

CONNECT CALIFORNIA

Universal Lifeline Telephone Service

Strategic Plan of the Universal Lifeline Telephone Service Marketing Board

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Universal Lifeline Telephone Service is a Program of the California Public Utilities Commission

Marketing Board's Mission

1.1 Statement of Mission

The mission of the Universal Lifeline Telephone Service Marketing Board is to increase the overall use of cut-rate telephone service by eligible customers by means of competitively neutral marketing efforts, and to do that by informing consumers who are qualified or who may be qualified for cut-rate telephone service about the availability of that service, helping individual consumers determine their eligibility for that service, and helping qualified consumers obtain, retain and not inadvertently lose that service.

Universal service is the ability of everyone to have access to affordable, high quality telecommunications service. Universal service means that every person has access to 911 emergency service. Universal telephone service allows us contact physicians, schools, businesses, government and potential employers, and also allows them to contact us. Cut-rate service means low-cost service authorized by the Moore Act for eligible customers.

1.2 Statutory Origin of Mission Statement

An understanding of the Universal Lifeline Telephone Service Marketing Board's mission and its proper implementation require an understanding of the board's origin.

The statement of mission closely tracks the Moore Universal Telephone Service Act (Moore Act),¹ and it reflects and comports with the decisions and rules of the California Public Utilities Commission (Commission) implementing that legislation.²

The Moore Act's goal, as expressed by the California Legislature, was and is “[t]he offering of high quality basic telephone service at affordable rates to the greatest number of citizens...”³ The Moore Act, which became law September 1983,⁴ is based on the premise that “[c]ommunication by telephone is a basic human need in modern society, and must be made available to all Californians at reasonable cost for basic minimum use.”⁵ The service is funded

¹ Public Utilities Code §§ 871-886.

² See Appendix A, below.

³ Public Utilities Code § 871.5(a).

⁴ Stats. 1983 ch. 1143 (AB 1348, Moore).

⁵ Stats. 1983 ch. 1143 § 1(a) (statement of legislative intent); expanded and modified in 1987 by Public Utilities Code §§ 709 and 871.5 (Stats. 1987 ch. 849).

by surcharges set at 1.45% in 2001-2002.⁶ At the end of 2001 it supported approximately 3.7 million people,⁷ who pay approximately half the regular price of basic local telephone service.⁸

The marketing program is necessitated by decisions made by Congress and the California Legislature to foster the evolution of advanced telecommunications services by permitting and facilitating the creation of an open, diverse and competitive telecommunications market. In 1994 the California Legislature adopted legislation which directed the Commission to open all telecommunications markets to competition by January 1, 1997,⁹ and it also directed the Commission to ensure that the goals of universal service continue as competition develops.¹⁰

In order to achieve its goal of universal service -- service at affordable rates to the greatest number of people -- the Legislature charges the Commission and also the carriers it regulates to employ “every means ... to ensure that every person qualified to received lifeline telephone service is informed of and is afforded the opportunity to subscribe to that service.”¹¹ That is both the origin and the essence the mission of the board, which began operations in January 1988 pursuant to implementing decisions issued by the Commission in 1996¹² and 1977.¹³

The board seeks to be competitively neutral -- not unfairly advantage or disadvantage individual carriers. This flows from the federal Telecommunications Act of 1996, which allows states to impose “requirements necessary to preserve and advance universal service” but only on a “competitively neutral basis.”¹⁴ As languages continue to proliferate, it is the board’s goal that

⁶ Resolution T-16594, p. 4, fn. 7 (October 11, 2001), reduced to 1.14% effective November 1, 2001.

⁷ Resolution T-16594, p. 3, fn. 5 (October 11, 2001).

⁸ Cut-rate local service costs about \$10 per month for each supported household, at an annual cost to the industry and other customers of about \$320 million, of which about \$60 million comes from the FCC, and about \$282 million comes from surcharges on non-lifeline customers’ bills in California. Of the \$282 million, about \$5.9 million is allocated to marketing.

⁹ Stats. 1994 ch. 1260 (Ab 3606, Moore).

¹⁰ Stats. 1994 ch. 278 (AB 3643, Polanco).

¹¹ Public Utilities Code § 871.5(c).

¹² D.96-10-066 dated October 25, 1996.

¹³ D.97-12-105 dated December 16, 1997, as modified by D.98-10-050 dated October 22, 1998. These were further modified by D.01-09-064 dated September 20, 2001, which adopted a new interim charter for the board.

¹⁴ 47 USC §253(b); this requirement was affirmed by the California Legislature in Public

its marketing efforts remain competitively neutral. The problem is that only the largest firms have economies of scale needed to interact with customers in multiple languages economically. To respond to that problem, the board hopes to achieve a **common** marketing program that addresses **all** groups of consumers in **all** languages they speak on behalf of **all** licensed carriers.

1.3 Legislative Policies and Expectations

The Legislature has also expressed numerous related policies and principles that explain the Legislature's decisions and provide guidance to the Commission, board, carriers and others in implementing them:

! The Moore Act helps to achieve universal service “by making basic residential telephone service affordable to low-income citizens”¹⁵

! It is state policy to assure “the continued affordability and widespread availability of high-quality telecommunications service to all Californians.”¹⁶

! “The furnishing of lifeline telephone service is in the public interest and should be supported fairly and equitably by every telephone corporation”¹⁷

! The Commission “should implement the program in a way that is equitable, nondiscriminatory, and without competitive consequences for the ... industry”¹⁸

! The service must “meet minimum residential communications needs [including] the ability to originate and receive calls and the ability to access

Utilities Code § 871.5(d), and by the Commission in D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 639-640) and D.98-10-050 dated October 22, 1998 (Opinion, p. 2). In its 1996 opinion, the Commission stated: “We believe that in a competitive environment, a single entity should be responsible for the marketing of ULTS services. The advantage of this approach is that no particular carrier is directly benefitted by ULTS marketing activities. Instead, potential customers are free to choose which carrier they want to call. A single entity also limits the size of the ULTS marketing expenses. Instead of ratepayers having to subsidize multiple ad campaigns, there could be a single budget for marketing expenses. A third advantage is that the entity can specifically target the ULTS marketing to customer groups which have lower subscribership rates.”

¹⁵ Public Utilities Code § 871.5(b).

¹⁶ Public Utilities Code §709(a).

¹⁷ Public Utilities Code § 871.5(d).

¹⁸ Public Utilities Code § 871.5(d).

electronic information services.”¹⁹

! “The Commission must annually ... [a]ssess the degree of achievement of universal service, including telephone penetration rates by income, ethnicity, and geography.”²⁰

! “Every telephone corporation ... shall inform all eligible subscribers of the availability of lifeline telephone service, and how they may qualify for and obtain service”²¹

! “Every telephone corporation ... shall accept applications for lifeline telephone service according to procedures specified by the commission.”²²

! “The commission shall ... investigate the feasibility of redefining universal service ... with an emphasis on the role of ... Internet services in the workplace, in education and workforce training, access to health care, and ... public safety.”²³

! It is state policy to “encourage ... the equitable provision of services ... which [meet] consumer needs.”²⁴

! It is state policy to encourage “the ubiquitous availability of a wide choice of state-of-the-art services.”²⁵

1.4 Commission Decisions and Rules

In its 1994 legislation that directed the Commission to open California’s local telecommunications market to competition, the Legislature directed the Commission to ensure that the goals of universal service continue as competition develops, and it also directed the Commission to investigate and report on steps needed to ensure that “[e]ssential telecommunications services ... be provided at affordable prices to all Californians regardless of linguistic,

¹⁹ Public Utilities Code § 873(a)(1),(b).

²⁰ Public Utilities Code § 873(a)(4).

²¹ Public Utilities Code § 876.

²² Public Utilities Code § 876.

²³ Public Utilities Code § 883(b)(1); see also § 882..

²⁴ Public Utilities Code §709(b).

²⁵ Public Utilities Code §709(b).

cultural, ethnic, physical, geographic, or income considerations.”²⁶ The Commission responded by proposing universal service rules²⁷ and issuing a *Universal Service Report to the Legislature* (December 1995).

In its December 1995 report to the Legislature, the Commission noted that “[b]asic service is the gateway, or the connection, to the telephone network” and that “[w]ithout that connection, a person’s ability to participate in society is limited.”²⁸ In its report, the Commission affirmed that eligible low-income consumers should continue to receive cut-rate service funded by a small charge on all telephone bills, and it also noted that it “must revise and adjust its existing universal service programs” by “establishing new mechanisms to preserve access and affordability for customers and ensure competitive fairness to all telephone carriers.”²⁹

The Commission has: (a) issued three decisions that implement the marketing program required by the Moore Act; (b) revised General Order 153, which defines the lifeline program, specifies its sources of funding, and addresses related issues; and (c) adopted an interim charter of the Universal Lifeline Telephone Service Marketing Board.³⁰

! In D.96-10-066 dated October 25, 1996, Commission established the Universal Lifeline Telephone Service Marketing Board as the entity responsible for marketing lifeline service, and directed the Commission’s staff to convene a workshop and develop the marketing program’s goals, purpose and organizational framework.

! In D.97-12-105 dated December 16, 1997, the Commission elaborated on the role and purpose of the Universal Lifeline Telephone Service Marketing Board and defined the board’s makeup.

! In D.98-10-050 dated October 22, 1998, the Commission modified the previous decisions by ordering that a permanent marketing program be delayed until the completion of a marketing study.

²⁶ Stats. 1994 ch. 278 (AB 3643, Polanco).

²⁷ D.95-07-050 (July 1995).

²⁸ *Universal Service Report to the Legislature* (December 1995), p 9.

²⁹ *Universal Service Report to the Legislature* (December 1994), pp. 4, 9, 18.

³⁰ The three decisions are: D.96-10-066 dated October 25, 1996; D.97-12-105 dated December 16, 1997, and D.98-10-050 dated October 22, 1998, issued in R.95-01-020 filed January 24, 1995, and I.95-01-021 filed January 24, 1995. The interim charter was adopted by D.01-09-064 dated September 20, 2001.

! In D.01-09-064 dated September 20, 2001, the Commission adopted interim charters for the Marketing Board and several other Commission advisory boards.³¹ It focuses on administrative issues. In case of conflict it supercedes the other decisions cited above.

The four decisions together express the principles and establish the rules that guide the design and implementation of the marketing program. These principles and rules are summarized in Appendix A. Chief among them are the following:

³¹ These implement legislative mandates in SB 669 and related bills, codified at Public Utilities Code § 270 et seq, which transferred the source of funding of the cut-rate services and their administration from a trust to the State Treasury effective October 1,2001, resulting in a realignment of relationships.

! “The ULTSMB should implement a mass-marketing campaign for the ULTS program”³²

! “[M]arketing [is] an important part of the ULTS program since marketing is one of the primary means by which low-income households are informed about the existence of the ULTS program and how to participate in the program.”³³

! “[T]he ULTSMB [shall] focus on achieving the ULTS program goal of providing basic phone service to all qualifying low-income households.”³⁴

! The ULTSMB shall “(1) develop annual ULTS marketing budgets, (2) devise competitively neutral marketing strategies, and (3) oversee the implementation of ULTS marketing campaigns.”³⁵

! “[T]he ULTSMB [shall] achieve ... the greatest reduction possible in ... households ... without ... service and [the] greatest increase possible in the use of the ULTS program among those ... who currently have ... service.”³⁶

Other important policies and principles are expressed in Appendix A.

2

Marketing Board’s Vision

2.1 Statement of Vision

The Universal Lifeline Telephone Service Marketing Board and its contractors, sub-contractors and community organizations acting pursuant to Commission-awarded contracts and grants envision a thoughtfully-designed, public-spirited, multi-faceted, vigorously-administered, effective, efficient, continually-assessed and constantly-improving process that informs consumers who are qualified or who may be qualified for cut-rate

³² D.98-10-050 dated October 22, 1998, p. 7 (Opinion, ____ CPUC2d ____, ____).

³³ D.98-10-050 dated October 22, 1998, p. 1 (Opinion, ____ CPUC2d ____, ____).

³⁴ D.97-12-105 dated December 16, 1997, p.4 (Opinion, ____ CPUC2d ____, ____).

³⁵ D.98-10-050 dated October 22, 1998, p. 2 (Opinion, ____ CPUC2d ____, ____).

³⁶ D.97-12-105 dated December 16, 1997, p. 7 (Opinion, ____ CPUC2d ____, ____).

telephone service about the availability of that service, that helps individual consumers to determine whether or not they are eligible for the service, and that helps eligible consumers to obtain, retain, and not inadvertently lose that service.

The thought, resources and energy of the board, its contractors, sub-contractors, community organizations and staff focus on informing and assisting individual consumers in the most efficient and effective ways. The key criterion in assessing the effectiveness and efficiency of any contractor, sub-contractor or community organization is the number of eligible customers who are newly enrolled or who are properly re-certified as a result of its efforts, and all progress reports include that and related data, including cost relationships.

Recognizing that most eligible customers cannot be reached by the regular media, information dissemination is carried out by a thoughtful mix of both narrowly-focused broadcast media and one-on-one communications. Major reliance is placed on community organizations, which are highly effective and efficient in both information dissemination and providing practical guidance and assistance to consumers.

The board relies on a telephone call center to provide information and connect eligible or potentially eligible customers (or those assisting them) with appropriate carriers. To enhance efficiency and assure accurate accounting, provision of information, and other program goals, all contractors, sub-contractors and community organizations refer eligible customers or potentially eligible customers to the call center.

Recognizing that gathering and reporting relevant information and continuous improvement are among the attributes of almost any effective program, all contractors, sub-contractors and community organizations gather and report relevant data; routinely conduct internal self-assessments; seek and obtain assessments of their own activities and of those for which they are responsible; and continuously improve.

2.2 Guiding Principles

2.21 Composition of marketing board. The Marketing Board members are sophisticated in telecommunications issues. They are knowledgeable about both traditional voice telephone service as well as new and emerging telecommunications services and technologies and how these meet consumer needs. They are especially sensitive to the needs and interests of low-income consumers and households, to the marketplace challenges that low-income consumers confront, and to the related social and policy issues.

2.22 Reliance on private sector organizations. The Marketing Board envisages a multi-faceted marketing program that is carried out almost exclusively by organizations in the private sector, including both for-profit and nonprofit organizations. These organizations are highly capable and highly motivated, and they work competently and diligently to achieve the goals and objectives and perform the contract terms expressed in formal written contracts

designed by the board and Commission staff and entered into between the organizations and the Commission.

2.23 Delegation of functions. The contractors achieve the goals and objectives to which they have agreed both through their own staff and through the efforts of sub-contractors and community organizations. They delegate some of their responsibilities to other private-sector organizations, who carry out the terms of formal written contracts that they in turn enter into; and they delegate some of their responsibilities to community organizations, whose functions are defined by the terms of grants made to them by the contractors.

2.24 Marketplace-driven marketing. The Marketing Board envisages an array of effective and cost-efficient marketing efforts driven by facts, statistics and values identified in and derived from board-directed marketing surveys, from the annual surveys conducted by the Commission under Public Utilities Code section 8973(a)(4), and from reports and feedback from the board's contractors, sub-contractors, community organizations, and members of the communities served. Decisions are influenced at every point by the common sense of its members, the staff of the Commission, Commissioners, consultants, members of the public, and those who carry on the day-to-day work.

2.25 Marketing focuses on eligible groups. In the same way that eligibility for cut-rate service is highly focused on eligible households with low-income, the marketing of that service is highly focused on eligible households with low-income. In general, marketing efforts can be significantly more focused and effective when coordinated through community groups and ethnic organizations. To accomplish highly focused and effective marketing, detailed marketing information is obtained and used.

2.26 Reliance on community organizations. The Marketing Board reaches the members of its target populations, many of whom are not proficient in English, by relying extensively on community organizations to communicate with and assist individual consumers. By virtue of their close connection with target populations, community organizations have superior ability to interact successfully and productively with members of the target populations.

2.27 Broadcast dissemination of information. The Marketing Board broadcasts information to and makes information available for access by target populations by all available means, including "800" services, radio, TV and printed material; since this method of dissemination generally requires affirmative action by the recipient and does not typically begin with one-on-one contact, it is referred to here as "broadcast dissemination," although the selection of the medium ordinarily targets a particular group.

2.28 Individually targeted outreach. The Marketing Board also disseminates information to individual members of target populations on a one-to-one basis through its call center, outreach by community organizations, and other forms of direct contact. This activity reaches out to individual persons who are or may be eligible. It is proactive, and does not typically begin with affirmative action on their part.

2.29 Diverse recipients of information. Both methods of information dissemination -- broadcast and individually targeted outreach -- provide information to and address the needs of two distinct groups of people: (a) individual persons who are qualified or may be qualified for lifeline telephone service, and (b) individual persons and organizations who advise and/or assist persons who are or may be qualified for lifeline service. While advanced media (such as the Internet) may be unsuitable for communicating with the first group, it can be well suited for communicating complex and changing information, such as the services and policies of carriers

2.29a Marketplace data and intelligence. The Marketing Board deploys a variety of data-gathering and feedback mechanisms to assure that its marketing efforts are effective and cost-efficient. These also assist the Marketing Board in both refining existing programs and planning future marketing efforts. The mechanisms include formal marketing surveys by the board and Commission, periodic reports by participants in the program, meetings with participating organizations and individuals, and reports from consultants retained to evaluate the programs.

2.29b The call center. The Marketing Board's contracts include the provision of a process and mechanism -- a call center -- by which individual consumers and persons who assist them, including relatives, neighbors, and friends, as well as the contractors and community organizations funded by the board, can help verify the eligibility of a consumer or household, identify and put the individual in touch with a suitable carrier, actively assist an individual or household in obtaining and re-certifying (and not inadvertently losing) the cut-rate service, and learn about other related services (such as toll blocking) that they may need.

2.29c Competitive neutrality. Given the requirement that activities be carried out in ways that are competitively neutral -- not unfairly advantageous or disadvantageous to individual carriers -- the Marketing Board is mindful of the challenges resulting from the proliferation of languages used by eligible groups. Since only the largest firms enjoy the economies of scale needed to be able to economically interact with customers in multiple languages, the Commission and the board (through its contractors) must gain the capacity (and resources) to be able to interact with eligible customers in all of the languages that are spoken in California, so that non-English speaking customers can receive service from non-dominant carriers without the carrier becoming obligated to interact in the consumer's foreign language, and so that non-English speaking customers will not lose their service for failure to understand a carrier's re-certification notice.

2.29c Assessment and evolution of marketing efforts. While the full extent of the Marketing Board's vision is not achievable in the near term and will not be achieved without continuing effort, experiment, assessment, feedback and improvement, and without adequate resources, the Marketing Board uses the resources that are available to it to design, oversee, assess, and constantly refine a broad array of programs and activities that operate to help achieve the board's vision in the most effective and efficient ways possible.

2.29d Assessment criteria. The Marketing Board assesses the effectiveness of the overall program and its components by applying the following and similar criteria: changes in the level of subscribership over a reporting period; changes in awareness measured by tracking inquiries; effectiveness of mass media measured by reach and frequency of contact with target populations; [etc.]

2.3 Methods and Style of Broadcast Dissemination of Information

The Marketing Board envisions programs for the broadcast dissemination of information that reflects the following qualities:

! Information is available to members of the public, including but not limited to persons eligible for lifeline telephone service, 24 hours a day.

! Information is available to those who desire it by one or more "800" numbers which provide pre-recorded information 24 hours a day, and a live operator from at least 8:00 a.m. to 6:00 p.m. daily.

! Information is provided principally to those segments of the population that have the lowest telephone penetration rates. Initially, these consist of the African American, Cambodian, Chinese, Filipino, Hispanic, Hmong, Korean, Laotian and Vietnamese population groups.

! Information is provided in an appropriate number of languages as determined by both need and available funding. Initially, information is provided in English and Spanish only; other languages will include Cantonese, Korean, Japanese, Mandarin, Spanish, Tagalog and Vietnamese, Parsi, Russian, and Armenian, among others.

! Media outreach may include radio (interviews, talk shows, public service announcements, commercials); television (interviews, talk shows, public service announcements, commercials); mass mailings (letters and brochures; door hangers; flyers); print (newspaper articles; newspaper ads); alternative media (theaters, buses, bus stops, bus benches, outdoor displays).

! Information is available anytime on demand by Internet web sites provided and maintained by (a) the staff of the marketing program, (b) the Commission, and (c) licensed carriers.

! The Commission's website includes a matrix in which call licensed carriers and the carriers' Internet websites are identified; these are uniform in appearance, and permit and facilitate comparison shopping by consumers.

! The kinds of information available on carriers' Internet websites include name of carriers; telephone and Internet address; how to sign up; hours of business; geographical areas served; services provided; how charges are calculated and billed; languages in which the carrier interacts with its customers; languages in which self-certification and re-certification notices are provided; and how customer disputes are resolved.

! Information is written, organized and presented in plain language and standardized format and in ways that are most likely to communicate effectively in order to enhance communications to and promote ease of use by unsophisticated consumers.

2.4 Individually Targeted Dissemination and Outreach

The majority of the Marketing Board's efforts are devoted to proactive marketing and assistance of the following kinds:

! Information is disseminated to individual consumers by contractors, subcontractors and community organizations, on an interactive basis, to persons who are qualified or who may be qualified to receive cut-rate telephone service, as well as to persons who inform, advise or assist qualified or potentially qualified persons.

! Outreach is conducted and information is disseminated in a wide variety of ways, and in the languages and styles in which people interact, with an emphasis on personal exchange.

! Most of the outreach is carried out by community organizations pursuant to the terms of grants made by the board's contractors and sub-contractors, employing one-on-one contact at cultural and community events of all kinds.

! Illustrative kinds of information that is disseminated by these means include the reasons that households should have a telephone; the availability and benefits of cut-rate service; names of carriers; telephone and Internet address; how to sign up; hours of business; geographical areas served; services provided; how charges are calculated and billed; languages in which the carrier interacts with its customers; languages in which self-certification and re-certification notices are provided; and how customer disputes are resolved.

2.5 Personal Counseling and Enrollment Services

The Marketing Board envisions a process that actively helps persons who

are eligible for cut-rate telephone service to obtain that service and related telecommunications products in the following ways:

! Active assistance is provided by the call center and the board's contractors, sub-contractors, community organizations and others who contact the call center.

! Active assistance is provided by the contractors, sub-contractors, community organizations, call center and others to individual consumers and households, including assistance in identifying and communicating with a suitable carrier, and in obtaining the cut-rate service (including completion and submission of the self-certification questionnaire).

! Active assistance is provided by the contractors, sub-contractors, community organizations, call center and others to individual consumers and households in selecting toll and long-distance carriers.

! Active assistance is provided by the contractors, community organizations, call center and others to individual consumers and households in identifying related services (such as toll blocking) of kinds that lifeline customers typically need and purchase.

! Service is provided by trained personnel of the contractor, sub-contractors, community organizations and call center, who interact with the customer in the language of the customer.

! Service is provided by trained personnel who function competently and with complete integrity in the best interests of the particular consumer.

! Personal assistance is provided where needed and desired by the customer on the selection of a local carrier, toll carrier, or long-distance carrier; purchasing of related services (including toll blocking); how to deal with fraud and other consumer abuse; how to use, manage or avoid "900" and other advanced services; and how to act wisely in the market.

2.6 Independent Call Center

As a means to accomplish the other goals described in this plan, the Marketing Board envisions the existence of an independent call center whose qualifications, qualities and operating style include the following:

! The call center interacts with members of the public who are or may be qualified to receive lifeline telephone service, as well as with persons who assist them, including relatives, neighbors, friends, and the contractors, sub-contractors, and community based organizations that are involved in helping them.

! The call center has all of the personnel and equipment needed to successfully and productively interact with the diverse members of this group.

! The call center maintains the Marketing Board's "800" number "information" lines 24 hours a day, and creates pre-recorded messages in an appropriate number of languages determined by both need and available funding.

! The call center responds to calls made to the Marketing Board's regular "800" number during regular business hours – at least from 8:00 a.m. to 6:00 p.m. Monday through Friday with the exception of state holidays -- by live persons.

! The call center responds to calls made to the Marketing Board's regular "800" number after regular business hours by recording the message and responding to it during the next working day.

! The call center interacts with callers in an appropriate number of languages as determine by both need and available funding.

2.7 Relation Between Marketing Contractor and Call Center

The marketing contractor works cooperatively with the call center, and the call center works cooperatively with the marketing contractor. The core function of the marketing contractor is to identify and interact with individuals who are eligible or who may be eligible, and connect them to the call center. The core function of the call center, in turn, is to verify eligibility and connect the individual with a carrier who will provide service. Both the marketing contractor and the call center perform a wide range of related and supportive functions.

3

Strategic Plan

3.1. Overview

The Commission originally requested the Marketing Board to design and conduct a marketing survey to guide the design of the marketing program, and to await the results of that survey before engaging in any marketing efforts. Soon after the Marketing Board was created, the Commission reversed that approach, and requested the board to first design and launch an interim marketing program, and then focus on the design and conduct of a marketing survey. While this strategy delayed the design and conduct of the marketing survey, the conduct of the interim marketing programs will have generated a vast amount of information and insight that will be useful (along with other inputs) in designing a permanent marketing program.

3.2 Market Research Study

In D.97-12-105, the Commission ordered that market studies be conducted prior to any expenditures for marketing purposes. The task of developing a Request for Proposal for marketing studies began at the board's meeting on February 18, 1998. After developing the RFP, the approval of the RFP was delayed pending resolution of a lawsuit involving outsourcing issues. In light of the pendency of that lawsuit and the Commission's assessment of the length of time that the RFP approval and contracting process would consume, and the negative effects of the absence of a marketing program on the low-income community, the Commission reversed its decision and ordered the board to conduct an interim marketing program as its first priority.

While the commencement of the market research study was also the subject of numerous delays beyond the board's control, the Commission approved a proposed contract with a market research firm, Valdez & Associates, on February 8, 2001, calling on the firm to "develop, design, and conduct a baseline study that identifies the number and demographics of households that qualify" for cut-rate telephone service.³⁷ The firm's report was submitted to the board on November 13, 2001.

The report's key findings include the facts that of the 9.8% of eligible households that do not have telephone service, most had telephone service that was disconnected, and that a substantial percentage of eligible customers are transients. While the report and its findings and recommendations need to be thoroughly digested, these data suggest the need to focus on the re-certification process, and to include local number portability as an element of cut-rate service.

The market research survey and report will form a key element in the design of a permanent marketing program. Other inputs into the design of a permanent marketing program will include: (a) an assessment of the interim programs conducted by Sjoberg Evashenk Consulting now underway, (b) the recommendations of the first interim marketing program contractor, Deen + Black Public Relations; (c) the recommendations of the second interim marketing program contractor, Richard Heath & Associates; (d) the recommendations of the first call center operator, C&K Teleservices (a sub-contractor of Deen + Black Public Relations); (e) the recommendations of the second call center operator, Richard Heath & Associates; (f) the

³⁷ Resolution T-16496 dated February 8, 2001, approving proposed contract with Valdez & Associates for the amount of \$884,771.

insights gained by the board and its staff in the course of designing and overseeing the marketing programs; and (g) input from contractors, sub-contractors, community organizations, the industry, Commission staff, Commissioners, and consumer representatives.

3.3 Interim Marketing Programs

The Marketing Board has devoted a great deal of time and energy to the design of an interim marketing program, the drafting of the underlying request for a proposal, the conduct of the competitive bidding process, the process for selecting a successful bidder, the execution of the interim marketing contract, its approval by the staff of the Commission, its approval by the Commission, and its administration, review and appraisal.

The activities and results of the first interim marketing program are described in a report by the contractor, Deen + Black Public Relations, dated October 25, 2000, entitled Connect California: Interim Marketing Campaign Final Report. Given the relatively small annual budget (approximately \$5 million) in relation to the size of the marketed program (\$282 million) and other mass marketing activities by government (e.g., tobacco, \$100 million), coupled with the fact that this was the board's (and contractor's) first effort, the results of this first effort were excellent. One of the chief lessons was a confirmation of the board's sense that community organizations are well positioned to market cut-rate telephone service to low-income households..

The interim marketing effort was also a learning experience for the board. The board learned that it can cost-efficiently and productively rely on outreach efforts by community organizations -- those closest to the target populations -- and it also learned that it must place greater stress on the contractor's obligation to monitor and be responsible for the performance of its sub-contractors. The shortcomings of the first interim program appeared to center on inadequate performance by a subcontractor, and the general contractor's failure to deal with the problem that in a timely way.

At the request of the Commission, the Marketing Board developed a request for proposal for a second interim marketing program. The RFP was published and a bidder's conference was held on February 6, 2001; and a contract with Richard Heath & Associates is now awaiting Commission action.

3.4 Independent Call Center

A call center was created by the first interim contractor as part of the performance of its interim marketing contract. At the conclusion of that contract, the board decided that the call center should be operated by a separate entity under a separate contract so as to provide continuity in "800" numbers. The reasons for operating the call center as a separate entity and providing for its administration under a separate contract include the fact that it is intended that it will operate cooperatively with the second interim marketing contractor and also possibly the permanent marketing contractor or contractors. The call center's existence as a separate entity

managed under a separate contract also gives the board added flexibility in creating and administering future marketing contacts.

The “800” number or numbers used by the call center belongs to the board and not the call center, so that at the termination of the call center’s contract, the board will retain control of the number or numbers. The practical result, among others, is that promotional materials that include an “800” number will be usable in the long term.

A key issue that the board has attempted to address in developing the RFP for the call center is the exact scope of the services that will be provided by the call center, including the provision of services in languages other than English or Spanish. Since the problem has not been resolved, the RFP for the call center calls for services in English and Spanish only. It is universally recognized, however, that this is inadequate.

The problem is that small carriers are not staffed with personnel able to converse in the 100 or more languages used in California. If the call center enrolls a customer who is only proficient in a language other than English, General Order 153 can be interpreted (wrongly, the board believes) to require the carrier to give that consumer notices (such as the initial self-certification and annual re-certification notices) in the consumer’s own language. In theory, this will provide effective notice to the consumer. The problem, as noted, is that few if any carriers have or will have the capacity to provide notices in foreign languages other than English or Spanish.

Since the call center will have interacted with the carrier in English, General Order 153 could and probably should be interpreted in the opposite way -- that is, to consider the “sale” of the service to have been conducted in English (as the call center ordinarily will have done), which would require the carrier to give its re-certification notices to the non-English speaking customer in English. However, that raises a different problem. If a carrier provides notices in English, a customer whose principal language is a language other than English may not understand their content. If the carrier sends the required certification notices in English, and the customer does not complete and return them, the customer will not receive lifeline service. Since the market research study and report indicates that a large percentage of eligible customers once had cut-rate service, the reason for that may rest in the fact that many customers have not continued receiving cut-rate service due to language difficulties.

These issues are discussed in greater detail in Appendix B. Their resolution probably calls for Commission action. There is no simple solution. Only if the Marketing Program were to act as a permanent counselor to a consumer who does not speak English or Spanish would the practical needs of the consumer be met. That could be a very resource-intensive course of action. The other approach -- simply modifying General Order 153 to delete the requirement that the carrier give notices in the subscriber’s language -- would not solve the problem either.

3.5 Program Assessment

The essential elements of any complex project or program include both “continuous assessment” and “continuous improvement.” The concept recognizes that all complex projects and programs are imperfectly conceived, designed and administered, and that continuous assessment and improvement are always possible and usually necessary.

In order to accomplish continuous improvement, any project or program needs to be assessed for the purposes of identifying shortcomings in concept, design or performance that can be the subject of continuous improvement. Well-managed organizations typically create mechanisms for continuous self-assessment as well as assessment by those served.

On-going feedback, assessment and continuous improvement is the responsibility of the Marketing Board, which fulfills this duty by a variety of means. Assessment and the feedback on which it is based is both formal and informal. It takes many forms. These include:

- ! building in design elements, including close monitoring by program staff, that identify and correct problems on an on-going basis;
- ! surveys of customers (telephone subscribers and those who assist them) that document how the board’s efforts are viewed by the chief beneficiaries of the program;
- ! periodic reports from and meetings with staff, contractors, sub-contractors and community organizations; and
- ! formal assessments by consultants hired for that purpose.

The Marketing Board relies on all of these methods of feedback. The Marketing Board has entered into a consultant contract with Sjoberg Evanshenk Consulting that is now being performed.

Appendix A Commission Decisions

The California Public Utilities Commission (Commission) has implemented the Legislative mandates in three decisions in 1996, 1997 and 1998 – D.96-10-066 dated October 25, 1996; D.97-12-105 dated December 16, 1997, and D.98-10-050 dated October 22, 1998. These decisions have explained the rationale for marketing by a single entity, have created and funded the Marketing Board, and have defined the Marketing Board’s authority and responsibilities and articulated guidelines for program implementation:³⁸

³⁸ See D.96-10-066 dated October 25, 1996; and D.97-12-105 dated December 16, 1997; and D.98-10-050 dated October 22, 1998, modifying portions of D.97-12-105.

A-1. ULTS program

! **“The ULTS program is designed to promote the use of affordable, statewide, basic telephone service among low income households.”³⁹**

! **“[T]he ULTS program is intended to provide affordable basic telephone service to all low-income households”⁴⁰**

! **“The ULTS program serves a vital public purpose by providing low-income households with access to affordable basic telephone service.”⁴¹**

A-2. Rationale for Marketing by a Single Entity

! **“With the advent of local exchange competition, the Commission became increasingly concerned that LECs might use their ULTS marketing activities as a means to gain a competitive advantage. As a result, ... the Commission relieved LECs of their responsibility to market the ULTS program and created the ULTSMB to serve as a Commission advisory body responsible for ULTS marketing.”⁴²**

! **“[W]ith the introduction of local exchange competition, the Commission needs to ... revise the ULTS program [to] permit all carriers who provide residential service to ULTS customers to avail themselves of the ULTS funds.”⁴³**

! **“A ULTS customer would be free to select any carrier from those who provide residential local exchange service, [which carrier] would then be permitted to submit a claim to the ULTS program for reimbursement.”⁴⁴**

! **“[T]he ULTS program should not subsidize the marketing efforts of each carrier who offers basic service to low income customers. ... It makes no sense to have multiple marketing campaigns conducted by each carrier who**

³⁹ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 633).

⁴⁰ D.97-12-105 dated December 16, 1997, p.3 (Opinion, ___ CPUC2d ___, ___).

⁴¹ D.98-10-050 dated October 22, 1998, p. 4 (Opinion, ___ CPUC2d ___, ___).

⁴² D.98-10-050 dated October 22, 1998, p. 2 (Opinion, ___ CPUC2d ___, ___).

⁴³ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 636-637).

⁴⁴ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 633).

is trying to sign up the same customers, especially when the marketing expense of each carrier is subsidized by the ULTS program. ... In addition, multiple marketing efforts tend to indirectly subsidize the carrier's overall marketing strategy. ... Such advertising also promotes the name of a particular carrier at the expense of ratepayers. It also indirectly subsidizes the marketing of other services, such as lucrative toll and enhanced services Having individual carriers continue to market the ULTS program may lead to abuses of a subsidized marketing system.”⁴⁵

! “We believe that in a competitive environment, a single entity should be responsible for the marketing of ULTS services. The advantage of this approach is that no particular carrier is directly benefitted by ULTS marketing activities. Instead, potential customers are free to choose which carrier they want to call. A single entity also limits the size of the ULTS marketing expenses. Instead of ratepayers having to subsidize multiple ad campaigns, there could be a single budget for marketing expenses. A third advantage is that the entity can specifically target the ULTS marketing to customer groups which have lower subscribership rates.”⁴⁶

! “We favor the establishment of a ULTS Marketing Working Group ... to assist the Commission in developing a budget for statewide marketing strategies for the ULTS program, to develop competitively neutral marketing strategies, and to oversee the development and implementation of ULTS marketing campaigns.”⁴⁷

A-3. Process for Marketing Strategy Design

! “The working group should consist of twelve members ... from the large and medium size LECs ... the IECs or the CLCs ... consumer groups or public interest groups ... small LEC ... wireless carriers ... Consumer Services Division.”⁴⁸

! “The advantage of such a working group is that all of the members have an interest in making sure that marketing of ULTS services reach as wide an

⁴⁵ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 639).

⁴⁶ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 639).

⁴⁷ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

⁴⁸ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

audience as possible.”⁴⁹

! “Preferably, the representatives of the carriers should have marketing and sales backgrounds.”⁵⁰

A-4. Objectives of Marketing Campaigns

! “The ULTSMB should implement a mass-marketing campaign for the ULTS program”⁵¹

! “[T]he ULTSMB [shall] focus on achieving the ULTS program goal of providing basic phone service to all qualifying low-income households.”⁵²

! The ULTSMB shall: “(1) develop annual ULTS marketing budgets, (2) devise competitively neutral marketing strategies, and (3) oversee the implementation of ULTS marketing campaigns.”⁵³

! “The Commission has long considered marketing to be an important part of the ULTS program since marketing is one of the primary means by which low-income households are informed about the existence of the ULTS program and how to participate in the program.”⁵⁴

! “[T]he ULTSMB [shall] achieve ... the greatest reduction possible in ... households ... without ... service and [the] greatest increase possible in the use of the ULTS program among those ... who currently have ... service.”⁵⁵

A-5. Utilization of Outside Contractors

! “The ... Group will recruit a qualified advertising agency to develop print, billboard, and radio advertising for the ULTS program, as well as qualified

⁴⁹ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

⁵⁰ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

⁵¹ D.98-10-050 dated October 22, 1998, p. 7 (Opinion, ____ CPUC2d ____, ____).

⁵² D.97-12-105 dated December 16, 1997, p.4 (Opinion, ____ CPUC2d ____, ____).

⁵³ D.98-10-050 dated October 22, 1998, p. 2 (Opinion, ____ CPUC2d ____, ____).

⁵⁴ D.98-10-050 dated October 22, 1998, p. 1 (Opinion, ____ CPUC2d ____, ____).

⁵⁵ D.97-12-105 dated December 16, 1997, p. 7 (Opinion, ____ CPUC2d ____, ____).

nonprofit CBOs to engage in community outreach to promote the ULTS program.”⁵⁶

! “The ... Group should develop competitively neutral ways in which consumers can be informed about which carriers offer ULTS service, and how ULTS service may vary from carrier to carrier.”⁵⁷

! “The ad campaign should not result in an advantage or disadvantage for any carrier.”⁵⁸

! “[T]he ULTSMB shall only contract with those entities which the ULTSMB determines will provide the most cost-efficient means for conducting the interim mass-marketing campaign.”⁵⁹

! “The ULTSMB should comply with State procurement rules as it implements the mass-marketing campaign.”⁶⁰

A-6. Marketing to Low Subscriberhip Rate Groups

! “[T]he purpose of the ULTS program is to help achieve the Commission’s goal of a 95% subscribership rate among all customer groups.”⁶¹

! “T]he program is intended to serve low-income households regardless of whether or not a particular low-income household belongs to customer groups with a 95% subscribership rate..”⁶²

A-7. Marketing to Eligible Households With and Without Phone Service

! “[T]he ULTSMB [shall] reflect the most pressing needs [by] devoting 80% of its marketing budget to campaigns ... to bring basic telephone service to

⁵⁶ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

⁵⁷ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

⁵⁸ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

⁵⁹ D.98-10-050 dated October 22, 1998, p. 5 (Opinion, ___ CPUC2d ___, ___).

⁶⁰ D.98-10-050 dated October 22, 1998, p. 7 (Opinion, ___ CPUC2d ___, ___).

⁶¹ D.97-12-105 dated December 16, 1997, p. 4 (Opinion, ___ CPUC2d ___, ___).

⁶² D.97-12-105 dated December 16, 1997, p. 3 (Opinion, ___ CPUC2d ___, ___).

qualifying households currently without telephone service.”⁶³

! “[T]he ULTSMB should devote the remaining 20% of its marketing budget to ... households with phone service who qualify for the ULTS program [but do not] actually use the program.”⁶⁴

! “The ... 80-20 ratio ... should reverse over time as the ULTSMB achieves success in bringing the ULTS program to qualifying households lacking telephone service.”⁶⁵

A-8. Sources of Information for Designing Marketing Campaigns

! “To ensure that ULTS marketing campaigns are based on sound information, the Commission in D.97-12-105 (1997) directed the ULTSMB to refrain from marketing the ULTS program until after the Board had completed a market study of low-income households.”⁶⁶

! “[T]o accelerate the start of ULTS marketing campaigns by the ULTSMB, [D.97-12-105 is modified] so as to allow the ULTSMB to conduct an interim mass-marketing campaign pending the completion of the market study.”⁶⁷

! “By using targeted marketing, the ... Group should be able to increase subscribership rates by having access to data concerning income, ethnicity, and geography, as well as other marketing guidelines.”⁶⁸

! “The ULTSMB should contract for one or more market studies to gather the information necessary for the development of ULTS marketing campaigns that will achieve the ... priorities for the ULTS program.”⁶⁹

! “[T]he ULTSMB should work with community groups in assessing the

⁶³ D.97-12-105 dated December 16, 1997, p. 4 (Opinion, ___ CPUC2d ___, ___).

⁶⁴ D.97-12-105 dated December 16, 1997, p. 4 (Opinion, ___ CPUC2d ___, ___).

⁶⁵ D.97-12-105 dated December 16, 1997, p. 4 (Opinion, ___ CPUC2d ___, ___).

⁶⁶ D.98-10-050 dated October 22, 1998, p. 2 (Opinion, ___ CPUC2d ___, ___).

⁶⁷ D.98-10-050 dated October 22, 1998, p. 3 (Opinion, ___ CPUC2d ___, ___).

⁶⁸ D.96-10-066 dated October 25, 1996 (Opinion, 68 CPUC2d 524, 640).

⁶⁹ D.97-12-105 dated December 16, 1997, p. 7 (Opinion, ___ CPUC2d ___, ___).

needs for ULTS marketing, identifying barriers to the use of the ULTS program, and in developing the most effective marketing campaigns.”⁷⁰

A-9. Marketing Campaign Design and Improvement

! “[T]he ULTSMB [shall] formulate a coherent plan to achieve [the Commission’s] stated objectives for the ULTS marketing campaigns.”⁷¹

! “[T]he ULTSMB should contract with one or more qualified advertising agencies, community-based organizations (CBOs), and other entities to implement the plan.”⁷²

! “[T]he ULTSMB [shall] determine whether the ... campaigns should use a mass market approach, a customer segment-by-customer-segment approach, or some combination of the two.”⁷³

! “The ULTSMB should oversee and monitor ... the entities contracted to implement the ... campaigns [and] should continually assess [whether] they are accomplishing the goals of the ULTS program.”⁷⁴

! “[T]he ULTSMB’s contracts ... should contain clear numerical goals for: (1) reducing the number of households ... without phone service,” and (2) reducing the number of qualified households not using the program.”⁷⁵

! “The ULTSMB’s annual report shall include “(i) the identity of [each] contractor; ... (v) numerical goals associated with the contract; (vi) the contractor’s success in achieving the numerical goals; (vii) a description of the rewards and penalties; (viii) the dollar amount of any award or penalty; and (ix) the cost effectiveness of the contractor, e.g., dollars spent to provide ULTS to a household that was without phone service.”⁷⁶

⁷⁰ D.97-12-105 dated December 16, 1997, p. 7 (Opinion, ___ CPUC2d ___, ___)..

⁷¹ D.97-12-105 dated December 16, 1997, p. 7 (Opinion, ___ CPUC2d ___, ___)..

⁷² D.97-12-105 dated December 16, 1997, pp. 7-8 (Opinion, ___ CPUC2d ___, ___)..

⁷³ D.97-12-105 dated December 16, 1997, p. 7 (Opinion, ___ CPUC2d ___, ___)..

⁷⁴ D.97-12-105 dated December 16, 1997, pp. 8-9 (Opinion, ___ CPUC2d ___, ___)..

⁷⁵ D.97-12-105 dated December 16, 1997, p. 8 (Opinion, ___ CPUC2d ___, ___).

⁷⁶ D.97-12-10 dated December 16, 1997, p. 24 (Opinion, ___ CPUC2d ___, ___).

! “Starting in ... 2000 the ULTSMB should only contract with entities that have proven to be the most cost-effective [or] new entities that promise to be more cost-effective”⁷⁷

! “[T]he ULTSMB should alter its marketing campaigns, as necessary, to achieve the goals of the ULTS program.”⁷⁸

A-10. Program and Contract Administration

! The ULTSMB is “an advisory body to the Commission.”⁷⁹

! “[M]any of [the ULTSMB’s] functions [are] contracted out to third parties.”⁸⁰

! “[T]he ULTSMB must comply with the State’s contracting and procurement rules.”⁸¹

! “The ULTSMB should “not hire any staff” but should “rely upon its own resources or the support staff ... for the ULTS Trust Committee” and, if these prove inadequate, to [the Commission’s] own staff.”⁸²

! While “workshop participants suggested ... interim marketing activities, we shall not provide funds for marketing activities while the ULTSMB is in the process of developing its marketing programs.”⁸³

! The ULTSMB shall “submit an annual report to the Commission [which shall] detail activities during the past year, the increase or decrease in ULTS customers, ... subscribership rates by income, ethnicity, and geography, and

⁷⁷ D.97-12-10 dated December 16, 1997, p. 8 (Opinion, ___ CPUC2d ___, ___).

⁷⁸ D.97-12-105 dated December 16, 1997, p. 9 (Opinion, ___ CPUC2d ___, ___).

⁷⁹ D.97-12-105 dated December 16, 1997, p. 5 (Opinion, ___ CPUC2d ___, ___).

⁸⁰ D.97-12-10 dated December 16, 1997, p. 5 (Opinion, ___ CPUC2d ___, ___).

⁸¹ D.97-12-105 dated December 16, 1997, p. 5 (Opinion, ___ CPUC2d ___, ___).

⁸² D.97-12-10 dated December 16, 1997, p.9 (Opinion, ___ CPUC2d ___, ___)..

⁸³ D.97-12-105 dated December 16, 1997, p. 11 (Opinion, ___ CPUC2d ___, ___).

expectations and objectives during the coming year,” and other data.⁸⁴

A-11. Marketing Board Recommendations

! The Commission “welcome[s] recommendations from the ULTSMB ... in its annual report to the Commission.”⁸⁵

! The Commission “welcome[s] recommendations... on how to use existing funding levels for the ULTS marketing program to reduce the total number of households that qualify for ULTS that are without phone service.”⁸⁶

! The Commission “welcome[s] recommendations... on how to use existing funding levels for the ULTS marketing program to” reduce the number of households with phone service who qualify for the ULTS program but do not actually use it.⁸⁷

⁸⁴ D.97-12-105 dated December 16, 1997, p. 24 (Opinion, ___ CPUC2d ___, ___).

⁸⁵ D.97-12-105 dated December 16, 1997, p. 5 (Opinion, ___ CPUC2d ___, ___).

⁸⁶ D.97-12-105 dated December 16, 1997, p.5 (Opinion, ___ CPUC2d ___, ___).

⁸⁷ D.97-12-105 dated December 16, 1997, p. 5 (Opinion, ___ CPUC2d ___, ___).

Appendix B Non-English Languages

The problem that the board has been unable to resolve -- and that probably invites Commission analysis and action -- relates to the facts that (a) a large number of consumers who qualify for lifeline service but are not receiving the service speak languages other than English; (b) the profitability of residential service is marginal and declining, and the profitability of serving lifeline customers (and especially foreign-language speaking customers) is below average. While profitability to carriers is not directly relevant to the ULTS program, it can negatively affect carrier incentives to serve sub-markets (especially non-English-speaking customers) that generate less profit.

The board's desire is to establish a call center that is staffed by persons who are bilingual or multilingual in all of the most frequently spoken languages and who will apply their talents to help low-income consumers select and connect with a local carrier. It is also the board's desire that the call center serve people in all of the major languages that are spoken in California. There is no doubt that non-English-speaking persons are in special need of advice and assistance in selecting a suitable carrier and obtaining the discounted service.

The problem is that if the call center is successful -- if it uses its foreign-language-speaking staff to obtain service for a non-English-speaking consumer -- the carrier who acquires that person as a customer might incur additional burdens that it would not incur if the customer were an English-speaking customer who obtained service without the program's help. The problem, specifically, is that a carrier who sells service to a non-English-speaking customer may incur a continuing obligation to interact with that customer in the language spoken by that customer, and that carriers apparently are not generally staffed or financially able to do that. The result is that there will be a disincentive to serve foreign-language-speaking consumers who are sought to be enrolled by the call center's non-English-speaking staff.

The Commission rules that give rise to this problem are part of General Order 153. The rules that are most relevant to this letter include:

Section 2.1.51, which states that "All telephone carriers that offer residential local exchange service are required to offer ULTS."

Sections 4.1.1-4.4.1, requiring carriers to give notices to all newly-enrolled customers of the availability of the low-cost service.

Section 4.2.2 and 4.4.3, requiring customers to complete a self-certification form and return it within 30 days.

Section 4.3.1 and 4.5.4, requiring carriers to provide and consumers to complete and return an annual re-certification form.

Section 4.6.1, stating that any carrier that “sells ULTS in a language other than English shall provide to its ULTS customers to whom ULTS was sold in a language other than English with ... Commission-mandated notices that are in the same language in which ULTS was originally sold, ...customer certification forms and re-certification forms that are in the same language ..., [and] toll-free access to customer service reps who are fluent in the language in which ULTS was originally sold.”

Under these rules, a carrier who signs up a foreign-language-speaking customer is required to create and send the required self-certification and annual re-certification forms in the customer’s language, and to interact with that customer in the customer’s own language with respect to billing disputes, requests for additional services, and other matters. Since the language spoken by the consumer might be any one of a hundred or more languages spoken in California, few carriers are likely to be able to afford to equip themselves to provide service to everyone. It is anticipated too that they will tend to be reluctant to process applications for service from customers who speak a language other than English or perhaps Spanish.

In view of the many foreign languages spoken in California, it is not surprising that few companies may choose to hire and train bilingual or multilingual people to function as sales agents in a language other than English and Spanish. In fact, we understand that a large firm, Verizon, has requested the Commission to waive a requirement (entered into in D.96-10-076, discussed in item 25, Decision 00-10-028 dated October 5, 2000) that the company give Commission-mandated notices and provide customer service in Cantonese, Korean, Japanese, Mandarin, Spanish, Tagalog and Vietnamese. Smaller firms will be especially reluctant to incur the expense of equipping themselves to interact with customers in more than one, two or three languages at most.

While one can view a reluctance to serve foreign-language-speaking consumers as morally reprehensible, the Legislature and the Commission do not presently require carriers to conduct business in foreign languages. As noted above, the Commission only requires that carriers offer ULTS in English. The practical result, under the present law, may be that carriers (other than the incumbent carriers, insofar as they are subject to special rules) may increasingly refuse to interact with prospective or existing ULTS consumers in any language other than English and perhaps Spanish. The use of the word “increasingly” is based on published statistics on the telephone industry’s decline in overall profitability, which will incent industry members to reduce costs. (This prognostication may be in error.)

The direction toward which the board desires to move, however, is reflected in the discussion of “Personal Counseling and Enrollment Services” in part 2.5 above.

The impasse, as noted above, is that if the call center is successful, the carrier that enrolls the customer may incur obligations, which the carrier will be required to perform, to give notices to and interact with a non-English-speaking customer in the customer’s own language, and that all except the largest carriers are not likely to be equipped or financially able to do so.

The board has considered approaches that might address this problem. One is to view the call center as the non-English-speaking customer's agent rather than the carrier's agent. On that theory, the carrier will have "sold" the service in English, and will not incur an obligation to interact with the customer in the customer's own language. One problem with this approach is that the Commission (and perhaps the courts) may not concur in this characterization. But if the call center were structured and its functions defined by a Commission rule that stated that the call center was the customer's and not the carrier's agent, the risk of that might be reduced.

Another problem is that a carrier that enrolls that customer is required to promptly send the customer a self-certification form which must be returned within 31 days, and that that form would be in English, and therefore possibly unreadable and possibly ignored by the prospective non-English-speaking customer when he or she received it in the mail, if the call center were considered to be the customer's agent and the carrier is considered to have "sold" the service in English. On the other hand, if the Commission were to view the call center as the customer's agent, and not the carrier's agent, the carrier would not be obligated to send the self-certification forms in the customer's language. The annual re-certification notice would also be in English, rather than the language spoken by the customer, and a large number of these would be ignored. The result, again, would be that the eligible customer would not obtain the low-cost service.

The board has also considered liability issues. If the call center performs the function envisaged by the board -- that is, interacts with the non-English-speaking customer as fully as necessary to meet the customer's needs -- the call center will occasionally be charged with misrepresentation, or with acts or omissions that give rise to breach of contract claims by either the carrier or the consumer. Carriers typically provide their own sales staff with a great deal of training in the intricacies of the services being marketed and provided. To the extent that a call center acts as an intermediary on substantive matters for several carriers, the call center staff will face even greater challenges and risks of error than the sales personnel who work for a single carrier. Hence, if the call center were assigned that role, it would be important to fund and require a lot of training of staff, and to also establish immunity by statute from liability, similar to the immunity accorded public employees and non-government personnel who serve as small claims advisors.

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