STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED
09/04/20
02:14 PM

September 4, 2020

Agenda ID #18768
Quasi-Legislative

TO PARTIES OF RECORD IN RULEMAKING 20-02-008:

This is the proposed decision of Commissioner Genevieve Shiroma. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 8, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON

Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER SHIROMA**
(Mailed 9/4//2020)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Update the California Universal Telephone Service (California LifeLine) Program.	Rulemaking 20-02-008

DECISION ESTABLISHING SPECIFIC SUPPORT AMOUNTS AND MINIMUM SERVICE STANDARDS FOR CALIFORNIA LIFELINE AND AUTHORIZING REPLACEMENT OF FEDERAL SUPPORT FOR WIRELINE PARTICIPANTS

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ATTACHMENT 1 - California Lifeline Specific Support Amounts (SSA) and Minimum Service Standards (MSS)

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DECISION ESTABLISHING SPECIFIC SUPPORT AMOUNTS AND MINIMUM SERVICE STANDARDS FOR CALIFORNIA LIFELINE AND AUTHORIZING REPLACEMENT OF FEDERAL SUPPORT FOR WIRELINE PARTICIPANTS

Summary

This decision (a) establishes specific support amounts and minimum service standards for the California Universal Telephone Service Program for December 1, 2020 through November 30, 2021, and (b) authorizes the California Universal Telephone Service Program to replace $2.00 per month of reduced federal support for wireline participants from December 1, 2020 through November 30, 2021. This proceeding remains open.

1. Background

In 2016, the Federal Communications Commission (FCC) made the following changes to federal Lifeline support levels, shifting support from voice services to broadband services:[1]

- Reduced federal monthly support from $9.25 to $7.25 for service plans that do not meet its broadband service standards on December 1, 2019.
- Reduced federal support from $7.25 to $5.25 service plans that do not meet its broadband service standards on December 1, 2020.
- Eliminated federal support for service plans that do not meet its broadband service standards on December 1, 2021.

On February 10, 2020, the California Public Utilities Commission (Commission) issued Decision (D.) 20-02-004 to authorize California Universal Telephone Service Program (California LifeLine or the Program) to temporarily replace $2.00 per month of reduced federal support for wireline participants

[1] Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (2016 FCC Lifeline Order).

from December 1, 2019 through November 30, 2020. D.20-02-004 noted that the Commission would review and reassess Program subsidy levels and the potential impact of replacing reduced federal subsidies on the Program fund; further, the decision to replace federal support for wireline participants for one year should have no precedential weight for determining whether to authorize the Program fund to replace any reduction in federal subsidies for any or all Program participants going forward.

On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist in the State of California as a result of the threat of COVID-19. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 to direct all California residents to shelter in place to slow the spread of COVID-19, except to access necessities and maintain critical infrastructure sectors.

On April 13, 2020, the assigned Commissioner issued a scoping ruling in this proceeding that established priorities for this rulemaking, including whether to adjust the Program's specific support amounts (SSA) and/or minimum service standards (MSS) to support state policy goals. Pursuant to the scoping ruling, program providers filed and served responses to the scoping ruling's questions on May 4, 2020[2] and parties filed reply comments on May 26, 2020.[3]

On June 8, 2020, the assigned Administrative Law Judge (ALJ) issued a ruling to adjust the procedural schedule, direct Program providers to respond to questions in the ruling, and request party comments. On June 22, 2020, Program providers and parties filed and served responses to the ruling.[4]

On July 17, 2020, the assigned ALJ issued a ruling to request party comments on a straw proposal by the Commission's Communications Division (Communications Division) to adjust the SSA and MSS levels for the Program

[2] Cox California Telcom, LLC (Cox); Charter Communications, Inc. (Charter); TC Telephone, LLC (TC Telephone); i-wireless, LLC (i-wireless); National Lifeline Association; TruConnect Communications, Inc. (TruConnect); Boomerang Wireless, LLC (Boomerang); Small LECs; Air Voice Wireless, LLC (Air Voice); American Broadband & Telecommunications; Global Connection Inc. of America (Global Connection); TracFone Wireless Inc. (TracFone); Telrite Corporation (Telrite); AT&T Services, Inc. (AT&T); Assurance Wireless USA, L.P. and Sprint Spectrum L.P. (Assurance); and Consolidated Communications of California Company (Consolidated). Small LECs consist of Cal-Ore Telephone Co., Happy Valley Telephone Company, Sierra Telephone Company, Inc., Calaveras Telephone Company, Ducor Telephone Company, Hornitos Telephone Company, The Siskiyou Telephone Company, Kerman Telephone Co.,Pinnacles Telephone Co., The Ponderosa Telephone Co., Volcano Telephone Company, Winterhaven Telephone Company and Foresthill Telephone Co.

[3] The Utility Reform Network (TURN) and The Greenlining Institute (Greenlining); Cox; Telrite; California Cable and Telecommunications Association; the Commission's Public Advocates Office (CA Public Advocates); Small LECs; National Lifeline Association; California Emerging Technology Fund; TruConnect; TracFone; TC Telephone; AT&T; World Institute on Disability; Consumer Action; and Center for Accessible Technology.

[4] Center for Accessible Technology and Greenlining; Charter; California Emerging Technology Fund; TC Telephone; Cox; City and County of San Francisco; CA Public Advocates; California Cable and Telecommunications Association; National Lifeline Association; AT&T; Telrite; TracFone; i-wireless; Air Voice; Assurance; Consolidated; Small LECs; TruConnect; Global Connection; American Broadband & Telecommunications Company; and Frontier Communications of the Southwest, Inc., Citizens Telecommunications Company of California Inc. and Frontier California, Inc. (Frontier); and Consumer Action.

(Straw Proposal). Parties filed comments[5] and reply comments[6] on July 30, 2020 and August 6, 2020.

2. Issues Before the Commission

The issues before the Commission are (a) whether and how to adjust the Program's SSA and MSS levels to support state policy goals and participants' needs, and (b) whether to replace any portion of the federal Lifeline support for service plans that do not meet federal broadband service standards between December 1, 2020 and November 30, 2021.

3. State Policy Goals and Participants' Needs

The COVID-19 pandemic has underscored that broadband is an essential service and laid bare the depth of the digital divide in California and across the country. In D.20-07-032, we defined broadband as an essential utility service and that the Moore Act, among other statutes, demonstrates that "the Commission has a role in closing the digital divide in California and bringing advanced communications services, including broadband internet access, to all Californians".[7]

California LifeLine participants need improved broadband offerings during this pandemic year to meet their distance learning, telehealth and other essential needs.[8] Consumer advocate parties urged the Commission to act

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[5] Assurance; Greenlining and Center for Accessible Technology; Cox; Telrite; TracFone; CA Public Advocates; TURN; National LifeLine Association; Frontier; Consolidated; California Emerging Technology Fund; Small LECs; AT&T; and TC Telephone.

[6] TC Telephone; Greenlining and Center for Accessible Technology; Telrite; TURN; TracFone; Cox; CA Public Advocates; National Lifeline Association; California Cable and Telecommunications Association; Small LECs; Consolidated; AT&T; and California Emerging Technology Fund.

[7] D.20-07-032 at Conclusions of Law (COL) 3 and 4.

[8] California Emerging Technology Fund (CETF) July 30, 2020 comments, and TURN August 6, 2020 comments.

swiftly to expand access to fixed broadband services.[9] While consumer advocate parties found that mobile broadband is not equivalent to fixed broadband, they also urged the Commission to provide wireless service standards this year that will help participants meet their distance learning and telehealth needs.[10]

California LifeLine has an important role in expanding access to affordable broadband offerings. The Program must support affordable choices for Californians across the state, including rural and urban Californians, households and individuals who need no-cost wireless services, and struggling families who need mobile family plans or fixed voice or broadband services.

On the other hand, we must balance our efforts to improve Program services with our obligations to conserve the Program fund. Several parties strongly opposed increasing surcharge rates to pay for expansions in Program subsidies for enhanced services.[11] The surcharge base is shrinking, and the burden is increasingly borne by fewer ratepayers.[12] COVID-19 underlines the need to be cautious in raising surcharges when so many households and businesses are struggling and are more sensitive to rate hikes.

We are committed to expanding access to affordable communications services in a sustainable way. Accordingly, this decision focuses on improving

[9] CA Public Advocates August 6, 2020 comments, TURN July 30, 2020 comments, and CETF July 30, 2020 comments.

[10] CETF July 30, 2020 comments, TURN August 6, 2020 comments.

[11] May 26, 2020 comments by Center for Accessible Technology, Greenlining, TURN and California Cable and Telecommunications Association. Consolidated also raised concerns about budget impacts of new subsidies in its May 4, 2020 responses.

[12] Some parties also advocated for expanding the surcharge base to include broadband, thereby reducing the burden on voice customers. We note that the surcharge base issue affects multiple Commission programs and their stakeholders and therefore is outside of the scope of this proceeding.

mobile broadband offerings, increasing mobile and fixed broadband choices, and maintaining access to voice services, all without raising subsidy levels.

We will continue to work on improving access to affordable, higher quality broadband service plans in this proceeding. We will gather additional information about participants' needs, affordability of plans, and other program design considerations through the Program Assessment underway and upcoming rulings.

4. Wireless SSA and MSS

4.1. Calibrating the wireless tiers

In the absence of participant survey results,[13] the Straw Proposal estimated participants' wireless needs based on the general market assessments.[14] Several parties[15] referenced the FCC's 2018 Communications Marketplace Report (2018 Market Report)[16] to understand wireless consumption patterns in the market.

Accordingly, the Commission's staff designed the Straw Proposal's MSS tiers based on this report. The Straw Proposal notes that the 2018 Market Report showed average general market data consumption for customers of 6.6 GB per month in 2018 and that mobile data consumption increased by 30% annually from 2015 to 2018. Based on this information, the Straw Proposal estimated that

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[13] The Program Assessment underway will include participant surveys regarding service plan needs and preferences.

[14] Participant usage data has limited value for indicating participants' actual needs because participants avoid using more than allotted service levels.

[15] *See* Assurance May 4, 2020 responses, CA Public Advocates May 26, 2020 comments, and National Lifeline Association June 22, 2020 comments.

[16] FCC Communications Marketplace Report. CMR 2018, 33 FCC Rcd at 12569, Fig. A-8; CTIA Wireless Industry Indices Year-End 2018, at 15, Chart 4, available at https://www.fcc.gov/communications-marketplace-report-updates.

average general market data consumption in 2019 will be over 8.5 GB per customer and over 11 GB in 2020.

In comments on the Straw Proposal, consumer advocate parties flagged that mobile data needs will be higher this upcoming year due to the pandemic.[17] California Emerging Technology Fund recommended, based on survey data, adjusting wireless tiers to allow an individual student to access up to 6 GB of mobile data and two students to access up to 12 GB of mobile data for distance learning.[18]

Parties generally agreed that California should not follow the lead of the 2016 FCC Lifeline Order, which set high service standards without assessing the feasibility of meeting these high service standards or raising the federal subsidy level.[19] Parties also generally agreed that tiers should support consumer choices between no-cost and affordable service plans with more data or additional lines to meet their needs.[20]

However, parties disagreed about how to calibrate subsidy levels and associated service standards. Consumer advocate parties urged the Commission to issue data requests and review providers' costs of providing service to ensure that the Program does not provide subsidies that are too high relative to services

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[17] CETF August 6, 2020 comments, TURN August 6, 2020 comments, and CA Public Advocates August 6, 2020 comments.

[18] CETF July 30, 2020 comments.

[19] TURN and Greenlining May 26 comments and World Institute on Disability May 26 comments.

[20] Assurance July 30, 2020 comments, TURN August 6, 2020 comments, and National Lifeline Association August 6, 2020 comments, City and County of San Francisco April 3, 2020 comments.

provided.[21] Providers uniformly argued that subsidy levels should be based on market pricing of service plans, not costs of providing service.

Several wireless providers counter-proposed incrementally increasing the Program's mobile broadband allowance minimum incrementally from 3 gigabytes (GB) to 4 GB for California's highest subsidy level of $14.85.[22] TracFone supported this proposal by arguing that California and federal subsidies (and when applicable, co-payments) must add up to the average retail price of providers' service plans.[23]

We find that California should exercise its bulk purchasing power to secure volume discounts for participants. Provider costs and market pricing are relevant to our analysis, but retail market pricing is not our benchmark for establishing subsidy levels. We agree with TURN's statement, that "[w]hile carriers want to match their profits on LifeLine plans to the profits they earn on retail non-LifeLine plans, there is no requirement for the Program to maximize profits."[24]

California LifeLine provides the highest supplemental state subsidy for Lifeline services in the nation and a $39 service connection/activation fee reimbursement. Several California LifeLine providers offer Lifeline services in other states that meet the federal MSS; these other states provide supplemental

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[21] Greenlining prehearing conference statement, CA Public Advocates prehearing conference statement.

[22] National Lifeline Association July 30, 2020 comments.

[23] TracFone July 30, 2020 comments.

[24] TURN August 6, 2020 comments.

subsidies ranging from $0-$3.50, and most of these states do not reimburse connection/activation fees.[25]

However, California LifeLine participants do not receive commensurately higher service levels when compared to Lifeline participants in other states that California LifeLine providers serve. California LifeLine participants currently receive the same 3 GB mobile data allowance, the same data speeds (3 G), unlimited voice (instead of 1,000 minutes) and unlimited texts (not required).[26] This is not due to higher wholesale costs of providing service. Wireless providers confirmed that the wholesale costs of providing wireless Lifeline service in California are comparable to the wholesale costs of providing such service in other states.[27]

Wireless service providers asserted that they use California's higher subsidy levels to pay for enhanced marketing and outreach, providing free mobile devices to participants, and complying with California LifeLine's administrative procedures.[28] The first purpose is prohibited; General Order (GO) 153 prohibits claims or recovery of Program funds for providers' marketing, advertising or outreach.[29] On the second point, we note that wireless providers previously asserted that they use California LifeLine's $39 wireless service connection fee reimbursements to offset the costs of providing free mobile devices.[30] As for the higher costs of complying with California's

[25] May 4 responses of TracFone, Telrite, Assurance, National Lifeline Association and Air Voice Wireless.

[26] May 4 comments of National Lifeline Association.

[27] June 22 responses of Telrite, TruConnect and TracFone.

[28] June 22 responses of Assurance, National Lifeline Association, TruConnect and TracFone.

[29] GO 153, Section 8.4.1.

[30] D.17-01-032 at 15-16.

administrative processes, providers did not submit evidence of the amount of the cost difference that would allow us to factor these costs into our analysis.

In accordance with party comments, we revised the wireless tiers proposed in the Straw Proposal as follows.

- Specified that the Basic Plan and Standard Plan should be available to participants at no cost.[31]
- Adjusted the SSA and MSS levels of the Basic Plan and Standard Plan to reflect increased communications needs of participants.[32]
- Increased the mobile data allowance for the first line of a Family Plan to reflect greater data needs of families.
- Replaced both the Unlimited Plan and Data Plan tiers of the Straw Proposal with a flexible Upgrade Plan tier that will be available for service plans that include at least 12 GB of mobile data.[33]
- Clarified that mobile broadband speeds MSS should apply to the entire mobile data allowance amount.[34] For example, if the minimum mobile broadband speed for the Standard Plan is 4G, then 4G would be the mobile broadband speed MSS for the entire 6 GB minimum mobile data allowance.

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[31] Several parties raised the importance of wireless subsidies supporting no-cost plans. For example, see National Lifeline Association August 6, 2020 comments; World Institute on Disability May 26, 2020 comments; and Consumer Action June 22, 2020 comments.

[32] *See* discussion above regarding higher data needs this year. See also CA Public Advocates July 30, 2020 comments regarding refining wireless tiers. In Straw Proposal comments, TURN and Assurance also recommended that Basic and Standard Plans should include unlimited voice and unlimited texts.

[33] TURN August 6, 2020 comments urged the Commission to avoid allowing providers to use misleading descriptions of high data plans as "unlimited" if data speeds are throttled after a certain data allowance.

[34] TURN August 6, 2020 comments recommended clear requirements regarding throttling of data speeds.

- Clarified that General Order 153 shall be amended to eliminate the wireless service provider requirement to offer voice-only plans to Lifeline customers.[35]

The revised wireless tiers are calibrated to address both participants' increasing communications needs and the feasibility of meeting higher service standard levels with California's generous subsidy levels. Accordingly, we conclude that it is reasonable to adopt the SSA and MSS wireless tiers set forth in Attachment 1 for December 1, 2020 through November 30, 2021.

4.2. Flexibility to offer fewer wireless service plans

The SSA and MSS tiers we adopt in this decision will provide more choices for Program participants. The question remains about how to ensure that participants across the state will have access to most or all of these options. CA Public Advocates argued that wireless providers should be required to offer a service plan for each wireless tier to support consumer choice.[36] Some wireless providers argue that they should not be required to offer all tiers since some providers do not have sufficient billing structures to implement plans that require monthly co-payments.[37]

We do not find it necessary to require wireless providers to offer service plans for all authorized tiers at this time. We expect that competition between Program providers will support access to these new consumer choices.

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[35] D.14-01-036 requires wireless providers to "offer at least one California LifeLine plan that meets or exceeds the California LifeLine service elements, and is not bundled with any video or data services." Decision.14-01-036 at Appendix A 4a. Assurance July 30, 2020 comments recommended removing this requirement.

[36] CA Public Advocates July 30, 2020 comments.

[37] We are skeptical of this argument since Upgraded Plans and Family Plans can be facilitated with pre-payments rather than monthly co-payments.

However, we will revisit this issue when we consider the SSA and MSS tiers for the following year.

4.3. Wireless plan co-payments

Consumer advocate parties expressed concerns about the affordability of co-payment amounts. Several parties also suggested that we define affordability in alignment with D.20-07-032, the Commission's recent decision on the assessing the affordability of essential utility services.[38]

We agree that it is essential to ensure that co-payment or pre-payment amounts for wireless Program plans are affordable. While several consumer advocate parties proposed establishing co-payment "caps," we do not find it practical to establish fixed caps. The new Upgrade Plan and Family Plan tiers will provide flexibility to wireless providers to propose service plans with varying levels of mobile data allowances and additional lines. The affordability of co-payments or pre-payments, along with other terms and conditions of Upgrade Plans and Family Plans, will be subject to Tier 2 advice letter review. The Commission's staff will assess the affordability of the co-payments or pre-payments, considering several factors, including alignment with D.20-07-032 and the proposed discount below retail market prices.

Parties also raised the need to protect participants who do not timely make co-payments from service disruptions and additional fees.[39] Assurance Wireless proposed structuring upgraded plans as "bolt-on" layers over an underlying no-

[38] July 30, 2020 comments by Center for Accessible Technology and Greenlining, CA Public Advocates, TURN and CETF. Co-payments should be affordable (CETF, Cal PA). *See* also TURN August 6, 2020 comments, which recommended an "affordability analysis" for co-payments. (TURN reply.)

[39] Assurance July 30, 2020 comments. August 6, 2020 comments by TURN, CA Public Advocates.

cost plan so that if a participant does not make a co-payment, they will remain on the underlying no-cost plan.[40] We find that this approach would protect consumers and support administrative efficiency. Wireless providers who elect to offer service plans that require co-payment by participants should structure their plans as an additional layer over a Standard Plan, so that if a participant does not make a co-payment, they will remain on the underlying Standard Plan. Wireless providers may not charge customers a conversion fee or claim reimbursement from the fund for customers transitioning between an Upgrade Plan or Family Plan to a Standard Plan.

We will also require providers to include any consequences of non-payment of a co-payment in the Tier 2 advice letter for the proposed service plan.

4.4. Visibility of wireless customer choices

The Straw Proposal recommended that the Commission update its California LifeLine website to improve transparency of wireless offerings across all providers. The Center for Accessible Technology and the Greenlining Institute commented that improvements to the Commission's California LifeLine website should move forward immediately, ahead of the upcoming Program Assessment.[41]

When we offer customers choices, we must ensure that the options are visible. The Commission's Program website should be updated regularly to improve transparency with links to all wireless service plan options across all providers. Each wireless provider should maintain one web page that includes all of the provider's California LifeLine plans for ease of comparison for the public. This web page should include details of plan offerings, including text

[40] Assurance July 30, 2020 comments, National LifeLine Association August 6, 2020 comments.

[41] July 30, 2020 comments by Center for Accessible Technology and Greenlining.

limits, voice call limits, data allowances and speeds, as well as customers' out-of-pocket costs before taxes. Each wireless provider should include in an advice letter the web address for its California LifeLine web page. Any changes to a provider's California LifeLine web address or web page shall require a Tier 1 advice letter.

5. Wireline SSA and MSS

5.1. Wireline broadband

In 2014, the Commission authorized Program subsidies for bundled service plans.[42] Frontier confirmed that it currently offers bundled fixed voice and broadband service plans, and there are no significant administrative barriers to accessing California and federal subsidies for participants who receive both fixed voice and broadband services that meet the federal Lifeline standards.[43] However, only 56,687 wireline Program participants do not receive additional State SSA because they meet fixed broadband service plans criteria for FCC's standards for its Lifeline program. After review of provider data and party comments in this proceeding, we have more insights about the barriers and potential solutions.

Several parties asserted that the underlying problem is insufficient infrastructure to meet the FCC's broadband minimum standards in many geographic locations.[44] While overcoming this challenge remains a priority for the Commission, we are not persuaded that this problem is the main culprit. As the Small LECs pointed out in their comments to the Straw Proposal, the FCC's

[42] Decision 14-01-036, Ordering Paragraph 18.

[43] Frontier July 30, 2020 comments.

[44] July 30, 2020 comments of Frontier, Consolidated, Small LECs, and Center for Accessible Technology and Greenlining.

Lifeline rules recognize that many geographic locations cannot meet their standards and allow for full federal support as long as the participant subscribes to the best available speed of at least 4/1 Mbps.[45]

Other parties noted that fixed broadband service is prohibitively expensive for participants without additional subsidies.[46] However, as discussed above, parties also generally agreed that the Commission should expand the surcharge base before authorizing higher subsidy levels to increase access to enhanced broadband services.

Several consumer advocate parties asserted that mandates will be necessary to ensure that Californians have access to affordable broadband plans.[47] CETF raised concerns with continuing to rely on voluntary Internet Service Provider offerings and marketing efforts to meet low-income broadband needs.[48]

The Small LECs proposed that the Commission authorize providers to voluntarily allocate the existing Program SSA to standalone broadband service plans, in addition to bundled service plans. However, consumer advocate parties and wireline service providers agreed that voice services remain important for connecting participants to emergency services.[49]

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[45] FCC Public Notice DA 19-704, Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount (July 25, 2019).

[46] *See* CA Public Advocates July 30, 2020 comments.

[47] Center for Accessible Technology and Greenlining July 30, 2020 comments, CETF July 30, 2020 comments.

[48] *See* CETF opening comments.

[49] Frontier July 30, 2020 comments, Consolidated July 30, 2020 comments, August 6, 2020 comments Center for Accessible Technology and Greenlining.

CETF proposed that broadband plans bundled with interconnected Voice over Internet Protocol (VoIP) voice services that connect to the Public Switched Telephone Network and that meet E-911 obligations should qualify for Program support.[50]

This approach provides an appropriate balance between supporting consumer choices and prioritizing access to emergency services. Wireline VoIP providers are currently eligible for California LifeLine support for voice services.[51] We conclude California LifeLine should offer subsidies for VoIP service bundled with fixed broadband service, so long as such VoIP service connects to the Public Switched Telephone Network and meets E-911 obligations.

We will continue to identify barriers and develop solutions for expanding access to enhanced broadband services through this proceeding, including opportunities to increase participation of VoIP and fixed broadband providers in the Program.

5.2. Wireline measured rate plans

Measured rate service plans are an outdated element of the Program that dates back to the 1980s, when tariffs for local, long-distance and international calls varied, and flat rate service was less common. Today, flat rate service is standard. However, approximately 13% of California LifeLine wireline participants continued to receive measured rate service in 2019. Most Program providers only offer measured rate service for legacy participants.

[50] CETF July 30, 2020 comments, CA Public Advocates August 6, 2020 comments.

[51] In Decision 16-10-039, the Commission authorized fixed-VoIP service providers without Certificate of Public Convenience and Necessity to qualify for Program support conditional on compliance with Program procedures, policies and rules.

The Straw Proposal raised the opportunity to save the Program an estimated $9.2 million per year by no longer offering higher subsidies for measured rates. Measured rate participants receive the same wireline telephone service that flat-rate customers receive, but they pay a lower monthly rate than flat-rate customers and pay $0.08 per call after the first 60 calls. The Program currently offers both the standard $14.85 SSA and an additional subsidy.

As a result, in 2019 the Program provided an average of $36.65 in subsidies per measured rate customer, compared with $14.95 for flat rate customers; one Program provider received an average of $114.00 per customer. The Moore Act requires that the Commission implement the Program in a way that is equitable, nondiscriminatory, and without competitive consequence for the telecommunications industry in California. The Straw Proposal found that the current subsidy levels for measured rates violate this requirement by providing a competitive advantage to companies that provide measured rate service over companies that provide flat-rate service.

The Straw Proposal recommended either (a) eliminating the subsidy for measured rate plans and transitioning participants to flat rate plans, or (b) capping the subsidy for measured rate plans at the same level as subsidies for flat rate plans. After review of party comments, we have decided to eliminate Program subsidies for measured rate plans and transition participants to flat rate plans effective December 1, 2020 with the consumer protection measures described below.

A broad cross-section of parties supported the proposal to eliminate subsidies for measured rate plans and transitioning participants to flat rate plans, including AT&T, the Small LECs, Cox, California Cable and Telecommunications Association, California Public Advocates, Center for Accessible Technology, the

Greenlining Institute and CETF. Consumer advocate parties agreed with the Straw Proposal that providing measured rate customers with over double the monthly support as flat rate customers creates an untenable competitive advantage for measured rate service providers in violation of the Moore Act.[52]

Only one party strongly opposed the elimination of a Program subsidy for measured rate plans and argued that elimination would violate existing law.[53] TC Telephone argued in Straw Proposal comments that the Moore Act requires that the Program provide a measured rate subsidy.

We find that offering higher Program subsidies for measured rates plans is no longer consistent with the goals of the Moore Act. It is inconsistent with the goal to "offer high-quality basic telephone service at affordable rates to the greatest number of citizens" to provide much higher subsidies for outdated measured rate plans than for modern flat rate plans.

The Commission has the authority to establish the same level of support for measured rate plans as it sets for flat rate plans. This approach would be consistent with the Moore Act's requirement to implement the Program in a way that is equitable, nondiscriminatory, and without competitive consequence for the telecommunications industry in California.

However, wireline providers unanimously opposed this approach. In Straw Proposal comments, AT&T highlighted both its support for elimination of

[52] Center for Accessible Technology and Greenlining July 30, 2020 comments, CA Public Advocates August 6, 2020 comments.

[53] Consolidated's July 30, 2020 comments opposed the elimination of measured rates to a lesser degree. Frontier initially opposed the elimination of measured rates in July 30, 2020 comments. However, in August 6, 2020 comments, Frontier noted that it understands the administrative advantages for phasing out measured rate service, and if the Commission decides to do so, it should do so with a clear and definite end date to facilitate the carrier's administration of the program.

measured rates and strong opposition to reducing subsidies for measured rate plans to the same level as subsidies for flat rate plans, which AT&T asserts would be punitive. Cox agreed with AT&T in its reply comments. TC Telephone similarly argued that reducing support for measured rate plans would have the same effect as eliminating subsidies for measured rate plans.

Accordingly, we conclude that the Program should eliminate subsidies for measured rates at this time. However, we recognize that it may not be feasible for all wireline providers to notice and transition all measured rate participants to flat rate plans by December 1, 2020. Accordingly, wireline providers may claim the Standard Flat Rate SSA, currently $14.85, for measured rate participants for an additional three months starting December 1, 2020 and ending February 28, 2021. Wireline providers may not claim reimbursement for lost revenues or costs associated with untimed calls during this period. In addition, a wireline provider may not charge customers a conversion fee or claim reimbursement from the Program for customers transitioning to flat rate plans. We will require service providers to file their Tier 2 advice letter on October 15, 2020 for transitioning measured rate participants to flat rate plans.

We also recognize the importance of protecting participants during the transition from measured rate plans. TC Telephone warned in its Straw Proposal comments that if we require the conversion of measured rate customers to flat rate plans, this would result in service disruptions during the pandemic. In light of these comments, we will explicitly direct providers to implement these transitions without disruptions in service or conversion fees.

Multiple parties recommended additional consumer protections for participants transitioning from measured rates, including multiple notices and a significant transition period. Several parties also expressed concerns about the participant bill impacts of the transition.[54] Some consumer advocate parties recommended mitigating bill impacts for transitioning participants.[55]

The Program can soften the bill impact by providing a monthly bill credit during a defined transition period. Measured rate participants currently between 0-$4.73 for Program service plans, while flat rate participants currently pay between $6.47-$13.36. A bill credit of $2.00 per month[56] would significantly soften the impact of the transition to flat rate plans. The estimated cost of providing transition bill credits for six months is approximately $75,000.[57]

This transition bill credit is intended to offset increased bills for wireline flat rate services. Therefore, transition bill credits will not be provided to customers who transition to wireless service plans or who receive lower bills. Further the $2.00 transition bill credit should not impact the SSA calculation and should not be included in the lost revenue calculation.

Providers should file a Tier 2 advice letter to implement the transition of measured rate participants to flat rate plans, including its plan and notices to participants about the expected bill impacts of the transition to flat rate plans during the six-month transition period and thereafter. Providers shall notice participants at least 30 days prior to the initial transition to flat rate, as well as between 30 to 60 days prior to expiration of transition bill credit.

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[54] Center for Accessible Technology and Greenlining July 30, 2020 comments, Cox July 30, 2020 comments, CETF July 30, 2020 comments, AT&T July 30, 2020 comments.

[55] Center for Accessible Technology and Greenlining July 30, 2020 comments.

[56] A $2.00 credit would cover approximately 50% of the average difference between out-of-pocket costs of measured rate and flat rate plans based on 2020 claims.

[57] This estimate is based on the number of measured rate customers as of July 2020.

6. Replacing federal Lifeline support

In D.20-02-004, the Commission authorized the Program to replace $2.00 per month of reduced federal support for wireline participants from December 1, 2019 through November 30, 2020. In that decision, we found that wireline providers would raise rates for voice services if we did not replace federal support and noted that wireline participants would not be able to avoid these rate increases. We also concluded that replacing federal support for wireline participants without replacing this amount for wireless participants would not violate the Moore Act's requirements to implement the Program in a way that is equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California. In D.20-02-004, we affirmed that we would thoroughly reassess Program subsidy level and the financial impact of replacing federal subsidies before deciding whether to replace federal subsidies in the future.

The Straw Proposal included the following estimates of the cost to the Program of replacing $2.00 or $4.00 of the federal Lifeline subsidy reduction for service plans that do not meet federal broadband minimum standards for the period December 1, 2020 through November 30, 2021. The Straw Proposal recommended that the Program continue to replace $2.00 of the federal subsidy reduction for wireline participants, as authorized for the previous year in D.20-02-004. The Straw Proposal was intended to be consistent with party comments arguing against increasing the level of subsidies provided by the Program before addressing the surcharge base issue.

Table 1. Estimated 12-Month Impacts of Replacing Federal Subsidy on the Program fund[58]

[58] Estimates assume that all participants will be served by plans that do not meet the federal minimum service standards.

	2019 total monthly average participation	Annual cost of replacing $2.00	Annual cost of replacing $4.00
Total Program	1,680,551	$40.3M	$80.7M
Wireline	330,612	$7.9M	$15.8M
Wireless	1,349,938	$32.4M	$64.8M

Party positions varied widely on whether and how much of the federal subsidy reduction to replace for participants. Wireline providers unanimously supported replacing the full $4.00 federal subsidy reduction for wireline participants, warning that if the Commission failed to do so, they would raise participants' rates accordingly. Wireless providers Assurance and members of the National LifeLine Association argued that the Commission should stop making up any portion of the federal subsidy reduction for wireline voice services and should redirect this funding to providing higher wireless subsidies.

CETF, Center for Accessible Technology, the Greenlining Institute and California Public Advocates supported the replacement of $2.00 of the federal subsidy decline for one year.[59] Consumer advocate parties noted that pandemic recession conditions warrant a limited extension of this supplemental subsidy, but that this approach should be reviewed again next year in light of economic conditions and longer-term term impacts on the Program's budget. We agree and will authorize the Program to continue to replace $2.000 of the federal subsidy decline for another year. We will revisit this issue when considering the subsidy levels for the following year.

7. Reviewing SSA and MSS tiers

This decision establishes SSA and MSS tiers for a one-year period. Before December 1, 2021, we must revisit these issues to establish tiers for the following year. We will consider various factors when adjusting the tiers, including

[59] *See* July 30, 2020 and August 6, 2020 comments by these parties.

upcoming changes to the federal MSS, participants' communications needs, and Program data. We may also collect Program data more frequently this year to assess the impact of the pandemic and other factors on the Program.[60]

8. Comments on Proposed Decision

The proposed decision of Commissioner Shiroma in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ____________________, and reply comments were filed on ____________________ by ____________________.

9. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Stephanie S. Wang is the assigned ALJ in this proceeding.

Findings of Fact

1. In 2016, the FCC issued an order that reduced support by $2.00 for service plans that do not meet its broadband service standards beginning on December 1, 2019, and reduced support by an additional $2.00 for service plans that do not meet its broadband service standards beginning on December 1, 2020.

2. On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist in the State of California as a result of the threat of COVID-19.

3. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 to direct all California residents to shelter in place to slow the spread of COVID-19, except to access necessities and maintain critical infrastructure sectors.

4. The FCC's 2018 Market Report showed average monthly data consumption of 6.6 GB per customer in 2018.

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[60] *See* CETF July 30, 2020 comments.

5. As the COVID-19 emergency continues and thereafter, Program participants will need higher data allowances and speeds to access distance learning, telehealth, telework and other essential needs.

6. California LifeLine provides the highest supplemental state subsidy for Lifeline services in the nation.

7. Several Program providers offer Lifeline services that meet the federal MSS in other states; these other states provide supplemental subsidies ranging from $0-$3.50, and most of these states do not reimburse connection fees.

8. The wholesale costs of providing wireless Lifeline service in California are comparable to the wholesale costs of providing such service in other states.

9. The wireless tiers in Attachment 1 are calibrated to address both participants' increasing communications needs and the feasibility of meeting higher service standard levels with California's generous subsidy levels.

10. Some Program providers offer participants both wireline voice services and fixed broadband service, either separately or bundled, and receive subsidies from both California LifeLine and the federal Lifeline program.

11. As of 2019, approximately 13% of wireline Program participants were enrolled in measured rate service plans.

12. Program participants who receive wireline measured rate service are similarly situated as Program participants who receive wireline flat rate service but receive much higher Program subsidies.

13. No longer providing higher subsidies for measured rate plans could result in an estimated $9.2 million in savings for the Program fund.

14. Reimbursing wireline providers for providing a $2.00 transition bill credit per participant that transitions from a measured rate plan to a flat rate plan for

the first six months after the transition would cost the Program an estimated $75,000.

15. If the Program does not replace $2.00 of the federal subsidy decline for wireline service plans that do not meet the federal Lifeline broadband MSS, these participants will receive higher phone bills.

16. The estimated cost of replacing $2.00 of the federal subsidy decline for wireline service plans that do not meet the federal Lifeline broadband MSS is $7.9 million.

17. Replacing the $2.00 of reduced monthly federal support for wireline participants without replacing this amount for wireless participants will not result in a competitive advantage for wireline providers.

Conclusions of Law

1. The Program's SSA and MSS levels should support the state goal of providing improved broadband services to participants.

2. The Commission should not increase the Program's SSA levels at this time.

3. In the absence of participant surveys, wireless MSS levels should be based on the general market needs rather than on participant usage data.

4. Wireless Program participants should have access to service plan choices that meet their needs, including no-cost plans, affordable data upgrade plans and affordable family plans.

5. California LifeLine should include tiered wireless SSAs tied to MSS levels to encourage providers to offer a range of service plan options.

6. Co-payments for wireless service plans subsidized by the Program should be affordable.

7. Wireless SSA and MSS levels should not be designed to subsidize provider marketing, advertising or outreach, which is prohibited by General Order 153.

8. Wireless SSA and MSS levels should not be designed to offset the costs of free mobile devices since the Commission authorized the Program to pay $39 service connection fees to offset the costs of free mobile devices.

9. California LifeLine should exercise its bulk purchasing power to secure volume discounts for participants.

10. The Commission should establish wireless SSA and MSS tiers for December 1, 2020 through November 30, 2021 as set forth in Attachment 1.

11. The Program should protect participants who do not timely make co-payments from service disruptions and increased fees.

12. Wireless providers should be required to file a Tier 2 advice letter to request the Communications Division's review of terms and conditions of the proposed Family Plans and/or Upgrade Plans, including the affordability of out-of-pocket costs for participants and any consequences of non-payment of co-payments. The Tier 2 advice letter shall include the web address for the provider's California LifeLine web page.

13. Wireless providers who elect to offer service plans that require co-payment by participants should structure their plans as a "bolt-on" layer over a Standard Plan, so that if a participant does not make a co-payment, they will remain on the underlying Standard Plan.

14. The Program should not require wireless service providers to offer voice-only plans to Lifeline customers effective December 1, 2020.

15. The Program should offer subsidies for Voice over Internet Protocol service bundled with fixed broadband service, so long as such Voice over Internet Protocol service connects to the Public Switched Telephone Network and meets E-911 obligations.

16. The Program should eliminate subsidies for measured rate plans, effective December 1, 2020, rather than establish the same level of subsidies for measured rate plans as flat rate plans.

17. The Program should offer wireline providers the Standard Flat Rate SSA for measured rate participants starting December 1, 2020 and continuing until the approval of their Tier 2 advice letter for transitioning measured rate participants to flat rate plans. The Program should not reimburse wireline providers for lost revenues and costs associated with untimed calls during this period.

18. The Program should allow wireline providers to temporarily claim the standard flat rate SSA of $14.85 for measured rate participants between December 1, 2020 and February 28, 2021.

19. The Commission should establish wireline SSA and MSS tiers for December 1, 2020 through November 30, 2021 as set forth in Attachment 1.

20. Providers should transition participants from measured rate plans to flat rate plans without disruptions in service and without charging participants a service conversion fee.

21. Each provider should file a Tier 2 advice letter to implement the transition of participants from measured rate plans to flat rate plans, including its plan to notice the participants about the expected bill impacts of the transition to flat rate plans during the six-month transition period and thereafter.

22. The protest period for Tier 2 advice letters to implement the transition of participants from measured rate plans to flat rate plans should be shortened to 15 days to enable the transition of participants to flat rate plans by December 1, 2020.

23. The Commission should reimburse wireline providers for providing a $2.00 transition bill credit per participant that transitions from a measured rate plan to a flat rate plan for the first six months after the transition.

24. The Program should replace $2.00 of the federal subsidy decline for wireline service plans that do not meet the federal Lifeline MSS for the period December 1, 2020 through November 30, 2021.

25. The Program should require any wireline carrier that receives replacement funds for the $2.00 reduction of monthly federal support to apply all of such replacement funds to reduce the monthly bills of Program participants.

26. The Program should not replace the $2.00 reduction of monthly federal support for any period where the wireline carrier recovered all or a portion of the $2.00 reduction through increases to Program participant bills.

O R D E R

IT IS ORDERED that:

1. The Specific Support Amounts and Minimum Service Standards tiers for the California Universal Telephone Service Program in Attachment 1 are adopted for the period December 1, 2020 through November 30, 2021.

2. A wireless provider shall file a Tier 1 advice letter by October 29, 2020 for any Basic Plan or Standard Plan it seeks to offer on December 1, 2020. A wireless provider shall file a Tier 2 advice letter at least 60 days prior to the proposed effective date for any proposed Upgrade Plan or Family Plan it seeks offer. Wireless providers shall notify their customers of service plan changes at least 30 days prior the effective date of service plan changes. The Tier 1 or Tier 2 advice letter shall include the web address for the provider's California LifeLine web page. In addition to existing filing requirements, providers shall also send a copy of the Tier 1 or Tier 2 advice letter to the California LifeLine Section of the

California Public Utilities Commission's Communications Division at CaLLAdviceLetter@cpuc.ca.gov including this decision number.

3. General Order 153 is revised as follows: (a) eliminate subsidies for measured rate plans effective December 1, 2020, including the Specific Support Amounts and associated lost revenues and costs for untimed calls, (b) eliminate the requirement for wireless service providers to offer voice-only plans to Lifeline customers effective December 1, 2020, (c) clarify that wireless providers may not charge customers or claim conversion reimbursement for customers who transition from an Upgrade Plan or Family Plan to a Standard Plan, (d) clarify that wireline providers may not charge customers or claim conversion reimbursement for customers who transition from measured rate to flat rate plans; and (e) eliminate the requirement that service providers must provide customers with a choice of measured rate or flat rate service.

4. Each wireline provider with measured rate participants is directed to file a Tier 2 Advice Letter by October 15, 2020 to implement the transition of participants to flat rate plans on December 1, 2020 without disruptions in service or conversion fees. The filing shall include notifications to customers and updates to tariffs. The protest period for Tier 2 advice letters regarding the transition from measured rate plans to flat rate plans shall be shortened to 15 days. Wireline providers shall notify their measured rate customers of (i) the transition to flat rate plans at least 30 days prior the effective date of the transition to flat rate plans, and (ii) the expiration of the $2.00 transition bill credits between 30 to 60 days prior to the expiration of the transition bill credits. In addition to existing filing requirements, wireline providers must also send a copy of the Tier 2 Advice Letter to the Communications Division's California LifeLine Section at CaLLAdviceLetter@cpuc.ca.gov referencing this decision

number. Wireline providers shall notify CaLLAdviceLetter@cpuc.ca.gov after completing each of the following: (a) notifying measured rate customers of the transition to flat rate plans, and (b) notifying transition participants of the upcoming expiration of their $2.00 transition bill credits.

5. The California Universal Telephone Service Program fund is authorized to reimburse wireline providers for providing a $2.00 transition bill credit per participant that transitions from a measured rate plan to a flat rate plan for the first six months after the transition. The $2.00 bill credits shall not impact the Specific Support Amounts calculation and shall not be included in the lost revenue calculation.

6. The California Universal Telephone Service Program fund is authorized to replace the $2.00 reduction of monthly federal support for wireline Program service plans from December 1, 2020 through November 30, 2021.

7. Rulemaking 20-02-008 remains open.

This order is effective today.

Dated ___________________________, at San Francisco, California.

Attachment 1

California LifeLine Specific Support Amounts (SSA) and Minimum Service Standards (MSS) effective December 1, 2020 – November 30, 2021[i]

Table 1: Wireless SSA and MSS

Tier	**Plan**	**California SSA**	**Federal Subsidy**	**Mobile Voice & Texts** (month)	**Mobile Broadband Speed***	**Mobile Broadband Allowance** (month)	**Co-Payment or Prepayment**
1	Basic Plan	$12.85	$5.25-9.25	Unlimited	FCC MSS	4 GB	$0
2	Standard Plan	$14.85	$5.25-9.25	Unlimited	FCC MSS	6 GB	$0
3	Upgrade Plan**	$14.85	$9.25	Unlimited	FCC MSS	12 GB	Tier 2 AL review for affordability
4	Family Plan (Line 1)***	$14.85	$9.25	Unlimited	FCC MSS	12 GB	Tier 2 AL review for affordability

** Mobile broadband speed MSS applies to the entire mobile broadband allowance amount.*
*** Upgrade Plan terms and conditions are subject to Tier 2 advice letter review. An Upgrade Plan is an addition to a Standard Plan. If a participant fails to make Upgraded Plan co-payments, the participant's plan reverts to the Standard Plan.*
**** Family Plan additional lines do not receive a California LifeLine subsidy. Family Plan Line 1 terms and conditions are subject to Tier 2 advice letter review. A Family Plan is an addition to the Standard Plan. If a participant fails to make Family Plan co-payments, Family Plan Line 1 reverts to the Standard Plan.*

Table 2: Wireline SSA and MSS*

Tier	Plan	California Subsidy Level*	Dec. 1, 2020 Federal Subsidy Level	CA replace FCC subsidy reduction	Fixed Broadband Speed	Fixed Broadband Allowance
Tier A	Standard Flat Rate**	$14.85	$5.25	$2	None	None
Tier B	Bundled***	$14.85	$9.25	N/A	FCC MSS	FCC MSS

** No SSA will be available for measured rate service plans effective December 1, 2020.*
*** All flat rate service plans must provide unlimited local calls. Before the approval of the Tier 2 advice letter for transitioning measured rate participants to flat rate plans, measured rate participants are eligible for Standard Flat Rate SSA between December 1, 2020 and February 28, 2021. The Program will not reimburse providers for untimed calls or lost revenues.*
****Bundled plans include wireline voice or qualifying Voice over Internet Protocol services and wireline broadband that meets federal Lifeline MSS.*

(END OF ATTACHMENT 1)

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[i] All SSA levels established at $14.85 are subject to the annual adjustment pursuant to D.10.11-033 ordering paragraph 6.