Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE
Miguel Santiago, Chair
AB 2652 (Quirk) – As Amended April 16, 2018

SUBJECT: Telecommunications: universal service

SUMMARY: Requires the California Public Utilities Commission (CPUC) to adopt a portability freeze and a rule to improve the cost-effectiveness of the delivery of the California LifeLine Program. Specifically, **this bill**:

1) Requires the CPUC to adopt a portability freeze rule for the lifeline program by January 15, 2019. The CPUC shall include, at minimum, all of the following in the rule:

   a) At least a 60-day duration of the portability freeze;

   b) A period of time when a subscriber would be able to terminate lifeline service without penalty, as specified;

   c) A requirement that the administrator of the lifeline program provide a telephone corporation providing lifeline service with real-time information concerning whether a subscriber has enrolled with another telephone corporation during the period of the portability freeze adopted by the CPUC, as specified, and, if the subscriber enrolled during this period, the date of enrollment;

   d) A requirement that a subscriber provide proof of change of address if the CPUC chooses to allow the subscriber to bypass the portability freeze when the subscriber moves; and,

   e) A penalty on a lifeline service provider that fails to inform a subscriber that he or she may receive discounted wireless or landline service, but not both, through the lifeline program.

2) Requires, the CPUC, on or before June 30, 2019, to adopt a rule to improve the cost-effectiveness of the delivery of the lifeline program. The CPUC shall include, at minimum, all of the following in the rule:

   a) A two-year recertification process that minimizes any barriers to renewal faced by a subscriber;

   b) Allowing the use of an electronic signature to expedite the enrollment process;

   c) A process to ensure quality products are distributed to eligible subscribers;

   d) A means to encourage lifeline service providers to work with community-based organizations, and other approved nonprofit organizations, to increase participation in the lifeline program by assisting those providers with outreach, marketing, and enrollment; and,

   e) A goal of enrolling 90 percent of all eligible customers statewide in the lifeline program by January 1, 2022.

3) Requires the CPUC to require a provider of mobile telephony service providing lifeline service to offer, as part of the service, a plan that includes unlimited minutes, unlimited text messages, and, to the extent possible, unlimited mobile data service.

EXISTING LAW:

1) Establishes the Moore Universal Telephone Service Act to achieve universal service by making basic telephone service affordable to low-income households through the creation of a lifeline class of service. Requires the CPUC and telephone corporations to employ every means to ensure that every qualified household is informed and afforded the opportunity to subscribe to the service. (Public Utilities Code (PUC) Section 871 et seq.)

2) Requires the CPUC to adopt a portability freeze rule for the lifeline program by January 15, 2017. The CPUC shall consider including all of the following in the rule:

   a) A 60-day duration of the portability freeze;

   b) A period of time when a subscriber would be able to terminate lifeline service without penalty, as specified; and,

   c) A requirement that the administrator of the lifeline program provide a telephone corporation providing lifeline service with real-time information concerning whether a subscriber has enrolled with another telephone corporation during the period of the portability freeze adopted by the CPUC, as specified, and, if the subscriber enrolled during this period, the date of enrollment. (PUC Section 878.5)

3) Requires the CPUC to annually do all of the following:

   a) Designate a class of lifeline service necessary to meet minimum communications needs;

   b) Set the rates and charges for that service;

   c) Develop eligibility criteria for that service; and,

   d) Assess the degree of achievement of universal service, including telephone penetration rates by income, ethnicity, and geography. (PUC Section 873)

4) Specifies that the lifeline telephone service rates and charges shall be as follows:

   a) In a residential subscriber's service area where measured service is not available, the lifeline telephone service rates shall not be more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential subscriber; and,

   b) In a residential subscriber's service area where measured service is available, the subscriber may elect either of the following:

   i) A lifeline telephone service measured rate of not more than 50 percent of the basic rate for measured service, exclusive of federally mandated end user access charges, available to the residential subscriber; or,

   ii) A lifeline flat rate of not more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential subscriber. (PUC Section 874)

5) Requires the CPUC to require every telephone corporation providing telephone service within a service area to file a schedule of rates and charges providing a class of lifeline telephone service. Every telephone corporation providing service within a service area shall inform all eligible subscribers of the availability of lifeline telephone service, and how they may qualify for and obtain service, and shall accept applications for lifeline telephone service according to procedures specified by the CPUC. (PUC Section 876)

6) Requires a lifeline telephone service subscriber to be provided with one lifeline subscription, as defined by the CPUC, at his or her principal place of residence, and no other member of that subscriber's family or household who maintains residence at that place is eligible for lifeline telephone service. An applicant for lifeline telephone service may report only one address in this state as the principal place of residence. (PUC Section 878)

7) Establishes the Universal Lifeline Telephone Service Trust Administrative Committee (ULTSAC), which is an advisory board to advise the CPUC regarding the development, implementation, and administration of a program to ensure lifeline telephone service is available to the people of the state, as specified, and to carry out the program pursuant to the CPUC's direction, control, and approval. (PUC Section 277)

8) Requires the CPUC to require interconnected Voice over Internet Protocol (VoIP) service providers to collect and remit surcharges on their California intrastate revenues in support of specified public purpose program funds. (PUC Section 285)

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

1) **Author's Statement:** According to the author, "The Moore Universal Service Telephone Act of 1987 made it a state priority to offer affordable telephone service to Californians. The California LifeLine Program provides basic telephone service to low-income households at a discounted price. According to the CPUC, wired LifeLine participation is only being utilized by 10% of those eligible for the service. Wireless lifeline participation is at 34%. More can be done to increase subscription to this vital service. AB 2652 seeks to improve program administration and delivery of the California Wireless LifeLine Program. This bill changes how the CPUC issues rules regarding portability freezes (important for consumer retention and product delivery), the acceptance of electronic signatures, and the recertification process. This is a follow-up to the bill that I introduced in 2016. In addition, with much of the uncertainty surrounding the Federal LifeLine program, it it's critical that we continue to protect this program in California."

2) **Background:** Ensuring that everyone has access to safe, reliable, and high-quality telecommunications service is a bedrock principle of telecommunications policy. The CPUC is tasked with developing and implementing programs to advance universal access to necessary services, such as telephone and broadband services. To do so, the CPUC implements a number of public programs to promote universal service, including the California High Cost Fund-A, California High Cost Fund-B, the California LifeLine Program, the California Teleconnect Fund, the Deaf & Disabled Telecommunications Program, and the California Advanced Services Fund.

   Such universal service programs are generally developed to provide support either for providers in areas of the state where it might not make economic sense to provide telecommunications services due to the difficulties in building and/or providing services, such as rural, remote, and sparsely populated areas; or support for individuals who are low income, deaf and disabled, or living in or serving disadvantage communities and institutions, that otherwise might struggle to access affordable telecommunications services. Universal service programs serve to give as many subscribers as possible access to the telecommunications network; further complimenting the network and advancing the State's telecommunications objectives.

   The universal service programs are funded through a surcharge on each customer's phone bill for landline, wireless, and VoIP services. The surcharge for each program is typically adjusted on an annual basis to ensure adequate funding to cover carrier claims and administrative costs. As of March 1, 2018, the total surcharge for all universal service programs is 7.24 percent of each customer's phone bill for intrastate telecommunications service.

3) **California LifeLine Program:** The California LifeLine Program was created in 1984 following the enactment of the Moore Universal Telephone Service Act to provide access for low-income households to affordable basic residential telephone service. The California LifeLine Program helps consumers lower the cost of their phone bills by providing discounts for home phone and cell phone service to qualified California residents. The California LifeLine Program works in conjunction with the federal LifeLine program which provides an additional discount on phone service for qualifying low-income consumers. Together each program participant can currently receive a monthly maximum discount of $14.30 from the California LifeLine Program in addition to a monthly maximum discount of $9.25 from the Federal LifeLine Program. As of March 1, 2018, the surcharge for Universal Lifeline Telephone Service is 4.75 percent of each customer's phone bill for intrastate telecommunications service.

   To qualify for LifeLine, consumers must be enrolled in certain public assistance programs, such as, Medicaid/Medi-Cal; Supplemental Security Income; CalFresh, Food Stamps or Supplemental Nutrition Assistance Program; Women, Infants and Children Program; National School Lunch Program, among others. In addition, consumer may also qualify if their household's total annual gross income is less than a specified amount. Only one LifeLine discount is allowed per household for each residential address. As of January 2018, there are approximately 1.77 million participants in the California LifeLine Program.

4) **Portability Freeze Adoption:** In 2016, the federal LifeLine program adopted a portability freeze which required Lifeline customers to keep their phone discounts with the same service

provider for a certain period of time. The Federal Communications Commission (FCC) adopted a 60 days portability freeze for phone service, with certain exceptions. In 2016, the Legislature passed AB 2570 (Quirk) Chapter 577, Statutes of 2016, which required the CPUC to adopt a portability freeze, but it did not mandate a specific duration. The CPUC subsequently adopted a 60 day portability freeze in alignment with the federal program.

At the time, in adopted the portability freeze, the FCC noted the need to further incentivize investments by providers for Lifeline service. The adoption of a portability freeze could incentivize more Lifeline service providers to enter the market by providing greater certainty and customer retention. However, a portability freeze can also serve to limit consumer choices by denying a customer the ability to discontinuing service and move on to an alternative product. Lifeline service providers argue that unlike other service providers, customers are not as educated about their service options and products compared to other telecommunications services. A portability freeze would give Lifeline service providers an opportunity to educate their customers, whereas, without it customers may leave the provider before they are able to recuperate a return on their investment.

5) **Portability Freeze Elimination:** In December 2017, the FCC eliminated the federal portability freeze for Lifeline services stating that it was doing so to encourage competition and decrease administrative burdens. The FCC concluded that the portability freeze ultimately failed to yield improved service offerings and instead, disadvantaged consumers by unnecessarily restricting consumer choice, diminishing service providers' motivation to offer competitive service offerings, and preventing consumer from obtaining the services they need. Because the federal and state Lifeline programs are intertwined and administered together by the CPUC, in March 2018, the CPUC temporarily modified the portability freeze on the California LifeLine Program from 60 days to 24 hours. The CPUC adopted the change in order to ensure that California continued to receive the federal Lifeline support. The CPUC is currently seeking input from stakeholders on what changes are needed to the California LifeLine program before a final decision is made.

According to the author, the lack of consistent federal or state guidelines have prevented the growth of the Lifeline program causing insecurity among providers and limiting the use of technology for enrollment. Simple administrative measures could ensure that a greater number of eligible customers are enrolled and that high-quality products are made available to low income subscribers.

This bill requires the CPUC to adopt changes to the California LifeLine program including, implementing a portability freeze of at least 60 days. This bill also requires the CPUC to adopt a penalty on lifeline service providers who fail to inform subscribers of the program, and adopt a process to ensure quality products are distributed to eligible subscribers. Current law requires every telephone company to inform all eligible subscribers of the availably of Lifeline and how they can qualify and obtain the service. It is unclear if the CPUC would have the administrative or enforcement capabilities to enforce such a penalty or determine what would be considered a "quality product." The bill also requires Lifeline providers to provide specified service and plans. It is unclear if adopting such requirements in statute would be beneficial especially as technology continues to evolve.

The author may wish to consider an amendment deleting the requirement on the CPUC to implement a penalty on a provider who to fail to inform a subscriber on the program, and creating a process to ensure quality products are distributed to eligible subscribers.

The author may wish to consider an amendment to make the bill more technology neutral by deleting references to specified services and plans.

6) **Suggested Amendment:**

~~873.5 The commission shall require a provider of mobile telephony service providing lifeline service to offer, as part of the service, a plan that includes unlimited minutes, unlimited text messages, and, to the extent possible, unlimited mobile data service.~~

878.5 ~~(e) A penalty on a lifeline service provider that fails to inform a subscriber that he or she may receive discounted wireless or landline service, but not both, through the lifeline program.~~

878.7 ~~(c) A process to ensure quality products are distributed to eligible subscribers.~~

7) **Arguments in Support:** According to Truconnect, "Affording providers certainty and customer retention during a longer freeze period provides an opportunity for [essential telecommunications carriers] to perform and deliver innovative service. Unlike a non-lifeline product, wireless lifeline consumers are not educated about their service options and product availability by exhaustive marketing campaigns. The market place for Lifeline providers is different in that information about these services is typically accomplished through the direct relationship between provider and consumer. These simple but important changes would modernize the administration of this program by the [CPUC] […] Most importantly, we recognize the State's long history in struggling to provide these desperately needed wireless telecommunications services to the underserved. Increasing participation in wireless Lifeline will increase mobility, productivity, and bridge the digital divide for those whom need it the most."

8) **Arguments in Opposition:** According to The Utility Reform Network (TURN), "TURN has several concerns with how AB 2652 would impact the LifeLine program. First, this bill removes the CPUC discretion to administer the LifeLine program in such a way to balance the needs of participants, carriers, and staff […] Second, the bill imposes an unnecessary and onerous documentation requirement for consumers that request an exception from the portability freeze […] Third, the bill eliminates the discretion of the CPUC and carriers to design the appropriate LifeLine service offerings to meet the needs of California low income customers […] Finally, TURN acknowledges the bill also imposes conditions on the program that could benefit LifeLine customers […] However, these proposal would benefit from sufficient stakeholder and public input."

9) **Related Legislation:** AB 2537 (Carrillo) of 2018 establishes the Lifeline Oversight Board to advise the CPUC on the California LifeLine Program. *Status: Pending in the Assembly Committee on Communications and Conveyance.*

AB 3111 (E. Garcia) of 2018 requires the CPUC, in consultation with the Department of Corrections and Rehabilitation, and the Department of Veteran Affairs, to develop outreach and enrollment programs for the California LifeLine Program for the formerly incarcerated and veterans. *Status: Pending in the Assembly Committee on Communications and Conveyance.*

10) **Previous Legislation:** AB 2570 (Quirk) of 2016 required the CPUC to adopt a portability freeze rule for the California LifeLine Program that limits the ability of subscribers to change services. *Status: Chaptered by the Secretary of State, Chapter 577, Statutes of 2016.*

AB 2213 (Fuentes) of 2010 replaced the definition of "residential" for California's low-income residential telephone service with a definition of "household" and defines household as a residential dwelling that is the principal place of residence of the lifeline telephone service subscriber. *Status: Chaptered by the Secretary of State, Chapter 381, Statutes of 2010.*

SB 742 (Escutia) of 2001 provided for an orderly transition of the Universal Service Telephone Programs, including the Universal Lifeline Telephone Service Program, to state fiscal and budgetary control. *Status: Chaptered by the Secretary of State, Chapter 118, Statutes of 2001.*

SB 669 (Polanco) of 1999 codified six existing CPUC advisory boards, including the ULTSAC, and requires the CPUC to administer the revenues used to fund the boards' activities. *Status: Chaptered by the Secretary of State, Chapter 677, Statutes of 1999.*

REGISTERED SUPPORT / OPPOSITION:

Support

National Lifeline Association
Pacoima Beautiful
Salvadoran American Leadership and Educational Fund
TruConnect
Youth Policy Institute

Opposition

The Utility Reform Network (unless amended)

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