the utility.

On May 11, 1999, a final oral argument was held before a quorum of the Commission pursuant to Rule 8(d). This proceeding was submitted at the conclusion of the oral argument.

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[15] No party requested an evidentiary hearing on the issue of whether low-income disabled customers should receive the ULTS discount on two residential telephone lines.

[16] Comments regarding the provision of two discounted lines to low-income disabled customers were submitted by the following parties: AT&T/MCI, Calaveras, DDTPAC, GTE, MCI WorldCom, Inc., ORA, and Pacific Bell.

[17] Comments regarding the use of CMRS to provide ULTS were submitted by the following parties: AT&T, CCAC, CCTA, GTE, ORA, Pacific Bell, and Pacific Bell Mobil Services.

IV. Issues To Be Decided

A. Revisions to GO 153 to Reflect the Current State of the ULTS Program

General Order 153 contains ULTS program rules. The ULTS program has been significantly revised since GO 153 was adopted in 1984, but most of these revisions were never incorporated into the General Order.[18] As a result, GO 153 has become outdated and of marginal use to carriers, utilities, and program administrators. In the next part of this decision, we identify the many changes to the ULTS program that have occurred over the years, and we address whether, and to what extent, each of these changes should be included in GO 153.

1. Annual Adjustment of ULTS Income-eligibility limits

a. Background

The ULTS program provides discounted residential phone service to low-income households. To qualify for discounted phone service, the members of a household must collectively earn no more than a specified amount of income.[19] The ULTS income limits are adjusted annually for inflation.

General Order 153, Section 3.1.1.1, requires the ULTS income limits to be adjusted by February 15th of each year. On June 11, 1997, the Commission issued Resolution T-16010 which: (1) moved the annual deadline for adjusting ULTS income limits from February 15th to May 1st of each year; (2) required the

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[18] The following decisions and resolutions adopted changes to the ULTS program that were never reflected in GO 153: D.96-10-066, D.96-02-072, D.94-10-046, D.94-09-065, D.87-10-088, and Resolutions T-15826, T-16086, T-16105, and T-16128. In addition, D.86-02-021 and D.94-09-065 adopted revisions to GO 153 that were never included in the published GO 153.

[19] In order for a household to be eligible for ULTS, the members of the household must collectively earn no more than the following amount of annual income: 1-2 members: $17,750 per year; 3 members: $20,910 per year; 4 members: $25,090 per year; each additional member: $4,180 per year. These household income limits are effective for the

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Telecommunications Division (TD) to notify all utilities about the adjusted income limits by May 1st of each year; and (3) required utilities to file revised tariffs, effective June 1st of each year, to reflect the adjusted ULTS income limits.

In the OIR, the Commission proposed to revise GO 153 to delete the defunct February 15th deadline. However, instead of including the current May 1st deadline in GO 153, the OIR proposed to revise GO 153 to provide the Commission with flexibility regarding (1) the annual date for adjusting ULTS income limits; (2) the procedures the Commission uses to adjust ULTS income limits; and (3) the methods the Commission uses to inform utilities of the adjusted income limits.[20]

b. Position of the Parties

All of the parties that commented on the OIR proposal state that GO 153 should specify a schedule for the annual adjustment to ULTS income limits.[21] They argue that utilities require certainty regarding the date for the annual adjustment in order to plan and schedule activities tied to the annual adjustment, such as customer notices and tariff changes. Public Advocates also states that including a deadline for the annual adjustment in GO 153 will help ensure that low-income households with incomes just over the ULTS income limits are not excluded from the ULTS program due to a delay in the annual adjustment.

Pacific states that it needs six weeks to implement the annual adjustment to ULTS income limits. In order to provide adequate time to implement the annual adjustment, Pacific proposes that GO 153 be revised to (1) require TD to adjust

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period of June 1, 1999, through May 31, 2000. (*Notice To All Carriers Who Provide Service Under ULTS*, from the Director of the Telecommunications Division, dated April 15, 1999.)

[20] OIR, Appendix B, Section I.1.

ULTS income limits by April 15th each year and to immediately notify utilities of the adjustment via a letter from the Director of TD; and (2) require utilities to implement the adjusted income limits by June 1st of each year.[22]

c. Discussion

We agree with the parties that utilities need a date certain for the annual adjustment to ULTS income limits and sufficient time to implement the annual adjustment. We also agree with Public Advocates that a deadline for the annual adjustment will prevent low-income households from being inadvertently excluded from the ULTS program due to a delay in the annual adjustment. Therefore, to provide a date certain for the annual adjust, and to give utilities sufficient time to implement the adjustment, we shall adopt Pacific's proposal to revise GO 153 to require (1) TD to adjust ULTS income limits by April 15th of each year and to immediately notify utilities of the annual adjustment,[23] and (2) utilities to implement the adjusted income limits by June 1st of each year.[24]

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[21] The following parties commented on this matter: AT&T, Calaveras, CCTA, Cox , Evans, GTE, ORA, Public Advocates, Pacific Bell, and Roseville.

[22] CCTA agrees with Pacific that utilities should be given adequate time to implement the annual adjustment to ULTS income limits.

[23] If April 15th falls on a weekend, the annual adjustment may be made on the following Monday. TD should send notice of the annual adjustment to utilities within five business days of making the adjustment.

[24] If unforeseen events cause a delay in the annual adjustment to ULTS income limits, the Director of TD should use Rule 48(b) to request an extension of time to adjust the ULTS income limits. If the request is granted, utilities should have at least 45 days from the date that TD makes the annual adjustment to ULTS income limits to implement the adjusted income limits. The notice sent to utilities advising them of the adjusted ULTS income limits must inform them of the revised date for implementing the adjusted income limits. There is no need to request an extension of time for insignificant delays in the annual adjustment to ULTS income limits, such as a one-day delay in making the annual adjustment.

2. Elements of Basic Service

a. Background

Utilities are required to provide ULTS customers with each of the "elements" of basic residential telephone service (BRTS) listed in D.96-10-066, Appendix B, Rule 4.

General Order 53 does not reflect every element of BRTS listed in D.96-10-066. In the OIR, the Commission proposed to revise GO 153 to state that ULTS includes all the elements of BRTS listed in D.96-10-066, but the Commission did not propose to include the actual list of elements in GO 153.[25]

b. Position of the Parties

Calaveras and ORA state that the elements of BRTS are sufficiently important to be listed in GO 153. ORA notes that the elements of BRTS adopted by the Commission in D.96-10-066 include access to directory assistance (DA), but the Commission did not specify the number of DA calls that will be provided to ULTS customers free of charge. ORA recommends that GO 153 include the current monthly allowance of five free DA calls for each ULTS customer.

CCTA and Pacific oppose ORA's proposal to include in GO 153 a monthly allowance of five free DA calls. CCTA states that D.96-10-066 did not specify an exact number of free monthly DA calls included in BRTS, and that some utilities may offer their customers fewer than five free DA calls per month. Pacific states that it has an application pending before the Commission for authority to reduce the number of free DA calls that Pacific offers to its residential customers from five per month to three per month.[26] Pacific states that if its application is

[25] OIR, Appendix B, Section I.2.

[26] Application 98-05-038. In D.99-11-051, the Commission granted Pacific's request to reduce the number of free DA calls provided to residential customers from five to three per month.

granted, ORA's proposal would result in ULTS customers receiving 5 free DA calls per month, while non-ULTS customers receive only 3 free DA calls per month. Pacific argues that it would be unfair for ULTS customers to receive more free DA calls than other residential customers.

c. Discussion

We agree with Calaveras and ORA that the "elements" of BRTS listed in D.96-10-066, Appendix B, Rule 4, should be included in GO 153. Therefore, we shall revise GO 153 to include all of the elements of BRTS listed in D.96-10-066.

We shall not adopt ORA's proposal to revise GO 153 to state that ULTS includes five free DA calls per month. We previously addressed this issue in D.96-10-066 and D.99-11-051 where we stated as follows:

> "[T]he assigned ALJ recommended that [BRTS include] an allowance of five local directory assistance calls at no additional charge. We agree with the comments that there is a cost associated with answering these calls, and that this is an issue best left to the marketplace to decide. We will, however, require the incumbent LECs to continue to provide the same number of free directory assistance calls that are provided for in their tariffs until otherwise ordered by the Commission." (D.96-10-066, mimeo., pp. 28 and 28a)

> "ORA represented that…D.96-10-066 required all LECs to…provide five monthly DA call allowance at no additional cost…We specifically adopted free access in D.96-10-066 for certain basic service elements, such as free and unlimited access to 911 and to 800 numbers. However, we declined to adopt interested parties' recommendation of free DA access for the first five calls per month. Instead, we only adopted access to DA services as a component of basic service. Hence, D.96-10-066 does not confirm ORA's position that residential basic service includes five monthly DA call allowance." (D.99-11-051, mimeo., pp. 28 and 29)

We shall revise GO 153 to reflect the policy we adopted in D.96-10-066 and affirmed in D.99-11-051 of requiring utilities to offer to their ULTS customers the

same number of free DA calls that they provide to their non-ULTS residential customers.

3. Call Allowance for ULTS Measured Service

a. Background

General Order 153, as modified by D.86-02-021,[27] states that ULTS customers subscribing to measured local service shall (1) receive 60 untimed (i.e., free) local calls per month, and (2) pay $0.10 per call for the first 10 local calls in excess of the monthly allowance and $0.15 for each additional local call. Decision 94-09-065 changed the rate to $0.08 for all local calls in excess of 60 per month, but GO 153 was never updated to reflect the new rate.

In the OIR, the Commission proposed to retain the policy of providing ULTS measured service customers with 60 free local calls each month and requiring them to pay $0.08 for each local call in excess of the monthly allowance. However, in order to reduce the need to amend GO 153 in the future, the Commission also proposed to revise GO 153 to (1) exclude from GO 153 the number of free local calls included in the monthly allowance or the price for each local call in excess of the monthly allowance; and (2) state that the Commission may periodically revise (i) the number of free local calls provided to ULTS measured service customers, and (ii) the rate that utilities may charge ULTS measured service customers for local calls in excess of the monthly allowance.[28]

b. Position of the Parties

Cox opposes the OIR proposal to exclude from GO 153 the number of free local calls provided to ULTS measured service customers to each month and the

[27] D.86-02-021, OP 4.

[28] OIR, Appendix B, Section I.3.

rate for local calls in excess of the monthly allowance. Roseville, on the other hand, agrees with the OIR proposal to exclude this information from GO 153.

GTE, Pacific, and Roseville state that if the Commission ever changes the number of local calls included in the monthly allowance or the rate charged for calls in excess of the monthly allowance, the ULTS Fund must reimburse utilities for any additional cost that result from these changes. Pacific and Roseville also state that the Commission must allow utilities to participate in any process that may ultimately lead to a change in the terms and conditions of measured local service provided to ULTS customers.

c. Discussion

We agree with Cox that GO 153 should include the number of free local calls provided to ULTS measured service customers each month and the rate for each local call in excess of the monthly allowance. Therefore, we shall revise GO 153 to reflect our policy adopted in D.94-09-065 of (1) providing ULTS measured service customers with 60 untimed local calls each month, and (2) requiring ULTS measured service customers to pay $0.08 per call for each local call in excess of 60 per month. If we ever consider revising the number of local calls included in the monthly allowance or the rate for calls in excess of the allowance, we shall provide parties with notice and an opportunity to participate in that process. If we do change the number of calls in the monthly allowance or the rates for calls in excess of the allowance, utilities shall be reimbursed, as appropriate, for any additional costs that result from these changes.

4. ULTS Rate for Monthly Service

a. Background

Decision 94-09-065 required each utility to set its recurring monthly rate for ULTS at the lower of (1) one-half of the tariffed recurring monthly rate paid by the utility's non-ULTS customers for residential local exchange service, or

(2) one-half of the tariffed recurring monthly rate paid by Pacific Bell's non-ULTS customers for residential flat-rate local service or measured local service. Decision 94-09-065 also required utilities with exchanges that have Extended Area Service (EAS) to set the monthly rate for ULTS in each EAS exchange at 50% of the applicable monthly EAS rate.[29]

General Order 153 does not reflect the statewide monthly rates for ULTS adopted in D.94-09-065. In the OIR, the Commission proposed to revise GO 153 to include the monthly rates for ULTS adopted in D.94-09-065.[30]

b. Position of the Parties

Pacific Bell, the only party commenting on this matter, supports the OIR proposal.

c. Discussion

There was no opposition to the OIR proposal to revise GO 153 to reflect the statewide monthly rates for ULTS adopted in D.94-09-065. Therefore, we shall adopt the proposal. However, because the statewide monthly rates for ULTS are tied to Pacific Bell's monthly rates for ULTS, there needs to be a process to notify all utilities about changes to Pacific Bell's monthly ULTS rates so that other utilities can revise their own ULTS rates as well.[31] Therefore, we shall revise GO 153 to require TD to notify all utilities when there is a change to the statewide recurring monthly rates for ULTS due to a change in Pacific Bell's monthly rates for ULTS. This notice should also instruct utilities to file compliance tariffs, if necessary, to revise their own ULTS rates to reflect the new statewide rates. TD

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[29] D.94-09-065, 56 CPUC 2d 117, at 158.

[30] OIR, Appendix B, Section I.4.

[31] For example, on July 1, 1999, Pacific Bell filed Advice Letter No. 20400 to revise many of its rates effective November 1, 1999, including Pacific's recurring monthly rates for ULTS.

shall have discretion to determine when utilities' revised monthly rates for ULTS should become effective.

5. Non-Recurring ULTS Charge for Service Connection

a. Background

In D.94-09-065, the Commission adopted a statewide non-recurring ULTS charge for the connection of service ("ULTS connection charge") equal to the lower of (1) $10 or (2) one-half of the utility's tariffed non-recurring charge for the connection of residential service.[32]

General Order 153 does not reflect the statewide ULTS connection charge adopted in D. 94-09-065. In the OIR, the Commission proposed to revise GO 153 to include the statewide ULTS connection charge adopted in D.94-09-065.[33]

b. Position of the Parties

Calaveras and Evans support the OIR proposal. They also state that GO 153 should reflect the Commission's decision in D.94-09-065 that ULTS customers, when establishing service, do not have to pay a "central office charge" in addition to the ULTS connection charge.

CCTA and GTE state that GO 153 should reflect the Commission's decision in D.96-10-066 to require the ULTS Fund to reimburse each utility for the difference between the utility's tariffed service-connection charge and the ULTS connection charge. GTE also notes that the OIR is inconsistent concerning the provision of inside wire to ULTS customers. More specifically, one part of the

[32] D.94-09-065, 56 CPUC 2d 117, at 161-162.

[33] OIR, Appendix B, Section I.5.

OIR indicates that ULTS includes the installation of inside wire,[34] while another part of the OIR indicates that ULTS does not include this service.[35]

c. Discussion

There was no opposition to the OIR proposal to revise GO 153 to reflect the statewide ULTS connection charge adopted in D.94-09-065. Therefore, we shall adopt the OIR proposal.

We agree with Calaveras and Evans that GO 153 should reflect our decision in D.94-09-065 to not allow utilities to impose a "central office charge" in addition to the ULTS connection charge when installing ULTS.[36] The GO 153 we adopt today prohibits utilities from imposing a central office charge when installing ULTS.

We shall not adopt CCTA and GTE's recommendation to revise GO 153 to reflect our decision in D.96-10-066 to require the ULTS Fund to reimburse each utility for the difference between the utility's tariffed connection charge for residential service and the ULTS connection charge.[37] We are concerned that an unscrupulous utility could use this provision in D.96-10-066 to "game" the ULTS program to reap unreasonable profits. For example, under the ULTS program, utilities may charge ULTS customers no more than $10 for service connection. However, an unscrupulous utility could establish a tariffed charge of $500 for service connection, and D.96-10-066 would allow the utility to recover from the ULTS Fund the difference between $10 and $500, or $490. To prevent this from occurring, we adopt a policy later in this decision of limiting the amount that the

[34] OIR, Appendix C, Section 3.3.4.

[35] OIR Appendix B, Sections I.5 and IV.1.

[36] D.94-09-065, 56 CPUC 2d 117, at 161.

[37] D.96-10-066, Appendix B, Section 5.A.1.c.

ULTS Fund pays to a utility to provide ULTS to a particular customer to no more than what the ULTS Fund would pay to the carrier of last resort to provide ULTS to that customer.

GTE correctly notes that the OIR is inconsistent regarding whether ULTS includes the installation of inside wire. We previously deregulated the installation of inside wire,[38] and because of this, we believe that ULTS should not include the installation of inside wire. Therefore, the GO 153 we adopt today indicates that ULTS does not include the installation inside wire.[39]

6. Non-Recurring ULTS Charge for Service Conversion

a. Background

A "service conversion" occurs when a customer changes the class, type, or grade of service at a specific address. For example, a service conversion occurs when a ULTS customers switches from measured service to flat-rate service.

General Order 153 requires utilities to set their non-recurring ULTS charge for service conversion ("ULTS service conversion charge") equal to their ULTS connection charge, subject to the overall limitation of one ULTS service conversion charge per year for each ULTS customer.[40] The Commission reaffirmed this policy in D.94-09-065.[41] In the OIR, the Commission proposed to retain its policy for the ULTS service conversion charge.[42]

b. Position of the Parties

There were no comments on the OIR proposal.

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[38] D.98-05-041.

[39] Landlords are required by Calif. Civil Code § 1941.4 to install and maintain within a rented residential premise at least one telephone jack. (D.97-11-029, 1997 Cal PUC LEXIS 1036 *29.)

[40] GO 153, Section 3.5.

[41] D.94-09-065, 56 CPUC 2d 117, at 162.

[42] OIR, Appendix B, Section I.6.

c. Discussion

There was no opposition to the OIR proposal to retain the policy of requiring utilities to set their ULTS service conversion charge equal to their ULTS connection charge. Therefore, we shall adopt the proposal and revise GO 153 accordingly. However, we shall not adopt the OIR proposal of limiting ULTS customers to one ULTS service conversion charge per year. Later in this decision, we adopt a policy of placing no limits on the number of times that ULTS customers may pay the ULTS connection charge. Since our policy has long been to tie the ULTS conversion change to the ULTS connection charge, we shall likewise place no limits on the number of times that ULTS customers may pay the ULTS conversion charge.

7. Subsidization of ULTS Customers' EUCL Charges

a. Background

Pub. Util. Code § 875 states that ULTS customers shall not pay the federally mandated End User Common Line (EUCL) charge.[43] In the OIR, the Commission proposed to revise GO 153 to reflect Pub. Util. Code § 875.[44]

b. Position of the Parties

There were no comments on the OIR proposal.

c. Discussion

There was no opposition to the OIR proposal to revise GO 153 to reflect Pub. Util. Code § 875. Therefore, we shall adopt the OIR proposal.

[43] The EUCL charge is $3.50 per month for the first residential access line. The ULTS Fund reimburses utilities for the EUCL charge assessed on every ULTS line to the extent that such costs are not offset by federal subsidies.

[44] OIR, Appendix B, Section I.21.

8. Subsidization of ULTS Customers' Taxes and Surcharges

a. Background

Under current ULTS program rules, ULTS customers do not pay the taxes, fees, and surcharges (referred to collectively as "taxes")[45] assessed on their ULTS rates and charges.[46] Instead, the utilities pay these taxes on behalf of their ULTS customers, and utilities are reimbursed by the ULTS Fund for these taxes.[47]

In the OIR, the Commission proposed to revise GO 153 to reflect the current practice of (1) requiring utilities to pay the taxes assessed on ULTS rates and charges, and (2) requiring the ULTS Fund to reimburse utilities for the aforementioned taxes.[48]

b. Position of the Parties

Cox, the only party that commented on this matter, supports the OIR proposal.

c. Discussion

There was no opposition to the OIR proposal to revise GO 153 to require (1) utilities to pay the taxes on ULTS rates and charges, and (2) the ULTS Fund to reimburse utilities for the aforementioned taxes. Therefore, we shall adopt the OIR proposal.

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[45] Taxes, fees, and surcharges include the following: CHCF-A surcharge, CHCF-B surcharge, CTF surcharge, CPUC user fee, federal excise tax, and local franchise taxes.

[46] ULTS customers must pay taxes on non-ULTS services, such as toll, call waiting, etc.

[47] Utilities pay taxes on the full-tariffed rates and charges for BRTS, not the discounted ULTS rates and charges for BRTS.

[48] OIR, Appendix B, Section I.19, and Appendix C, Section 4.6.4.

9. Calculation of Federal Excise Tax and CPUC User Fee

a. Background

General Order 153 does not address how utilities should determine the amount of the taxes they pay on behalf of their ULTS customers. In the OIR, the Commission noted that many utilities do not correctly calculate the Federal Excise Tax and CPUC User Fee. The Commission also noted that on March 26, 1998, the Telecommunications Division (TD) sent a letter to all utilities that (1) instructed utilities on how to correctly calculate taxes, and (2) notified utilities that they would only be reimbursed for the taxes that are determined in accordance with TD's letter.

In the OIR, the Commission proposed to revise GO 153 to state that (1) utilities that seek reimbursement of taxes paid on behalf of their ULTS customers shall determine such taxes in the manner set forth in TD's letter of March 26, 1998, and (2) the Commission or TD may periodically revise the way reimbursable taxes are determined.[49]

b. Position of the Parties

GTE, Pacific, and Roseville state that unless the Commission guarantees recovery of tax penalties due to the Commission's misinterpretation of tax laws, it would be unfair to require utilities to comply with the Commission's interpretation of tax laws. These parties also oppose the OIR proposal to provide the Commission and TD with authority to revise the methods used by utilities to determine reimbursable taxes. They state that utilities must have notice and an opportunity to comment on any proposed revision to the tax reporting methods.

[49] OIR, Appendix B, Section I.20.

c. Discussion

We shall adopt the OIR proposal to revise GO 153 to require utilities that seek reimbursement of taxes paid on behalf of their ULTS customers to determine such taxes in accordance with the methods set forth in TD's letter of March 26, 1998.[50] We note that not one party claimed the methods in TD's letter differ from the methods used by the taxing authorities. We infer from this silence that the methods in TD's letter produce an accurate measurement of utilities' tax liabilities. We remind the parties that the OIR proposal to specify the methods that utilities must use to calculate reimbursable taxes arose from the undisputed fact that some utilities were submitting claims to the ULTS Fund for taxes that were not determined in accordance with the methods used by the taxing authorities. Consequently, the amount of taxes claimed by some utilities differed from their actual tax liabilities.

If a utility's actual tax liability differs from the amount that was previously reimbursed by the ULTS Fund, the utility shall report the difference, whether positive or negative, as a "true up" on its ULTS Claim Form. Any additional interest and penalties assessed by taxing authorities may be reimbursed by the ULTS Fund on a case-by-case basis.[51]

Elsewhere in this decision, we adopt a two-year limit for utilities to true up previously submitted claims. This two-year limit will not apply to adjustments to utilities' tax liabilities that are made by the taxing authorities after the expiration

[50] TD informs us that it has received notice from the California State Board of Equalization (Board) that the Board does not require ULTS customers to pay the State 911 tax. Accordingly, there is no need for utilities to pay this tax on behalf of their ULTS customers.

[51] Any interest and penalties that clearly stem from the negligence of the utility shall not be reimbursed by the ULTS Fund. The ULTSAC shall have authority to determine if interest and penalties assessed by a taxing authority should be reimbursed by the ULTS Fund.

of the two-year limit for true-ups. Nor will the two-year limit apply to adjustments to tax liabilities that are initiated by utilities (e.g., filing an amended tax return) after the expiration of the two-year limit.

We agree with GTE, Pacific, and Roseville that utilities should have notice and an opportunity to comment on proposed revisions to the methods that utilities must use to determine reimbursable taxes. Later in this decision, we adopt procedures to provide interested parties with notice and an opportunity to comment on all proposed changes to ULTS administrative procedures, including proposed changes to the methods used to determine reimbursable taxes.

10. Elimination of Utility Claims for Marketing Costs

a. Background

For many years, utilities were responsible for marketing the ULTS program. However, in D.96-10-066, the Commission created the ULTS Marketing Group (ULTSMWG) to serve as the sole entity responsible for marketing the ULTS program. Concurrent with the creation of the ULTSMWG, the Commission ordered utilities to stop submitting claims to the ULTS program for marketing expenses.[52] In D.97-12-105, the Commission changed the name of the ULTSMWG to the ULTS Marketing Board (ULTSMB).

In the OIR, the Commission proposed to revise GO 153 to reflect the role of the ULTSMB in marketing the ULTS program and the elimination of utilities' role in marketing the ULTS program. The Commission also proposed to revise the ULTS Claim Form to exclude marketing expenses.[53]

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[52] D.96-10-066, mimeo., pp. 230-235.

[53] OIR, Appendix B, Section I.12, and Appendix D.

b. Position of the Parties

GTE opposes the OIR proposal to revise the ULTS Claim Form to exclude marketing expenses. GTE states that the Commission should retain a "mechanism" for utilities to recover ULTS-related marketing costs in case utilities are someday required to engage in ULTS marketing activities.

Cox, AT&T, MCI, and TURN oppose GTE's recommendation. They state that GTE's recommendation would undermine D.96-10-066 which made the ULTSMB, and not utilities, responsible for marketing the ULTS program.

CCTA states that the Telecommunications Act of 1996 requires eligible telecommunication carriers (ETCs) to advertise the availability of federal universal service programs using media of general distribution.[54] CCTA asks the Commission to advise utilities that are ETCs whether the existence of the ULTSMB meets the federal requirement, or whether ETCs must meet this requirement by advertising on their own.

c. Discussion

We shall adopt the OIR proposal to (1) revise GO 153 to state that the ULTSMB is responsible for marketing the ULTS program, (2) revise GO 153 to state that utilities shall not be reimbursed by the ULTS program for marketing costs, and (3) revise the ULTS Claim Form to exclude marketing costs.

We decline to adopt GTE's recommendation to retain the defunct "mechanism" for utilities to recover marketing-related costs from the ULTS program. If utilities are ever again allowed to recover marketing costs from the ULTS program, we can re-build the mechanism that we dismantle today.

We decline to act on CCTA's recommendation to advise utilities on whether their obligation as ETCs to advertise the availability of federal universal

service programs is fulfilled by the activities of the ULTSMB. CCTA failed to present any legal analysis on whether we have authority under federal law to make this determination, and we see no need to expend our own resources to conduct this analysis.

11. Combining the Monthly Report & Quarterly Claim Form

a. Background

General Order 153, as modified by D.86-02-021,[55] requires utilities to submit monthly reports and quarterly claims of their ULTS-related costs using the forms contained in GO 153. In 1988, Commission staff instructed utilities to submit one form on a monthly basis to both report and claim their ULTS-related costs ("the ULTS Claim Form"). In 1995, Commission staff revised the ULTS Claim Form to separately list the "lost revenues" for non-recurring charges, monthly recurring rates, and taxes and surcharges.

In the OIR, the Commission proposed to eliminate from GO 153 the monthly report and quarterly claims forms that have not been used since 1988. The Commission also proposed to revise GO 153 to state that the Commission will prescribe the format and content of the ULTS Claim Form, but the Commission did not propose to include the actual ULTS Claim Form in GO 153.[56]

b. Position of the Parties

Cox, GTE, ORA, and Pacific state that GO 153 should include the ULTS Claim Form. Cox and ORA also suggest that the ULTS Claim Form be made available to utilities on the Commission's website.

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[54] 47 U.S.C. §214(e)(1).

[55] D.86-02-021, OP 4, 20 CPUC 2d 449, at 455.

[56] OIR, Appendix B, Section I.11.

CCTA recommends that the ULTS Claim Form be revised to exclude the line item for "other" expenses. Pacific opposes CCTA's recommendation on the grounds that the "other" category is needed for one-time costs and credits.

Pacific recommends that Section 3 of the instructions to the ULTS Claims Form be revised to eliminate any reference to service representative costs. Section 3 states: "Marketing and outreach expenses, including ULTS service representative time costs, are not reimbursed by the ULTS program." Pacific argues that utilities should be able to recover the costs they incur for the time spent by their service representatives on ULTS-related matters.

Pacific states that utilities should have notice and an opportunity to comment on proposed changes to the ULTS Claim Form. Pacific and GTE both state that if the Commission does revise the ULTS Claim Form, utilities should have 90 days to implement the changes.

c. Discussion

We agree with the parties that GO 153 should include the ULTS Claim Form. The revised GO 153 we adopt today includes the ULTS Claim Form. We also agree with Cox and ORA that the ULTS Claim Form should be made available on the Commission's website. Later in this decision, we instruct TD to place on our website the complete GO 153 adopted by this decision, including the ULTS Claim Form incorporated into the General Order.

We shall not adopt CCTA's proposal to remove from the ULTS Claim Form the line item for "other" expenses. We agree with Pacific that the "other" category is needed, at a minimum, for one-time costs and credits.

We also agree with Pacific that Section 3 of the instructions to the ULTS Claim Form should be revised to remove the inference that utilities may not

recover any service representative costs from the ULTS Fund.[57] Section 3 of the revised ULTS Claim Form that we adopt today contains no mention of service representative costs.

We agree with Pacific that utilities should have an opportunity to comment on proposed changes to the ULTS Claim Form. Later in this decision, we adopt procedures to provide parties with notice and an opportunity to comment on all proposed changes to ULTS program administrative procedures, including proposed changes to the ULTS Claim Form.

Finally, we agree with GTE and Pacific that utilities should have adequate time to implement future changes to the ULTS Claim Form. However, we disagree with Pacific and GTE that utilities will need 90 days to implement every change to the ULTS Claim Form. Some changes may be minor and readily implemented, while other changes may take longer than 90 days for the utilities to implement. Therefore, instead of adopting a hard and fast rule, we expect Commission staff to exercise good judgment when deciding how much notice utilities need before they are required to use a revised ULTS Claim Form.

12. Reporting the Number of ULTS Customers

a. Background

A significant portion of a utility's claim for reimbursement of ULTS-related costs is directly proportional to (1) the number of ULTS customers served by the utility, and (2) the number of new ULTS service connections provided by the utility. In D.96-10-066, the Commission ordered utilities to report on their ULTS Claim Forms the number of ULTS customers served by the utility during the period covered by the claim, broken down by ULTS customers with measured

[57] Elsewhere in this decision, we determine that utilities may recover from the ULTS Fund the costs they incur for the time spent by service representatives to inform new residential

Footnote continued on next page

local service and flat-rate local service.[58] The Commission also ordered TD to revise the ULTS Claim Form to reflect this reporting requirement.[59] However, during the pre-OIR workshop, it became apparent that utilities were using different methods to report the number of ULTS customers they served.

In the OIR, the Commission proposed to require all utilities to use one method to report the number of ULTS customers they served. The method proposed by the Commission was for each utility to report (1) the total number of ULTS lines served by the utility at the end of period covered by the Claim Form, broken down by measured local service and flat-rate local service, and (2) the number of new ULTS service connections during the period covered by the Claim Form, broken down by measured local service and flat-rate local service.[60]

b. Position of the Parties

GTE, Pacific, and Roseville oppose the OIR proposal to require utilities to report the number of ULTS customers served by the utility at the end of the period covered by the ULTS Claim Form. They state that the proposed reporting method is flawed, since it provides only a snapshot of the number of ULTS customers served by a utility. They recommend that utilities be required to report the total number of ULTS customers served by the utility during the period covered by the ULTS Claim Form.

Pacific supports the OIR proposal to require utilities to report the total number of new ULTS service connections. Pacific also states that utilities will need 90 days to implement the new reporting requirement, and that utilities

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customers about the ULTS program.

[58] D.96-10-066, mimeo., p. 225 and Appendix B, Rule 5.A.1.e.

[59] D.96-10-066, mimeo., p. 225 and Conclusion of Law 155.

[60] OIR, Appendix B, Section I.13, and Appendix D, page D-4, Item 10.

should be allowed to recover from the ULTS Fund any costs associated with the new reporting requirement.

c. Discussion

We agree with GTE, Roseville, and Pacific that the OIR proposal to require utilities to report the number of ULTS customers served at the end of the period covered by the ULTS Claim Form is flawed. This reporting method may not result in an accurate measurement of a utility's cost to provide ULTS, since it only reports the number of ULTS customers served by a utility on one particular day. To obtain an accurate measurement of a utility's cost, the utility should report the weighted-average number of ULTS customers it served during the entire period covered by the ULTS Claim Form. Therefore, we shall revise the ULTS Claim Form to require utilities to report the weighted-average number of ULTS customers during the period for which the claim is made, broken down by measured local service and flat-rate local service. In calculating the weighted average, the "weight" of each ULTS customer shall be based on the number of days the customer was provided ULTS during the reporting period.[61]

There was no opposition to the OIR proposal to require utilities to report on their ULTS Claim Forms the total number of new ULTS service connections, broken down by new connections for measured local service and flat-rate local service. Therefore, we shall adopt the proposal.

We agree with Pacific that utilities should have 90 days to implement the new reporting requirement. We also agree with Pacific that utilities should be allowed to recover from the ULTS Fund the costs that are caused by the new

[61] For example, if a utility provided ULTS to a total of six customers during the reporting period, but all of these customers either joined the ULTS program or left the program midway through the reporting period, then the number of ULTS customers reported by the utility on its ULTS Claim Form would be three.

reporting requirement. We remind utilities that they will have the burden to support and justify any such costs that they claim.

13. Revision of the ULTS Claim Form to Reflect Federal Subsidies

a. Background

In Resolution T-16128, issued on March 28, 1998, the Commission ordered utilities to reduce their ULTS claims by the amount of subsidies they receive from the federal Lifeline and Link Up low-income programs. In the OIR, the Commission proposed to revise GO 153 and the ULTS Claim Form to reflect the policy adopted in Resolution T-16128 of reducing utilities' draws from the ULTS Fund by an amount equal to the subsidies they receive from the federal Lifeline and Link Up programs.[62]

b. Position of the Parties

CCTA states that the ULTS Claim Form should reflect the fact that not every utility receives federal subsides. To implement its recommendation, CCTA proposes that the footnote at the bottom of the ULTS Claim Form be revised to state as follows: "Should include only lost revenues net of the subsidies, **if any,** received from the federal Lifeline and Link-Up program." (revision in bold.)

GTE and Pacific state that the OIR proposal appears to require utilities to delay the filing of their ULTS claims until after the utilities have received their subsidies from the federal universal service programs. They state that such a delay would impose an unreasonable financial burden on utilities. They recommend that the ULTS Claim Form be revised to state that ULTS claims, when submitted, are net of any federal subsidies that utilities expect to recover.

[62] OIR, Appendix B, Section I.14, and Appendix D.

c. Discussion

There is no opposition to the OIR proposal to revise the ULTS Claim Form to require utilities to report their claims net of any subsidies they receive from the federal Lifeline and Link Up programs. Therefore, we shall adopt the proposal.

To address the concerns raised by CCTA, GTE, and Pacific, we shall revise the footnote on page 2 of the ULTS Claim Form to read as follows: "Claimed amounts should be net of the subsides, if any, that the ULTS provider expects to receive from the federal Lifeline and Link-up programs." To ensure that both utilities and the ULTS Fund are made whole for any difference between estimated and actual federal subsidies, we shall add a new line item to the ULTS Claim Form entitled "true-up of federal support." Utilities must use this new line item to true-up their estimated federal subsides with the actual subsidies they receive from the Lifeline and Link-up programs.

14. Schedule for Submitting ULTS Claims

a. Background

General Order 153, Section 5, requires utilities to submit their ULTS claims on a quarterly basis. In D.87-10-088, the Commission required utilities to submit their ULTS claims on a monthly basis.[63] On March 26, 1998, the Director of TD notified utilities that they must file their ULTS claims within 30 days following the monthly period for which a claim is made.

In the OIR, the Commission proposed to revise GO 153 to remove the defunct requirement for utilities to submit their ULTS claims on a quarterly basis. However, instead of including in GO 153 the current schedule for submitting ULTS claims, the Commission proposed to revise GO 153 to state that utilities would have to submit their claims in accordance with a schedule specified by the

[63] D.87-10-088, 25 CPUC 2d 556, at 561 and 568.

Commission or TD. The Commission also proposed to revise GO 153 to state that: (1) utilities with relatively small ULTS claims may seek permission to file ULTS claims on a biannual basis; (2) the Commission or TD would specify the conditions that utilities must meet in order to obtain permission to file biannual ULTS claims; and (3) no interest would be paid on biannual claims.[64]

b. Position of the Parties

Pacific supports the OIR proposal to require utilities with relatively large ULTS claims to submit their claims on a monthly basis. Evans and MCI support the OIR proposal to allow utilities with relatively small ULTS claims to submit their claims on a biannual basis. MCI, however, opposes the OIR proposal to not pay interest on biannual ULTS claims.

c. Discussion

Elsewhere in this decision, we determine that GO 153 should contain all ULTS program rules. Therefore, we shall not adopt the OIR proposal to exclude from GO 153 the schedule for submitting ULTS claims. Instead, we shall revise GO 153 to state that utilities shall submit their ULTS claims within 30 days following the end of the monthly (or biannual) period for which a claim is made.

There was no opposition to the OIR proposal to allow utilities to seek permission to submit small ULTS claims on a biannual basis. Therefore, we shall adopt the proposal. TD shall use the procedures adopted later in this decision for revising ULTS program administrative requirements to promulgate the conditions that utilities must satisfy in order to file biannual ULTS claims.

We disagree with MCI that the ULTS Fund should pay interest on biannual ULTS claims. The purpose of allowing utilities to submit biannual claims in lieu of monthly claims is to enable utilities to achieve some administrative savings.

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[64] OIR, Appendix B, Section I.15.

However, no utility is required to submit biannual claims. Thus, if a utility believes the time value of money lost by submitting biannual claims exceeds any associated administrative savings, then the utility may submit monthly claims.[65]

15. Processing ULTS Claims

a. Background

General Order 153 does not specify a procedure or schedule for processing ULTS claims submitted by utilities. The current practice is for utilities to submit their ULTS claims to TD which reviews the claims and forwards its findings and recommendations to the ULTSAC. The ULTSAC reviews TD's findings and recommendations, and determines whether the ULTS claim should be paid. Claims approved by the ULTSAC are usually paid within 15 days.

In the OIR, the Commission proposed to revise GO 153 to (1) reflect the current practice for processing ULTS claims, and (2) state that claims shall be paid within 15 calendar of being approved by the ULTSAC.[66]

b. Position of the Parties

There was no opposition to the OIR proposal.

c. Discussion

Since there was no opposition to the OIR proposal, we shall revise GO 153 to (1) reflect the current practice for processing ULTS claims, and (2) state that claims shall be paid within 15 calendar days of being approved by the ULTSAC.

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[65] Requiring the ULTS Fund to pay interest to utilities that submit biannual claims would create monetary and administrative costs for the ULTS program that might exceed the corresponding benefits realized by the utilities filing biannual claims.

[66] OIR, Appendix B, Section I.16, and Appendix C, Section 4.

16. Interest on ULTS Claims

a. Background

General Order 153, Section 5.2, as modified by D.86-02-021,[67] requires the ULTS Fund to pay interest on utilities' ULTS claims based on the 3-month commercial paper rate published in the Federal Reserve Statistical Release, G-13 ("3-month commercial paper rate").[68] In D.87-10-088, the Commission eliminated the payment of interest on ULTS claims.[69]

In the OIR, the Commission proposed to revise GO 153 to state that utilities shall not be paid interest on their ULTS claims unless a claim payment is withheld due to the claim being contested by the ULTSAC, TD, or another entity with authority to withhold payment of contested claims. The Commission also proposed to revise GO 153 to state that if a contested claim is found to be valid, the utility would be paid interest on the portion of its claim that had been withheld, with interest based on the 3-month commercial paper rate.[70]

b. Position of the Parties

All the parties that commented on this matter agree that utilities should receive interest on their ULTS claims anytime the ULTS Fund is late in paying a legitimate claim.[71] They also recommend that ULTS claims be paid no later than 60 days after a claim is submitted.

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[67] D.86-02-021, OP 4, 20 CPUC 2d at 449, at 455.

[68] Ibid., pp. 453-56.

[69] D.87-10-088, 25 CPUC 2d 556, at 561 and 568.

[70] OIR, Appendix B, Section I.9.

[71] The following parties commented on this matter: AT&T, Calaveras, CCTA, COX, Evans, GTE, MCI, ORA, Pacific, and Roseville.

c. Discussion

There was no opposition to the OIR proposal to revise GO 153 to eliminate the payment of interest on ULTS claims that are timely paid by the ULTS Fund. Therefore, we shall adopt the proposal.

We generally agree with the parties that the ULTS Fund should pay interest on legitimate ULTS claims whenever the ULTS program is late in paying such claims. If this were not the case, then utilities would be penalized for having provided ULTS. Such a result could undermine the central goal of the ULTS program of providing basic telephone service to low-income households by discouraging utilities from serving these very households. However, there are two circumstances when interest should not apply. First, if a utility is late in submitting its claim, the utility should not receive interest on its claim since such claims may require more scrutiny and/or additional processing by ULTS program administrators. Second, if the ULTS program withholds claim payments from a utility due to the utility's failure to timely remit ULTS surcharge revenues, the utility should not receive interest on the withheld claim payments.[72]

We agree with the parties that the accrual of interest on late ULTS claim payments should begin 60 days after a timely claim is submitted. However, for administrative ease, we shall revise GO 153 to require the accrual of interest to begin 60 days following the date that ULTS claims are due to be submitted, and

[72] Later in this decision, we adopt a policy of withholding ULTS claim payments from utilities that fail to timely remit ULTS surcharge revenues until these utilities remit the past-due surcharge revenues.

end on the date that payment is made.[73] The rate of interest on late ULTS claim payments shall equal the 3-month commercial paper rate.

17. ULTS Surcharge and Billing Base

a. Background

General Order 153 states that the ULTS program shall be funded by a "tax" on suppliers of intrastate interLATA telecommunications service. In D.87-07-090, the Commission replaced the "tax" with a "surcharge" assessed on each carrier's gross revenues for intrastate telecommunications services. In D.94-09-065, as modified by D.95-02-050, the Commission clarified that the ULTS surcharge applies to a "billing base" composed of all end-user intrastate telecommunications services (including CMRS) except for the following:

- ULTS billings.
- Public phone coin calls and debit card calls.
- Usage charges for coin-operated pay telephones.
- Contracts effective before 9/15/94.
- Directory advertising.
- One-way radio paging.
- Services provided to other certificated utilities for resale.

In the OIR, the Commission proposed to revise GO 153 to reflect (1) the use of a surcharge to fund the ULTS program, and (2) the ULTS billing base adopted in D.94-09-065, as modified by D.95-02-050.[74]

b. Position of the Parties

There was no opposition to the OIR proposal.

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[73] Elsewhere in this decision, we require utilities to submit their ULTS claims no later than 30 days following the end of the period for which a claim is made. Therefore, interest will begin to accrue on legitimate ULTS claims that are submitted on a timely basis beginning on the 90th day following the period for which a claim is made.

[74] OIR, Appendix B, Section I.7.

c. Discussion

Since there was no opposition to the OIR proposal, we shall revise GO 153 to reflect (1) the use of a surcharge to fund the ULTS program, and (2) the ULTS billing base adopted in D.94-09-065, as modified by D.95-02-050.

18. Annual Proceeding to Set ULTS Surcharge Rate

a. Background

General Order 153 is silent about the procedures the Commission should use to set the ULTS surcharge rate. Subsequent to the issuance of GO 153, the Legislature enacted Pub. Util. Code § 879(a) which requires the Commission to initiate an annual proceeding to set the ULTS surcharge rate. To implement § 879(a), the Commission in recent years has followed a practice whereby (1) carriers and utilities submit workpapers showing their projected ULTS billing base and ULTS program costs by August 1st of each year; (2) the ULTSAC submits a proposed administrative budget by October 1st of each year[75]; and (3) the Commission uses the information submitted by the carriers, utilities, and the ULTSAC to issue a resolution by December of each year to revise the ULTS surcharge rate, if necessary, beginning on January 1st of the following year.

In the OIR, the Commission proposed to revise GO 153 to reflect the current schedule and practice for annually setting the ULTS surcharge rate.[76]

b. Position of the Parties

All the parties that commented on this matter expressed concern that the OIR proposal may not give carriers sufficient time to implement a revised ULTS

[75] The ULTSAC's proposed budget includes the budget for the ULTSMB. (D.97-12-105, OP 44).

[76] OIR, Appendix B, Section I.10.

surcharge.[77] CCAC, CCTA, GTE, and Pacific recommend that the ULTS surcharge resolution be issued by November 15th of each year to give carriers at least 45 days to update their billing systems by January 1st of the following year. AT&T recommends that carriers have at least 60 days to implement a new ULTS surcharge rate, regardless of when the ULTS surcharge resolution is issued.

c. Discussion

In Resolution T-16366, issued on December 2, 1999, the Commission ordered the ULTS surcharge rate to be set by July 1st of each year.[78] Consequently, the OIR proposal to require the ULTS surcharge rate to be set by January 1st of each year is obsolete and will not be adopted. However, Resolution T-16366 did not adopt a new schedule for annually setting the ULTS surcharge rate by July 1st. Rather, the resolution stated that the Commission will provide more guidance on this matter at a later time.

Consistent with the previous discussion, we shall revise GO 153 to state that the ULTS surcharge rate will be set by July 1st of each year.[79] Once we have adopted a schedule for annually setting the ULTS surcharge rate, TD shall update GO 153 to reflect the new schedule in accordance with the procedures we adopt later in this decision.

We are not persuaded by the parties that carriers need 45 to 60 days to implement a new ULTS surcharge rate. We have previously required carriers to implement a new surcharge rate in less than 30 days, and carriers have been able

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[77] The following parties submitted on comments on this matter: AT&T, CCTA, CCAC, GTE, and Pacific.

[78] Resolution T-16366 reflected the enactment of Senate Bill 669 which linked the budget for the ULTS program with the July 1st fiscal-year budget for the State of California.

[79] Resolution T-16366 adopted a ULTS surcharge rate for calendar year 2000. Therefore, the new date for annually setting the ULTS surcharge rate will not be effective until July 1, 2001.

to comply with this requirement.[80] Therefore, when we eventually adopt a new schedule for annually setting the ULTS surcharge rate, it is unlikely that the schedule will allow carriers 45 to 60 days to implement a new surcharge rate.

19. ULTS Surcharge Remittance Schedule

a. Background

General Order 153 does not specify a schedule for carriers to remit ULTS surcharge revenues. In Resolution T-15826, issued on December 20, 1995, the Commission adopted the following two-part schedule for the remittance of ULTS surcharge revenues: (1) carriers that collect more than $100 per month in ULTS surcharge revenues must remit these moneys on a monthly basis, and (2) carriers that collect less than $100 per month in ULTS surcharge revenues may remit these moneys on a semi-annual basis. This two-part schedule was affirmed by the Commission in Resolution T-15984, issued on January 13, 1997. In August of 1998, TD revised the two-part schedule so that carriers that have $10,000 or more per month in billings that are subject to the ULTS surcharge are required to remit ULTS surcharge revenues on a monthly basis, while carriers that have less than $10,000 per month in billings may remit on a biannual basis.

In the OIR, the Commission proposed to revise GO 153 to state that (1) carriers shall remit ULTS surcharge revenues based on a schedule prescribed by the Commission or TD; and (2) the Commission or TD may periodically revise the schedule for remitting ULTS surcharge revenues. However, in an effort to minimize the need to make future revisions to GO 153, the Commission did not propose to include in the General Order a specific schedule for remitting ULTS surcharge revenues.[81]

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[80] See Resolutions T-15984, T-16235, T-16098.

[81] OIR, Appendix B, Section I.18, Appendix C, Section 6, and Appendix E.

b. Position of the Parties

AT&T states that parties should have notice and an opportunity to comment on any future changes to the ULTS surcharge remittance schedule.

c. Discussion

Later in this decision, we determine that GO 153 should contain all ULTS program rules. Therefore, we shall revise GO 153 to incorporate the current two-part schedule for remitting ULTS surcharge revenues.[82]

We agree with AT&T that carriers should have notice and an opportunity to comment on proposed changes to the ULTS surcharge remittance schedule. Later in this decision, we adopt procedures to provide interested parties with notice and an opportunity to comment on all proposed changes to ULTS program administrative procedures, including proposed changes to the ULTS surcharge remittance schedule.

20. ULTS Surcharge Remittance Procedures and Forms

a. Background

General Order 153 does not contain any procedures or forms for carriers to use to remit ULTS surcharge revenues. The current ULTS surcharge remittance form was adopted by the Commission in Resolution T-16165, issued on July 2, 1998, and revised by TD in August 1998. The procedures that carriers must use to remit ULTS surcharge revenues are contained in the instructions attached to the surcharge remittance form.[83]

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[82] The schedule for remitting ULTS surcharge revenues is included in the instructions attached to the surcharge remittance form. Pursuant to this decision, the surcharge remittance form and the instructions attached to the form shall henceforth be incorporated by reference into GO 153.

[83] Carriers use one form to remit all surcharge revenues, including surcharge revenues for the CHCF-A, CHCF-B, CTF, and DDTP.

In the OIR, the Commission proposed to revise GO 153 to state that (1) carriers shall remit ULTS surcharge revenues using the procedures and forms prescribed by the Commission or TD; (2) the Commission or TD may revise these procedures and forms as conditions warrant; and (3) the Commission or TD may require carriers to use electronic forms in lieu of paper-based forms. However, in an effort to minimize the need to make future revisions to GO 153, the Commission did not propose to include in GO 153 the specific procedures and forms that carriers should use to remit ULTS surcharge revenues.[84]

b. Position of the Parties

Sprint recommends that the surcharge remittance form be revised to include blank spaces for carriers to write in the current surcharge rates.

AT&T and Pacific Bell oppose the OIR proposal to provide the Commission and TD with broad authority to prescribe the procedures and forms to be used by carriers to remit ULTS surcharge revenues. They state that carriers must have adequate notice and an opportunity to comment on any revisions to ULTS surcharge remittance procedures and forms.

c. Discussion

Later in this decision, we determine that GO 153 should contain all ULTS program rules. Therefore, we shall revise GO 153 to incorporate, by reference, the current surcharge remittance form.[85] The procedures that carriers must use to

[84] OIR, Appendix B, Section I.17, Appendix C, Section 6, and Appendix E.

[85] We do not include the actual surcharge remittance form in GO 153, since there is not a surcharge transmittal form that is unique to the ULTS program. Instead, carriers use one form to remit surcharge revenues for all telecommunications public programs, including surcharge revenues for the CHCF-A, CHCF-B, CTF, DDTP and ULTS programs.

remit ULTS surcharge revenues are described in the instructions attached to the surcharge remittance form.[86]

We disagree with Sprint that the surcharge remittance form should be revised to include blank spaces for carriers to write in the surcharge rates. The instructions attached to the form list all surcharge rates, and we see no need to repeat this information on the form itself.

We agree with AT&T and Pacific that parties should have notice and an opportunity to comment on changes to ULTS surcharge remittance procedures and forms. Later in this decision, we adopt procedures to provide notice and an opportunity to comment on all changes to ULTS administrative procedures, including changes to ULTS surcharge remittance procedures and forms.

21. No Reimbursement of Claims Without Surcharge Remittances

a. Background

The current policy of the ULTS program is to withhold ULTS claim payments from any utility that has failed to remit its ULTS surcharges revenues. In the OIR, the Commission proposed to revise GO 153 to state that ULTS claim payments would be withheld from any utility that has failed to remit its ULTS surcharge revenues until the utility has remitted all past-due ULTS surcharge revenues, with interest.[87]

b. Position of the Parties

AT&T, Calaveras, GTE, MCI, ORA, and Pacific support the OIR proposal. They believe, however, that the proposed revision to the text of GO 153 could be

[86] Carriers are not currently required to use electronic forms to remit ULTS surcharge revenues. Therefore, if in the future TD considers requiring carriers to use electronic forms to remit ULTS surcharge revenues, TD must give carriers notice and an opportunity to comment on this requirement in accordance with the procedures set forth later in this decision.

misinterpreted to mean that a utility forfeits its outstanding ULTS claims if the utility does not timely remit its ULTS surcharge revenues. They recommend that the proposed text be modified to eliminate this possible misinterpretation.

CCTA states that the OIR proposal limits the enforcement of ULTS surcharge remittances to only those carriers that actually provide ULTS, and does nothing to address late remittances by non-ULTS providers. CCTA recommends that rather than adopting a method that cannot be applied to all carriers, the Commission should withdraw its proposal and rely on its authority to rescind the certificates of public convenience and necessity (CPCNs) of carriers that fail to remit ULTS surcharge revenues.

ORA states that ULTS claim payments should be contingent on how late the utility is in remitting ULTS surcharge revenues. ORA recommends that a utility should not be reimbursed for its ULTS claims submitted for a particular period if the utility's surcharge remittance for the period is late beyond "a certain generous interval."

c. Discussion

We shall adopt the OIR proposal to revise GO 153 to withhold ULTS claim payments from any utility that has failed to remit its ULTS surcharge revenues until the utility has remitted all past-due ULTS surcharge revenues, with interest.[88] However, we agree with the parties that the proposed revision to the text of GO 153 could be misinterpreted to mean that a utility will forfeit its outstanding ULTS claims if the utility is late in remitting ULTS surcharge

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[87] OIR, Appendix B, Section I.23, and Appendix C, Section 4.4. .

[88] A utility should not receive interest on ULTS claim payments that are withheld from the utility due to the utility's failure to timely remit ULTS surcharge revenues.

revenues. To reduce the possibility of misinterpretation, we shall revise GO 153 to state as follows:

> No payment will be made to a utility until all ULTS surcharge revenues due from the utility are remitted in full, with interest on the late remittance based on an annual rate of 10%. Interest shall accrue starting on the date that surcharge remittances are due and ending on the date that the surcharge revenues are remitted.[89]

We disagree with CCTA that the OIR proposal should not be adopted because it is only applicable to carriers that provide ULTS, while doing nothing to address late remittances by carriers that don't provide ULTS. Unlike CCTA, we do not believe that carriers that fail to remit ULTS surcharge revenues should be rewarded for their conduct by being reimbursed for their ULTS claims. However, we do agree with CCTA that any carrier that fails to remit ULTS surcharge revenues should be in jeopardy of losing its CPCN. Such carriers would be, in essence, stealing money from the public, which would make them unfit to provide public utility service. Therefore, if a carrier fails to remit ULTS surcharge revenues, TD shall send two warning notices to the carrier. If the carrier fails to remit all past-due surcharge revenues and associated interest after receiving two warning notices, then TD should prepare for our consideration a resolution that revokes the carrier's CPCN.

We disagree with ORA that ULTS claim payments should be based, in part, on how late the utility is in remitting its ULTS surcharge revenues. We believe that as long as a utility has filed a timely ULTS claim, the utility should be reimbursed for its claim once it has remitted all past due ULTS surcharge

[89] Elsewhere in this decision, we adopt a policy of requiring carriers to pay interest on their late remittances of ULTS surcharge revenues at an annual rate of 10%.

revenues. Otherwise, the utility would not be reimbursed for its costs to provide basic residential telephone service to low-income households.

22. Obligation to Provide ULTS

a. Background

General Order 153, Section 2, requires telephone utilities to provide ULTS. General Order 153, Section 1.3.30, defines a "utility" as a "supplier of intrastate, intraLATA telecommunications services." In D.95-12-056 and D.96-10-066, the Commission altered which entities are required to provide ULTS when it ordered all carriers that offer "local exchange residential service" to provide ULTS.[90]

In the OIR, the Commission proposed to revise the definition of "utility" in GO 153 to reflect the Commission's actions in D.95-12-057 and D.96-10-066.[91]

b. Position of the Parties

AT&T, CCAC, GTE, and ORA oppose the OIR proposal to revise GO 153 to define a "utility" as a "telecommunications carrier providing residential local exchange service."[92] AT&T contends that the proposed definition of "utility" excludes CMRS carriers from the ULTS program, since CMRS carriers generally do not provide "residential local exchange service." AT&T, CCAC, GTE, and ORA recommend that in order to allow CMRS carriers to provide ULTS, the Commission should retain the definition of "utility" currently in GO 153.

c. Discussion

The primary purpose of the definition of "utility" in GO 153 is to designate which carriers are responsible for providing ULTS. However, the definition of

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[90] D.95-12-056, Appendix C, Sections E(7) and 9; and D.96-10-066, Appendix B, Sections 4.A and 4.A.8.

[91] OIR, Appendix B, Section I.8.

[92] OIR, Appendix C, Section 1.3.32.

"utility" currently in GO 153 does not accurately reflect which carriers are presently required to provide ULTS as set forth in D.95-12-056 and D.96-10-066. For example, a carrier that provides only intraLATA toll service would be required to provide ULTS under GO 153, but not under D.95-12-056 and D.96-10-066. Therefore, since the definition of "utility" currently in GO 153 is obsolete, we decline to adopt the recommendation by AT&T, CCAC, GTE, and ORA to retain this definition.

We shall adopt the OIR proposal to revise GO 153 to define a "utility" as a "telecommunications carrier providing residential local exchange service" (RLES). This definition accurately reflects which carriers are presently required to provide ULTS. We find no merit in AT&T's argument that this definition should not be adopted because CMRS carriers do not offer RLES and, therefore, would be excluded from the ULTS program. ULTS includes RLES.[93] Thus, any carrier that does not offer RLES cannot participate in the ULTS program.

23. Annual Customer Notification of ULTS Program

a. Background

General Order 153 requires utilities to (1) annually notify their residential customers about the availability of ULTS,[94] and (2) submit their annual notices to the Executive Director for the Executive Director's review and approval.[95] Once the utility's annual notice has been approved, the notice does not have to be resubmitted unless changes are made to the notice.[96]

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[93] D.96-10-066, mimeo., pp. 27, 32, 225, OPs 7.a, 7.b, and Appendix B, Rules 4.A, 4.B.8, and 5.A.

[94] GO 153, Sections 3.13. See also D.96-10-066, Appendix B, Rule 5.A.1.a.

[95] GO 153, Section 2.2.

[96] Ibid.

In the OIR, the Commission proposed to revise GO 153 to require utilities to submit their annual ULTS notices to the Director of TD for review and approval instead of the Executive Director.[97]

b. Position of the Parties

GTE states that the ULTS income-eligibility limits ("ULTS income limits") included in each utility's ULTS notice are revised by the Commission annually. To minimize administrative time and expense for both TD and the utilities, GTE recommends that GO 153 be clarified to state that the ULTS notice, once approved, need not be resubmitted if the only change to the annual notice is the annual revision to ULTS income-eligibility limits.

c. Discussion

There was also no opposition of the OIR proposal to revise GO 153 to require utilities to submit their annual ULTS notices to the Director of TD for the Director's review and approval. However, instead of adopting the OIR proposal outright, we shall adopt a modified version of the OIR proposal. More specifically, we shall revise GO 153 to require utilities to adhere to the current practice of submitting their annual ULTS notices to the Commission's Public Advisor for review and approval. Once the Public Advisor has approved a utility's annual ULTS notice, the utility will not have to resubmit its notice to the Public Advisor unless the utility makes a material change to the notice.

We agree with GTE that utilities should not have to submit their annual ULTS notices to the Public Advisor if the only change to the notices is the annual revision to ULTS income limits. The annual revision to ULTS income limits is a ministerial revision to the ULTS program that utilities should be authorized to reflect in their annual ULTS notices without having to have their notices

[97] OIR, Appendix C, Section 2.5.1.

reviewed and approved by the Public Advisor. Therefore, we shall revise GO 153 to state that utilities do not have to submit their annual ULTS notices to the Public Advisor if the only change to the notices is the annual revision to ULTS income-eligibility limits.

24. Sale of Non-ULTS Services

a. Background

The ULTS Fund has never reimbursed utilities for any costs or lost revenues associated with the sale of non-ULTS services to ULTS customers, such toll service, Caller ID, voice mail, etc. In the OIR, the Commission proposed to revise GO 153 to reflect this policy.[98]

b. Position of the Parties

There was no opposition to the OIR proposal.

c. Discussion

Since there was no opposition to the OIR proposal, we shall revise GO 153 to state that the ULTS Fund shall not reimburse utilities for any claims associated with the sale of non-ULTS services.

25. ULTS Notices and Customer Services in the Language of Sale

a. Background

In D.96-10-076, the Commission adopted a settlement agreement in which certain local exchange carriers (LECs) that sell services to residential customers in languages other than English agreed to: (i) provide these customers with Commission-mandated ULTS notices in the same language in which the services were sold; (ii) annually provide all their residential customers with Commission-mandated ULTS notices in seven languages (i.e., Cantonese, Korean, Japanese,

[98] OIR, Appendix B, Section IV.1.

Mandarin, Spanish, Tagalog, and Vietnamese); and, (iii) include with the annual notices a toll-free number for bilingual customer service representatives who speak the same languages in which the services were sold.

In D.99-03-036, the Commission expanded the scope of this proceeding to consider the issue of whether the terms of the settlement agreement adopted in D.96-10-076 (a.k.a. the "language of sale rule") should apply to all utilities.[99]

b. Position of the Parties

Public Advocates and Greenlining/LIF support the OIR proposal to revise GO 153 to include the language-of-sale rule. Calaveras opposes the OIR proposal on the grounds that the language-of-sale rule was part of a settlement agreement, and that it is inappropriate for the Commission to force utilities that were not a party to the settlement to now comply with the settlement agreement.

c. Discussion

The language-of-sale rule was part of a settlement agreement adopted by the Commission in D.96-10-076. We agree with Calaveras that it would be inappropriate to impose the terms of a settlement agreement upon utilities that were not a party to the settlement. However, we believe that any utility that sells ULTS in a language other than English should provide post-sale service to ULTS customers in the same language in which ULTS was sold. Therefore, we shall revise GO 153 to require any utility that sells ULTS in a language other than English to provide these customers with (i) Commission-mandated ULTS notices that are in the same language in which ULTS was originally sold, and (ii) access to customer service representatives fluent in the language in which ULTS was originally sold. The annual ULTS notices that utilities are required to send to all

[99] D.99-03-036, OP 1.c.

of their residential customers shall include the toll-free number of customer service representatives fluent in the language in which ULTS was originally sold.

26. Update of GO 153 to Reflect D.99-07-016

In D.99-07-016, the Commission took several actions that affected the ULTS program. First, the Commission determined that the "income from self-employment" shown on IRS Form 1040, Schedule C, Line 29, should be used in the determination of whether a household with a self-employed member is eligible to participate in the ULTS program.

Second, the Commission held that borrowed moneys should not be considered as income when determining a household's eligibility for the ULTS program. The Commission also held that funds transferred by a customer from one account to another, such as from a savings account to a checking account, should not be considered as income when determining eligibility for the ULTS program, even if such funds are used for living expenses.

Third, the Commission required utilities to obtain from each customer seeking to enroll in the ULTS program, and annually thereafter, a signed statement indicating that (i) the utility may verify the customer's eligibility to participate in the ULTS program, and (ii) if the verification establishes that the customer is ineligible to participate in the ULTS program, the customer will be removed from the program and may be billed for previous discounts that the customer should not have received.

Finally, the Commission authorized utilities to bill ineligible customers found to be participating in the ULTS program for the discounts these customers should not have received.

Since one of the purposes of this proceeding is to update GO 153 to reflect the numerous changes to the ULTS program that have occurred since 1984, we

will revise GO 153 to incorporate the modifications to the ULTS program that we adopted in D.99-07-016.

B. Conforming the ULTS Program with Federal Rules

The federal Lifeline and Link Up programs[100] administered by the Federal Communications Commission (FCC) have been substantially revised in recent years. These changes include (1) increased federal subsidies for carriers that provide discounted phone service to low-income customers, and (2) new universal service requirements for carriers receiving federal subsidies. In the next part of this decision, we consider whether, and to what extent, the ULTS program and GO 153 should be revised to conform to many of the recent changes to the federal Lifeline and Link Up programs.

1. Conformance with Federal Connection Charge Requirements

a. Background

The federal Link Up program requires ETCs[101] to offer qualifying low-income customers a discounted non-recurring charge for a single telecommunications connection ("discounted connection charge") at the customer's principal place of residence. The discounted connection charge must be one-half of the ETC's customary charge or $30, whichever is less.[102]

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[100] The federal Lifeline program requires "eligible telecommunications carriers" (ETCs) to provide discounted monthly local service to qualifying low-income customers. (47 C.F.R. §54.401) The federal Link Up program requires ETCs to provide discounted local service connections to qualifying low-income customers. (47 C.F.R. §54.411)

[101] Federal regulations define an ETC as a carrier that is eligible to receive federal universal service support. (47 C.F.R. §54.201)

[102] 47 C.F.R. §54.411(a)(1). Under the ULTS program, the discounted connection charge is one-half of the utility's customary charge or $10, whichever is less.

There are three key differences between the ULTS program and Link Up program in terms of the number of discounted connection charges that carriers are required to offer to each qualifying customer. First, the ULTS program requires utilities to offer a discounted connection charge to every qualifying household, including multiple households located at a single residence.[103] The Link Up program, in contrast, requires ETCs to offer only one discounted connection charge at each residence, regardless of the number of separate households at a given residence. Second, the ULTS program requires utilities to offer each household one discounted connection charge at the same residence per 12-month period. The Link Up program, in contrast, requires ETCs to offer only one discounted connection charge to the same customer at the same residence.[104] Finally, the Link Up program requires ETCs to offer a discounted connection charge to the same customer each time the customer moves to a new address, with no limit on the number of times a customer may move to a new address and receive the discounted connection charge.[105] The ULTS program, in contrast, requires utilities to offer only one discounted connection charge to the same customer during a 12-month period, regardless of the number of times the customer moves to a new residence during a 12-month period.

In the OIR, the Commission proposed to (1) retain those parts of the ULTS program that offer benefits that are more generous than the Link Up program,

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[103] GO 153 indicates that there may only be one ULTS line per residence. However, over time, a practice evolved (apparently without any formal approval by the Commission) of allowing each household to qualify for one ULTS line, regardless of the number of households in any given residence.

[104] 47 C.F.R. §54.411(c). ETCs do not have to offer more than one discounted connection charge to a low-income customer at the same residence, unless the customer moves away from the residence and then moves back.

[105] 47 C.F.R. §54.411(c).

and (2) modify GO 153 to conform to the Link Up program where the Link Up program offers benefits that are more generous than the ULTS program. More specifically, the Commission proposed to (i) retain the existing practice of allowing multiple households at the same residence to each receive a discounted connection charge; (ii) retain the existing practice of allowing each household to receive a discounted connection charge at the same residence once per 12-month period; and (iii) modify GO 153 to conform to the Link Up program by requiring utilities to offer a discounted connection charge each time a customer moves to a residence with an address different from the address at which ULTS was previously provided. The Commission also proposed to reimburse utilities, including non-ETCs, for the forgone revenues associated with discounted connections charges to the extent that utilities are not reimbursed by the federal Link Up program.

b. Position of the Parties

There was no opposition to the OIR proposal to retain the existing practice of allowing multiple ULTS households at the same residence to each receive a discounted connection charge.

CCTA, Evans, Greenlining/LIF, and Public Advocates oppose the OIR proposal to retain the existing practice of providing ULTS customers with only one discounted connection charge per year at the same residence. They state that allowing an unlimited number of discounted connection charges at the same residence would (1) create full conformance with the Link Up program,[106] and

[106] These parties err in their assertion that allowing an unlimited number of discounted connection charges at the same residence would create full conformance with the Link Up program. As described earlier, the Link Up program requires ETCs to offer only <u>one</u> discounted connection charge to the same customer at the same residence. (47 C.F.R. §54.411(c))

(2) increase the number of low-income households that have access to affordable phone service. CCTA and Evans also state that it would be difficult for utilities to track the history of each ULTS customer's service over the past year in order to determine if the customer is eligible for another discounted connection charge, particularly if the customer has switched utilities during the past year.

AT&T, CCTA, Citizens, Evans, Greenlining/LIF, Pacific Bell, Public Advocates, and TURN support the OIR to conform to ULTS program with the Link Up program by allowing ULTS customers to pay a discounted connection charge each time they move to a new address. Most of these parties state that such a policy is needed since service-connection charges represent a significant burden for the poor, who tend to be renters who frequently move.

AT&T states that ULTS customers who move to a new location should be required to pay any ULTS charges, or make payment arrangements, before ULTS service is re-installed at a new address. AT&T also states that if utilities are not allowed to recover unpaid bills from ULTS customers, then utilities should be allowed to recover such costs from the ULTS program.

Citizens states that allowing discounted connection charges for an unlimited number of moves would be difficult for utilities to administer and, in some circumstances, would be unaffordable to ULTS customers. For example, if a customer elects to pay the discounted connection charge over three months, but moves before the three months expire and incurs another connection charge, the prior ULTS provider would have difficulty in tracking the customer and receiving payment, and the ULTS customer would have to pay compound connection charges that the customer may not be able to afford. Citizens suggests that a reasonable limitation would be to allow each ULTS customer to receive a maximum of three discounted connection charges during a single calendar year.

GTE opposes the OIR proposal to provide discounted connection charges for an unlimited number of moves on the basis that it would create significant new costs for the ULTS program. GTE estimates that its costs alone would be $468,000 annually. GTE states that if the OIR proposal is adopted, then utilities should be allowed to recover all additional costs from the ULTS program.

Pacific agrees with GTE that adopting the OIR proposal to provide discounted connection charges for an unlimited number of moves would increase ULTS program costs. Pacific estimates that its costs alone would increase by approximately $2.8 million per year.

c. Discussion

There was no opposition to the OIR proposal to retain the existing practice of providing discounted connection charges to multiple households at the same residence. Therefore, we shall adopt the OIR proposal, even though the Link Up program does not offer this benefit.

We are persuaded by those parties who oppose the OIR proposal to retain the existing practice of allowing each household to receive only one discounted connection charge per year at the same residence. We conclude that expanding ULTS program benefits to provide a discounted connection charge each time a customer re-establishes ULTS at the same residence will (i) increase the number of low-income households that have access to affordable basic telephone service, and (ii) reduce the regulatory burden of the ULTS program by eliminating the need for utilities to track the number of discounted connection charges received by each ULTS customer. Therefore, we will revise GO 153 to require utilities to offer a discounted connection charge each time a customer re-establishes ULTS at the same residence, even though the Link Up program does not offer this benefit.

We will adopt the OIR proposal to conform to ULTS program with the Link Up program by requiring utilities to offer a discounted connection charge

each time a ULTS customer moves to a residence. The need for this requirement is clear: service-connection charges represent a significant barrier to obtaining basic telephone service for many low-income households. Expanding ULTS program benefits to provide a discounted connection charge each time a low-income household moves to a new residence will help ensure that low-income households retain basic telephone service.

We are not persuaded by Citizens that it is unreasonable to require utilities to offer a discounted connection charge each time a ULTS customer moves because of potential difficulties that utilities may have in tracking and obtaining payment from customers who pay their connection charges in installments. The Link Up program already requires ETCs, which include most ULTS providers, to offer a discounted connection charge for each move.[107] Thus, the ULTS program would not be imposing a new burden on most ULTS providers by requiring them to offer a discounted connection charge for each move.

Nor are we persuaded by Citizens that it is inappropriate to require utilities to offer more than three discounted connection charges per year because to do so would result in the accumulation of an unaffordable amount of debt by ULTS customers who pay connection charges on an installment basis. Since the ULTS connection charge is only $10, we do not believe that an accumulation of debt amounting to $30 for three connection charges would be unaffordable for most ULTS customers. Furthermore, limiting ULTS customers to three discounted connection charges per year would make basic telephone service far less affordable to ULTS customers who move more than three times per year.

[107] CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997), FCC Release No. 97-157, ¶ 382. (All FCC documents are referred to hereafter by their "release number.")

We agree with AT&T that utilities should be allowed to require ULTS customers who move to a new address to pay any overdue ULTS charges, or make payment arrangements, before ULTS service is re-installed at a new address. We shall extend AT&T's suggestion by allowing utilities to require ULTS customers to pay any overdue ULTS charges, or make payment arrangements, before ULTS service is re-installed at the same address.

Finally, there was no opposition to the OIR proposal to reimburse utilities for the forgone revenues associated with providing discounted connection charges to the extent that the forgone revenues are not reimbursed by the federal Link Up program. Therefore, we will adopt the OIR proposal.

2. Conformance with Federal Service Deposit Requirements

a. Background

Under the federal Lifeline program, ETCs cannot require a low-income customer to post a service deposit in order to initiate Lifeline service if the customer elects to receive toll blocking.[108] However, ETCs can charge a service deposit to initiate Lifeline service if (1) toll blocking is unavailable, or (2) the customer has an unpaid bill for basic residential telephone service (BRTS).[109]

Under the ULTS program, utilities cannot require a ULTS customer to post a service deposit in order to initiate service unless the ULTS customer has an outstanding bill with another California telephone utility.[110]

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[108] ETCs that have toll blocking must offer this service free of charge to Lifeline customers. Federal regulations define "toll blocking" as " a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel." (47 C.F.R. §54.400(b))

[109] 47 C.F.R. § 54.401(c), and FCC 96J-3, ¶¶ 389 and 429, and Footnote 1289.

[110] GO 153, Section 3.7.

In the OIR, the Commission proposed to retain the current practice of prohibiting utilities from requiring a ULTS customer to post a service deposit if the customer has no outstanding bill with another telephone utility in California. The Commission also proposed to revise GO 153 to conform to the federal Lifeline program by prohibiting utilities from requiring customers that have an outstanding toll bill with another carrier to post a service deposit in order to initiate ULTS if such customers elect to subscribe to toll blocking.[111]

b. Position of the Parties

AT&T, CCTA, GTE, and MCI state that the ULTS program should be revised to align with the federal Lifeline program by allowing utilities to require service deposits if toll blocking is unavailable. CCTA and GTE also state that the ULTS program should be revised to conform to the federal Lifeline program by allowing utilities to require service deposits from ULTS customers who decline to subscribe to available toll-blocking service.

Public Advocates urges the Commission to deny utilities permission to require a service deposit if (1) ULTS customers refuse toll blocking, or (2) toll blocking is not offered by the carrier. In cases where toll blocking is refused, Public Advocates believes that ULTS providers should only require a deposit if it is justified by an unacceptable payment history.

c. Discussion

We will adopt the OIR proposal to retain the current practice of prohibiting utilities from requiring a service deposit from ULTS customers who have no unpaid phone bills. We believe that allowing utilities to require a service deposit from ULTS customers who have no unpaid phone bills would create an unnecessary financial obstacle to basic telephone service.

[111] OIR, Appendix B, Section II.2; Appendix C, Section 3.7.

There was no opposition to the OIR proposal to revise GO 153 to conform to the federal Lifeline program by prohibiting utilities from requiring customers that have an outstanding toll bill with another telephone utility to post a service deposit in order to initiate ULTS if such customers elect to subscribe to toll blocking. Therefore, we will adopt the proposal. We emphasize that our decision does not prohibit utilities from requiring service deposits from ULTS customers who have unpaid bills for BRTS with another utility, even if these customers elect to receive toll blocking. However, if a utility does require a service deposit from customers with unpaid bills for BRTS, the utility shall return the deposit once the customer has paid all prior bills for BRTS.

3. Conformance with Federal Deferred-Payment Schedule

a. Background

Under the federal Link Up program, ETCs must offer low-income consumers the option of a deferred schedule for the payment of up to $200 in service-connection charges. ETCs cannot charge interest on the deferred payments, and the deferred-payment schedule cannot exceed one year.[112] ETCs are reimbursed by the Link Up program for the interest costs associated with the deferred payment of connection charges.[113] Federal regulations, however, are silent on whether ETCs may impose late-payment fees on consumers who fail to meet the deferred-payment schedule.

Under the ULTS program, utilities must offer a three-month deferred-payment schedule for service-connection charges. Utilities may also charge

[112] 47 C.F.R. § 54.411(a)(2). Connection charges do not include permissible security deposits.
[113] 47 C.F.R. § 54.413(a).

interest on deferred payments and impose late-payment fees on customers who fail to meet the deferred-payment schedule.[114]

In the OIR, the Commission proposed to conform the ULTS program with the federal Link Up program by revising GO 153 to state that (1) utilities shall offer to ULTS customers the option of paying connection charges in three equal monthly installments with no interest; (2) utilities may offer the option of paying connection charges in equal monthly installments for up to 12 months without interest; and (3) utilities shall be reimbursed by the ULTS Fund for the interest costs associated with the deferred payment of connection charges to the extent that utilities are not reimbursed by the federal Link Up program. The Commission also proposed to retain the existing practice of allowing utilities to impose a late-payment fee on ULTS customers who fail to make timely payments of deferred connection charges. Finally, the Commission proposed to revise GO 153 to state that late-payment fees shall not be recoverable from the ULTS Fund if ULTS customers fail to pay these fees.[115]

b. Position of the Parties

Calaveras states that there is no requirement under the federal Link Up program for the deferred-payment schedule to consist of equal monthly installments. Calaveras states that if the Commission mandates equal monthly installments, it could jeopardize federal funding for ULTS program.

CCTA recommends that GO 153 be revised to include the following statement to reflect the OIR proposal to reimburse utilities for the interest costs associated with deferred-payment plans: "Carriers will be reimbursed for the

[114] GO 153, Sections 3.6 and 3.14, and D.85-12-017 (19 CPUC 2d 329).

[115] OIR, Appendix B, Section II.3.

cost of money associated with the deferred-payment plans and shall reflect those costs in the Monthly Report and Claim Statement." CCTA also recommends that the ULTS Claim Form be revised to include a new line item for utilities to claim interest costs associated with deferred-payment schedules.

Evans opposes the OIR proposal to not reimburse utilities for late-payment fees that ULTS customers fail to pay. Evans states that unpaid late fees are costs that are incremental to the ULTS program, and, therefore, should be reimbursed by the ULTS program.

GTE states that the OIR proposal fully comports with federal Link Up program. GTE believes, however, that there is an inconsistency in the OIR concerning deferred-payment schedules that last more than three months. More specifically, Appendix B of the OIR states that utilities may offer an extended payment schedule of more than three months, while Appendix C indicates that utilities must offer a one-year deferral plan. GTE states that the federal Link Up program does not mandate a one-year deferral plan. Rather, the federal program requires an interest-free deferral period not to exceed one year.[116]

Public Advocates supports the OIR proposal to require utilities to offer a deferred-payment schedule for service-connection charges. Public Advocates states that service-connection charges are the primary obstacle to low-income customers obtaining telephone service, and that allowing ULTS customers to spread out the payment of connection charges will enable more low-income customers to obtain telephone service.

Public Advocates opposes the OIR proposal to allow utilities to charge late fees when ULTS customers do not make their deferred payments on time. Public

[116] 47 C.F.R. § 54.411

Advocates states that because the OIR proposal would compensate utilities for all costs associated with the deferred-payment schedule, it is inappropriate for utilities to profit from any late fees associated with the deferred-payment schedule. However, if the Commission allows utilities to impose late fees, Public Advocates recommends that the revenues utilities collect from late fees be used to offset their ULTS claims.

GTE and Pacific oppose Public Advocates' recommendation to eliminate late-payment fees. They state that late-payment fees must be allowed so that customers have an incentive to pay their monthly bills on time. They also state that utilities do not profit from late fees, since such fees compensate utilities for the costs they incur when customers fail to make payments on time. GTE adds that if Public Advocates' recommendation is adopted, then the ULTS Fund should reimburse utilities for the forgone late fees.

c. Discussion

We agree with Public Advocates that service-connection charges are a barrier to telephone service for many low-income households. To lower this barrier, and thereby make basic telephone service accessible to more low-income households, we shall adopt the OIR proposal to align the ULTS program with the federal Link Up program by revising GO 153 to (1) require utilities to offer ULTS customers the option of paying ULTS connection charges in three equal monthly installments with no interest; and (2) allow, but not require, utilities to offer ULTS customers the option of paying ULTS connection charges in equal monthly installments with no interest for a period not to exceed 12 months.

We find no merit in Calaveras' assertion that requiring utilities to offer a deferred-payment schedule composed of equal monthly installments could jeopardize federal funding for ULTS. Calaveras failed to cite any federal statute

or regulation that prohibits our requiring equal monthly installments, and our own review of federal law found no such prohibition.

We agree with GTE that the OIR is inconsistent in regards to payment schedules that last more than three months. More specifically, Appendix B of the OIR states that utilities may offer deferred-payment schedules of more than three months,[117] while Appendix C indicates that utilities must offer a one-year deferral plan.[118] Our intent was to allow, but not require, utilities to offer a deferral plan of up to one year. We shall revise GO 153 to reflect our intent.

There was no opposition to the OIR proposal to conform the ULTS program with the federal Link Up program by requiring the ULTS Fund to reimburse utilities for the interest cost they incur to provide interest-free deferred-payment schedules to the extent that such costs are not reimbursed by the federal Link Up program. Therefore, we shall adopt the proposal. Reimbursement for interest costs shall be based on the 3-month commercial paper rate published in the Federal Reserve Statistical Release, G-13. The calculation of interest shall assume that all deferred payments are made on time.[119] If deferred payments are not made on time, utilities may recoup their associated costs, including costs for collecting on delinquent accounts and the time value of money, via the late-payment fees discussed below.

We agree with CCTA that GO 153 should be revised to reflect our decision herein to reimburse utilities for their costs to offer deferred-payment plans. The revised GO 153 that we adopt today states that (1) utilities shall be reimbursed for the reasonable administrative and interest costs they incur to provide

[117] OIR, Appendix B, Section II.3.

[118] OIR, Appendix C, Section 3.6.

[119] Pacific's Reply Comments, pp. 5, 6.

deferred-payment plans for ULTS connection charges, and (2) reimbursement for interest costs shall be based on (i) the 3-month commercial paper rate, and (ii) the assumption that all deferred payments are made on time.

We also agree with CCTA that the ULTS Claim Form should be amended to include a line item for utilities to claim interest costs associated with deferred-payment schedules. The ULTS Claim Form should likewise include a separate line item for utilities to recover any administrative costs they incur to provide deferred-payment schedules for ULTS connection charges. The revised ULTS Claim Form is appended to the GO 153 that we adopt today.

We shall adopt the OIR proposal to retain the existing practice of allowing utilities to charge late-payment fees when ULTS customers fail to make timely payments under a deferred-payment schedule. We are not persuaded by Public Advocates that there is no need for utilities to charge a late-payment fee. Utilities incur costs when ULTS customers fail to timely remit deferred payments. For example, utilities incur costs to collect on the delinquent accounts (e.g., sending a second bill), and utilities lose the time value of money associated with late remittances. We conclude that it is reasonable for utilities to charge a late fee in order to (i) recover these costs, and (ii) encourage ULTS customers to timely remit their deferred payments.[120]

Finally, we reject Evans' recommendation for the ULTS Fund to reimburse utilities for any late-payment fees that ULTS customers fail to pay. Failure by customers to pay late-payment fees is a normal cost of doing business and, therefore, is not incremental to the ULTS program. However, utilities may build

[120] The Commission has previously held that late-payment fees are (i) an appropriate means to encourage prompt payment of utility bills, and (ii) just and reasonable. (D.84-06-111, 15 CPUC 2d 232, at 342 and 416; D.85-12-017, 19 CPUC 2d 329, at 333, 344, and 345)

into their late-payment fees any costs caused by the failure of ULTS customers to pay these fees to the extent that such costs are not recovered elsewhere (e.g., bad-debt costs built into utilities' general rates).

4. Conformance with the Federal Toll Service Requirements

a. Background

Under the federal Lifeline program, ETCs must offer toll-limitation service free of charge to Lifeline customers.[121] The FCC defines toll-limitation service as "either toll blocking or toll control for [ETCs] that are incapable of providing both services. For [ETCs] capable of providing both services, 'toll limitation' denotes both toll blocking and toll control."[122] Toll blocking allows customers to block toll calls being made from their telephone. Toll control allows customers to specify an amount of toll usage that may be incurred from their telephone.[123] The federal Lifeline program reimburses ETCs for the incremental cost (and not the retail rate) of providing free toll-limitation service to Lifeline customers.[124]

There is no requirement under the ULTS program for utilities to offer toll-limitation service to ULTS customers. In the OIR, the Commission proposed to revise GO 153 to require utilities to offer toll-limitation service free of charge to ULTS customers in a manner consistent with the federal Lifeline program. The Commission also proposed to reimburse utilities (including non-ETCs) for the

[121] 47 C.F.R. §54.401(a)(3) and §54.101(a)(9).

[122] 47 C.F.R. §54.400(d).

[123] 47 C.F.R. §54.400(b) and §54.400(c).

[124] FCC 97-157, ¶ 386; 47 C.F.R. §54.403(c).

incremental costs of providing toll-limitation service to the extent that such costs are not reimbursed by the federal Lifeline program.[125]

b. Position of the Parties

Calaveras, CCTA, Evans, GTE, Greenlining/LIF, and Pacific support the OIR proposal to require utilities to offer toll-limitation service free of charge to ULTS customers. TURN opposes the OIR proposal to the extent the proposal does not require utilities to offer toll-control service. According to TURN, many low-income households would be deprived of the ability to place toll calls if their utility offers toll blocking but not toll control.

Public Advocates agrees with TURN that utilities should be required to offer toll-control service. Public Advocates states that the FCC has directed carriers to develop toll-control service.[126] Public Advocates also states that there is nothing in the FCC's regulations that precludes state commissions from requiring utilities to offer toll-control service.

CCTA, Calaveras, GTE, and Pacific oppose TURN's recommendation. They state that the FCC does not currently require utilities to offer toll-control service,[127] nor should the Commission. Calaveras also states that utilities would incur significant costs to upgrade their switches to provide toll-control service, and these costs would have to be reimbursed by the ULTS program. GTE adds that toll control may sometimes be an inappropriate option for ULTS customers. For example, a customer with an existing unpaid toll bill should not be permitted to continue to incur toll charges under a toll-control service plan.

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[125] OIR, Appendix B, Section II.4.

[126] FCC 97-420, ¶¶ 110-117.

[127] FCC 97-420, ¶ 115.

AT&T and MCI support the OIR proposal to reimburse utilities for their incremental cost to provide toll-limitation service. CCTA states that a better approach would be to reimburse all utilities the same fixed amount based on an estimate of the incremental cost of toll-limitation service.

Calaveras, Evans, and GTE oppose the OIR proposal to reimburse utilities for the incremental cost of toll-limitation service. They argue that utilities should be reimbursed for the full retail rate of toll-limitation service in order to compensate utilities for the "lost revenues" they incur by providing toll-limitation service free of charge to ULTS customers.[128] Calaveras and Evans also argue that it would be prohibitively expensive for small utilities to conduct studies to determine the incremental cost of providing toll-limitation service.

CCTA recommends that the ULTS Claim Form be modified to include a line item for the costs of toll-limitation service. GTE recommends that GO 153 be modified to define toll-limitation service as "including, but not limited to, toll blocking or toll-control service," so that ULTS providers can be reimbursed for their incremental cost of providing either service to the extent such costs are not reimbursed by the federal Lifeline program.

c. Discussion

We shall adopt the OIR proposal to modify the ULTS program to conform to the federal Lifeline program by requiring utilities to offer toll-limitation service free of charge to ULTS customers in a manner that is consistent with the federal Lifeline program. Public Advocates presented information which showed that a primary reason why many low-income households go without phone service is their concern that having a telephone would lead to phone bills they couldn't

[128] GTE states that in 1998 it lost approximately $760,000 in annual revenues related to toll-limitation services.

afford.[129] Based on this information, we conclude that requiring utilities to offer toll-limitation service will help achieve our universal service goals by removing one of the primary disincentives to establishing phone service among low-income households that currently lack phone service.

We shall not adopt TURN's proposal to require utilities to offer toll-control service. The record demonstrates that many utilities are incapable of offering toll-control service.[130] In addition, there is no requirement under the federal Lifeline program for ETCs to offer toll-control service at this time.[131] If we were to require utilities to offer toll-control service, then the ULTS program, and not the federal program, would be obligated to reimburse utilities for their costs to develop and deploy this service. We believe this would be an imprudent use of public money given that an adequate substitute for toll control, i.e., toll blocking, is available to ULTS customers. Furthermore, there is no merit in TURN's argument that low-income households will be deprived of the ability to place toll calls unless they have access to toll-control service. In general, there is nothing that prevents ULTS customers from placing toll calls in the absence of toll-control service. The only exception is when ULTS customers do not pay their bills for toll service and are forced to accept toll blocking in order to retain their basic local exchange service.[132] We agree with GTE[133] that when ULTS customers don't

[129] Public Advocates (PA) Opening Comments, pp. 14, 15. PA Reply Comments, pp. 11, 12.

[130] Pacific Bell Reply Comments, p. 5. The FCC likewise found that an "overwhelming number of carriers are technically incapable of providing" toll-control service at this time. (FCC 97-420, ¶ 114)

[131] FCC 97-420, ¶¶ 114, 115, and 338.

[132] ULTS includes access to operator services. (see 47 C.F.R. §54.1019a)(5) and D.96-10-066, Appendix B, Section 4.B.12.). Therefore, ULTS customers who subscribe to toll blocking can still place toll calls from their homes via collect calls, calling card calls, and credit card calls.

[133] GTE Reply Comments, p. 9.

pay their bills for toll service, it is unreasonable to force utilities to provide these customers with even more toll service under the guise of toll control.

We shall adopt the OIR proposal to reimburse each utility (including non-ETCs) for the incremental costs it incurs to provide toll-limitation service free of charge to ULTS customers[134] to the extent that such costs are not reimbursed by the federal Lifeline program.[135] We reject the proposal advanced by Calaveras, Evans, and GTE to reimburse utilities for full retail rate of toll-limitation service instead of the incremental cost of this service. Their proposal, if adopted, could result in utilities being reimbursed for far more than their costs to provide toll-limitation service if utilities set their retail rates for toll-limitation service substantially above their cost of providing this service.[136] We also find no merit to the argument advanced by Calaveras and Evans that it would be prohibitively expensive for small utilities to conduct cost studies to determine the incremental cost of providing toll-limitation service. ETCs are already required by the federal Lifeline program to determine their incremental cost of providing toll-limitation service. Since most utilities are also ETCs, our decision today imposes no additional burden on most utilities.[137]

We decline to adopt CCTA's proposal to reimburse utilities at a flat rate for toll-limitation service. We believe it is likely that different utilities will have

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[134] Incremental costs are those costs that the utility would not otherwise incur if it did not provide toll-limitation service to a given low-income customer. (FCC 97-157, ¶386.)

[135] Utilities will have burden of demonstrating that any costs they claim for toll-limitation services are reasonable. TD may specify how utilities shall determine their incremental cost for toll-limitation service; and TD may require utilities to submit workpapers, documents, and other information to support their claimed costs for toll-limitation service.

[136] The FCC concluded that the federal Lifeline program should not reimburse ETCs for the full retail rate for toll-limitation service because it is unlikely that low-income consumers would ever purchase toll-limitation services at the full retail rate. (FCC 97-157, ¶ 386)

different incremental costs to provide toll-limitation service. Therefore, if CCTA's proposal were adopted, and all utilities were reimbursed at the same flat rate for toll-limitation service, it is probable that most utilities would receive either more or less than their actual incremental cost of providing toll-limitation service. We believe that it would be unreasonable to reimburse utilities for either more or less than their actual incremental cost of providing toll-limitation service.

We shall adopt CCTA's proposal to modify the ULTS Claim Form to include a new line item for the incremental costs of providing toll-limitation service free of charge to ULTS customers. The amount that utilities report on their ULTS Claim Form should equal their incremental costs to provide toll-limitation service as reported to the FCC to the extent that such costs are not recovered from the federal Lifeline program.[138]

Finally, we shall adopt GTE's proposal to modify GO 153 to define toll-limitation service as a service that includes toll blocking or toll control, so that utilities can be reimbursed for their incremental cost of providing either service.

5. Conformance with Federal Service Disconnection Requirements

At the time the OIR was issued, the federal Lifeline program had a "no-disconnect rule" [139] that prohibited ETCs from (1) disconnecting a Lifeline customer's local service for non-payment of toll charges,[140] (2) denying a request to establish local service on the basis that the Lifeline customer was previously

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[137] Calaveras et al., and Evans et al., are ETCs. (Resolution 16105, issued on December 16, 1997.)

[138] Non-ETCs shall determine their incremental costs of providing toll-limitation service free of charge to ULTS customers ("incremental costs") using the same method that ETCs use to determine their incremental costs for the federal Lifeline program.

[139] 47 C.F.R. § 54.401(b) and FCC 97-157, ¶¶ 390 - 397.

[140] 47 C.F.R. § 54.401(b).

disconnected for non-payment of toll charges,[141] and (3) requiring Lifeline customers to accept toll limitation in order to retain local service.[142] The no-disconnect rule also required that any partial payments by Lifeline customers be applied first to local-service charges, and then to toll-service charges.[143]

In the OIR, the Commission proposed to revise the ULTS program to conform to the federal no-disconnect rule.[144] However, after the OIR was issued, the United States Court of Appeals for the Fifth Circuit vacated the no-disconnect rule on the grounds that the FCC had no jurisdiction to impose this rule on ETCs.[145] On October 8, 1999, the FCC issued an order that eliminated the no-disconnect rule from the Lifeline program.[146] Therefore, since the federal no-disconnect rule no longer exists, there is no longer a need to consider if the ULTS program should be modified to conform to the rule.

6. ETC Status as a Prerequisite for ULTS Support

a. Background

The federal Lifeline program pays ETCs up to $7 per month for each Lifeline customer served by the ETC. The federal Link Up program also pays ETCs up to $30 for each service connection provided to Lifeline customers.[147] The purpose of these payments is to compensate ETCs for the cost of providing discounted telephone service to low-income customers.[148]

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[141] FCC 97-157, ¶ 390.

[142] Ibid., ¶ 394.

[143] Ibid., ¶ 393.

[144] OIR, Appendix B, Section II.4.

[145] Texas Office of Public Utility Counsel v. FCC, 183 F.3d at 421-24 (July 30, 1999).

[146] FCC 99-290, ¶¶ 9, 13, and 34.

[147] 47 C.F.R. §54.411(a)(1) and §54.413(a).

[148] 47 C.F.R. §54.403(a) and §54.403(b).

In Resolution T-16128, issued on March 12, 1998, the Commission reduced the subsidy that utilities may draw from the ULTS Fund by an amount equal to what utilities receive as ETCs from the federal Lifeline and Link Up programs. In the OIR, the Commission proposed to reduce the financial burden on the ULTS Fund by requiring non-ETCs that that are eligible to become ETCs to do so in order to draw from the ULTS Fund.[149]

b. Position of the Parties

AT&T, CCTA, GTE, and MCI oppose the OIR proposal to require all utilities that are eligible to become ETCs to do so in order to recover ULTS-related costs from the ULTS Fund. They present several reasons why the OIR proposal should be rejected. First, they note that only facilities-based carriers are eligible to become ETCs, and that becoming an ETC carries with it certain obligations that non-ETCs are not burdened with. Thus, they view the OIR proposal as discriminatory because it would impose a greater burden on facilities-based carriers providing ULTS than on resellers (who are ineligible to become ETCs) providing ULTS.[150]

Second, CCTA and GTE argue that the OIR proposal does not comply with the Telecommunications Act of 1996 (the Act) which indicates that carriers may request to become ETCs, but are not required to do so.[151] CCTA and GTE contend that the OIR proposal, to the extent that it conditions draws from the ULTS Fund on ETC status, effectively eliminates the voluntary nature of ETC status that is contemplated by the Act.

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[149] OIR, Appendix B, Section II.5.

[150] The Commission requires any carrier that offers local exchange residential service, whether a facilities-based carrier, reseller, or a combination of the two, to offer ULTS to any qualified customer in its service territory. (D.96-10-066, mimeo., p. 225 and Appendix B, Rule 4.A.)

[151] 47 U.S.C. § 214(e)(2)

Finally, GTE and MCI assert that the OIR proposal, if adopted, could slow the development of facilities-based competition in the local exchange market. They state that the burdens associated with being an ETC may cause potential new entrants to reconsider their plans to provide service in California and/or cause existing facilities-based utilities to withdraw from California.

CCTA and Roseville suggest that there may be ways to encourage utilities to seek ETC designation without the threat of losing ULTS funding. For example, the Commission could provide utilities with up-to-date information about the requirements and benefits of attaining ETC status. This could be done in the context of a workshop, or by posting information on the Commission's website.

Cox and Roseville support the OIR proposal to require ULTS providers that are eligible to become ETCs to do so in order to draw financial support from the ULTS Fund. They state that one of the goals of this proceeding is to align the ULTS program with federal rules, and that requiring ULTS providers to become ETCs fits this goal. They also state that only carriers that are willing to live up to the obligations associated with being an ETC should receive ULTS funding.

c. Discussion

We are persuaded by AT&T, CCTA, GTE, and MCI that we should not at this time require facilities-based ULTS providers to become ETCs as a condition for drawing financial support from the ULTS Fund. ETCs have obligations that non-ETC providers of ULTS are not burdened with. For example, ETCs are required to (i) offer federal Lifeline service throughout their service territories,[152] (ii) advertise Lifeline service throughout their service territories, (iii) comply with various federal record keeping and reporting requirements, and (iv) serve as

[152] Facilities-based ULTS providers are only obligated to offer ULTS to customers within 300 feet of their transmission facilities. (D.95-12-056, Appendix C, Section 4.F(2).)

carriers of last resort.[153] We agree with GTE and MCI that the burdens associated with being an ETC may cause potential new ULTS providers to reconsider their plans to provide facilities-based service in California and/or cause existing ULTS providers to withdraw from California. This, in turn, would frustrate our goal of fostering competition in the provision of ULTS in order to reduce ULTS program costs and improve service for ULTS customers.

Our decision today to allow facilities-based ULTS providers to draw from the ULTS Fund without having to become an ETC will have only a minor financial impact on the ULTS program. Currently, non-ETCs receive only a small portion of the total amount of ULTS subsidies paid to all utilities each year.[154] We believe this small cost to the ULTS program is more than offset by the benefits of competition these non-ETCs bring to the ULTS program. However, if the number of ULTS customers served by non-ETCs grows substantially over time, and the financial burden on the ULTS program due to the non-ETC status of these utilities becomes significant, we may reconsider our decision today by taking steps to require one or more non-ETCs to seek ETC status in order to reduce the financial burden on the ULTS program.[155]

We shall not adopt CCTA's proposal to encourage utilities to seek ETC designation by providing utilities with information on the requirements and benefits of attaining ETC status. CCTA's proposal appears unnecessary since the

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[153] 47 C.F.R. §54.201(d)(1) and §54.201(d)(2).

[154] The vast majority of ULTS financial support currently goes to incumbent local exchange carriers (ILECs) such as GTE and Pacific. All ILECs are ETCs.

[155] We make no findings in this decision concerning the assertions by AT&T, CCTA, GTE, and MCI that requiring facilities-based providers of ULTS to become ETCs would (1) be discriminatory, and (2) conflict with the Telecommunications Act. We will address these issues, if necessary, if and when we require non-ETCs to seek ETC status.

record in this proceeding indicates that utilities are already aware of the requirements, benefits, and obligations of becoming an ETC.

Finally, we disagree with Cox and Roseville that only facilities-based providers of ULTS willing to assume the obligations associated with being an ETC should be eligible for ULTS funding. In our view, any utility that fulfills the obligations associated with being a ULTS provider should receive ULTS funding.

C. Revisions to the ULTS Program to Foster Competition

The Commission's policy is to foster competition in the provision of ULTS in order to reduce ULTS program costs and improve service to ULTS customers.[156] To help achieve this goal, the Commission in the OIR proposed the following two modifications to the ULTS program: (1) allow ULTS customers to pay the discounted ULTS connection charge when switching from one ULTS provider to another, and (2) provide non-ETCs with the same level of financial support received by ETCs. Each of these proposals is addressed below.

1. Discounted Charge for Switching to a New ULTS Provider

a. Background

General Order 153, Section 3.5, states that ULTS customers are eligible to receive one discounted service-connection charge per year at the same residence. The discounted connection charge ("ULTS connection charge") is the lower of $10 or one-half of the utility's customary service-connection charge. However, GO 153 does not allow ULTS customers to use their once-per-year ULTS connection charge to obtain service from a new ULTS provider. This restriction

[156] Pub. Util. Code § 871.5(d) requires the Commission to administer the ULTS program in a manner that is equitable, non-discriminatory, and without competitive consequences for the telecommunications industry in California.

may hinder competition in the provision of ULTS, since it may deter ULTS customers from switching to another utility if they cannot use their once-per-year ULTS connection charge to obtain ULTS from a different utility.

To foster competition in the provision of ULTS, the Commission proposed in the OIR to revise GO 153 to allow ULTS customers to use their once-per-year ULTS connection charge to switch to a new ULTS provider.[157]

b. Position of the Parties

AT&T, CCTA, Cox, GTE, MCI, Pacific, Public Advocates, and Roseville argue that there should be no limit on the number of times that ULTS customers should be able to use the ULTS connection charge to switch to a new ULTS provider. They state that it is difficult, if not impossible, for a utility to know how many times a ULTS customer has obtained service from other utilities at the same residence within the past year. They also state that limiting ULTS customers to one ULTS connection charge per year is inconsistent with the Commission's goal of increasing competitive choice for low-income customers.

ORA states that ULTS customers should have a reasonable opportunity to switch utilities, but suggests that in order to avoid burdening the ULTS Fund, subscribers should not be allowed an unlimited opportunity to switch utilities.

GTE expresses concern that some ULTS customers may switch to new a ULTS provider to avoid paying existing bills. AT&T, GTE, and MCI all recommend that the ULTS Fund compensate ULTS providers for bad-debt costs related to ULTS customers switching providers.

[157] OIR, Appendix B, Section III.1.

c. Discussion

We agree with AT&T, CCTA, Cox, GTE, MCI, Pacific, Public Advocates, and Roseville that there should be no limit on the number of times that ULTS customers should be able to use the ULTS connection charge to switch to a new ULTS provider. We are persuaded that there is no practical way to enforce the OIR proposal of limiting ULTS customers to one ULTS connection charge per year when switching ULTS providers, since a utility has no practical way of knowing how many times a new ULTS customer has switched ULTS providers during the past year.[158]

We appreciate ORA's concern that allowing ULTS customers to pay the ULTS connection charge every time they switch to a new ULTS provider may be financially burdensome for the ULTS program. We believe, however, that because ULTS customers are low-income households, it is unlikely that many ULTS customers can afford to pay the ULTS connection charge more than once or twice per 12-month period in order to switch ULTS providers.

Finally, we agree with AT&T, GTE, and MCI that utilities should be compensated for the bad-debt costs related to ULTS customers' switching ULTS providers. Later in this decision, we provide guidance on the type and amount of the bad-debt costs that utilities may recover from the ULTS program.

2. Equality of Treatment for ETCs and non-ETCs

a. Background

The federal Lifeline and Link Up programs subsidize discounted telephone service provided to low-income customers by ETCs. In Resolution T-16128, the

[158] Our decision to allow ULTS customers to pay the ULTS connection charge each time they switch ULTS providers is consistent with our decision elsewhere in this order to allow ULTS customers to pay the ULTS connection charge each time they move to a new residence or reconnect service at an existing residence.

Commission ordered the ULTS Fund to reimburse all utilities, including non-ETCs, for the costs they incur to provide ULTS to the extent that such costs are not recovered from the federal programs. The effect of Resolution T-16128 was to provide non-ETCs with the same amount of financial support that ETCs receive from the federal Lifeline and Link Up programs to provide ULTS.

In the OIR, the Commission proposed to revise GO 153 to reflect the policy adopted in Resolution T-16128.[159] The only exception would be if the federal Lifeline or Link Up programs require ETCs to offer services to low-income customers that utilities are not required to offer under the ULTS program. The Commission also stated in the OIR that its proposal was meant to foster competition in the provision of ULTS by ensuring that every "competitor" providing ULTS receives the same amount of financial support.[160]

b. Position of the Parties

There was no opposition to the OIR proposal.

c. Discussion

Since there was no opposition to the OIR proposal, we shall revise GO 153 to require the ULTS Fund to reimburse each utility for its reasonable costs to provide ULTS to the extent that such costs are not reimbursed by the federal Lifeline and Link Up programs. We emphasize that if ETCs are required to provide services to low-income customers under the federal Lifeline or Link Up programs that utilities are not required to provide under the ULTS program, the ULTS Fund shall not reimburse non-ETCs for their costs to provide these services. Conversely, if utilities are required to provide services to ULTS customers that ETCs are not required to provide under the Lifeline and Link Up

[159] OIR at 11 and Appendix B, Section I.22.

[160] OIR, Appendix B, Section III.2.

programs, the ULTS program will reimburse all utilities for their reasonable costs to provide these services, including both ETCs and non-ETCs.

D. Uniform Standards and Administrative Procedures

There is considerable flexibility in how ULTS program rules are implemented with respect to individual carriers and utilities.[161] In the OIR, the Commission proposed to adopt uniform standards to govern the implementation of key aspects of the ULTS program. By adopting uniform standards, the Commission sought to achieve two goals: (1) reduce ULTS program administrative costs, and (2) administer the ULTS program in a competitively neutral manner by treating all carriers and utilities equally and fairly. In the next section of this decision, we consider whether to adopt the uniform standards proposed in the OIR.

1. Uniform Standard for Reimbursement of Lost Revenues

a. Background

Utilities are required to provide basic residential telephone service (BRTS) to ULTS customers at discounted rates and charges.[162] This requirement causes utilities to lose an amount of revenue ("lost revenues") for each ULTS customer they serve equal to the difference between (1) the utility's normal tariffed rates and charges for BRTS and (2) the discounted ULTS rates and charges. General Order 153 indicates that the ULTS Fund will reimburse utilities for their lost revenues, but GO 153 provides little guidance on how to determine the amount of reimbursement. In D.96-10-066, the Commission ordered the ULTS Fund to

[161] The term "carrier" refers to any provider of intrastate telecommunications services. The term "utility" refers to any carrier that is required to offer ULTS. Most carriers are not utilities.

[162] D.96-10-066, Appendix B, Rules 5.A.1.b and 5.A.1.d.

reimburse utilities, on a per-customer basis, for the difference between the utility's normal tariffed rates and charges for BRTS and the discounted ULTS rates and charges.[163]

In the OIR, the Commission proposed to cap the amount of lost revenues that utilities may recover from the ULTS Fund to serve a particular ULTS customer to an amount equal to the lost revenues that the customer's carrier of last resort (COLR)[164] would recover from the ULTS Fund. The OIR proposal was driven by the concern that competitive local carriers (CLCs), which have considerable flexibility in the rates they may charge, might charge unreasonably high tariffed rates in order to increase the amount of lost revenues they recover from the ULTS Fund.[165]

b. Position of the Parties

Calaveras, Greenlining/LIF, and Pacific support the OIR proposal to cap the amount of lost revenues that utilities may recover from the ULTS Fund. Greenlining/LIF and Pacific state that the OIR proposal is a reasonable attempt to ensure competitive neutrality among ULTS providers and maintain the financial integrity of the ULTS Fund. Calaveras states that the OIR proposal is necessary to prevent utilities from gaming the ULTS program by offering residential service at exorbitantly high rates in order to collect a large amount of subsidy from the ULTS Fund based on the difference between the exorbitant rates and the discounted ULTS rates.

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[163] D.96-10-066, Appendix B, Section 5.A.c.

[164] In D.96-10-066, the Commission (1) required COLRs to serve all residential and business customers within designated geographic service areas (GSAs) upon request, (2) created the California High Cost Fund-B to subsidize the provision of service by COLRs in high-cost GSAs, and (3) allowed any facilities-based carrier capable of serving all customers within a particular GSA to file an advice letter requesting designation as a COLR in that GSA.

Cox neither supports nor opposes the OIR proposal to cap the reimbursement of lost revenues. Cox states that what is important is that all utilities be treated uniformly regarding the recovery of lost revenues.

AT&T, GTE, and MCI oppose the OIR proposal. They state that the principle of competitive neutrality requires that every utility, and not just the COLRs, be reimbursed for the difference between its tariffed rates and ULTS rates. They also state that the OIR proposal violates the Telecommunications Act of 1996 which requires low-income programs to be administered in a competitively neutral manner.[166] Finally, they argue that failure to reimburse utilities for the difference between their tariffed rates and the discounted ULTS rates would violate Pub. Util. Code § 871.5(d) which states as follows:

> [T]he Commission, in administering the lifeline telephone service program, should implement the program in a way that is equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California.

AT&T, GTE, and MCI state that Pub. Util. Code § 879(a) outlines the process that the Commission must use to set ULTS rates. They argue that the OIR proposal to limit the recovery of lost revenues should be addressed using the process outlined in Pub. Util. Code § 879, and not in this rulemaking. They further state the Commission cannot use this proceeding to modify the policy adopted in D.96-10-066 regarding the reimbursement of lost revenues because there has not been adequate notice and an opportunity to file comments on this matter. GTE goes even further by suggesting that use of this rulemaking to affect

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[165] OIR, Appendix B, Section IV.1.

[166] 47 U.S.C. § 254(b)(4).

a material change to the policy adopted in D.96-10-066 would violate Pub. Util. Code §§ 1708 and 1709.

c. Discussion

We shall adopt the OIR proposal to limit the amount of "lost revenues" that utilities may recover from the ULTS Fund to provide ULTS to a particular customer to no more than what the ULTS Fund would pay to the COLR to provide ULTS to that customer.[167] Failure to adopt the proposal would allow some utilities to game the ULTS program to reap unreasonably high profits. For example, an unscrupulous utility could establish a tariffed service connection charge of $500, charge a ULTS customer the discounted ULTS connection charge of $10, and recover from the ULTS Fund an amount of "lost revenues" equal to the difference between $10 and $500, or $490.

To implement the OIR proposal that we adopt today, we shall revise GO 153 to state that each utility, on a per ULTS customer basis, may collect from the ULTS Fund the difference between (a) ULTS rates and charges for basic residential telephone service (BRTS), and (b) the lesser of the following: (i) the utility's tariffed rates and charges for BRTS, or (ii) the tariffed rates and charges for BRTS of the ULTS customer's carrier of last resort (COLR). If there are two or more COLRs available to serve a particular ULTS customer, than b(ii) shall equal the tariffed rates and charges of the COLR that offers the lowest tariffed rates and charges. The determination of which COLR has the lowest rates and charges shall be based on the sum of each COLR's (a) tariffed non-recurring charge for

[167] Thus far, the only ILECs are COLRs (although one CLC – Cox - has an advice letter pending for authority to serve as a COLR in portions of Orange and San Diego Counties). It is reasonable to limit the reimbursement of lost revenues to what the ILECs would recover from the ULTS Fund because (1) the ILECs' existing rates for BRTS have been found by the Commission to be just and reasonable, and (2) the ILECs' rates for BRTS are subject to much greater scrutiny by the Commission than are the rates of other ULTS providers.

residential service connection plus (b) tariffed recurring monthly rate for flat-rate residential service multiplied by twelve.

We recognize that many CLCs are required to offer ULTS. We believe it is unlikely that our capping the recovery of lost revenues will cause any CLC to lose money on the provision of ULTS. This is because CLCs, if they choose to do so, may provide ULTS by reselling BRTS offered by other carriers. There are apparently many CLCs that profitably resell BRTS, since many CLCs have sought and obtained authority to resell BRTS. However, to ensure that no CLC is forced to provide ULTS at a loss, we shall allow CLCs to file formal applications for relief from the requirement to offer ULTS. Any such application must include a detailed showing of why our decision today to limit the amount of lost revenues that utilities may recover from the ULTS Fund causes the CLC to lose money on the provision of ULTS.

We disagree with the assertion of AT&T, GTE, and MCI that the principle of competitive neutrality embodied in the Telecommunications Act of 1996 (the Act) mandates that we reimburse every ULTS provider for the difference between its tariffed rates and the discounted ULTS rates. First of all, the Act has no bearing on how much we pay to utilities to provide ULTS under California's ULTS program. Moreover, we do not interpret the Act as requiring us to pay a utility more than a reasonable amount to provide ULTS. Our action today simply limits what we will pay to a reasonable amount. And finally, we disagree with the premise of AT&T, GTE, and MCI's argument that our action today is anticompetitive. In a competitive market, the buyer of a service will seek to pay the lowest price possible for the service, all else being equal. Thus, in order to administer the ULTS program in a competitively neutral manner, we should behave as a buyer would in a competitive market, i.e., by purchasing ULTS from the utility that charges the lowest price for ULTS. Therefore, our decision to cap

the recovery of lost revenues conforms with the principle of competitive neutrality since it effectively requires the ULTS program to pay no more for ULTS than the lowest available price for this service.[168]

We disagree with the assertion of AT&T, GTE, and MCI that Pub. Util. Code § 879(a) prevents us from considering in this proceeding the amount of lost revenues that utilities may recover from the ULTS Fund. Pub. Util. Code § 879(a) states, in pertinent part, as follows:

> "The commission shall, at least annually, initiate a proceeding to set rates for [ULTS]. All telephone corporations providing [ULTS] shall annually file, on a date set by the commission, proposed [ULTS] rates and a statement of projected revenue needs to meet the funding requirements to provide [ULTS] to qualified subscribers, together with proposed funding methods to provide the necessary funding. These funding methods shall include identification of those services whose rates shall be adjusted to provide the necessary funding."

We have interpreted Pub. Util. Code § 879(a) to mean that we must annually establish the ULTS surcharge rate to fund the ULTS program.[169] The reimbursement of utilities for lost revenues is clearly not the same as setting the ULTS surcharge rate. Therefore, Pub. Util. Code § 879(a) does not apply to reimbursement of lost revenues. But even if the statute did apply, the statute

[168] Today's decision caps the recovery of lost revenues to the lower of (1) the lost revenues claimed by the utility actually serving the ULTS customer, or (2) the lost revenues that the customer's COLR would claim if the COLR were providing ULTS. There is no utility that currently claims less in lost revenues to serve any ULTS customer than what the COLR would claim to serve that customer.

[169] OIR, Appendix B, Section I.10.

does not preclude our setting rates for ULTS in a proceeding other than the annual proceeding contemplated by Pub. Util. Code § 879(a).[170]

We find no merit in the assertion that we cannot use this proceeding as a vehicle to modify the policy adopted in D.96-10-066 concerning utilities' recovery of lost revenues because there has not been adequate notice or an opportunity to file comments on this matter. In the OIR, we provided (1) notice of our intent to revise the policy adopted in D.96-10-066, and (2) an opportunity for parties to file comments concerning the appropriate policy for the recovery of lost revenues.[171]

We find no merit in GTE's assertion that Pub. Util. Code § 1708 prevents us from revising the policy adopted in D.96-10-066 concerning utilities' recovery of lost revenues. Pub. Util. Code §1708 state as follows:

> "The commission may at any time, upon notice to the parties, and with an opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision."

As described previously, the OIR provided notice of our intent to revise the policy adopted in D.96-10-066.[172] The OIR also provided an opportunity to be heard on this matter.[173] Therefore, since the procedural requirements of § 1708

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[170] D.96-10-066, issued in R.95-01-020/I.95-01-021, adopted the current policy concerning utilities' recovery of lost revenues. (D.96-10-066, Appendix B, Section 5.A.1.c.) Since R.95-01-020/I.95-01-021 was not held for the purpose of setting annual rates for ULTS in accordance with Pub. Util. Code § 879(a), it is clear that we may now modify the policy we adopted in R.95-01-020/I.95-01-021 without implicating § 879(a).

[171] OIR, OP 7, and Appendix B, Section IV.1.

[172] Ibid.

[173] OP 10 of the OIR provided parties with an opportunity to request an evidentiary hearing. No party requested an evidentiary hearing on the OIR proposal to cap the amount of lost revenues that utilities may recover from the ULTS Fund.

have been met, we may use our authority under § 1708 to revise our policy concerning the recovery of lost revenues.

Finally, we find no merit in GTE's assertion that Pub. Util. Code § 1709 prevents us from revising the policy adopted in D.96-10-066 regarding the reimbursement of lost revenues. Pub. Util. Code § 1709 states as follows:

> "In all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive."

Section 1709 must be read in conjunction with § 1708 which grants the Commission broad authority to modify or to set aside its past orders, so long as the procedural requirements of § 1708 are satisfied.[174] As discussed previously, the procedural requirements of § 1708 have been met. Therefore, § 1709 does not bar us from now adopting a policy to limit the amount of lost revenues that utilities may recover from the ULTS Fund.

2. Uniform Standard for Reimbursement of Costs

a. Background

Utilities have long been reimbursed for their costs to provide ULTS, but over time there has been a divergence in the types of costs that different utilities recover from the ULTS Fund. In 1995, the Commission held a workshop on how to identify and measure the types of costs that should be recoverable from the ULTS Fund, but the workshop produced no consensus on this issue.

In the OIR, the Commission proposed to revise GO 153 to state that utilities may recover from the ULTS Fund those costs that are (1) incremental to the ULTS program, and (2) not recovered elsewhere by the utility (e.g., recovered from the rates paid by ULTS customers, the utility's general rates, or federal subsidies).

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[174] D.98-11-067, mimeo., pp. 25-26; D.97-04-049, 1997 Cal. PUC LEXIS 427, *7; and D.97-02-53 1997 Cal. PUC LEXIS 115, *8.

The Commission also proposed that instead of revising GO 153 to list the specific costs that utilities may recover from the ULTS Fund, GO 153 should simply indicate that the Commission and/or TD may determine on a generic or case-by-case basis the types of costs that utilities may recover from the ULTS Fund.[175]

b. Position of the Parties

Greenlining/LIF and MCI support the OIR proposal to allow utilities to recover from the ULTS Fund those costs that are (1) incremental to the ULTS program, and (2) not recovered elsewhere by the utility.

AT&T, Calaveras, CCTA, Cox, GTE, and MCI state that GO 153 should include a comprehensive list and description of the costs that utilities may recover from the ULTS Fund in order to (1) ensure that all utilities have an equal opportunity to recover the same types of costs, and (2) deter utilities from requesting recovery of costs that are not related to the ULTS program.

Calaveras states that GO 153 should address utilities' recovery of bad-debt costs from the ULTS Fund. According to Calaveras, when ULTS customers default on their outstanding ULTS rates and charges, many smaller LECs recover from the ULTS Fund the amount of the default up to the deposit that normally would have been required for regular service. Calaveras states there is nothing in the GO 153 that requires or sanctions this practice, which raises the issue of whether a utility could claim the total amount of the default, including that amount in excess of the normal deposit.

Calaveras opposes the OIR proposal to provide TD with authority to determine what costs may be recovered from the ULTS Fund. Calaveras states that nothing should be left to the discretion of TD since utilities need a high

[175] OIR, Appendix B, Section IV.1.

degree of certainty regarding what costs are recoverable from the ULTS Fund due to the prospect of audits and penalties for noncompliance.

c. Discussion

There was no opposition to the OIR proposal to revise GO 153 to state that utilities may recover from the ULTS Fund those costs that are (1) incremental to the ULTS program, and (2) not recovered elsewhere by the utility. Therefore, we shall adopt the proposal.

We agree with AT&T, Calaveras, CCTA, Cox, GTE, and MCI that GO 153 should include a comprehensive list and description of the costs that utilities may recover from the ULTS Fund ("comprehensive list"). Inclusion of such information in GO 153 will help ensure that the ULTS program is administered in a competitively neutral manner by providing a clear standard for recovery of ULTS-related costs that is uniformly applied to all utilities. However, there is no record in this proceeding to develop a comprehensive list. Therefore, we shall instruct TD to hold a workshop within six months from the effective date of this decision for the purpose of developing a comprehensive list.[176] TD may determine the exact timing, format, and structure of the workshop. TD may also require workshop participants to present detailed written proposals for a comprehensive list.[177] TD shall use the input received at the workshop to develop a comprehensive list by no later than 12 months from the effective date of this decision.[178] TD shall then revise GO 153 to incorporate the comprehensive

[176] TD should place a notice of the workshop in the Daily Calendar, along with other information and instructions regarding the workshop.

[177] TD may hold a "virtual" workshop that allows parties to exchange proposals and comments via a service list established for that purpose.

[178] TD should (i) submit a final draft of its comprehensive list to the ULTSAC for review and comment by the Committee, and (ii) notify utilities of the adopted comprehensive list.

list. TD may modify the comprehensive list in accordance with the procedures we adopt later on in this decision for revising ULTS administrative procedures.

We agree with Calaveras that GO 153 should address whether, and to what extent, utilities should be able to recover bad-debt costs from the ULTS Fund. Therefore, we shall revise GO 153 to state that when ULTS customers fail to pay their ULTS rates and charges, utilities may recover from the ULTS Fund an amount of bad-debt costs[179] equal to the lower of (i) the actual amount of the ULTS rates and charges that the customer fails to pay (plus the associated lost revenues that utilities may recover from the ULTS Fund), or (ii) the deposit for local residential service, if any, that the utility normally requires from non-ULTS customers.[180] TD may require utilities to submit any information that it deems necessary to review and evaluate utilities' claims for bad-debt costs.[181]

We disagree with Calaveras that it is inappropriate to delegate to TD the authority to determine what costs may be recovered from the ULTS Fund because of the uncertainty this would create. As described previously, TD will develop a comprehensive list of the costs that utilities may recover from the ULTS Fund, which should provide Calaveras with a reasonable degree of certainty about what costs it may or may not recover from the ULTS Fund.

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[179] Utilities may only recover bad-debt costs from the ULTS Fund to the extent that such costs are not recovered from other sources. Pacific states that it does not recover bad-debt costs from the ULTS Fund, which indicates that Pacific recovers these costs from other sources (Pacific Bell Opening Comments, p. 31).

[180] Utilities may require customers to post service deposits as protection against bad-debt costs, but this is not possible with most ULTS customers since utilities cannot require ULTS customers to post a deposit in order to obtain ULTS unless the customer has an unpaid bill for local exchange service.

[181] We also revise the ULTS Claim Form to replace the current line item for "imputed deposit for bad debt" with a new line item for "bad-debt costs."

3. Uniform Standard for Reimbursement of Service Representative Costs

a. Background

Pacific is the only large ILEC that recovers from the ULTS Fund the cost associated with the time spent by its service representatives on ULTS-related matters during the service order process ("ULTS service representative costs").[182] In the OIR, the Commission proposed to reimburse Pacific for its ULTS service representative costs via a "flat fee" equal to Pacific's reimbursement from the ULTS Fund during 1997 for these costs divided by the total number of ULTS-related service orders processed by Pacific during 1997.[183]

b. Position of the Parties

Pacific opposes the OIR proposal to reimburse Pacific for its service representative costs based on a "flat fee." Pacific argues that it is entitled to recover its actual ULTS service representative costs, not some approximation of its costs. Pacific also states that its ULTS service representative costs are significant since it serves over 2.5 million ULTS customers; and that it incurred more than $7 million in ULTS service representative costs during 1998.

Pacific notes that the draft GO 153 appended to the OIR includes the following statement: "In no case shall a utility claim reimbursement from the ULTS Fund for costs incurred to notify customers of the availability and terms of

[182] Several small ILECs also recover ULTS service rep costs from the ULTS Fund. Roseville, a mid-sized ILEC, does not currently recover ULTS service rep costs from the UTTS Fund, but it has in the past.

[183] OIR, Appendix B, Section IV.2. In a ruling issued by the assigned Commissioner on February 10, 1999, the scope of this proceeding was modified to exclude the issue of whether Pacific is being compensated twice for its ULTS service rep costs. The assigned Commissioner's ruling was affirmed by the Commission in D.99-03-036.

ULTS at the time of service order."[184] Pacific states this language should be deleted since utilities are required to notify customers about the availability and terms of ULTS at the time of service order.

AT&T, Calaveras, Evans, GTE, MCI, and Roseville state that all utilities should have the same opportunity as Pacific to recover ULTS service representative costs from the ULTS Fund. Most of these parties support the OIR proposal to use a flat fee to reimburse Pacific for its service representative costs; and some of these parties recommend that the Commission extend the flat-fee proposal to all utilities.

CCTA, Cox, ORA, and TURN argue that the ULTS Fund should not reimburse utilities for ULTS service representative costs. They state that every utility is required to notify residential customers about the ULTS program during the service order process, and because of this, ULTS service representative costs are a normal cost of business that utilities should recover through rates. However, if the Commission allows Pacific to recover ULTS service representative costs from the ULTS Fund, then CCTA and Cox believe that all utilities should be allowed to recover these costs from the ULTS Fund.

Cox, Greenlining/LIF, ORA, and TURN state that some utilities may inflate the service representative costs that they seek to recover from the ULTS Fund. Cox states that the Commission should establish strict guidelines for determining reimbursable service representative costs so that utilities do not improperly shift normal business costs to the ULTS program. Greenlining/LIF and ORA state that the Commission should be especially vigilant in ensuring that

[184] OIR, Appendix C, Section 4.6.2.

utilities do not seek to recover from the ULTS Fund any costs associated with the time spent by service representatives on marketing-related activities.

c. Discussion

Utilities are required to notify residential customers about the availability of ULTS when they first apply for service.[185] Consequently, the time that utilities' service representatives spend on this task represents a cost that is incremental to the ULTS program. We conclude, therefore, that all utilities should be reimbursed by the ULTS Fund for the reasonable costs they incur for the time spent by their service representatives to notify residential customers about availability of ULTS.

We disagree with those parties who suggest that utilities should recover their ULTS service representative costs in their rates. Forcing utilities to recover these costs in their rates would competitively disadvantage those utilities that serve a large number of ULTS customers. All else being equal, the more ULTS customers a utility serves, the higher the rates the utility would have to charge in order to recover its ULTS service representative costs. Higher rates, in turn, would make the utility less competitive with those utilities that keep their rates low by serving few ULTS customers. Such a result would create a disincentive for utilities to serve ULTS customers and thereby (1) undermine our goal of fostering competition in the provision of ULTS, and (2) threaten the fundamental purpose of the ULTS program of providing affordable telephone service to low-income households.

We agree with Greenlining/LIF, ORA, and TURN that allowing all utilities to recover their ULTS service representative costs from the ULTS Fund may

[185] D.96-10-066, Appendix B, Rule 5.A.1.a.

tempt some utilities to abuse the ULTS Fund by submitting inflated claims for these costs. We warn utilities not to submit inflated claims for ULTS service representative costs. Any utility that submits inflated claims shall be deemed to have violated this decision, and shall be subject to monetary penalties and other sanctions.

We decline to adopt the OIR proposal to reimburse Pacific for its ULTS service representative costs using a "flat fee" based on Pacific's historical costs. After reviewing parties' comments, we conclude that all utilities, including Pacific, should be reimbursed for their incremental ULTS service representative costs. This approach has two advantages. First, it is competitively neutral, since it reimburses every utility for its actual ULTS service representative costs. Second, it does not create a financial disincentive for utilities to serve ULTS customers since every utility is reimbursed for its actual costs. The flat-fee approach, in contrast, is flawed since it may result in utilities being reimbursed for more or less than their actual ULTS service representative costs. Utilities would then be competitively advantaged or disadvantaged, depending on whether the flat fee results in too much or too little compensation.

We agree with Cox that there should be strict guidelines for determining the amount of ULTS service representative costs that utilities may recover from the ULTS Fund. Consistent with our policy adopted earlier in this decision, utilities may only recover from the ULTS Fund those service representative costs that meet both of the following criteria: (1) the costs are demonstrably incremental to the ULTS program requirement to notify residential customers about the availability, terms, and conditions of ULTS, and (2) the costs are not recovered elsewhere by the utility (e.g., recovered in the rates paid by ULTS customers, general rates, or federal subsidies). We emphasize that utilities may not recover from the ULTS Fund any service representative costs associated with

non-ULTS services provided to ULTS customers, such as Caller ID, inside wire, or voice mail. Nor may utilities recover from the ULTS Fund any costs incurred by service representatives to process ULTS service orders or answer calls from ULTS customers regarding their bills, since processing service orders and answering calls from customers about their bills is a normal cost of doing business.

TD should promulgate standards for identifying, measuring, and reporting ULTS service representative costs as part of the workshop that we previously instructed TD to convene for the purpose of developing a comprehensive list of costs that utilities may recover from the ULTS Fund. TD may also require utilities to submit workpapers and other information to support their claims for ULTS service representative costs. If a utility believes that it has been inappropriately disallowed recovery of service representative costs, it may file an application with the Commission to recover the disallowed costs.

4. Uniform Standard for Reimbursement of Untimed Local Calls

a. Background

ULTS customers who subscribe to measured local service may make 60 free (i.e., untimed) local calls per month. In the OIR, the Commission noted that Pacific is the only large utility that is reimbursed by the ULTS Fund for the "lost revenues" that result when ULTS measured-service customers make 31 to 60 untimed local calls per month.[186]

[186] OIR, Appendix B, Section IV.3. In a ruling issued by the assigned Commissioner on February 10, 1999, the scope of this proceeding was modified to exclude the issue of whether Pacific is being compensated twice for untimed local calls provided to ULTS customers. The assigned Commissioner's ruling was affirmed by the Commission in D.99-03-036.

b. Position of the Parties

CCTA, Cox, and GTE state that all utilities should have the same opportunity as Pacific to recover from the ULTS Fund the lost revenues caused by the provision of untimed local calls to ULTS customers. Pacific states that the lost revenues from untimed local calls are a legitimate expense that all utilities should be allowed to recover from the ULTS Fund.

c. Discussion

Elsewhere in this decision, we take several steps that have a bearing on the issue at hand. First, we require all utilities to offer 60 untimed local calls each month to their ULTS customers subscribing to measured local service. Second, we adopt the policy of reimbursing all utilities for the lost revenues and other reasonable costs they incur to provide ULTS. And finally, we cap the amount of lost revenues that utilities may recover from the ULTS Fund to provide ULTS to a particular customer to the amount that the customer's COLR would recover from the ULTS Fund.

Consistent with our actions elsewhere in this decision, we shall revise GO 153 to (1) allow every utility to recover from the ULTS Fund the lost revenues it incurs to provide 60 untimed local calls per month to ULTS measured service customers to the extent that the utility does not recover these lost revenues any other sources; and (2) cap the amount of lost revenues that a utility may recover from the ULTS Fund for the provision of untimed local calls to a particular ULTS customer to the amount of lost revenues that the customer's COLR would recover from the ULTS Fund.

5. Uniform Standard for Workpapers

a. Background

General Order 153 requires utilities to submit monthly reports containing summary information to support their ULTS claims.[187] On March 26, 1998, the Director of TD notified all utilities that they would henceforth be required to submit workpapers to support all costs claimed on the ULTS Claim Form.

In the OIR, the Commission proposed to revise GO 153 to (1) require utilities to submit workpapers to support their ULTS claims, and (2) state that Commission staff may promulgate standards concerning the content, format, and timing of the workpapers.[188]

b. Position of the Parties

AT&T and MCI support the OIR proposal to require utilities to submit workpapers to support their ULTS claims. However, they do not believe it is necessary for the Commission to set workpaper standards. AT&T states that because utilities submit different size claims and have different accounting and billing methods, it would be difficult for the Commission to develop uniform workpaper standards that all utilities could comply with.

Calaveras, Pacific, and Roseville state that workpaper standards must be clear, detailed, and included in GO 153 in order to eliminate uncertainty about the workpapers that utilities must submit to support their claims. Pacific and Roseville also state that the Commission should adopt workpaper standards only after interested parties have had an opportunity to comment and, if necessary, provide evidence.

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[187] GO 153, Section 4 and Appendix A.

[188] OIR, Appendix B, Sections 1.11 and IV.1.; Appendix C, Section 4.2.5; and Appendix D, p. D-3.

Evans opposes the OIR proposal to require utilities to submit workpapers to support their ULTS claims. Evans states that if workpapers are required, they should be limited to an itemization of the costs embedded in a line item on the ULTS Claim Form. Evans also states that utilities should be able to request a waiver from any adopted workpaper standards.

Roseville opposes the OIR proposal to allow Commission staff to promulgate workpaper standards. According to Roseville, only the Commission should have this authority.

c. Discussion

We shall adopt the OIR proposal to revise GO 153 to require utilities to submit workpapers to support their ULTS claims. We believe that it would be irresponsible to pay utilities hundreds-of-millions of dollars for ULTS claims that are unsupported by workpapers. To emphasize the importance we attach to workpapers, we shall prohibit the ULTS Fund from paying any ULTS claim that lacks the workpapers required by GO 153.

We shall also adopt the OIR proposal to revise GO 153 to state that Commission staff may promulgate standards concerning the format, content, and timing of the workpapers that utilities submit to support their ULTS claims ("workpaper standards").[189] We believe the OIR proposal is vital to the efficient and effective administration of ULTS program. There are already more than two dozen utilities that submit ULTS claims, and this number is likely to grow as our

[189] We have repeatedly interpreted Pub. Util. Code §§ 314, 581, 582, 584, and 701 to provide the Commission and its staff with broad authority to require utilities to submit documents and information. (D.99-06-059, 1999 Cal. PUC LEXIS 318, at *6 and *20; D.99-05-034, 1999 Cal. PUC LEXIS 160, at *164; OII 94-10-014, 1994 Cal. PUC LEXIS 1097, at *6; D.94-04-041, 54 CPUC 2d 24, at 30; D.92-10-026, 46 CPUC 2d 1, at 8; D.92-02-034, 1992 Cal. PUC LEXIS 1022, at *19; and D.91-07-056, 41 CPUC 2d 89, at 107 and 127.) This precedent demonstrates that

Footnote continued on next page

policy to foster competition in the provision of ULTS takes root and bears fruit. The sheer number of claimants necessitates standardized workpapers if ULTS program administrators are to review and pay ULTS claims in a timely manner. Failure to timely pay ULTS claims will result in interest payments being made to claimants and, ultimately, higher ULTS program costs.[190]

We disagree with Evans' assertion that it is unnecessary for workpapers to contain anything more than an itemization of the costs embedded in a line item on the ULTS Claim Form. We expect ULTS program administrators to carefully scrutinize ULTS claims before they approve the payment of the claims, and we anticipate that such scrutiny will require more than a mere itemization of costs (e.g., a description of each item, the date it was incurred, etc.).

We also disagree with Roseville's assertion that Commission staff should not have authority to promulgate workpaper standards. TD is well suited to the task of specifying workpaper standards since it has first-hand knowledge of what information utilities should submit with their ULTS claims in order for the claims to be reviewed and paid in a timely manner. Furthermore, we have previously delegated to our staff the authority to specify what information should be submitted by utilities, and we are satisfied with the results.[191] Based on this experience, we are confident that any workpaper standards that staff may develop will serve to improve the efficiency and effectiveness of the ULTS

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the Commission and its staff have authority to specify the format, content, and timing of workpapers that utilities submit to support their ULTS claims.

[190] Elsewhere in this decision we require the ULTS Fund to pay interest on utilities' legitimate, ULTS claims that are submitted on a timely basis if the claims are not paid within 60 days of the deadline for submitting claims.

[191] D.99-05-034, 1999 Cal. PUC LEXIS 160, at *164; D.92-02-034, 1992 Cal. PUC LEXIS 1022, at *19; and D.91-07-056, 41 CPUC 2d 89, at 107 and 127.

program, and that such standards will not result in an undue burden on the ULTS providers submitting claims.

We agree with those parties who state that (i) utilities should have an opportunity to comment on workpaper standards prior to the standards being adopted for use, and (ii) any adopted workpaper standards should be included in GO 153. Later in this decision, we adopt procedures to (i) provide interested parties with notice and an opportunity to comment on proposed revisions to ULTS program administrative requirements, and (ii) update GO 153 to reflect adopted revisions to ULTS administrative requirements. TD shall use these procedures to promulgate and revise workpaper standards.

We agree with Evans that there may be circumstances that warrant a waiver of workpaper standards. If a utility believes that a waiver is necessary, it should submit its request, in writing, to the Director of the TD and the members of the ULTSAC. The request should provide a complete explanation for why the waiver is necessary. The ULTSAC should consider and act on the waiver request during public meetings conducted in accordance with the Bagley-Keene Open Meeting Act set forth in Gov. Code § 11120 et seq.[192] (Bagley-Keene Act)

Finally, we remind utilities that the Commission and its staff may require any utility to submit information to support its ULTS claims that is not explicitly required by GO 153. Any utility that fails to submit additional information requested by the Commission or its staff may not receive reimbursement for some or all of its ULTS claims, and may face other adverse consequences as well.

[192] The Commission, the Commission's Executive Director, and the Director of TD have authority to override any decision made by the ULTSAC on any matter.

6. Uniform Practice for Screening Customers

a. Background

General Order 153 does not specify how utilities should screen customers to determine if they are eligible to participate in the ULTS program. Consequently, utilities employ a variety of different procedures to determine if customers are eligible to participate in the ULTS program.

In the OIR, the Commission proposed to revise GO 153 to require utilities to ask potential ULTS customers about their income level and household size in order to determine customers' eligibility for the ULTS program. To maximize the probability of customers giving truthful answers, utilities would not be allowed to disclose ULTS eligibility criteria to customers (unless first queried by a customer) prior to asking the customers about their income level and household size. Utilities would also be prohibited from knowingly enrolling customers into the ULTS program who are ineligible to participate in the program.[193]

b. Position of the Parties

AT&T, Cox, MCI, and ORA support the OIR proposal. AT&T, Cox, and MCI state that the OIR proposal would help prevent ineligible customers from enrolling in the ULTS program and inflating ULTS program costs. AT&T and MCI also state that a uniform screening procedure would benefit utilities, customers, and the Commission. Cox adds that a uniform screening procedure would promote competitive neutrality in the administration of the program.

Calaveras, CCTA, Evans, Greenlining/LIF, GTE, and Pacific oppose the OIR proposal to require utilities to ask potential ULTS customers about their income. They argue that requiring customers to disclose their income over the

[193] OIR, Appendix B, Section IV.5, and Appendix C, Section 3.1.4.

phone to a stranger may dissuade eligible customers from enrolling in the ULTS program. GTE, Greenlining/LIF, Pacific, and Public Advocates recommend that utilities inform customers about ULTS eligibility criteria, and then ask customers if they meet these criteria without having to disclose their income.

Calaveras, CCTA, Citizens and Roseville oppose the OIR proposal to require utilities to use a single procedure to screen applicants for the ULTS program. They state that each utility should be allowed to develop screening procedures that make the most efficient use of its resources.

Evans opposes the OIR proposal to prohibit utilities from knowingly enrolling ineligible customers into the ULTS program. Evans states that the proposal is unnecessary since there is little evidence of fraud. Evans also states that the OIR proposal would create a disincentive for utilities to enroll customers into the ULTS program, and could thus result in some eligible customers not being admitted into program.

ORA recommends that utilities should not be allowed to inform potential ULTS customers during the screening process that the ULTS "discount" can be used to pay for other services. ORA suggests that allowing utilities to link the ULTS discount to the purchase of other services may increase the risk of enrolling ineligible customers into the ULTS program.

c. Discussion

The process used by utilities to screen customers for eligibility to participate in the ULTS program should achieve three goals. First, the process should result in all eligible customers enrolling in the ULTS program. Second, the process should prevent ineligible customers from enrolling in the program. Finally, the process should not be unduly burdensome for utilities to administer.

We agree with those parties who state that some customers who are eligible to enroll in the ULTS program may not do so if it requires them to

disclose detailed personal financial information. Such an outcome would run counter to our first goal of developing screening procedures that result in the enrollment of all eligible ULTS customers. To avoid this outcome, we shall adopt the recommendation of GTE, Greenlining/LIF, Pacific, and Public Advocates to require utilities to inform customers about ULTS eligibility criteria, and then ask customers if they meet these criteria without having to disclose specific household income levels. The information provided to customers about ULTS eligibility criteria should be at the same level of detail as in the utility's Commission-approved annual notice.

To achieve the second goal of preventing ineligible customers from enrolling in the ULTS program, we shall adopt the OIR proposal to revise GO 153 to prohibit utilities from knowingly enrolling customers into the ULTS program who are ineligible to participate in the program. We find no merit to Evans' assertion that the OIR proposal creates a disincentive for utilities to enroll eligible customers into the ULTS program.

To enhance the likelihood of the screening process weeding out ineligible customers, we shall revise GO 153 to require utilities to incorporate into their screening processes the notice requirements we adopted in D.99-07-016. In that decision, we required utilities to notify customers seeking to enroll in the ULTS program that (1) the utility may verify the customer's eligibility to participate in the ULTS program, and (2) if the verification establishes that the customer is ineligible, the customer will be removed from the ULTS program and may be billed for pervious discounts that the customer should not have received.[194]

[194] D.99-07-016, OP 4.

To further enhance the likelihood of the screening process weeding out ineligible customers, we shall adopt ORA's proposal to prohibit utilities from linking the ULTS "discount" to the sale of other services. We agree with ORA that if utilities link the ULTS discount to the purchase of other services, ineligible customers may be tempted to enroll in the ULTS program in order to use the ULTS discount to pay for other services.

Finally, to achieve the third goal of minimizing the burden that the screening process imposes on utilities, we agree with the comments of many parties that utilities should have flexibility in how they administer their screening processes. Therefore, we shall allow each utility to devise its own screening process that complies with the requirements of this decision.

7. Uniform Standard for Certification and Re-certification Forms

a. Background

General Order 153 requires utilities to obtain from every customer seeking to enroll in the ULTS program, and each year thereafter, a form signed by the customer which certifies that the customer is eligible to participate in the program.[195] However, GO 153 does not specify standards for the content of these certification forms.

In the OIR, the Commission proposed to revise GO 153 to require certification forms to contain the following information: (1) a description of ULTS program benefits; (2) ULTS eligibility criteria; and (3) a customer signature area that conveys certification of eligibility for, and acceptance of, ULTS.[196]

[195] GO 153, Sections 3.9, 3.10, and 3.12.

[196] OIR, Appendix B, Section IV.6.

b. Position of the Parties

ORA states that in order to implement the OIR proposal, GO 153 should be revised to include the following language:

> The customer certification and re-certification forms shall, at the minimum, contain explicit language detailing the following information: (1) a brief description of the ULTS program and benefits; (2) ULTS qualifying income limitations and other eligibility criteria; and (3) an immediately adjacent customer signature area which conveys certification of eligibility for and acceptance of ULTS.

Pacific opposes ORA's recommendation to require that certification and re-certification forms have a customer signature area "immediately adjacent" to the ULTS eligibility criteria. Pacific states that adopting ORA's recommendation would require the entire certification form to be returned to the utility, rather than the tear-off signature card now used by Pacific, and thus cause Pacific to incur higher costs for postage and handling.

c. Discussion

There was no opposition to the OIR proposal to revise GO 153 to require that certification and re-certification forms contain the following information: (1) a description of ULTS program benefits; (2) ULTS eligibility criteria; and (3) a customer signature area that conveys certification of eligibility for, and acceptance of, ULTS. Therefore, we shall adopt the OIR proposal.

Pursuant to D.99-07-016, utilities must obtain from each customer seeking to enroll in the ULTS program, and annually thereafter, a signed statement indicating that (i) the utility may verify the customer's eligibility to participate in the ULTS program, and (ii) if the verification establishes that the customer is ineligible to participate in the ULTS program, the customer will be removed from the program and may be billed for previous discounts that the customer should not have received. We shall revise GO 153 to require utilities to include in their certification forms the information specified in D.99-07-016.

We disagree with ORA's proposal to require certification and re-certification forms to have the signature area that is immediately adjacent to the eligibility criteria. We believe it is sufficient if the portion of the certification and re-certification forms signed and returned by the ULTS customers includes a signature area adjacent to a pre-printed statement that states the customer is aware of the eligibility criteria and meets those criteria.

Consistent with the previous discussion, we shall revise GO 153 to require utilities to include the following information in their customer certification and re-certification forms: (1) a description of the ULTS program; (2) a detailed description of ULTS eligibility criteria; and (3) a tear-out postcard or other means for the customer to provide the utility with written certification of the customer's eligibility to participate in the ULTS program. The tear-out postcard shall include a pre-printed statement which indicates (i that the utility may verify the customer's eligibility to participate in the ULTS program; (ii) that if the verification establishes that the customer is ineligible to participate in the ULTS program; the customer will be removed from the program billed for previous discounts that the customer should not have received; and (iii) that the customer has reviewed the eligibility criteria contained in the certification or re-certification form. The tear-out postcard shall also include a signature area that conveys (a) the customer's certification of his or her eligibility for ULTS, and (b) the customer's acceptance of the terms and conditions of ULTS.

8. Uniform Method for Remitting ULTS Surcharge Revenues

a. Background

General Order 153 does not specify a uniform standard for carriers to use in determining the amount of ULTS surcharge revenues to remit for any given period of time. Consequently, carriers employ a variety of methods to determine

how much ULTS surcharge revenues to remit. For example, some carriers remit the actual ULTS surcharge revenues they collect during a given period, while others remit the amount of ULTS surcharges they billed during a given period, less estimated uncollectibles.[197]

In the OIR, the Commission proposed to require all carriers to remit ULTS surcharge revenues based on their end-user billings for a given period, less estimated uncollectibles (the "as-billed method"). Carriers would true-up their estimated ULTS surcharge uncollectibles with their actual uncollectibles. The Commission attached to the OIR a proposed surcharge remittance form that reflected the as-billed method, along with instructions on how to complete and submit the remittance form. The Commission also proposed to revise GO 153 to state that the Commission or TD may promulgate the methods that carriers must use to remit the ULTS surcharge. However, in an effort to minimize the need to make future revisions to GO 153, the Commission did not propose to include the as-billed method in the General Order.[198]

b. Position of the Parties

Calaveras and Roseville oppose the as-billed method proposed in the OIR. They state that requiring carriers to estimate uncollectibles and perform a true-up is burdensome and unnecessary. Calaveras also suggests that the as-billed method its flawed because it would require carriers to remit the amount of ULTS surcharge they are supposed to bill end users, and not the amount of surcharge that was actually billed to end users.

Pacific states that Line 1 of the surcharge transmittal form should be changed. Line 1 currently asks carriers to list their "[t]otal intrastate billings

[197] OIR, Appendix B, Section IV.7.

subject to surcharge." Pacific states that the quoted phrase is confusing as to whether it is asking for an estimated billing base or the actual end-user billings for a given period. For clarity, Pacific recommends that Line 1 be revised to state "End-user billings subject to surcharge for the period."

c. Discussion

We shall adopt the OIR proposal to require all carriers to remit ULTS surcharge revenues based on their intrastate end-user billings for a given period, less uncollectibles (the "as-billed method"). Carriers shall then true-up their estimated ULTS surcharge uncollectibles with their actual uncollectibles.

We are not persuaded by Calaveras and Roseville that the as-billed method will be burdensome for those carriers that do not already use the method. These parties provided no evidence that the as-billed method is any more burdensome than alternate methods for remitting the ULTS surcharge revenues.[199] Furthermore, Calaveras and Roseville fail to consider that ULTS program administrators currently have to contend with more than 1,100 carriers using a variety of different methods to remit ULTS surcharge revenues. Therefore, if some carriers do incur higher costs because of the as-billed method, these costs will be offset, at least to some extent, by lower ULTS program administrative costs that will result from carriers using one method to remit surcharge revenues instead of many.

We find no merit to Calaveras' argument that the as-billed method should not be adopted because carriers can only be held responsible for the actual

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[198] OIR, Appendix B, Section IV.7, and Appendix E.

[199] Carriers should already be using the as-billed method to remit surcharge revenues for the CHCF-A, CHCF-B, CTF, and DDTP. Thus, carriers should experience little, if any, additional burden of using the as-billed method to remit ULTS surcharge revenues.

amount of ULTS surcharge they bill to end users (versus the as-billed method that would hold carriers responsible for the amount of ULTS surcharge they are supposed to bill to end users). What Calaveras appears to be suggesting is that carriers that bill end-users for less than the correct amount of ULTS surcharge should not be held accountable. Adopting this suggestion is out of the question since it would eviscerate our control over ULTS surcharge revenues.

There was no opposition to Pacific's proposed revision to Line 1 of the surcharge transmittal form (STF). Therefore, we shall adopt Pacific's proposal. We shall also add the word "intrastate" to Line 1 so that it reads as follows: "Total *intrastate* end-user billings subject to surcharge for the period." The revised STF that we adopt today is in Appendix E of this decision.

Finally, we shall not adopt the OIR proposal to not include the as-billed method in GO 153. Later in this decision, we conclude that GO 153 should contain all ULTS program rules. Therefore, we shall revise GO 153 to describe the as-billed method and require all carriers to use the as-billed method.

E. Revisions to GO 153 Arising from 1995 Workshop

In D.94-10-046, the Commission ordered workshops to develop proposals for revising GO 153 to reflect the changes to the ULTS program that had occurred since the issuance of GO 153 in 1984.[200] Workshops were held, and a workshop report was issued in December 1995 (the 1995 Workshop Report). Several proposals in the 1995 Workshop Report were implemented by the Commission,[201] but no formal action was ever taken to adopt or reject the

[200] D.94-10-046, OP 3, as modified by D.95-04-008.

[201] The following proposals from the 1995 Workshop Report have been adopted by the Commission: (1) Definition of the billing base subject to the ULTS surcharge (Resolution T-15826 issued on December 20, 1995); (2) The ULTS surcharge remittance form (Ibid.); and

Footnote continued on next page

remaining proposals in the 1995 Workshop Report. In D.98-06-007, the Commission ordered the remaining proposals in the 1995 Workshop Report to be considered in this proceeding.[202] Each of these proposals is addressed below.

1. Annual Re-Certification of Customer Eligibility

a. Background

General Order 153 requires ULTS customers to annually re-certify their eligibility to participate in the program by signing and submitting the re-certification forms provided by the utilities.[203] The 1995 Workshop Report proposed to reduce ULTS program administrative costs by requiring ULTS customers to re-certify their eligibly every two years instead of every year.

In the OIR, the Commission proposed to retain the existing practice of annual re-certification. The Commission reasoned that although there are cost savings to be gained from performing re-certification every two years, it could also result in unnecessarily prolonging the provision of ULTS benefits to customers whose income levels have changed to disqualify them from the program. The Commission also proposed to revise GO 153 to allow utilities the option of re-certifying their ULTS customers in one of two ways: (1) mail a re-certification form to each ULTS customer on the approximate anniversary date of the customer joining the ULTS program, or (2) mail re-certification forms to all ULTS customers at the same time each year, including to customers who have been in the ULTS program for less than one year. Customers who fail to return a

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(3) The ULTS Claim Form (D.96-10-066, Appendix B, Rule 5.A.1.e). This decision revises GO 153 to incorporate the proposals from the 1995 Workshop Report that were previously adopted by the Commission.

[202] D.98-06-007, OP 1.

[203] GO 153, Section 3.12.

signed re-certification form within 45 days would be charged regular tariffed rates retroactive to the date the re-certification form was mailed.[204]

b. Position of the Parties

MCI supports the OIR proposal.

Citizens recommends two modifications to the OIR proposal. First, ULTS customers should be required to return a signed re-certification form within 30 days instead of 45 days as proposed in the OIR. Citizens states that the longer customers have to return the form, the higher the probability of the form being lost or forgotten. Second, if customers fail to return the re-certification form, utilities should bill these customers the regular tariffed rates on a prospective basis, not retroactively as proposed in the OIR. Citizens states that billing on a prospective basis is simpler and less costly than billing on a retroactive basis.

CCTA and Public Advocates oppose the OIR proposal to require utilities that conduct blanket re-certifications to re-certify those ULTS customers that have been enrolled in the program for less than one year. They state that requiring ULTS customers to re-certify less than one year after their initial certification would cause unnecessary confusion for these customers.

Public Advocates also recommends that utilities be required to mail a second re-certification form to ULTS customers who fail to return the first re-certification form. Public Advocates states that the main reason people do not have telephone service is that their service is terminated and not re-connected. According to Public Advocates, low-income customers often reside at locations that do not offer the security of a private mailbox. In addition, low-income customers are more likely to change residences than higher income groups.

[204] OIR, Appendix B, Section V.2.

Considering these factors, Public Advocates believes that at least two re-certification notices should be mailed before service is disconnected.

GTE estimates it would incur costs of approximately $190,000 to mail a second re-certification form to those ULTS customers who failed to return the first form. GTE states that the costs of the second mailing should be reimbursable from the ULTS Fund. Roseville states that Public Advocates' proposal is unnecessary since what typically happens when re-certification forms are not returned is that utilities do not disconnect, but rather begin to bill at the full tariffed rate.

Finally, Roseville states that it re-certifies all of its ULTS customers as of January 1st of each year. To ensure re-certification by January 1st, Roseville mails the re-certification forms in early November. Roseville states that the OIR proposal to make full rates retroactive to the date of mailing may result in some ULTS customers being inappropriately deprived of two months of ULTS service. Roseville therefore requests that utilities be granted authority to assess full rates retroactive to the date that the re-certification form was due, rather than the that date the form was mailed as proposed in the OIR.

c. Discussion

There was no opposition to the OIR proposal to retain the current practice of annual re-certification. Therefore, we shall adopt the proposal. We recognize there are cost savings to be gained from performing re-certification every two years, but it could also result in unnecessarily prolonging the provision of ULTS benefits to customers whose income levels have risen to disqualify them from the program. Many low-income households strive to improve their economic status, and are often successful to the point of exceeding the ULTS program income-eligibility criteria.

We shall adopt the OIR proposal to revise GO 153 to require utilities to annually re-certify their ULTS customers in one of two ways: (1) mailing a re-certification form to each ULTS customer on the approximate anniversary date of the customer joining the ULTS program, or (2) blanket mailing of re-certification forms to all ULTS customers at the same time each year. We disagree with CCTA and Public Advocates that customers who have been enrolled in the ULTS program for less than one year should be excluded from the blanket re-certification. Excluding these customers would mean that a ULTS customer's first re-certification by a utility that conducts blanket re-certifications would not occur until 13 to 24 months after the customer's initial certification. As stated earlier, the longer re-certification is delayed, the greater the likelihood of prolonging the provision of ULTS benefits to customers whose income levels have risen enough to disqualify them from the program.

We are not persuaded by Public Advocates that blanket re-certification would create unnecessary confusion for those ULTS customers who have been enrolled in the ULTS program for less than one year. We believe any confusion can be mitigated by requiring those utilities that conduct blanket re-certifications to inform customers when they initially enroll in the ULTS program, and with each blanket re-certification thereafter, that re-certification will be conducted at the same time each year regardless of when the customer enrolled in the ULTS program.[205] That way, when the re-certification form arrives, it will be anticipated by many of the ULTS customers who enrolled within the previous year; while the remaining ULTS customers who enrolled within the previous

[205] This decision, *infra*, requires utilities to mail the re-certification form 30 days prior to the "due date" for the re-certification form. Customers who enroll in the ULTS program within this 30-day window will not have to re-certify until the following year.

year will have sufficient information provided to them at the time of re-certification to understand that re-certification occurs at the same time every year, and that they will not have to re-certify again until the same time next year.

We concur with Citizens that ULTS customers should be required to return the re-certification form within 30 days instead of 45 days as proposed in the OIR. ULTS customers are currently required by GO 153 to return the re-certification forms within 30 days,[206] and no party presented any evidence that this is burdensome to ULTS customers. Furthermore, allowing customers 30 days to return re-certification forms instead of 45 days has the advantage of identifying ineligible customers sooner, thereby reducing ULTS program costs.

We disagree with Public Advocates that utilities should be required to mail a second re-certification form to ULTS customers who fail to return the first re-certification form in order to avoid unintended lapses in telephone service. Public Advocates failed to present any evidence to support its assertion that the disconnection of ULTS customers for failure to return a re-certification form is a significant problem. Furthermore, as Roseville points out, ULTS customers are not disconnected for failure to return a re-certification form. Rather, they are billed the normal tariffed rates and charges. Once ULTS customers realize what has happened, it is a simple matter for them to inform the utility, obtain and return a re-certification form, and have their ULTS service restored.[207] And finally, there is a cost to the ULTS program of requiring utilities to mail a second re-certification form. We believe that it is unfair to force those who pay for the ULTS program to bear this cost unless there is evidence of a significant problem.

[206] GO 153, Section 3.12.

Finally, we agree with Citizens and Roseville that those ULTS customers who fail to return re-certification forms should be removed from the ULTS program effective as of the date the forms are due instead of when the forms were mailed as was proposed in the OIR. Therefore, we shall revise GO 153 to require each utility to establish a "due date" by which ULTS customers must submit a signed re-certification form. The due date should be either (1) the customer's anniversary date, or (2) the utility's current due date for "blanket" re-certifications. The utilities shall mail the re-certification form at least 30 days before the due date. ULTS customers who fail to return a re-certification form by the due date shall pay normal tariffed rates effective as of the due date.

2. Time Limit for Submitting ULTS Claims

a. Background

The 1995 Workshop Report raised the issue of whether there should be a time limit for how long utilities should have to submit ULTS claims. However, the Report contained no recommendation on how to resolve this issue.

In the OIR, the Commission proposed to revise GO 153 to state that utilities will not be reimbursed for ULTS claims that are filed more than two years after the claims are due. Utilities that submit a timely claim would have two years from the deadline for the initial claim to submit a true-up claim. Any true-up claims submitted more than two years after the deadline would not be paid.[208]

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[207] Utilities should credit ULTS customers for any normal tariffed rates and charges paid by ULTS customers during an interruption of ULTS service caused by a failure to timely return a re-certification form.

[208] OIR, Appendix B, Section V.3.

b. Position of the Parties

Evans states that utilities should have authority to request a waiver of the two-year limit for filing initial ULTS claims and true-ups, and that ULTS program administrators should have authority to grant waivers.

c. Discussion

We shall adopt the OIR proposal to revise GO 153 to state that (1) utilities shall not be reimbursed for ULTS claims that are filed more than two years after the claims are due, (2) utilities that submit a timely claim shall have two years from the deadline for the initial claims to submit a true-up claim, and (3) true-up claims submitted more than two years after the deadline will not be paid, except as specified below. Interest shall be paid to, or received from, utilities that submit timely true-up claims. The rate of interest on true-up claims shall be based on the 3-month commercial paper rate. [209]

We agree with Evans that utilities should have authority to request a waiver of the two-year deadline for filing initial claims and true-ups claims. If a utility believes that a waiver is necessary, it should submit its request, in writing, to the Director of the TD and the members of the ULTSAC. The request should provide a complete explanation for why the waiver is necessary. The ULTSAC shall consider and act on the waiver request during public meetings conducted in accordance with the Bagley-Keene Act. The ULTSAC should grant a waiver only if the utility can demonstrate that it did not submit an initial claim or true-up

[209] Interest should accrue beginning on the date that payment on the initial claim was due to be made (i.e., the 60th day after the deadline for filing the initial claims) and end on the date that payment on the true-up claim is made.

claim within the two-year deadline due to circumstances beyond its control.[210] If the ULTSAC grants the waiver, and the initial claim or true-up claim is ultimately granted, the ULTSAC shall have the discretion to determine what interest, if any, should be paid to, or received from, the utility for its late-filed claim.[211]

3. Time Limits for Record Keeping and Audits

a. Background

The 1995 Workshop Report raised the issue of whether there should be a time limit on (1) how long utilities should retain records pertaining to their ULTS surcharge remittances and ULTS claims; and (2) how long the Commission should have to audit utilities' ULTS claims. However, the 1995 Workshop Report contained no recommendation on how to resolve this issue.

In the OIR, the Commission proposed to revise GO 153 to require carriers and utilities to retain for five years all their records related to (1) ULTS surcharge remittances, and (2) ULTS claims (including five years following the submittal of a true-up claim). The Commission also proposed to place no time limit on audits of ULTS surcharge remittances and ULTS claims. The Commission stated that its ability to conduct audits and obtain reimbursement from carriers and utilities should depend on the law and circumstances existing at the time the Commission discovers a discrepancy in the amount of ULTS surcharge remitted by a carrier or ULTS claims paid to a utility.[212]

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[210] Earlier in this decision, we authorized utilities to file true-up claims after the expiration of the two-year deadline if a taxing authority determines after the deadline that the amount of taxes paid in prior years by a utility on behalf of its ULTS customers was incorrect.

[211] The Commission, the Commission's Executive Director, and the Director of TD have authority to override any decision made by the ULTSAC on any matter.

[212] OIR, Appendix B, Section V.3.

b. Position of the Parties

Evans and Roseville recommend a two-year limit for audits and record retention. AT&T, CCTA, and MCI recommend a five-year limit for audits and record retention. GTE and Pacific propose a two-year limit for audits, and a five-year limit for record retention, unless other legal/regulatory requirements dictate a longer period of time for record retention. Pacific also states that carriers and utilities should have an opportunity to formally contest audit results prior to having to pay the ULTS Fund for a discrepancy identified by an audit.

ORA supports the OIR proposal for a five-year limit on record retention. ORA also recommends that the Commission adopt a general policy of limiting routine audits to five years, but allow audits for longer periods if warranted.

TURN supports the OIR proposal to place no time limit on audits. TURN believes that because of the heavy workload at the Commission, audits will inevitably be placed on the back burner. Because of this, TURN states there should not be a statute of limitations that would preclude the Commission from conducting an audit if evidence surfaces indicating that an audit is warranted.

c. Discussion

We are not persuaded by Evans, GTE, Pacific Bell, and Roseville that we should adopt a two-year limit on audits of ULTS surcharge remittances and ULTS claims. To protect the ULTS program from waste, fraud, and abuse, we must periodically audit carriers' remittances of ULTS surcharge revenues and utilities' claims for ULTS costs. However, there are more than 1,100 carriers and utilities, and we simply lack the resources to audit every one of these entities. Therefore, when one of these entities is audited, the scope of the audit must

extend beyond two years in order to ensure that a meaningful portion of total ULTS program surcharge revenues and ULTS claims may be audited.[213]

We are persuaded, however, that there should be some time limit on audits, since the absence of any time limit may cause carriers and utilities to expend money and resources to indefinitely retain ULTS-related records in order to protect themselves from audits. Therefore, we shall limit the scope of audits to five calendar years following the year in which ULTS surcharge revenues are remitted or ULTS claims submitted, except in cases where there appears to be malfeasance (e.g., gross waste, fraud, or abuse). Where there is an indication of malfeasance, our ability to conduct an audit and seek reimbursement will depend on the law and circumstances existing at the time.

We shall also adopt the OIR proposal to (1) require carriers to retain all records related to ULTS surcharge remittances for a period of five years, and (2) require utilities to retain all records pertaining to ULTS claims for a period of five years.[214] This is consistent with our newly adopted policy of limiting the scope of audits to five years, except in cases of malfeasance. We clarify that the five-year limit on record retention is five calendar years following the calendar year in which surcharges are remitted or claims submitted. We further clarify

[213] Assuming every carrier and utility is audited once every ten years, and the scope of audits is limited to two years, then eight out of ten years worth of surcharge remittances and ULTS claims (i.e., 80% of the total) would never be subject to an audit.

[214] The records that must be retained for five years includes the following: (1) records of all intrastate billings and collections, (2) customer self-certification and re-certification forms, (3) ULTS Claim Forms and workpapers supporting the claim forms, and (4) accounting books and records used to prepare ULTS Claim Forms and supporting workpapers.

that the record retention period for ULTS claims will be extended for two calendar years following the year in which a timely true-up claim is submitted.[215]

Finally, we disagree with Pacific that carriers and utilities should have an opportunity to formally contest audit results prior to reimbursing the ULTS Fund for any discrepancy identified by an audit. We expect carriers and utilities to promptly reimburse the ULTS Fund for any under-remittance of ULTS surcharge revenues or overpayment of ULTS claims that are uncovered by an audit.[216] The carrier or utility may formally contest the audit results after it has reimbursed the ULTS Fund by filing an application with the Commission. Any amount that the Commission finds was improperly reimbursed shall by repaid by the ULTS Fund with interest equal to the 3-month commercial paper rate.

We also expect the ULTSAC to authorize the ULTS Fund to: (1) promptly reimburse a carrier or utility for any over-remittance of ULTS surcharge revenues or underpayment of ULTS claims that are uncovered by an audit; and (2) pay interest on the amount of reimbursement based on the 3-month commercial paper rate. If the carrier or utility believes that the amount of reimbursement is too little, the entity may file an application with the Commission for additional reimbursement. Any amount of under-reimbursement found by the Commission shall by paid by the ULTS Fund to the carrier or utility with interest equal to the 3-month commercial paper rate.

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[215] For example, if a utility submits a ULTS claim in 1999, and a true-up claim in 2001, the utility would be required to retain records related to both claims through calendar year 2006.

[216] Utilities shall pay interest on the amount they are found to owe to the ULTS Fund based on the 3-month commercial paper rate. Carriers shall pay 10% interest on the amount they are found to owe to the ULTS Fund.

4. Interest on Untimely ULTS Surcharge Remittances

a. Background

The 1995 Workshop Report identified the following options to enforce the remittance of ULTS surcharge revenues: (i) the revocation of a carrier's CPCN, (ii) making Commission actions on a carrier's requests contingent upon the carrier's remittance of surcharge revenues, (iii) filing a lawsuit against the carrier, (iv) imposing a penalty for non-remittance of surcharge revenues, and (v) imposing interest on late remittances. The 1995 Workshop Report contained no recommendation on whether these enforcement procedures should be adopted and included in GO 153.

In the OIR, the Commission stated that with one exception, GO 153 should not include the enforcement procedures identified in the 1995 Workshop Report, since these procedures would be available even if they were not in GO 153. The one exception was the Commission's proposal in the OIR to revise GO 153 to require carriers to pay interest on late remittances of ULTS surcharge revenues. However, instead of including a specific rate of interest in GO 153, the Commission proposed to revise GO 153 to state that the rate of interest would be established and periodically revised by the Commission or TD. And finally, the Commission stated that consistent with its action in D.98-01-023, carriers should pay 10% interest on the late remittance of ULTS surcharge revenues.[217]

b. Position of the Parties

AT&T, Calaveras, CCTA, COX, Evans, GTE, MCI, ORA, Pacific, and Roseville recommend that the same rate of interest apply to both the late

[217] OIR, Appendix B, Section V.4. In D.98-01-023, the Commission ordered any carrier that is late in remitting California High Cost Fund-B surcharge revenues or California Teleconnect Fund surcharge revenues to pay interest at an annual rate of 10% on its late remittances.

remittance of ULTS surcharge revenues and the late payment of ULTS claims. Pacific contends that it would be arbitrary and capricious for the Commission to apply one rate of interest to late surcharge remittances, and another rate of interest to late ULTS claim payments.

CCTA states that any future changes to the rate of interest applicable to surcharge remittances should be done by Commission decision, rather than being left to the discretion of TD. Pacific states that carriers should be allowed to comment on any future proposed changes to the rate of interest. And finally, Evans recommends that the specific rate of interest applicable to late surcharge remittances be included in GO 153.

c. Discussion

There was no opposition to the OIR proposal to exclude from GO 153 the following ULTS surcharge enforcement procedures identified in the 1995 Workshop Report: (1) the revocation of a carrier's CPCN, (2) making Commission actions on a carrier's requests contingent upon the carrier's remittance of surcharge revenues, (3) filing a lawsuit against the carrier, and (4) imposing a penalty for non-remittance of surcharge revenues. Therefore, we shall adopt the OIR proposal. However, as noted in the OIR, the above enforcement procedures are available for our use even if they are not included in GO 153. We will not hesitate to employ these procedures, as necessary, to compel a carrier to remit ULTS surcharge revenues.

We decline to adopt the parties' recommendation to apply the same rate of interest to both late ULTS surcharge remittances and late ULTS claim payments. Elsewhere in this decision, we require the ULTS Fund to pay interest equal to the 3-month commercial paper rate on utilities' ULTS claims that are not paid on a timely basis. We believe that it is both reasonable and necessary to require carriers to pay 10% interest on late ULTS surcharge remittances instead of the

lower 3-month commercial paper rate. This is because many carriers may be able to invest ULTS surcharge revenues at rates of return much higher than the 3-month commercial paper rate.[218] As a result, requiring carriers to pay the 3-month commercial paper rate on the late remittance of ULTS surcharge revenues may not provide a financial incentive for carriers to timely remit the surcharge revenues.[219] Therefore, to discourage carriers from using public moneys for private gain, we shall adopt the OIR proposal to require carriers to pay 10% on surcharge revenues that they are late in remitting to the ULTS Fund.

We agree with CCTA that any future changes to the rate of interest applicable to the late remittance of ULTS surcharge revenues should only be done by Commission decision. Therefore, we shall not adopt the OIR proposal to allow TD to revise the rate of interest on late remittances. We also agree with Pacific that carriers should have an opportunity to comment on future changes to the rate of interest. Our formal decision-making process will provide carriers with notice and an opportunity to comment on any future changes to the rate of interest applicable to the late remittances of ULTS surcharge revenues.

Finally, we agree with Evans that GO 153 should include the specific rate of interest applicable to the late remittances of ULTS surcharge revenues. Therefore, we shall revise GO 153 to require carriers that are late in remitting ULTS surcharge revenues to pay interest equal to a 10% annual rate beginning on the date that the remittances are due.

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[218] For example, many carriers may be able to invest money in their own businesses at rates of return much higher than the 3-month commercial paper rate.

[219] There is no financial incentive for the ULTS Fund to withhold ULTS claim payments from utilities, since the ULTS Fund must pay interest on late payments equal to the 3-month commercial rate, but none of the investment options available to the ULTS Fund are likely to yield rates of return higher than the 3-month commercial paper rate.

F. Multiple ULTS Lines for Low-Income Disabled Customers

1. Background

The Deaf and Disabled Telecommunications Program (DDTP) provides customers who are deaf, hard of hearing, or disabled with free equipment and services to enable them to communicate over the public telephone network.[220] The equipment provided by the DDTP includes speaker phones, amplifiers, and text telephone ("TTY") devices.[221] The services provided by the DDTP include directory assistance, operator assistance, and the California Relay Service (CRS).[222] The DDTP is funded by a surcharge paid by the end users of intrastate telecommunications services. The DDTP's budget for 1999 is $52,206,319.[223]

The DDTP Administrative Committee (DDTPAC)[224] submitted comments stating that many low-income disabled customers are ineligible to participate in the ULTS program. This is because ULTS program rules do not allow customers to participate in the program if they have more than one phone line, but many low-income disabled customers have two lines in order to use specialized telecommunications equipment and services to communicate with others. DDTPAC asked the Commission to revise the ULTS program to allow low-income customers with more than one phone line to participate in the program if the additional lines are needed for disability-related reasons.

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[220] The DDTP was established pursuant to Pub. Util. Code § 2881, et seq.

[221] A TTY device uses a phone line to send and receive information in text and graphic forms.

[222] Directory assistance is meant for those who cannot see or hold a telephone directory. Operator assistance is meant for those who cannot dial phone numbers. The CRS enables anyone with a TTY devise to communicate by phone with anyone who dose not use a TTY devise. The CRS works by calling a CRS operator who "translates" between text and voice communications. CRS operators are available 24 hours a day. There is no extra charge to use the relay service -- callers only pay for the cost of the call.

[223] Resolution T-16234, issued on December 17, 1998.

DDTPAC's comments went beyond the scope of this proceeding as set forth in OIR 98-09-005. On February 10, 1999, the assigned Commissioner issued a ruling that expanded the scope of this proceeding "to include the narrow issue of whether a low-income customer should receive the ULTS discount on two residential lines if both lines are required to operate specialized equipment or services for the deaf and disabled." (emphasis in original) The assigned Commissioner's ruling was affirmed by the Commission in D.99-05-044.

2. Position of the Parties

DDTPAC states that low-income households should receive two discounted phone lines from the ULTS program ("ULTS lines") if both lines are needed for disability-related reasons. DDTPAC offers several examples to support its recommendation. First, many hard-of-hearing persons use two-line voice carryover (two-line VCO). Two-line VCO works by using 3-way calling to conference the hard-of-hearing person with the non-disabled caller and the CRS operator. The CRS operator types what is being spoken, while the hard-of-hearing person hears the spoken portion of the call on the first phone line, and reads the typed portion of the call simultaneously on the second phone line. The DDTP provides the TTY devise and the CRS operator, but the customer must subscribe to 3-way calling and provide both phone lines. However, low-income households that subscribe to a second phone line in order to use two-line VCO lose their ULTS discount on the first line.[225]

The second example offered by DDTPAC to show why disabled persons need two phone lines concerns the use of videophone equipment by deaf

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[224] DDTPAC was established by the Commission to administer the DDTP.

[225] GTE, ORA, and Pacific agree with DDTPAC that low-income hard-of-hearing customers should be provided with two ULTS lines in order to use two-line VCO.

customers to connect with video-relay interpreting (VRI) service. DDTPAC states that American Sign Language (ASL) is the first language of most deaf customers. Through the use of VRI service, deaf customers can telephonically communicate with hearing persons in their first language, ASL, instead of typing their message on a TTY device. VRI service, because of the large bandwidth requirements of video communications, requires two lines to work effectively.[226]

The third example offered by DDTPAC concerns the amount of time required by disabled persons to make a telephone call. DDTPAC states that calls made on a TTY devise take up to four times as long to convey the same information as a voice telephone call. Because of this, a household with both deaf and hearing members may need a second line in order to provide everyone with satisfactory access to phone service.[227]

A final example offered by DDTPAC to show why households with disabled members need two phone lines concerns the inability of a deaf household member to know if an incoming call is for him/her. DDTPAC states that many deaf people who live with hearing people do not answer the phone when they are home alone. This is because there is no practical way for the deaf person to handle incoming "voice calls" due to their inability to hear the calling party. DDTPAC states that designating one line for TTY calls and another line for voice calls would allow a deaf person to know when a call is for him/her.

DDTPAC states the Commission should rely on the existing procedures to certify the eligibility of low-income disabled customers to receive two ULTS lines.

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[226] GTE agrees with DDTPAC that VRI requires two phone lines to work effectively. GTE states that VRI is in the early stages of development, and that the costs associated with VRI can be substantial, including costs of trained sign language interpreters.

[227] Calaveras agrees with DDTPAC that the ULTS program should provide two ULTS lines to low-income households with a hard-of-hearing member.

Thus, customers would certify that they meet ULTS income-eligibility criteria by submitting a signed self-certification form to the utility; and customers would certify that they are disabled by submitting a medical certificate to their utility.[228]

Calaveras, GTE, MCI WorldCom (MCIW), ORA, and Pacific support DDTPAC's proposal to provide two ULTS lines to low-income households if both lines are needed for disability-related reasons. Pacific believes, however, that the Commission may not have authority to provide two ULTS lines. Pacific notes that Pub. Util. Code § 878 states that a ULTS customer "shall be provided with one single party line at his or her principal place of residence." (Emphasis added.) Pacific believes that because Pub. Util. Code § 878 mentions only one phone line, the statute may have to be amended before the Commission could allow low-income disabled customers to receive two ULTS lines.

Calaveras states that if DDTPAC's proposal is adopted, then the Commission should: (1) determine what equipment and services are necessary to meet the communications needs of disabled customers; (2) require the ULTS Marketing Board to publicize the availability of two ULTS lines; (3) require utilities to include information in their annual ULTS notices sent to all residential customers about the availability, terms, and conditions of two ULTS lines; and (4) authorize the ULTS Fund to reimburse utilities for the second ULTS line to the same extent that utilities are reimbursed for the first ULTS line.

Calaveras, GTE, and Pacific support DDTPAC's proposal to rely on existing procedures to establish a customer's eligibility for the second ULTS line. Calaveras recommends, however, that the ULTS self-certification form be

[228] Pursuant to Pub. Util. Code § 2881, the DDTP may only dispense specialized equipment to disabled customers for whom a medical professional has submitted written certification of a medical need for the specialized equipment.

modified to state that the certifying party cannot communicate over the public telephone network without the aid of specialized equipment requiring the use of two phone lines. Calaveras also recommends that parents or guardians be allowed to certify on behalf of children and other individuals who are unable to complete a certification form. Pacific adds that because disabled customers can obtain specialized equipment from either the DDTP or private manufacturers, there is no one information source to verify that customers have this equipment. Pacific states that it could be costly for utilities to verify a customer's eligibility for a second ULTS line through means other than self-certification.

Calaveras states that households should be required to annually re-certify their eligibility to receive two ULTS lines due to the possibility that the member of the household for whom the second line is provided might move out or no longer require two lines.[229] Pacific disagrees. According to Pacific, the types of disabilities that produce a need for special equipment are not temporary.[230] However, if some re-certification of disability is required, Pacific states that it should be done as part of the annual re-certification process for ULTS customers.

MCIW and Pacific state that because federal programs subsidize only one ULTS line per residence,[231] the ULTS program would have to fully subsidize the second ULTS line provided to low-income disabled customers. GTE states that the Commission should avoid jeopardizing financial support from the federal Lifeline program which is available only to states that base eligibility for their

[229] DDTPAC states that the ULTS re-certification form may need to be modified to require a statement that the person with a disability still resides in the household.

[230] GTE and DDTPAC concur with Pacific that disabilities requiring the use of specialized equipment are generally not temporary in nature.

[231] Federal rules provide for a reduction in the price for a single telecommunications connection at a consumer's principal place of residence. (47 C.F.R. 54.411 (a) (1))

low-income programs on factors directly related to income. In order to retain federal financial support, GTE states that the provision of two ULTS lines must be premised on the over-arching requirement of income-based eligibility.

ORA states that the Commission should adopt a technologically neutral approach for providing disabled persons with access to basic telephone service.[232] ORA also states that technological developments may render obsolete the need for two lines to operate specialized equipment and services for disabled persons. For instance, if digital subscriber lines become widespread and economical, then it may be possible to meet the needs of disabled persons with just one line.[233]

GTE and Pacific cannot estimate their costs to provide two ULTS lines. They state that their costs would depend on a number of variables, including (1) the number of disabled customers who receive two ULTS lines,[234] (2) the level of federal support for these customers, and (3) the actual procedures adopted for certification and re-certification of these customers. They also state that if DDTPAC's proposal is adopted, utilities should be given adequate time to modify their service provisioning and billing systems, train service representatives, and modify their certification forms.

Pacific states that it is possible to give a ball-park estimate for recurring costs on a per customer basis. Assuming that the federal lifeline program subsidizes only one telephone line per customer, and that current procedures are

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[232] AT&T and the DDTPAC agree with ORA that the Commission should adopt a policy concerning the provision of ULTS to disabled customers that is technology neutral.

[233] DDTPAC agrees with ORA that technological developments may make the need for two lines obsolete in some circumstances The DDTP believes, however, that until such technological developments become widely deployed, low-income disabled customers should receive two ULTS lines.

[234] GTE believes that the number of customers who qualify for a second ULTS line would be small in comparison to the total number of customers who qualify for the ULTS program.

used to certify and re-certify eligibility for two ULTS lines, the incremental recurring cost to the ULTS program per customer for the second line would be roughly $10.63 per month ($5.63 for service plus $5 for EUCL) for ULTS flat-rate service. However, Pacific cannot estimate recurring charges for ULTS measured-rate service or for taxes and surcharges associated with a second line.

3. Discussion

a. Additional ULTS Lines for Low-Income Disabled Customers

The fundamental goal of the ULTS program is to provide low-income households with access to affordable basic telephone service. Implicit within this goal is ensuring that all members of low-income households have access to affordable basic telephone service, including members who are disabled.

The record in this proceeding demonstrates that many low-income households with disabled members require more than one phone line to access basic telephone service. Therefore, to ensure that such households have access to affordable basic telephone service, we shall adopt a policy of providing each low-income household with a disabled person with as many ULTS lines as needed by the household to access basic telephone service. All ULTS rules that apply to the first ULTS line shall apply equally to each additional line.[235]

We disagree with Pacific that Pub. Util. Code § 878 prevents low-income households with disabled members from receiving two or more ULTS lines. Pub. Util. Code § 878 states, in pertinent part, as follows:

> "A lifeline telephone service subscriber shall be provided with one single party line at his or her principal place of residence." (Emphasis added.)

[235] For example, the following ULTS rules that apply to the first ULTS line shall apply equally to each additional ULTS line: (i) connection charges and monthly recurring rates paid by ULTS customers; and (ii) monthly call allowance for measured service.

Although Pub. Util. Code § 878 requires that one phone line be provided, we do not interpret this to mean that additional lines cannot be provided if disabled customers need additional lines to access basic telephone service. Pub. Util. Code § 878 must also be read in conjunction with Pub. Util. Code § 871.5(b) which states, in pertinent part, that the purpose of the ULTS program is to make "basic residential telephone service affordable to low-income citizens through the creation of a lifeline class of service." We believe that modifying the ULTS program to provide more than one ULTS line to low-income households that need the additional lines to access basic telephone service due to the presence of a disabled household member falls squarely within the Legislature's intended purpose for the ULTS program.

b. Equipment & Services Qualifying for Additional ULTS Lines

We agree with DDTPAC that some disabled customers require two-line VCO to access basic telephone service, and that two-line VCO requires two phone lines to operate effectively. We also agree with DDTPAC and Calaveras that low-income households with at least two members, one of whom is disabled and uses a TTY device, should be allowed two ULTS lines so that all members of the household have access to basic service. Therefore, we shall modify the ULTS program to provide the aforementioned households with two ULTS lines.

We are not persuaded by DDTPAC that the ULTS program should at this time provide two ULTS lines for the use of video relay with VRI ("video relay service"). Video relay service (VRS) is not a residential service that is currently supported by the DDTP,[236] and because of this, we believe that few, if any, low-

[236] In Resolution T-16090, issued on December 16, 1997, the Commission denied DDTPAC's request to spend DDTP funds on VRS. (Resolution T-16090, mimeo., pp. 2, 21, 22.)

income disabled customers have access to the equipment and services that are necessary to operate VRS. However, pursuant to Resolution T-16207, issued on October 22, 1998, the DDTP is participating in a trial of VRS.[237] If the trial is successful and ultimately results in the widespread deployment of VRS to residential customers, we authorize TD to prepare a resolution that would modify the ULTS program to provide two ULTS lines to low-income disabled customers who require VRS to access basic telephone service.[238]

We recognize that there may other services that warrant two or more ULTS lines. Therefore, TD may prepare resolutions that designate additional telecommunications services that qualify for two or more ULTS lines. Any such resolution should demonstrate that the service meets all of the following criteria: (1) the service is required by a class or category of disabled persons to access ULTS, (2) the service requires two or more lines to operate effectively, (3) any equipment necessary to operate the service is provided by the DDTP, and (4) designation of the service as eligible for two or more ULTS lines does not create an undue financial burden on the ULTS program or the DDTP. To ensure that the ULTS program is technologically neutral, we shall not restrict the types of technologies that may be designated as eligible for two or more ULTS lines,[239]

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[237] Resolution T-16207, mimeo., p. 4. The trial consists of providing VRS at seven public locations located throughout California.

[238] Before TD prepares any resolution that modifies the number of ULTS lines provided by the UTLS program to low-income disabled customers, TD should submit the proposed modification to the ULTSAC and the DDTPAC. These committees should review and comment on TD's proposed modification during public meetings conducted in accordance with the provisions of the Bagley-Keene Act.

[239] Any entity providing ULTS, regardless of the technology used, must comply with all ULTS program rules and regulations.

so long as the designated technology is the most cost-effective means available to provide disabled persons with access to basic telephone service.[240]

c. Notice to Customers re: Additional ULTS Lines

Utilities are required to notify residential customers about the availability, terms, and conditions of ULTS when they first apply for telephone service and annually thereafter.[241] Since this decision expands the ULTS program to provide two ULTS lines to low-income disabled persons, the notice that utilities provide to their customers regarding the ULTS program should likewise be expanded to include information about two ULTS lines. Therefore, we shall modify GO 153 to require all utilities to notify residential customers about the availability, terms, and conditions of two ULTS lines when they first apply for residential service and annually thereafter. The utilities shall submit their annual notices to the Commission's Public Advisor for review and approval.

d. Marketing Additional ULTS Lines

In D.96-10-066, the Commission created the ULTS Marketing Board (ULTSMB) to market the ULTS program. The ULTSMB was given the responsibility by the Commission to develop a budget for marketing the ULTS program, to devise competitively neutral marketing strategies, and to oversee the implementation of ULTS marketing campaigns.

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[240] For example, if a low-income customer can only access BRTS by using specialized equipment that requires two voice-grade (VG) phone lines, but the same equipment can be operated with one Digital Subscriber Line (DSL), then the ULTS program should use the DSL if the total cost to the ULTS program for DSL is less than the total cost for two VG lines. Under this scenario, the monthly rate paid by the ULTS customer for DSL should be based on the following formula: [(# of VG lines needed to provide access to BRTS) x (ULTS rate ÷ tariffed rate)] x (DSL tariffed rate). The ULTS program should reimburse the utility for the difference between the monthly ULTS rate for DSL and the normal tariffed rate for DSL.

The ULTSMB's responsibilities shall henceforth include the duty to market the availability, terms, and conditions of two ULTS lines to low-income households with disabled members. To implement its new duty, the ULTSMB shall include in all of its future budget requests[242] proposed funding to market multiple ULTS lines. We will approve funding for this purpose as part of our annual resolution adopting a budget for the ULTSMB.[243]

e. Initial Certification of Eligibility for Two ULTS Lines

A core responsibility of the ULTS program is to ensure that program benefits are provided only to those who are eligible to receive the benefits. Earlier in this decision, we determined that a household is eligible to receive two ULTS lines if the household is low-income and has (1) a disabled member who needs two-line VCO to access basic telephone service, or (2) at least two members, one of whom is disabled and uses a TTY devise. It is axiomatic that households must have ready access to a TTY devise and, in the case of disabled customer who uses two-line VCO, subscribe to 3-way calling.

We agree with the parties that the existing procedures employed by the DDTP and the ULTS program to certify eligibility should be used, to the extent possible, to determine if a customer is qualified to receive two ULTS lines. As explained in more detail elsewhere in this decision, the ULTS program uses a two-step certification process. First, when customers call utilities to establish

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[241] See Pub. Util. Code § 876, GO 153, Sections 3.10 and 3.13, and D.96-10-066, Appendix B, Rule 5.A.1.a.

[242] Pursuant to D.97-12-105, OP 44, the ULTSMB is required to annually file at the Commission's Docket Office its proposed budget for the following year.

[243] Pursuant to D.97-12-105, OP 47, the Director of TD is required to annually prepare a resolution that authorizes the ULTSMB's budget for the following year.

residential phone service, the utilities inform the customers about the ULTS program. The utilities will immediately enroll customers into the ULTS program who verbally certify that they qualify for ULTS. Second, utilities promptly mail to newly enrolled ULTS customers a self-certification form that describes the availability, terms, and conditions of ULTS. Customers must sign and return the self-certification form in order to remain in the ULTS program.

Utilities shall henceforth issue a revised self-certification form that reflects the availability of two ULTS lines. In addition to complying with all existing requirements, the portion of the revised self-certification form signed and returned by the customer shall be modified to state that: (i) the household has a disabled member; (ii) the disabled member has submitted to the utility a medical certificate of disability[244]; and (iii) the disabled member has immediate and continuous access within the household to required equipment and services.[245] The self-certification form should be signed by the subscriber whose name appears on the account, and by the disabled household member, if different than the subscriber.[246] All utilities must have their revised self-certification forms reviewed and approved by the PA.[247]

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[244] The self-certification form should indicate that the medical certificate complies with Pub. Util. Code § 2881(a) and § 2881(c).

[245] In the case of a household with two or more members, one of who is disabled and uses a TTY devise, the "required equipment and services" is the TTY devise. In the case of a household with a disabled member who uses two-line VCO, the "required equipment and services" consists of (1) TTY devise, (2) 3-way calling, and (3) California Relay Service (CRS).

[246] Parents or guardians may sign the self-certification form on behalf of a disabled member of the household who is a child and/or cannot sign a self-certification form for disability-related reasons. Thus, the subscriber should sign the self-certification form twice if the subscriber is the parent or guardian of the disabled member of the household.

[247] Utilities have the option of (1) revising their existing self-certification forms to reflect the availability of two or more ULTS lines, or (2) developing a new self-certification form that is used exclusively by ULTS customers who qualify for two ULTS lines.

The certification process employed by the DDTP requires any person who seeks free equipment from the DDTP to submit to that person's local exchange carrier (LEC) a certificate of their disability signed by an authorized medical professional ("medical certificate").[248] Once the LEC has received a medical certificate, it provides the disabled customer with the appropriate equipment.[249] Therefore, because the LEC will have (1) received a medical certificate from the customer, and (2) distributed equipment to the customer, the LEC will know if (a) the customer is disabled and has ready access to the required equipment and services.[250] Consequently, there is no need to modify the DDTP certification process at this time to accommodate the provision of two ULTS lines to low-income customers who obtain the required equipment from the DDTP.

We recognize that there may be instances where a customer who seeks two ULTS lines may have obtained the required equipment (i.e., a TTY devise) from a source other than the DDTP. We will require such customers to certify their eligibility to receive two ULTS lines by submitting the following: (1) a medical certificate, and (2) a signed self-certification form which indicates that the customer has within his or her residence ready access to the required equipment ("equipment self-certification form"). The DDTPAC shall develop a draft equipment self-certification form, and post the draft form on the DDTP's website

[248] Customers may also submit a medical certificate to the DDTP which forwards the certificate to the appropriate LEC.

[249] ILECs and CLCs are currently required to provide telecommunications devices to disabled customers. (D.95-12-056 and D.96-02-072, Rule 4.F.(10)) In D.96-11-044, the Commission authorized CLCs to arrange for the ILEC to distribute equipment to the CLC's disabled customers residing in the ILEC's service territory. (69 CPUC 2d 301, at 302 and 304)

[250] In the case of two-line VCO, the "required equipment and services" consists of a TTY device, 3-way calling, and CRS. There is no need to verify that a customer has ready access to CRS since this service is provided free of charge by the DDTP via a toll-free number.

(www.ddtp.org) for review and comment by interested parties. After receiving comments, the DDTPAC shall revise the form, as appropriate, and then forward the final draft to the Public Advisor for review and approval.[251] All LECs and the DDTP shall use the equipment self-certification form approved by the Public Advisor.

To help ensure that only eligible customers receive two ULTS lines, we shall require utilities to adhere to the certification procedures identified in the following matrices:

Matrix 1
Existing ULTS Customer Applies for 2nd ULTS Line

Customer Already Has Required Equipment from the Utility (e.g., TTY devise)?	Customer Already Subscribes to Required Service from the Utility (e.g., 3-way calling)?	Required Certification Procedures (see description of procedures in Matrix No. 4 below)
Yes	Yes	C, K, L, M
Yes	No	D, E, K, L, M
No	Yes	F, G, H, I, K, L, M
No	No	F, G, H, J, K, L, M

[251] The DDTPAC shall review and approve the equipment self-certification form in public meetings of the committee conducted in accordance with the Bagley-Keene Act.

Matrix 2 **Non-ULTS Customer Applies for Two ULTS Lines**		
Customer Already Has Required Equipment from the Utility (e.g., TTY devise)?	Customer Already Subscribes to Required Service from the Utility (e.g., 3-way calling)?	Required Certification Procedures (see description of procedures in Matrix No. 4 below)
Yes	Yes	B, K, L, M
Yes	No	A, D, E, K, L, M
No	Yes	A, F, G, H, I, K, L, M
No	No	A, F, G, H, J, K, L, M

Matrix 3 **Customer with Required Equipment** **From non-DDTP Source Applies for Two ULTS Lines**		
Customer Already Subscribes to ULTS?	Customer Already Subscribes to Required Service from Utility (e.g., 3-way calling)?	Required Certification Procedures (see description of procedures in Matrix No. 4 below)
Yes	Yes	C, F, G, K, L, M, N, O, P, Q
Yes	No	D, E, F, G, K, L, M, N, O, P, Q
No	Yes	B, F, G, K, L, M, N, O, P, Q
No	No	A, D, E, F, G, K, L, M, N, O, P, Q

Matrix 4 **Description of Certification Procedures**	
Procedure	**Description**
A.	Provide 1st ULTS line upon verbal telephone certification of eligibility to participate in ULTS program.
B.	Provide 1st and 2nd ULTS line upon verbal telephone certification of eligibility to participate in ULTS program.
C.	Immediately provide 2nd ULTS line.
D.	Determine household size. If household has one member, provide required service (RS) as soon as possible. If household has two or more members, immediately provide 2nd ULTS line.
E.	If household has one member, provide 2nd ULTS line concurrent with the provision of RS, or as soon as possible thereafter.
F.	Provide customer with blank medical certificate.
G.	Obtain completed medical certificate.
H.	Provide customer with required equipment (RE).
I.	Provide 2nd ULTS line concurrent with the provision of QE, or as soon as possible thereafter.
J.	Determine household size. Provide 2nd ULTS line concurrent with, or as soon as possible thereafter, the following: (i) provision of RE if household has two or more members, or (ii) provision RE and RS if household has one member.
K.	Provide customer with the self-certification form (SCF) applicable to two ULTS lines (Note: Form is necessary for households that were previously provided with RE since the disabled member of the household for whom the equipment was provided may have moved since the RE was provided).
L.	Require customer to submit a signed SCF within 30 days.
M.	If customer does not return a signed SCF within 30 days, convert the 2nd ULTS line to normal service, and back bill the customer for prior ULTS discounts on the 2nd ULTS line.
N.	Provide customer with equipment self-certification form (E-SCF).
O.	Require customer to submit a signed E-SCF within 30 days.
P.	If the customer does not return a signed E-SCF within 30 days, convert 2nd ULTS line to normal service, and back bill for prior ULTS discounts on the 2nd ULTS line.
Q.	Require customer to submit signed medical certificate (MC) within 30 days. If customer does not return a signed MC within 30 days, convert 2nd ULTS line to normal service, and back bill for prior ULTS discounts on the 2nd ULTS line.

Pursuant to Resolution T-16303, issued on June 3, 1999, the responsibility for receiving medical certificates and distributing equipment to the disabled will be transferred from the utilities to the DDTP by no later than July 1, 2000. Once the DDTP has assumed this responsibility, utilities shall provide two ULTS lines to those customers for whom the utility has (1) found to be qualified for ULTS, (2) determined to have access to required services, and (3) obtained verification from the DDTP that the customer is disabled and has access to the required equipment. To enable utilities to obtain verification information from the DDTP, we shall require, as an interim measure, the DDTP to establish a point of contact (e.g., a call center) by July 1, 2000, for utilities to obtain verification information from the DDTP.[252] As a permanent solution, we shall require all utilities and the DDTP to develop and deploy a system by no later than July 1, 2001, to provide utilities with real-time access to the DDTP's database of customers who satisfy the disability and equipment-related eligibility criteria for two ULTS lines.[253] Utilities may recover from the ULTS Fund their costs to develop, deploy, and operate this system.

f. Annual Re-Certification of Eligibility for Two ULTS Lines

We agree with Calaveras that ULTS customers should annually re-certify their continued eligibility to receive two ULTS lines due to the possibility that the disabled member of the household for whom the second ULTS line is provided might move out of the household. Therefore, we shall require utilities to revise

[252] This decision adopts a process for amending ULTS program administrative procedures. TD may use this process to revise, as necessary, the procedures used by utilities to certify customer eligibly for two ULTS lines to reflect the transfer of responsibilities from the utilities to the DDTP for (1) certification of disability, and (2) equipment distribution.

[253] In Resolution T-16303, the Commission instructed the DDTP to establish a database of all the program's customer and equipment records.

the portion of the re-certification form that is signed and returned by a household with two ULTS lines to state that: (i) the disabled member of the household for whom the second ULTS line was originally provided is still a member of the household; and (ii) the disabled member has immediate and continuous access within the household to required equipment and services. The re-certification form should be signed by the subscriber whose name appears on the account, and by the disabled member, if different than the subscriber.[254] All utilities must have their revised re-certification forms reviewed and approved by the PA.[255]

We agree with DDTPAC, GTE, and Pacific that disabilities requiring the use of equipment provided by the DDTP are generally not temporary in nature. Therefore, we shall not adopt Calaveras' recommendation to revise the re-certification form to indicate whether the disabled person is still disabled.

Finally, when re-certifying ULTS customers for two ULTS lines, utilities shall ascertain whether customers still subscribe to any required services, such as 3-way calling. If a utility finds that a ULTS customer no longer subscribes to the required services, then the utility shall immediately remove the second ULTS line and back bill the customer for discounts on the second line that the customer should not have received.

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[254] Parents or guardians may sign the re-certification form on behalf of a disabled member of the household who is (1) a child and/or (2) a person who cannot sign a self-certification form for disability-related reasons. Thus, the subscriber should sign the re-certification form twice if the subscriber is the parent or guardian of the disabled member of the household.

[255] Utilities have the option of (1) revising their existing re-certification forms to reflect the availability of two ULTS lines, or (2) developing a new re-certification form that is used exclusively by ULTS customers who qualify for two ULTS lines.

g. Financial Support from the Federal Lifeline and Link Up Programs

The federal Lifeline and Link Up programs provide significant financial subsidies to eligible communications carriers (ETCs) for the purpose of enabling ETCs to provide telephone service at discounted rates to low-income residential customers.[256] The financial support that ETCs receive from the federal programs reduces ETCs' draws from the ULTS Fund on a dollar-for-dollar basis.

The federal Lifeline and Link Up programs subsidize one telephone line per low-income customer,[257] but there is nothing in the federal rules which indicates that an ETC will lose the federal subsidy for one line if the ETC provides more than one line to a low-income customer.[258] We concluded, therefore, that we may require utilities that are ETCs to provide two ULTS lines to qualified low-income households without these utilities losing their federal subsidies on the first ULTS line. However, because the federal Lifeline and Link Up programs do not support more than one discounted line per customer, the ULTS program will have to fully absorb the cost of providing a second ULTS line to qualified low-income households.

We note that the FCC is considering whether to subsidize rates for a second residential line provided to households that have one or more members with a hearing or speech disability, regardless of whether the household is "low income."[259] If the FCC ultimately decides to subsidize the rates for a second

[256] 47 C.F.R. § 54.403 and § 54.413.

[257] FCC 97-157, ¶¶ 62 and 384; and 47 C.F.R. §§ 54.401, 54.403(a), and 54.411(a)(1).

[258] 47 C.F.R. § 54.400, et seq.

[259] FCC 99-28, ¶¶41-45.

residential line, TD should reduce, as appropriate, the amount of reimbursement that utilities draw from the ULTS Fund for the provision of a second ULTS line.

h. CHCF-B Support for Second ULTS Lines

The expansion of the ULTS program to provide a second ULTS line to qualified low-income disabled customers affects the California High Cost Fund-B (CHCF-B). The CHCF-B was established by the Commission in D.96-10-066 to subsidize the provision of one access line to every household served by a COLR[260] in designated high-cost areas of the state.[261] Since this decision requires COLRs to provide two ULTS lines to qualified low-income households, we conclude that COLRs should be authorized to draw subsidies from the CHCF-B for both ULTS lines. The amount that a COLR may draw from the CHCF-B for the second ULTS line provided to a particular ULTS customer shall be governed by the same terms and conditions that apply to the COLR's draws from the CHCF-B for the first ULTS line provided to the ULTS customer. TD is authorized to require COLRs to submit workpapers and other information to support their CHCF-B claims for second ULTS lines. In addition, TD and the CHCF-B Administrative Committee (CHCFBAC) may promulgate administrative procedures to govern the COLRs' provision of two ULTS lines after providing notice and an opportunity to comment during public meetings of the CHCFBAC held in accordance with the Bagley-Keene Act. Finally, any COLR that believes it has been wrongly denied the reimbursement of a CHCF-B claim for second ULTS

[260] Pursuant to D.96-10-066, OP 8.a., the following COLRs are eligible to draw from the CHCF-B: Citizens Telephone Company, Contel Telephone Company, GTE California Incorporated, Pacific Bell, and Roseville Telephone Company. Other utilities may also seek authority to become a COLR and draw from the CHCF-B. (D.96-10-066, Appendix B, Rule 6)

[261] D.96-10-066, Appendix B, Rule 6.

lines may file a formal application with the Commission to seek recovery of the denied CHCF-B claim.

i. Implementation of Second ULTS Line

We agree with GTE and Pacific that utilities will need time to implement the provision of second ULTS lines. For example, utilities will have to train their customer service representatives, revise their self-certification forms, and modify their billing systems. However, no utility provided any information about how long it will take to implement the requirement to provide a second ULTS line. We shall assume, therefore, that utilities can commence the provision of second ULTS lines within 180 days from the effective date of this decision. If any utility needs additional time, it should use the procedures set forth in Rule 48 of the Commission's Rules of Practice and Procedure.

Utilities may recover from the ULTS Fund the reasonable costs they incur to provide second ULTS lines to the extent that such costs are not recovered from other sources, such as federal subsidies or the rates paid by ULTS customers. We define "reasonable costs" to include the following:

- The incremental costs incurred by the utility to develop, deploy, and operate systems and procedures associated with the provision of second ULTS lines.
- The lost revenues associated with the provision of a second ULTS line to a particular ULTS customer, with lost revenues equal to the difference between (i) the ULTS rates and charges paid by the customer, and (ii) the lower of (a) the utility's normal tariffed rates and charges for <u>one</u> residential line (i.e., the "first" residential line provided to the customer) plus the EUCL for the second line, or (b) the COLR's normal tariffed rates and charges for <u>one</u> residential line (i.e., the first line) plus the EUCL for the second line.

TD may revise the ULTS Claim Form, as necessary, to reflect utilities' costs to provide second ULTS lines. TD should provide affected parties with notice and an opportunity to comment on proposed revisions to the Claim Form in

accordance with procedures adopted later in this decision for modifying ULTS administrative requirements. TD shall also have authority to require utilities to submit workpapers, documents, and any other information that TD deems necessary to review and evaluate utilities' claims for reimbursement of costs associated with the provision of second ULTS lines.

G. Miscellaneous Revisions to the ULTS Program

In the OIR, the Commission proposed several "miscellaneous revisions" to the ULTS program. The parties also raised several issues that fall within the general category of "miscellaneous revisions" to the ULTS program. We address each of "the miscellaneous revisions" below.

1. Initial Certification of Customer Eligibility

a. Background

General Order 153 requires utilities to enroll customers into the ULTS program during the service order process if customers verbally certify that they are eligible to participate in the program.[262] General Order 153 also requires utilities to mail to the newly enrolled ULTS customers a self-certification form ("certification form") that the customers must sign and return to the utility within 30 days. If a customer fails to return a signed certification form within 30 days, GO 153 requires the utility to (1) remove the customer from the ULTS program, and (2) bill the customer for the full tariffed rates, charges, and service deposit retroactive to the date that ULTS began.[263]

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[262] GO 153, Section 3.10. Pub. Util. Code § 876 requires every telephone corporation to inform all "eligible subscribers" within in its service territory about (1) the availability of ULTS, (2) ULTS eligibility criteria, and (3) how to obtain ULTS.

[263] GO 153, Section 3.10.

In the OIR, the Commission noted that much of the bad-debt costs charged to the ULTS program is caused by customers who are enrolled into the ULTS program based on "verbal certification," but who never return a certification form and terminate service. To reduce bad-debt costs, the Commission proposed in the OIR to (1) require customers requesting ULTS to pay the regular tariffed rates, charges, and service deposit until they return a signed certification form, and (2) require utilities, once they have received the signed certification form, to credit ULTS customers for the difference between the regular tariffed rates, charges, and service deposit and the ULTS rates, charges, and deposit requirements retroactive to the date that service was established.[264]

b. Position of the Parties

AT&T states the OIR proposal will not reduce the problem of bad debt. Rather, it will only shift bad-debt costs to the utilities.[265]

CCTA, Evans, Greenlining/LIF, GTE, ORA, Roseville, Pacific, and Public Advocates oppose the OIR proposal to require ULTS customers to pay regular tariffed rates, charges, and service deposit until they return a signed certification form. They state that the OIR proposal would be burdensome for utilities to administer,[266] produce insignificant savings for the ULTS Fund, and result in

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[264] OIR, Appendix B, Section V.1.

[265] Pacific states that if a newly enrolled ULTS customer fails to return a certification form, then Pacific returns to the ULTS Fund any money it received from the Fund for that customer. Thus, the revenue loss caused by a customer who fails to return a certification form and discontinues service is not borne by the ULTS Fund.

[266] GTE states that 60% of ULTS applicants return the certification form within 30 days. If the certification form is not returned, GTE revises the initial service order to reflect non-ULTS rates. GTE states that if the OIR proposal is adopted, it would have to process 100%, not 40%, of ULTS customers on a "follow-up" basis, resulting in additional costs of $1 million per year. Pacific states that its systems are not programmed to re-grade a customer's bill and apply a credit once Pacific has received a certification form. Pacific estimates that the reprogramming required to implement the OIR proposal would cost approximately $2.1 million.

hardship for those ULTS customers who cannot afford to pay regular tariffed rates while waiting for their certification forms to be received, returned, and processed.[267] Most of these parties recommend retention of the existing practice of requiring (i) utilities to admit customers into the ULTS program via initial telephone certification, and (ii) newly enrolled ULTS customers to return the certification form within 30 days. The only exception is ORA, which recommends that customers be given 21 days to return the certification form.

Sprint cautions that the OIR proposal may have a dramatic impact on when service is established for many ULTS recipients. Sprint states that utilities often do not provide service until an applicant passes a credit check or submits a deposit. Sprint states that because ULTS applicants are less likely to fulfill either of these criteria, the practical effect of the OIR proposal would be that many ULTS applicants would not receive service until they return a certification form.

TURN states that the Commission should carefully consider whether the costs and the potential adverse impacts of the OIR proposal on ULTS-eligible customers would outweigh its benefits. TURN also states that the Commission should take no action that would preclude ULTS-eligible customers from being able to afford to subscribe to telephone service.

c. Discussion

We agree with the parties that the OIR proposal is flawed and should not be adopted. To begin with, the OIR proposal could delay access to telephone service by many low-income customers. More specifically, the OIR proposal requires ULTS customers to pay the regular tariffed service deposit and connection charge in order to receive immediate access to telephone service.

[267] Pacific states that if the OIR proposal is adopted, ULTS customers may have to wait two to three months between the initial service connection and the receipt of ULTS credits.

Although ULTS customers would be reimbursed for the entire service deposit and most of the connection charge after they had returned a signed certification form, the initial up-front expenditure might be unaffordable to many ULTS customers. Those ULTS customers who could not afford the up-front expenditure would not receive phone service until their certification form had been received, signed, and returned by the customer and processed by the utility.

The OIR proposal is also flawed because the costs of the OIR proposal appear to exceed its benefits. The comments of GTE and Pacific indicate that the OIR proposal would costs utilities millions of dollars to implement. It might be reasonable to incur these costs if they were offset by reduced bad-debt costs, which is the purpose of the OIR proposal. However, our Telecommunications Division informs us that the total bad-debt costs paid by the ULTS Fund to utilities is less than the projected cost of the OIR proposal.

A final flaw in the OIR proposal is that it is inconsistent with other aspects of the ULTS program. In particular, the OIR proposal to require ULTS customers to post a service deposit pending their submittal of a signed certification form is inconsistent with (1) the rule in GO 153 that prohibits utilities from requiring ULTS customers to post a service deposit unless a customer has an outstanding bill with another telephone utility in California[268]; and (2) the rule we adopt elsewhere in this decision that prohibits utilities from requiring ULTS customers to post a service deposit if ULTS customers request toll blocking.

For the foregoing reasons, we shall retain the existing practice embodied in GO 153 of requiring all utilities to provide ULTS to any customer who verbally indicates to the utility's customer service representative that the customer is

[268] GO 153, Section 3.7.

eligible to participate in the ULTS program. We shall also retain the existing practice embodied in GO 153 of requiring customers admitted into the ULTS program to submit a signed certification form within 30 days in order to retain ULTS.[269] Utilities should mail the certification form to new ULTS customers immediately following the initial telephone certification. We believe that 30 days strikes a reasonable balance between the public interest in removing ineligible participants from the ULTS program as soon as possible, and giving ULTS customers adequate time to return the certification form. If a customer does not return a signed certification form within 30 days, the next bill sent to the customer should reflect regular tariffed rates, plus a charge equal to the difference between (1) the ULTS rates and charges previously paid by the customer, and (2) the normal tariffed rates, charges, and service deposit.[270]

2. Use of the Commission's Website to Disseminate ULTS Program Information

a. Background

There are presently more than 1,100 telecommunications carriers and utilities ("carriers") affected by the ULTS program. Whenever the Commission communicates with carriers regarding the ULTS program, the Commission must send a separate notice to each carrier.

To ease the burden of sending notices to more than 1,100 carriers, the Commission proposed in the OIR to use the Commission's website as a means to

[269] The certification form appears to prevent some ineligible customers from remaining in the ULTS program. This is illustrated by the experience of GTE who reports that 40% of the customers who enroll in the ULTS program fail to complete the certification process by returning the certification form. We infer from GTE's experience that some customers don't return the certification form because they aren't eligible to participate in the ULTS program.

[270] If the utility receives the certification form after the 30th day, the next regular bill should, if possible, reflect ULTS rates.

provide carriers with access to detailed information and lengthy documents regarding changes to the ULTS program (e.g., resolutions revising the ULTS surcharge). More specifically, the Commission proposed to mail postcards or single-page notices to inform carriers about (i) changes to the ULTS program, and (ii) the availability of more detailed information and/or documents concerning the change on the Commission's website. For carriers without access to the internet, the postcards would provide a phone number and contact person from whom a hard copy of the complete document(s) could be obtained. When appropriate, the ULTS program notice could be combined with notices pertaining to other public programs.[271]

b. Position of the Parties

CCTA, Cox, ORA, and Pacific support the OIR proposal. CCTA also requests that the Commission allow individual carriers to elect to have more than one company contact served with postcard notices. Cox recommends that the Commission's website incorporate improved document search and retrieval capabilities, since often one Commission document will cite prior documents. Finally, ORA recommends that the Commission's website include a special Universal Service area so that interested persons and carriers can easily access up-to-date information on the ULTS program.

c. Discussion

There was general support for the OIR proposal. Therefore, we shall adopt the proposal and revise GO 153 accordingly.

We shall not adopt CCTA's proposal to allow individual carriers to elect to have ULTS notices mailed to more than one person at the company. Such a procedure would create additional administrative burdens and costs for the

[271] OIR, Appendix B, Section IV.4.

ULTS program, and CCTA made no showing that the benefits of its proposal would exceed the burdens and costs of its proposal.

We agree with Cox that our website needs improved document search and retrieval capabilities. We are currently in the midst of a massive project to redesign our website. Among the features of the redesigned website will be a search engine that will allow parties to search and retrieve Commission documents, including rulings, decisions, and resolutions. We anticipate that our redesigned website, once it is complete, will meet most, if not all, of Cox's needs pertaining to the search and retrieval of Commission documents.

Finally, we agree in principle with ORA that our website should provide up-to-date information about the ULTS program. However, as stated previously, we are in the midst of a massive redesign of our website. It is our intent that the redesigned website provide access to ULTS-related information, but we cannot state at this point how our redesigned website will accomplish this objective. In the meantime, TD shall add to its web page a section set aside for ULTS-related matters. This section should include the following information: GO 153, this decision, and information and documents referred to in ULTS notices mailed to carriers and utilities after the effective date of this decision. TD shall establish the ULTS section on its web page as soon as possible. Once the redesign of our website is complete, TD may transfer to other Commission staff, as appropriate, the responsibility for providing internet access to ULTS-related information.

3. Composition of ULTS Administrative Committee

a. Background

The ULTS Administrative Committee (ULTSAC) was established by the Commission in D.87-10-088 to administer the ULTS program. The membership

of the ULTSAC consists of representatives from large LECs, small LECs, interexchange carriers (IECs), and consumer organizations.[272]

In the OIR, the Commission stated that allowing utility representatives to serve on ULTSAC may pose a conflict of interest since the ULTSAC is responsible for disbursing moneys from the ULTS Fund to the utilities. To eliminate this possible conflict of interest, the Commission proposed to revise the charter of the ULTSAC to (1) exclude members who represent utilities and other carriers, and (2) replace the utility and carrier representatives with the directors of the Commission's Consumer Services Division, Legal Division, and the Office of Ratepayer Advocates, or their designees. The Commission stated that carriers and utilities could still provide input to the ULTSAC by attending the public meetings of the ULTSAC. The Commission also proposed in the OIR to revise the ULTSAC charter so that the two positions on the ULTSAC currently reserved for representatives from consumer organizations could also be filled by representatives from state agencies other than the Commission.[273]

b. Position of the Parties

Calaveras, Evans, GTE, ORA, and Roseville oppose the OIR proposal to remove utility representatives from the ULTSAC. They state that there is no evidence to substantiate any concern about possible conflicts of interest. They also state that the ULTSAC benefits from utility representatives who have first-hand experience with the day-to-day operations of the ULTS program. Evans recommends that if utility representatives are excluded from the ULTSAC, then GO 153 should revised to provide an alternate means for the industry to offer

[272] The current charter for the ULTSAC was approved in D.94-10-046, as amended in Resolution T-16176.

[273] OIR, Appendix B, Section VI.1, and Appendix F, Section III.A.

input into the ULTSAC decision-making process, such as open meetings with periods for comment by industry representatives.

Pacific does not oppose the OIR proposal to exclude utilities representatives from the ULTSAC, so long as other special interests are excluded as well, including consumer interests. Pacific also suggests that given the financial responsibilities of the ULTSAC, the ULTSAC should include independent members with financial expertise.

TURN supports the OIR proposal to exclude carrier and utility representatives from the ULTSAC. TURN also states that consumer advocates should be allowed to serve on the ULTSAC since they have an interest in ensuring that the ULTS program is implemented effectively and efficiently.

c. Discussion

There was no opposition to the OIR proposal to revise the ULTSAC charter to allow the two positions on the ULTSAC reserved for representatives of consumer groups to also be filled by representatives of state agencies other than the Commission. Therefore, we shall adopt the OIR proposal.

We shall also adopt the OIR proposal to revise the charter of the ULTSAC to exclude representatives of utilities and other carriers from serving on the ULTSAC. The ULTSAC is responsible for receipt of millions of dollars in ULTS surcharge revenues from the carriers, and the disbursement of these moneys to the utilities providing ULTS.[274] Therefore, allowing representatives of carriers and utilities to serve on the ULTSAC creates at least the appearance of a conflict of interest, if not an actual conflict of interest. The only reason offered by the parties for perpetuating this conflict of interest is that utility representatives

[274] D.95-04-008, 59 CPUC 2d 120, 120-121.

provide the ULTSAC with invaluable knowledge and experience concerning the operation of the ULTS program. However, we are not persuaded that utility representatives need to serve on the ULTSAC in order for the Committee to benefit from the utilities' knowledge and experience. As we stated in the OIR, utilities may still provide input on matters affecting the administration of the ULTS program by attending the public meetings of the ULTSAC.[275]

We shall not adopt Pacific's proposal to require the ULTSAC to include "independent financial experts." While we have no intention of precluding financial experts from serving on the ULTSAC, we see no reason why the ULTSAC must include financial experts. The ULTSAC has functioned well for many years without "independent financial experts," and Pacific Bell offered no explanation for why the ULTSAC now needs these experts. In addition, if the ULTSAC ever needs expert financial advice, it may use moneys from the ULTS Fund to contract for the services of an independent financial expert.

Nor shall we adopt Pacific's proposal to exclude consumer representatives from serving on the ULTSAC. Unlike utility representatives, consumer representatives have no direct financial interest in the decisions of the ULTSAC. We agree with TURN that the primary interest of consumer representatives serving on the ULTSAC is to ensure that the ULTS program operates in an efficient and effective manner. Furthermore, the ULTSAC is not a policy-making body,[276] so allowing consumer representatives to serve on the ULTSAC would

[275] The ULTSAC is a "state body" as defined in Gov. Code § 11121.8. As a state body, the ULTSAC is subject to the Bagley-Keene Open Meeting Act set forth in Gov. Code § 11120, et seq. ("the Act"). The Act requires, among other things, that meetings of the ULTSAC be open to the public (Gov. Code § 11123), and that members of the public have an opportunity to directly address the ULTSAC on each agenda item before or during the ULTSAC's discussion or consideration of the item (Gov. Code § 11125.7).

[276] D.95-04-008, 59 CPUC 2d 120, 120-121.

provide them with little, if any, opportunity to advance their special-interest agendas.

In order to provide for (1) continuity in the administration of the ULTS program, and (2) an orderly transition in the membership of the ULTSAC, we shall not require the carrier and utility representatives currently serving on the ULTSAC to immediately vacate their positions. Instead, the carrier and utility representatives shall continue to serve on the ULTSAC until the earlier of (1) six months from the effective date of this decision, or (2) the new members of the ULTSAC appointed by this decision assume their posts.

The revised ULTSAC charter is attached to this decision as Appendix C. The current members of the ULTSAC shall sign the revised charter and file an executed copy of the revised charter at the Commission's Docket Office.

4. AB 2461 and SB 669

a. Background

When OIR 98-09-005 was issued, Assembly Bill (AB) 2461 was pending in California State Legislature. AB 2461, if enacted, would have affected key aspects of the ULTS program. As a result, the Commission proposed in the OIR to provide itself with the flexibility to revise GO 153, as necessary, to implement AB 2461 should this legislation become law.[277]

The Legislature eventually passed AB 2461, but the legislation was vetoed by Governor Wilson. The Legislature then passed Senate Bill (SB) 669 which was signed by Governor Davis on October 10, 1999. SB 669 contains many of the provisions that were in AB 2461, including the following:

[277] OIR, Appendix B, Section VI.2.

- The creation of an "advisory board" known as the Universal Lifeline Telephone Service Trust Administrative Committee (ULTSTAC). (Pub. Util. Code § 277(a))
- A requirement for the Commission to establish the number and qualifications of the members of the ULTSTAC, and to appoint the members of the ULTSTAC. (Pub. Util. Code § 271(a))
- A requirement for the ULTSTAC to submit an annual budget to the Commission, and for the Commission to act on the budget within 90 days of receiving the budget. (Pub. Util. Code § 273(a))
- A requirement for the ULTSTAC to periodically submit a report to the Commission that describes the ULTSTAC's activities during the prior reporting period. (Pub. Util. Code § 273(b))
- The creation of a fund administered by the State Treasury known as ULTSTAC Fund. (Pub. Util. Code § 270(a)(3))
- A requirement for carriers to remit ULTS surcharge revenues to the Commission, and for the Commission to forward these revenues to the State Treasure for deposit into the ULTSTAC Fund. (Pub. Util. Code § 277(b))

b. Position of the Parties

Pacific opposed the OIR proposal to give the Commission flexibility to revise GO 153, as necessary, to implement the provisions of AB 2461. Pacific states that parties should have an opportunity to comment on any changes to GO 153 that might be occasioned by AB 2461 or other legislation.

c. Discussion

We anticipate that most, if not all, of the revisions to GO 153 and the charter of the ULTSAC necessitated by the passage of SB 669 are ministerial in nature. For example, revising GO 153 and the ULTSAC charter to reflect all of the provisions of SB 669 identified previously would be a ministerial act.[278]

[278] A "ministerial act" is one that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to or the exercise of

Footnote continued on next page

We shall delegate to TD the authority to revise GO 153 to reflect SB 669 to the extent that such revisions are ministerial in nature. TD shall effect the ministerial revisions in accordance with the procedures we adopt later in this decision. We shall also delegate to the ULTSAC the authority to revise its charter to reflect SB 669 to the extent that such revisions are ministerial in nature. The ULTSAC shall file an executed copy of its revised charter at the Commission's Docket Office.

If the enactment of SB 669 necessitates revisions to GO 153 and/or the ULTSAC charter that are not ministerial in nature, we shall provide parties with notice and an opportunity to comment on the revisions in accordance with the procedures described later in this decision.

5. Revision of Previously Adopted ULTS Rules

a. Background

In D.96-10-066, Appendix B, the Commission listed Universal Service Rules (ULTS rules) that carriers, utilities, and other parties are required to comply with. In the OIR, the Commission stated that the ULTS rules adopted in D.96-10-066 might need to be revised as a result of this proceeding, and invited parties to submit proposed revisions to the ULTS rules to reflect the changes to the ULTS program adopted in this proceeding.[279]

b. Position of the Parties

CCTA and Pacific Bell recommend that the Commission allow parties to file comments containing proposed changes to the ULTS rules after the

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one's own judgment upon the propriety of the act being done. (Black's Law Dictionary, revised 4th Edition (1968)) A "ministerial duty" is one in which nothing is left to discretion – a simple and definite duty, imposed by law, and arising under conditions admitted or proved to exist. (Ibid.)

[279] OIR, Appendix B, Section VI.3.

Commission issues its decision in this proceeding. CCTA believes the comments could be filed within 30 days from the date a final decision is adopted.

c. Discussion

When GO 153 was originally issued in 1984, it was a comprehensive source of information regarding ULTS rules, administrative procedures, and forms. However, GO 153 became obsolete as the ULTS program was repeatedly revised without updating GO 153. In the next portion of this decision, we determine that GO 153 should be updated to reflect all current ULTS rules, procedures, and forms, including those adopted in this decision, so that GO 153 may once again serve as a comprehensive source of information concerning the ULTS program. Consequently, there is no need for us to update the ULTS rules in Appendix B of D.96-10-066, since to do so would be redundant with our updating of GO 153.[280]

6. Inclusion of All ULTS Rules in GO 153

a. Background

In the OIR, the Commission proposed to revise GO 153 to contain a broad regulatory framework for administering the ULTS program in lieu of the detailed rules, administrative procedures, and forms that are currently in GO 153. The Commission reasoned that a broadly crafted General Order would provide flexibility to revise the ULTS program without making GO 153 obsolete or having to go through the cumbersome process of updating GO 153.[281]

b. Position of the Parties

AT&T and ORA state that the ULTS program affects more than 1,100 carriers, and because of this, it is essential for the Commission to issue a single,

[280] Our decision to update GO 153 instead of the ULTS Rules in Appendix B of D.96-10-066 is due, in large part, to the fact that Appendix B of D.96-10-066, unlike GO 153, was never meant to be a comprehensive source of ULTS program rules, administrative procedures, and forms.

[281] OIR, mimeo., p. 8.

comprehensive set of ULTS program rules, instructions, and forms that is readily accessible to all carriers. To accomplish this goal, they recommend that GO 153 be revised to incorporate all ULTS rules, and that the revised General Order be placed on the Commission's website.

Calaveras, Cox, CCTA, Evans, GTE, and Pacific state that a lack of specificity in GO 153 would diminish the usefulness of the General Order and possibly create confusion and inefficiency. Calaveras states that it is particularly important for GO 153 to include an up-to-date list of the elements of basic service that comprise ULTS so that utilities will understand what service has to be provided. Evans believes that it is important for GO 153 to include information regarding rates for ULTS service, including the number of "free" measured calls.

Roseville supports the OIR proposal to remove many of the specific ULTS program rules from GO 153, such as the specific number of "free" measured calls. Roseville states that it is appropriate to exclude detailed information from GO 153 in order to prevent the need for periodic updating of the General Order.

c. Discussion

We are persuaded by AT&T, Calaveras, CCTA, Cox, Evans, GTE, ORA and Pacific that GO 153 should contain all ULTS program rules, administrative procedures, and forms ("ULTS Rules"). We agree with these parties that a comprehensive General Order will assist carriers and utilities in understanding and properly implementing the ULTS program. This may be especially true for many of the newer carriers and utilities that have relatively little experience with the ULTS program and, consequently, may not be familiar with many of the Commission's decisions and resolutions affecting the ULTS program.

Appended to this decision is the revised GO 153 that we adopt today. The adopted GO 153 incorporates all current ULTS Rules, including those Rules

adopted by this decision.[282] We shall also adopt AT&T's and ORA's proposal to make GO 153 readily accessible by placing the General Order on our website.

An inevitable consequence of including more detail in GO 153 is that the General Order is likely to need more frequent updating as ULTS Rules are revised to reflect new circumstances. It is our intent to keep GO 153 up to date so that it remains useful. In the next section of this decision, we address the procedures that we intend to use to keep GO 153 up to date.

7. Future Revisions to the ULTS Program and GO 153

a. Background

In the OIR, the Commission proposed to revise GO 153 to state that the Commission or its staff may in the future make substantive[283] and administrative revisions[284] to ULTS program. However, the Commission did not state how it would go about (1) revising the ULTS program or (2) updating GO 153 to reflect any adopted revisions to the ULTS program.

b. Position of the Parties

AT&T, CCTA, ORA, Pacific, and Roseville state that parties should have notice and an opportunity to comment on all future revisions to the ULTS program. GTE supports the OIR proposal to provide staff with authority to revise ULTS administrative procedures. Evans, on the other hand, states that the Commission should be cautious about how much responsibility it delegates to the staff. Evans and GTE agree that significant changes to the ULTS program,

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[282] Revising GO 153 to incorporate all current ULTS Rules necessitates a variety of non-substantive changes to the General Order. For example, revising GO 153 to incorporate the newly adopted ULTS Rule of providing two ULTS lines for two-line VCO requires new definitions to be added to GO 153 for "two-line VCO" and the "DDTP."

[283] OIR, Appendix B, Section I.3.

[284] OIR, Appendix B, Sections I.11, I.15, I.17, I.18, I.20, IV.1., and IV.7; and Appendix C, Sections 4.2.5, 6.1, and 6.2.

such as those affecting ULTS rates and service elements, should only be made by the Commission through formal proceedings.

AT&T states that carriers should have three months to implement revisions to the ULTS program that require carriers to modify their operational systems. ORA and Pacific agree in principle with AT&T that carriers and utilities should have adequate time to implement any adopted revisions to the ULTS program.

c. Discussion

This decision revises GO 153 to incorporate the many changes to the ULTS program that have occurred since the General Order was issued in 1984. We anticipate that the ULTS program will continue to evolve, and we intend to keep GO 153 up to date as the ULTS program changes over time.

We envision three types of changes to the ULTS program in the future: substantive changes, administrative changes, and ministerial changes. We define substantive changes as ones that affect (1) the rates, terms, and conditions of ULTS offered to low-income customers, (2) the service elements of ULTS, (3) the total amount of ULTS surcharge revenues remitted by carriers,[285] and (4) the amount and types of costs and lost revenues that utilities may recover from the ULTS Fund.[286] For example, revisions to any of the following components of the ULTS program would constitute a substantive change to the program:

[285] A change in the method that carriers must use to determine the amount of surcharge revenues they remit for a given period of time is not a substantive change if the total amount of ULTS surcharge revenues remitted over time does not change.

[286] Earlier in this decision, we directed TD to convene a workshop to develop a comprehensive list and description of the costs that utilities may recover from the ULTS Fund. The development of the comprehensive list does not constitute a substantive change to the ULTS program, since the list is nothing more than a detailed catalog of the types of costs that the Commission previously found to be recoverable from the UTLS Fund.

- The service elements that collectively comprise ULTS (e.g., dial tone, toll-limitation service, the number of untimed local calls included in ULTS measured local service, and the equipment and services used by disabled persons that qualify for two or more ULTS lines).
- The rates that utilities charge ULTS customers for any of the service elements that comprise ULTS.
- The rate of interest paid by the ULTS Fund to utilities when utilities are not timely reimbursed for their ULTS claims.
- The rate of interest paid by carriers that are late in remitting their ULTS surcharge revenues.
- The ULTS surcharge rate.

We will make substantive changes to the ULTS program only through Commission decisions and resolutions, and only after parties have had notice and an opportunity to comment and/or request evidentiary hearings on proposed substantive changes. We may initiate substantive changes on our own motion. Commission staff may initiate substantive changes using the resolution process (e.g., annual resolutions revising the ULTS surcharge rate). Parties may also initiate substantive changes by filing applications, petitions for modification, etc. Utilities may recover from the ULTS Fund the reasonable costs they incur to implement substantive changes to the ULTS program to the extent that such costs are not recovered from other sources (e.g., the rates charged to ULTS customers, federal subsidies, or a utility's general rates).

Once we have adopted a substantive change to the ULTS program, the Telecommunications Division (TD) shall be responsible for updating GO 153 to reflect the substantive change. We anticipate that many of our future decisions adopting substantive changes to the ULTS program will also adopt specific revisions to the text of GO 153. If that is the case, then TD shall update the GO 153 posted on our website within 30 days of the effective date of the

Commission decision adopting a specific revision to the text of GO 153, unless some other timeframe for updating GO 153 is specified in the decision.[287] The General Order so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with.

If we issue a decision that adopts a substantive change to the ULTS program, but the decision does not adopt corresponding revisions to the text of GO 153, then TD shall update GO 153 to reflect the substantive change in accordance with the following procedure. First, TD shall draft a proposal to update GO 153 to reflect the substantive change to the ULTS program previously approved by the Commission. TD's proposal should include the following: (1) specific language to be added to, or deleted from, GO 153, (2) the effective date of proposed revision to GO 153 if no such date was specified in the Commission's decision,[288] and (3) which carriers, utilities, and/or customers, if any, should be notified of the revision to GO 153 that is ultimately adopted by TD.

TD shall next (1) serve its proposal on all parties that were served with the Commission order that adopted the underlying substantive change to the ULTS program, (2) post its proposal on TD's web page, and (3) place a notice of its proposal in the Commission's Daily Calendar. The notice that appears in the Daily Calendar should provide (i) a brief description of TD's proposal, and (ii) information on how to: (a) obtain an electronic copy (e-copy) of the proposal from TD's web page, (b) obtain a hard copy from TD, and (c) submit comments and reply comments on the proposal.

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[287] Earlier in this decision, we concluded that TD should be responsible for posting GO 153 to the Commission's website in an area reserved for matters related to the ULTS program.

[288] Carriers and utilities should have three months from the date of the Commission's order adopting a substantive change to the ULTS program to implement the substantive change if the change requires significant revisions to carriers' or utilities' operating systems.

Parties shall have 20 days from the date that TD's proposal appears in the Daily Calendar to file comments on the proposal, and 15 days thereafter to file reply comments.[289] The first page of parties' comments should include an e-mail address and phone number for requesting a copy of the comments. TD shall place a notice in the Daily Calendar of (1) any comments and reply comments, and (2) the e-mail addresses and phone numbers for requesting copies of the comments. Parties shall promptly send a copy of their comments free of charge to anyone requesting a copy.[290]

After receiving comments, TD should modify its proposal, as necessary, to reflect the comments.[291] TD shall then submit its revised proposal to the ULTSAC for the ULTSAC to review and comment upon during public meetings held in accordance with the Bagley-Keene Act. TD shall revise and finalize its proposal, as appropriate, to reflect any comments offered during the public meetings of the ULTSAC.[292] TD shall then place in the Daily Calendar notice of (1) the adopted revision to the text of GO 153, (2) the effective date of the adopted revision to GO 153, and (3) information on how to obtain an e-copy or hard copy of the adopted revision. On or before the effective date of the adopted revision to GO 153, TD shall update the GO 153 posted on the Commission's website to

[289] Comments and reply comments should be served on the Director of TD and filed at the Commission's Docket Office in accordance with Article 2 of the Commission's Rules of Practice and Procedure (Rules). Both comments and reply comments should include a verification executed in accordance with Rule 2.4.

[290] Comments are public records open to public inspection, except as provided under GO 66-C.

[291] If TD makes significant changes to its proposed revision to GO 153, TD may re-issue its proposal for another round of (1) review by the ULTSAC, and (2) public comments. TD may also withdraw its proposal by placing notice of the withdrawal in the Daily Calendar.

[292] If there is controversy regarding TD's proposed revision to the text of GO 153, TD may prepare for the Commission's consideration a resolution to adopt TD's proposed revision.

incorporate the adopted revision. The General Order so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with.

TD shall send to every carrier and utility affected by the adopted revision to GO 153 a postcard or other written notice that briefly describes the adopted revision to GO 153 and provides information about (1) the effective date of the adopted revision to GO 153, (2) any customer notice requirements associated with the adopted revision, and (3) how to obtain an e-copy of the revised GO 153 from the Commission's website or a hard copy from TD.[293] Once TD's adopted revision to GO 153 has become final, parties may seek to modify or rescind the adopted revision in accordance with the provisions of Pub. Util. Code § 1708.5.[294]

The second type of change to the ULTS program that may occur in the future are revisions to ULTS program administrative procedures and requirements. We define administrative revisions as ones that affect (1) carrier and utility reporting requirements; (2) the procedures, forms, and timelines associated with carriers' remittance of ULTS surcharge revenues; (3) the procedures, forms, and timelines associated with utilities' submittal of their ULTS claims; and (4) any procedures or timelines associated with tasks performed by ULTS program administrators. For example, modifications to any of the following components of the ULTS program would constitute an administrative revision to the ULTS program:

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[293] Earlier in this decision, we concluded that TD should notify carriers and utilities about changes to the ULTS program by sending "postcard notices" that (1) briefly describe the change to the UTLS program, and (2) instruct parties how to obtain more information about the change to the ULTS program from the Commission's website or TD.

[294] Pub. Util. Code § 1708.5(a) states that the "commission shall permit interested persons to petition the commission to adopt, amend, or repeal a regulation."

- Schedule for submitting ULTS claims and remitting ULTS surcharge revenues.
- Format and content of (i) the ULTS Claim Form, and (ii) the surcharge remittance form.
- Format, content, and timing of workpapers that utilities submit to support their ULTS claims.
- Schedule for payment of claims.
- Method used by carriers to determine the amount of ULTS surcharge to be remitted during any given period of time.
- The methods used by utilities to determine and report reimbursable taxes.

We may make administrative revisions to the ULTS program through Commission decisions and resolutions. We may also delegate to TD the authority to revise ULTS administrative procedures and requirements, and we hereby do so.[295] However, we agree with AT&T, CCTA, ORA, Pacific, and Roseville that TD should provide notice and an opportunity to comment on proposed administrative revisions to the ULTS program. Therefore, if TD decides that an administrative revision is appropriate, TD shall draft a proposed revision and submit the revision to the ULTSAC. The ULTSAC shall provide notice and an opportunity to comment on TD's proposal during public meetings of the Committee conducted in accordance with the Bagley-Keene Act. TD shall then (1) finalize the administrative revision, as appropriate, to reflect the

[295] Pub. Util. Code § 701 provides the Commission with broad authority to regulate utilities, and this authority clearly includes the power to revise ULTS administrative requirements. We find nothing in § 701 or elsewhere that prevents us from using TD as the means to exercise our power to make administrative revisions to the ULTS program. We also note that Pub. Util. Code § 277(a) provides the ULTSAC with authority to "carry out the [ULTS] program pursuant to the commission's direction, control, and approval." We interpret this statute to mean that the ULTSAC may, if we direct it to do so, promulgate administrative revisions to the ULTS program. Thus, we could provide TD with authority to revise ULTS administrative requirements simply by appointing TD staff members to the ULTSAC.

comments presented at the public meeting of the ULTSAC, and (2) update GO 153 to reflect the new administrative requirement.[296] The General Order so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with.

TD shall send to every carrier and utility affected by the new ULTS administrative requirement a postcard or other written notice that (1) briefly describes the new requirement, (2) informs them of the effective date of the new requirement,[297] and (3) how to obtain an e-copy of the revised GO 153 from the Commission's website or a hard copy from TD. Utilities may recover from the ULTS Fund the reasonable costs they incur to implement new ULTS administrative requirements.[298] Parties may seek to have the Commission adopt, amend, or repeal a ULTS administrative requirement in accordance with the provisions of Pub. Util. Code § 1708.5.[299]

The final type of change to ULTS program and GO 153 that may occur in the future is ministerial revisions. We define ministerial revisions as ones that require no exercise of staff discretion. For example, we would consider the following changes to GO 153 to be ministerial revisions to the General Order:

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[296] If there is controversy regarding TD's proposed administrative revision to the ULTS program, TD may prepare for the Commission's consideration a resolution to adopt TD's proposed administrative revision.

[297] Some revisions to ULTS administrative requirements may be minor and readily implemented by carriers and utilities, while other changes may take months to implement. We expect TD to exercise good judgment when deciding how much notice carriers and utilities need before they are required to use a new administrative requirement.

[298] A change in utilities' costs due to a change in ULTS program administrative requirements is not a substantive revision to the ULTS program so long as the change in costs is reflected in utilities' draws from the ULTS Fund.

[299] Pub. Util. Code § 1708.5(a) states that the "commission shall permit interested persons to petition the commission to adopt, amend, or repeal a regulation."

- Update of GO 153 to reflect the annual change to ULTS income eligibility levels.
- Update of GO 153 to incorporate specific language approved in a Commission decision.
- Update of GO 153 to incorporate specific provisions from newly enacted legislation.
- Correction of errors (e.g., typos) in the General Order.

There is no need to provide parties with notice and an opportunity to comment on ministerial revisions to GO 153. Therefore, we shall authorize the Director of TD to make ministerial revisions to the GO 153 posted on our website at any time. The General Order so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with. We shall leave it to the discretion of the Director of TD to determine whether it is necessary to provide carriers, utilities, ULTS customers, and other affected parties with notice of a particular ministerial revision to GO 153.

Parties may also request ministerial revisions to GO 153 by submitting a letter to the Director of TD. Notice of the letter shall be posted in Daily Calendar, along with instructions on how to obtain a copy of the letter from its author. Reponses to the letter shall be due 20 days after notice of the letter appears in the Daily Calendar. The Director of TD shall place a notice in the Daily Calendar of his decision to accept or reject the proposed ministerial revision to GO 153.

H. Commercial Mobil Radio Service

1. Background

In D.96-10-066, the Commission held that Commercial Mobil Radio Service (CMRS)[300] could not be used to provide ULTS. The basis for the Commission's

[300] CMRS is any mobile telecommunications service that is provided for profit and makes interconnected service available to a substantial portion of the public. (47 U.C.S. § 332(d)(3))

Footnote continued on next page

conclusion was twofold. First, the Commission found that ULTS was limited to "residential service" pursuant to Pub. Util. Code § 871.5(b) and § 872,[301] and that CMRS was not a residential service. Second, the Commission found that the rates charged by CMRS carriers were far higher than the rates charged by local exchange companies, and because of this, the Commission felt "compelled to deny …[the] request to allow the ULTS subsidy to be applied to…[the CMRS carriers'] higher priced basic service rate."[302]

In the OIR, the Commission did not raise the issue of whether CMRS carriers should be allowed to provide ULTS. However, many parties did raise this issue in their comments. In response to these comments, the assigned Commissioner issued a ruling which stated that this proceeding would not consider the use of CMRS to provide ULTS. Instead, the assigned Commissioner invited parties to submit comprehensive proposals for how the Commission, with its limited jurisdiction over CMRS,[303] could oversee the use of CMRS to provide ULTS. The Commissioner further stated that it was his hope that parties' proposals would contain enough information to form the basis of a future rulemaking that would propose the use of CMRS to provide ULTS.[304]

CMRS includes cellular services, personal communication services, wide-area specialized mobile services, and two-way radiotelephone services.

[301] Pub. Util. Code § 871.5(b) states that the ULTS program "has been, and continues to be, an important means for achieving universal service by making basic residential telephone service affordable to low-income" households. (emphasis added) Section 872 defines "residential" to mean "residential use and excludes industrial, commercial, and every other category of end-use."

[302] 68 CPUC 2nd 524, at 637-38.

[303] The Commission is generally precluded by federal law from regulating the rates of CMRS carriers. (47 U.S.C. § 332(c)(3)); see also D.96-12-071, 20 CPUC 2d 61, at 65, 69, 77, and 78.)

[304] *Scoping Memo and Ruling of the Assigned Commissioner*, February 10, 1999, p. 7 and Ruling Paragraph 9.

2. Position of the Parties

AT&T states that under federal law, the Commission may not regulate the rates of CMRS carriers, but the Commission may regulate the terms and conditions of CMRS service.[305] AT&T believes that it is within the scope of the Commission's limited jurisdiction over CMRS to adopt policies that allow CMRS carriers to participate in the ULTS program. AT&T also argues that pursuant to Pub. Util. Code § 871.5(d), the Commission must allow CMRS carriers to offer ULTS. This statute requires the Commission to administer the ULTS program in a way that is "equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California." AT&T contends that it would be a violation of Pub. Util. Code § 871.5(d) if the Commission were to prohibit CMRS carriers from offering ULTS.

AT&T recommends that any future proceeding on the use of CMRS to provide ULTS should address the amount of financial support that CMRS carriers may draw from the ULTS Fund. AT&T notes that the Commission's current practice is to reimburse utilities for the difference between the ULTS rates established by the Commission and the utility's normal tariffed rates.[306] AT&T states that the Commission cannot use this approach for CMRS carriers since the Commission has no authority over the ULTS rates that CMRS carriers may charge.[307] AT&T proposes instead that the Commission pay a fixed monthly subsidy to CMRS carriers for each ULTS customer they serve, with the amount of subsidy based on the average subsidy received by landline carriers. In practice,

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[305] 47 U.S.C. § 332(c)(3)(A).

[306] D.96-10-066, Appendix B, Rule 5.

[307] Since the Commission has no authority over CMRS rates, AT&T suggests that CMRS carriers file "CMRS Customer Service Agreements" in lieu of tariffs.

this would mean that a CMRS carrier would (1) charge whatever it wants for ULTS, (2) apply the ULTS subsidy to its ULTS customers' accounts, and (3) require ULTS customers to pay any amount in excess of the subsidy. AT&T states that if customers believe that the ULTS rates charged by a particular CMRS carrier are too high, the customers can obtain ULTS from another carrier.

CCAC states that CMRS carriers are capable of providing ULTS, particularly in outlying areas where the construction of landline facilities is impractical or too expensive. CCAC also states that if a CMRS carrier desires to provide ULTS and is willing to receive the same exact subsidy that landline utilities would receive, then the CMRS carrier should be permitted to do so.

CCTA states that Pub. Util. Code § 871 limits the provision of ULTS to basic residential telephone service, which precludes the use of CMRS to provide ULTS since CMRS is neither "basic" nor "residential." However, if CMRS carriers are allowed to offer ULTS, CCTA states that CMRS carriers and landline utilities must be treated equally, which is not currently the case. For example, the Commission's current rules require landline utilities, but not CMRS carriers, to offer ULTS to all eligible customers.[308] CCTA argues that continuation of disparate regulatory treatment could result in more favorable treatment for CMRS carriers compared to landline utilities.

Cox states that CMRS carriers should be allowed to provide ULTS under appropriate terms and conditions. For instance, CMRS carriers should not be entitled to a greater subsidy from the ULTS program than landline utilities just because CMRS carriers charge higher rates than landline utilities. Nor should CMRS carriers be allowed to charge whatever they want for ULTS since

[308] D.96-10-066, Appendix B Rule 4.B.8.

Pub. Util. Code § 874(a) limits what carriers may charge for ULTS. Cox also states that if CMRS carriers are given ULTS rate flexibility, then all carriers must be given the same treatment. Otherwise, the ULTS program would not be competitively neutral, but would discriminate against landline utilities.

GTE states that CMRS carriers should not be allowed to provide ULTS until the Commission has fully considered all the legal, regulatory, and technical issues unique to CMRS. GTE recommends that the Commission, prior to initiating a rulemaking proceeding, should convene workshops to (1) develop a comprehensive proposal for allowing CMRS carriers to provide ULTS, and (2) give interested parties an opportunity to help frame the specific issues to be addressed in the rulemaking proceeding.[309]

ORA supports the use of CMRS to provide ULTS, so long as CMRS carriers comply with the Commission's ULTS rules. ORA also notes that ULTS includes the access to Enhanced 911 service (E-911 service),[310] but the E-911 service provided by CMRS carriers may be inferior to the E-911 service provided by landline utilities. This is because a landline E-911 call is routed to a local answering point, while all wireless E-911 calls are routed to a single answering point operated by the California Highway Patrol (CHP). In contrast to landline E-911 calls, the CHP does not automatically know the location of wireless callers, which means the CHP must ask callers about their location prior to dispatching the appropriate public safety agency. ORA recommends that E-911 providers be included in the workshop proposed by GTE in order to inform the Commission if CMRS carriers can offer adequate E-911 service to ULTS customers.

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[309] AT&T, CCAC, CCTA, and ORA support GTE's workshop recommendation.

[310] D.96-10-066, Appendix B, Rule 4.B.6.

Pacific does not oppose CMRS carriers being allowed to provide ULTS, but Pacific notes that the Commission previously held that CMRS carriers could not provide ULTS unless and until the state laws governing the ULTS program were revised.[311]

Pacific Bell Mobile Services ("Pac Bell Mobile") states that several issues have to be resolved if CMRS is to be used to provide ULTS. First, there are significant differences between basic residential service and CMRS. For example, CMRS does not have the ubiquitous coverage of landline service, and CMRS customers, unlike ULTS customers, generally pay to make and receive calls. Second, the Commission does not have jurisdiction to compel CMRS carriers to provide ULTS. Thus, any consideration of allowing CMRS carriers to provide ULTS would have to start from the basic premise that the participation of CMRS carriers in the ULTS program is optional. Finally, the Public Utilities Code may have to be amended to allow CMRS carriers to offer ULTS. For example, § 871.5 limits ULTS to basic residential telephone, but CMRS is not a residential service. In addition, § 874 links the rates that CMRS carriers may charge for ULTS to the rates that landline utilities charge for ULTS, but CMRS carriers generally do not have rate plans that are comparable to landline utilities. And finally, § 879 requires the Commission to annually initiate a proceeding to set ULTS rates, but the Commission has no jurisdiction over the rates of CMRS carriers.

3. Discussion

The assigned Commissioner invited parties to submit comprehensive proposals for the use of CMRS to provide ULTS. The Commissioner hoped that the comprehensive proposals would contain enough detail to form the basis of a

[311] D.96-10-066, mimeo., pp. 227-28;

future rulemaking that would propose the use of CMRS to provide ULTS.[312] However, none of the proposals, either individually or collectively, provided enough information to construct a detailed framework for using CMRS to provide ULTS. Therefore, all we can do at this time is outline a proposal for allowing CMRS carriers to provide ULTS.

The outline of our proposal is simple: CMRS carriers should be allowed to provide ULTS if they comply with all ULTS program rules. Under our proposal, CMRS carriers would have to provide ULTS to low-income households at the same rates and under the same terms and conditions as landline utilities. Similarly, CMRS carriers could seek reimbursement from the ULTS Fund for their costs to provide ULTS under the same terms and conditions as landline utilities. Our proposal has several advantages. First, it would not disturb the size of the ULTS Fund[313] or affect the number of eligible ULTS customers. Second, it would ensure that all ULTS customers receive the same quality of service, regardless of which carrier provides ULTS. Third, it would treat all ULTS providers equally, and thus not advantage or disadvantage one group of ULTS providers over another. And finally, our proposal, by relying on existing ULTS program rules, would comply with Pub. Util. Code §§ 871, et seq.

We recognize that although our proposal is simple in concept, there are many complex legal, technical, and policy issues that have to be resolved prior to CMRS carriers being allowed to provide ULTS. To begin with, Commission

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[312] *Scoping Memo and Ruling of the Assigned Commissioner*, February 10, 1999, p. 7.

[313] Elsewhere in this decision, we limit the amount that utilities may recover from the ULTS Fund for serving a particular ULTS customer to no more than what the COLR would recover from the ULTS Fund to serve that customer.

regulations require all landline utilities, but not CMRS carriers, to offer ULTS.[314] This inconsistency in regulatory treatment may discriminate in favor of CMRS carriers. We must consider whether it is fair and reasonable to continue with our existing policy that results in disparate treatment for CMRS carriers and landline utilities, or whether to revise our policy so that landline utilities, like CMRS carriers, have the option of providing ULTS, but are not required to do so.[315] If we adopt the latter course of action, we will also have to consider a mechanism to ensure that there is at least one provider of ULTS in every area of the state where there are ULTS customers. One possibility is to require carriers of last resort (COLRs) to provide ULTS when no other ULTS providers are available.[316] This would be similar to federal regulations that requires each state to designate at least one ETC for each area of the state, with the ETC obligated to (1) serve as the COLR in its designated area, and (2) provide federal Lifeline and Link Up services throughout its designated area.[317]

A second issue that would have to be resolved concerns federal preemption of states' authority to regulate CMRS rates.[318] We are adamant that

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[314] FCC regulations allow, but do not require, CMRS carriers to be designated as ETCs if they seek this designation and meet the eligibly requirements. (FCC 97-157, ¶ 145.) FCC regulations require all ETCs to offer federal Lifeline and Link Up services (47 C.F.R. § 54.405)

[315] We may not have authority under federal law to compel CMRS carriers to offer ULTS.

[316] Under Commission rules, the COLR is obligated to serve all customers in a designated service area. The ILECs are the COLRs in California's 500 plus local exchanges, and the ILECs annually receive hundreds of millions of dollars in subsidies from the California High Cost Fund A (CHCF-A) and the CHCF-B to provide service in high-cost areas of the state. (D.96-10-066, mimeo., pp. 193, 198-199, and Appendix B, Rule 6. D.)

[317] 47 C.F.R. § 54.203.

[318] 47 U.S.C. 332(c)(3)(A). See also D.96-12-071, Conclusion of Law 6, which states that "[t]he scope of 'rate regulation' preempted by the Federal Budget Act encompasses the authority to set, approve, or prescribe rates charged by CMRS carriers." (70 CPUC 2d 61, at 78)

all ULTS providers, including CMRS carriers, offer ULTS at discounted rates and charges set in accordance with the Public Utilities Code.[319] This is absolutely essential if the ULTS program is to achieve its core purpose of providing low-income households with access to affordable basic telephone service.[320] One possibility for ensuring that CMRS carriers offer ULTS at statutorily determined rates is to allow only those CMRS carriers that comply with the Public Utilities Code to draw from the ULTS Fund. Another possibility is for the Commission to seek authority under 47 U.S.C. § 332(c)(3)(A)[321] to regulate CMRS carriers' rates for ULTS. A third alternative is for the Commission to rely on its existing responsibility under federal law to ensure that universal service is available at rates that are just, reasonable, and affordable.[322]

A third issue that would have to be resolved is the provision of the "elements" of ULTS by CMRS carriers. Currently, CMRS carriers do not offer at

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319 Pub. Util. Code §§ 874 and 875.

320 We reject AT&T's proposal to allow CMRS carriers to charge whatever they want for ULTS, with each ULTS customer allowed to use its "ULTS subsidy" as a voucher to be applied to a CMRS carrier's higher-priced rates for ULTS. We previously considered and rejected AT&T's proposal (D.96-10-066, mimeo., pp. 227-228), and AT&T has provided nothing new to cause us to reconsider our decision. Furthermore, the purpose of the ULTS program is to provide low-income households with access to affordable basic telephone service, and this purpose could be undermined if there were no limit on what CMRS carriers could charge for ULTS. Moreover, it would be unfair and discriminatory to allow CMRS carriers to charge whatever they want for ULTS, but not landline utilities. And finally, the "competitively neutral" alternative of allowing all carriers to charge whatever they want for ULTS would effectively eviscerate the ULTS program.

321 Under 47 U.S.C. § 332(c)(3), states may petition the FCC for authority to regulate CMRS rates if (i) market conditions fail to protect CMRS subscribers from unjust and unreasonable rates, or (ii) CMRS is a replacement for landline service in a substantial part of the state.

322 47 U.S.C. § 254(b) and 47 U.S.C. § 254(i). See also 47 U.S.C. § 332(c)(3) which states that "[n]othing in this subparagraph shall exempt providers of [CMRS] (where such services are a substitute for landline communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates."

least some of the elements of ULTS, such as (i) free unlimited incoming calls, (ii) flat-rate local service, and (iii) free white pages telephone directory. We are adamant that all ULTS providers, including CMRS carriers, offer every element of ULTS. This is essential if the ULTS program is to achieve its core purpose of providing low-income households with access to affordable basic telephone service. One possibility for ensuring that CMRS carriers offer every element of ULTS is to allow only those CMRS carriers that do so to draw from the ULTS Fund. Another possibility is to exercise our authority under federal law to regulate "other terms and conditions" of CMRS to require CMRS carriers to offer every element of ULTS.[323]

A fourth issue that would have to be resolved concerns CMRS carriers' ability to provide access to E-911.[324] The record in this proceeding indicates that CMRS carriers may not be able to provide access to E-911 that is sufficient to ensure the safety and welfare of ULTS customers. More specifically, ORA presented information, which was uncontested by the other parties, that E-911 calls made from mobile telephones do not provide the E-911 call center with information on the caller's location. The inability of the E-911 call center to automatically determine the location of the CMRS caller could prove disastrous to ULTS customers who call E-911 to report an emergency, but who do not know the address of the residence from which they are calling (e.g., a young child calling E-911 to report a critically injured sibling or parent). Therefore, before we allow CMRS carriers to provide ULTS, CMRS carriers must demonstrate that

[323] 47 U.S.C. § 332(c)(3) states that "no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service…, except that this paragraph shall not prohibit a State from regulating other terms and conditions of commercial mobile services." (Emphasis added.)

[324] Access to E-911 is one of the elements of ULTS. (D.96-10-066, Appendix B, Rule 4.B.6.)

they can provide access to E-911 service that is sufficient to protect the health and safety of ULTS customers.

A fifth issue that would have to be addressed concerns the requirement to file ULTS tariffs. Under our proposal, CMRS carriers would have to comply with all ULTS program rules, including the requirement to file ULTS tariffs.[325] However, in D.96-12-071, we exempted CMRS carriers from the requirement to file tariffs.[326] Therefore, the adoption of our proposal would require that we modify D.96-12-071 to require CMRS carriers to file ULTS tariffs.[327]

A sixth issue that would have to be addressed concerns compliance with Pub. Util. Code §§ 871, et seq. In D.96-10-066, we concluded that Pub. Util. Code §§ 871, et seq., limited ULTS to the provision of affordable residential telephone service. We further concluded in D.96-10-066 that because CMRS is neither affordable nor a residential service, it could not be used to provide ULTS.[328] We believe, however, that our conclusion in D.96-10-066 that CMRS is not an affordable service would be rendered moot if CMRS carriers were required to comply with all ULTS program requirements, including requirements that limit (1) the rates that utilities may charge for ULTS, and (2) the amount of "lost revenues" that utilities may recover from the ULTS Fund. However, our conclusion in D.96-10-066 that CMRS is not a residential service remains valid.[329]

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[325] See GO 153, Section 2, and Pub. Util. Code § 876.

[326] D.96-12-071, OP 1, 70 CPUC 2d 61, at 78. Pursuant to Pub. Util. Code § 490(b), the Commission has discretionary authority to exempt CMRS carriers from filing tariffs.

[327] We decline to adopt AT&T's proposal to allow CMRS carriers to file "CMRS Customer Agreements" in lieu of tariffs. We envision that "CMRS Customer Agreements" would have the same force and effect as CMRS tariffs, so we see little point in CMRS carriers filing anything but "tariffs."

[328] D.96-10-066, mimeo., pp. 227-228.

[329] AT&T, CCAC, CCTA, and Pac Bell Mobile state that CMRS is not a residential service

Consequently, in order to comply with Pub. Util. Code §§ 871, et seq., which limit ULTS to the provision of residential service, we would have to adopt measures to ensure that any CMRS used to provide ULTS is restricted to residential service. One possibility is to limit CMRS to low-income households that have non-mobile telephone equipment (e.g., fixed to a wall).[330] Adopting this approach may require changes to the customer self-certification forms. Another possibility is for CMRS carriers to design their networks to block calls originated by a ULTS customer outside of the "cell" in which the customer resides.

A final issue that would have to be addressed concerns the specific revisions, if any, that would have to be made to the text of GO 153 to allow CMRS carriers to provide ULTS.

We agree with GTE that it would be useful to convene one or more workshops to (1) resolve legal, technical, and policy issues associated with the use of CMRS to provide ULTS, and (2) develop a comprehensive proposal for the use of CMRS to provide ULTS. We agree with ORA that representatives of public safety agencies and E-911 personnel should be invited to the workshop to help resolve issues associated with the provision of E-911 to ULTS customers by CMRS carriers. Therefore, we shall instruct TD to conduct the previously described workshop. TD may determine the timing, number, format, and structure of the workshops.[331] If the workshops result in a comprehensive proposal for the use of CMRS to provide ULTS, then TD and the ALJ Division

[330] The use of CMRS requires equipment (i.e., cellular phones) that is generally much more expensive than the equipment necessary to use landline service. Therefore, even if CMRS were used to provide ULTS, it is not clear that low-income households could afford the equipment necessary to use CMRS.

[331] TD may hold a "paper workshop" whereby parties participate in the workshop by exchanging written comments.

shall jointly prepare for the Commission's consideration a draft order instituting rulemaking to consider and adopt the comprehensive proposal. TD should notify the Commission if the workshops fail to produce a compressive proposal.

We caution parties that we will not initiate a rulemaking proceeding until we have before us a comprehensive proposal that addresses all of the issues described previously. Any rulemaking will be initiated and conducted in accordance with Article 3.5 of the Commission's Rules of Practice and Procedure (Rules) concerning rulemaking proceedings. A rulemaking conducted in accordance with Rules 14.1 through 14.6, will formally place interested parties and the public on notice of the Commission's comprehensive proposal for the use of CMRS to provide ULTS. A rulemaking will also provide interested parties with an opportunity to submit comments addressing specific aspects of the Commission's proposal. The Commission will then have a complete record, consistent with due process requirements, from which to ultimately adopt revisions to prior Commission orders, the ULTS program, and GO 153, as necessary, to permit the use of CMRS to provide ULTS.

IV. Implementation of Decision

This decision adopts numerous revisions to the ULTS program that will have to be implemented by carriers, utilities, TD, DDTPAC, ULTSAC, and ULTSMB. We shall allow parties 180 days from the effective date of this decision to implement all of the revisions to the ULTS program adopted by this decision. The only exception shall be the specific deadlines identified in the body of this decision that are different from the general deadline of 180 days. Entities that need more than 180 days should ask for an extension of time in accordance with Rule 48 of the Commission's Rules of Practice and Procedure.

This decision also expands the array of benefits that are available to low-income households under the ULTS program. The expansion of benefits will

increase costs not only for the ULTS program, but also for the DDTP and the CHCF-B. However, there is no record in this proceeding to estimate the fiscal impact of today's decision on the ULTS Fund, the DDTP Fund, or the CHCF-B. Consequently, we are unsure whether the existing budgets for the ULTS program, the DDTP and the CHCF-B are adequate to cover the increased costs that are caused by today's decision. Therefore, if the existing budgets for the ULTS program, the DDTP, or the CHCF-B prove inadequate to cover the costs of today's decision, TD should prepare a resolution for our consideration that authorizes the ULTS program, DDTP, or CHCF-B to use its budget "reserves" to pay for the costs of today's decision.[332] If the reserves prove inadequate, TD should prepare a resolution for our consideration to augment the program's budget and revise the appropriate surcharge, as necessary, to fund the costs of today's decision. The Director of TD may require carriers and utilities to provide any information he deems necessary to ascertain the fiscal impacts of today's decision and to prepare the aforementioned resolutions.

V. Service of Decision

The modifications to the ULTS program and GO 153 adopted by this decision affect the DDTP, ULTSAC, ULTSMB, and more than 1,000 carriers and utilities. So that all of the affected parties are notified of the modifications to the ULTS program and GO 153 adopted by this decision, we shall instruct our Executive Director to serve the DDTP, ULTSAC, ULTSMB, and all certificated and registered telecommunications carriers with a notice of availability of this decision. The notice served by the Executive Director should be based on the

[332] The ULTS program, DDTP, and CHCF-B each has a reserve equal to at least 20% of its annual budget.

draft notice contained in Appendix D of this decision. Upon receipt of the notice, parties may obtain a copy of this decision by (1) downloading it from the Commission's website (www.cpuc.ca.gov), or (2) contacting the Commission's Central Files Office in San Francisco [(415) 703-2045].

VI. Public Utilities Code Section 311(g)

This draft decision of the ALJ is subject to Pub. Util. Code § 311(g). Parties to this proceeding may file comments and reply comments on the draft decision as provided for in Rules 77.2 – 77.5 of the Commission's Rules of Practice and Procedure.

Findings of Fact

1. GO 153 was adopted by the Commission in 1984, and contains ULTS program rules, administrative procedures, and forms ("ULTS Rules").

2. ULTS Rules have been significantly revised since GO 153 was adopted in 1984, but most of these revisions have not been incorporated into GO 153.

3. GO 153 is outdated and of marginal use to ULTS program administrators, carriers, and utilities.

4. GO 153 does not reflect the Commission's decision in D.95-12-056 and D.96-10-066 to require any carrier that offers "residential local exchange service" to provide ULTS and to file ULTS tariffs.

5. Federal rules require ETCs to: (i) offer federal Lifeline service, (ii) serve as carriers of last resort, (iii) advertise Lifeline and Link Up services, and (iv) comply with record keeping and reporting requirements pertaining to the federal Lifeline and Link Up programs. Non-ETCs do not have to comply with the aforementioned requirements.

6. Requiring all facilities-based providers of ULTS to become ETCs may dissuade potential new facilities-based providers of ULTS from entering the California market and/or cause existing facilities-based providers of ULTS to

withdraw from California. This, in turn, could have a chilling effect on the development of facilities-based competition in the provision of ULTS.

7. GO 153, Section 3.1.1.1, requires ULTS income-eligibility limits to be annually adjusted for inflation by February 15th of each year.

8. In Resolution T-16010, issued on June 11, 1997, the Commission took the following actions: (i) moved the annual deadline for adjusting ULTS income-eligibility limits from February 15th to May 1st; (ii) required the Director of TD to notify all utilities by May 1st of each year about the adjusted ULTS income-eligibility limits; and (iii) required utilities to file revised tariffs, effective June 1st of each year, to reflect the adjusted ULTS income-eligibility limits.

9. Pacific proposed that GO 153 be revised to (i) require TD to adjust ULTS income-eligibility limits by April 15th of each year, (ii) TD to immediately notify utilities of the annual adjustments, and (iii) utilities to file tariffs to implement the annual adjustment by June 1st of each year. There was no opposition to Pacific's proposal.

10. Pursuant to D.96-10-066, ULTS includes the service elements of BRTS set forth in Appendix B, Rule 4 of that decision.

11. GO 153 does not reflect that ULTS includes all of the service elements of BRTS adopted by the Commission in D.96-10-066, Appendix B, Rule 4.

12. GO 153 does not reflect the Commission's decision in D.96-10-066 and D.99-11-051 to require the ILECs to provide their ULTS customers with the same number of free DA calls that the ILECs provide to their non-ULTS residential customers.

13. GO 153 does not reflect the Commission's decision in D.94-09-065 to require ULTS measured service customers to pay $0.08 per call for all local calls in excess of the monthly allowance of free local calls.

14. GO 153 does not reflect the statewide recurring monthly rates for ULTS flat-rate service and ULTS measured-rate service adopted in D.94-09-065.

15. The statewide recurring monthly rates for ULTS adopted in D.94-09-065 are tied to Pacific's recurring monthly rates for ULTS. Therefore, when Pacific revises its recurring monthly rates for ULTS, other utilities may also have to revise their own recurring monthly rates for ULTS.

16. GO 153 does not reflect the statewide non-recurring ULTS charge for service connection (ULTS connection charge) adopted in D.94-09-065.

17. GO 153 does not reflect the Commission's decision in D.94-09-065 to prohibit utilities from requiring ULTS customers to pay a "central office charge" when installing ULTS.

18. GO 153, Section 3.3.1, indicates that ULTS includes the installation of inside wire. The installation of inside wire is a competitive service that was deregulated by the Commission in D.98-05-041.

19. GO 153 states that (i) the price of the ULTS service conversion charge shall be the same as the price of the ULTS connection charge, and (ii) the number of ULTS service conversion charges a ULTS customer may receive each year shall be the same as the number of ULTS service connection charges a ULTS customer may receive each year.

20. There was no opposition to the OIR proposal to retain the existing policy regarding the price and number of ULTS service conversion charges.

21. GO 153 does not reflect that the ULTS service conversion charge is the same as the statewide non-recurring ULTS charge for service connection adopted in D.94-09-065.

22. GO 153 does not reflect the current ULTS Rule that (i) relieves ULTS customers of the responsibility for paying taxes on ULTS rates and charges,

(ii) requires utilities to pay these taxes to the appropriate taxing authority, and (iii) requires the ULTS Fund to reimburse utilities for aforementioned taxes.

23. GO 153 does not address how utilities should determine the amount of taxes that they pay on behalf of their ULTS customers.

24. Some utilities in the past did not correctly calculate the Federal Excise Tax, State 911 Tax, and CPUC User Fee they paid on behalf of their ULTS customers.

25. On March 26, 1998, TD sent a letter to utilities that (i) instructed utilities on how to correctly calculate the taxes they pay on behalf of their ULTS customers, and (ii) notified utilities that they would be reimbursed for taxes only if the taxes are calculated and reported in accordance with TD's instructions.

26. It is possible that (i) a utility's liability for the taxes it pays on behalf of its ULTS customers may differ from the amount that was previously reimbursed by the ULTS Fund in accordance with the methods for calculating taxes prescribed by TD, and (ii) a utility may not discover that its actual tax liability differs from the amount that was previously reimbursed until after the expiration of the deadline established by this decision for submitting true-up ULTS claims.

27. GO 153 does not reflect the requirement in Pub. Util. Code § 875 that ULTS customers shall not pay the federal EUCL charge.

28. GO 153 does not reflect the Commission's decision in D.87-10-088 to (i) require utilities to submit ULTS claims on a monthly basis, and (ii) not pay interest to utilities on their monthly ULTS claims.

29. GO 153 does not reflect the long-standing practice of prohibiting utilities from recovering from the ULTS Fund any costs or lost revenues related to the sale of non-ULTS services (e.g., voice mail) to ULTS customers.

30. There was no opposition to the OIR proposal to revise GO 153 to state that the ULTS Fund shall not reimburse utilities for costs associated with the sale of non-ULTS services to ULTS customers, such as Caller ID, voice mail, etc.

31. If a utility submits a timely ULTS claim, but the claim is not paid on a timely basis, the utility loses the time value of money related to the late payment.

32. If a utility fails to submit a ULTS claim on time, it will be difficult for the ULTS program to pay the claim at the same time it pays other claims that were submitted on time because (i) there is less time to review, process, and pay the late-submitted claim, and (ii) the late-submitted claim may require more scrutiny and/or additional processing by ULTS program administrators.

33. Administration of the ULTS program would be easier if the accrual of interest on ULTS claims were to begin on the date that claim payments are due to be made to all utilities, and end on the date that payment is made.

34. GO 153 neither reflects nor incorporates the Monthly Report and Claim Statement (i.e., the ULTS Claim Form) adopted by the Commission in D.96-10-066, Appendix B, Rule 5.A.1.e.

35. The ULTS Claim Form does not have a line item for utilities to report and claim their costs to provide ULTS customers with (i) a deferred-payment schedule for the ULTS connection charge, and (ii) free toll-limitation service.

36. GO 153 does not reflect the Commission's decision in D.96-10-066 to (i) create the ULTSMB to serve as the sole entity responsible for marketing the ULTS program, and (ii) prohibit utilities from submitting claims to the ULTS program for marketing-related costs.

37. The ULTS Claim Form includes a section titled "Monthly Report" in which utilities report information that is used by ULTS program administrators to review and evaluate utilities' ULTS claims.

38. GO 153 does not reflect the Commission's decision in D.96-10-066 to require each utility to include in its "Monthly Report" the number of ULTS customers served by the utility during the month, broken down by the number of ULTS customers with (i) measured local service, or (ii) flat-rate local service.

39. Utilities do not use a uniform method to report the number of ULTS customers they served during the month.

40. A large part of each utility's monthly ULTS claim is based on, and proportional to, the number of ULTS customers served by the utility.

41. There was no opposition to the OIR proposal to require all utilities to use one method to report the number of ULTS customers served.

42. Requiring each utility to report the weighted-average number of ULTS customers served during the reporting period covered by the ULTS Claim Form would produce an accurate measurement of the utility's costs that are directly proportional to the number of ULTS customers served by the utility.

43. Utilities that do not currently report the weighted-average number of ULTS customers served may need some time to implement a new requirement to report the weighted-average number of ULTS customers.

44. GO 153 does not reflect the letter sent to all utilities by the Director of TD on March 26, 1998, which required utilities to submit their ULTS Claim Forms within 30 days following the period for which a claim is made.

45. Utilities with relatively small monthly ULTS claims may benefit if they were allowed to submit ULTS claims once every six months.

46. GO 153 does not reflect the following practice currently used to process ULTS claims: (i) utilities submit their claims to TD, (ii) TD reviews the claims and forwards its findings and recommendations to the ULTSAC, (iii) the ULTSAC determines whether or not claims should be paid, and (iv) the ULTS Fund pays the claims within 15 days of the claims having been approved by the ULTSAC.

47. GO 153 does not reflect the Commission's decision in D.87-07-090 to use a surcharge, and not a tax, to fund the ULTS program.

48. GO 153 does not reflect the ULTS surcharge billing base adopted in D.94-09-065, as modified by D.95-02-050, and reaffirmed by D.96-10-065.

49. GO 153 does not reflect the Commission's decision in D.96-10-066 to require all carriers to (i) assess and collect the ULTS surcharge, and (ii) remit the moneys so collected to the ULTS Fund.

50. GO 153 does not include any procedures or forms for carriers to use in remitting ULTS surcharge revenues.

51. GO 153 does not reflect Pub. Util. Code § 879 which requires the Commission to initiate an annual proceeding to set the ULTS surcharge rate.

52. GO 153 does not reflect Resolution T-16366, issued on December 2, 1999, which required the ULTS surcharge rate to be annually set by no later than July 1st of each year.

53. In recent years, carriers have been able to implement a revised ULTS surcharge rate in less than 30 days.

54. GO 153 does not incorporate the surcharge remittance form and the instructions attached to the form that were adopted by the Commission in Resolution T-16165, issued on July 2, 1998, and revised by TD in August 1998.

55. GO 153 does not reflect the following schedule for remitting ULTS surcharge revenues adopted by TD in August 1998: (i) carriers with $10,000 or more per month in billings subject to the ULTS surcharge must remit ULTS surcharge revenues on a monthly basis, and (ii) carriers with less than $10,000 in monthly billings subject to the ULTS surcharge may remit on a biannual basis.

56. GO 153 does not specify how carriers should determine the amount of ULTS surcharge revenues to remit for any given period of time.

57. Carriers employ a variety of methods to determine how much ULTS surcharge revenues to remit for a given period of time.

58. It is difficult for the Commission to exercise close oversight of ULTS surcharge revenues if 1,100 carriers choose their own methods to determine how much surcharge revenues to remit for any given period.

59. Requiring all carriers to use one method to determine the amount of ULTS surcharge revenues to remit for a given period of time would (i) improve the Commission's ability to oversee ULTS surcharge revenues, and (ii) reduce the burden faced by ULTS program administrators in managing the receipt, review, and audit of ULTS surcharge revenues.

60. GO 153 does not reflect the Commission's practice of withholding ULTS claim payments from those utilities that have not remitted all of their ULTS surcharge revenues.

61. Withholding ULTS claim payments from a utility that fails to timely remit ULTS surcharge revenues provides an incentive for the utility to promptly remit the surcharge revenues.

62. The incentive described in the prior Finding of Fact would be weakened if the utility, after remitting the past due ULTS surcharge revenues, were to receive interest on the ULTS claims payments previously withheld from it.

63. GO 153 requires every utility to (i) annually mail a notice to all of its residential customers informing them of the availability, terms, and conditions of ULTS ("annual ULTS notice"), and (ii) submit its annual ULTS notice to the Commission's Executive Director for the Executive Director's review and approval.

64. GO 153 does not reflect the current practice whereby the Commission's Public Advisor reviews and approves utilities' annual ULTS notices.

65. It would be unnecessarily burdensome for the Public Advisor and the utilities if utilities were required to submit their annual ULTS notices to the Public Advisor every year when the Commission revises the ULTS income-eligibility limits.

66. In D.96-10-076, the Commission adopted a settlement agreement in which certain LECs that sell services to residential customers in languages other than English agreed to: (i) provide these customers with Commission-mandated ULTS notices in the same language in which the services were originally sold; (ii) annually provide all their residential customers with Commission-mandated ULTS notices in seven designated languages; and, (iii) to include with the annual notices a toll-free number for bilingual customer service representatives in the languages in which the utility sells it services.

67. GO 153 does not reflect the Commission's decision in D.99-07-016 that (i) the "income from self-employment" shown on IRS Form 1040, Schedule C, Line 29, should be used in the determination of eligibility for the ULTS program; (ii) borrowed money should not be considered as income when determining eligibility for the ULTS program; and (iii) funds transferred by a customer from one account to another, such as from a savings account to a checking account, should not be considered as income when determining eligibility for the ULTS program, even if such funds are used for living expenses.

68. GO 153 does not reflect the Commission's decision in D.99-07-016 to require utilities to obtain from each customer seeking to enroll in the ULTS program, and annually thereafter, a signed statement indicating that (i) the utility may verify the customer's eligibility to participate in the ULTS program, and (ii) if the verification establishes that the customer is ineligible to participate in the ULTS program, the customer will be removed from the program and billed for previous discounts that the customer should not have received.

69. GO 153 does not reflect the Commission's decision in D.99-07-016 to authorize utilities to bill ineligible customers participating in the ULTS program for ULTS discounts that these customers should not have received.

70. There have been numerous revisions to the federal Lifeline and Link Up programs since GO 153 was issued in 1984. Many of these revisions affect the ULTS program, but none of these effects have been reflected in GO 153.

71. D.96-10-066, OP 17, indicates that the ULTS program should be modified, as appropriate, to conform to the federal Lifeline and Link Up programs.

72. GO 153 does not reflect the current practice of the ULTS program of requiring utilities to offer a reduced ULTS connection charge to every qualifying household, including multiple households located at a single residence.

73. The federal Link Up program, in contrast to the ULTS program, requires ETCs to offer only one reduced connection charge at each residence, regardless of the number of separate households at a given residence.

74. There was no opposition to the OIR proposal to retain the existing practice of requiring utilities to offer the ULTS connection charge to every qualifying household, including multiple households located at a single residence.

75. GO 153 requires utilities to offer each ULTS customer one ULTS connection charge at the same residence per 12-month period. The Link Up program, in contrast, requires ETCs to offer only one reduced connection charge to the same customer at the same residence.

76. The federal Link Up program requires ETCs to offer a reduced service-connection charge to low-income customers each time they move to a new address. GO 153, in contrast, requires utilities to offer ULTS customers one reduced connection charge per 12-month period, regardless of the number of times a ULTS customer moves to a new address during a 12-month period.

77. Service-connection charges are a significant burden to the poor, who tend to be renters and move with frequency.

78. Requiring utilities to offer the ULTS connection charge each time a ULTS customer re-connects service at the same address or moves to a new address would (i) increase the number of low-income households that have access to basic telephone service, and (ii) eliminate the need for utilities to track the number of reduced connection charges received by each ULTS customer during the previous 12 months.

79. There was no opposition to the OIR proposal to reimburse utilities for the lost revenues they reasonably incur to provide ULTS customers with reduced connection charges to the extent that such costs are not reimbursed by the federal Link Up program.

80. It is possible that some ULTS customers who move to a new address or reestablish ULTS at the same address will not have paid all of their previously incurred ULTS rates and charges.

81. Customers with unpaid ULTS bills are a credit risk to utilities.

82. Under the federal Link Up program, ETCs may not require a customer with an unpaid toll bill to post a service deposit to initiate Lifeline service if the low-income customer elects to receive toll blocking. However, if toll blocking is unavailable, then ETCs may charge a service deposit to initiate Lifeline service.

83. Under the ULTS program, utilities may not charge a service deposit to initiate ULTS unless the ULTS customer has an unpaid bill with another California telephone utility.

84. There was no opposition to the OIR proposal to revise GO 153 to conform to the federal Lifeline program by prohibiting utilities from requiring customers who have an unpaid toll bill to post a service deposit in order to initiate ULTS if such customers elect to subscribe to toll blocking.

85. Service deposits represent a significant financial obstacle to low-income households obtaining access to basic telephone service.

86. Under the federal Link Up program, ETCs must offer low-income consumers the option of a deferred schedule for the payment of up to $200 in service-connection charges. ETCs cannot charge interest on the deferred payments, and the deferred-payment schedule cannot exceed one year.

87. Under the ULTS program, utilities must offer ULTS customers the option of paying the ULTS service-connection charge in three equal monthly installments, but utilities may assess interest on the deferred payments.

88. There was no opposition to the OIR proposal to revise GO 153 to conform to the federal Link Up program by requiring utilities to offer an interest-free deferred-payment schedule for the ULTS service-connection charge.

89. ETCs are reimbursed by the federal Link Up program for the interest costs associated with the deferred payment of service-connection charges.

90. There was no opposition to the OIR proposal to reimburse utilities for the interest costs they reasonably incur to provide ULTS customers with an interest-free deferred-payment schedule for the ULTS connection charge to the extent that such costs are not reimbursed by the federal Link Up program.

91. Federal regulations are silent on whether ETCs may charge a late-payment fee when consumers fail to make timely payments of deferred service-connection charges. Under the ULTS program, utilities may charge a late-payment fee when customers fail to timely remit deferred payments of the ULTS connection charge.

92. The failure of ULTS customers to timely remit deferred payments of the ULTS connection charge causes utilities to incur various costs, including (i) the cost of collecting on delinquent accounts; and(ii) the lost time value of money when deferred payments are not made on time.

93. Any costs caused by the failure of ULTS customers to timely remit late-payment fees are not an incremental cost of providing ULTS since such costs are associated with all classes of customers.

94. Under the federal Lifeline program, ETCs must offer toll-limitation service free of charge to Lifeline customers. There is no similar requirement under the ULTS program.

95. The FCC defines "toll-limitation service" as either toll blocking or toll control for ETCs that are incapable of providing both services. For ETCs capable of providing both services, the FCC defines toll-limitation service as both "toll blocking and toll control."

96. Toll blocking allows consumers to block toll calls made from their telephone line. Toll control allows consumers to specify an amount of toll usage that may be incurred from their telephone line per month or billing cycle.

97. GO 153 does not include a definition of "toll-limitation service."

98. The federal Lifeline program reimburses ETCs for the incremental cost, and not the retail rate, of providing toll-limitation service to Lifeline customers.

99. Many low-income households may go without phone service because of their concern that having a telephone may lead to phone bills they cannot afford. This concern could be alleviated by requiring utilities to offer toll-limitation service free of charge to ULTS customers.

100. ULTS customers that subscribe to toll-blocking service can originate toll calls by making collect calls, credit-card calls, and calling-card calls.

101. Reimbursing utilities for their retail tariffed rates for toll-limitation service provided to ULTS customers could result in utilities receiving far more than their costs to provide toll-limitation service if the utilities set their retail rates for toll-limitation service substantially in excess of their costs to provide this service.

102. Requiring utilities to determine their incremental costs of providing toll-limitation service does not impose a new burden on those utilities that are ETCs.

103. Many utilities are presently incapable of offering toll-control service.

104. The federal Lifeline program does not require ETCs to offer toll-control service at the present time if ETCs are incapable of offering this service.

105. Utilities that are presently incapable of offering toll-control service would incur costs to develop and deploy this service.

106. Reimbursing all utilities the same fixed amount to provide toll-limitation service to ULTS customers would likely result in some utilities being reimbursed for more or less than their incremental cost to provide this service.

107. At the time the OIR was issued, the federal Lifeline program had a "no-disconnect rule" that prohibited ETCs from (i) disconnecting Lifeline service for non-payment of toll charges, (ii) denying a request to establish Lifeline service due to a previous disconnection for non-payment of toll charges, and (iii) requiring Lifeline customers to accept toll-limitation service in order to retain local service. The no-disconnect rule also required that partial payments by Lifeline customers to be applied first to local service charges, and then to toll service charges.

108. On July 30, 1999, the United States Court of Appeals for the Fifth Circuit issued a decision that vacated the FCC's "no-disconnect rule." In FCC 99-290, issued on October 8, 1999, the FCC rescinded the "no-disconnect rule."

109. The federal Lifeline program pays ETCs up to $7 per month for each Lifeline customer served by the ETC. The federal Link Up program pays ETCs up to $30 for each discounted connection charge provided to Lifeline customers. Utilities that are not ETCs do not receive these subsidies from the federal Lifeline and Link Up programs.

110. GO 153 and the ULTS Claim Form do not reflect the Commission's decision in Resolution T-16128 to reduce each utility's draw from the ULTS Fund by an amount equal to what the utility receives as an ETC from the federal Lifeline and Link Up programs.

111. It is possible that utilities may not receive federal subsidies for the time period covered by a ULTS Claim Form until after the utility submits the Form.

112. Only facilities-based carriers are eligible to become ETCs and receive subsidies from the federal Lifeline and Link Up programs. ULTS providers that are not facilities-based carriers (e.g., resellers) are ineligible to become ETCs.

113. Pursuant to D.96-10-066, all carriers that offer residential local exchange service must offer ULTS, including resellers that have no facilities of their own.

114. GO 153 does not reflect the Commission's decision in Resolution T-16128 to require the ULTS Fund to reimburse every utility for the reasonable costs it incurs to provide ULTS to the extent that such costs are not reimbursed by the federal Lifeline and Link Up programs.

115. GO 153 does not allow ULTS customers to pay the ULTS connection charge when switching from one ULTS provider to another. This restriction may hinder competition in the provision of ULTS since it may deter ULTS customers from switching ULTS providers.

116. Utilities have no practical way of knowing how many times a new ULTS customer has switched ULTS providers during the previous 12 months.

117. Since ULTS customers are low-income households, it is unlikely that many ULTS customers can pay the ULTS connection charge more than once or twice per 12-month period in order to switch ULTS providers.

118. There are no uniform standards to govern key aspects of the ULTS program. The lack of uniform standards has become increasingly burdensome

for ULTS program administrators due to the growing number of utilities submitting ULTS claims and carriers remitting the ULTS surcharge.

119. For each ULTS customer served by a utility, the ULTS Fund is required by D.96-10-066 to reimburse the utility for the difference between the utility's tariffed rates and charges for basic residential telephone service ("tariffed rates") and ULTS rates and charges ("ULTS rates"). This requirement means that (i) different utilities could be paid substantially different amounts by the ULTS Fund to serve the same ULTS customer, and (ii) an unscrupulous utility could obtain unreasonably large amounts of reimbursement from the ULTS Fund by setting its tariffed rates vastly in excess of ULTS rates.

120. The Commission previously found the ILECs' existing tariffed rates and charges for basic residential telephone service (BRTS) to be just and reasonable.

121. ILECs' tariffed rates and charges for BRTS are subject to more scrutiny by the Commission than the tariffed rates and charges of other ULTS providers.

122. Every ILEC is a COLR. The only COLRs at this time are the ILECs.

123. No ULTS provider currently recovers less in lost revenues from the ULTS Fund to serve a particular ULTS customer than what the customer's COLR would recover from the ULTS Fund to serve that customer.

124. If the Commission capped the amount of lost revenues that utilities may recover from the ULTS Fund to serve a particular ULTS customer to no more than what the COLR would recover to serve that customer, some CLCs may find it unprofitable to serve that customer.

125. In a competitive market, a buyer of a service will seek to pay the lowest possible price for the service, all else being equal.

126. The ULTS Claim Form contains several broad categories of "operating costs" that utilities may recover from the ULTS Fund, but there is little

information on the ULTS Claim Form or in GO 153 about the nature or extent of the operating costs that utilities may recover from the ULTS Fund.

127. There was no opposition to the OIR proposal to revise GO 153 to state that utilities may recover from the ULTS Fund those operating costs that are (i) incremental to the ULTS program, and (ii) not recovered elsewhere by the utility (e.g., recovered from ULTS customers, general rates, or federal subsidies).

128. There is no record in this proceeding to develop a comprehensive list and description of the costs that utilities may recover from the ULTS Fund.

129. The ULTS Claim Form includes a line item for bad-debt costs, but neither the ULTS Claim Form nor GO 153 provides guidance on the amount of bad-debt costs that a utility may recover from the ULTS Fund.

130. A utility's bad-debt costs that are incremental to the ULTS program are the lower of (i) the actual amount of the ULTS rates and charges that a ULTS customer fails to pay (plus the associated lost revenues), or (ii) the amount of the deposit for local residential service, if any, that the utility normally requires from non-ULTS residential local exchange customers.

131. D.96-10-066, Appendix B, Rule 5.A.1.a, requires utilities to notify residential customers about the availability of ULTS when they apply for BRTS. This requirement is not reflected in GO 153.

132. The time that utilities' service representatives spend notifying residential customers about the availability of ULTS when they apply for BRTS ("ULTS service representative costs") represents a cost that is incremental to the ULTS program.

133. Requiring utilities to recover their ULTS service representative costs in their general rates would, all else being equal, cause the rates of utilities that serve a relatively large number of ULTS customers to be higher, and thus less competitive, than the rates of utilities that serve relatively few ULTS customers.

134. Requiring utilities to recover their ULTS service representative costs in their rates would create a disincentive for utilities to serve ULTS customers, and thereby undermine the goals of (i) fostering competition in the provision of ULTS, and (ii) providing affordable BRTS to low-income households.

135. The time spent by utilities' service representatives with ULTS customers on matters unrelated to ULTS, such as the sale of Caller ID to ULTS customers, does not represent a cost that is incremental to the ULTS program.

136. The time spent by utilities' service representatives to process a ULTS service order does not represent a cost that is incremental to the ULTS program, since processing service orders is a normal cost of doing business for utilities.

137. The time spent by utilities' service representatives to answer calls from ULTS customers regarding their bills does not represent a cost that is incremental to the ULTS program, since all customers may call with questions about their phone bills.

138. Utilities are required to offer ULTS customers who subscribe to measured local service 60 free (i.e., untimed) local calls per month.

139. Utilities lose revenues when they provide free local calls to ULTS customers who subscribe to measured local service.

140. Pacific is the only large utility that is reimbursed by the ULTS Fund for the lost revenues that result when ULTS measured-service customers make 31 to 60 free (i.e., untimed) local calls per month.

141. GO 153 does not require utilities to submit workpapers to support their ULTS claims. Nor does GO 153 have any standards regarding the content, format, and timing of such workpapers.

142. On March 26, 1998, the Director of the TD notified all utilities that they would have to submit workpapers to support their ULTS claims.

143. There was no opposition to the OIR proposal to revise GO 153 to require utilities to submit workpapers to support their ULTS claims.

144. More than two dozen utilities currently submit ULTS claims, and the number of utilities submitting ULTS claims may grow.

145. ULTS program administrators may have difficulty in timely reviewing and paying dozens of ULTS claims each month if utilities do not submit standardized workpapers to support their ULTS claims.

146. Failure to timely pay ULTS claims would result in interest payments being made to claimants and, therefore, higher ULTS program costs.

147. TD has first-hand knowledge of what data utilities should routinely submit with their ULTS claims in order for the claims to be reviewed and paid in a timely manner.

148. There may be circumstances that warrant a utility being granted a waiver of any workpaper standards promulgated by the Commission or its staff.

149. There was no opposition to the OIR proposal to give notice of changes to the ULTS program by mailing to carriers and utilities a postcard or single-page document that contains (i) a brief description of the change to the ULTS program, and (ii) information on how to obtain more detailed information about the change from the Commission's website or by calling TD.

150. There was no opposition to the OIR proposal to combine, if appropriate, the notice of ULTS program changes described in the previous Finding of Fact with notice of changes affecting the CHCF-A, CHCF-B, CTF, and DDTP.

151. There was no opposition to (i) ORA's and Pacific's proposal to use the Commission's website as a primary means to disseminate information regarding the ULTS program, and (ii) ORA's proposal to reserve an area on the Commission's website for ULTS-related information.

152. It would be easier for carriers, utilities, and other interested parties to find ULTS-related information on the Commission's website if all such information were located on one area of the website.

153. GO 153 does not specify how utilities should screen customers to determine if they are eligible to participate in the ULTS program.

154. Utilities currently employ a variety of different procedures to determine if customers are eligible to participate in the ULTS program.

155. Some customers who are eligible to enroll in the ULTS program may not do so if it requires them to disclose detailed personal financial information.

156. Prohibiting utilities from knowingly enrolling ineligible customers into the ULTS program does not create a disincentive for utilities to enroll eligible customers into the ULTS program.

157. The procedures used by utilities to screen customers for ULTS eligibility would be more likely to weed out ineligible customers if utility service representatives were required to inform customers during the screening process that (i) the utility may verify the customer's eligibility to participate in the ULTS program, and (ii) if the verification establishes that the customer is ineligible, the customer will be removed from the ULTS program and billed for pervious discounts that the customer should not have received.

158. Allowing utility service representatives to link the ULTS discount to the purchase of non-ULTS services sold by the utility increases the probability of ineligible customers enrolling in the ULTS program.

159. Providing utilities with flexibility to develop screening procedures that comply with the requirements of this decision would enable utilities to (i) devise screening procedures that make the best use of their resources, and (ii) minimize the burden that the screening process imposes on utilities.

160. GO 153 requires utilities to obtain from every customer seeking to enroll in the ULTS program, and each year thereafter, a form signed by the customer which certifies that the customer is eligible to participate in the program.

161. GO 153 contains no standards regarding the content of the customer self-certification forms described in the previous Finding of Fact.

162. There was no opposition to the OIR proposal to revise GO 153 to require the following information to be included in customer self-certification forms: (i) a description of ULTS program benefits and eligibility criteria; and (ii) a customer signature area that conveys certification of eligibility for, and acceptance of, ULTS.

163. GO 153 requires utilities to (i) enroll customers into the ULTS program during the service order process if customers verbally certify that they are eligible to participate in the program; (ii) mail to newly enrolled ULTS customers a self-certification form that customers must sign and return to the utility within 30 days; (iii) remove customers from the ULTS program if they fail to return a signed self-certification form within 30 days; and (iv) back bill customers removed from the ULTS program for the full tariffed rates, charges, and service deposit retroactive to the date that ULTS began.

164. GTE reports that approximately 40% of the customers who obtain ULTS from GTE based upon verbal certification during the service order process fail to complete their certification by returning a signed self-certification form.

165. GO 153 prohibits utilities from charging a service deposit in order to initiate ULTS. This limits utilities' ability to protect themselves from bad debt caused by ULTS customers who fail to pay their ULTS rates and charges.

166. Requiring potential ULTS customers to submit a signed self-certification form helps to screen out customers who do not qualify for the ULTS program.

167. There was no support for the OIR proposal to require ULTS customers to post a service deposit and pay full tariffed rates and charges pending their submittal of a signed self-certification form.

168. Many low-income customers cannot afford to post a service deposit and pay full tariffed rates and charges while waiting for their self-certification form to be received, returned, and processed by the utility.

169. The 1995 Workshop Report proposed to reduce ULTS program costs by revising GO 153 to require ULTS customers to re-certify their eligibly to participate in the ULTS program every two years instead of every year.

170. There was no opposition to the OIR proposal to retain the existing requirement for ULTS customers to annually re-certify their eligibility to participate in the program.

171. Roseville Telephone Company conducts a blanket re-certification of all its ULTS customers at the same time each year.

172. If a utility that conducts an annual blanket re-certification of its customers' eligibility to participate in the ULTS program does not re-certify customers who have been enrolled in the ULTS program for less than one year, then the first re-certification of each of the utility's ULTS customers would occur 13 to 24 months after the customer's initial certification.

173. The longer re-certification is delayed, the greater the likelihood of (i) prolonging the provision of ULTS benefits to ineligible customers, and (ii) increasing ULTS program costs by providing ULTS benefits to ineligible customers.

174. Any confusion that annual blanket re-certification creates for ULTS customers can be reduced or eliminated by requiring those utilities that conduct blanket re-certifications to inform customers when they initially enroll in the ULTS program, and with each blanket re-certification thereafter, that

re-certification will be conducted at the same time each year regardless of when the customer enrolled in the ULTS program.

175. GO 153 requires ULTS customers to return a signed re-certification form within 30 days. There is no evidence that this requirement is unduly burdensome for ULTS customers.

176. Requiring utilities to mail a second re-certification form to ULTS customers who fail to return the first form would increase ULTS program costs.

177. There is no evidence that ULTS customers lose telephone service for failure to return a re-certification form.

178. If a ULTS customer fails to return a re-certification form, utilities would incur lower costs to remove that customer from the ULTS program on a prospective basis than on a retroactive basis.

179. The 1995 Workshop Report raised the issue of whether there should be a time limit for how long utilities should have to submit ULTS claims, but the Report contained no recommendation on how to resolve this issue.

180. There was no opposition to the OIR proposal to revise GO 153 to state that (i) utilities will not be reimbursed for ULTS claims that are filed more than two years after the claims are due, (ii) utilities that submit a timely claim would have two years to submit a true-up claim, and (iii) utilities will not be reimbursed for true-up claims submitted after the expiration of the two-year deadline.

181. There may be circumstances that warrant a utility being granted a waiver of the two-year deadline for filing initial ULTS claims and true-up claims.

182. The 1995 Workshop Report raised the issues of whether there should be time limits for (i) how long utilities should retain records pertaining to their ULTS surcharge remittances and ULTS claims, and (ii) how long the Commission should have to perform audits of ULTS claims. However, the 1995 Workshop Report contained no recommendation on how to resolve these issues.

183. There are more than 1,100 carriers and utilities, and the Commission lacks the resources to audit each one of these entities.

184. A lack of a time limit on routine audits may cause some carriers and utilities to expend money and resources to indefinitely retain ULTS-related records in order to protect themselves from audits.

185. If a carrier or utility engages in gross, waste, fraud, abuse, or other malfeasance concerning the ULTS program, it may be many years, if ever, before evidence of the malfeasance comes to light.

186. Auditors need the following records in order to conduct effective and efficient audits of ULTS surcharge remittances and ULTS claims: (i) records of all intrastate billings and collections, (ii) customer certification and re-certification forms, (iii) ULTS Claim Forms and the workpapers supporting the Claim Forms, and (iv) the accounting books and records used to prepare the ULTS Claim Forms and the workpapers supporting the Claim Forms.

187. There is a time value of money associated with (i) the over- or under-remittance of ULTS surcharge revenues, and (ii) the over- or under-payment of ULTS claims.

188. The 1995 Workshop Report identified the following possible ways to enforce the collection and remittance of ULTS surcharge revenues by carriers: (i) the revocation of a carrier's CPCN, (ii) making Commission actions on a carrier's requests contingent upon the carrier's remittance of surcharge revenues, (iii) filing a suit against the carrier, (iv) imposing a penalty for non-remittance of surcharge revenues, and (v) assessing interest on late remittances. However, the 1995 Workshop Report contained no recommendation on whether the aforementioned enforcement mechanisms should be included in GO 153.

189. There was no opposition to the OIR proposal to (i) exclude from GO 153 the first four enforcement mechanisms identified in the previous Finding of Fact,

and (ii) revise GO 153 to include a requirement for carriers to pay interest on late remittances of ULTS surcharge revenues.

190. In D.98-01-023, the Commission ordered any carrier that is late in remitting CHCF-B or CTF surcharge revenues to pay interest at an annual rate of 10% on the late remittances.

191. If carriers were required to pay interest on late remittances equal to the 3-month commercial paper rate, some carriers might find it profitable to delay remitting their ULTS surcharge revenues in order to place the money in investments that earn more than the 3-month commercial paper rate.

192. The ULTS program has no financial incentive to withhold ULTS claim payments since (i) this decision requires the ULTS Fund to pay interest on late payments equal to the 3-month commercial paper rate, and (ii) none of the investments available to the ULTS Fund are likely to yield rates of return higher than the 3-month commercial paper rate.

193. The DDTP provides disabled customers with free equipment and services to enable them to communicate over the public telephone network.

194. ULTS program rules allow a low-income household to have only one phone line in order to participate in the program.

195. Some low-income households have disabled members who use two-line VCO to access basic telephone service. Two-line VCO requires two phone lines to work effectively.

196. Some low-income households have two or members, one of whom is disabled and uses a TTY devise to access basic telephone service. Such households require two lines to provide all members of the household with effective access to basic telephone service.

197. Deaf persons may use videophone devices with video-relay interpreting (VRI) service to telephonically communicate in American Sign Language with hearing persons. VRI service requires two phone lines to work effectively.

198. The DDTP does not provide videophone devices or VRI service to residential customers.

199. Resolution T-16207 authorized a trial of VRI. The trial consists of providing access to VRI service at seven public locations throughout California.

200. There may someday be equipment and services besides two-line VCO that warrant the provision of two or more ULTS lines to enable low-income disabled persons to access basic telephone service.

201. Advances in technology may someday allow all disabled persons to access basic telephone service using one phone line.

202. Requiring utilities to offer two ULTS lines to enable low-income households with disabled members to access basic telephone service would affect (i) the content of the information concerning the ULTS program provided by utilities to customers applying for residential service; (ii) the content of the annual ULTS notices sent by utilities to all of their residential customers; (iii) the screening procedures used by utilities to qualify customers for two ULTS lines; (iv) the self-certification form for customers applying for two ULTS lines; and (v) the annual re-certification form for ULTS customers with two ULTS lines.

203. There was no opposition to Calaveras' proposal to require the ULTSMB to market the availability of two ULTS lines to low-income households with disabled members who need two lines to telephonically communicate.

204. Some customers who apply for two ULTS lines may have obtained a TTY devise from a source other than the DDTP.

205. Disabilities requiring the use of specialized telecommunications equipment and services are usually not temporary in nature.

206. Pub. Util. Code § 2881 requires any person seeking to obtain free equipment from the DDTP to submit a certificate of their disability signed by an authorized medical professional ("medical certificate"). Customers may currently submit their medical certificate to their LEC or the DDTP, but the LEC is ultimately responsible for distributing the appropriate equipment to the disabled customer who submitted the medical certificate.

207. In Resolution T-16303, the Commission (i) transferred from utilities to the DDTP the responsibility for receiving medical certificates (MCs) and providing telecommunications devices to the disabled effective as of July 1, 2000, and (ii) instructed the DDTP to implement a database containing all the program's customer and equipment records.

208. Once the DDTP has assumed the responsibility for receiving MCs and distributing equipment to the disabled, utilities will have to obtain from the DDTP the information necessary to determine if a customer meets the disability and equipment-related eligibility criteria for obtaining two ULTS lines.

209. The federal Lifeline and Link Up programs provide ETCs with financial support to subsidize one telephone line per ULTS customer.

210. The FCC is considering whether to subsidize rates for a second residential line provided to any household that includes a person with a hearing or speech disability, regardless of whether the household is "low income."

211. Utilities will incur additional costs to provide two ULTS lines to low-income households with disable members. The ULTS Claim Form may have to be modified to reflect the provision of two ULTS lines to qualified households.

212. CHCF-B subsidizes the provision of one access line to households located in designated high-cost areas of the state. The expansion of the ULTS program to provide two ULTS lines to low-income households with disable members means

that the CHCF-B will likewise have to be expanded to subsidize the provision of second ULTS lines in designated high-cost areas of the state.

213. The ULTSAC was established by the Commission in D.87-10-088 to administer the ULTS program. The ULTSAC consists of representatives from large LECs, small LECs, IECs, and consumer organizations. The charter for the ULTSAC was approved in D.94-10-046, as amended by Resolution T-16176.

214. There was no opposition to the OIR proposal to allow the two positions on the ULTSAC reserved for representatives of consumer organizations to also be filled by representatives of state agencies other than the Commission.

215. The ULTSAC is responsible for administering (i) the receipt of hundreds of millions of dollars in ULTS surcharge revenues from the carriers, and (ii) the disbursement of these moneys to the utilities providing ULTS.

216. Excluding carrier and utility representatives from serving on ULTSAC will not prevent carriers and utilities from providing input to the ULTSAC since the meetings of the ULTSAC are open to the public.

217. Consumer representatives serving on the ULTSAC have no direct financial interest in the decisions of the ULTSAC.

218. Since the ULTSAC is not a policy-making body, allowing consumer representatives to serve on the ULTSAC would provide them with little, if any, opportunity to advance their special-interest agendas.

219. In September of 1999, the Legislature passed SB 669 which includes several provisions that directly affect the ULTS program.

220. When GO 153 was originally issued in 1984, it was, for all practical purposes, the one source for ULTS program rules, procedures, and forms.

221. Appendix B of D.96-10-066, unlike GO 153, was never meant to be a single, comprehensive source of ULTS program rules, procedures, and forms.

222. The more information there is in GO 153 concerning ULTS program rules procedures, and forms, the more helpful GO 153 is likely to be to carriers and utilities in their understanding and properly implementing the ULTS program.

223. The more detail there is in GO 153 concerning ULTS program rules, procedures, and forms, the more likely that GO 153 will need to be updated as ULTS program rules, procedures, and forms are revised over time.

224. For GO 153 to remain a useful document to carriers, utilities, and ULTS program administrators, the General Order must be updated on an ongoing basis to reflect future changes to the ULTS program.

225. Commission regulations require all landline utilities, but not CMRS carriers, to offer ULTS. This inconsistency in regulatory treatment may discriminate in favor of CMRS carriers.

226. The Public Utilities Code and Commission regulations require all ULTS providers to offer ULTS at rates that are (i) determined by the Commission, and (ii) no more than 50% of the utility's rates for basic residential telephone service.

227. In D.96-12-071, Conclusion of Law 6, the Commission stated that "[t]he scope of 'rate regulation' preempted by the Federal Budget Act encompasses the authority to set, approve, or prescribe rates charged by CMRS carriers."

228. In D.96-12-071, the Commission detariffed CMRS.

229. GO 153, Section 2, and Pub. Util. Code § 876 require providers of ULTS to file ULTS tariffs.

230. ULTS includes the elements of basic residential telephone service (BRTS) set forth in D.96-10-066, Appendix B. The elements include several items that may not be offered by CMRS carriers, including (i) free unlimited incoming calls, (ii) flat-rate local service, and (iii) free white pages telephone directory.

231. Pursuant to D.96-10-066, Appendix B, Rule 4.B.6, BRTS includes E-911.

232. CMRS carriers may not be able to provide access to E-911 that is sufficient to ensure the safety and welfare of ULTS customers.

233. D.96-10-066 rejected AT&T's proposal to allow (i) CMRS carriers to charge whatever they want for ULTS, and (ii) allow ULTS customers to use their "ULTS subsidy" to help pay for a CMRS carrier's higher-priced rates for ULTS.

234. In D.96-10-066, the Commission held that CMRS could not be used to provide ULTS.

235. AT&T and CCTA state that CMRS is not currently a residential service.

236. None of the parties, either individually or collectively, submitted comments in this proceeding that contained enough information to construct a detailed framework for using CMRS to provide ULTS.

237. There was general support for GTE's proposal for the Commission to convene a workshop to resolve legal, technical, and policy issues associated with the provision of ULTS by CMRS carriers.

238. The was no opposition to ORA's proposal that the workshop described in the previous Finding of Fact (i) address the provision of E-911 by CMRS carriers, and (ii) include representatives of public safety agencies and E-911 personnel.

239. This expansion of ULTS program benefits by this decision will increase costs for the ULTS program, the DTTP, and the CHCF-B.

240. There is no record in this proceeding to determine the fiscal impact of today's decision on the ULTS Fund, the DDTP Fund, and the CHCF-B.

241. This decision adopts numerous substantial changes to the ULTS program that will have to be implemented by TD, DDTPAC, ULTSAC, ULTSMB, telecommunications carriers, and ULTS providers.

242. The entities identified in the previous Finding of Fact will need time to implement the changes to the ULTS program adopted by this decision.

243. The entities that are responsible for implementing the requirements of this decision will have to be notified about this decision if they are to implement the requirements of this decision.

Conclusions of Law

1. Utilities that are eligible to become ETCs should not at this time be required to do so in order to draw from the ULTS Fund.

2. TD should (i) adjust ULTS income-eligibility limits by April 15th of each year, and (ii) send to utilities notice of the annual adjustment within five business days of making the annual adjustment. Utilities should implement the annual adjustment by June 1st of each year.

3. TD should notify all utilities when there is a change to the statewide rates and charges for ULTS, including changes to statewide monthly rates for ULTS due to a change in Pacific Bell's monthly rates for ULTS. Such notice should inform utilities of the new statewide ULTS rates or charges, and instruct utilities to file compliance tariffs, if necessary, to revise their ULTS rates or charges.

4. ULTS should not include the installation of inside wire.

5. GO 153 should be revised to (i) incorporate the method for calculating the Federal Excise tax and CPUC user fee that utilities pay on behalf of their ULTS customers that is set for in TD's letter of March 26, 1998, (ii) require utilities to report their reimbursable taxes in accordance with this method, and (iii) require the ULTS Fund to reimburse utilities for the aforementioned taxes only to the extent that such taxes are calculated and reported in accordance with GO 153.

6. If a utility's actual tax liability differs from the amount that was previously reimbursed by the ULTS Fund, the utility should report the difference, whether positive or negative, as a "true-up" on its ULTS Claim Form. Any additional interest and penalties assessed by taxing authorities should be reimbursed by the ULTS Fund on a case-by-case basis.

7. Multiple households at the same residence should each be allowed to participate in the ULTS program, even though the federal rules do not allow more than one household per residence to participate in Lifeline program.

8. ULTS customers should be allowed to pay the ULTS connection charge each time they switch to a new ULTS provider, even though the federal Link Up program does not offer this benefit.

9. ULTS customers should be allowed to pay the ULTS connection charge each time they re-establish ULTS at the same address, even though the federal Link Up program does not offer this benefit.

10. The ULTS program should be revised to conform to the federal Link Up program by allowing ULTS customers to pay the ULTS connection change each time a ULTS customer moves to a new address.

11. This decision abolishes the once-per-year limit on the number of ULTS connection charges that ULTS customers may receive. Since the ULTS service conversion charge is linked to the ULTS connection charge, this decision should likewise abolish the once-per-year limit on the number of ULTS service conversion charges that ULTS customers may receive.

12. Utilities should be allowed to require ULTS customers to pay any overdue ULTS rates and charges, or make payment arrangements, before ULTS is re-installed at the same address or a new address.

13. GO 153 should retain the current practice of prohibiting utilities from requiring a service deposit to initiate ULTS from customers who have no unpaid bills with other California utilities.

14. The ULTS program should be revised to conform to the federal Lifeline program by prohibiting utilities from requiring customers who have an unpaid toll bill with another carrier to post a service deposit in order to initiate ULTS if such customers elect to subscribe to toll blocking.

15. Pursuant to FCC 96J-3, ¶¶ 389 and 429, and Footnote 1289, ETCs may require service deposits from Lifeline customers who have unpaid bills for local exchange service, even if such customers elect to receive toll blocking.

16. GO 153 should be revised to (i) allow utilities to require customers who have unpaid bills for basic residential telephone service (BRTS) or ULTS to post a service deposit in order to initiate ULTS, and (ii) require utilities to return these service deposits once ULTS customers have paid all prior bills for BRTS or ULTS.

17. There is no federal law that prohibits the Commission from requiring utilities to offer ULTS customers the option of paying ULTS connection charges in equal monthly installments.

18. The ULTS program should be revised to conform to the federal Link Up program by (i) requiring utilities to offer ULTS customers the option of paying ULTS connection charges in three equal monthly installments with no interest; and (ii) allowing, but not requiring, utilities to offer ULTS customers the option of paying ULTS connection charges in equal monthly installments with no interest over a period not to exceed 12 months.

19. The ULTS Fund should reimburse utilities for the reasonable administrative and interests costs they incur to provide ULTS customers with an interest-free deferred-payment schedule for ULTS connection charges. The reimbursement for interest costs should be based on (i) the assumption that deferred payments are made on time, and (ii) the 3-month commercial paper rate.

20. Utilities should be allowed to (i) charge a late-payment fee when ULTS customers fail to make timely remittances of deferred payments of ULTS connection charges ("deferred connection charge"); and (ii) recover the costs they incur when ULTS customers fail to make timely remittances of deferred connection charges by including these costs in the late-payment fee.

21. The ULTS program should be revised to conform to the federal Lifeline program by requiring utilities to offer toll-limitation service free of charge to ULTS customers in a manner consistent with the federal Lifeline program.

22. GO 153 should be revised to (i) include a definition of "toll-limitation service," and (ii) define "toll-limitation service" as including, but not limited to, toll blocking or toll-control service.

23. Utilities should not be required by the ULTS program to develop and offer toll-control service.

24. If ULTS customers do not pay their bills for toll service, it is unreasonable to force utilities to provide these customers with even more toll service under the guise of toll control.

25. In light of the revocation of the FCC's "no-disconnect rule" by the U.S. Court of Appeals for the Fifth Circuit, the OIR proposal to modify GO 153 to conform to the FCC's "no-disconnect rule" should not be adopted at this time.

26. If ETCs are required to provide services to low-income customers under the federal Lifeline and Link Up programs that utilities are not required to provide under the ULTS program, the ULTS program should not reimburse non-ETCs for the costs they incur to provide these services.

27. Utilities should only recover from the ULTS Fund those costs and lost revenues that are (i) incremental to the ULTS program, and (ii) not recovered by the utility from other sources, such as the rates and charges paid by ULTS customers, the utility's general rates, or the federal Lifeline and Link Up programs.

28. For each ULTS customer served by a utility, the utility should be allowed to recover from the ULTS Fund an amount of lost revenues equal to the difference between (i) ULTS rates and charges, and (ii) the lesser of the following: (a) the utility's regular tariffed rates and charges ("regular tariffed rates"), or

(b) the regular tariffed rates assessed by the ULTS customer's COLR. If there are two or more COLRs available to serve a particular ULTS customer, than ii(b) should equal the regular tariffed rates of the COLR that offers the lowest rates. The determination of which COLR has the lowest rates should be based on the sum of each COLR's (A) regular tariffed non-recurring charge for residential service connection plus (B) regular tariffed recurring monthly rate for flat-rate residential service multiplied by twelve.

29. Parties were provided with notice and an opportunity to file comments and to be heard on the matter of whether the Commission should revise its policy adopted in D.96-10-066 concerning the amount of lost revenues that utilities may recover from the ULTS Fund.

30. Pub. Util. Code §§ 879(a), 1708, and 1709 do not prevent the Commission from using this proceeding to consider and revise its policy concerning the amount of lost revenues that utilities may recover from the ULTS Fund.

31. The existing tariffed rates and charges that carriers of last resort (COLRs) charge for BRTS are fair and reasonable.

32. The ULTS program should purchase ULTS from the lowest-cost provider of this service, all else being equal.

33. Utilities should submit ULTS claims on a monthly basis unless they are authorized by TD to submit ULTS claims on a biannual basis.

34. Utilities with relatively small monthly ULTS claims should be allowed to seek permission from TD to submit ULTS claims on a biannual basis. TD should have authority to propose and adopt conditions that utilities must satisfy in order to file ULTS claims on a biannual basis. TD should then update GO 153 to reflect the adopted conditions.

35. The ULTS Fund should not pay any ULTS claim that lacks the workpapers required by GO 153.

36. Any utility that believes that it has been inappropriately denied recovery of ULTS-related costs and/or lost revenues may file an application with the Commission to recover the disallowed amounts.

37. Any utility that deliberately submits an inflated ULTS claim should be subject to monetary penalties and other consequences.

38. The ULTS Fund should pay interest to utilities on legitimate ULTS claims that are submitted on a timely basis beginning on the 60th day after the claims were due to be submitted. The interest paid to utilities should be based on the 3-month commercial paper rate.

39. The ULTS Fund should not pay interest to utilities on ULTS claims that are not submitted on a timely basis.

40. Interest should not be paid on biannual ULTS claims that are paid on a timely basis since (i) no utility is required to submit biannual ULTS claims, and (ii) the utilities that elect to submit biannual ULTS claims benefit by doing so.

41. Utilities that submit a timely ULTS claim should have 24 months from the date that the claim was due to file a true-up claim. Any true-up claim filed after 24 months should not be paid unless the true-up claim is related to taxes previously paid by the utility on behalf of its ULTS customers.

42. Interest should be paid to, or received from, utilities that submit timely true-up claims, with the rate of interest based on the 3-month commercial paper rate.

43. Each utility should report the following information on its ULTS Claim Form: (i) the number of new ULTS service connections during the period covered by the ULTS Claim Form, broken down by new connections for measured-rate local service and flat-rate local service; and (ii) the weighted-average number of ULTS customers served by the utility during the period covered by the Claim Form, broken down by ULTS customers with measured-

rate local service and flat-rate local service. In determining the weighted average, the "weight" of each ULTS customer should be based on the number of days the customer received ULTS during the period covered by the Claim Form.

44. The ULTS Claim Form should be revised to include a separate line item for utilities to report and claim each of the following costs: (i) the administrative and interest costs incurred to provide ULTS customers with a deferred-payment schedule for the ULTS connection charge; and (ii) the incremental costs to provide toll-limitation services free of charge to ULTS customers.

45. Utilities should be allowed to recover from the ULTS Fund, a per-ULTS customer basis, an amount of bad-debt costs equal to the lower of (i) the actual amount of the ULTS rates and charges that a ULTS customer fails to pay (plus the associated lost revenues that utilities may recover from the ULTS Fund), or (b) the amount of the deposit for local residential service, if any, that the utility normally requires from non-ULTS residential customers.

46. Utilities should not recover from the ULTS Fund any costs or lost revenues associated with the time spent by utility service representatives to (i) address matters unrelated to ULTS, (ii) process ULTS service orders, or (iii) answer calls from ULTS customers regarding their bills.

47. TD should convene one or more workshops to develop a comprehensive list and description of the costs that utilities may recover from the ULTS Fund ("comprehensive list"). TD should have authority to determine the exact timing, format, and structure of the workshops, and TD should place notice of the workshops in the Commission's Daily Calendar.

48. Within 12 months from the effective date of this decision, TD should (i) use the input received at the workshops described in the previous COL to develop a draft of the comprehensive list; (ii) submit the draft to the ULTSAC for the ULTSAC to review and comment upon during public meetings conducted in

accordance with the Bagley-Keene Act; (iii) revise the comprehensive list, as appropriate, to reflect any comments presented during the public meetings of the ULTSAC; (iv) finalize the comprehensive list, (v) revise GO 153 to include the comprehensive list, and (vi) notify utilities of the adopted comprehensive list.

49. The Public Utilities Code provides the Commission and its staff with authority to require carriers and utilities to submit workpapers, documents, and other information to support their ULTS surcharge remittances and ULTS claims.

50. TD should be allowed to require carriers and utilities to submit workpapers, documents, and other information to support their ULTS surcharge remittances and ULTS claims.

51. TD should be allowed to propose and adopt standards regarding the content, format, and timing of workpapers that (i) utilities submit to support their claims, and (ii) carriers submit to support their surcharge remittances. TD should update GO 153 to reflect any adopted and/or revised workpaper standards.

52. Line 1 of the surcharge transmittal form should be revised to state as follows: "Total intrastate end-user billings subject to surcharge for the period."

53. All carriers should report and remit ULTS surcharge revenues using the "as-billed method" described in the body of this decision.

54. Carriers should not recover from the ULTS Fund their costs to bill, collect, and remit the ULTS surcharge.

55. Carriers that are late in remitting their ULTS surcharge revenues should pay interest equal to a 10% annual rate imposed from the date that the remittances are due.

56. It is fair and reasonable for (i) the ULTS program to pay interest on late ULTS claim payments equal to the 3-month commercial paper rate, and (ii) carriers to pay interest on late remittances of ULTS surcharge revenues equal to a 10% annual rate.

57. The Commission may use the following procedures to compel a carrier to remit ULTS surcharge revenues: (i) revoke a carrier's CPCN, (ii) make Commission actions on a carrier's requests contingent upon the carrier's remittance of surcharge revenues, (iii) file a lawsuit against the carrier, and (iv) impose a monetary penalty for non-remittance of surcharge revenues.

58. The ULTS Fund should (i) withhold ULTS claim payments from any utility that has failed to remit all of the ULTS surcharges revenues that it has collected; and (ii) release the withheld ULTS claim payments once the utility has remitted all past-due ULTS surcharge revenues and associated interest.

59. The ULTS Fund should not pay interest on ULTS claim payments withheld from a utility due to the utility's failure to timely remit ULTS surcharge revenues.

60. TD should send two written notices to a carrier that is late in remitting ULTS surcharge revenues. These notices should warn the carrier that it will lose its CPCN if it fails to remit past-due surcharge revenues and associated interest.

61. If a carrier fails to remit ULTS surcharge revenues after receiving two warning notices from TD, then TD should prepare for the Commission's consideration a resolution that revokes the carrier's CPCN.

62. The scope of Commission audits of ULTS surcharge remittances and ULTS claims should be limited to five calendar years following the year in which the surcharge revenues were remitted or the claims submitted, except in cases where there appears to be malfeasance. Where there is an indication of malfeasance, the scope of an audit should depend on the law and circumstances existing at the time the malfeasance is suspected or discovered.

63. Carriers should retain all records related to ULTS surcharge remittances for a period of five calendar years following the calendar year in which surcharges are remitted.

64. Utilities should retain all records pertaining to ULTS claims for a period of five calendar years following the later of (i) the calendar year in which a claim is submitted, or (ii) the calendar year in which a true-up claim is submitted.

65. Utilities should promptly reimburse the ULTS Fund for any overpayment of ULTS claims found by a Commission audit. The ULTSAC should authorize the ULTS Fund to promptly reimburse a utility for any underpayment of ULTS claims found by a Commission audit. Any under- or over-payment of ULTS claims found by an audit should accrue interest based on the 3-month commercial paper rate, unless there is malfeasance on the part of the utility, in which case, the rate of interest should depend on the law and circumstances existing at the time the malfeasance is discovered.

66. Carriers should promptly reimburse the ULTS Fund for any under-remittance of ULTS surcharge revenues found by a Commission audit. The ULTSAC should authorize the ULTS Fund to promptly reimburse a carrier for any over-remittance of ULTS surcharge revenues found by a Commission audit. Any over-remittance of ULTS surcharge revenues found by an audit should accrue interest based on the 3-month commercial paper rate. Any under-remittance of ULTS surcharge revenues found by an audit should accrue interest at a 10% annual rate, unless the under-remittance is due to carrier malfeasance, in which case, the rate of interest should depend on the law and circumstances existing at the time the malfeasance is discovered.

67. A carrier or utility may formally contest the results of a Commission audit by filing an application that seeks to revise the amount that the carrier or utility paid to, or received from, the ULTS Fund as a result of the audit.

68. The Commission has broad discretion to select the rate of interest that is (i) paid by carriers that are late in remitting ULTS surcharge revenues, (ii) paid by carriers on the under-remittance of surcharge revenues discovered by a

Commission audit, and (iii) paid to carriers for the over-remittance of surcharge revenues discovered by an audit.

69. The Commission has broad discretion to select the rate of interest that is (i) paid to utilities when the ULTS program is late in paying ULTS claims, (ii) paid by utilities on the overpayment of ULTS claims discovered by a Commission audit, and (iii) paid to utilities on the underpayment of ULTS claims discovered by an audit.

70. Utilities should not have to submit their annual ULTS notices to the Public Advisor for review and approval if the only change to the notices is the yearly revision to ULTS income-eligibility limits.

71. ULTS program administrators should be allowed to use the Commission's website as a means to provide carriers and utilities with access to lengthy documents and information regarding the ULTS program.

72. TD should be able to use a postcard sent via U.S. mail to provide notice to carriers and utilities of important matters concerning the ULTS program. The postcard should provide (i) a brief description of the matter being noticed, (ii) instructions on how to obtain more information and/or documents from the Commission's website about the matter being noticed, and (iii) a phone number of a contact person from whom additional information and/or a hard copy of the complete documents can be obtained. When appropriate, the postcard notices should be combined with notices pertaining to other public programs.

73. TD should add to its web page a section for ULTS-related matters that includes the following: (i) GO 153, (ii) ULTS-related Commission decisions and resolutions, and (iii) any documents regarding ULTS-related matters that are identified in the notices described in the previous COL.

74. Any utility that sells ULTS to customers in a language other than English should provide these customers with (i) Commission-mandated ULTS notices

that are in the same language in which ULTS was originally sold, (ii) toll-free access to customer service representatives fluent in the language in which ULTS was originally sold.

75. Utilities should (i) inform potential ULTS customers during the screening process about ULTS eligibility criteria, and (ii) ask potential ULTS customers if they meet the ULTS eligibility criteria without having to disclose specific household income levels. The information provided by each utility to customers about ULTS eligibility criteria should be at the same level of detail as in the utility's Commission-approved annual notice.

76. Utilities should inform potential ULTS customers during the screening process that (i) the utility may verify the customer's eligibility to participate in the ULTS program, and (ii) if the verification establishes that the customer is ineligible, the customer will be removed from the ULTS program and billed for pervious ULTS discounts that the customer should not have received.

77. Utilities should include the following information in their customer self-certification and re-certification forms: (i) a description of ULTS program benefits; (ii) a detailed description of ULTS eligibility criteria; and (iii) notice that (a) the utility may verify the subscriber's eligibility to participate in the ULTS program, and (b) if the verification establishes that the customer is ineligible, the customer will be removed from the ULTS program and billed for pervious ULTS discounts that the customer should not have received.

78. Utilities' customer self-certification and re-certification forms should include a section to be signed and returned by the customer that contains the following: (a) a pre-printed statement that the customer has reviewed the eligibility criteria contained in the certification or re-certification form; (b) a pre-printed statement that the utility may verify the customer's eligibility to participate in the ULTS program; (c) a pre-printed statement that if the

verification establishes that the customer is ineligible to participate in the ULTS program, the customer will be removed from the program and billed for previous discounts that the customer should not have received; and (d) an adjacent signature area that conveys the customer's certification of his or her eligibility for, and acceptance of, ULTS.

79. Utilities should not knowingly enroll persons into the ULTS program who are ineligible to participate in the program.

80. Utilities should not link discounted ULTS rates and charges to the sale of non-ULTS services.

81. Utilities should have flexibility to devise their own screening processes that comply with the requirements of this decision.

82. Utilities should annually re-certify the eligibility of their ULTS customers to participate in the ULTS program using one of the following two methods: (i) mail a re-certification form to each ULTS customer on the approximate anniversary date of the customer joining the ULTS program, or (ii) mail re-certification forms to all of the utility's ULTS customers at the same time each year, including ULTS customers who have been enrolled in the ULTS program for less than one year.

83. Utilities that conduct annual blanket re-certifications should inform customers when they initially enroll in the ULTS program, and with each blanket re-certification thereafter, that re-certification will be conducted at the same time each year regardless of when the customer enrolled in the ULTS program.

84. Utilities should (i) establish a "due date" by which ULTS customers must submit a signed re-certification form, (ii) mail the re-certification form to ULTS customers at least 30 days before the due date, and (iii) bill ULTS customers for normal tariffed rates and charges effective as of the due date if ULTS customers fail to return a re-certification form by the due date.

85. Pub. Util. Code § 878 does not prohibit low-income households with disabled members from receiving two or more ULTS phone lines.

86. ETCs may provide more than one line to a ULTS customer without losing their federal subsidy on the first line provided to the ULTS customer.

87. Utilities should provide two ULTS lines to a household with only one member if the household satisfies all of the following criteria: (i) the household meets all ULTS eligibility criteria; (ii) the household member has submitted a medical certificate that (a) complies with Pub. Util. Code § 2881 et seq., and (b) indicates the customer's need for TTY devise; (iii) the household possesses a TTY devise; and (iv) the household subscribes to 3-way calling.

88. Utilities should provide two ULTS lines to a household with two or members if the household satisfies all of the following criteria: (i) the household meets all ULTS eligibility criteria; (ii) a member of the household has submitted a medical certificate that (a) complies with Pub. Util. Code § 2881 et seq., and (b) indicates the customer's need for TTY devise; and (iii) the household possesses a TTY devise.

89. All ULTS rules and regulations that apply to the first ULTS line provided to a household should apply to the second ULTS line provided to the household.

90. Utilities should use the procedures identified in the body of this decision to certify customers' eligibility to receive two ULTS lines.

91. Utilities should notify customers about the availability, terms, and conditions of two ULTS lines when they first apply for residential service and annually thereafter. The utilities should submit their modified annual notices to the PA for the PA's review and approval.

92. The ULTSMB should (i) market the availability of two ULTS lines, and (ii) include in all of its future budget requests proposed funding to market two ULTS lines for two-line VCO.

93. Utilities should develop a customer self-certification form for use by customers applying for two ULTS lines. The self-certification form should (i) comply with all requirements pertaining to self-certification forms used by customers applying for one ULTS line; and (ii) include on the portion of the form that is signed and returned by the customer a statement that (a) there is at least one disabled member of the household, (b) the disabled member has submitted a medical certificate that complies with Pub. Util. Code §§ 2881, et seq., and (c) the disabled member has immediate and continuous access within the household to the required equipment and services. In the case of a household with one member, the required equipment and services should consist of a TTY devise and 3-way calling. In the case of a household with two or more members, the required equipment should consist of a TTY devise, and there should be no required services.

94. A low-income household that was previously provided with two ULTS lines to enable a disabled member of the household to access ULTS should no longer qualify for the second ULTS line if the disabled member leaves the household.

95. Households with two ULTS lines should annually re-certify their continued eligibility to receive two ULTS lines.

96. Utilities should revise the portion of the annual re-certification form that is signed and returned by a household with two ULTS lines to state that: (i) the household continues to have the same disabled member for whom two ULTS lines were originally provided; and (ii) the disabled member has immediate and continuous access within the household to the required equipment and services.

97. The certification and re-certification forms applicable to ULTS customers who receive two ULTS lines should be signed by (i) the subscriber whose name

appears on the account, and (ii) the disabled member of the household, if different than the subscriber.

98. A parent or guardian should sign the certification and re-certification forms on behalf of a disabled member of the household if the disabled member is a child or a person who cannot sign the certification form for disability-related reasons. The subscriber should sign these forms twice if the subscriber is the parent or guardian of the disabled member of the household.

99. All utilities should submit to the PA for the PA's review and approval the ULTS customer self-certification and re-certification forms that have been revised to conform to the requirements of this decision.

100. When re-certifying ULTS customers for two ULTS lines, utilities should determine if customers still subscribe to any required service(s). If a utility determines that a ULTS customer no longer subscribes to the required service(s), the utility should remove the second ULTS line and back bill the customer to the date when the customer's subscription to the required services expired for ULTS discounts on the second line that the customer should not have received.

101. If a customer who seeks two ULTS lines from a utility has obtained a TTY devise from a source other than the DDTP, that customer should certify their eligibility to receive two ULTS lines by submitting: (i) a signed ULTS customer self-certification form, (ii) a signed medical certificate that complies with Pub. Util. Code §§ 2881, et seq., and (iii) a signed self-certification form that states the customer has within his or her residence ready access to a TTY devise ("equipment self-certification form").

102. The DDTPAC should (i) develop a draft equipment self-certification form, (ii) post the draft form on the DDTP's website for review and comment by interested parties, (iii) revise the form, as appropriate, to reflect any comments

received, and (iv) review and approve the revised draft in public meetings of the DDTPAC conducted in accordance with the Bagley-Keene Act.

103. The DDTPAC should forward the final draft of the equipment self-certification form developed in accordance with the previous COL to the Public Advisor for review and approval.

104. The DDTP and utilities should develop systems and procedures by no later than July 1, 2000, to enable utilities to obtain the following information from the DDTP: (i) whether a household that is applying for two ULTS lines has a disabled member, and (ii) whether the disabled member has a TTY devise.

105. The DDTP and all utilities should develop and deploy a system by no later than July 1, 2001, to provide utilities with real-time access to the DDTP's data base of customer and equipment records to enable utilities to verify: (i) whether a household that is applying for two ULTS lines has a disabled member, and (ii) whether the disabled member has a TTY devise.

106. TD should revise the ULTS Claim Form, as necessary, to reflect the reasonable costs and lost revenues that utilities incur to provide second ULTS lines. In revising the ULTS Claim Form, TD should provide notice and an opportunity to comment on proposed changes to the Claim Form in accordance with procedures adopted in this decision.

107. If the FCC decides to subsidize the rates for a second residential line, TD should reduce, as appropriate, the amount of reimbursement that utilities draw from the ULTS Fund for the provision of a second ULTS line.

108. TD should be authorized to prepare resolutions for the Commission's consideration to designate telecommunications services as eligible for two or more ULTS lines. In order to receive such designation, the service should satisfy all of the following criteria: (i) the service is required by a class or category of disabled persons to access ULTS, (ii) the service requires the two or more lines to

operate effectively, (iii) any necessary equipment is provided by the DDTP, and (iv) the designation of the service as eligible for two or more ULTS lines will not create an undue financial burden for the ULTS program and/or the DDTP.

109. Before TD prepares a resolution to modify the ULTS and/or DDTP program, TD should submit the proposed modification to the ULTSAC and the DDTPAC for review and comment by these Committees during public meetings held in accordance with the Bagley-Keene Act.

110. There should be no restrictions on the number of ULTS lines provided to a low-income disabled customer to enable the customer to use a particular technology to access ULTS, so long as the selected technology (i) is required by the disabled customer to access ULTS, (ii) is the most cost-effective means available to provide the disabled customer with access to ULTS, and (iii) has been authorized for multiple ULTS lines by the Commission.

111. COLRs should be authorized to draw subsidies from the CHCF-B for every ULTS line the COLRs are required to provide to households in high-cost areas of the state subsidized by the CHCF-B program.

112. The amount that a COLR draws from the CHCF-B for the provision of two or more ULTS lines to a particular ULTS customer should be governed by the same terms and conditions that apply to the COLR's draws from the CHCF-B for the first ULTS line provided to the ULTS customer.

113. TD should be authorized to require COLRs to submit workpapers and other information to support their claims submitted to the CHCF-B for ULTS lines provided in high-cost areas subsidized by the CHCF-B program.

114. TD and the CHCFBAC should be authorized to promulgate administrative procedures to govern the COLRs' provision of ULTS lines to households in high-cost areas subsidized by the CHCF-B program by providing

notice and an opportunity to comment during public meetings of the CHCFBAC held in accordance with the provisions of the Bagley-Keene Act.

115. Any COLR that believes it has been inappropriately denied reimbursement of a claim submitted to the CHCF-B for two or more ULTS lines provided to a particular ULTS customer may file a formal application with the Commission to seek recovery of the denied CHCF-B claim.

116. Representatives of consumer organizations should be allowed to serve on the ULTSAC.

117. Allowing carrier and utility representatives to serve on the ULTSAC creates the appearance of a conflict of interest, if not an actual conflict of interest.

118. The ULTSAC is a "state body" as defined in Gov. Code §11121.8. As a state body, the ULTSAC is subject to the Bagley-Keene Act which requires (i) meetings of the ULTSAC be open to the public, and (ii) members of the public to have an opportunity to directly address the ULTSAC on each agenda item before or during the ULTSAC's discussion or consideration of the item.

119. The ULTSAC is not a policy-making body.

120. The charter of the ULTSAC should be revised to (i) allow the two positions on the ULTSAC reserved for representatives of consumer organizations to also be filled by representatives of state agencies other than the Commission; and (ii) replace the members of the ULTSAC who represent carriers and utilities with the Directors of the Commission's Consumer Services Division, Legal Division, and the Office of Ratepayer Advocates, or their designees.

121. Carrier and utility representatives should serve on the ULTSAC until the earlier of (i) six months from the effective date of this decision, or (ii) the new members of the ULTSAC appointed by this decision assume their posts.

122. GO 153 should be updated on an ongoing basis to reflect future changes to the ULTS program.

123. Substantive changes to the ULTS program directly affect (i) the amount paid by customers for ULTS, (ii) ULTS eligibility criteria, (iii) the service elements of ULTS, (3) the amount of ULTS surcharge remitted by carriers to the ULTS Fund, and/or (4) the amount paid by the ULTS Fund to utilities.

124. If the Commission issues a decision that adopts a substantive change to the ULTS program, and the decision also adopts specific revisions to the text of GO 153 to implement the substantive change, then TD should update GO 153 posted on the Commission's website within 30 days of the effective date of the Commission's decision adopting the substantive revision to GO 153, unless some other timeframe for updating GO 153 is specified in the Commission's decision or resolution. The General Order so modified by TD should be the official GO 153 of the Commission that carriers, utilities, and other affected parties should comply with.

125. If the Commission issues a decision that adopts a substantive revision to the ULTS program, but the decision does not adopt specific revisions to the text of GO 153 to implement the substantive change, then TD should revise GO 153 to reflect the Commission's decision in accordance with the procedures described in the body of this decision. The General Order so modified by TD should be the official GO 153 of the Commission that carriers, utilities, and other affected parties should be required to comply with.

126. TD should notify every carrier or utility affected by the adopted revision to GO 153 described in the previous COL. This notice should conform to the requirements described in the body of this decision.

127. Administrative changes to the ULTS program directly affect one or more of the following: (i) carrier and utility reporting requirements; (ii) the procedures, forms, or timelines associated with carriers' remittance of ULTS surcharge revenues; (iii) the procedures, forms, or timelines associated with

utilities' submittal of their ULTS claims; and/or (iv) any procedures or timelines associated with tasks performed by ULTS program administrators.

128. The Commission may delegate to its staff the authority to initiate and revise ULTS program administrative requirements and procedures.

129. TD should initiate administrative revisions to the ULTS program by submitting proposed revisions to the ULTSAC. The ULTSAC should provide notice and an opportunity to comment on TD's proposal during public meetings of the Committee conducted in accordance with the Bagley-Keene Act. TD shall then (i) finalize the administrative revision, as appropriate, to reflect the comments presented during the public meeting of the ULTSAC, and (ii) update GO 153 to reflect the new administrative requirement. The GO 153 so modified by TD should be the official GO 153 of the Commission that carriers, utilities, and other affected parties should comply with.

130. TD should send a notice to every carrier and utility affected by the revision to GO 153 described in the previous COL. The notice should (i) briefly describe the revision, (ii) state the effective date of the revision, and (iii) how to obtain an e-copy of the revised GO 153 from the Commission's website or a hard copy of the revised GO 153 from TD.

131. A ministerial act is one that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to or the exercise of ones own judgment upon the propriety of the act being done. A ministerial duty is one that involves no discretion – a simple and definite duty, imposed by law, and arising under conditions admitted or proved to exist.

132. The Director of the TD should be authorized to make ministerial revisions at any time to the GO 153 posted on the Commission's website. The GO 153 so modified by TD should be the official GO 153 of the Commission that carriers, utilities, and other affected parties should comply with.

133. There is no need for the Commission or its staff to provide notice and an opportunity to comment on ministerial revisions to GO 153. The Director of TD should have discretion to determine whether, and to what extent, it is necessary to provide carriers, utilities, ULTS customers, and other affected parties with notice of a ministerial revision to GO 153.

134. Parties should be able to request a ministerial revision to GO 153 by submitting a letter to the Director of TD. Notice of the letter should be posted in the Daily Calendar, along with instructions on how to obtain an e-copy or hard copy of the letter from its author. Reponses to the letter should be due 20 days after notice of the letter appears in the Daily Calendar. The Director of TD should place notice in the Daily Calendar of his decision to accept or reject the proposed ministerial revision to GO 153.

135. Carriers and utilities should be able to request and obtain a waiver from any ULTS program administrative procedure by: (i) submitting a written waiver request to the Director of the TD and the members of the ULTSAC; and (ii) including in the request a complete explanation for why the waiver is necessary. The ULTSAC should consider and act on the waiver request in public meetings conducted in accordance with the requirements of the Bagley-Keene Act, and the ULTSAC should have authority to attach appropriate conditions when granting a waiver request.

136. The Commission, the Commission's Executive Director, and the Director of TD have authority to override any decision made by the ULTSAC.

137. TD should use the procedures adopted by this decision to update GO 153 and the ULTSAC charter to reflect the provisions of SB 669 pertaining to the ULTS program.

138. CMRS rates for ULTS should be set in accordance with the Public Utilities Code and Commission regulations.

139. Federal law constrains the Commission's ability to regulate CMRS rates.

140. The fundamental goal of the ULTS program is to provide low-income households with affordable access to basic residential telephone service. This goal would be undermined if CMRS carriers and/or landline utilities were allowed to charge whatever they want for ULTS.

141. It would be a violation of the Public Utilities Code to allow CMRS carriers and/or landline utilities to charge whatever they want for ULTS.

142. Pursuant to 47 U.S.C. § 332(c)(3), a state may petition the FCC for authority to regulate CMRS rates if (i) market conditions fail to protect subscribers adequately from CMRS rates that are unjust and unreasonable, or (ii) CMRS is a replacement for landline telephone exchange service for a substantial portion of the telephone landline exchange service within the state.

143. The Commission has responsibility under federal law to ensure that universal service is available at rates that are just, reasonable, and affordable.

144. Any CMRS carrier that provides ULTS should be required to offer ULTS customers all of the elements of ULTS, including the elements of BRTS, in a way that is equivalent to the elements of ULTS provided by landline utilities.

145. The Commission has authority to require CMRS carriers that offer ULTS to provide each element of ULTS to the extent that the element is not a "rate."

146. CMRS carriers should not be allowed to offer ULTS unless and until they can demonstrate that the quality of the E-911 service provided by CMRS carriers is sufficient to protect the health and safety of ULTS customers.

147. CMRS carriers that offer ULTS should be required to file ULTS tariffs.

148. Pub. Util. Code §§ 871.5(b) and 872 limit ULTS to "residential service."

149. CMRS is not currently a residential service.

150. CMRS should not be used to provide ULTS unless and until CMRS can be restricted to the provision of residential service.

151. There are complex legal, technical, and policy issues that must be resolved prior to CMRS carriers being allowed to provide ULTS.

152. TD should convene a workshop to develop a comprehensive proposal for using CMRS to provide ULTS. The comprehensive proposal should (i) be based on the "outline proposal" described in the body of this decision, and (ii) address and resolve each of the legal, technical, and policy issues identified in the body of this decision.

153. TD should invite representatives of public safety agencies and E-911 personnel to the workshop described in the previous COL to provide input on whether and how CMRS carriers can provide E-911 to ULTS customers in a way that is sufficient to adequately protect the safety and welfare of ULTS customers.

154. TD should have authority to determine the timing, number, format, and structure of the workshops described in the previous two COLs.

155. If the workshops described in the three previous COLs result in a comprehensive proposal for the use of CMRS to provide ULTS, then TD and the ALJ Division should jointly prepare for the Commission's consideration a draft OIR to consider and adopt the comprehensive proposal. TD should notify the Commission if the workshops fail to produce a comprehensive proposal.

156. Any CLC that is required to offer ULTS should be allowed to file an application for relief from this requirement if it is unprofitable for the CLC to offer ULTS based on the amount of lost revenues that this decision allows utilities to recover from the ULTS Fund. Any such application should include a detailed showing of why it is unprofitable for the CLC to offer ULTS.

157. The Findings of Fact of this decision identify numerous revisions to the ULTS program rules, administrative procedures, and forms ("ULTS Rules") that have occurred since the GO 153 was issued in 1984, but which were never

incorporated into GO 153. GO 153 should be modified, as necessary, to reflect and incorporate all of these revisions to the ULTS Rules.

158. GO 153 should be modified to reflect and incorporate the new and revised ULTS Rules adopted by this decision.

159. The revised GO 153 in Appendix B of this order should be adopted.

160. The ULTS Claim Form should be revised to reflect and incorporate the changes to the ULTS program adopted by this decision.

161. The revised ULTS Claim Form that is part of the GO 153 contained in Appendix B of this decision should be adopted.

162. The revised ULTSAC charter in Appendix C of this decision should be adopted. The current members of the ULTSAC should sign the revised charter and file an executed copy of the charter at the Commission's Docket Office.

163. The revised surcharge transmittal form in Appendix E of this decision should be adopted.

164. Parties should have 180 days from the effective date of this order to comply with the requirements of this decision. The only exception should be the specific deadlines identified in the body of this order that are different from the general deadline of 180 days.

165. If the existing budgets for the ULTS program, the DDTP, or the CHCF-B program prove inadequate to cover the new costs imposed on these programs by this decision, the Director of TD should prepare one or more resolutions to (i) authorize the use of program budget reserves to cover the costs of this decision, and/or (ii) augment the program's budget and revise the appropriate surcharge, as necessary, to fund the costs of today's decision.

166. The Director of TD should have authority to require carriers and utilities to provide whatever information he deems necessary to (i) ascertain the fiscal

impact of this decision on the budgets for the CHCF-B, DDTP, and ULTS programs, and (ii) prepare the resolutions identified in the previous COL.

167. The Executive Director Executive Director should serve a notice of availability of this decision on the DDTPAC, ULTSAC, ULTSMB, and all certificated and registered telecommunications carriers. The notice served by the Executive Director should be based on the draft notice contained in Appendix D of this decision.

168. The Executive Director should post this decision on the Commission's website, except for Appendix A of this decision which is not available in electronic form.

169. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Utilities that are qualified to become federal eligible telecommunications carriers (ETCs), but which are not currently ETCs, shall not at this time be required to seek designation as an ETC in order to draw from the Universal Lifeline Telephone Service (ULTS) Trust Fund.

2. The Commission's Telecommunications Division (TD) shall (i) annually adjust ULTS income-eligibility limits by April 15th each year, and (ii) send notice of the annual adjustment to providers of ULTS ("utilities") within five business days of making the annual adjustment. Utilities shall implement the annual adjustment by June 1st of each year.

3. Every utility shall provide to its ULTS customers the same number of free Directory Assistance calls that the utility provides to its non-ULTS residential customers.

4. ULTS shall not include the installation of inside wire.

5. TD shall notify all utilities when there is a change to the statewide rates or charges for ULTS. Such notice shall (i) inform utilities of the new statewide rates or charges for ULTS, and (ii) instruct utilities to file compliance tariffs, if necessary, to reflect the new statewide rates or charges for ULTS.

6. The statewide non-recurring ULTS charge for service conversion shall equal the statewide non-recurring ULTS charge for service connection. There shall be no limit on the number of times that ULTS customers may pay the non-recurring ULTS charge for service conversion.

7. General Order (GO) 153 is revised to (i) instruct utilities on how to calculate and report the Federal Excise Tax and CPUC User Fee that utilities pay on behalf of their ULTS customers; and (ii) require the ULTS Trust Fund (ULTS Fund) to reimburse utilities for only those taxes and fees they pay on behalf of their ULTS customers that are calculated and reported in accordance with GO 153.

8. If a utility's liability for the taxes and fees ("taxes") that it paid on behalf of its ULTS customers differs from the amount that was previously reimbursed by the ULTS Fund, the utility shall report the difference, whether positive or negative, as a "true-up" on its ULTS Claim Form. Any additional interest and penalties assessed by taxing authorities shall be reimbursed by the ULTS Fund on a case-by-case basis.

9. ULTS customers shall pay the non-recurring ULTS charge for service connection ("ULTS connection charge") each time the customer (i) re-establishes ULTS at the same address, (ii) establishes ULTS at a new address, or (iii) switches to a new ULTS provider.

10. Utilities may require ULTS customers to pay any overdue ULTS rates and charges, or make payment arrangements, before ULTS service is re-installed at the same address or at a new address.

11. Utilities shall not require customers who have an unpaid toll bill with another telephone utility to post a service deposit in order to initiate ULTS if such customers elect to subscribe to toll blocking.

12. Utilities may require customers who have unpaid bills for basic residential telephone service (BRTS) or ULTS with another telephone utility to post a service deposit in order to initiate ULTS, even if such customers elect to subscribe to toll blocking. Utilities shall return these service deposits once ULTS customers have paid all prior bills for BRTS or ULTS.

13. Utilities shall offer ULTS customers the option of paying the ULTS connection charge in three equal monthly installments with no interest. Utilities may offer ULTS customers the option of paying the ULTS connection charge in equal monthly installments with no interest over a period of time selected by the utility, so long as the selected period of time does not exceed 12 months.

14. The ULTS Fund shall reimburse utilities for the reasonable administrative and interest costs they incur to offer a deferred-payment schedule for the ULTS connection charge. The reimbursement for interest costs shall be based on (i) the assumption that deferred payments are made on time, and (ii) the 3-month commercial paper rate published in Federal Reserve Statistical Release, G-13 ("3-month commercial paper rate").

15. Utilities may assess a late-payment fee when ULTS customers fail to timely remit deferred payments of the ULTS connection charge.

16. Any costs that utilities incur when ULTS customers fail to timely remit deferred payments of the deferred ULTS connection charge may be recouped by the utilities in the late-payment fees they may assess ULTS customers to the extent that such costs are not recovered by utilities from other sources, such as the bad-debt costs built into utilities' general rates.

17. Utilities shall offer toll-limitation service free of charge to ULTS customers in a manner consistent with the federal Lifeline program.

18. GO 153 is revised to define toll-limitation service as including, but not limited to, toll blocking or toll-control service.

19. The ULTS Fund shall reimburse utilities for the reasonable costs and lost revenues they incur to provide ULTS to the extent that such costs and lost revenues are (i) incremental to the ULTS program, and (ii) not recovered by the utility from other sources, such as the federal Lifeline and Link Up programs, the rates paid by ULTS customers, or the utility's general rates.

20. For each ULTS customer served by a utility, the utility may recover from the ULTS Fund an amount of lost revenues equal to the difference between (i) ULTS rates and charges, and (ii) the lesser of the following: (a) the utility's regular tariffed rates and charges, or (b) the regular tariffed rates and charges assessed by the ULTS customer's carrier of last resort (COLR). If there are two or more COLRs available to serve a particular ULTS customer, then ii(b) shall equal the tariffed rates and charges ("rates") of the COLR that offers the lowest rates. The determination of which COLR has the lowest rates shall be based on the sum of each COLR's (A) regular tariffed non-recurring charge for residential service connection plus (B) regular tariffed monthly rate for flat-rate residential local service multiplied by twelve.

21. The ULTS Fund shall not reimburse utilities for any costs and lost revenues associated with the provision of services that utilities are not required to offer under the ULTS program, even if ETCs are required to offer these services under the federal Lifeline or Link Up programs.

22. Utilities shall submit claims for the reimbursement of ULTS-related costs and lost revenues ("ULTS claims") on a monthly basis unless utilities are authorized by TD to submit ULTS claims on a biannual basis.

23. Utilities with relatively small monthly ULTS claims may seek permission from TD to submit their ULTS claims on a biannual basis. TD shall use the procedures adopted by this order for revising ULTS program administrative requirements to promulgate (i) the procedures that utilities must use to request permission to file ULTS claims on a biannual basis, and (ii) the conditions that utilities must satisfy in order receive permission to file biannual claims.

24. The ULTS Fund shall pay interest to utilities on their legitimate monthly and biannual ULTS claims that are submitted on a timely basis beginning on the 60th day after the claims were due to be submitted. The interest paid to utilities shall be based on the 3-month commercial paper rate.

25. The ULTS Fund shall not pay interest on ULTS claims that are not submitted on a timely basis.

26. The ULTS Fund shall not pay any ULTS claim that is unsupported by the workpapers required by GO 153.

27. Any ULTS claim that is submitted more than two years after the deadline for submitting the claim shall not be paid. Utilities that submit a timely ULTS claim shall have two years to submit a true-up claim. Any true-up claim submitted more than two years after the deadline for submitting an initial claim shall not be paid unless the true-up claim is for taxes previously paid by the utility on behalf of its ULTS customers.

28. Interest shall be paid to, or received from, utilities that submit timely true-up claims, with the rate of interest based on the 3-month commercial paper rate.

29. Each utility shall report the following information on its ULTS Report and Claim Form ("ULTS Claim Form"): (i) the total number of new ULTS service connections during the period covered by the ULTS Claim Form, broken down by new connections for (a) measured-rate local service, and (b) flat-rate local service; and (ii) the weighted-average number of ULTS customers served by the

utility during the period covered by the ULTS Claim Form, broken down by ULTS customers with (a) measured-rate local service, and (b) flat-rate local service. In calculating the weighted average, the "weight" of each ULTS customer shall be based on the number of days the customer was provided ULTS during the period covered by the utility's ULTS Claim Form.

30. The ULTS Claim Form is revised to include separate line items for utilities to report and claim the following: (i) the interest costs caused by the provision of a deferred-payment schedule for the ULTS connection charge; and (ii) the administrative costs caused by the provision of a deferred-payment schedule for the ULTS connection charge.

31. The ULTS Claim Form is revised to include a separate line item for utilities to report and claim the incremental costs they incur to provide toll-limitation services free of charge to ULTS customers. All utilities shall determine their incremental costs of providing toll-limitation services in the manner prescribed by the FCC.

32. Utilities may recover from the ULTS Fund, a per-ULTS customer basis, an amount of bad-debt costs equal to the lower of (i) the actual amount of the ULTS rates and charges that the ULTS customer fails to pay (plus the associated lost revenues that utilities may recover from the ULTS Fund), or (b) the amount of the deposit for local residential service, if any, that the utility normally requires from non-ULTS residential customers.

33. Utilities shall neither claim nor recover from the ULTS Fund any costs associated with the time spent by their service representatives on matters unrelated to ULTS, to process ULTS service orders, or to answer calls from ULTS customers regarding their bills.

34. TD shall convene one or more workshops to develop a comprehensive list and description ("comprehensive list") of the costs that utilities may seek to

recover from the ULTS Fund. TD may determine the timing, format, and structure of the workshops. TD shall also place a notice of the workshops in the Commission's Daily Calendar.

35. Within 12 months from the effective date of this order, TD shall use the input it receives at the workshops described in the previous Ordering Paragraph (OP) to develop a draft of the comprehensive list. TD shall provide the public and the ULTS Administrative Committee (ULTSAC) with notice and an opportunity to comment on the draft comprehensive list in accordance with the procedures described in the body of this order. TD shall then revise the comprehensive list, as appropriate, to reflect any comments from the public and the ULTSAC, update GO 153 to incorporate the comprehensive list, and notify utilities of the adopted comprehensive list.

36. TD may require providers of intrastate telecommunications services to the public ("carriers") to submit workpapers, documents, and other information to support their ULTS surcharge remittances.

37. TD may require utilities to submit workpapers, documents, and other information to support their ULTS claims.

38. TD may use the procedures adopted by this order for revising ULTS program administrative requirements to promulgate standards regarding the format, content, and timing of workpapers that (i) carriers submit to support their ULTS surcharge remittances, and (ii) utilities submit to support their ULTS claims.

39. All carriers shall report and remit ULTS surcharge revenues using the "as-billed method" described in the body of this decision.

40. Carriers shall not recover from the ULTS Fund their costs to bill, collect, and remit the ULTS surcharge.

41. Line 1 of the Combined California PUC Telephone Surcharge Transmittal Form (surcharge transmittal form) is revised to state as follows: "Total intrastate end-user billings subject to surcharge for the period."

42. Carriers that are late in remitting ULTS surcharge revenues shall pay 10% annual interest on the late remittances. Interest shall accrue starting on the date the remittance is due and ending on the date that remittance is made.

43. The ULTS Fund shall not pay any ULTS claim submitted by a utility that has not remitted all of the ULTS surcharges revenues that it has collected. The ULTS Fund shall release the withheld ULTS claim payments once the utility has remitted all past-due ULTS surcharge revenues and associated interest.

44. The ULTS Fund shall not pay interest on ULTS claim payments withheld from a utility due to the utility's failure to timely remit ULTS surcharge revenues.

45. TD shall send two written notices to any carrier that is late in remitting ULTS surcharge revenues. These notices shall warn the carrier that it will lose its Certificate of Public Convenience and Necessity (CPCN) if it fails to remit past-due surcharge revenues and associated interest.

46. TD shall prepare for the Commission's consideration a resolution that revokes the CPCN of any carrier that fails to remit past-due ULTS surcharge revenues and associated interest after receiving two warning notices from TD.

47. The scope of Commission audits of carriers' surcharge remittances and utilities' ULTS claims is limited to five calendar years following the year in which ULTS surcharge revenues were remitted or the ULTS claims submitted, except in cases where there appears to be malfeasance. Where there is an indication of malfeasance, the scope of an audit shall depend on the law and circumstances existing at the time the malfeasance is suspected or discovered.

48. Carriers shall retain all records related to ULTS surcharge remittances for a period of five calendar years following the year in which the surcharges are

remitted. Utilities shall retain all records pertaining to a ULTS claim, including true-up claims, for a period of five calendar years following the year in which the claim is submitted. Utilities shall retain all records pertaining to an initial ULTS claim for an additional two calendar years if the utility submits a true-up claim.

49. Utilities shall promptly reimburse the ULTS Fund for any overpayment of ULTS claims found by a Commission audit. The ULTSAC shall authorize the ULTS Fund to promptly reimburse a utility for any underpayment of ULTS claims found by a Commission audit. Interest on any under- or over-payment of ULTS claims found by an audit shall be based on the 3-month commercial paper rate, unless there is malfeasance on the part of the utility, in which case the rate of interest shall depend on the law and circumstances existing at the time the malfeasance is discovered.

50. Carriers shall promptly reimburse the ULTS Fund for any under-remittance of ULTS surcharge revenues found by a Commission audit. The ULTSAC shall authorize the ULTS Fund to promptly reimburse a carrier for any over-remittance of ULTS surcharge revenues found by a Commission audit. Interest on any over-remittance of ULTS surcharge revenues found by an audit shall be based on the 3-month commercial paper rate. Interest on any under-remittance of ULTS surcharge revenues found by an audit shall be based on a 10% annual rate, unless the under-remittance is due to carrier malfeasance, in which case the rate of interest shall depend on the law and circumstances existing at the time the malfeasance is discovered.

51. A carrier or utility may formally contest the results of an audit by filing an application with the Commission that seeks to revise the amount that the carrier or utility paid to, or received from, the ULTS Fund as a result of the audit.

52. Utilities do not have to submit their annual ULTS notices to the Commission's Public Advisor for review and approval if the only change to the notices is the yearly revision to ULTS income-eligibility limits.

53. ULTS program administrators may use the Commission's website (www.cpuc.ca.gov) as a means to distribute voluminous documents and information regarding the ULTS program.

54. TD may use a postcard or single-page notice ("postcard") sent via U.S. mail to provide notice to carriers and utilities of important matters concerning the ULTS program. The postcard notice shall provide: (i) a brief description of the matter being noticed, (ii) instructions on how to obtain more information and/or documents from the Commission's website concerning the matter being noticed, and (iii) a phone number of a contact person from whom additional information and/or a hard copy of the complete documents can be obtained. When appropriate, the postcard notices may be combined with notices pertaining to other public programs.

55. TD shall add to its web page a section set aside for ULTS-related matters. This section shall include: (i) GO 153, (ii) this order, and (iii) any ULTS-related documents and information identified in the postcard notices described in the previous OP.

56. Any utility that sells ULTS in a language other than English shall provide its ULTS customers to whom ULTS was sold in a language other than English with (i) Commission-mandated ULTS notices that are in the same language in which ULTS was originally sold, and (ii) toll-free access to customer service representatives fluent in the language in which ULTS was originally sold.

57. Utilities shall (i) inform potential ULTS customers during the screening process about ULTS eligibility criteria, and (ii) to ask potential ULTS customers if they meet the ULTS eligibility criteria without having to disclose specific

household income levels. The information provided by each utility to subscribers about ULTS eligibility criteria shall be at the same level of detail as in the utility's Commission-approved annual ULTS notice.

58. Utilities shall inform potential ULTS customers during the screening process that (i) the utility may verify the subscriber's eligibility to participate in the ULTS program, and (ii) if the verification establishes that the subscriber is ineligible, the customer will be removed from the ULTS program and billed for pervious ULTS discounts that the customer should not have received.

59. Utilities' customer self-certification and re-certification forms shall include the following information: (i) a description of ULTS program benefits; (ii) a detailed description of ULTS eligibility criteria; and (iii) notice that (a) the utility may verify the subscriber's eligibility to participate in the ULTS program, and (b) if the verification establishes that the subscriber is ineligible, the customer will be removed from the ULTS program and billed for pervious ULTS discounts that the customer should not have received.

60. Utilities' customer self-certification and re-certification forms shall include a section to be signed and returned by the customer that contains the following: (a) a pre-printed statement that the customer has reviewed the eligibility criteria contained in the certification or re-certification form; (b) a pre-printed statement that the utility may verify the customer's eligibility to participate in the ULTS program; (c) a pre-printed statement that if the verification establishes that the customer is ineligible to participate in the ULTS program, the customer will be removed from the program and billed for previous ULTS discounts the customer should not have received; and (d) an adjacent signature area that conveys the customer's certification of his or her eligibility for, and acceptance of, ULTS.

61. Utilities shall not knowingly enroll persons into the ULTS program who are ineligible to participate in the program.

62. At no time shall utilities link the ULTS "discount" to the sale of non-ULTS services.

63. Utilities shall annually re-certify the eligibility of their ULTS customers to participate in the ULTS program using one of the following two methods: (i) mail a re-certification form to each ULTS customer on the approximate anniversary date of the customer's joining the ULTS program, or (ii) mail re-certification forms to all ULTS customers at the same time each year, including ULTS customers who have been enrolled in the program for less than one year.

64. Any utility that re-certifies all of its ULTS customers at the same time each year shall inform customers when they first enroll in the ULTS program, and with each annual re-certification thereafter, that re-certification will occur at the same time each year regardless of when a customer enrolled in the ULTS program.

65. Utilities shall establish a "due date" by which ULTS customers must submit a signed re-certification form. The due date shall be either (i) the customer's anniversary date, or (ii) the utility's due date for the return of blanket mailings of re-certification forms. Utilities shall mail re-certification forms at least 30 days before the due date. Customers who fail to return a re-certification form by the due date shall pay regular tariffed rates and charges effective as of the due date.

66. Utilities shall provide two ULTS lines to a household with only one member if the household satisfies all of the following criteria: (i) the household meets all ULTS eligibility criteria; (ii) the household member has submitted a medical certificate that (a) complies with Pub. Util. Code § 2881 et seq., and (b) indicates the customer's need for TTY devise; (iii) the household possesses a TTY devise; and (iv) the household subscribes to 3-way calling. All ULTS rules

and regulations that apply to the first ULTS line shall apply equally to the second ULTS line.

67. Utilities shall provide two ULTS lines to a household with two or members if the household satisfies all of the following criteria: (i) the household meets all ULTS eligibility criteria; (ii) a member of the household has submitted a medical certificate that (a) complies with Pub. Util. Code § 2881 et seq., and (b) indicates the customer's need for TTY devise; and (iii) the household possesses a TTY devise. All ULTS rules and regulations that apply to the first ULTS line shall apply equally to the second ULTS line.

68. All utilities shall use the procedures contained in the body of this decision to certify customers' eligibility to receive two ULTS lines.

69. All utilities shall notify residential customers about the availability, terms, and conditions of two ULTS lines when they first apply for residential service and annually thereafter. The utilities shall submit their modified annual notices to the Public Advisor for review and approval.

70. The ULTSMB shall (i) market the availability of two ULTS lines, and (ii) include in all of its future budget requests proposed funding to market two ULTS lines.

71. Utilities' customer self-certification forms applicable to customers applying for two ULTS lines shall (i) comply with all requirements pertaining to self-certification forms used by customers applying for one ULTS line; and (ii) include on the portion of the form that is signed and returned by the customer a statement that (a) there is at least one disabled member of the household, (b) the disabled member has submitted to the utility or the Deaf and Disabled Telecommunications Program (DDTP) a medical certificate of their disability that complies with Pub. Util. Code § 2881 et seq., and (c) the disabled member has

immediate and continuous access within the household to any required equipment and services.

72. Households with two ULTS lines shall annually re-certify their continued eligibility to receive two ULTS lines.

73. Utilities' customer re-certification forms applicable to customers with two ULTS lines shall include on the portion of the form that is signed and returned by the customer a statement that: (i) the household continues to have the same disabled member for whom two ULTS lines were originally provided, (ii) the disabled member has immediate and continuous access within the household to any required equipment and services.

74. The certification and re-certification forms applicable to ULTS customers who receive two ULTS lines must be signed by (i) the subscriber whose name appears on the account, and (ii) the disabled member of the household for whom two ULTS lines are provided, if different than the subscriber. Parents or guardians shall sign the ULTS customer self-certification and re-certification forms on behalf of a disabled member of the household if the disabled member is a child or a person who cannot sign the certification form for disability-related reasons. The subscriber must sign these forms twice if the subscriber is the parent or guardian of the disabled member of the household.

75. Utilities shall submit their self-certification and re-certification forms that are revised to reflect two ULTS lines to the Public Advisor for review and approval.

76. When re-certifying ULTS customers for two ULTS lines, utilities shall ascertain whether these customers still subscribe to any required service(s). If a utility determines that a ULTS customer no longer subscribes to the required service(s), then the utility shall immediately remove the second ULTS line and back bill the customer to the date when the customer's subscription to the

required service(s) expired for discounts on the second ULTS line that the customer should not have received.

77. Any customer who has obtained a TTY devise from a source other than the DDTP shall certify their eligibility to receive two ULTS lines by submitting: (i) a signed ULTS customer self-certification form, (ii) a signed medical certificate that (a) complies with Pub. Util. Code §§ 2881, et seq., and (b) indicates the customer's need for a TTY devise: and (iii) a signed self-certification form that states the customer has within his or her residence ready access to the TTY devise ("equipment self-certification form").

78. The DDTP Administrative Committee (DDTPAC) shall develop a draft of the equipment self-certification form described in the previous OP. The DDTPAC shall post the draft on its website (www.ddtp.org) for review and comment by interested parties. The DDTPAC shall revise the draft, as appropriate, to reflect any comments received from interested parties, and then review and approve the revised draft in public meetings of the DDTPAC conducted in accordance with the Bagley-Keene Open Meeting Act (Gov. Code §11120 et seq.).

79. The DDTPAC shall forward the final draft of the equipment self-certification form developed in accordance with the previous OP to the Public Advisor for review and approval. All utilities and the DDTP shall use the equipment self-certification form approved by the Public Advisor.

80. The DDTP and utilities shall develop systems and procedures by no later than July 1, 2000, to enable utilities to obtain the following information from the DDTP: (i) whether a household that is applying for two ULTS lines has a disabled member, and (ii) whether the disabled member has a TTY devise.

81. The DDTP and all utilities shall develop and deploy a system by no later than July 1, 2001, to provide utilities with real-time access to the DDTP's data

base of customer and equipment records to enable utilities to verify: (i) whether a household that is applying for two ULTS lines has a disabled member, and (ii) whether the disabled member has a TTY devise.

82. TD shall modify the ULTS Claim Form, as necessary, to reflect utilities' reasonable costs to provide two ULTS lines to qualifying low-income households. TD shall provide notice and an opportunity to comment on proposed modifications to the Claim Form in accordance with procedures adopted by this order for revising ULTS program administrative requirements.

83. If the Federal Communications Commission decides to subsidize the rates for a second residential line, TD shall reduce, as appropriate, the amount that utilities draw from the ULTS Fund for the provision of second ULTS lines.

84. TD may prepare resolutions for the Commission's consideration that designate telecommunications services as eligible for two or more ULTS lines. In order to receive such designation, the service must satisfy all of the following criteria: (i) the service is required by a class or category of disabled persons to access ULTS, (ii) the service requires the two or more lines to operate effectively, and (iii) any equipment necessary to operate the service is provided by the DDTP, and (iv) the designation of the service as eligible to receive two or more ULTS Lines does not create an undue financial burden for the ULTS program and/or the DDTP.

85. Before TD prepares a resolution modifying the ULTS program as described in the previous OP, TD shall submit the modification to the ULTSAC and the DDTPAC for review and comment by these committees in public meetings conducted in accordance with the Bagley-Keene Open Meeting Act.

86. COLRs may draw subsidies from the California High Cost Fund–B (CHCF-B) for every ULTS line the COLRs are required to provide to ULTS customers residing in high-cost areas of the state subsidized by the CHCF-B

program. The amount that a COLR draws from the CHCF-B for the provision of two or more ULTS lines to a particular ULTS customer shall be governed by the same terms and conditions that apply to the COLR's draws from the CHCF-B for the first ULTS line provided to the ULTS customer.

87. TD may require COLRs to submit workpapers and other information to support their claims submitted to the CHCF-B for ULTS lines provided in high-cost areas subsidized by the CHCF-B program.

88. TD and the CHCF-B Administrative Committee (CHCFBAC) may promulgate administrative procedures to govern the COLRs' provision of, and claims for, ULTS lines in high-cost areas subsidized by the CHCF-B program by providing notice and an opportunity to comment on proposed administrative procedures during public meetings of the CHCFBAC held in accordance with the provisions of the Bagley-Keene Open Meeting Act.

89. The charter of the ULTSAC is revised to allow the two positions on the ULTSAC reserved for representatives of consumer organizations to also be filled by representatives of state agencies other than the Commission.

90. The charter of the ULTSAC is revised replace the members of the ULTSAC who represent carriers and utilities with the Directors of the Commission's Consumer Services Division, Legal Division, and the Office of Ratepayer Advocates, or their designees. The carrier and utility representatives serving on the ULTSAC shall continue to serve on the ULTSAC until the earlier of (i) six months from the effective date of this decision, or (ii) the new members of the ULTSAC appointed by this order assume their posts.

91. Within 180 days from the effective date of this order, TD shall use the procedures adopted by this order to update GO 153 and the ULTSAC charter to reflect the provisions of Senate Bill 669 pertaining to the ULTS program.

92. If the Commission issues a decision that (i) adopts a substantive change to the ULTS program and (ii) revised text of GO 153 to implement the substantive change, then TD shall update the GO 153 posted on the Commission's website to reflect the revised text of GO 153 within 30 days of the effective date of the Commission decision adopting the revised text of GO 153, unless some other timeframe for updating GO 153 is specified in the Commission's decision. The General Order so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with.

93. If the Commission issues a decision that adopts a substantive revision to the ULTS program, but the decision does not adopt specific revisions to the text of GO 153 to implement the substantive change, then TD shall revise GO 153 to reflect the Commission's decision in accordance with the procedures described in the body of this decision. The General Order so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with.

94. TD shall notify every carrier and utility affected by the adopted revision to GO 153 described in the previous OP.

95. The Director of TD may initiate revisions to ULTS program administrative procedures and requirements by submitting proposed administrative revisions to the ULTSAC. The ULTSAC shall provide notice and an opportunity to comment on TD's proposal during public meetings of the Committee conducted in accordance with the Bagley-Keene Open Meeting Act. TD shall then (i) finalize the administrative revision, as appropriate, to reflect any comments offered by the public and/or the ULTSAC during the public meetings of the ULTSAC, and (ii) update GO 153 to reflect the new administrative requirement. The GO 153 so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with.

96. The Director of TD shall send a notice to every carrier and utility affected by the revision to GO 153 described in the previous OP. The notice shall (i) briefly describe the revision, (ii) state the effective date of the revision, and (iii) state how to obtain an electronic copy of the revised GO 153 from the Commission's website or a hard copy from TD.

97. The Director of TD may make ministerial revisions at any time to the GO 153 posted on the Commission's website. The General Order so modified by TD shall be the official GO 153 of the Commission that carriers, utilities, and other affected parties must comply with.

98. Except as described in the following OP, the Director of TD is authorized to determine whether, and to what extent, it is necessary to provide carriers, utilities, and other affected parties with notice of a ministerial revision to GO 153.

99. Parties may request a ministerial revision to GO 153 by submitting a letter to the Director of TD. The Director shall place a notice of the letter in the Daily Calendar, along with instructions on how to obtain an electronic copy or hard copy of the letter from its author. Reponses to the letter shall be due 20 days after notice of the letter appears in the Daily Calendar. The Director of TD shall place a notice in the Daily Calendar of his decision to accept or reject the proposed ministerial revision to GO 153.

100. Carriers and utilities may request a waiver from any ULTS program administrative procedure or requirement by submitting a written waiver request to the Director of TD and the members of the ULTSAC. The request must provide a thorough explanation for why the waiver is necessary. The ULTSAC must consider and act on the waiver request in public meetings conducted in accordance with the Bagley-Keene Open Meeting Act, and the ULTSAC may attach conditions when granting a waiver request.

101. The Commission, the Commission's Executive Director, and the Director of TD may override any decision made by the ULTSAC on any matter.

102. TD shall convene one or more workshops to develop a comprehensive proposal for using Commercial Mobile Radio Service (CMRS) to provide ULTS. The proposal shall (i) be based on the "outline proposal" described in the body of this order, and (ii) address and resolve each of the legal, technical, and policy issues identified in the body of this order.

103. TD shall invite representatives of public safety agencies and E-911 personnel to the workshops described in the previous OP to provide input on whether and how CMRS carriers can provide E-911 to ULTS customers in a way that is sufficient to adequately protect the safety and welfare of ULTS customers.

104. TD is authorized to determine the exact timing, number, format, and structure of the workshops described in the two previous OPs.

105. If the workshops described in the three previous OPs result in a comprehensive proposal for the use of CMRS to provide ULTS, then TD and the Administrative Law Judge Division shall jointly prepare for the Commission's consideration a draft order instituting rulemaking to consider and adopt the comprehensive proposal. TD shall notify the Commission if the workshops fail to produce a comprehensive proposal.

106. Any competitive local carrier (CLC) that is required to offer ULTS may file an application for relief from this requirement if it is unprofitable for the CLC to offer ULTS. Any such application shall include a detailed showing of why it is unprofitable for the CLC to offer ULTS.

107. The ULTS Claim Form is revised to incorporate the changes to the ULTS program adopted by this order. The revised ULTS Claim Form in Appendix B of this order is adopted.

108. GO 153 is modified to incorporate those revisions to ULTS program rules, administrative procedures, and forms ("ULTS Rules") that are identified by the Findings of Fact of this order as having been implemented since the time GO 153 was issued in 1984 but never incorporated into the General Order.

109. GO 153 is modified to incorporate the new and revised ULTS Rules adopted by this order.

110. The revised GO 153 in Appendix B of this order is adopted.

111. The revised ULTSAC charter in Appendix C of this order is adopted. The current members of the ULTSAC shall sign the revised charter and file an executed copy of the revised charter at the Commission's Docket Office.

112. The revised surcharge transmittal form in Appendix E of this decision is adopted.

113. If the existing budgets for the ULTS program, DDTP, or CHCF-B prove inadequate to cover the new costs imposed on these programs by today's order, the Director of TD shall prepare for our consideration one or more resolutions to (i) authorize the use of program budget reserves to cover the costs of today's decision, and/or (ii) augment the program's budget and revise the appropriate surcharge, as necessary, to fund the costs of today's order.

114. The Director of TD may require carriers and utilities to provide any information he deems necessary to (i) ascertain the fiscal impact of today's order on the CHCF-B, DDTP, and ULTS programs, and (ii) prepare the resolutions identified in the previous OP. Carriers and utilities shall provide any such information requested by the Director of TD.

115. Carriers, utilities, the DDTPAC, the ULTSAC, the ULTSMB, and TD shall have 180 days from the effective date of this order to comply with this order. The only exception shall be the specific deadlines identified in the body of this order that are different from the general deadline of 180 days.

116. The Executive Director shall serve a notice of availability of this order on the DDTPAC, ULTSAC, ULTSMB, and all certificated and registered telecommunications carriers and utilities. The notice served by the Executive Director shall be based on the draft notice in Appendix D of this decision.

117. The Executive Director shall cause this order, and all appendices to this order except for Appendix A, to be posted on the Commission's website (www.cpuc.ca.gov).

118. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.