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To: Utah Public Service Commission  
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Date: May 25, 2011  
Subject: Office of Consumer Service's Responsive Comments  
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 providers have filed applications to become an Eligible Telecommunications Carrier (ETC) for the sole purpose of providing Lifeline services. As a result of the first of these proceedings, the Public Service Commission (Commission) opened this docket to further explore certain issues related to this ETC status. The Commission requested that interested parties provide a list of issues and file a notice of appearance by January 3, 2011. Four months later the Commission held a scheduling conference and issued a subsequent Interim Scheduling Order on April 14, 2011 requesting initial proposals and recommendations for resolution to be filed in less than two weeks on April 26, 2011. The Office of Consumer Services (Office) filed comments on that date, as did the Division of Public Utilities (Division), Salt Lake Community Action Program (SLCAP), CenturyLink, and TracFone. The Commission then held a Technical Conference on April 28, 2011 to discuss the proposals. In its May 2, 2011 Amended Interim Scheduling Order the Commission set a deadline of May 12, 2011 for parties to "respond to the filings made Thursday, April 28, 2011" and to comment on the Division's recommendation to establish a committee. The Office, SLCAP, Utah Rural Telecom Association (URTA), CenturyLink, and TracFone filed comments. In the May 2, 2011 Amended Interim Scheduling Order the Commission also established the deadline of May 25, 2011 for all parties to address the following issues:

- The Commission providing outreach regarding the availability of Lifeline services, as opposed to particular ETC's providing that outreach and communication (Similar to what occurs in the Relay Utah program);
- What interim procedures or actions could be implemented quickly to allow newly approved ETCs to commence service in the *short-term* while preserving more *long-term* issues for later resolution in this docket or future proceedings;
- Which issues published in the *Notice of Agency Action* and *Supplement to Notice of Agency Action* are no longer relevant – either in whole or in part;
- Identify issues to be discussed at the June 1, 2011 technical conference.

The Office will present its views on each of those issues within this memo.

### **Lifeline Outreach**

Current Lifeline participation rates demonstrate that current outreach efforts are not adequate in reaching the qualifying population.

The Office asked representatives from both the rural ILECs and CenturyLink about their Lifeline outreach efforts. The responses we received showed that generally the rural ILEC's give notice at least annually in local newspapers and have ads in their phonebooks and on their websites. Additionally, some advertise on their local television stations and put brochures in with the customer bills. CenturyLink also uses two smaller radio stations (KUDD, KZZQ) to run ads, places ads in magazines and includes a message in the new connection welcome letter. Apparently, no targeted direct outreach to potential Lifeline customers is being pursued.

The Office believes that since the Commission is the responsible agency for both Relay Utah and Lifeline, it should oversee some level of outreach for Lifeline perhaps similar to their oversight of the Relay Utah program. However, the Office has not reviewed the costs versus benefits of the advertising program associated with the Relay Utah program. Thus, the Office does not endorse pursuing a similar program; rather the Office recommends that the costs and benefits of advertising be carefully examined. Further, the effectiveness could be maximized by appropriate demographic research, which should be included in any outreach efforts.

While the Office believes that an advertising program should be carefully researched, there are other outreach activities and communications that clearly should be pursued. For example, if a full advertising campaign is found not to be cost effective, then efforts could instead include public service announcements. In addition, the Office recommends at an absolute minimum that the following efforts be led by the Commission:

- On its website, the Commission should keep a current list of Lifeline providers with links to service offerings and phone numbers. Other organizations such as the Division, the Office and organizations with low-income clients could then link to a reliable source of information.

- On its website, the Commission should include a general description of the Lifeline program with links to other sources of unbiased information such as:
  - <http://www.lifeline.gov/>,
  - <http://www.fcc.gov/guides/lifeline-and-link-affordable-telephone-service-income-eligible-consumers>
  - <http://www.lifelinesupport.org/li/low-income/lifelinesupport/browser/>
- The Commission should lead efforts for a media push during Lifeline Awareness Week. These efforts should be a group effort including the advisory group described below as well as Lifeline providers.
- The Commission (in conjunction with the Division and consistent with the current arrangement) should continue on some scale the contractual arrangement with the Department of Community and Culture (DCC) or its successor organizations to assist with outreach to the low-income clients with which it works.

Finally, the Office recommends that a Lifeline Outreach Advisory Group be organized to give input and assist in the implementation of outreach programs. This advisory group could be kicked off with a technical conference to establish parameters and will likely need to meet several times to implement the expanded outreach as envisioned. However, after the new programs are established, the advisory group may only need to meet annually. This annual meeting could be scheduled to coincide with preparations for the annual Lifeline Awareness week. The annual meeting should also be an opportunity to review the effectiveness of existing outreach and identify any changes that are necessary.

### **Interim Procedures and Issues for Later Resolution**

The Commission asked for input regarding interim measures that could be implemented in the short term as well as measures to be examined in the longer term. The Office recommends that certain issues could be completely resolved quickly. The Office also recommends that other measures will require interim, temporary solutions as well as a longer term more permanent solution.

#### *Items for Quick Resolution*

The Office recommends that the following issues should be addressed immediately and could be implemented quickly.

- The implementation of the Lifeline Outreach Advisory Group and other efforts as described above to increase outreach and communications.
- The development of the database to check that each household receives Lifeline service from only one provider. This could be a relatively simple spreadsheet-based database that could be administered easily as long as providers are required to submit data in a uniform format.
- The implementation of new rules on two topics:
  - Data submission for the database described above

- New requirements for advertising that qualifies for reimbursement from the USF<sup>1</sup>.

### *Interim Solutions to Allow New Providers to Commence Service*

Interim solutions are necessary to address the issues of initial certification and ongoing verification of Lifeline qualifications.

TracFone Wireless received a Lifeline-only ETC designation on September 13, 2010. The Commission's order granting TracFone ETC status was stayed pending the determination of an eligibility verification fee. However, on December 1, 2010, the Commission granted TracFone's request for reconsideration and permitted the company to provide Lifeline service immediately. TracFone has since begun SafeLink service in Utah.

Within the proceedings addressing their petitions for ETC status, both Virgin Mobile and i-wireless agreed to the Office's suggestion that, on an interim basis, self certification should be accompanied with a requirement to review documentation of participation in qualifying programs. Since the completion of those dockets, the Office has considered these issues further. First, the Office is sympathetic to the concerns raised by low-income advocates that this documentation may be difficult to obtain. Second, a document retention procedure would need to be established to ensure both efficient operations and that privacy is maintained. Such a procedure would take time to establish. Third, the Office does not advocate that different standards be used for different providers. Thus, the Office suggests that an interim solution for certification and verification must be developed and applied consistently to all providers.

The Office does not have a specific proposal at this time, but understands that other parties will be presenting proposals. Once these proposals have been distributed, the Office suggests that the Commission schedule a technical conference on this limited issue to see if parties can come to agreement on the issue.

### *Longer Term Issues to Examine*

The Office recommends that there are two issues that require a longer-term effort to ensure that the public interest is maintained.

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<sup>1</sup> USF reimbursable advertising must meet the following requirements:

- a. Advertisements must prominently include details for the Lifeline program and its low-income requirements.
- b. Providers must provide access to service offerings without first collecting personal information from potential Lifeline customers.
- c. Eligible advertising may not be a brand specific promotion with only a minor reference to the Lifeline program.
- d. Information on service offerings should include a Utah-specific fact sheet for potential Lifeline customers.

First, the Office recommends a thorough process to determine the most cost effective third party certification and verification. This is not an issue for which unanimous support will be achieved. Thus, the Office recommends that the Commission establish a small subset to conduct this investigation (as described in our May 12, 2011 comments on the Division's proposal for a committee). The Office then recommends a regulatory proceeding that commences with the presentation of the findings, a comment and reply period for all parties, and then a decision by the Commission. Rule changes will be necessary to implement any Commission decision on this issue.

Second, the Office recommends that the process to determine the method of calculation and recovery of costs for certification and verification of Lifeline eligibility proceed on a parallel path. As the Office indicated in its May 12, 2011 memo responding to other parties' proposals, the Office recommends that this work be commenced by the Division. The Office then recommends a regulatory proceeding that commences with the Division presenting its proposal. This should be followed by a comment period in which all parties participate, culminating in a decision by the Commission. Rule changes will likely be necessary to implement a Commission decision on this issue.

### **Issues No Longer Relevant**

The Office has identified two issues from the Notice of Agency Action and Supplement to Notice of Agency Action that are no longer relevant. The issues identified are the "role of the responsible agency in verifying continuing eligibility of Lifeline customers" and "the role of the responsible agency in initial certification of Lifeline customers."

The Office believes that all parties now share the understanding that the Commission is the responsible agency. The question has now evolved into determining the most cost effective method for the Commission to contract this work with the most appropriate state agency or other third party administrator.

### **Issues to be Discussed at June 1, 2011 Technical Conference**

The Office recommends that this date would best be used for clarification of the issues presented in all parties' May 25th memos. The Office also understands that other parties will be recommending presentations that provide background and description of current and previous processes. The Office supports this in concept. Otherwise, the office recommends that the Commission not include substantive issues for discussion at the June 1<sup>st</sup> technical conference.

While the Office believes that technical conferences are extremely useful to clarify positions of the various parties, the Office also believes that there is a limit to their usefulness. Thus, the Office has generally recommended that other processes be pursued to evaluate the majority of issues raised to date in this docket. Further, to the extent that technical conferences are used, the Office suggests that agendas should be released far enough in advance that parties are able to prepare for their participation.

Even if the Commission were to give notice of the agenda the day following the submission of these May 25 recommendations, that would allow only one working day prior to the technical conference. Thus, the Office recommends that the Commission limit the topics to those listed above.