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To: Utah Public Service Commission  
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Subject: Office of Consumer Service's Proposals, Docket No. 10-2528-01  
In the Matter of the Resolution of Certain Issues Related to the Designation  
of a Common Carrier as an Eligible Telecommunications Carrier

## Background

In the past year, several wireless carriers have requested ETC status for the purpose of providing Lifeline service. While these requests have the potential to greatly expand the service offerings to low-income customers, they also raise new issues associated with the provision of Lifeline services. On December 2, 2010, the Utah Public Service Commission (Commission) gave notice that it would commence adjudicative proceedings to resolve issues surrounding the designation of a common carrier as an Eligible Telecommunications Carrier (ETC). Subsequently, the Division of Public Utilities (Division) and the Office of Consumer Services (Office) submitted additional issues for consideration. On March 14, 2011, the Commission issued a Supplement to Notice of Agency Action to incorporate these additional topics. On April 14, 2011, the Commission held a scheduling conference to determine a schedule for future action on these topics. The Commission requested the filing of initial proposals and recommendations by noon on April 26, 2011.

The Office presents its proposals in this memo. Rather than addressing each individual issue in the order identified by the Commission, the Office groups its recommendations under the general topics of: initial certification, annual verification, calculation and recovery of costs, fraud prevention, and communication and outreach. At the end of the memo, the Office provides a preliminary list of rule changes and additions that would be necessary to implement the proposal as well as a summary of its recommendations.

## Introduction

First, the Office would like to note that the short time frame currently scheduled in this docket may result in narrowing the potential solutions that can be examined. For example, many states are farther ahead in considering these types of policies and in working with wireless ETC Lifeline providers and the unique issues raised by these new market entrants. It could be useful to review what other states have done and look for best practices to adopt. It isn't clear that the current timeline would accommodate that type of evaluation.

The Office also recommends that the Commission consider the interaction of these policies with the March 4, 2011 FCC NPRM (FCC 11-32, Lifeline and Link Up Reform and Modernization et al., hereafter referred to as the FCC NPRM), but such consideration should not delay implementation of new policies and rules necessary to protect the public interest in Utah. Just as the FCC envisioned potential interim rules as it considered the full range of policy impacts, Utah could implement rules to be in place until such time as the FCC makes a final decision. Experience has shown us that FCC proceedings can be protracted.

It is clear that the Office's proposal will require that the Commission amend some existing rules and promulgate new rules. To the extent possible, this memo will identify necessary changes. These details will need additional examination.

Finally, the Office recommends that whatever policies and rules are established as an outcome of this docket should generally apply to all ETC Lifeline providers; wireline and pre- and post-paid wireless. Some requirements may be technology specific or apply only to certain business models. However, in order to prevent discriminatory treatment, to the extent practicable all policies should apply equally to all providers.

## Initial Certification

With respect to the initial certification of eligibility of applicants seeking Lifeline service, the Office proposes the following:

- Continue to contract with the Department of Community and Culture (DCC) (or any successor organization charged with administering energy assistance programs) to verify the eligibility of applicants who request Lifeline service in conjunction with energy assistance. However, this contract must incorporate reporting requirements that are adopted as a result of this and other proceedings.
- Otherwise, the Office recommends that the Commission continue to allow self-certification of applicants. Importantly, the Office recommends that self-certification must incorporate a requirement for documentation both for income-based eligibility (already required) and program-based eligibility. This new requirement would serve as an important preventative measure against fraudulent participation by

customers who try to participate without a clear understanding of the requirements or by customers who specifically pursue inappropriate participation.

*Issues for Further Consideration:*

- *The requirement for documentation of all self-certification must be accompanied with a documentation retention policy and safeguards to properly protect the privacy of Lifeline applicants.*
- *Further consideration needs to be given to determine more precisely what documentation would be required or allowed. The goal should be to achieve greater fraud prevention without creating undue burden for applicants.*
- *Do existing Utah Lifeline providers (ILECs) have the appropriate expertise to take over the certification of standalone Lifeline applications that are currently handled by the DCC? This requirement that standalone applications be accomplished through self-certification on an individual company basis appears to be the only way to maintain consistent treatment of providers. However, we must also consider whether we raise the overall costs of the program by losing economies of scale.*

The Office specifically notes its desire to continue the existing level of coordination between Lifeline and energy assistance benefits. Further, the Office supports additional coordination of benefits, possibly leading toward the creation of a “one-stop shop” for services to assist low-income customers. Such efforts are clearly beyond the scope of this docket. Nonetheless, the Office recommends that if additional coordination is achieved, the Commission should work quickly toward any necessary revision of rules and policies to facilitate the inclusion of Lifeline in such efforts.

## **Annual Verification**

With respect to the annual verification of eligibility, the Office recommends the following:

- Customers that enroll in conjunction with energy assistance programs are essentially being re-certified each year since that is the requirement associated with the energy assistance programs. This piece of verification could continue under current practices.
- The wireless ETC applicants have all suggested following the sampling methodology allowed by the FCC for verifying eligibility. The Office recommends that the FCC sampling method for annual verification be followed by all Lifeline providers. Current Commission rules allow, but do not require, this methodology. The Office notes that annual verification is a significant issue being addressed in the FCC NPRM. The Commission could incorporate a reference to FCC rules as establishing a minimum requirement for annual verification, or alternatively could wait until the FCC has established its new policies and make subsequent changes to Commission rules at that time.

- Currently, the rules require the “responsible agency” to take certain actions if customers are found to be ineligible for Lifeline service. The Office encourages the Commission to consider requiring the providers to take the actions with respect to ineligible Lifeline recipients now required in the rules and report them to the Commission.

*Issues for Further Consideration:*

- *As identified above, if annual verification is shifted to current Utah Lifeline providers, will they have appropriate expertise and do we raise overall costs by losing economies of scale.*

### **Calculation and Recovery of Costs**

The Office does not believe the Commission’s Order on reconsideration in the TracFone case (Docket No. 09-2511-01, order dated March 9, 2011) adequately defines the obligations of an ETC to pay into the state USF. The Office believes this is an issue larger than the scope of this proceeding, or at a minimum, should be addressed in a separate technical conference. The Office has no proposal on the topic at this time.

With respect to the general method of calculation and recovery of any costs (both of initially certifying Lifeline customers as well as the annual verification) the Office’s proposal shifts the majority of the burden to the individual carriers. This proposal does not require the calculation of an outside entity to perform the work, except to the extent that a small portion would remain within the contract with the DCC.

However, the Office has also identified as an outstanding issue whether its proposal may inadvertently raise overall costs due to the loss of economies of scale. According to the current rules, each carrier is able to recover the administrative costs of running the Lifeline program. The Office’s proposal shifts administrative tasks to the carriers, which requires Commission determination for precisely what costs receive recovery and by what mechanism. Since this proposal raises new issues and has the potential to raise overall costs, the Office recommends that costs of certification and verification be the topic of a separate technical conference.

### **Fraud Prevention**

The Office considers the issue of preventing customers from receiving duplicate service from multiple providers to be of utmost importance. To the extent possible, efforts should be focused on prevention as opposed to remedies after offenses have occurred. The FCC has discussed the possibility of developing a national database such that providers can instantly check whether potential new customers are already receiving Lifeline service from another provider. However, commenters have already raised concerns about whether such a database is a preferred option. Regardless of whether this proposal is pursued, it would not be available in the near term. Thus, the Office proposes

that Utah implement a procedure to check for multiple Lifeline services as soon as practicable. The Office recommends that a simple database be developed by the Commission or its agent. To utilize the database, each Lifeline provider should be required to submit a list of all of its Utah Lifeline customers quarterly. The customer data should be required to be submitted in a specific format, which should facilitate a quick and easy check for duplicate services.

The Office has raised the issue of non-usage in individual ETC proceedings. The Office recommends that the requirement for deactivation after 60 days of non-usage also be incorporate in Commission rules.

The Commission also inquired about the prevention of slamming. First, the Office believes that its proposal to require documentation as part of the certification of eligibility will go a long way toward preventing providers from unauthorized changes of Lifeline carriers. Also, the Office notes that Utah Statutes 54-8B-18 addressing unauthorized change of telecommunications providers will presumably apply equally to Lifeline providers. The Commission may want to establish additional rules to fully address the issues.

*Issue for Further Consideration:*

- *What actions should be taken when instances are discovered of customers taking Lifeline services from multiple providers? For example, should a provider or agency contact the customer and require them to choose just one? Should the customer be immediately discontinued from the Lifeline program? Should the customer be required to repay costs either to a provider or to a fund?*

## **Communication and Outreach**

The Office is concerned that customers have access to accurate information about service offerings and program requirements from all Lifeline providers. The Office advocated these positions in the individual ETC proceedings, and to a varying extent the providers agreed to the Office's recommendations. However, in order to ensure consistent requirements, the Office recommends that the Commission incorporate the following conditions when it promulgates new rules:

- Providers must provide customers with access to its service offerings without first requiring that potential customers give specific personal information
- Providers must provide a Utah-specific fact sheet to its Lifeline customers
- Service offerings should include a description of the Lifeline program in general, such as the following descriptions included on the lifeline.gov website or the USAC website:

[http://www.lifeline.gov/lifeline\\_Consumers.html](http://www.lifeline.gov/lifeline_Consumers.html)

<http://www.lifelinesupport.org/li/low-income/lifelinesupport/browser/>

Also, the Commission should maintain a list of all approved Lifeline providers. This will assist both customers and agencies and non-profits who are engaged in Lifeline outreach and who work on behalf of low-income clients. The Commission is the best repository for such a list. It would best serve the public interest to have a central location for this information to ensure that it is accurate and up-to-date. Customers, other agencies and non-profits could then reference and link to this list on their websites. This list does not necessarily need to contain all the service offering information; rather, it should contain each company authorized to provide Lifeline service, contact information for these companies to facilitate customer research, and a general description of the purpose and requirements of Lifeline service.

The Office identified the issue of Lifeline outreach and requested that it be included in this docket's examination of Lifeline issues. The Office notes that current efforts have not resulted in a significant level of Lifeline penetration among those qualifying for service. Thus, the Office recommends that additional efforts must be undertaken and recommends that the following specific ideas receive consideration:

- Continue a contract with the Department of Community and Culture, or a successor agency as described before, for Lifeline outreach in conjunction with energy assistance administration.
- Examine whether the outreach model utilized for the Relay Utah program should also be pursued for Lifeline. The Relay Utah program is also administered by the Commission and appears to incorporate much greater outreach, including television commercials.
- Participate in larger Lifeline awareness efforts including, but not limited to, the Lifeline Awareness Week and public service announcements about Lifeline.
- Seek opportunities to partner with other agencies and non-profit organizations that serve low income individuals. These efforts could assist in coordination of different available services.

The Office suggests that the above outreach methods may prove more successful than the Company-specific promotional activities. However, some companies may prefer to continue advertising for specific Lifeline programs. The Office is concerned that current rules allow companies to include advertising in its administrative costs that are allowed cost recovery. Neither public funds, such as the state USF, nor regulated rates should include costs associated with brand marketing. Already, the Office has observed advertisements in this state for some Lifeline providers that are absolutely brand specific and do not provide basic program requirements to identify that the program is subsidized by ratepayer funds. Therefore, the Office proposes that cost recovery for advertisements be limited to contributions toward general information about Lifeline and specifically not include any costs associated with Company-specific programs.

## **Rulemaking**

The Office has identified the following rules that would need updating to accomplish its proposal:

- Requirements associated with self-certification of eligibility
- Changes to the requirements for annual verification
- Cost recovery for Lifeline advertising

In addition, the Office recommends that the following topics be addressed in new rules:

- Document retention and privacy protection associated with the new requirements for self-certification.
- New reporting requirements for Lifeline providers to provide data to be utilized in a database that checks against multiple Lifeline services to the same customer.
- Requirements for Lifeline providers to ensure accurate and convenient customer access to program requirements and service offerings.

This list is preliminary and will require additional examination.

## **Conclusion**

The Office has addressed all of the issues identified by the Commission in its Amended Notice of Agency Action.

The Office's proposal and recommendations include:

- Changes to the rules and processes for initial certification of eligibility
- Minor changes to the rules and processes governing annual verification
- The obligation of pre-paid wireless to pay into the state USF
- Technical conferences to examine specifically what costs are allowed recovery and whether the Office's proposal to shift administrative tasks to carriers is cost effective
- Initiate fraud prevention measures into Commission rules including a new database to check for duplicate service to the same household and a 60-day deactivation policy
- Requirements for communication with customers
- Changes to and increases in outreach activities
- Changes to cost recovery of advertising

The Office also identifies a preliminary list of issues or questions raised by the Office's proposal that require additional consideration.

To implement the Office's proposal, the following actions would be required:

- Certain changes to existing Commission rules
- New rules addressing additional topics
- The development of a simple database to check for multiple Lifeline services to the same household
- New efforts and agreements to accomplish Lifeline outreach
- A centralized list of approved Lifeline provider to be maintained by the Commission

As a final note, the Office has suggested two specific issues that should be dealt with in separate technical conferences. The Office recommends that the Commission determine which of these issues would benefit from a group discussion and cooperative efforts and schedule the appropriate number of technical conferences. The Office suggests that the public interest would not be well served by attempting to rush through issues in a limited number of technical conferences. Also, the Office does not believe that every issue requires a technical conference; issues for which parties will simply restate opposing positions would be best treated in testimony and not technical conferences.