

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Lifeline Rulemaking)
Docket) Docket No. 14-999-06
)
) COMMENTS OF
) I-WIRELESS, LLC
)

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i-wireless is a North Carolina Limited Liability Company with its principal office located at 1 Levee Way, Suite 3104, Newport, Kentucky 41071. i-wireless is a provider of commercial mobile radio service (“CMRS”) throughout the United States and provides prepaid wireless telecommunications services to consumers by using the Sprint Spectrum, L.P. (“Sprint”) network on a wholesale basis. i-wireless obtains from Sprint the network infrastructure and wireless transmission facilities to allow the Company to operate as a Mobile Virtual Network Operator (“MVNO”). i-wireless has been designated as an ETC by state public utility commissions in Arkansas, Arizona, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, Ohio, South Carolina, Texas, Utah, Washington, West Virginia, and Wisconsin, and by the FCC for the states of Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia. i-wireless currently operates as an ETC and has Lifeline customers in Utah.

i-wireless’ prepaid wireless services are affordable, easy-to-use, and attractive to budget conscious and low-income consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. i-wireless offers consumers a variety of simple and affordable prepaid calling plans, easy-to-use handsets, and high-quality customer service. i-wireless does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service. By providing affordable wireless plans and quality customer service to consumers who were otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless has expanded the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

III. COMMENTS OF I-WIRELESS

i-wireless hereby respectfully provides these comments on the portions of the Proposed Rules, and related Interim Compliance Processes,¹ which are currently problematic. i-wireless is a federal, Lifeline-only wireless ETC, and any reference to “ETC” below is in relation to federal ETCs and not state ETCs.

A. Problems with Eligibility Verification Processes

Initial Eligibility Verification. The Proposed Rules (R746-341-5(B)(1)) permit and require the ETC to perform initial eligibility verification functions, and i-wireless is fully equipped and has the experience necessary to do so. However, the Proposed Rules (R746-341-5(B)(5)) would require that ETCs submit newly-enrolled customers to the Department of Public Utilities (“DPU”) monthly for purposes of eligibility verification using the Department of Workforce Services (“DWS”) database. Because there is no process for an ETC to verify applicant eligibility through the DWS database in real-time, there may be up to a thirty (30) day delay between when i-wireless determines a customer is eligible and when the DPU is able to confirm (or deny) eligibility. This delay is problematic and confusing to consumers. If customers fail the DWS eligibility check, they may receive a notice of ineligibility days, weeks, or potentially even a month after having been approved by i-wireless. Other states that require validation against a state database offer the ability to access the data and perform validation in *real-time*; these states include Illinois, New York, Texas, Washington and Wisconsin. By offering a means to verify program eligibility *at the time* of application and before enrollment, the consumer is fully approved. Real-time program

¹ The Notice of Interim Compliance Processes issued December 20, 2013 in Docket No. 10-2528-01 (“Interim Notice”) set forth the interim procedures deemed necessary for compliance with federal requirements related to the Lifeline program, including administration of eligibility verification (the “Interim Compliance Processes”).

validation thus eliminates any confusion to the end consumer regarding approval to participate in this federal program. Based upon informal discussions with the Federal Communications Commission (“FCC”), it is i-wireless’ understanding that the FCC’s desire is that there be one approval process, so that once a Lifeline benefit is awarded it will not be overturned days or months later. i-wireless strongly urges the Commission to wait to implement any interim or ultimate compliance processes until it has developed a *real-time* automated solution.

B. Problems with De-Enrollment Processes

R746-341-4(D)(a). The Proposed Rules would require the “responsible agency” to send a notice to an ETC’s participants that are determined to be no longer eligible. The language of the Proposed Rules does not limit the de-enrollment process to situations where the participant is determined to be ineligible by the DWS eligibility verification process, although presumably that is its intent. Still, because the language is not well-defined, it is unclear whether or not the responsible agency would also be responsible to manage the notification and de-enrollment process in cases where a participant may be ineligible for other reasons, such as for non-usage pursuant to 47 C.F.R. § 54.405(e).

Moreover, there is no documentation set forth for how soon after the DWS eligibility verification process a notice of ineligibility would be sent – would the ETC be given a certain amount of time to communicate with the responsible agency and potentially dispute the determination? For instance, a participant may be found ineligible through the DWS database check, but indeed be eligible based on income, as income-based eligibility is not monitored by the DWS database and must be verified by the ETC. How and within what period of time would the ETC be able to notify the responsible agency of such a situation in order to avoid a notice of ineligibility being sent to such a participant? Another potential issue could be a determination of

ineligibility due to missing or incorrect data in the ETC's file submission. It is problematic that the file returned to the ETC once processed by DWS (the "Response File") does not provide a reason for determination of ineligibility. According to the Interim Compliance Processes, if any data is missing or contains an error, the participant will be returned as "not eligible." This indicates that an eligible participant may be de-enrolled simply because their data file contained an error (example: 5-digit zip code is on file but a zip+4 is required), even though a valid application may be on file. Would the ETC be given time to review the Response File and dispute such determinations prior to a notice of ineligibility being sent by the responsible agency? Furthermore, ETCs would need to be made aware of the responsible agency's exceptions process in the event a customer wants to take exception with a finding of ineligibility. While the Proposed Rules contemplate that the participant would be working directly with the responsible agency to refute their notice of ineligibility, it is very likely that customers will contact their ETC upon receiving such notice. At the very least, i-wireless would need to be aware of the exceptions process and how to refer customers back to the responsible agency.

To avoid customer confusion and ineligibility notices sent in error, i-wireless asserts that it should be the responsibility of the ETC, not the responsible agency, to communicate with its customers regarding determinations of ineligibility. Because federal ETCs are responsible for the initial application process, the ETC is the party with an established relationship with the participant and is therefore more likely to communicate successfully with them. The Universal Service Administrative Company (USAC) has found through its IDV (In Depth Data Validation) processes that customers do in fact respond better to the ETC than to an outside party. This is in large part because the ETC is able to communicate with its customers via text message and/or phone, which

is extremely important for Lifeline customers who, in many cases, are transient and often do not respond to mail.

R746-341-4(D)(b). The Proposed Rules do not clarify how or to what party a participant determined to be ineligible must demonstrate their continued eligibility. As mentioned above, for federal ETCs, it is the ETC (not the responsible agency) that initiates and maintains a relationship with its customers, and therefore the ETC is more likely to have success in communicating with and obtaining any necessary subsequent proof documentation from its customers.

R746-341-4(D)(c). The Proposed Rules allow applicants that have previously been determined as ineligible to reapply for Lifeline service only through the responsible agency, and not through an ETC's initial verification processes. How will the ETC identify and prevent such customers from applying through its initial verification processes? Is the ETC to retain customer information after de-enrollment, including sensitive information such as full social security number and date of birth, in order to create a database of customers that would no longer be allowed to apply for Lifeline service through the ETC? i-wireless would not retain this information for any other reason, and retention could pose security concerns. Once i-wireless is aware of how it is supposed to identify these applicants in the first place, how then should i-wireless direct these customers to the responsible agency in the event they try to reapply through i-wireless? Guidance is needed so that an ETC can identify which applicants have been identified by the State as ineligible, and how to refer such applicants to the State for reapplication if and when necessary.

C. Problems with Benefit Transfer Processes

The Proposed Rules (R746-341-4(E) and R746-341-5(B)(8)) detail the process required when a participant desires to switch between ETCs (the "Benefit Transfer Process"). However,

the National Lifeline Accountability Database (“NLAD”) already has a well-defined Benefit Transfer Process, including rules for the length of time the consumer must stay with the existing ETC as well as the process the ETC must follow for enrolling/de-enrolling the subscriber.² How does the Commission envision the proposed Benefit Transfer Process to work in conjunction with the existing NLAD process? They are currently discordant. The NLAD process operates in real-time. The Utah process described in the Proposed Rules attempts to perform the same functionality, but without real-time access to the state database. As a result, the end consumer is provided with a benefit transfer solution that is sub-par to the NLAD standard. The ETC must complete the Benefit Transfer Process in the NLAD, then notify the responsible agency of the change, then the responsible agency will confirm the benefit transfer with the customer and advise the ETCs when the change can take place. This process is burdensome to the consumer and the ETC. The difficulties in aligning the proposed Benefit Transfer Process with the existing NLAD process further demonstrates why the Commission should wait to implement any interim or ultimate compliance processes until it has developed a real-time, automated solution.

D. Problems with Data Transmission Processes

Lack of Documentation. The Proposed Rules provide direction on the type of data that the ETC must provide the responsible agency and the frequency it is to be provided, and the Interim Compliance Processes detail the data that must be transmitted. Yet there is no official documentation that outlines the actual processes required for transmission of the data between the ETC and the state, nor is there documentation of how the ETC can and should communicate back and forth with the responsible agency regarding eligibility determinations. Official process documentation is important so that, among other benefits, (1) dissemination of information is the

² See <http://www.usac.org/li/tools/nlad/default.aspx>.

same across all ETCs; (2) both the ETC and the state have an official, objective reference point for what exactly is required of each party; and (3) there is an official reference point to explain why the State or ETC has operated as it has, especially in case of an audit.

The current lack of process documentation is especially confusing as it relates to treatment of income eligibility, or eligibility based on programs that may not be covered under the DWS database (i.e. National School Lunch (NSL), which i-wireless understands may be ‘hit or miss’). For example, the Interim Compliance Processes do not address the issue of income eligibility or the fact that the DWS database cannot verify eligibility solely based on income. Based on the Proposed Rules and Interim Compliance Processes, it would appear that an ETC is required to include in its submission to the responsible agency its customers who qualify based on income. However, because the DWS database does not house customers that qualify solely based on income, these customers will be returned to the ETC as “not eligible” unless they exist in the DWS database under a separate qualifying program. Therefore, according to the Proposed Rules and Interim Compliance Processes, these customers would be notified of their ineligibility and be given thirty (30) days to prove their eligibility (which they would have already done with the ETC, potentially less than a month earlier) or be de-enrolled from the Lifeline program. It is i-wireless’ understanding from informal discussions with DPU that the ETC can take the Response File, review those that are marked as “not eligible,” identify those that qualified based on income criteria, and note in the file their respective enrollment date (Note: this would require two additional data fields that are not currently discussed in the Proposed Rules or Interim Compliance Processes). These customers would then be considered eligible based on their initial proof of income eligibility and would only require annual recertification (which the ETC would initiate) within twelve (12) months from that date. It is yet unclear whether or not (or how or when) i-

wireless would need to communicate this additional income-based eligibility information back to the responsible agency – presumably this would be necessary in order to reverse the de-enrollment track for such customers. This is a detailed process that is not outlined anywhere, outside of informal discussions with DPU staff. Furthermore, it was i-wireless’ understanding from discussions with DPU that the ETC itself would be able to handle the notice to its customers if they are determined by the DWS eligibility check to be ineligible; however, the Proposed Rules (R746-341-4(D)) indicate that the responsible agency will be the party required to send the notice of ineligibility. This discrepancy and the problems associated with the de-enrollment process are discussed in section B above.

Security Risks. The Proposed Rules do not address the security risks that are inherent in the Interim Compliance Processes. Currently, the Interim Compliance Processes do not allow for secured data transmissions between the state and the ETC. Through informal discussions with DPU staff, i-wireless understands that it will be required to transmit data via an encrypted file (password-protected excel file) to the responsible agency either via email or by mail on a CD-ROM, and subsequently submit the encryption key (password) via email. It is i-wireless’ understanding that an encrypted Response File will be returned via email to the person who sent the original file, and the encryption key will be sent to the same person in a separate, delayed email. i-wireless has serious concerns about the encryption process the state is recommending for treatment of critical information like full social security number and date of birth. As is, the Interim Compliance Processes rely on the use of encrypted excel files delivered via open internet protocols. Additionally, the process requests the encryption password be delivered using the same unsecured measures, allowing potential intercept of the data and creating high risk for fraud. This process is not secure and puts the citizens of Utah at risk for identity theft as a result of sending

full social security numbers and dates of birth over the internet. The security risks would be lowered by using only mail to transmit the encrypted excel files back and forth, but such treatment would not be cost or time-effective and would be burdensome on the ETC and the responsible agency; and still, it would not comply with current, publically-adopted security protocol standards. It is important to note that all other states that require use of their eligibility databases allow for secure transfer of sensitive customer information using secure internet or file transfer protocols. Thus, with other state databases the potential for fraud is much, much lower. Securing individual consumers' private, confidential data is paramount, and the current data transmission process does not treat this information with the level of sensitivity that is necessary. Would the ETC be able to request indemnification from the state if identity theft occurs to any of its customers as a result of these data transmission processes?

We do not believe the state's processes are compliant with identity theft guidelines as outlined by the federal government. i-wireless strongly suggests that the Proposed Rules, Interim Compliance Processes, and any ultimate compliance processes require data transmission be governed by adequate security protocols, such as transmission through Secure File Transfer Protocol (SFTP), a network protocol that provides secure file access, file transfer, and file management functionalities. In the very least, Utah's processes would need to mirror the standard security processes used by the NLAD. The secure data transfer processes outlined for the NLAD are available by viewing documentation on USAC's website, via the "NLAD Connectivity Workshop II"³ which demonstrated how to upload/download files to a secure website or how to use an API (application programming interface) protocol. The current security risks discussed

³ See <http://www.usac.org/li/about/outreach/online-learning.aspx>, "NLAD Connectivity Workshop II." Pages 68-88 of the respective slides highlight the NLAD access portal as well as the website batch process and API connectivity.

pose yet another example of why the State should wait to implement any interim or ultimate compliance processes until it has developed a real-time, automated solution with well-documented processes that allows for data transmission over a secure web or API interface.

IV. CONCLUSION

i-wireless respectfully requests that the Commission consider the issues raised herein and modify the Proposed Rules and related Interim Compliance Processes accordingly before undergoing the formal rulemaking process. i-wireless further urges the Commission to wait to implement any interim or ultimate compliance processes until it has developed (1) a real-time, automated solution (2) with well-documented processes (3) that allows for data transmission over a secure web or API interface.

Respectfully submitted,

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