

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Rulemaking on the Commission's
Own Motion to Review the
Telecommunications Public
Policy Programs.

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**COMMENTS OF CALIFORNIA COMMUNITY TECHNOLOGY POLICY
GROUP AND LATINO ISSUES FORUM ON THE COMMISSION'S REVIEW
OF THE TELECOMMUNICATIONS PUBLIC POLICY PROGRAMS**

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Introduction

The California Community Technology Policy Group (CCTPG) and Latino Issues Forum (LIF) file these Comments on the California Public Utility Commission’s (“the Commission”) review of the Telecommunications Public Policy Programs. We focus on the California Lifeline (“Lifeline”) program and the California Teleconnect Fund. As a general recommendation, we stress the importance of these programs, and oppose any attempts to restrict the programs.

I. Legislative Mandates To Promote Universal Services To Underserved Communities¹

A review of the legislative history of the deployment of advanced services in California may direct us towards necessary future steps. By 1993, three years before the federal Telecommunication Act of 1996, the importance of developing a state infrastructure for advanced telecommunications was becoming apparent in California. In SB 600 (Rosenthal) the legislature found that: the development of an advanced telecommunications infrastructure in California is in the public interest; schools, libraries, and other similar facilities (community centers) did not have the resources to construct the necessary infrastructure; and there was a need for public intervention to ensure that California best benefited from infrastructure advances.

By 1994 it was already clear that the state lacked an adequate advanced telecommunications infrastructure. This infrastructure failed to reach underserved populations, thereby bypassing the benefits that advanced telecommunications services provide.

Rather than focusing on the building of a state infrastructure AB 3643 (Polanco and Moore 1994) required the Commission to initiate an investigation and open a proceeding to examine the current and future definitions of universal service in telecommunications. The Commission’s final “decision reaffirms the Commission’s commitment to universal service by ensuring that residential basic telephone service be made available throughout California, and that the rates for such service remain affordable.”

While the new universal programs were an important part of the states policies to address the access of underserved populations to basic telecommunications, the Commission’s narrow

¹ This is an updated summary of Comments By The California Community Technology Policy Group, The Broadband Institute of California, and Latino Issues Forum in the SB 1563 Proceeding, February 22, 2005

definition of basic service in the context of universal had to be revised to assure access to advanced technologies. In 2000, SB 1712 (Polanco) required that the Commission initiate a “proceeding [to] investigat[e] the feasibility of redefining universal telephone service by incorporating two-way voice, video, and data service as components of basic service. The legislature intended that the Commission to the extent that the incorporation is feasible, promote equity of access to high-speed communications networks, the Internet, and other services”. The legislature required the Commission to do more than just redefine basic service. The legislature also required that there be “[e]quitable distribution of the funding burden for redefined universal service ... among all affected consumers and industries, thereby ensuring that regulated utilities' ratepayers do not bear a disproportionate share of funding responsibility.”

In 2002, the Commission released its findings (report) to the state legislature. The Commission's found that:

- ❑ Current conditions do not support including broadband services in basic telephone service.
- ❑ [E]xpanding the definition of basic service to include broadband was not feasible, primarily due to the resulting cost to be allocated to all other users, as well as the monthly price lifeline customers would be required to pay.
- ❑ Low-cost basic telephone service is key to maintaining and increasing access to the Internet for all Californians. Most on-line Californians, regardless of income level, use dial-up services as their means to access the Internet.
- ❑ Basic telephone service is required for this access.
- ❑ Persons that cannot afford basic telephone service are denied this form of access, as well as essential telephone communication.
- ❑ The Commission should maintain its commitment to keeping basic telephone service as affordable as possible, as well as expanding certain subsidy programs to enhance low-cost telephone access to certain groups.”

Continuing its effort to address universal service, the State Legislature passed SB 1563 that addresses universal service. It added the following pertinent provisions to the PUC Code:

- ❑ To focus efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services in recognition of their economic and societal impact.

- To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

SB 1863 (Bowen 2002), SB 1563's companion piece shared many similar provisions. While SB 1563 calls for focusing "efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services in recognition of their economic and societal impact" SB 1563 mandated that this be done by addressing "the inequality of access to advanced telecommunications services by providing those services to schools and libraries at a discounted price should also provide comparable discounts to a nonprofit community technology program."²

SB 1863 was directed at the California Teleconnect Fund (CTF). In effect, SB 1863 equalized the discount rate for community-based organizations (CBOs) at a comparable level to schools and libraries. CTF originally provided a 50% discounts to schools and libraries (and 25% for CBOs) for "advanced telecommunications service," which at the time it was established in 1996 were high-speed leased data lines.

Encouraging the adoption of advanced services by CBOs, SB 720 (Bowen 2003) "authorize[s] the commission to expend up to \$3,000,000 for up to an additional 40% of the one-time installation costs of advanced telecommunications services for entities that do not have access to those services, from the unencumbered difference between what is appropriated and what is expended by the commission from the California Teleconnect Fund Administrative Committee Fund." for the 2003-04 and 2004-05 fiscal years.

In summary, from a statutory perspective, broadband deployment to all communities is a statewide priority. Section 709 (b) establishes that it is state policy to encourage the development and the deployment of new technologies and the equitable provision of services.

II. The Impact of Technology

The findings of the Commission ten years ago are still relevant today. In its findings then, the Commission foresaw the importance that access to technology could have around education, health, and economic development; many reports lend support to this claim. For example, The Children's Partnership examined current research relating to children and

² SB 1563 states "For the purpose of this section, "nonprofit community technology program" means a community-based nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and engages in diffusing technology into local communities and training local communities that have no access to, or have limited access to, the Internet and other technologies."

Information and Communications Technology (ICT), of which broadband is a major component. The findings, published in the report, *Measuring Digital Opportunity for America's Children*, highlighted that when applied properly, ICT can improve children's lives in four specific areas: academic achievement, preparation for the workforce, health care, and community participation.

More specifically, around each area:

- 78% of online youth ages 12-17 say they believe the Internet helps them with school work (academic achievement);
- Four out of ten (39%) 15-24 year-olds who have sought health information online say they have changed their personal behavior because of the information they obtained on the Internet (improved health);
- The percentage of U.S. workers using computers at work has increased from 25% in 1984 to 56% in 2001 (economic opportunity); and
- Among young people ages 12-17 with Internet access, 39% go to a Web page for clubs, groups, or teams where they are members (community participation).

While it has been documented that ICT has a positive impact, many people from low-income households trail higher-income households in computer ownership, Internet access, and broadband access.

- 64% of households in California earning less than \$15,000 per year do not own a computer compared to 34% of all California's households.
- 73% of households in California earning less than \$15,000 per year do not use the Internet at home compared to 40% of all California's households.
- 8% of households in California earning less than \$15,000 per year have broadband compared to 26% of all California's households.

III. Recommendation: The Definition of Basic Service Should Be Expanded to Include Broadband

Lifeline has been an extremely important program. The Lifeline program has been extremely successful at facilitating access to residential telephone services to a wide population. However, with changing circumstances, the Lifeline program must also change. The current state of access to broadband is similar to the state of access to telecommunications prior to the introduction of the Lifeline program: broadband is increasingly present in households throughout California, but low-income households still lag behind. The discussion above demonstrates the

importance of broadband to access fully social, educational and economic opportunities, similar to the importance of a working telephone was when the Legislature developed the Lifeline program. The Lifeline program's definition should be extended to include broadband services.

IV. Recommendation: The Lifeline Program Should Be More Flexible, Allowing Customers the Option of Choosing Either Landline or Mobile Telephone Service.

Both the California Lifeline program and the wider telecommunications environment have undergone a number of changes in recent years, changes that call for inclusion of mobile telephone service in the definition of "basic telephone service."

More and more customers rely on mobile phones for their residential telecommunications needs. This is due to a number of reasons. Low income customers are more transient population, and many choose mobile phone service for its portability. Increasingly, customers across the general population choose a broadband landline for information purposes and rely on their mobile phones for telecommunications. Finally, many customers simply need the portability of a mobile phone, and, since they are going to pay the expense of mobile service, utilize the mobile phone for residential telecommunication as well and do without a landline. For more and more customers, mobile telephone service is becoming their "basic telephone service."

Data on the funding of Universal Service bears out the iniquitousness of mobile telecommunications service. Mobile telephone customers are increasingly providing more funding for Lifeline through contributions to the federal Universal Service Fund (USF). In 2003, wireless carriers paid 22 percent of all contributions to the USF and by 2007, contributions from wireless carriers are projected to account for 31 percent of all contributions.³ These figures demonstrate the widespread use of mobile phones and also argue for the appropriateness of allowing Universal Service funds to reach the mobile telecommunications industry.

A Lifeline rebate should only be used on basic mobile service. The Lifeline Program should establish standards that limit the type of service, and the price that can be charged, for mobile service.

It would be optimum to allow households to receive a Lifeline rebate (*see* Section V below for our recommendation that a rebate system be utilized) for each type of service: residential landline, broadband and mobile telephone service. However, we recognize that

³ *See* Congressional Budget Office, Financing Universal Telephone Service (March 2005), pp. 9, 16.

funding of several rebates per each household would be problematic. Therefore, we recommend that households be given the option of choosing either landline, broadband or mobile service for their Lifeline rebate, or that they be allowed to apply it to a bundle of services that contains one of those services. (*See* Section V.B. on Bundling below).

V. Recommendations Concerning the Administration of the Lifeline Program; A Rebate System May Be More Appropriate.

The addition of a Certifying Agent to take responsibility for qualifying customers for participation in the Lifeline program allows for greater flexibility in the administration of Lifeline. Below, we recommend the expansion of Lifeline to include mobile telephone service and broadband. If such recommendations are adopted, the Lifeline discount will be much more portable to even more telecommunications companies. As such, maintaining one set discounted rate for all varieties of landline, mobile, and broadband services may become administratively unworkable. We recommend instead a rebate system, where a qualifying household is given an electronic Lifeline rebate to be deducted from their monthly bill. The rebate amount should be a significant amount, allowing household access to service where they otherwise may not have done so.

A. A Voluntary Lifeline Program for Mobile Service and Broadband Carriers Should Be Contingent on Acceptance of Standards on Price, Service and Service Quality.

In its Comments on the Staff Report, AT&T recommended that any extension of the Lifeline program be voluntary and not entail additional Commission regulation on telecommunications services not regulated or lightly regulated by the Commission. *See* AT&T California's Comments on the Commission's Universal Service Public Policy Programs Workshop, p. 4. While it is reasonable for carriers to not expect regulation where there was none before, the Commission also has a responsibility to ensure that any telecommunications service eligible for a Lifeline rebate must meet certain standards of affordability and quality.

Although the Lifeline program would be a rebate instead of a set rate, carriers cannot be allowed to charge exorbitant rates for what is supposed to be basic service. Participation in the Lifeline program should be contingent on acceptance of price ceilings or schedules, to be set by the Lifeline program, on the basic service being rebated. The pricing schedules should ensure that the Lifeline service is affordable.

Participation in the Lifeline program by carriers should also be contingent on meeting standards of minimum service offerings and quality of service, to be set by the Lifeline program. The Lifeline rebated service should be basic service, but not in any way substandard. Carriers should be required to offer the same service available to any customer, but under the Lifeline rebate.

B. Lifeline Customers Should Have the Flexibility of Choosing Bundled Services, But the Same Consumer Protections on Lifeline Services Described Above Must Be in Place.

Given that we recommend that the definition of Lifeline be extended to encompass broadband and mobile services as well as residential landline, it follows that some Lifeline customers may wish to have more than one of these services. As we also recommend that a rebate system be used, such a system would have the flexibility to be applied to a bundled package of services.

Lifeline customers may benefit from purchasing bundled services, however, they should not lose any of the protections listed above just because their Lifeline service is part of a package. The Lifeline service that is part of the bundle should have its charges separable, so that if a customer can only pay for the portion of the bill corresponding to Lifeline service, that service will be the last service to be discontinued.

Customers should understand that they do not have to purchase bundled services to take advantage of a Lifeline discount. In no way should carriers be allowed to use the Lifeline discount as enticement for bundled services. Whenever a Lifeline discount or rebate is part of a customer's service, the carriers marketing and customer service should explicitly state that a customer may purchase only the Lifeline service if they do not want bundled service.

VI. The California Teleconnect Fund.

We commend the Commission on its efforts to improve the California Teleconnect Fund throughout the years to make it more applicable to community-based organizations (CBOs). The connection for CBOs is important because they provide a critical link for low-income communities to take advantage of the vital services offered by telecommunications infrastructure. From when we began this process to the present, the Commission has made tremendous strides. As a result of these changes, the number of community-based organizations

that applied and were approved increased from 49 to 559, an 1141 percent increase, and the time of approval went from nearly 10 months to less than one month.

A. History of the California Teleconnect Fund

The California Teleconnect Fund was established in a proceeding to comply with AB 3634, Stats. 1994, Ch. 278. More specifically, CTF responded to Section 2 (b) of the bill, which stated that “[b]ecause 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.” The Commission created CTF to encourage the build-out of advanced telecommunications infrastructure by increasing the demand for these services. The Commission believed that the demand would increase by attracting additional investment into communities, developing useful applications for these technologies, and educating and training consumers in the use of information technology.

Moreover, according to the Commission⁴:

The California Teleconnect Fund also reduces the dichotomy between the information rich and the information poor. The funding of telecommunications discounts to qualifying schools and libraries has the potential to provide all school children and library customers with access to the information superhighway. By providing qualifying community-based organizations with discounts for high speed data connections, these community-based organizations can better serve their constituencies, and provide the communities they serve with increased access to the telecommunications network, thereby decreasing the stratification between information rich and information poor communities. The provisioning of discounts to qualifying hospitals and health clinics will also bring the benefits of advanced telecommunications to the very facilities that often are called upon to provide health care services to those who can least afford it.

B. The role of community technology

As discussed in the Commission’s writings ten years ago, the California Teleconnect Fund serves to reduce the dichotomy between the then called “information rich” and the “information poor”. Also helping to reduce this dichotomy are community-based organizations that provide technology access and training, called community technology programs. These programs use technology to accomplish a mission or to provide a service, such as helping students improve their grades or develop workforce skills. Community technology programs ensure that residents in low-income communities who cannot afford technology still receive the benefits of technology, some of which were described above. However, very few community

⁴ D. 96-10-066

technology programs, let alone community-based organizations in general, applied for the discount. According to the original decision, the CPUC estimated that over 10,000 community-based organizations could qualify for the program at \$1000 per year per line at two such lines. This calculation was based upon a 25% discount, but given that the discount for community-based organizations is now 50%, 5,000 community-based organizations should qualify by today's CTF eligibility criteria. Yet, at the end of 2002, only 49 community-based organizations had been approved.

Recognizing this discrepancy, the California Community Technology Policy Group set out to address it. The California Community Technology Policy Group (CCTPG) includes representatives from over 300 community and statewide organizations, representing after-school, employment training, economic development, civic participation, health care, housing, youth development, adult education, and other organizations that have integrated technology access and training into their programs, or are using technology in innovative ways to accomplish their missions.

Through extensive discussions with our members, CCTPG identified several important reasons why many community-based organizations did not apply for the discounts:

- ❑ Most community-based organizations did not know about the program;
- ❑ Those community-based organizations that were familiar with the program faced serious barriers when applying;
- ❑ Many community-based organizations were unsure whether they qualify for discounts. While many provide programs aimed at job training and educational instruction, some of them emphasize the use of technology rather than the job training or education mission, which has created confusion as to whether they meet the definition of a qualified entity;
- ❑ Many community-based organizations believed that the discount rate of 25% is not worth the time and effort they put into applying and reapplying for the discounts; and
- ❑ CTF currently does not provide discounts for certain services that matter most to community-based organizations, such as DSL.

To begin to address these deterrents, CCTPG worked with Senator Bowen to help develop the language for and advocate in support of SB 1863. This bill clarified that CTF includes community technology programs and increased the discount for community technology programs to 50%. After the bill was passed and signed into law, CCTPG worked with the

Commission to implement the bill. In addition to these changes, the Commission adopted changes to simplify the process and to explicitly include DSL as an eligible service.

As a result of these changes, the number of community-based organizations applying for those changes jumped. According to the list of approved community-based organizations that the Commission maintains, from 1997 to 2002, only 49 community-based organizations had applied and been approved. After the changes to the program took place, this number skyrocketed to 559, an 1141 percent increase. (The number of community-based organizations that applied may be higher, since CBOs that applied and were not approved are not reflected in the database, which lists only approved community-based organizations).

C. CTF is still relevant today.

In order to identify how the CTF could be improved we invited community-based organizations who utilize technology to complete a survey on the California Teleconnect Fund. We received 71 replies. Select results include:

- ❑ 62% had heard of the CTF
- ❑ 32% learned of the program from the CCTPG only 8% learned of the program from the CPUC
- ❑ 22% had applied to CTF and were receiving discounts
- ❑ 34% had not applied for the program because they were not aware of it
- ❑ 73% stated that it took over one year to get approval
- ❑ 73% felt that CTF should be extended to all broadband providers
- ❑ 76% would like more information on CTF

From these results and our previous work we conclude that CTF while making dramatic improvement is not fulfilling its potential. The results of this survey served as the basis of the recommendations below. While many community-based organizations are now applying and being approved for CTF many are still unaware of the program and its benefits. Many of those approved were not receiving discounts principally because many of the carriers have identified providing DSL benefits represents a problem.

D. Recommendations for the California Teleconnect Fund.

To accomplish the goals of the CTF program, the Commission should adopt the following recommendations:

- ❑ Enhance access to CTF discounts by:

- ❑ Hiring a third party administrator;
- ❑ Centralizing the process;
- ❑ Redefining the eligibility for the service;
- ❑ Providing grants to cover the telecommunications costs associated with allowing selected community based organizations to connect to the advanced services network used by the state’s education entities in order to stimulate the development of innovative models for enhancing services in low-income communities using high speed networks. Grants could be provided from repayment of the \$150 million borrowed from the CTF fund.
- ❑ Promoting awareness of the innovative models of use of high speed network connections to enhance local service delivery developed by CTF recipients in concert with the state’s education entities.

Recommendation #1: Enhancing Access to CTF Discounts

Recommendation #1(A): Hire a Third-Party Administrator (TPA)

The use of a third-party administrator will help make CTF more relevant for community-based organizations. It will also remove carriers’ perception that providing discounts for DSL will lead to regulation of that service. To ensure that a TPA will best serve the community and truly assist the Commission, we believe that this outside entity should meet, at a minimum, the following criteria:

- ❑ Experience working with low-income communities;
- ❑ Knowledge about and experience in community technology programs;
- ❑ Simple process for applying for and awarding grants; and
- ❑ Fiscally responsible, with a strong track record in managing and administering funds.

There are three critical functions a TPA could play:

Outreach – Understanding the needs of underserved communities and the community-based organizations that serve them, the TPA would reach out to more community-based organizations that could qualify for the program. This outreach would help increase the number of CBOs that know about and qualify for CTF.

Identification – The CTF funding could be more specifically targeted to community-based organizations that serve low-income communities so that the resources are delivered to communities that truly need it. The TPA, already familiar with community-based organizations,

would review the community-based organizations application to determine if they meet CTF criteria and approve those that serve low-income communities; and

Expansion – Using a TPA to allocate the discounts could remove the concern by broadband providers that they would be subject to Commission regulations. In addition, many providers, such as cable, wireless providers, or ISPs are not under the jurisdiction of the Commission. As a result, they do not participate in the program. By providing the funding to a TPA, many other providers could participate, allowing community-based organizations a wide choice of providers that would align to their local needs.

Absent the use of a TPA, the Commission may want to adopt the individual functions of the TPA so that more community-based organizations could participate in the program. In addition, to make the program more relevant to community-based organizations, the Commission should adopt the following recommendations.

Recommendation # 1(B): Centralize the Process.

The Commission should identify a contact person within the PUC and with each telecommunications carrier to serve as the primary contact for applicants. Because applicants will inevitably have questions, a key contact person for both the Commission and telecommunications companies should be available to answer any questions about the program. Similarly, applicants may want to know the status of their application and will need a person to contact. The Commission should identify and post the name and contact number of the staff person on the Commission’s Website. The telecommunications carriers should do the same. Telecommunications carriers should notify the Commission of their designated staff person when they submit their forecast of anticipated CTF claims to the Commission. As a result of these measures, applicants will know to whom to send their approved applications to begin receiving discounts. This contact information should also be provided to the applicant with the approval letter.

Recommendation #1(C): Redefine the elements of the program.

The elements of the program that would be redefined include the target population, the definition of CBOs, and the inclusion of additional broadband providers.

Target Population -- The purpose of the CTF, as with the other types of public purpose program, is to serve an underserved community. Currently, CTF serves any population, even

those that are not in need. Instead, to make CTF a program that serves the most at need, it should be directed to low-income communities.

Definition of CBOs -- In addition, the definition of the type of CBO that qualifies should include the wide variety of community-based organizations that provide a valuable public service to the community. Through this broader definition, the program will make eligible the kinds of community-based organizations that are preferred by residents as places to develop skills, learn about public resources and programs, and connect with their neighbors and community.

Additional Providers -- Finally, **CTF should provide discounts to other types of advanced services**, such as cable, Internet Service Providers, wireless, etc. The Commission should determine ways in which other providers could also offer the service. Since this program is user-contributed, the Commission should determine the mechanisms needed so that other providers of advanced services could also then take advantage of the program.

Recommendation # 2: Demonstration Grant to Connect with Public Education Entities to Develop Innovative Models of Service Delivery Using High Speed Networks

As noted earlier, one of the reasons the CTF was created was to accelerate the use of advanced technologies. While the connectivity enabled, in part, through CTF discounts is extremely valuable to local communities, there is a significant lag between the availability of new technologies and their implementation and use in local community settings as part of program services/delivery. In order to ensure that individuals served by CBOs are benefiting from the latest technologies and new innovations, CCTPG is requesting that the CPUC incentive partnerships between education entities and community-based organizations through the provision of grants that cover a significant portion of the telecommunications costs of connecting via the advanced services network used by the education community.

Recommendation # 3: Dissemination of Models of Network Use

Information about the innovative models developed as a result of the implementation of Recommendation #2 above should be disseminated to all CTF recipients for possible replication in their local context.

These recommendations would improve CTF potential. In addition to these regulatory changes, CCTPG is pushing to make the CTF more effective through several pieces of legislation (AB 1388 and SB 1788).

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Conclusion

The Lifeline program and the California Teleconnect Fund have been important programs in facilitating access to vital tools for participating fully in our society. These programs should be strengthened and improved to match changing circumstances. The programs should not be contracted in response to diminishing funding sources. Rather, the Commission should work aggressively and creatively at securing other funding sources, subject to the outer limits of its jurisdiction.

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