

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of:

Lifeline and Link Up Reform and  
Modernization

WC Docket No. 11-42

Telecommunications Carriers Eligible  
for Universal Service Support

WC Docket No. 09-197

Connect America Fund

WC Docket No. 20-90

**MOTION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
FOR EXTENSION OF TIME TO RESPOND TO  
SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

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The California Public Utilities Commission (California or CPUC) submits this request for an extension of time to file comments in response to the *Second Further Notice of Proposed Rulemaking (FNPRM)*, released by the Federal Communications Commission (FCC or Commission) in the above-captioned docket on June 22, 2015.<sup>1</sup> After its late June release, the *FNPRM* subsequently was published in the Federal Register on July 17, 2015. The FCC set due dates post-publication in the Federal Register of 30 days for comments, or August 17, 2015, and then 60 days for reply comments, or September 17, 2015.

California seeks an additional 30 days each for comments and for reply comments, which would push the date for submission of comments to September 16, 2015, and for reply comments to October 16, 2015. The CPUC makes this request because of the scope of the issues raised and the need for California to comment in light of its own LifeLine program, as detailed below.

## **I. INTRODUCTION**

On March 12, 2015, the FCC issued the decision commonly referred to as its *Open Internet Order*.<sup>2</sup> In that *Order*, the FCC declared for the first time that broadband Internet access service (BIAS) is a telecommunications service, subject to regulation as a

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<sup>1</sup> *Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and memorandum Opinion and Order, In the Matter of Lifeline and Link Up reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*; WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, Released: June 22, 2015.

<sup>2</sup> *Report and Order on Remand, Declaratory Ruling, and Order*; GN Docket No. 14-28, Released: March 22, 2015.

common carrier service under Title II of the Communications Act. The FCC also set forth a significantly truncated regulatory scheme for BIAS, and more specifically, affirmed “the Commission’s longstanding conclusion that broadband Internet access service is jurisdictionally interstate for regulatory purposes.”<sup>3</sup> In addition, the FCC announced its “firm intention to exercise our preemption authority to preclude states from imposing obligations on broadband service that are inconsistent with the carefully tailored regulatory scheme we adopt in this order.”<sup>4</sup>

Then, in June, the FCC issued the instant *FNPRM*, in which the Commission remarked that “broadband is essential to participate in society.”<sup>5</sup> Accordingly, the FCC proposed to “modernize the [Lifeline] program so that all consumers can utilize advanced networks.”<sup>6</sup> In particular, the Commission proposes to include BIAS as a component of the federal Lifeline program, and seeks comment on myriad issues raised by the proposed expansion of the Lifeline program.

## **II. BASIS FOR REQUEST**

The CPUC has, for many years, run its own California LifeLine Program (CA LifeLine Program), funded by surcharges that service providers collect from end users and remit to

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<sup>3</sup> *Open Internet Order*, ¶ 431.

<sup>4</sup> *Id.*, ¶ 433.

<sup>5</sup> *FNPRM*, ¶ 4.

<sup>6</sup> *Id.*, ¶ 9.

the California State Treasury.<sup>7</sup> The CA LifeLine Program is more comprehensive than the Federal Lifeline program and is, accordingly, more complicated to manage. Indeed, the FCC acknowledged the scope and reach of the CA LifeLine Program with numerous references in the *FNPRM*. Among those references are the following elements of the CA LifeLine Program:

1. The FCC seeks comment on whether it should adopt a framework similar to California’s use of “progressively increasing tiers of minutes in exchange for providers receiving progressively larger combined state and federal subsidies.”<sup>8</sup>
2. The FCC seeks comment whether it should implement on a national scale California’s choice “to place the duty of verifying Lifeline programs eligibility in the hands of a third-party administrator.”<sup>9</sup>
3. Noting California’s use of “a call center to answer consumers’ questions about the Lifeline application process,” the FCC seeks comment on whether a “national verifier” should implement a similar function as part of its responsibilities.<sup>10</sup>
4. The FCC cites the California pre-approval process, and seeks comment on whether it should implement a pre-approval process as part of the Federal Lifeline program.<sup>11</sup>

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<sup>7</sup> A new exception to this scheme was prompted by enactment of AB 1717 in the 2014 California Legislative session. The enacted bill codified Public Utilities Codes § 319, which sets forth a specific process whereby retailers collect surcharges associated with the sale of prepaid wireless phone services, and remit the funds to the California Board of Equalization which, in turn, remits collected surcharge amounts to the CPUC. This new process has yet to be implemented.

<sup>8</sup> *FNPRM*, ¶ 40.

<sup>9</sup> *Id.*, ¶ 64.

<sup>10</sup> *Id.*, ¶¶ 67-69.

<sup>11</sup> *Id.* The CPUC notes here that the FCC’s description of the CA LifeLine pre-approval process is not completely accurate. California will clarify its various processes in its comments.

5. The FCC cites the additional \$12.65 subsidy the CA LifeLine Program pays to carriers, and notes that “in states that provide a significant separate subsidy, service is more affordable for a given level of service and ETCs generally offer a higher level of service.”<sup>12</sup> The FCC also cites the CA LifeLine Program’s offering of unlimited texting and talk plans.<sup>13</sup>
6. Citing to regulations in California and New York, the FCC seeks comment on the utility of e-signatures, and other state protocols, as means to detect and curtail fraud.<sup>14</sup>
7. The FCC notes that four states, including California, have received permission to opt out of the National Lifeline Administrator Database (NLAD), and then asks what would be the effect on those states if the FCC calculates Lifeline support based on provider submissions to the NLAD.<sup>15</sup>

This is not an exhaustive list of references in this *FNPRM* to the CA Lifeline Program. California must review each of these references for accuracy and submit comments accordingly.

More importantly, however, is the need for the CPUC to provide comments to the FCC on the potential interplay between the CA LifeLine Program and the Federal Lifeline program as it may be reconstituted to include BIAS as a service eligible for subsidy. For example, here are a few issues California must address:

1. Assuming the FCC includes BIAS as a service eligible for federal subsidy, how should California treat that service? The states cannot regulate interstate services, and the FCC has deemed BIAS an interstate service. What are the implications for the CA LifeLine Program?

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<sup>12</sup> *Id.*, ¶ 128.

<sup>13</sup> *Id.*, Fns 264 & 265.

<sup>14</sup> *Id.*, ¶ 176.

<sup>15</sup> *Id.*, ¶ 179.

2. What should California do if a provider eliminates stand-alone voice service, replaces it with BIAS, including a voice component, and then seeks to qualify for the separate CA LifeLine subsidy? What are the implications for the CA LifeLine Program?
3. Would California find itself in the position of having to pay subsidies for a service it cannot regulate?
4. Given California's extensive LifeLine program, would including BIAS in the federal Lifeline program diminish the CPUC's ability to continue to provide subsidized telecommunications services to eligible participants in California?
5. How would the interplay between the CA LifeLine Program and the federal Lifeline program work with an interstate service, unregulated by the states, included in the federal program?

The *FNPRM* poses many questions of great significance, at a time of great change in the telecommunications landscape. The CPUC must review these questions, and decide how best to respond given rapidly shifting regulatory and technological conditions. The internal discussions have been time-consuming and fraught with uncertainty. We are mindful that how the FCC resolves the issues raised in this docket could result in fundamental changes to the federal Lifeline program, and without question, those changes will have a ripple effect for the CA LifeLine Program. In short, California needs more time to fully evaluate the FCC's proposal, and to answer the many questions the FCC has posed.

### **III. CONCLUSION**

For the reasons set forth in this pleading, the CPUC asks the FCC to grant an extension of time of an additional 30 days to submit comments in response to the

*FNPRM*, until September 16, 2015, and 30 additional days to file reply comments, until October 16, 2015.

Respectfully submitted,

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