

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: March 19, 2013

To: The Commission
(Meeting of March 21, 2013)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) – Sacramento

Subject: **AB 1100 (Levine) – Telecommunications: California Teleconnect Fund Administrative Committee Fund.**
As introduced: February 22, 2013

RECOMMENDED POSITION: OPPOSE UNLESS AMENDED

SUMMARY OF BILL

This bill would eliminate the annual cap on California Teleconnect Fund (CTF) discounts to California Community Colleges (CCC), as established in California Public Utilities Commission (CPUC) Decision (D.) 08-06-020.

CURRENT LAW

- CPUC D.08-06-020 capped the CTF discounts to \$7.2 million (2007 \$). The cap is adjusted annually by the Western Consumer Price Index. The cap was implemented to address concerns that the other CTF entities may be adversely impacted by including community colleges.
- In August 2011, the CPUC Resolution T-17333 augmented the CCC cap for fiscal year FY10-11 and FY11-12 by \$2.3 Million to account for expenses not accurately captured in D.08-06-020.
- The annual CCC cap for FY12-13 is \$10.865 Million.

AUTHOR'S PURPOSE

The author's office has indicated that it unfair for a single group of eligible entities to be singled out for a cap on discounts. Thus, a bill is necessary to remove that cap.

DIVISION ANALYSIS

The CPUC would be prohibited from making any limitations on California community college (CCC) expenditures. Therefore, if the overall CTF budget needed to be reduced or reallocated among CTF-eligible entities, AB 1100 could be interpreted to limit the CPUC's ability to manage program size or reallocate funding. Hence, the CPUC would have fewer tools available to address budget cutbacks.

It should be noted that even though there is an annual CCC cap, the CPUC has never limited CCC participation. The CPUC can increase the annual cap for CCCs when appropriate, as it did in Resolution T-17333. (See Attachment 1 for more details).

In its comments in R.13-01-010, the recently opened CPUC proceeding examining the CTF program, CCC states:

During the budget cuts of the past three years, the CCC system has been forced to decrease its annual headcount of students served from 2.9 million to 2.4 million, an unprecedented loss of access. While traditional courses were slashed drastically to accommodate this reduced funding level, one curricular area has continued to grow: distance education. Distance education now accounts for ten percent of our academic workload, and is a critical component for students trying to fulfill their academic plans, especially those being served in rural areas. In his proposed 2013-14 budget for the CCC system, Governor Brown included a \$16.9 million budget augmentation to expand the use of distance education system wide, including the creation of a centrally-hosted course/learning management system and 24x7 support infrastructures, along with the exploration of delivering massively open online courses (MOOCs). In order to deliver this, robust and redundant networking services connecting the campuses and offsite centers to sites of centrally-delivered and cloud services are critical for the success of this initiative. Ongoing CTF participation for the CCC system effectively lowers the ongoing cost and diversifies the revenue portfolio for this Governor-initiated endeavor.

Hosting needed for an expansion of MOOCs is not anticipated to face any obstacles to qualifying for CTF program discounts.

SAFETY IMPACT

The safety of Californians is not expected to change with AB 1100.

RELIABILITY IMPACT

Service reliability is not expected to change with AB 1100.

RATEPAYER IMPACT

If AB 1100 were enacted to prohibit any limitations on CCC discounts, ratepayers could possibly see an increase in the CTF surcharge if the costs of the program increase due

to the prohibition on a cap. However, to date the current CCC cap has not prohibited participation of any CCC applicant and it is unknown if elimination of the cap would increase CCC requests for funding.

FISCAL IMPACT

The bill would not result in the need for additional staff, as modifications to the program could be made in the context of the Commission's open CTF Order Instituting Rulemaking (OIR), Rulemaking 13-01-010, which is intended to conduct a comprehensive examination of the CTF.

ECONOMIC IMPACT

The current the CCC cap has not prohibited participation of any CCC applicant; removing the cap should not have a differential impact on the economy.

LEGAL IMPACT

Since the CPUC's D.08-06-020 establishes an annual funding limit for CCCs, this decision would need to be modified if the bill passes.

LEGISLATIVE HISTORY

Not known.

PROGRAM BACKGROUND

The California Teleconnect Fund (CTF) subsidizes a 50% discount on specific communications and internet services for eligible schools, libraries, government and hospital district-owned healthcare facilities, community colleges, the California Telehealth Network, and community nonprofit organizations. The subsidy is funded through a surcharge on telephone customers' bills, currently set at 0.59% of intrastate telephone charges.

The CTF is one of the Commission's universal service public purpose programs. There are currently more than 7,000 participating entities, including more than 5,000 community organizations. Program expenditures are projected at approximately \$92.4 million for fiscal year 2013-14, representing more than 16% of the Commission's universal service budget.

AB 3643

Even before the U.S. Congress passed the landmark Telecommunications Act of 1996, the California legislature recognized that the cornerstone of state and federal telecommunications policy is affordable, ubiquitously available universal telephone service. Assembly Bill 3643 (1994 Cal Stats. ch.278), enacted in 1994, called for the Commission to open a proceeding to examine the definition of universal service,

declaring that, "Advanced telecommunications services should be made available as ubiquitously and economically as possible to California's citizens, institutions, and businesses."

D. 96-10-066

The Commission opened a proceeding (R.95-01-020 and I.95-01-021) in January 1995 and issued new universal service rules in light of the opening of monopoly markets to competition. (D.95-07-050.) In response to the federal Telecommunications Act of 1996, which intended to promote competition and reduce telecommunications regulation, and the principles expressed in AB 3643, the Commission later issued D.96-10-066 finalizing the new universal service rules. That decision created a discount program for qualifying schools, libraries, hospitals, health clinics, and community based organizations through a California Teleconnect Fund (CTF), required end users of telecommunications services to contribute to the fund through a surcharge, and required all telecommunications carriers to collect the surcharge.

Cal.Pub.Util Code § 270

In 1999, the legislature adopted the program in statute "to compensate telephone corporations for their costs of providing universal service" (Cal.Pub.Util. Code § 270), and in 2003 the legislature created the Digital Divide Grant Fund within the CTF for pilot projects (Ca.Pub.Util Code § 280.5), although that fund has not been implemented. In addition, the Digital Infrastructure and Competition Act of 2006, provides that organizations in underserved areas that qualify for the CTF may receive services without charge from state video franchise holders. (Cal.Pub.Util Code § 5890.)

D. 08-06-020

In 2006, the Commission opened Rulemaking 06-05-028 to review the telecommunications public policy programs. This resulted in D. 08-06-020, which expanded the category of eligible schools to include community colleges, while capping the annual total amount for community colleges; added internet services to the types of eligible services; allowed certificated and registered carriers to offer internet service without those services being subject to state regulation; and made 2-1-1 Information and Referral Service providers and California Telehealth Network participants categorically eligible.

OTHER STATES' INFORMATION

None.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

This bill should be opposed unless amended for the following reason(s):

There is no need to remove the CCC cap because:

- a. it has not restricted participation of California community colleges in the CTF program,

- b. the CPUC has the discretion to increase the annual funding cap if the present cap level is deemed inadequate,
- c. eliminating the cap would reduce CPUC's flexibility in addressing CTF program budget issues.

SUMMARY OF SUGGESTED AMENDMENTS

Should the bill remain active, this bill should be amended in the following way(s):

On page 4, line 6, after the period, add:

"However, in the event of that a reduction to the total CTF budget is necessary, the Commission may reduce CTF discounts to California Community Colleges."

This amendment would provide the CPUC adequate flexibility to address any CTF program budget issues (e.g. shortfalls, cutbacks) should the Legislature prohibit imposition of an annual limit on community college discounts.

STATUS

AB 1100 is pending hearing in the Assembly Utilities and Commerce Committee on April 8th, 2013.

SUPPORT/OPPOSITION

None on file.

VOTES

Not applicable.

STAFF CONTACTS

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ATTACHMENT 1

California Community College CTF Cap

	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Claims	2,477,129	6,062,748	9,002,025	9,087,131	1,934,022
Cap	4,462,000	7,874,000	10,393,000	10,599,000	10,865,000
Available	1,984,871	1,811,252	1,390,975	1,511,869	8,930,978
Percent Used	56%	77%	87%	86%	18%

BILL LANGUAGE

BILL NUMBER: AB 1100 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Levine

FEBRUARY 22, 2013

An act to amend Section 280 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1100, as introduced, Levine. Telecommunications: California Teleconnect Fund Administrative Committee Fund.

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications service. The act authorizes states to adopt regulations not inconsistent with Federal Communications Commission rules to preserve and advance universal service. The act requires that every telecommunications carrier that provides intrastate telecommunications services contribute, on an equitable and nondiscriminatory basis, in a manner determined by the state, to the preservation and advancement of universal service in that state. The act authorizes each state to adopt regulations to provide for additional definitions and standards to preserve and advance universal service within the state, only to the extent that they adopt additional specific, predictable, and sufficient mechanisms that do not rely on or burden federal universal service support mechanisms.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to fix just and reasonable rates and charges for public utilities. Existing law requires that the commission develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools, community colleges, libraries, hospitals, health clinics, and community organizations (teleconnect program). Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury and requires the moneys in the fund, upon appropriation, be expended only for the teleconnect program. A commission decision establishes an annual limit on the reimbursement provided to the California Community Colleges as part of the teleconnect program.

This bill would prohibit an annual limit for the reimbursement

provided to the California Community Colleges as part of the teleconnect program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 280 of the Public Utilities Code is amended to read:

280. (a) The commission shall develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools maintaining kindergarten or any of grades 1 to 12, inclusive, community colleges, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994.

(b) There is hereby created the California Teleconnect Fund Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools maintaining kindergarten or any of grades 1 to 12, inclusive, community colleges, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994, and to carry out the program pursuant to the commission's direction, control, and approval.

(c) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund.

(d) Moneys appropriated from the California Teleconnect Fund Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(e) Moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are subject to Section 16320 of the Government Code. If the commission determines a need for moneys in the California Teleconnect Fund Administrative Committee Fund, the commission shall notify the Director of Finance of the need, as specified in Section 16320 of the Government Code. The commission may not increase the rates authorized by the commission to fund the program specified in subdivision (b) while moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are outstanding unless both of the following conditions are satisfied:

(1) The Director of Finance, after making a determination pursuant to subdivision (b) of Section 16320 of the Government Code, does not order repayment of all or a portion of any loan from the California Teleconnect Fund Administrative Committee Fund within 30 days of notification by the commission of the need for the moneys.

(2) The commission notifies the Director of Finance and the

Chairperson of the Joint Legislative Budget Committee in writing that it intends to increase the rates authorized by the commission to fund the program specified in subdivision (a). The notification required pursuant to this paragraph shall be made 30 days in advance of the intended rate increase.

(f) Subdivision (e) shall become inoperative upon full repayment or discharge of all moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003.

(g) The reimbursement for the California Community Colleges shall not have an annual limit, as established pursuant to commission Decision 08-06-020.