

ORIGINAL

Decision 87-07-090 July 29, 1987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

|                                      |   |                           |
|--------------------------------------|---|---------------------------|
| Investigation on the Commission's    | } |                           |
| own motion into the method of        | } | OII 83-11-05              |
| implementation of the Moore          | } | (Filed November 30, 1983) |
| Universal Telephone Service Account. | } |                           |

(For appearances see Decision 87-04-067 and Appendix A.)

INTERIM OPINION

This investigation was instituted by the Commission to implement the Moore Universal Telephone Service Act (Act)<sup>1</sup> which required the Commission to establish a subsidized local telephone service for the needy, the invalid, the elderly, and the rural telephone subscribers funded by a limited tax on suppliers of intrastate telecommunications service.

By Decision (D.) 84-04-053, the Commission implemented a program, effective July 1, 1984, to provide eligible subscribers a basic telephone lifeline service. Although the eligibility requirements and service provisions have changed over the years, this program has continually been subsidized by a tax on the gross revenues of intrastate interLATA (Local Access and Transport Area) services and on intrastate telecommunications services not defined by LATA boundaries, as authorized by Section 44041 of the Revenue and Taxation Code.

On April 8, 1987, the Commission, by Resolution T-12014, increased the rate of tax from 1.5% to 4%, effective July 1, 1987, the maximum rate authorized by the Revenue and Taxation Code. The Resolution recognized that at the 4% rate there will still be insufficient funds to subsidize the lifeline program for the fiscal

<sup>1</sup> AB 1348, Ch. 1143, Stats. 1983.



year ending June 30, 1988. It was estimated that a \$23.6 million deficit would result at the end of the fiscal year if the Commission took no additional action. Therefore, the Commission issued D.87-04-067 to examine, among other things, whether the telephone lifeline tax should be extended to intrastate intralATA telecommunications services.

Official notice is taken of Assembly Bill AB 386 introduced in the Assembly on January 16, 1987 and amended in Assembly on April 20, May 5, and June 9 of 1987. This bill proposes to amend the Act to, among other things, authorize the Commission to recognize lifeline credit allowances offered by the Federal Communications Commission, and to repeal the statutory authority to tax intrastate interLATA services and intrastate telecommunications services not bound by LATAs. Subsequently, in June of 1987, AB 386 was passed by the legislature and sent to the Governor for signature as an urgency statute.

Subsequently, on July 16, 1987, the Governor signed into law AB 386. Although this bill rescinded the tax previously used to subsidize the lifeline program, it authorized the Commission to fund telephone lifeline service through the use of an interim surcharge, not to exceed 4%, on "telephone service provided by telephone corporations operating between service areas." The interim surcharge, should the Commission adopt such a mechanism, may remain effective until October 31, 1987, at which time the Commission must issue an initial order adopting required rates and funding requirements for the continuation of telephone lifeline service.

Given the projected program deficit, we should immediately implement a 4% surcharge. This surcharge should be applicable, similar to the lifeline tax, to the gross revenues of intrastate interLATA services and intrastate telecommunications services not defined by LATA boundaries.



Since telecommunication utilities who bill the lifeline tax were unable to modify their billing procedures prior to the effective date AB 386 was signed into law, taxes have been collected which are no longer authorized. Therefore, all those utilities currently subject to the tax should retain any taxes collected after the date Section 44041 of the Revenue and Taxation Code is repealed, subject to refund, in an interest-bearing account pending further order of the Commission.

Further, a prehearing conference (PHC) should be held to identify issues and schedule hearings on AB 386 matters, and to assess the briefing schedule set at the May 15, 1987 PHC.

Findings of Fact

1. Telephone lifeline service has been subsidized by a tax on the gross revenues of intrastate interLATA services and intrastate telecommunications services not defined by LATA boundaries, as authorized by Section 44041 of the Revenue and Taxation Code.
2. By Resolution T-12014, the tax rate was increased from 1.5% to 4%, effective July 1, 1987.
3. There will be insufficient revenues to fund the lifeline program at current levels for the fiscal year ending June 30, 1988.
4. AB 386 became law on July 16, 1987 (Chap. 163, 1987 Stats.).
5. Section 44041 of the Revenue and Taxation Code is repealed by AB 386.
6. AB 386 authorizes the Commission to fund telephone lifeline service through the use of an interim surcharge, not to exceed 4%, on telephone services provided by telephone corporations operating between service areas.



7. Any interim surcharge may remain in effect until October 31, 1987 when further action must be taken by the Commission.

Conclusions of Law

1. Since telephone lifeline service can no longer be funded through the use of a tax, such service should be funded through the use of an interim surcharge.

2. Because of the public need to continue funding telephone lifeline service, this order should be effective today.

INTERIM ORDER

IT IS ORDERED that:

1. The 4% tax on intrastate inter Local Access and Transport Area (LATA) services and on intrastate telecommunications services not defined by LATA boundaries is discontinued.

2. Those utilities collecting telephone lifeline taxes, pursuant to Section 44041 of the Revenue and Taxation Code, subsequent to July 16, 1987 shall retain such funds, subject to refund, in an interest-bearing account pending further order of the Commission.

3. Effective today, a 4% surcharge, subject to refund, shall be applicable to the gross revenues of intrastate interLATA services and on intrastate telecommunications services not defined by LATA boundaries.

4. All telecommunications utilities subject to the 4% surcharge shall retain such surcharge in an interest-bearing account pending further order of the Commission.

5. Comments ordered by Decision 87-04-067 and scheduled to be filed on or before August 14, 1987 shall not be due until further notice.



6. A prehearing conference is set for Thursday, August 20, 1987, at 10:00 a.m. in the Commission Courtroom, State Building, 505 Van Ness Avenue, San Francisco, California.

7. All telecommunications utilities subject to the telephone lifeline tax and/or surcharge shall file on or before August 13, 1987 revised tariff schedules to conform with this opinion and be in accordance with the or provisions of G.O. 96-A. The revised tariffs shall calculate the surcharge necessary to implement the 4% surcharge effective upon the date of this order. The revised tariff sheets shall be marked to show that they were authorized by this decision.

This order is effective today.

Dated July 29, 1987, at San Francisco, California.

STANLEY W. HULETT  
President  
DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

*Victor Weisser*  
Victor Weisser, Executive Director