

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Petition of CenturyLink  
for a Waiver to the Utah Lifeline Eligibility  
Requirements

DOCKET NO. 16-049-16

In the Matter of the Miscellaneous  
Correspondence and Reports Regarding  
Telecommunications Utility Services; 2016

DOCKET NO. 16-999-03

ORDER GRANTING WAIVER

NOTICE OF PROPOSED  
RULEMAKING AND REQUEST FOR  
COMMENTS

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ISSUED: November 22, 2016

BACKGROUND

On October 26, 2016, Qwest Corporation d/b/a CenturyLink QC (CenturyLink) petitioned the Public Service Commission of Utah (Commission) for a partial waiver of Utah Administrative Code R746-341-3. This rule establishes the eligibility requirements for participation in the Utah Lifeline program. The rule lists several low-income assistance programs and requires an individual who wishes to qualify for the Lifeline program to demonstrate participation in one of the programs listed.

The state qualifying programs are currently the same as those that qualify individuals to participate in the federal Lifeline program. However, as of December 2, 2016, the Federal Communications Commission (FCC) will recognize one new program—the Veterans Pension and Survivors Pension benefits program—and eliminate the following three programs:

- Low-Income Home Energy Assistance Program (LIHEAP);
- Temporary Assistance to Needy Families (TANF); and
- National School Free Lunch Program.

In its petition, CenturyLink requests the waiver in order to use the same eligibility requirements for both the federal and state Lifeline programs.<sup>1</sup>

On October 27, 2016, the Commission issued a notice establishing Wednesday, November 9, 2016 as the deadline for interested parties to submit comments, and establishing Wednesday, November 16, 2016 as the deadline for reply comments. The Division of Public Utilities, CenturyLink, and the Utah Rural Telecom Association all filed comments in support of the requested waiver. No reply comments were filed.

From the comments filed and its own independent research, the Commission has determined that removing LIHEAP, TANF, and the National School Free Lunch Program from the list of qualifying programs is not likely to disqualify any Utah consumers who are currently participating in the state Lifeline program. First, FCC data indicates that very few participants use these programs to qualify. Second, most consumers who participate in one of these programs also participate in either the Medicaid program or the Supplemental Nutrition Assistance Program, both of which remain qualifying programs. Finally, a consumer who does not participate in any of the qualifying programs may still qualify for the Utah Lifeline program by demonstrating household income that falls at or below 135% of the federal poverty line. Utah Admin. Code R746-341-3(C).

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<sup>1</sup> CenturyLink also suggested that the Commission consider changing the Lifeline rule to (a) have the National Verifier assume responsibility for both the initial eligibility certification and the annual recertification of Lifeline participants; and (b) extend Lifeline support to broadband service, should the Utah Legislature determine to expand the program. The Commission must defer consideration of both suggestions. The National Verifier is not yet operational, and the Utah Legislature has not yet determined whether to expand the Lifeline program.

ORDER

Given the foregoing, the Commission approves the requested waiver of the Commission rule setting forth the eligibility requirements for participation in the Utah Lifeline Program. Specifically, participation in the following programs will no longer qualify a consumer to participate in the Utah Lifeline Program:

- Low-Income Home Energy Assistance Program (LIHEAP);
- Temporary Assistance to Needy Families (TANF); and
- National School Free Lunch Program.

However, participation in the Veterans Pension and Survivors Pension Benefit program will suffice to qualify a consumer to participate in the Utah Lifeline Program.

This order shall go into effect concurrently with the changes to the FCC's eligibility requirements for participation in the federal Lifeline program.

DATED at Salt Lake City, Utah, November 22, 2016.

/s/ Jennie T. Jonsson  
Administrative Law Judge

Approved and confirmed November 22, 2016 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary

DW#290378

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

NOTICE OF PROPOSED RULEMAKING AND REQUEST FOR COMMENTS

The Commission proposes to amend Utah Administrative Code R746-341-3 (a) to reflect the decision in this Order; and (b) to align the rule with FCC regulations regarding participant recertification. A draft of the proposed rule amendment is attached as Exhibit A.

The Commission anticipates that the amended rule will be published in the Utah State Bulletin on December 15, 2016, with a potential effective date of Tuesday, January 24, 2017.

DATED at Salt Lake City, Utah, November 22, 2016.

/s/ Jennie T. Jonsson  
Administrative Law Judge

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#290378

CERTIFICATE OF SERVICE

I CERTIFY that on November 22, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

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Administrative Assistant

EXHIBIT A

**R746. Public Service Commission, Administration.**

**R746-341. Lifeline Rule.**

**R746-341-3. Eligibility Requirements.**

A. Initial Program-Based Criteria -- An ETC shall provide Lifeline telephone service to an applicant's household which, using an approved application form, is verified by either the program administrator (for State ETCs), or by a federal ETC, in compliance with the procedures set forth in 47 CFR 54.410(c), to be eligible for public assistance under one of the following or its successor programs:

1. Medicaid;
2. Supplemental Nutrition Assistance Program (SNAP or Food Stamps);
3. Supplemental Security Income (SSI);
4. Federal Public Housing Assistance (Section 8); or
5. ~~[Low Income Home Energy Assistance Program (LIHEAP);]~~ Veterans Pension and

Survivors Pension Benefit.

~~[6. Temporary Assistance to Needy Families (TANF); or  
7. National School Lunch Program's Free Lunch Program.]~~

B. Tribal Residents -- A consumer who lives on Tribal lands is eligible for Lifeline service as a "qualifying low-income consumer" as defined by Section 54.400(a) and as an "eligible resident of Tribal lands" as defined by Section 54.400(e) if that consumer meets the qualifications for Lifeline specified Section A. or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following Tribal-specific federal assistance programs:

1. Bureau of Indian Affairs General Assistance;
2. Tribally-Administered Temporary Assistance for Needy Families (TTANF);
3. Head Start (if income eligibility criteria are met); or
4. Food Distribution Program on Indian Reservations (FDPIR).

C. Initial Income-Based Criteria -- An ETC shall provide Lifeline telephone service to an applicant who certifies via supporting documentation (to either the ETC for federal ETC customers, or the program administrator for state ETC customers), under penalty of perjury, that the applicant's household income is at or below 135 percent of the then applicable Federal Poverty Guidelines.

1. Income-based eligibility is based on family size and actual income; therefore, an applicant shall certify, under penalty of perjury, the number of individuals residing in the household.

2. An applicant shall certify, under penalty of perjury, that the documentation presented accurately represents the applicant's annual household income. The following documents, or any combination of these documents, are acceptable for Lifeline certification;

- a. Prior year's state, federal, or tribal tax return;
- b. Current year-to-date earnings statement from an employer or three consecutive months of paycheck stubs within the previous twelve months;

- c. Social Security statement of benefits;
  - d. Veterans Administration statement of benefits;
  - e. Retirement/pension statement of benefits;
  - f. Unemployment/Workers Compensation statement of benefits;
  - g. Federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance; or
  - h. Divorce decree or child support wage assignment statement.
- D. In order to be approved as a qualifying low-income consumer, an applicant must not already be receiving a Lifeline service, and there must not be anyone else in the applicant's household subscribed to a Lifeline service.

E. Eligibility Certification -- The application form for participation shall be supplied by the ETC or the program administrator and shall be consistent with both the federal requirements, then in effect, and any additional information requirements of the program administrator, and shall include:

- 1. a statement, under penalty of perjury, as to whether the person is participating in one of the programs listed in Subsection R746-341-3(A) or qualifies under other federal eligibility criteria; or a statement, under penalty of perjury, as to whether the person's household income is at or below 135 percent of the current Federal Poverty Guidelines;
- 2. if qualified by income-based criteria, a statement, under penalty of perjury, that identifies the number of individuals residing in the household and affirms that the documentation presented to support eligibility accurately represents the applicant's household income;
- 3. a statement that if the applicant is later shown to have submitted false information in an attempt to qualify for the Lifeline program, the applicant shall be responsible to re-pay the benefits received; and
- 4. the signature of the applicant, either physical or electronic.

F. False Certification Penalties -- A participant who does not qualify, but who has submitted false documentation or statements to qualify for the Lifeline program, is responsible to re-pay the value of the benefits received to the state Lifeline program, and is subject to whatever penalties are then current for the federal Lifeline program.

G. Tribal Land Lifeline Discounts - This rule does not govern or otherwise affect the Tribal Land Lifeline Discount program.

#### **R746-341-4. Duties of the Program Administrator.**

##### **A. Initial Eligibility**

1. The program administrator shall process all applications submitted for participation in the state Lifeline telephone service program. The program administrator shall check the NLAD for pre-existing participation if possible. The program administrator shall inform the applicant and the state ETC of the results of the application process.

##### **B. Annual Eligibility Verification**

1. The program administrator shall verify on an annual basis the continuing eligibility status of state ETC Lifeline telephone service participants. The annual eligibility verification shall be performed on the participant list as defined by the FCC in its May 22, 2013 Public Notice in Docket No. 11-42 and any subsequent FCC guidance.

2. The annual eligibility verification shall be performed by the program administrator using the same process as outlined in the de-enrollment process in R746-341-4.C. and in accordance with 47 CFR Section 54.410(f)(3).

3. The program administrator shall provide results of the annual recertification efforts to the ETCs pursuant to 47 CFR Section 54.410(f)(4) and will provide all necessary FCC Form 555 information to ETCs [~~by December 31 of the year in which the annual verification was performed~~]no later than the first business day of the month in which the verification was last performed.

C. De-Enrollment Process

1. The program administrator shall manage the de-enrollment process for state ETC Lifeline [~~telephone service~~] participants who are no longer eligible for the program. Upon an initial finding that a Lifeline recipient is no longer eligible to participate in the state the Lifeline program, the program administrator shall send a notice to the participant explaining the participant's Lifeline telephone service benefit will be discontinued after [~~30~~]60 days unless the participant verifies continuing eligibility before that date. The notice shall include the reason(s) for the recipient being ineligible and a description of the options available to the recipient to demonstrate eligibility.

2. At the end of [~~thirty~~]60 days, if the participant has not demonstrated continuing eligibility, the program administrator shall notify the relevant state ETC to discontinue the ineligible participant's Lifeline telephone service benefit. The benefit must be discontinued in the month following notification; thus the next month's benefit cannot be provided.

3. Ineligible past participants may reapply for the Lifeline program, but must do so by submitting a completed application to the program administrator for state program participation, or to a federal ETC for federal only participation, in accordance with the application process in R746-341-3.

D. Participants Switching Between ETCs –

When a current Lifeline telephone service participant desires to change to a different ETC's Lifeline telephone service, the participant and ETCs shall follow the established NLAD procedures. A participant who is not able to complete the switch due to unresolved problems may seek the assistance of the Division of Public Utilities requesting help in resolving the issue.

E. Documentation Retention -- The program administrator shall retain income and program eligibility certification documentation, in electronic format, for as long as required by then current federal Lifeline policies. Copies of the relevant documentation shall be made available on request to auditors from either the federal Lifeline telephone service program or the state Lifeline telephone service program.

**KEY: telephone, telecommunications, rules and procedures, lifeline rates**

**Date of Enactment or Last Substantive Amendment: [January 7, 2015]**

**Notice of Continuation: October 19, 2015**

**Authorizing, and Implemented or Interpreted Law: 54-4-1; 54-4-4; 54-8b-15(7)**