

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding
Revisions to the California Universal
Telephone Service (LifeLine) Program.

R.11-03-013
(Filed March 24, 2011)

**COMMENTS OF THE GREENLINING INSTITUTE, NATIONAL CONSUMER LAW
CENTER AND THE UTILITY REFORM NETWORK ON THE PROPOSED DECISION
OF ASSIGNED COMMISSIONER SANDOVAL**

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I. INTRODUCTION

Pursuant to Rule 14.3, the Greenlining Institute, National Consumer Law Center and the Utility Reform Network (hereinafter referred to as “Joint Consumers”) file these comments on the Proposed Decision (“PD”) of Commissioner Sandoval issued October 30, 2013.¹ Joint Consumers support the PD and applaud the Assigned Commissioner, Administrative Law Judge, and Commission staff for a thorough analysis of the record and the dedication to conduct and rely on hundreds of consumers’ direct testimony in public participation hearings around the state. Below, we discuss some improvements to the PD that will make the LifeLine program even more robust, fair, and affordable for low income Californians.

II. THE PD PROVIDES A BALANCED APPROACH TO ACCOMMODATING FIXED-VOIP AND WIRELESS AND STRENGTHENING THE CALIFORNIA LIFELINE PROGRAM

Joint Consumers commend Commissioner Sandoval for putting forth a balanced PD that modernizes and expands the California Lifeline program. The PD facilitates the goals of the Moore Act by working to provide affordable communications services for qualifying low-income households while promoting competition amongst traditional wireline, fixed-VoIP and wireless service providers. Overall, this PD promotes quality California Lifeline services, while also protecting the program’s integrity and protecting Lifeline consumers.

Joint Consumers appreciate the proposal to provide state-only LifeLine services to California consumers without a social security number but with valid government-issued identification.² Joint Consumers have long opposed the use of Social Security Numbers as part of the Lifeline certification and verification process due to concerns about privacy, identity theft and the discriminatory impact on many low-income California households.³ Recent federal Lifeline reform requires ETCs to collect the last four digits of a Lifeline applicant’s SSN.⁴ This expansion of California Lifeline not only avoids conflict with the federal rules but promotes equity. Californians without valid social security numbers pay into the California Lifeline fund,

¹ Joint Consumers have reviewed the opening comments of the Center for Accessible Technology and support those comments as well.

² PD at 105.

³ See e.g. Comments of TURN, NCLC, DisabRA, Greenlining, LIF and ALC on the Draft Workshop Report, R.04-12-001 (Aug. 5, 2005) and Comments of TURN, NCLC, DisabRA, Greenling, LIF and ALC on the Draft Decision of ALJ Jones, R.04-12-001 (Nov. 22, 2005)(discusses Joint Consumer concerns about data handling and privacy protections and urges removal of the collection of SSN on the application forms

⁴ 47 C.F.R. section 54.404(b)(6)

but could otherwise not obtain assistance for the public purpose goals of protecting health and safety, facilitating economic security and the other benefits of affordable communications.

Additionally, the PD has a number of commendable provisions that work toward keeping service affordable, including extending the wireline California Lifeline caps until December 31, 2015;⁵ a prohibition on fees for various forms of payment (e.g., in-person payment in cash);⁶ requiring access to N11 calling without using minutes;⁷ requiring the lowest charge for additional minutes that are offered to other retail customers on comparable plans;⁸ prohibition on a number portability fee;⁹ availability of an interest-free payment plan¹⁰ and free toll blocking for 900/976 numbers and a one-time free bill adjustment for wireline Lifeline providers.¹¹

III. THE PROPOSED DECISION NEEDS ADDITIONAL SPECIFICITY AND CLARITY TO FURTHER STRENGTHEN THE LIFELINE PROGRAM.

Joint Consumers support a number of holdings in the PD that will strengthen the LifeLine program, including the provisions expanding the program to allow VoIP providers to participate, reinforcing COLR obligations, creating a tiered support structure for wireless LifeLine service, providing for reimbursement of non-recurring charges, and imposing nondiscrimination rules to ensure that LifeLine subscribers receive the same level of service as other customers. However, Joint Consumers believe that each of these improvements could benefit from additional specificity and clarification.

A. Jurisdiction

Joint Consumers support the holding that VoIP providers must have a CPCN and/or Franchise authority to offer LifeLine telephone service and that those providers offering basic residential service to their customers must offer LifeLine.¹² This rule is consistent with the Commission's statutory authority to (1) designate a class of LifeLine service, (2) set rates and charges for LifeLine service, and (3) develop eligibility criteria for LifeLine service and the

⁵ COL 5.

⁶ PD at 97.

⁷ PD at 68.

⁸ PD at 99.

⁹ PD at 42.

¹⁰ PD at 103.

¹¹ PD at 44, 100.

¹² PD at 28-31.

Commission's authority pursuant to CPCN requirements.¹³ The rule is also consistent with the Legislature's directive that the Commission administer the LifeLine program in a manner that is "equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California."¹⁴

Joint Consumers also support the PD's intent that VoIP LifeLine providers must provide the rates and terms of their LifeLine service to the Commission.¹⁵ However, the PD leaves some confusion as to whether VoIP LifeLine providers must file a tariff in order to satisfy this requirement. Currently, CPCN holders offering basic residential service pursuant to the CPCN, including incumbent carriers, COLRs and CLECs regardless of technology, must file a tariff and that tariff must include a LifeLine offering.¹⁶ The PD requires "new" providers to file a Tier 3 advice letter, but only requires a schedule of rates and charges and terms and conditions and does not make mention of a tariff.¹⁷ It also requires current providers to file a Tier 2 advice letter certifying compliance with the rules in Attachment D, which also only require a schedule of rates and charges.¹⁸

The record does not support a major change in the CPCN and CLEC rules regarding tariffs at this time. The PD acknowledges this is an interim process and further work will be done on this issue. Once that work is complete, with a more adequate record, the Commission can determine if the requirements for a tariff should be revised to allow for a schedule of rates and charges but until then, tariffs should be filed. A tariff is merely one part of the Tier 3 advice letter already contemplated by the PD and should not constitute an additional barrier. Indeed, the Tier 3 process and tariff requirement, during this interim period, is needed to ensure clear lines of authority and jurisdiction. This requirement is technologically neutral among wireline carriers and will maintain the status quo until the Commission has sufficient time to obtain input from all stakeholders and determine whether different requirements would be appropriate.

B. LifeLine and Carriers of Last Resort

¹³ Pub. Util. Code § 873, subd. (a)(1); Pub. Util. Code Sec 1001 et. seq..

¹⁴ Pub. Util. Code § 871.5, subd. (d).

¹⁵ See PD at 37-38.

¹⁶ D.95-07-054, Appendix A, Section E (CLEC tariff requirements); D.96-10-066, Appendix B, Section 2, 5(1)(d); See for example, D.11-04-009, Application of NobelBiz VoIP Services, Inc, (A.10-04-003), Ordering Paragraphs 6,15. (requesting NobelBiz revise draft tariffs including changes to LifeLine provisions).

¹⁷ PD at 31; O.P. 7; Attachment D, Draft G.O. 153 Appendix A-1 Section 10 and Appendix A-2 Section 10.

¹⁸ PD at 32; O.P. 2.

The PD contrasts the requirements proposed for LifeLine service with the requirements for Basic Service offered by Carriers of Last Resort (“COLR”), while stating that nothing in the PD is intended to impact the basic service requirements of COLRs set out in D. 12-12-038.¹⁹ The PD should clarify that COLRs must also comply with all the requirements in D. 12-12-038 for at least one of their LifeLine service offerings.²⁰ Customer choice is critical and one of those choices should be a service that not only works in the residence but also provides all of the benefits of basic service, which the Commission has identified as “essential” for California consumers, but at a discount.

C. Tiered Support for California Wireless Lifeline

The PD’s tiered support structure for wireless LifeLine services is designed to encourage carriers to offer quality wireless Lifeline products. The PD does not obligate carriers to offer a set number of minutes, and it leaves in place the current avenue for wireless carriers to become Lifeline-only ETCs for the federal Lifeline program. At the same time, the PD seeks to encourage California wireless Lifeline products that more adequately meet the communication needs of low-income households. The PD relies on a range of studies and information gathered from low-income consumers and their representatives in PPHs around the state to develop two tiers of support for California LifeLine based on offered minutes of use. Joint Consumers support this approach and are confident this will support the development of wireless Lifeline plans that provide adequate and affordable voice service.

While Joint Consumers generally approve of the PD’s graduated reimbursement structure for wireless LifeLine, including the concept of providing “more money for more minutes,” the fact that the PD does not provide the highest subsidy reimbursement for plans offering unlimited minutes is an area of concern. The record supports the requirement that LifeLine customers should be given a choice of unlimited minutes from any LifeLine provider.²¹ The PD’s failure to incentivize unlimited plans is especially troublesome due to the ruling that wireless LifeLine carriers need not provide free, unlimited access to 8XX numbers.²² Joint Consumers urge the

¹⁹ PD at 34.

²⁰ Currently, the PD, at 34 and FOF 15 clarifies that LifeLine must work inside the residence if offered by a COLR even if that COLR is using a wireless technology. But beyond that specific service quality requirement, the PD is not clear.

²¹ See PD, Attachment C; Joint Consumer Opening Comments, p. 19-21, filed May 28, 2013.

²² PD at 69.

Commission to revise the reimbursement rates for wireless LifeLine to provide the full subsidy only for those plans that offer unlimited minutes.

D. The Connection Charge Subsidy

The PD continues the current connection charge subsidy of up to \$39.00 per participant per instance.²³ While supporting reimbursement at this level, Joint Consumers seek clarification regarding several items.

G.O. 153 currently requires that LifeLine providers offer a discounted connection charge equal to “the lowest of (i) \$10.00, or (ii) 50% of the California LifeLine Service Provider’s Service Connection Charge.”²⁴ While the PD does not appear to modify or eliminate section 8.1 of G.O. 153, Joint Consumers respectfully request clarification that connection charges remain subject to the cap on what a customer pays, in addition to the \$39 cap for reimbursement.

Joint Consumers support the Commission’s rule allowing new customers a window of opportunity to terminate service for any reason.²⁵ However, Joint Consumers are concerned that this rule could result in increased costs to the Fund from reimbursement of multiple connection or service activation charges as the customer changes carriers looking for service that works. To limit this potential burden, the PD should declare that if the customer cancels service within the three-day window specified in the PD, the customer gets all up-front charges reimbursed, but the carrier will not be reimbursed for any nonrecurring charges from the Fund. If, however, the customer cancels between day 4 and 14, no penalty can apply but the customer would not get his or her money back and the carrier would be reimbursed from the Fund.

Further, the PD should be clear that the Fund will only reimburse carriers for connection charges or service activation associated with stand-alone voice plans or services. The carrier should not “invent” additional fees to charge LifeLine customers, or unfairly deny LifeLine customers promotional offers, just because the company knows it will receive reimbursement. Nor should the carrier receive reimbursement for charges associated with non-telecommunications services such as broadband or data. The carriers should be required to only charge those start-up fees that it customarily charges other non-LifeLine customers for “basic”

²³ PD at 40.

²⁴ GO 153, section 8.1 et seq.

²⁵ PD at 97. While supporting the concept, as discussed below, Joint Consumers feel that 14 days is too short a period to allow a customer to effectively review wireless LifeLine service.

voice plans as described in the P.D.²⁶ These rules will ensure the integrity of the fund and dissuade consumers from repeatedly switching providers during the 14-day period after activation.

E. Applicability of Nondiscrimination Rules

To ensure that LifeLine customers are treated fairly and offered a choice of services, the PD requires wireless Lifeline providers to apply the California Lifeline discount to all service plans that meet or exceed the minimum service elements and are consistent with the program rules.²⁷ This will allow a consumer to choose a plan (e.g., voice and text only, bundled service or a family plan) that best suits his or her household needs. The PD is explicit that carriers must offer at least one unbundled plan and must not condition California Lifeline on obtaining bundled service. These provisions protect affordability while enhancing consumer choice. Joint Consumers urge the PD to add a requirement that service providers note on their promotional materials which products are eligible for the California Lifeline program, so that customers are aware of all their options.

Joint Consumers support the other provisions in the PD that are designed to ensure that LifeLine funds do not subsidize a “substandard ‘poor persons’ service.”²⁸ In particular, Joint Consumers approve of these non-discrimination rules such as applying the LifeLine discount to all plans that comply with the rules, prohibit fees for paying in person, requiring additional minutes be charged at the lowest retail rate, and nondiscriminatory handset offerings.²⁹ However, the Commission must analyze the impact of subsidiary structures on the LifeLine program. Situations like Sprint/Assurance and the potential for an AT&T/Cricket may dilute these provisions if they only apply to the subsidiary offering prepaid and LifeLine services and not apply to the subsidiary focusing on post-paid, higher value, non-LifeLine plans and equipment. If the Commission determines that the non-discrimination rules apply only to individual subsidiaries or brands, Joint Consumers urge the Commission to monitor providers to detect and prevent any use of a “LifeLine-only” brand that may result in a substandard, “poor person’s service.”

²⁶ PD at 40.

²⁷ PD at FOF 26, COL10.

²⁸ Joint Consumers’ Opening Comments at p. 2.

²⁹ PD at pp. 36-37, 97, 99, 100, 67.

IV. THE PROPOSED DECISION SHOULD REQUIRE STRONGER SERVICE PLANS FOR LIFELINE.

While Joint Consumers support the PD, the record supports additional protections and service requirements for LifeLine subscribers. The PD's holdings regarding certain service elements (including 911, directory assistance, and 800/N11 numbers), future monitoring of the market and providers, pre-registration and cancellation policies will potentially obstruct the Commission's universal service goals.

A. Service Elements

As discussed above, the PD seeks to create a robust and comprehensive LifeLine program that provides customer choice for low income Californians. While Joint Consumers support many of its provisions regarding service elements, we note that it contains errors regarding the following items either because it overlooks record evidence or it goes beyond the record.

1. E911

The PD fails to reinforce the critical policy goal of ensuring public safety for LifeLine customers. The PPH record is replete with comments about the importance of emergency calling for LifeLine customers. In response to the Scoping Memo, Joint Consumers provided detailed comments on the importance of strong E911 requirements, including location information capability and suggested ways to ensure E911 calling in the residence with wireless service..³⁰ DRA recommended that the Commission consider, "a more exact standard of reliability and locational precision than the federal criteria for the LifeLine emergency services requirements."³¹ Despite this information on the record, the PD is silent on the matter except for the proposed Appendix Rules for each of the three technologies that merely require "compliance with current state and federal laws and regulations" and disclosure of current 911 capabilities.

The Commission should follow the precedent set in the basic service decision, which articulated the critical role of effective emergency services calling to meet the minimum needs of communications consumers.³² For providers of basic service, the Commission requires all 911 calling capability to be at least reasonably comparable to the wireline COLR 911 services and carriers must file a Tier 3 AL to demonstrate that capability.³³ The Commission should use the "reasonably comparable" standard and related requirements articulated in the basic service

³⁰ See, Joint Consumers Opening Comments, p. 25-26, filed May 28, 2013. See also, Motion of Center for Accessible Technology et. al. to Supplement the Record, September 6, 2013.

³¹ DRA Opening Comments, p. 11, filed May 28, 2013.

³² D.12-12-038 at. 22-23, FOFs 19-21.

decision for all LifeLine providers, not just COLRs. This is a reasonable and feasible standard for all technologies to meet. If additional detail or discussion is warranted then the Commission should refer this issue to the Service Quality docket or a second phase of this proceeding.

2. Directory Assistance Requirements

Joint Consumers recognize the essential nature of the requirements for basic service providers, and in particular COLRs on white pages and directory listings; but also understands those not be appropriate in all cases for LifeLine providers. However, Joint Consumers note the language on page 50 of the PD that suggests wireless providers do not have to offer directory assistance (of any type) to LifeLine customers. However, the draft wireless rules in Attachment D, Appendix A-3 require wireless providers to offer directory assistance. The requirement to offer directory assistance must be made clear; eliminating such a requirement would go too far.

3. 800/N11

The PD does not require LifeLine providers to offer a plan with access to 8XX calling free of charge and without using up minutes. Joint Consumers note that free access to 8XX was deemed critical for COLRs for several strong policy reasons that also exist for LifeLine customers, perhaps even more critically due to their disproportionate reliance on social services.³⁴ If the PD had required at least one wireless plan to include unlimited minutes, then this issue would not be as critical. But it does not, suggesting that long hold-times for 8XX calls will eat up precious minutes each and every time. This should be revised to require at least one plan to offer 8XX toll free calling that does not count against minutes.

B. Monitoring the Market

The PD seeks to balance affordability and competition incentives to ensure that LifeLine is open, robust and effective. In prior decisions, the LifeLine program has been strongly impacted by policies focused primarily on competition. The PD puts a stake in the ground to ensure that the LifeLine program remains affordable and effective for universal service, while acknowledging the difficulty in predicting the impact of the changes it mandates. Therefore, the PD commits the Commission to an ongoing monitoring and oversight role that is critical and should not be understated.³⁵

³³ D.12-12-038 at FOF 21; *See also*, Proposed Decision, Attachment A, Basic Service Rules, Section 2.

³⁴ D.12-12-038 at. 38-39.

³⁵ PD at 3.

This is not a new role for the Commission. As the Commission has implemented major shifts in public policy, it generally commits to monitoring the impact of those changes on California consumers.³⁶

Here, the PD pledges to “monitor” several things including the marketplace, affordability,³⁷ Specific Support Amount,³⁸ service activation fees³⁹ and 800# policies.⁴⁰ Joint Consumers support this ongoing vigilance, yet there is not a single reference to this commitment in the FOF, COL and Ordering Paragraphs. This is an omission that must be corrected. Joint Consumers have proposed language for additional FOF, COL and Ordering Paragraphs to formalize the commitment to monitoring.

Further, the PD should set up explicit requirements and timelines for all stakeholders to facilitate this critical monitoring function. Joint Consumers propose that the PD be revised to require the Commission to open a docket to review the status and effectiveness of the LifeLine program at the end of December 2015. At that time, the price cap set by the PD on wireline LifeLine will lift and the program will have been operating under the current rules for approximately two years. The Commission should specify that the future docket cover these issues requiring vigilance, as identified by the PD and where the Commission has committed to monitoring. As part of that review, the Commission should also gather data from carriers and other market participants on 800# calling, service activation fees, wireless coverage in residential areas, and subsidiaries plus more general study of affordability and marketplace trends.

C. Prequalification and Pre-Registration

The PD does not go far enough to address record concerns on prequalification. Joint Consumers support the proposal to eliminate prequalification for prepaid carriers. Yet, the PD

³⁶ See, for example, Uniform Regulatory Framework when it pledged to be vigilant in reviewing the local services marketplace. (D.06-08-030) Limited English Proficiency rules, when it required staff to conduct further study of the connection between the market and Limited English Proficiency customers.(D.08-10-016 at p. 139) More recently, when it agreed to subsidize the LinkUp subsidy it agreed the decision was interim and suggested staff will review the decision (p. 13, T-17366) Also, as the PD notes, when the Commission adopted major changes to the LifeLine program in 2010, it “ensured that the Commission was able to monitor impacts on ratepayers” and ensure the rates remained just and reasonable. (PD at 4)

³⁷ PD at 34.

³⁸ PD at 62.

³⁹ PD at 40.

⁴⁰ PD at 51.

fails to address other issues previously raised by Joint Consumers, while reinforcing the current deposit policy for wireline, VoIP, and post-paid wireless LifeLine services.⁴¹

The proposal to maintain prequalification and to allow carriers to charge customers large up front fees for service installation, first month's payment or deposits is directly contrary to the stated goal of the proceeding to ensure, "high-quality basic telephone service at affordable rates" for low income citizens.⁴² As Joint Consumers noted in previous comments, the very low income, those who need this program the most, cannot afford large up front payments and many fail to obtain service when told of the obligation to pay these fees, even if they are assured they will be refunded the money. Even installments or payment plans make obtaining service more complicated and intimidating, thus placing a significant barrier in their path to being connected. This material is in the record, but ignored by the PD. To ensure affordability and fairness, the PD should prohibit carriers from charging a deposit or a pre-payment if a customer begins the application process for LifeLine.

The PD also does not go far enough in establishing a pre-registration process that would allow a customer to obtain a LifeLine eligibility determination by working directly with the Third Party Administrator, prior to contacting any carrier, an option that Joint Consumers have been advocating for years.⁴³ The record contains extensive support for this concept, the Assigned Commissioner held a well-attended workshop and additional material was provided through ex parte discussion. While Joint Consumers appreciate the PD's willingness to consider such an option in future phases of this docket or future decisions, the record supports a Decision to implement pre-registration at this time.

D. Service Reliability And Cancellation

1. Improvements in Cancellation Options

a. The Cancellation Period for Wireless Lifeline Should be More than 14 Days

The PD states that "California LifeLine wireless participants shall have the ability to terminate service for any reason within 14 days of service activation without incurring any

⁴¹ See, for example, Response of Center for Accessible Technology et al. to the Motion of Virgin Mobile (R.11-03-013), April 22, 2013 at p. 2-3; Joint Consumers Opening Comments, May 28, 2013 at 44. This issue was extensively discussed during the August 20, 2013 Application Process Workshop.

⁴² PD at 3.

⁴³ Joint Consumer Opening Comments at p. 47, citing to several previously filed comments regarding pre-registration.

charge, including an early termination fee,”⁴⁴ recognizing that customers need an opportunity to evaluate whether a selected service effectively meets their communication needs, particularly in light of the decision that wireless LifeLine is not required to ensure that a customer has service inside of his or her residence.⁴⁵ Joint Consumers urge the Commission to consider a longer cancellation time frame, up to 30 days, in order to ensure that even customers who make very limited use of their phones can properly evaluate service quality before incurring an ETF.

While some states and wireless carriers may have agreed to a standard two-week cancellation period in a decade-old settlement regarding poor business practices by the wireless industry,⁴⁶ this does not make it the appropriate interval for wireless LifeLine customers. A wireless LifeLine customer is unlikely to have an alternative form of telecommunications service available or the resources to adequately shop around. If the selected service does not provide adequate signal or coverage at the locations the customer is likely to rely on it, there is no fallback. Because of the limited options facing wireless LifeLine customers, they should have a full month in which to evaluate their service at all reasonable locations where they are likely to need to use their phone, and have the option to cancel without penalty during that time.⁴⁷

Additionally, the opportunity to cancel service is meaningless unless consumers are able to understand and exercise that right. Accordingly, the Commission should ensure that all consumers are aware of their rights by requiring in-language customer service and access for consumers with disabilities.⁴⁸ These requirements should apply to any information provided to the LifeLine consumer, not just information regarding cancellation.

b. Cancellation Should Be Available Based on Changed Circumstances

The record here, and in other dockets, supports the conclusion that low-income customers often have less stable housing arrangements than other demographic groups, and are more likely to move in a given year.⁴⁹ As a result, mobility has significant value for low income customers.

⁴⁴ PD at 97.

⁴⁵ PD at 55-56.

⁴⁶ PD at 98. It is relevant here that California did not participate in the cited settlement because the settlement did not go far enough to match the 2004 consumer protection rules it adopted just the month before, The Settlement’s 14 day return period did not match the 30 day return period found reasonable by the Commission at that time. See, D.04-05-057, p., 77.

⁴⁷ Of course, as with all cancellation provisions, the customer can appropriately be charged for service actually used prior to cancellation.

⁴⁸ Joint Consumers have read the opening comments filed by the Center for Accessible Technology, and endorse those comments.

⁴⁹ Joint Consumers Opening Comments, p. 13, May 28, 2013.

However, a customer may select a service while in one location, and find that the chosen service does not meet his or her needs following a move. In particular, a given carrier's service may be available from within the customer's residence when it is purchased, but not at a new residence.

Availability of service within a customer's home has been a crucial issue in addressing wireless LifeLine.⁵⁰ Therefore, a change in address should be a triggering event that allows for a new opportunity to cancel service without penalty.⁵¹ This would allow a customer to same opportunity to evaluate service at the new location as was available upon initiating service. If service is not available, the customer should be eligible to select a different carrier or technology without paying a penalty. Additionally, the Commission should consider additional forms of changed circumstances that would support termination with no penalty in the second phase of this proceeding.

c. Service Contracts Should Be Limited to One Year, Not Two

The PD sets a maximum contract term for wireless lifeline providers of no more than two years, with terms comparable to those offered to non-Lifeline customers except as required to comply with rules for wireless LifeLine.⁵² In order to allow customer flexibility based on changed circumstances, the maximum contract period should be limited to a single year. The PD must also address what happens if a customer is found ineligible for LifeLine after the first year of a two-year term. Would the customer, even if they proactively notified the Commission of the change in eligibility, be penalized by cancelling the service early?

d. Cancellation Penalties Should Be Required to Have a Sliding Scale

The PD encourages wireless lifeline providers to “adopt a sliding scale for the early termination fees, when applicable, so that the fee declines during the length of the contract.”⁵³ Because a wireless LifeLine service plan is likely to be the sole means of telecommunication, and low-income customers who find that a selected service does not meet their needs can ill-afford to pay a substantial cancellation penalty while also obtaining alternative service, a declining fee structure should be mandatory.

⁵⁰ PD at 97.

⁵¹ This renewed opportunity to terminate a contract based on a change in household address would be similar to a “qualifying event” that allows a customer to change health insurance outside of standard open enrollment opportunities. Just as a change in household makeup triggers an option to change insurance, a change in residential address should trigger an option to change telecommunications service.

⁵² PD at 98.

2. Service in at Least One Room of a Residence

Because many of Joint Consumers' concerns about customers' right to cancel service and our recommendations for adding flexibility to the terms of service are based in part on the expectation that customers desire service in their homes, these concerns could also be mitigated by revisiting the determination that wireless LifeLine providers are not required to ensure service within a customer's residence.⁵⁴ The PD recognizes the high value consumers place on access to service within their homes, including customers who also desire the benefits of wireless service.⁵⁵ The record in this proceeding and in the basic service proceeding contains substantial information demonstrating that customer access to service in their home is important for safety and is good public policy.⁵⁶ Joint Consumers urge a change to the PD to ensure that all LifeLine customers, regardless of the type of service they select, can access the telecommunications network from within their residence. If the Commission finds the record is not sufficient at this time, it should include this issue for consideration in future decisions or in the Service Quality docket.

V. ISSUES FOR FUTURE DECISIONS

The PD reflects the broad scope and ambitious undertakings of this proceeding. Despite its comprehensive coverage, there remain multiple issues to be addressed based on the record created in this docket. The PD does not sufficiently address these issues. Joint Consumers hope that a revised PD will create a more clear path or procedural plan to address these issues..

For example, as discussed above, Joint Consumers are committed to revising the prequalification process and implementing a pre-registration process. We are also very supportive of the goal to provide LifeLine to those without Social Security Numbers and integrating the resources of community based organizations into the program. The PD vaguely references taking up these issues in a Phase II (FOF 21, OP 6), but any such process is undefined and unscheduled. The PD's laundry list of future issues should be clarified and include specific time frames and responsibilities (staff or ALJ) to schedule consideration of these issues. This

⁵³ PD at 98.

⁵⁴ See PD discussion at pp. 53-56; see also PD at pp. 33-34, affirming that a COLR using wireless technology must ensure service in at least one room of a customer's residence, a position that Joint Consumers support.

⁵⁵ PD at 55.

⁵⁶ See Joint Consumer's Opening Comments on Scoping Memo at 24; PD, Attachment C.

will give all stakeholders proper notice and assurance that work on these issues will continue uninterrupted.

VI. CONCLUSION

Joint Consumers support the PD, and urge the Commission to make the above-referenced changes before adopting a final decision.

November 19, 2013

Respectfully submitted,

/s/ _____
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ATTACHMENT A

Findings of Fact

1. The Commission convened eight public participation hearings throughout California and 392 persons were in attendance, with 239 offering comments to the Commission.
2. Formal written comments and reply comments were submitted by 29 parties on the issues listed in the Scoping Memo.
3. The Lifeline service elements set forth in Attachment D do not alter the Basic Service requirements for Carriers of Last Resort adopted in D.12-12-038.
4. The California LifeLine service elements set forth in Attachment D for wireline, fixed VoIP and wireless voice services are reasonable and promote affordability, service accessibility, choice, competition, consumer protection, and public safety.
5. The California LifeLine service elements set forth in Attachment D reflect the updated Basic Service Elements of D.12-12-038 where possible.
6. The cap on California LifeLine wireline service for flat-rate local service of \$6.84 and for measured service rate service at \$3.66 from the effective date of this Decision through December 31, 2015 is reasonable and will allow parties and the Commission an opportunity to review the effect of the caps in subsequent phases of the proceeding.
7. The cap on California LifeLine fixed VoIP service for voice service of \$6.84 from the effective date of this Decision through December 31, 2015 is reasonable and promotes affordability and service accessibility.
8. California wireline LifeLine providers are eligible to receive \$11.85 in Specific Support Amount from the effective date of this Decision through December 31, 2013 and \$12.65 from January 1, 2014 through December 31, 2015 per month for each eligible LifeLine participant.
9. California fixed - VoIP LifeLine providers are eligible to receive \$11.85 in Specific Support Amount from the effective date of this Decision through December 31, 2013 and \$12.65 from January 1, 2014 through December 31, 2015 per month for each eligible LifeLine participant.
10. California wireless LifeLine providers are eligible to receive \$11.85 in Specific Support Amount from the effective date of this Decision through December 31, 2013 and \$12.65 from January 1, 2014 through December 31, 2015 per month for each eligible LifeLine participant.
11. California LifeLine providers may claim a \$0.50 per month administrative fee for each eligible LifeLine participant.

12. The California LifeLine Program will continue to support and extend the current rate caps in Extended Area Service Exchanges until December 31, 2015.
13. California LifeLine providers that are eligible telecommunications carriers are eligible for federal Lifeline support of \$9.25 per month for each eligible LifeLine participant.
14. Wireless LifeLine participants should receive free, unlimited access to 211, 311, 511, 811 and 911 numbers to enhance public safety and calls to these numbers should not be counted against plan minutes.
15. Wireless Lifeline participants should receive free, unlimited access to 611 numbers to facilitate resolution of billing and service issues and 611 calls should not be counted against plan minutes.
16. Members of the public testified that they valued wireless service and the mobility it offered, but wanted their service to work at home, provide unlimited 800/8xx toll-free numbers, and sufficient wireless minutes to safely allow access to NXX (211, 311, 511, 611, 711, 811 and 911), up to unlimited minutes.

INSERT FOF, RENUMBER ACCORDINGLY

XX. Emergency calling is an essential capability and LifeLine providers and customers expect reasonably comparable emergency calling among the various technologies including wireline, wireless and VoIP.

XX. Members of the public testified that the federal requirement to have a Social Security Number to receive LifeLine services is severely restrictive.

XX. Allowing eligible households with government issued identification but not a Social Security Number to receive LifeLine support is fair and equitable and consistent with the Moore Act, the goals of the LifeLine program and the FCC's concerns regarding fraud, waste and abuse.

17. The 2010 Affordability Study information is several years old and is no longer useful, and PPH testimony is up-to-date and pertinent.
18. No party presented persuasive evidence that geographic de-averaging of basic rates should be taken into account in setting the Specific Support Amount.
19. No party presented persuasive evidence that our rule disallowing bad debt

costs should be altered.

20. The issues set for rehearing in D.12-07-022 were included in the scope of this proceeding, and comments were received and considered in this proceeding.
21. There should be a Phase II in this proceeding, to address pending issues noted in the body of this Decision, including but not limited to issues regarding changes to the application process to create a pre-registration, requirements of LifeLine providers to file tariffs or schedules, the role of community based organizations in the application and outreach process, the appeals process, and such other matters as may come to the Commission's attention or by operation of law. Phase II includes critical issues for the program and should begin as soon as possible.
22. The California Lifeline service elements set forth in Attachment D allow LifeLine service to be provisioned on different technologies.
23. The California LifeLine service elements set forth in Attachment D are a minimum set of service elements that LifeLine providers must offer on a non-discriminatory basis.
24. California LifeLine providers may provide additional service elements as part of their California Lifeline telephone service offerings.

[INSERT FOF 24, RENUMBER ACCORDINGLY]

Carriers of Last Resort ("COLR") provide basic local exchange service pursuant to the rules in D.12-12-038. COLRs must provide at least one LifeLine plan using the same terms and conditions as basic local exchange service but at the approved LifeLine reimbursement rates.

25. Carriers should be authorized to offer California wireless LifeLine plans on a pre-paid or a post-paid basis.
26. A LifeLine provider's telephone service plans, including existing plans, should be eligible for California LifeLine support if they meet or exceed the applicable California LifeLine program requirements. Any plan eligible for California LifeLine support shall be so identified in the providers marketing materials, website or other places where terms, conditions and product descriptions are provided.
27. Wireless LifeLine providers should not be prohibited from offering domestic

messaging with voice plans that are otherwise consistent with the wireless LifeLine service elements.

INSERT FOF, RENUMBER ACCORDINGLY

XX. Providers are better situated than customers to determine which of their current plans are California LifeLine eligible.

28. Households with an eligible household member who is hearing impaired or uses a teletypewriter (TTY) may be eligible to receive the California LifeLine discounts on two separate telephone lines.
29. California LifeLine wireless providers should offer LifeLine participants the option of paying a deposit in lieu of a credit check or offer a deposit on the same basis as offered to non-LifeLine customers if the LifeLine participants do not qualify for the provider's credit score criteria established for all customers choosing that plan.
30. Because wireless participation in the LifeLine program is voluntary, wireless providers may withdraw at any time after providing a 30-day notice to customers and fulfilling contractual obligations entered into with their customers.

INSERT FOF, NUMBER ACCORDINGLY

XX. The Commission will monitor the LifeLine marketplace, including, but not limited to, affordability, Specific Support Amount, service activation fees, wireless coverage, and 8XX number policies, the role of subsidiaries, and the Commission will open a docket to review the status and effectiveness of the LifeLine program no later than December 31, 2015.

Conclusions of Law

1. All LifeLine providers must have a Certificate of Public Convenience and Necessity, Wireless Identification Number, or Franchise from the Commission.
2. A carrier with a Certificate of Public Convenience and Necessity, Wireless Identification Number or Franchise from the Commission, but without an Eligible Telecommunications Carrier status, is eligible to participate in the California LifeLine Program.

3. All wireline and fixed VoIP carriers with a Certificate of Public Convenience and Necessity from the Commission or Franchise authority to operate within California and that provide residential telephone service through that CPCN or Franchise must offer LifeLine service using an approved tariff setting forth the terms and conditions and rates for service.
4. The revisions to Appendix A of General Order 153, including the LifeLine service elements for wireline in Appendix A-1, fixed VoIP in Appendix A-2, and wireless Lifeline services in Appendix A-3, contained in Attachment D to today's decision should be adopted.
5. The cap on California LifeLine wireline service for flat-rate local service of \$6.84 and for measured service rate service at \$3.66 should be extended until December 31, 2015.
6. ~~General Order 153 deposit rules for service initiation apply to wireless Lifeline providers.~~
7. Federal deposit rules in 47 C.F.R. 54.401(c) should be extended to California wireless LifeLine providers.
8. Wireless providers that offer Lifeline participants plans with 501 to 999 voice minutes should be eligible for reimbursement of \$5.75, with LifeLine subscribers receiving the same amount of discount on such service.
9. Wireless providers that offer LifeLine participants plans with 1,000 or more voice minutes should be eligible for reimbursement of \$12.65, with the Lifeline subscribers receiving the same amount of discount on such service.
10. Wireless LifeLine providers should apply the applicable Specific Support Amount, plus any additional federal Lifeline support, to reduce the cost of any qualifying California LifeLine service plan and charge the LifeLine participant the resulting amount.
11. California LifeLine providers should not require LifeLine participants to purchase bundled plans with video, data, and/or any other services to receive the California LifeLine discounts.
12. LifeLine providers should not assess a fee to LifeLine participants for paying their bills in person by cash, check, or other form of payment if the participant's service is on a pre-paid basis.
13. The service elements for wireless LifeLine may vary from wireline LifeLine because of differences in technology, regulatory jurisdiction, and service offerings.

14. Wireless Lifeline participants should receive free, unlimited access to 211, 311, 511, 611, 711, 911 and 911 numbers for reasons of public safety and convenience.

INSERT COL, RENUMBER ACCORDINGLY

15. Non-COLR wireless LifeLine providers should not be required to provide voice-grade service in the residence of the LifeLine participant if their disclosure of coverage limitations and implementation of return policies enable informed customer choice.

[INSERT COL 16, RENUMBER ACCORDINGLY]

XX. To ensure that carriers disclosure on issues regarding return policies and coverage limitations enable informed customer choice, disclosures and other customer materials must be provided in accessible formats to ensure disability access and in-language formats for Limited English Proficiency customers.

16. The California Lifeline Program should not make up lost federal support for LifeLine providers that are not Eligible Telecommunications Carriers.

17. The \$39 discounted connection fee should be continued as well as the cap of \$10 for service connection fees for LifeLine customers.

INSERT COL, RENUMBER ACCORDINGLY

XX. Carriers should be required to only charge those start-up fees that it customarily charges other non-LifeLine customers for “basic” voice plans.

18. California wireless LifeLine support levels should be set to encourage LifeLine providers to offer Lifeline participants sufficient quantities of voice minutes to assure public safety and convenience as well as equitable treatment.

19. California LifeLine participants are exempt from paying the public purpose program surcharges, the CPUC user fee, federal excise tax, local franchise taxes and the state 911 tax.

20. California LifeLine providers are required to assess, collect, and remit public purpose programs surcharges on revenues collected from non-Lifeline end-users for intrastate telecommunications services.

INSERT COL, RENUMBER ACCORDINGLY

XX. California LifeLine providers are required to provide 911 calling capability at least reasonably comparable to the wireline COLR 911 services and carriers must file a Tier 3 Advice Letter to demonstrate that capability.

INSERT COL, RENUMBER ACCORDINGLY

XX. California LifeLine providers are required to provide at least one service offering that offers 8XX toll free calling that does not count against minutes of use.

INSERT COL, RENUMBER ACCORDINGLY

XX. California Wireless LifeLine providers should impose a maximum contract term of no more than one year.

21. All LifeLine providers should offer at least one plan meeting California LifeLine service elements on a stand-alone basis, but the discount may be applied to any service package meeting the minimum requirements and providers must identify on their marketing materials which services qualify for the California LifeLine Discount.
22. California LifeLine wireless participants should be allowed to terminate service for any reason within ~~14~~ 30 days of service activation or at any time if they move to a residence where their carrier's service is unavailable without incurring a fee, and all service connection fees should be refunded if service is cancelled within three days of service activation.
23. California LifeLine wireless participants should not be charged a restocking fee if a wireless device is returned within three days of service activation, and carriers must adopt a sliding scale for early termination fees.
24. California LifeLine wireless participants should be offered equivalent rates for extra minutes and for handsets as set for non-LifeLine customers.
25. California LifeLine wireless providers should prominently disclose terms and conditions of service.
26. ~~Pre-paid customers~~ LifeLine customers should be exempt from pre-qualification requirements that require ~~post-paid~~ customers to pay deposits and non recurring charges from the non-LifeLine rate until approval of LifeLine eligibility.
27. For pre-paid customers, discounts should begin with the date of approval notification or the date California LifeLine service is activated, whichever is later.

28. Wireless carriers that participate in the California LifeLine Program should file a schedule of rates and charges for services offered to eligible LifeLine participants.
29. All LifeLine providers must comply with the CPUC's rules, orders, decisions, and the California Public Utilities Code.
30. All LifeLine providers should be subject to CPUC jurisdiction, audits, inspections and penalties for non-compliance on the same basis as other holders of CPCN, WIR or Franchise operating authority.
31. LifeLine providers should offer California LifeLine service elements on a non-discriminatory basis.
32. California LifeLine providers should apply the applicable LifeLine support to the service plan chosen by the California LifeLine participant if the plan meets or exceeds the applicable minimum California service elements and LifeLine providers should identify those plans that meet or exceed the minimum and are eligible for LifeLine support.

INSERT COL and RENUMBER ACCORDINGLY

XX. California LifeLine Program will provide support for LifeLine eligible households who have a valid government issued identification even if those households do not have a Social Security Number. These households will not be eligible for the federal Lifeline discounts

ORDER

IT IS ORDERED that:

1. All California LifeLine Program providers must comply with the policies adopted in this order.
2. No later than 45 days after the effective date of this order all existing California LifeLine Program providers must file and serve Tier 2 advice letters with the Communications Division conforming their LifeLine tariffs to the requirements of today's decision.
3. All LifeLine providers must have a Certificate of Public Convenience and Necessity or a Wireless Identification Registration from the Commission, and/or Franchise operating authority.
4. California LifeLine wireline service providers must charge customers no more than \$6.84 per month for flat-rate local service and no more than \$3.66 per month for measured rate service through and until December 31, 2015.
5. The revised General Order 153 Appendix A listing California LifeLine service elements for wireline (Appendix A-1), fixed Voice over Internet Protocol (Appendix A-2), and wireless services (Appendix A-3) in Attachment D to this decision is adopted, and LifeLine service providers must comply with these service elements.
6. The scope and schedule of the next phase of this proceeding shall be set by further ruling of the assigned Commissioner, but a Scoping Memo shall be issued no later than 60 days from the effective date of this Decision.
7. The Commission has committed to monitoring the LifeLine marketplace and, during Phase II, shall develop data reporting requirements or a data request processes for monitoring several elements of the LifeLine market as discussed in the Decision.
8. Any fixed Voice over Internet Protocol or wireless service provider interested in participating in the California LifeLine Program must file a Tier 3 advice letter with the Communications Division demonstrating that its proposed California LifeLine service(s) are in compliance with General Order 153 and the requirements adopted in this Decision, pending the Commission adopting a formal process in subsequent phases of this proceeding. Such California LifeLine wireless providers and fixed Voice over Internet Protocol providers must also submit their proposed marketing materials to Communications Division for review and approval prior to dissemination to the public.