

COOPER, WHITE & COOPER LLP

A LIMITED LIABILITY
PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS
FACSIMILE (415) 433-5530
WWW.CWCLAW.COM

ATTORNEYS AT LAW
201 CALIFORNIA STREET SEVENTEENTH FLOOR
SAN FRANCISCO CALIFORNIA 94111
(415) 433-1900

CONTRA COSTA OFFICE
1333 N CALIFORNIA BLVD
SUITE 450
WALNUT CREEK
CALIFORNIA 94596
(925) 935-0700

April 3, 2009

By E-Mail and U.S. Mail

Mr. Jack Leutza
CPUC—Telecommunications Division
505 Van Ness Avenue
San Francisco, CA 94102

**Re: Opening Comments of the Small LECs on Draft Resolution T-17202
Proposing Revisions to General Order 153 to Reflect Administrative
Revisions to the California LifeLine Telephone Program**

Dear Mr. Leutza:

Pursuant to Public Utilities Code Section 311, and based on the instructions in the March 16, 2009 notice served on the parties to R.04-12-001, the Small LECs¹ offer these Opening Comments on Draft Resolution T-17202 ("Draft Resolution"). Due to a calendaring error that caused the Small LECs to misunderstand the deadline for submitting comments, these comments are being filed late. The Small LECs had understood that the date for comment was April 6, 2009. Upon being served with other parties' comments on March 31, 2009 and April 1, 2009, the Small LECs discovered the error. Having conferred with Commission staff regarding the reasons for the delayed submission, the Small LECs are submitting these opening comments today. Given the lateness of these comments, the Small LECs would not oppose an extension of time for other parties to reply to the issues raised herein. However, absent a directive to the contrary, the Small LECs will file reply comments on issues raised in the opening comments on Monday, April 6, 2009, in accordance with the existing comment schedule. The Small LECs apologize for this misunderstanding of the applicable deadlines, but urge the Commission to accept these late-filed comments, and consider the perspectives raised herein in evaluating revisions to the Draft Resolution.

¹ The Small LECs are a group of small incumbent local exchange carriers serving rural and remote areas, as follows: Calaveras Telephone Company (U 1001 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017), Volcano Telephone Company (U 1019 C), and Winterhaven Telephone Company (U 1021 C)

The Small LECs appreciate several of the clarifications offered in the Draft Resolution. The Small LECs support the Draft Resolution's clarification that the "service start date" will determine the back-credit period for new LifeLine customers under a prequalification system. *See Draft Resolution*, at p. 3. The Small LECs also agree that, to avoid confusion, customers should not be able to select a future "start date" under prequalification. *Id.* Similarly, the Small LECs support the updates in the program names associated with program-based enrollment under the LifeLine program. *Id.* at p. 4.

Other aspects of the Draft Resolution still require revision, as follows:

1. The Draft Resolution should not mandate that carriers collect "prior service address" information, as the revision to Section 4.2.1.1 of General Order ("G.O.") 153 would require. This information is not collected under current program requirements, and requiring this additional filed in "feeds" to the Commission's Certifying Agent would significantly raise prequalification implementation costs, and, for some carriers, make it impossible to meet the July 1, 2009 implementation deadline.
2. The Draft Resolution should not forbid carriers from charging conversion fees on unsuccessful applicants for LifeLine service. Carriers incur certain conversion costs regardless of whether a customer is ultimately approved for the program, and these costs must be recovered, either from the customer or from the LifeLine fund.
3. To avoid confusion in the applicable LifeLine rates, Section 8.1.4.1 and 8.1.5.1 should be further refined.
4. The proposed Section 9.11.3 of G.O. 153 should be revised to permit carriers to provide claims-related workpapers upon staff request within 10 business days.

These proposed changes to the Draft Resolution are explained in further detail below.

Submission of "Prior Service Address" Information Should Continue to be an Optional Piece of Information Subject to Collection Under the LifeLine Certification Process

Contrary to current program practice, the Draft Resolution would require carriers to collect "prior service address" information, and submit this information to the Commission's Certifying Agent (currently Solix, Inc.). As the Small LECs have noted in their implementation cost estimates submitted to the Communications Division on March 31, 2009, this change would require massive re-programming costs for several Small LECs. As the Small LECs' cost estimates reflect, the costs could be well in excess of \$50,000 or even approach \$100,000 for some carriers. Given the small size and limited resources of most Small LECs, these are extraordinary costs for a proposed change that will not have an obvious benefit. Perhaps even more significantly, implementation of this proposed change would almost certainly render the

July 1, 2009 prequalification implementation deadline impracticable or impossible for several Small LECs.

The Small LECs understand the Commission's need to deal with customer transfer issues, but the Small LECs do not recall that this proposed change was ever discussed in the prequalification implementation workshops. The Small LECs have not had a sufficient opportunity to present the significant costs of such a proposal to the Commission, and the Workshop Report does not contain a discussion of why this specific change would be necessary or efficacious in addressing LifeLine transfer issues. The Small LECs believe that the current processes are sufficient to address such issues as they arise. However, regardless of what change might be considered to address ongoing transfer concerns, this cannot be a reasonable solution given the significant costs and implementation delays that would be associated with this proposal.

Carriers' LifeLine Conversion Costs Must Be Subject to Recovery to Ensure that the Costs of Participation in LifeLine are Fully Reimbursed

As the Small LECs noted during the workshops, the costs of converting a customer to LifeLine service from regular service begin when the customer expresses an intent to change to the LifeLine class of service. Those costs are not incurred all at once when the customer is ultimately placed on LifeLine service. As a result, if carriers are not permitted to charge conversion charges upon the initial request for LifeLine designation, carriers will not recover their full administrative costs associated with attempted but ultimately failed conversions. The costs of these attempted conversions should be borne by the customers requesting the change. The Draft Resolution should be modified to allow carriers to retain this possibility.

However, if carriers are not permitted to charge a conversion fee upon request for LifeLine service, the Commission must permit this lost conversion fee expense to be recovered from the LifeLine fund as a valid administrative expense. Absent such a possibility, the Commission will have imposed a requirement on carriers for which there is no reasonable recovery mechanism. For the Small LECs, who do not have pricing flexibility, this would deny them a fair opportunity to earn a reasonable rate of return. The Commission should align the reimbursement of this cost with the cost-causer, which in this instance is either the prospective LifeLine customer, or, alternatively, the LifeLine program.

The Proposed Statement of the Allowable Range of LifeLine Rates Should Be Reworded to Add Clarity

The Draft Resolution offers revised Sections 8.1.4.1 and 8.1.5.1 of G.O. 153 in an effort to clarify the range of available LifeLine rates. *See Draft Resolution*, at p. 6. These proposed sections are not necessarily inaccurate, but they could be further refined to more directly convey the Commission's intent. To that end, the Small LECs offer the following proposed language for these sections:

8.1.4.1 The LifeLine flat-rate service shall be no lower than \$5.47, unless ½ of the carrier's basic residential service flat-rate is lower than \$5.47, and, in that case, the lower rate applies.

8.1.5.1 The LifeLine measured-rate service shall be no lower than \$2.91, unless ½ of the carrier's basic residential service measured-rate is lower than \$2.91, and, in that case, the lower rate applies.

The Small LECs believe that this language is easier to understand, and that it more precisely captures the Commission's intent. In particular, this language is preferable in that it removes the concept of the LifeLine rate being "the lesser of a range," which does not have a readily-discernable meaning.

Carriers Should be Permitted to Provide Workpapers Supporting their Claims Within 10 Business Days of Staff Inquiries

The Small LECs understand the Commission's need to verify certain aspects of carriers' claims, and the Small LECs routinely work with the Commission to respond to questions of the sort envisioned under Section 9.11.3, where questions about claims have arisen. However, the Commission should not mandate that workpapers be provided within 5 business days, as this time period may not be reasonable in all cases. *See Draft Resolution*, at p. 6. As was the case during the implementation of the new certification and verification regime, some inquiries will naturally require carriers to conduct research within their systems, and in their customer documentation. Complicated situations may not be reasonably addressed within 5 business days. To accommodate the possibility that a longer period may be required, the proposed Section 9.11.3 should be revised to state that backup documentation will be submitted within 10 business days.

April 3, 2009
Page 5

* * *

As set forth above, the Small LECs urge the Commission to accept these comments, and to consider the Small LECs' perspectives in shaping the final version of the Draft Resolution. Should you have any questions regarding the foregoing, please contact the undersigned at (415) 765-0369.

Very truly yours,

/s/

Patrick M. Rosvall
Attorneys for the Small LECs

PMR:ms

cc: R.04-12-001 Service List
Ben Schein
Cherrie Conner