

The suggestion by the Smaller Independent LECs to eliminate proposed rule 4.C.3 should be adopted. We agree that this proposed rule would impose an undue burden on the LECs and CLCs to maintain data on every possible service offering being contemplated. Such a provision is also unnecessary given the Commission's broad authority to examine the books and records of these regulated companies.

We decline to adopt USA's suggestion that a review committee be formed to provide the Commission with ongoing evaluations of what services should be considered for inclusion in the definition of basic service. It is our belief that this review committee procedure would just add an additional layer of review and expense to the review process. Under the procedure which we adopt today, interested parties have the opportunity to participate in the Commission's review process for evaluating whether a new service element should be added to the definition of basic service.

The revised criteria for deciding whether a new service element should be included in the definition of basic service is set forth in Rule 4.C.3. of Appendix B. It is our intent to consider all of the listed criteria, as well as the associated policy considerations. However, as for the weight to give to each review criteria, we believe that this should be developed on a case by case basis. To state at the outset, that all criteria should be weighted equally, or that one criteria is more important than another, ignores the possibility that a situation may arise where certain criteria and policy considerations, outweigh other criteria and considerations. We believe these guidelines address the concerns of Citizens, GTEC, Intel, Pacific, and Public Advocates.

C. Promoting Access To And The Deployment Of Advanced Technologies

1. Introduction

In D.95-07-050 at pages 25 and 26, we solicited comment on the proposals of UCAN and USA to promote greater access to new technologies. We expressed concern in that decision that the

activities contemplated by UCAN and USA involved other industries besides telecommunications, and that funding for such activities should not come solely from telecommunications carriers and their customers.

By soliciting additional information from the parties, we hoped to gather enough information to allow us to design an appropriate program that is consistent with PU Code § 709, and the following principles expressed in AB 3643:

"(4) Public policy should provide incentive as needed to promote deployment of advanced telecommunications technology to all customer segments."

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"(6) Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age."

2. Positions of the Parties

Cal/Neva believes that with the dramatic growth of the information superhighway, access to this infrastructure will become a necessity. Unless efforts are made to ensure access to advanced technology, Cal/Neva fears that low income communities and others with special needs will be left behind. Cal/Neva proposes that the following steps be taken to ensure that everyone is provided with access to advanced telecommunication technology. First, there must be a prohibition against redlining. Second, a grant program to develop community based applications should be adopted. Third, there should be special rates for telecommunications services provided to schools and CBOS. And fourth, there must be a mechanism for incorporating enhanced services into basic services once they are used by a significant portion of the population.

Cal/Neva and Consumer Action have recommended that a working group made up of Commission employees, consumer groups, and

CLCs and LECs be formed to address all aspects of universal service. They suggest that the working group be patterned after the customer owned pay telephone (COPT) enforcement subcommittee. (See 40 CPUC2d 704; 36 CPUC2d 446.)

Citizens is of the opinion that access to advanced technology for lower income customers, and to non-English speaking customers, is a social policy issue that is beyond the scope of universal service and of this Commission. Citizens believes that social policy is better addressed by the Legislature.

The Coalition asserts that the grant program and foundation approaches favored by UCAN and USA, and which were discussed in D.95-07-050, have significant problems. First, it is difficult for such programs to be competitively neutral because judgments have to be made as to which projects should be supported. Second, the proposals by UCAN and USA could result in the funding of activities of non-regulated entities. The Coalition contends that it would be inappropriate for telecommunications companies and their ratepayers to provide support for research, development, and market testing conducted by private businesses.

The Coalition, as well as TURN, favors the establishment of a universal service working group made up of telecommunications companies and users. Some funding to support the administrative aspects of this working group would be required. The working group would allow end users to influence the design and availability of telecommunications services and products by providing a forum for an exchange of ideas. The Coalition believes that only one working group should be formed, instead of establishing one working group in every local access and transport area (LATA) of the state. The single working group could then inform interested parties throughout the state, and solicit their input.

DCA believes that in order to avoid a division between information rich and information poor consumers, the Commission must employ other methods to promote access to, and to encourage

the deployment of advanced technologies. DCA recommends that the Commission adopt policies which will make such services such as video dialtone, E-mail, and Internet access, available to schools, libraries, hospitals, government, and community centers.

DCA states that a grant type program should be only one of many incentives used to encourage the early deployment of advanced information technologies. DCA feels that the grant program could be funded through the current ULTS program if the current self certification process for applicants is converted into an income verification process. By using an income verification process, federal Lifeline monies might then be available. DCA suggests that those monies be used to establish a program which would provide matching funding to public libraries, schools, and community organizations. DCA also suggests that other market incentives which do not include government or ratepayer funding be used as well.

DCA recognizes that private industry, local governments, community organizations, educational institutions, and various state agencies, must all work together to bring about a state of the art telecommunications network for California. DCA suggests that another program could be developed to coordinate activities by various state agencies regarding their information technology programs, and how those technologies and programs can benefit education, health care, community, and government institutions.

DRA suggests that the principle expressed in proposed rule 3.A.6. be revised to more closely reflect the wording regarding advanced telecommunications technology that is contained in AB 3643, and in the Commission's November 1993 report to the Governor entitled Enhancing California's Competitive Strength: A Strategy For Telecommunications Infrastructure (Infrastructure Report).

GTEC supports the concept of establishing a grant program for advanced technology, but favors a funding mechanism based on a

state bond measure, or obtaining funds from an appropriation from the general fund. GTEC believes that because the information superhighway infrastructure is a convergence of technologies which include telecommunications, computers, cable, and information services, funding of such a program should not fall disproportionately on any segment of the telecommunications industry.

Pacific endorses the creation of working groups, and plans to participate in them when they are formed.

Public Advocates argues that access to advanced technology is the key to remaining competitive in the new information age. In order that certain communities are not left behind, Public Advocates recommends that CBOs, health clinics, educational organizations, schools, and libraries, be provided with access to enhanced telecommunications services.

The Smaller Independent LECs and Roseville commented that the proposed grant program in D.95-07-050 should be considered outside the scope of this proceeding. They recognize that a connection exists between access to advanced technology and universal service, but believe that the issues raised require careful thought and attention.

UCAN's goal of promoting access to telecommunications services and technologies, is to ensure that it is made available to, and meets the needs of, a majority of consumers. UCAN proposes that an alliance of interested parties be formed on a regional basis, such as one for each of the ten LATAs in California. The goal of the alliances would be to discuss and develop community based applications which utilize the telecommunications infrastructure. The more promising applications would then be chosen by all the different regions, and developed and tested for end user use, using privately raised monies. Such a program would assure that the market is responsive to all market segments.

UCAN estimates that funding for this alliance proposal will require approximately \$2 million. This money would be used to administer the alliance, develop service ideas, choose the most feasible ideas, design the application(s), and then seek funding/services to deploy them in the community.

USA commented that the proposed rules do not contain anything to promote access to advanced telecommunications services, and do not contain any incentives to promote the deployment of advanced telecommunications technology to all customer segments. Nor do the proposed rules include any measures to position education, health care, community and government institutions to be early recipients of the benefits of the information age.

USA believes that in order to effectuate the policies and principles set forth in AB 3643, a working group should be convened to address ways in which collaborative partnerships of telecommunications providers, local governments, and grassroots organizations can address telecommunications issues, develop solutions, and promote the deployment of advanced telecommunications technology to all customer segments. USA suggests that the working groups be made up of representatives from the following: LECs; CLCs; consumer organizations; other interested stakeholders involved in this proceeding; community leaders, particularly those who represent low income consumers, the elderly, people with disabilities, rural consumers, and local governments; and institutional leaders, such as health care, education, libraries, and local governments. USA believes that the operations of the working group will lead to the successful development of applications that benefit local communities, and which in turn, improve people's lives. In order to promote the deployment of advanced technologies, the working group could also establish regional technology centers where people could become familiarized with what these technologies can do.

USA also proposes that the Commission establish a separate working group to address the "universal design" of structures, products, and services, as it relates to universal service. USA states that telecommunications equipment and services are often designed for the normal human profile. USA suggests that members of this group consist of telecommunications providers, representatives of the disabled and elderly, and other interested parties. USA envisions that this working group would meet to discuss universal design to promote universal service, and to identify options for encouraging universal design in telecommunications equipment and products.

USA also requests that the Commission require as part of the universal service rules that all telecommunications providers in California have a written policy on universal design. USA states that such a policy, should at a minimum, commit the company to the following:

- "1. Creating products which are useful to the widest range of users (including customers with disabilities);
- "2. Paying conscious attention to the needs of customers with disabilities during the design process and building in flexibility that will make products easy for a wide range of people to use; and
- "3. Including a wide range of potential customers (including customers with disabilities) during market research and field trials." (USA Reply Comments, December 1, 1995.)

3. Discussion

We have considered, and adopted, DRA's suggestion to revise proposed rule 3.A.6. to make it consistent with AB 3643 and the Infrastructure Report.

The Cal/Neva, UCAN and USA proposals to create working groups and alliances have merit. However, their proposals envision

that as a result of the meetings that these groups hold, new ideas for applications will be developed, and possibly funded through the working group itself. As we noted in D.95-07-050, part of the problem with developing incentives to promote the deployment of advanced technologies is that this Commission's jurisdiction is limited to public utilities. Many of the advanced services being developed and offered today require hardware, software, and other components, in addition to the information that is provided to the end user. The Commission can formulate incentives with respect to the telecommunication services that are utilized, but cannot order incentives or impose assessments on the other non-regulated companies that are coming together to offer these services. The burden should not fall on telecommunications providers and their ratepayers to fund the design and research of potential new services and applications that are not directly related to telecommunications. To the extent that the proposals of Cal/Neva, UCAN and USA seek direct funding to develop new ideas and applications, we reject those proposals.

We recognize the importance of how advanced telecommunications technologies affect every Californian's life, and the state's economy. As the state agency in charge of regulating the telecommunications industry, we should take the initiative to ensure that the development and deployment of these technologies do not pass certain customer segments by. We believe that a single statewide working group to address universal service problems and issues should be formed under the auspices of this Commission.¹⁶ This working group shall be known as the Universal Service Working Group (USWG). Although we will leave it to a

¹⁶ We reject the suggestion that there be one working group per LATA. LATAs do not necessarily represent a single community of interest. For example, LATA 1 stretches from Crescent City southward to Watsonville.

workshop, and a subsequent decision, to work out the details of the USWG, the following are some of the criteria we will impose on the USWG. These criteria are also contained in Rule 7 of Appendix B.

1. The purpose of the USWG shall be to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments, and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.
2. The USWG shall be composed of 22 members. There shall be eight representatives from the telecommunications industry, representing a spectrum of telecommunications carriers. There shall be two representatives each from the following kinds of concerns: education, health care, community, libraries, and local government; for a total of ten representatives. There shall be two representatives from the business sector, one representative from this Commission, and one representative from another state agency.¹⁷
3. The USWG will be funded at \$1 million per year for a period of two years from monies in the CHCF-B. These funds are intended to provide administrative support, and reimbursement for USWG's members' reasonable expenses relating to their service on the USWG.¹⁸ At the end of the

¹⁷ The representative from the Commission should be the head of the Commission's CSD or his/her designee. We invite comment as to whether CSD is the appropriate division to serve on the USWG, or whether the Telecommunications Division would be more appropriate.

¹⁸ In order to maximize efforts and input, and to minimize the expenses associated with the USWG, the Commission encourages the USWG members' employers to view their employee's participation as

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two year period, the Commission will review whether the life of the USWG should be continued.

4. The USWG shall prepare an annual report of a summary of their meetings, their objectives, the issues raised, their accomplishments, and their recommendations. The report shall be submitted to the Commission, and forwarded by the Commission to the Legislature for their information.

A workshop shall be organized and noticed in the Commission's Daily Calendar by the Commission's CSD. The workshop will be held no later than 90 days from the effective date of this decision. The workshop should determine who is interested in participating on the USWG, the framework of how the USWG should run and operate from both an administrative and purpose point of view, and to develop recommendations as to other operational issues that the Commission needs to address. Once the recommendations are received, the Commission shall decide who should serve on the USWG, and issue other directives regarding the USWG, as necessary.

We decline to adopt USA's recommendation that a working group be formed to address universal design issues for telecommunications products and services. Although we believe that universal design is an important issue to improve access to telecommunication products and services, this is an issue that affects the entire nation. As the attachment to USA's September 1,

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part of their job responsibilities and their respective companies' own expenses.

1995 comments show, many of the nation's telephone manufacturers and companies are project supporters of efforts at the federal level to develop a national policy on this issue. Section 255 of the Telco Act also addresses the issue of making telecommunications equipment and services accessible and usable by disabled individuals. The FCC, in conjunction with the Architectural and Transportation Barriers Compliance Board, also plans to develop guidelines for accessibility of telecommunications equipment and customer premises equipment. These universal design issues and recommendations are more appropriately addressed at the federal level than with this Commission.

The suggestion by DCA to make services such as video dialtone, E-mail, and Internet access, available to certain institutions, and the suggestion that if additional federal monies are received as a result of the adoption of an income verification that they be used for matching funds for certain institutions, will be discussed later in this decision.

D. 95% Goal For Universal Service

1. Introduction

In D.94-09-065 at page 6, the Commission adopted a goal that 95% of the households in California have telephone service. That decision at page 7 also stated that "GTEC and Pacific must significantly improve their customer outreach and educational programs to achieve a 95% penetration rate for phone service among non-white and non-English speaking households." D.94-09-065 also required GTEC and Pacific to set targets, and to map out their marketing strategies to improve their universal service levels.

We proposed in D.95-07-050 that the same monitoring requirements that apply to GTEC and Pacific, should also apply to other providers of local exchange service, such as the CLCs, and the other incumbent LECs. (D.95-07-050, pp. 13-14, App. A, proposed Rule 3.B.3.) We also solicited comment on whether income should be the only criterion by which to measure subscribership.

The 95% subscribership goal raises several issues for Public Advocates. Public Advocates made a series of identical recommendations in both the local competition proceeding and in this proceeding regarding the 95% goal, bilingual services, and redlining. In D.95-12-056, a decision in the local competition proceeding, the Commission deferred the majority of Public Advocates' recommendations to this proceeding.

2. Positions of the Parties

Cal/Neva is opposed to using income as the only variable against which the 95% subscribership rate is measured. Instead, the variables to measure subscribership should include the following criteria: income, race, non-English speaking ability, and disabilities. Cal/Neva also suggests that subscribership rates be measured by census block groups (CBGs) so that subscribership rates in rural communities and inner city neighborhoods can be determined.

The Coalition commented that income should not be the only variable against which subscribership is measured. Instead, the Coalition believes that the Commission should use all the variables to provide useful information about the extent of telephone subscribership, and about certain segments of society that may have relatively low subscribership rates.

Consumer Action believes that the 95% goal should be achieved for the following categories: for residential customers as a whole, for low income households, for the working poor, for seniors, for both urban and rural areas, and in minority communities.

DCA comments that there may be some merit in measuring subscribership rates using income levels, ethnicity, and the ability to speak and understand English. If subscribership rates are equal to or above the 95% subscribership rate for certain groups, DCA believes that further outreach efforts to those groups would not be necessary. To reach those groups whose subscribership

rates are below the 95% goal, DCA suggests that marketing efforts be highly focused and targeted, and perhaps coordinated through community groups and ethnic organizations.

DRA points out that in D.94-09-065 at page 7, the Commission stated that GTEC and Pacific should increase their subscribership rates for all customer groups. However, in proposed Rule 3.B.3.a., the Commission's objective include only low income and non-English speaking households. DRA believes that all LECs and CLCs should be responsible for pursuing a 95% subscribership rate among all customer groups, including low income, disabled, non-white, and non-English speaking households.

DRA also recommends that income should not be the only criterion used to determine subscribership success.

DRA supports UCAN's recommendation, described below, that would improve customer outreach and educational programs.

Public Advocates believes that the Commission should continue to measure telephone subscribership rates by language status, race, and income, instead of measuring subscribership by a single income criterion. Public Advocates points out that one of the principles enunciated in AB 3643 is to provide essential telecommunications services at affordable prices to all Californians, regardless of linguistic, cultural, ethnic, physical, geographic or income considerations. In order to ensure that this principle is adhered to, language status, race, and income must all be considered.

Public Advocates also recommends that the following recommendations be adopted with respect to the 95% subscribership goal:

- o Each carrier must be responsible for the Commission's goal of at least 95% telephone subscribership in poor, non-white, and non-English-speaking households.
- o The Commission should annually assess the degree to which carriers have or have not met their universal-service goals in

California's poor, non-white, and non-English-speaking communities, and should exercise their authority to ensure that their universal service goals are actively and effectively pursued.

- o The Commission should analyze the service territory maps of all carriers to determine if there are areas suffering from an absence of competition. If such areas exist, the Commission should require carriers who serve territories bordering these redlined communities to expand their territories to encompass these underserved communities to increase competitive choice.

UCAN's comments express support for the 95% subscribership goal, but points out that to achieve this goal, the outreach efforts must be successful. UCAN suggests that the Commission improve customer outreach and educational programs for senior, disabled, and rural customers, in addition to low income, non-white, and non-English speaking households. UCAN also takes issue with the suggestion in D.95-07-050 that the 95% goal be based on income criteria only.

USA supports the proposed rule that requires all local service providers to meet the 95% subscribership goal for low income and non-English speaking households. USA also points out that there does not appear to be any California-specific data regarding telephone subscribership levels for the disabled, and that such data should be collected as well.

3. Discussion

We will adopt the suggestions by Consumer Action and DRA that in D.94-09-065, the Commission stated that the 95% subscribership rate for telephone service applies to all customer groups, and not just to low income and non-English speaking households. Rules 3.B.3 and 3.B.3.a. have been revised to reflect this.

Instead of measuring subscribership rates by income only, as we mentioned in D.95-07-050, we will retain the existing measures stated in D.94-09-065 at page 277. These include measurement of telephone subscribership rates by income, ethnicity, and geography.¹⁹ These different measures will enable us to obtain information about what segments of the population are currently underserved. As the Coalition and DCA point out, that information can lead to more focused marketing efforts.²⁰

The 95% subscribership goal raises the issue of providing basic service in currently unserved rural areas. This was a topic of some concern during the PPHs. It would also be a good issue for the USWG to discuss, and to develop possible solutions.

DRA has suggested that the existing CPC&N application procedure under Chapter 5, Article 1 of the PU Code be used to determine whether new telephone service should be approved in unserved rural communities. That process allows the Commission to determine on a case by case basis whether it is reasonable and prudent to offer telephone services in those localities.

Instead of adopting a specific rule on this topic, we will follow DRA's suggestion that each situation should be handled on a case by case basis. That is consistent with the approach we took in a recent Commission proceeding involving the Kennedy Meadows Exchange. In that proceeding, the Commission analyzed the

¹⁹ It may be appropriate to eliminate ethnicity as a measurement criterion at some point. As discussed later in the ULTS section, a single entity marketing ULTS can target the advertising to customer groups who do not have high telephone subscribership rates. Additionally, the income and geographic criteria provide much of the information that we need to determine where telephone subscribership remains low.

²⁰ See the ULTS discussion as to who shall be required to submit these subscribership reports.

following: (1) what are the public benefits of the new exchange; (2) is the proposed new telephone exchange justified financially, and how will the cost of service be reflected in rates; and (3) are less costly telephone systems feasible. (D.95-11-025, pp. 6-17.)

We could conceivably adopt a rule that would provide all currently unserved areas of the state with telephone service. However, the cost of providing telephone service to all the unserved areas of the state would be enormous. The rates of those customers would reflect that cost, unless the service was subsidized through the high cost area fund or a similar program. The subsidy requirement in such a case would be quite high as well. At some point, the Commission must carefully weigh whether the cost justifies the service.

Another possible option for providing unserved remote areas of the state with telephone service is to require the placement of public policy pay telephones, or some other kind of telephone service. Undoubtedly, the cost of such service may be high, but is likely to be cheaper than providing all the residents in remote areas with telephone service. Possible subsidy funding for such phones could come from the CHCF-B fund or through the COPT program. With the new wireless technologies coming on line, cheaper alternatives to wireline service may become available in the near future.

The CSD shall review the unserved area issue periodically, and present its written recommendations to the Commission as to how this problem can be resolved. This first review should occur within one year.

The other suggestions by Public Advocates are discussed in the redlining and bilingual services sections which follow. UCAN's outreach and educational programs are discussed in the consumer information and ULTS sections of this decision.

E. Redlining

1. Introduction

We noted in D.95-07-050 at page 26 that redlining "could be viewed as the practice of denying access to generally available advanced telecommunications services or adversely varying the terms of such access because of the conditions, characteristics or trends in particular communities." We suggested that an explicit prohibition against redlining be adopted, but invited comment on whether such language would be effective. We also invited comment on how to distinguish between redlining, and the economics of offering certain services.

Subsequent to the issuance of D.95-07-050, the Commission reiterated its position opposing any redlining, and adopted the following CLC regulation regarding redlining in D.95-12-056 at page 85, a decision in the local competition rulemaking and investigation proceeding (R.95-04-043 and I.95-04-044):

"Redlining is prohibited and the Commission shall take strong action against any carrier engaging in redlining." (D.95-12-056, App. C, 4.F.(17).)

D.95-12-056 deferred to this proceeding Public Advocates' proposals regarding redlining.²¹

2. Positions of the Parties

Citizens commented that the redlining issue is related to the scope of a service provider's common carrier obligations. Citizens believes that redlining will not be a problem if the

²¹ The Commission has already addressed Public Advocates' proposal that at the outset of local competition, all of the CLCs' service territory maps should be reviewed for redlining. The Commission declined to implement that suggestion, and we will not revisit that specific recommendation again. (D.95-12-056, p. 85.)

definition of basic service is narrowly limited to essential services only.

Californians For Advanced and Affordable Telecommunications (CAAT) commented that to minimize redlining, and to prevent discriminatory pricing, the Commission should require that the largest competitors, such as AT&T, MCI, Time Warner, and Sprint, be required to serve all customers within a LATA at a LATA wide price.²²

The Coalition commented that it condemns the practice of redlining, and that the Commission must state that deliberate discrimination in the form of redlining will not be permitted. To help ensure that redlining does not occur, the Coalition states that all telecommunications carriers should be able to draw from the ULTS fund. In addition, the conditions for allowing new entrants to serve customers on a wide spread basis must be in place. The Coalition also suggests that the working group could discuss and assess how the development and deployment of telecommunications services is proceeding in their communities. Monitoring by the Commission of the LECs and CLCs performance with regard to the 95% subscribership goal would also aid in detecting whether redlining is occurring. In addition, the tracking of complaints that indicate redlining may have occurred is another detection device the Commission could use.

DCA suggests that the Commission should adopt strong policies against any form of discrimination on grounds other than price.

²² CAAT also recommends that the Commission require the largest competitors to provide local exchange services through their own facilities rather than simply serving as resellers. This issue would have been more appropriately addressed in our local competition proceeding, so we decline to address it in this proceeding.

DRA commented that the Commission has reason to be concerned about the possibility of redlining. However, DRA believes that with the proposed definition of basic service, redlining is unlikely because basic service consumers will have a range of access options to choose from. These access options, in combination with an explicit prohibition, will deter redlining. DRA proposes that if redlining occurs, the Commission should withdraw the carrier's certificate of public convenience and necessity, and require the carrier to pay appropriate fines.

Pacific commented that redlining involves difficult evidentiary issues of intent and reasonableness. Pacific believes that an explicit prohibition could chill investment by creating a perception that in order to deploy new technology, one has to deploy it everywhere. Pacific also believes that an explicit prohibition would be costly for the Commission to administer and enforce effectively and fairly. Pacific contends that providing for the periodic review of the basic service definition, and adding new essential services over time will significantly reduce the potential for redlining problems.

Public Advocates pointed out that redlining may not just be confined to the practice of denying access to generally available advanced telecommunications services, but could occur with basic service as well. Public Advocates contends "that redlining exists when there is an absence of competition in a given community, and a failure to target marketing and outreach efforts to minorities, non-English speaking, and low-income populations." (Public Advocates' Comments on D.95-07-050 and Proposed Rules, p. 25.) Public Advocates makes the following recommendations with respect to redlining:

- o Each carrier must actively market its telephone services to poor, non-white, and non-English-speaking households and small businesses throughout each exchange or larger territory in which it operates.

- o The Commission should annually assess the degree to which carriers have or have not met their universal-service goals in California's poor, non-white, and non-English-speaking communities, and should exercise their authority to ensure that their universal service goals are actively and effectively pursued.
- o Each carrier must develop and submit one-year, two-year, and five-year business plans with detailed targets towards obtaining the Commission's goal among poor, non-white, and non-English-speaking households, and meeting the minimum specified criteria in D.94-09-065.
- o Enhanced telecommunications services such as digital, broadband, and fiber or fiber-coax services must become part of basic service when such service is available to (even if not yet purchased by) 51% of the customers in the exchange, neighborhood, city, council, county, metropolitan area, or larger territory such as a LATA.
- o Each carrier that is developing or building out new telecommunications technologies or services (hardware or software) must do so without discrimination in access on the basis of income, race or ethnicity, or geography.
- o Enhanced telecommunications services must be available to qualified lifeline customers at lifeline rates, i.e., no more than 50% of the regular price.

The Smaller Independent LECs, as well as Roseville, recognize the importance of redlining as an issue, but recommends that enforcement of redlining be left to the state and federal authorities. They point out that the Commission simply does not have the resources to determine whether discriminatory intentions form the basis for a carrier's service patterns.

3. Discussion

We do not believe that we need to include any other specific pronouncements in our universal service rules about redlining. The Commission in its local competition proceeding has already adopted an explicit prohibition against redlining. That regulation states: "Redlining is prohibited and the Commission shall take strong action against any carrier engaging in redlining." (D.95-12-056, Appendix C, 4.F.(17).) In the text of D.95-12-056, the Commission also stated in no uncertain terms that the Commission is "unalterably opposed to redlining and shall prohibit it," and will "take strong action against any carrier we find engaged in redlining." (D.95-12-056, p. 85.) In addition, public utilities are prohibited under PU Code § 453 from discriminating against any person or locality as to rates, charges, service, or facilities.

Public Advocates has made a series of recommendations to combat redlining. Public Advocates' recommendation that each carrier actively market its services to certain customer groups, and its recommendation that one year, two year, and five year business plans with detailed targets towards obtaining the 95% goal be disclosed, are based in part on what the Commission ordered of GTEC in D.94-09-065 and of Pacific in D.93-11-011 (51 CPUC2d 728). (See Public Advocates Comments On D.95-07-050, Sept. 1, 1995, pp. 22-23.)

However, the reporting requirement imposed on GTEC and Pacific concerned telephone subscribership rates, and awareness and ways of encouraging participation in the ULTS program.²³ We will

²³ At the present time, GTEC and Pacific are required to file annual monitoring reports regarding the following: telephone subscription rates by income, ethnicity, and geography; customers'

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not broaden the annual monitoring reports to include targeted marketing and outreach of all carriers' services to the poor, non-white, and non-English speaking households, and the development of business plans and targets, since that is not presently required of GTEC and Pacific. Public Advocates' call for targeted outreach, and submission of marketing plans from all carriers, simply goes beyond the requirements imposed on GTEC and Pacific in D.94-09-065 at page 277. We also believe that in a competitive market, all carriers will need to actively market their available services to all customer segments because the total number of customers in California is limited.

As we stated in D.95-07-050, we will impose on all other carriers of residential basic service some of the monitoring reporting requirements faced by GTEC and Pacific that are contained in D.94-09-065. (D.95-07-050, pp. 13-14, 73-74.) Each carrier, except for GTEC and Pacific, who offers residential basic service will be required to include in their annual reports, the respective carrier's telephone subscribership rates by income, ethnicity, and geography, and their customer's knowledge of the availability of Lifeline service, including costs, services, and procedures for

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knowledge of the availability of the ULTS program; and one year, two year, and five year marketing plans designed to inform all eligible persons of the availability of the ULTS program, and how they may qualify and obtain such service. For Pacific, these reporting requirements end in 1999, and for GTEC, in 2000. (D.94-09-065, pp. 277-278; See D.95-07-050, pp. 13-14.) As we stated in D.95-07-050 at page 73, those requirements should continue to apply to GTEC and Pacific as long as they retain market power, or until the reporting requirements end.

qualifying for and obtaining that service. (See D.94-09-065, p. 277.) The narrative shall also describe the carrier's efforts to improve its subscribership rate. These reporting requirements will end with the annual reports filed by the carriers in the year 2000. Rule 3.B.3. has been revised to incorporate these requirements.

This information is important so that we can continue to assess the telephone subscribership rates in low income, minority and limited English speaking communities, and rural areas of California.²⁴

We are not imposing on carriers other than GTEC and Pacific, the requirement that marketing plans be developed to inform all eligible persons of the availability of the ULTS program. (See D.94-09-065, p. 277.) As we discuss later in this decision, the marketing of the ULTS program in a competitive environment should be coordinated through the ULTS Marketing Working Group, rather than by multiple companies seeking to sign up the same customers.

As for Public Advocates' recommendations that enhanced telecommunications services must become part of basic service, and that those services should be made available to qualified Lifeline customers at at 50% discount, our procedure for reviewing the service elements which make up the basic service definition will be followed instead of adopting Public Advocates' recommendations.

CAAT's recommendation that redlining can be minimized if the largest carriers are required to serve everyone at a LATA wide price, will not be adopted either. Rather than set one uniform price, competition between competing carriers should be encouraged so that the market becomes more efficient and prices are driven downwards.

²⁴ See footnote 19.

We will not follow the suggestion of Roseville and the Smaller Independent LECs that the enforcement of redlining issues should be left to the courts. Instead, utility redlining issues should be handled by the Commission since the Commission has the express power to prohibit discrimination as to rates, charges, service, and facilities. (PU Code § 453; See D.87739 (82 CPUC 422).) Should redlining take place in California by telecommunications providers subject to federal jurisdiction, the Commission might want to make its views known in that forum.

F. Bilingual Outreach

1. Introduction

In D.95-07-054, the Commission adopted the rule that a CLC making a sale in a language other than English is required to confirm with that customer in writing, in the same language in which the sale was made, the service(s) ordered. In D.95-12-056 the Commission expanded its bilingual information and outreach rules to require the CLCs to inform each new customer, in writing, and in the language in which the sale was made, information on the availability, terms and rates regarding the ULTS program and basic service. In addition, the CLC is to provide bills and notices, as well as access to bilingual customer service representatives, in the language in which prior sales were made. D.95-12-056 deferred to this proceeding the proposal of Public Advocates to provide bilingual service for customers to whom service was sold in English only, and its recommendations for bilingual marketing and outreach.

2. Positions of the Parties

Public Advocates' comments stated that to achieve universal service, people must have full access to, and a genuine awareness of, information concerning rates and services. In order to do this, bilingual services must be provided.

Public Advocates recommends that the following bilingual service requirements be adopted:

- o Every CLC should inform each new customer, and regularly inform existing customers, of

the availability, terms, and statewide rates of lifeline telephone service and basic service. Public Advocates recommends that this information (and other information such as bills and notices) be provided to non-English-speaking customers in the common languages spoken within the exchange or larger territory, including Spanish, Cantonese, Mandarin, Tagalog, Vietnamese, and Korean.

- o Each carrier must have bilingual customer service representatives available in the common languages of the exchange.
- o Each carrier must conduct targeted marketing and outreach to non-English speaking populations.

3. Discussion

Public Advocates' first and second recommendations regarding bilingual services have already been adopted by the Commission in the rules regarding local exchange in D.95-12-056. (D.95-12-056, p. 80, App. C, 4.F.(16).) These underlying rules are the subject of a Petition to Modify D.95-07-054 and D.96-02-072. In D.96-08-_____, the Commission ordered that a workshop be held to determine what operational and economic constraints carriers might face in complying with those rules. We defer resolution of Public Advocates' first and second recommendations to recommendations to the local exchange proceeding, R.95-04-043 and I.95-04-044, and to the future disposition of the Petition to Modify D.95-07-054 and D.96-02-072.

With respect to the recommendation regarding targeted marketing and outreach to non-English speaking populations, and the provisioning of bilingual services to customers to whom service was sold initially in English, we will not impose any further bilingual service requirements. As we noted in the 95% subscribership goal section discussed earlier, the targeted marketing and outreach idea was based on the requirement imposed on GTEC and Pacific that they