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DEPARTMENT OF COMMERCE
Office of Consumer Services

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To: Public Service Commission
From: Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst
Date: February 13, 2014
Subject: Rule 746-341 Lifeline/Link-up Rule Amendment. Docket No. 14-341-01¹

The Public Service Commission (Commission) published proposed revisions to Rule 746-341, the Lifeline/Link-up Rule with a comment period ending February 14, 2014.² There are two sections of the Rule that the Commission proposes to amend: 1) eliminate portions of R746-341-4, Continuing Eligibility; and 2) eliminate all of R746-341-6, Link-up America Plan Telephone Service. The Office's comments will be limited to proposed changes to R746-341-4.

1. Summary

On December 20, 2013 the Commission issued a Notice of Interim Compliance Processes to Address National Lifeline Accountability Database (NLAD), New Applications, and Annual Eligibility Certification Compliance Processes (Notice).³ In that Notice the Commission stated that on December 19, 2013 it had submitted a Notice of Proposed Rule Amendment to the Utah Department of Administrative Services, Division of Administrative Rules to repeal some language in Rule R746-341 "that conflicts with the current federal requirements". The Commission also indicated its intent to submit

¹ The Docket Number 14-341-01 was provided by Commission staff.

² The proposed Rule Amendment is posted on the Commission's website.

³ 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.

proposed amendments, in early 2014, to Rule 746-341 to “codify and amplify” the procedures outlined in the Notice and that interested parties would be able to participate in the rulemaking process. The Notice did not specify how parties would be notified of the rulemaking process and the Office of Consumer Services (Office) received no further notification.

Section R746-341-4, Continuing Eligibility, establishes procedures for annual verification of Lifeline participants. R746-341-4,2 requires an ETC to inform the responsible agency if the ETC has a reasonable basis to believe that a Lifeline telephone service customer no longer qualifies for Lifeline service in accordance with this rule.

The current language also identifies the time the customer has to respond to the notice from the responsible agency, termination notice requirements and instructions if the participant wants to file an appeal of a determination of ineligibility for Lifeline service. The Office views the language in this section of the Rule as instructive to ETCs and the responsible agency as well as protection for participants. All of this language is removed in the proposed Rule amendment.

2. Discussion

The Office recognizes and supports the Commission’s desire to repeal language that conflicts with current federal requirements. However, the Office asserts that elimination of R746-341-4,2(c) and all of D leaves a void in the Rule both in terms of protecting the participant by providing dispute resolution guidance and in stating any course of action that the ETC or the responsible agency must or should take if the participant fails to verify eligibility to participate in the Lifeline program. The Office recommends that the Commission reconsider its proposal to remove all language in R746-341-4,2(c), and D.

Federal requirements may provide the necessary information for addressing continuing eligibility of Lifeline customers, as well as offering Lifeline participants some level of

protection, if that is the case a reference to those requirements should replace the current language.

3. Office Recommendation

If it is the Commission's intent to rely on federal requirements a reference to those requirements should be included in the Rule. Additionally, if the Commission's dispute resolution Rule 746-240-7 and 8, is applicable for Lifeline customers a reference to that Rule should also be included.

In the alternative the Office recommends that the Commission replace the current language in the Rule with appropriate requirements rather than eliminate all language related to the termination of Lifeline service and dispute resolution.

The Office notes that on February 13, 2014 the Commission issued a Notice of Rulemaking Docket and Comment Period, Docket No. 14-999-06, which further addresses the Rule that is the subject of the Office's comments herein. The Office will participate in that Rulemaking but asserts that allowing the amendments addressed in our comments to go into effect in the interim is not in the public interest.