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Division of Public Utilities

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--- MEMORANDUM ---

TO: Utah Public Service Commission

FROM: Division of Public Utilities
Chris Parker, Director
William Duncan, Manager, Telecommunication & Water Section
Shauna Benvegnu-Springer, Utility Analyst
Casey Coleman, Technical Consultant

SUBJECT: In the Matter of the Resolution of certain issues related to the designation of a common carrier as an Eligible Telecommunications Carrier

RE: Docket No 10-2528-01

DATE: April 26, 2011

In response to the interim scheduling order issued April 14, 2011, the Division of Public Utilities (Division) submits the following comments:

“RECREATING THE WHEEL”:

As a requirement to proceeding, it would be in the best interest of the State of Utah to research other state lifeline programs who have granted ETC status to wireless providers to determine best practices to use in the implementation. Due to the short timeline of this docket, resources have not been available to conduct this type of research. In order to avoid costly mistakes and learn from others, the Division recommends a discovery period be allowed to complete the necessary research.

VERIFICATION PROCESS (R746-341-4.B):

Prior to the current process, telephone carriers administered the process and billed the Commission for the related costs to the Lifeline program. The telephone carriers found the process to be ineffective, redundant, and costly to the providers and they desired a better process. As such, the process was centralized to a responsible agency, which provided a more effective process where the information was at the fingertips of the responsible agency, provided privacy for the customers, particularly in rural areas dealing with their local provider, and pooled the administrative costs to one central responsible entity.

While the existing process has worked well, it is the Divisions understanding that the Department of Community and Culture (DCC) has determined it cannot handle the increased workload that pre-paid wireless providers will generate under the current contract. Therefore, the Commission needs to re-negotiate the current contract with DCC to include the wireless component, or find another appropriate state agency that is willing to and capable of performing the functions needed for the wireless providers, or a combination of both. The Division believes additional resources will be required. ETC wireless carriers should pay for the cost of their initial and continuing verification costs by paying into the USF. The Division recommends the Commission issue a request or investigation to other state agencies, which have access to public assistance participants, to determine if there is interest in providing these functions.

Of particular interest to the Division is the capability of the Department of Workforce Services (DWS). During the last year, the Division and others met with DWS, and believes that DWS has access to a large portion of the data for verification. It also has the technical capability to process a large quantity of verifications instantaneously with a highly automated process. The Division believes the Commission should approach and investigate DWS to determine their interest in assisting in the role as the responsible state agency or coordinate with DCC and the Division the eligibility process.

The drawback to utilizing DWS is that it does not have in its current databases, all of the programs that would qualify an individual for Lifeline eligibility. Specifically, DWS does not have income based eligibility data available nor HEAT program participants. However, the Division believes that DWS could provide verification for a large percentage of recipients. To resolve the issue of the remaining recipients, the Commission could contract with a second agency, perhaps DCC, to review eligibility. Since this could involve a manual process, and depending on the number of verifications needed, this would be completed on the entire population or on a statistically valid sample as currently allowed (R746-341-4.C.1).

DIVISION'S DESIRED PROCESS:

The Division's desired process would allow a participant to apply online through the Division's or responsible agency's website. Then, the participant's information would "ping" against responsible public assistance program files to determine participation. The database/system would provide immediate or 24 hour feedback electronic notification to the participant and the

anticipated provider of eligibility. The system would store the participant's information in a state maintained database of Lifeline participants and mark it as pending if eligible. An electronic notification would be provided back to the website/system from the provider that participation was completed to change the pending status to a provider status. In the interim, the provider could administer self-certification if they wish to begin providing service, with the provider paying into the USF based upon a percentage of estimated income, similar to what wire line providers are currently doing.

COST ALLOCATION AND RECOVERY:

The Utah Universal Service Fund (USF), through a contact with DCC, currently funds cost for verification of eligible recipients. Currently, ETC's pay into this fund through surcharges to their end-user customers. The Division believes that all ETC's should pay into the fund based on the applicable surcharge rate. The surcharge charges or charges need to include initial verification costs, continuing verification costs, outreach and advertising costs (if they remain in the process), state subsidy costs, administrative handling costs, interest on foregone revenue, database maintenance costs and any others to provide service to the Lifeline program. As an alternative, the Commission could allow an ETC that does not request state subsidy to pay a determined percentage of their Utah generated income or an annual per customer fee that would recover the costs associated with initial and annual verification. The determined percentage or cost would be researched and presented during this docket, however it would not be known until the responsible agency is identified and the process is determined. Based on experience, the Division knows that it is a much cleaner process to require each ETC to pay into the state USF. Once the process and responsible entities are identified, the Division will be able to calculate the recovery cost or costs of service for the component parts of the program.

FRAUD PREVENTION AND DOUBLE DIPPING:

The Division believes the issue of fraud prevention and double dipping needs to be addressed by whatever agency performs the verification. Each individual ETC does not know if a customer has applied for service with another ETC. This issue demonstrates the importance of having a single agency as the clearinghouse for all ETC initial and annual verifications with the development of a real time, applicant interactive state database of all state Lifeline participants. It would also help prevent "slamming" if an ETC or individual were required to apply through a state agency rather than the provider directly. Privacy issues for the participants can be addressed and information classified as public can be provided to the ETC providers. The development and maintenance of the database would be funded by the USF. The Division believes this will be a mandatory requirement with a limited one-time cost for the development and nominal costs for maintenance of the system.

FCC LIFELINE/LINKUP NOTICE OF PROPOSED RULEMAKING (NPRM):

The Division believes that it is not in the best interest of the USF or good public policy to delay making the needed modifications to its rules governing the Lifeline Program until the FCC's

Lifeline Reform and Modernization Rulemaking proceeding is concluded. The Division believes changes must be implemented quickly to maintain the integrity of the USF. As the Division has seen, with the Tracfone docket, delays, additional issues, questions, additional research, etc. all can extend the process making the period for a conclusion beyond the near future. Again, this places the USF in jeopardy and does not provide for the prevention of fraud and double dipping along with other consumer problems.

COMMUNICATION AND OUTREACH:

Currently, wire line Lifeline providers are reimbursed for their communication, advertising and outreach efforts. Under the new competitive environment, the Division believes reimbursement from the state USF for these costs should cease as advertising has become specific to the provider services.

Providers must be required to provide accurate information about their service offerings and the program requirements before personal information is required of the customer. A copy of the Commission's Lifeline rules should also be provided to customers prior to enrollment into the program.

The Commission and the Divisions website should incorporate the wireless providers on their lists with possible links to the provider's website of the service offerings and program requirements.

The Commission contracts with DCC for communication, advertising and outreach information. The Division believes this should be reviewed and determined which portion of continuing outreach will be necessary, such as the energy assistance or coordinating with other outreach programs such as Relay Utah, HEAT program, etc.

RULEMAKING:

The Division believes changes must be made to the current rules regarding the Lifeline/Linkup program due the competitive environment and changes in technology. Changes will need to be made to all the areas address above.

CONCLUSION:

The Division believes a committee be established to research, investigate, discuss and recommend a final proposal to the areas addressed.