

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

Order Instituting Rulemaking Into)
Implementation of Federal Communications)
Commission Report and Order 04-87, As It) R. 04-12-001
Affects The Universal Lifeline Telephone)
Service Program.)
_____)

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK, THE NATIONAL
CONSUMER LAW CENTER, DISABILITY RIGHTS ADVOCATES, THE GREENLINING
INSTITUTE, THE LATINO ISSUES FORUM AND THE ASIAN LAW CAUCUS ON THE
DRAFT DECISION OF ALJ JONES**

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I. INTRODUCTION

The Utility Reform Network, National Consumer Law Center, Disability Rights Advocates, Asian Law Caucus, Latino Issues Forum, and Greenlining Institute (hereinafter referred to as “Joint Consumers”) file these reply comments pursuant to Rules of Practice and Procedure 77.2 and 77.5. Joint Consumers are responding to two issues raised by SureWest:

- SureWest’s proposal to allow carriers reimbursement from the fund for the collection costs of “bad debt” is an unwarranted expansion of the reimbursement parameters in the program today and should not be adopted.
- SureWest’s proposal to require a one day turn around time on disqualification notices exposes a problem with the timeline in Appendix E of Draft G.O. 153 that must be corrected.

II. DISCUSSION

A. Reimbursement For Bad Debt Collection Costs Should Not Be Granted If It Results in An Expansion Of Current Reimbursement Policies

In its Opening Comments, SureWest¹ proposes that carriers be allowed to recover from the Fund what it identifies as the incremental costs associated with backbilling and collection efforts for unauthorized discounts. (SureWest Opening at pages 4-5) Joint Consumers view this proposal as a significant and unwarranted expansion of the current rules on the types of reimbursements carriers can request, and oppose the request. Even if the amount of money involved in these types of collection expenses is not large, and the record does not suggest that they will be, it would still entail a change in policy that should not be undertaken at this time.

Currently, carriers are not allowed to recover,

Costs caused by the failure of ULTS customers to timely remit deferred payments of the ULTS connection charge, *including costs for collecting on delinquent accounts and the time value of money.* (G.O. 153, Sec. 8.4.4. *See also*, Draft G.O. 153, Sec 9.4.4)

Nor are carriers allowed to recover the lost revenues that may result if a customer fails to pay late payment fees associated with a delinquent ULTS account. (G.O. 153, Sec 8.4.5; Draft G.O. 153,

¹ Joint Consumers note that the group of Small Local Exchange Carriers filed almost identical comments raising these two points. Throughout these comments, Joint Consumers refer to SureWest as also incorporating the comments of the Small LECs.

Sec. 9.4.5) As the General Order acknowledges, most incumbent local exchange carriers are already reimbursed for the costs of collection and bad debt because those costs are included in their general utility rates as approved by the Commission. The fact that price cap carriers are allowed to recover bad debt expenses in rates also suggests that other carriers would track these expenses “above the line” and properly account for them as a cost of doing business. To date, the Commission has not agreed that carriers should receive additional reimbursement for these types of incremental expenses.

Although the Draft Decision is proposing fundamental changes to the program, resulting in potential increases in backbilling and bad debt, it introduces additional changes to more than adequately ensure that carriers will be made whole. With the added ability to collect on the lost revenue associated with bad debt, carriers are no worse off than under the original program. The policy issue against allowing for the reimbursement of “reasonable” collection costs remains the same: carriers have other ways of recouping these costs so they should not be borne by the Fund. Further, the revised General Order clearly includes rules regarding the duty of carriers to take reasonable steps to collect bad debt costs in light of the changes to the program, but does not take the additional step of allowing for reimbursement. (Draft General Order at Section 9.3.9.1) Administrative Law Judge Jones had the opportunity to allow for reimbursement of such costs, but chose not to. That determination must stand.

B. Timeline Must Be Adjusted To Make Appeal Process Meaningful

In its Opening Comments, SureWest attempts to mitigate customer confusion regarding disqualification by requiring that the CertA issue a notice of disqualification to the customer by the end of the next business day from the date certification was completed. (Sure West Opening at page 6) Currently the draft rules only require that the CertA issue the disqualification notice

to carriers within one business day, but they allow the CertA seven days to complete the certification and mail out the notice to the customer. (Draft General Order Sec. 6.3.3, Appendix E) While Joint Consumers appreciate the intent of the revision by SureWest, the proposal exposes a problem with the timeline that must be remedied.

The timeline in Appendix E of the revised draft G.O. 153 gives applicants 15 days to respond to or appeal a notice of disqualification and an additional 15 days for the CertA to conduct a subsequent review. Essentially, there is an up-to 30 day (maximum) process that must take place before a final determination is made as to the customer's eligibility before the customer's carrier should be able to regrade the customer. SureWest's comments and Appendix E suggest that upon receipt of the *initial* disqualification notice, only seven days from when the CertA received the customer's initial application, the carrier can automatically regrade the customer back to full-rate basic service. Such a practice, however, makes the appeals process almost meaningless and, at the very least, logistically difficult to undo for all parties involved. It is also at odds with the verification timeline in Appendix E, which requires the CertA to notify carriers of a failure to verify continued eligibility *only upon completion* of the appeals process. The certification process should match the verification process in this regard.

Allowing a carrier to regrade a customer before an appeal creates harmful inefficiencies in the application process. Under this scenario, if a customer is regraded back to full rate service after the initial determination, that customer would have to pay back amounts for the "improper" discounts, and possibly a full-rate connection fee and deposit. If, however, that customer appeals the initial determination, and is found to indeed qualify for ULTS, then the carrier and the CertA would have to change their records yet again and possibly refund substantial money to the customer. This also will likely result in increased call time for the utilities' service

representatives as confused consumers seek help understanding their bills. Joint Consumers are concerned that this confusion, bill shock and run-around could turn eligible consumers away from the program.

The Commission has taken great efforts to avoid inefficiency and mitigate barriers to entry by allowing sign up on first contact and by specifying that for verification, carriers are only notified upon completion of the second review. In order for a meaningful and administratively efficient appeals process, Joint Consumers recommend that Appendix E be revised to eliminate the requirement that the CertA transmit the *initial disqualification* information to the carrier at the seven day period. (All other information will still be transmitted at that time). If the CertA has not received a response from the customer once the 15 day response period has run, then the CertA would transmit the disqualification information. Or, if the customer does respond within fifteen days and the CertA has concluded its review and made a second disqualification determination, it could forward that information to the carrier. This would make the certification process consistent with the verification process.

Joint Consumers understand that the customer has a second appeal opportunity to the Commission, but do not oppose regrading customers (who have been found unqualified twice) while such opportunity is pending. First, Joint Consumers believe the number of consumers appealing to the Cert A will be very small and the number of customers likely to subsequently appeal to the Commission would be even smaller – so small that it will not affect of the vast majority of program participants. Second, once the customer appeals to the Commission, then the Commission can ensure that the customer’s ultimate status and any backbilling matters are addressed expeditiously. Joint Consumers also note that the currently proposed verification

process does not require carriers to wait for an appeal to be filed or acted upon by the Commission.

Joint Consumers propose the following revisions to Section 6.3.3:

6.3.3 CertA shall provide each utility the following lists of ULTS customers by the end of the next business day from the time of completion of customers' qualification review or appeal review:

6.3.3.1 Newly enrolled ULTS customers that are found eligible to participate in ULTS.

6.3.3.2 Newly enrolled ULTS customers that are found ineligible to participate in ULTS, only after CertA has completed its review of the customer's appeal, if any.

6.3.3.3 Existing ULTS customers that are found eligible to remain in ULTS.

6.3.3.4 Existing ULTS customers that are found ineligible to remain in ULTS only after CertA has completed its review of the customer's appeal, if any.

6.4 Pursuant to the timeline in Appendix E, CertA shall notify customers in writing of the final settlement of their ULTS qualification including the right to challenge the CertA's findings.

6.4.1 Customers may dispute CertA's finding of ineligibility by submitting a formal or informal complaint to the Commission pursuant to the timeline in Appendix E.

Joint Consumers propose the following revision to Appendix E:

New ULTS Customers (Certification)

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- 7 days for CertA to:
 - finalize initial review
 - send letters of qualification or disqualification to customers; and
 - send list of qualified customers ~~and disqualified customers~~ to carriers for appropriate billing.

In conclusion, the Joint Consumers support the Draft Decision with the changes described above and in the Joint Consumers' Opening Comments.

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Respectfully submitted,

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