

Decision 06-11-017 November 9, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Into
Implementation of Federal Communications
Commission Report and Order 04-87, As It
Affects The Universal Lifeline Telephone Service
Program.

Rulemaking 04-12-001
(Filed December 2, 2004)

**DECISION RATIFYING THE ASSIGNED COMMISSIONER'S RULING
TEMPORARILY SUSPENDING PORTIONS OF GENERAL ORDER 153
RELATING TO THE ANNUAL LIFELINE VERIFICATION PROCESS**

I. Summary

This order confirms, with some modifications, the November 1, 2006 Assigned Commissioner's Ruling (ACR), suspending portions of General Order (GO) 153 that relate to the annual Lifeline verification process.

II. Confirmation of the ACR

A copy of the ACR is attached as Appendix A hereto. We hereby confirm the ACR, as modified in this order, in accordance with the provisions of Pub. Util. Code § 310 which states, in part:

The evidence in any investigation, inquiry or hearing may be taken by the commissioner or commissioners to whom the investigation, inquiry, or hearing has been assigned or, in his, her, or their behalf, by an administrative law judge designated for that purpose. Every finding, opinion, and order made by the commissioner or commissioners so designated, pursuant to the investigation, inquiry, or hearing, when approved or

confirmed by the commission and ordered filed in its office, is the finding, opinion, and order of the commission.

Because the ruling is attached to this decision, we do not repeat its full contents. In brief, the ACR temporarily suspends portions of General Order 153 relating to the annual Lifeline verification process. This was done because the recently instituted verification process is not working well. We are experiencing a very low response rate to the Lifeline verification notice, which results in significant numbers of current Lifeline customers being removed from the program. This hiatus in the verification process will allow staff and interested parties an opportunity to isolate the reasons for the low response rate and take steps to solve the problem.

III. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was not mailed to the parties, in accordance with Rule 14.6(c)(9) of the Commission's Rules of Practice and Procedure. Under that rule, the Commission may reduce or waive the period for public review and comment on proposed decisions issued in proceedings in which no hearings were conducted. This rule applies to decisions where the Commission determines that public necessity requires reduction or waiver of the 30-day period for public review and comment. "Public necessity" includes circumstances where failure to adopt a decision before expiration of the 30-day review and comment period would cause significant harm to public health or welfare. Due to the seriousness of this issue, it is critical that the Commission act to confirm the ACR as expeditiously as possible.

However, parties were invited to file comments on the ACR that is the subject of this decision, and comments were filed on November 6, 2006. Those

comments, which contain much helpful information, were taken into account, as appropriate, in finalizing this order. Following, we outline the changes we are making to the ACR as a result of parties' comments.

Several parties encourage us to explore ways to improve the initial certification process, and not limit our focus strictly on the annual verification process. One party suggests that we suspend the certification process while we look for ways to improve it. From parties' comments, it is clear that there are problems with the certification process, similar to those we have been experiencing with the verification process. Therefore, we will include the certification process within the scope of the workshop scheduled for November 13-14. However, staff has told us that many of the issues raised are already in the process of being resolved so participants should not use workshop time to discuss those issues.

We reject the suggestion that the certification process be suspended while we review it. If we were to suspend that process, we would have only two options: 1) add anyone to the program who asks, with no evaluation of his/her eligibility, or 2) suspend adding new customers to the program until the process issues have been identified and resolved. Neither option is viable so we will retain our certification process in place while we take steps to improve the process.

It appears that there is some confusion as to how the suspension of the verification process will actually work so we have clarified that section on page 5 of the ACR as follows. Customers were mailed annual verification notices from the period of July 1, 2006 up until the time the ACR was issued, November 1, 2006. Any customers who did not respond or who responded late will be reinstated to the program. Carriers are instructed to back-date those customers'

participation in the Lifeline program to the date when they were removed from the program, and credit their bills accordingly. In its comments, Pacific Bell Telephone Company d/b/a AT&T California (AT&T) raises the point that those customers should not be subject to the service conversion charge in Section 8.1.3 of the General Order (G.O.). We agree. Therefore, we suspend Section 8.1.3 of the G.O., only as it relates to this customer group. Those customers, who do respond and timely return the form to the certifying agent (Solix), will have their forms processed by Solix.

The Consumer Affairs Branch (CAB) shall discontinue processing appeals of disqualifications based on late-filed responses or non-responses to the verification notice. Those will be dealt with by the letter from Solix. That customer group will be told that they will be reinstated to Lifeline service, pending a subsequent verification letter, which they will receive sometime over the next year.

A number of carriers who filed comments stressed the need for better carrier/Solix relationships. Cox California Telcom, L.L.C. d/b/a Cox Communications (Cox) proposes that the Commission establish a Project Management (PM) Team comprised of staff, Solix and interested carriers. According to Cox, without a PM Team, Solix addresses issues impacting carriers on an individual basis, and other carriers are not given an opportunity to take advantage of those solutions. We concur that having such a group in place would help to make the process run more smoothly for all concerned. We direct the workshop participants to establish a PM Team. That PM Team should meet, at least in the initial stages, at least twice a month to discuss process issues. Those meetings could be accomplished via conference call.

Several carriers raise the issue that the problems with the certification and verification processes have caused additional costs for carriers. Fones4All indicates that it has had to hire additional service representatives to handle the increased call volume. Other carriers point out that there is carrier costs associated with reinstating customers to the program and in calculating reimbursements due them. We remind carriers that they are able to recover ULTS costs and lost revenues pursuant to Section 9.2 of the G.O. However, as the carriers are aware, they are required to make a reasonable showing to substantiate their costs. Also, we see the problems with certification and verification as transitory in nature, so reimbursement requests related to those problems should be for a limited time until the problems have been resolved.

IV. Assignment of Proceeding

Dian M. Grueneich is the Assigned Commissioner and Karen A. Jones is the assigned ALJ in this proceeding.

Findings of Fact

1. The newly initiated certification process and annual Lifeline verification process are not working well.
2. The response rate for customers mailed the annual verification forms is very low, resulting in significant numbers of existing Lifeline customers being removed from the program.

Conclusions of Law

1. Portions of General Order 153 relating to the annual Lifeline verification process should be temporarily suspended for a period not to exceed 6 months. During that time, staff and interested parties should work to isolate the reasons for the low response rate and take steps to solve the problem. In addition to the

sections listed in the ACR, section 8.1.3 should be suspended for those customers who have not responded to the annual verification form, or who return it late.

2. Public necessity, evidenced by adverse impacts to significant numbers of exiting Lifeline customers, requires this action being taken with a reduction in the normal 30-day opportunity for review and comment.

O R D E R

Therefore, **IT IS ORDERED** that:

The rulings made in the attached November 1, 2006 Assigned Commissioner's Ruling are confirmed, as modified in this order, and adopted as an order of the Commission. Specifically, the following sections of General Order 153 shall be temporarily suspended for a period not to exceed six months: 4.5, including Appendix C; 5.5; those portions of 6.3 and 6.4 as they relate to the annual verification process; 8.1.3 as it relates to customers who have not responded to the annual verification notice or returned it late; Appendix C; and the portion of Appendix E titled "Existing ULTS Customers (Verification)."

This order is effective today.

Dated November 9, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners