

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

In the Matter of

Lifeline and Link-Up

WC Docket No. 03-109

**REQUEST OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA
FOR AN EXTENSION OF TIME**

The California Public Utilities Commission (California or the CPUC) and the People of the State of California submit this request for an extension of time to March 1, 2006 to transition to the new criteria established by the Federal Communications Commission (FCC or Commission) for states seeking reimbursement from the federal Lifeline/Link-Up program. In its *Report and Order and Further Notice of Proposed Rulemaking (Report & Order)*, released April 29, 2004, the FCC established new criteria for both income-based and program-based participation in the Lifeline/Link-Up program.¹ In the *Report and Order*, the FCC tied eligibility for revenue recovery from the federal

¹ FCC 04-87, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 03-109, Released: April 29, 2004.

program to state compliance with the new criteria. The FCC established June 22, 2005 as the deadline for states to conform to the new criteria. For reasons set forth below, California cannot meet the June deadline, and by this filing, requests an extension of time until March 1, 2006 to conform to the new FCC Lifeline/Link-Up requirements.

I. INTRODUCTION

In its *Report & Order*, the FCC modified its rules “to improve the effectiveness of the low-income support mechanism, which ensures that quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates”.² To accomplish that goal, the Commission has expanded the “federal default eligibility criteria to include an income-based criterion and additional means-tested programs”.³ The FCC allowed states until June 22, 2005 to conform to the FCC’s new rules and continue to qualify for federal subsidies.

California has one of the largest Lifeline/Link-Up programs in the United States by virtue of its population and demographic composition. At the same time, California has a deep interest in

² *Report & Order*, ¶ 1.

³ *Id.*

remaining eligible for subsidies provided under the federal Lifeline/Link-Up program. To remain eligible, California must transition its massive program to compliance with FCC rules, but cannot meet the June 22nd deadline.

As an administrative agency, the CPUC is bound by statutory requirements pertaining to notice and the opportunity to comment prior to rendering final decisions in any matter before it. Since the FCC's *Report & Order* issued in April 2004, the CPUC has been busy working to implement the FCC's order. A draft order for the CPUC to consider has been placed on the CPUC's April 7, 2005 public agenda, and, if that order is adopted, the policy portion of the implementation process will be complete. The CPUC proposed policy approach, however, contemplates use of third-party certification rather than reliance on telecommunications carriers to confirm consumer eligibility for Lifeline/Link-Up. Getting the third-party certifier in place will be a time-consuming process involving the letting of a competitively-bid state contract. For these reasons, the CPUC requests that the FCC grant California until March 1, 2006 to complete the transition to full compliance with the FCC's new Lifeline/Link-Up criteria.

II. CPUC TIME-LINE

Since the FCC issued its *Report & Order*, the CPUC has reviewed the FCC's new criteria, opened a new proceeding and proposed a set of rules, set a comment schedule, held innumerable internal meetings, and finally prepared a draft order for the CPUC to consider on its April 7th public agenda. The order, a copy of which is appended to this pleading, contemplates that California will employ third-party certification as the means to determine consumer eligibility for Lifeline subsidies.

To put third-party certification in place, the CPUC draft order proposes that CPUC staff will conduct a workshop on what should be included in the certifying agent contract, among other topics. Subsequent to the workshop, the CPUC would prepare and issue a Request for Proposal (RFP) for the certifying agent. The next step would be for the CPUC to modify its own Lifeline program rules to ensure that they comport with the FCC's new rules.⁴

III. DISCUSSION

A. Third-Party Certification Process

⁴ California's rules pertaining to Lifeline and Link-up are contained in the CPUC's General Order (G.O.) 153, which is available online at http://www.cpuc.ca.gov/PUBLISHED/GENERAL_ORDER/40482.htm.

The CPUC is expected to vote on new Lifeline/Link-Up policies, which comport with the FCC's new mandates, at its public meeting on April 7, 2005. The timeline set forth in the draft order on the CPUC's April 7th agenda is premised on the CPUC's adopting an order on that date. Should the CPUC delay that vote for any reason, the implementation schedule also would have to slip accordingly.

Assuming the CPUC acts as anticipated on April 7th, the next step is for the CPUC to hold a workshop to address implementation issues. One primary purpose of the workshop is for the CPUC to obtain public input on what provisions should be included in a contract with a third-party certifier. The CPUC's experience has been that, for implementation of new rules, a workshop is invaluable in obtaining useful ideas and information to be included in the implementation process. Once that input has been obtained, the CPUC will publicly solicit the services of a third-party certifier through an RFP in mid-May 2005.

California anticipates that bids will come into the CPUC in June 2005. The CPUC staff will develop the selection criteria in accordance with State of California contracting rules and procurement procedures, and select a winning bid, to be approved by CPUC management. Once a successful bidder has been identified, the CPUC and the bidder must

prepare a contract, a process requiring time to negotiate a detailed agreement.

Upon execution of the contract, the CPUC anticipates submitting the contract to the fiscal control agency, the California Department of General Services (DGS) in early August 2005. DGS must review and approve the contract, a process the CPUC estimates would take a month to six weeks. Assuming DGS approves the contract, the CPUC anticipates that the certifying agent would be positioned to begin performing under the contract in late September 2005. At that point, the contracting agent would begin setting up the third-party certification process. The CPUC expects the certifier will need a few months to get the system in place, and would begin to perform certification functions early in 2006.

B. Revisions to CPUC General Order 153

The CPUC's rules and procedures for the administration of Lifeline/Link-Up are contained in California's G.O. 153.⁵ The general order contains, *inter alia*, requirements for carrier tariff filings, certification forms, customer notices, and carrier reports to the CPUC. In addition, G.O. 153 sets forth eligibility criteria for customers to participate in the program, and for carriers to seek reimbursement.

The new FCC mandates, and the requirement that states seeking continued subsidies under the federal Lifeline/Link-Up program must comply with the new mandates, necessitate revisions to the CPUC's G.O. 153. Specific provisions of the general order pertaining to eligibility criteria must be modified, and the certification responsibilities must be changed from the carriers to the third-party certifier. Other provisions must be clarified to conform to these significant revisions. In addition, because the CPUC Lifeline/Link-Up program at present contains no program-eligibility component, the CPUC must modify G.O. 153 to incorporate program-eligibility.

⁵ G.O. 153: "Procedure for Administration of the Moore Universal Telephone Service Act", approved and effective Nov. 7, 1984, pursuant to CPUC Decision 84-11-028, as modified by CPUC Decisions 00-10-028 and 03-01-035, as well as by CPUC Resolution T-16591.

The usual process for revising a CPUC general order requires either that a party file an application, or that the CPUC act on its own motion to open a rulemaking to consider changes to the existing G.O. The implementation timeline for the CPUC's conformance with the new FCC mandates contemplates that California will hold a workshop in June 2005 to take input regarding what changes to G.O. 153 would be needed.⁶ CPUC staff would then submit a workshop report, including a proposed revised G.O. 153, to the CPUC for adoption. CPUC staff anticipates that a draft order adopting the revised G.O. 153 would be placed on the CPUC's September 22, 2005 public agenda. The CPUC is bound by statute to issue draft resolutions at least thirty days prior to the proposed adoption date, to allow affected parties to comment on the resolution. Given the required thirty-day comment period and an expected August draft resolution release, the CPUC could not adopt the resolution containing revisions before its September 22, 2005 public meeting. If the draft resolution is adopted in September, the implementation process would be complete by January 2006.

Modifying a CPUC general order is a significant undertaking. Because the California Lifeline/Link-Up program would be augmented

⁶ This workshop would be separate from the workshop the CPUC proposes to hold in April 2005 to address provisions of an RFP for the third-party certifying agent.

to include program eligibility, the CPUC anticipates that implementation of a revised G.O. 153 will require a several-month period for carriers to ramp up to conform to the new mandates. Assuming the changes to G.O. 153 are adopted in September 2005, the CPUC contemplates that the new requirements of the revised general order would be effective in early 2006.

III. CONCLUSION

For the reasons set forth above, California requests an extension of time to comply with the new FCC mandates contained in the Commission's *Report & Order* pertaining to the federal Lifeline/Link-Up program. California's implementation timeline envisions completion of the process by January 2006. However, because the CPUC is an administrative agency with broad responsibility to ensure that affected parties are notified and heard, the CPUC is seeking an extension of time to March 1, 2006 to allow for any slippage in the CPUC proposed implementation timeline that could occur for a variety of reasons.

Respectfully submitted,

LIONEL B. WILSON
GRETCHEN T. DUMAS
HELEN M. MICKIEWICZ

/s/ GRETCHEN T. DUMAS

Gretchen T. Dumas

Attorneys for the People of

State of California and the
California Public Utilities
Commission

505 Van Ness Avenue
San Francisco, California

94102

Phone: (415) 703-1210

Fax: (415) 703-2262

Email: gtd@cpuc.ca.gov

the

March 22, 2005