

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Lifeline Rulemaking )  
Docket ) DOCKET NO. 14-999-06  
) NOTICES OF RULEMAKING DOCKET  
) AND COMMENT PERIOD  
)  
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ISSUED: February 13, 2014

NOTICE OF RULEMAKING DOCKET

The Commission is opening Docket No. 14-999-06 as a docket for the state and federal Lifeline programs rulemaking amendments (Utah Admin. Code R746-341 *et seq.*). The Commission also references Docket No. 10-2528-01 under this notice, which addresses the Lifeline program administration and contemplates a rulemaking process.

NOTICE OF COMMENT PERIOD

A copy of the draft proposed rule amendments to Utah Admin. Code R746-341 *et seq.* is attached as Exhibit A to this notice. Interested parties are invited to file comments on the draft proposed rule by **Friday, March 21, 2014**. The Commission intends to receive any comments and modify the proposed rule as appropriate before submitting the proposed rule to the formal rulemaking process.

DATED at Salt Lake City, Utah this 13<sup>th</sup> day of February, 2014.

/s/ Melanie A. Reif  
Administrative Law Judge

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#250955

CERTIFICATE OF SERVICE

I CERTIFY that on the 13<sup>th</sup> day of February, 2014, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Peter Lurie  
Elaine Divelbliss  
Virgin Mobile USA, L.P.  
10 Independence Blvd.  
Warren, NJ 07059

By Electronic Mail:

Telecom Service List

Tricia Cox ([tcx@utah.gov](mailto:tcx@utah.gov))  
Susan Kolthoff ([skolthoff@utah.gov](mailto:skolthoff@utah.gov))  
Department of Workforce Services

Sherman Roquero ([sroquier@utah.gov](mailto:sroquier@utah.gov))  
Department of Community and Culture

Mitchell Brecher ([brecherm@gtlaw.com](mailto:brecherm@gtlaw.com))  
Greenberg Traurig, LLP

Gary A. Dodge ([gdodge@hjdllaw.com](mailto:gdodge@hjdllaw.com))  
Hatch, James & Dodge

Stanley K. Stoll ([sstoll@blackburn-stoll.com](mailto:ssoll@blackburn-stoll.com))  
Kira Slawson ([kslawson@blackburn-stoll.com](mailto:kslawson@blackburn-stoll.com))  
Blackburn & Stoll, LC

Lance J.M. Steinhart ([lsteinhart@telecomcounsel.com](mailto:lsteinhart@telecomcounsel.com))  
Lance J.M. Steinhart, P.C.

Timothy J. Funk ([funk@crossroads-u-c.org](mailto:funk@crossroads-u-c.org))  
Crossroads Urban Center

James Farr ([james.farr@centurylink.com](mailto:james.farr@centurylink.com))  
Torry R. Somers ([Torry.r.somers@centurylink.com](mailto:Torry.r.somers@centurylink.com))  
CenturyLink

Brett L. Tolman ([btolman@rqn.com](mailto:btolman@rqn.com))  
Ray Quinney & Nebeker P.C.

James L. Messenger ([james.messenger@leclairryan.com](mailto:james.messenger@leclairryan.com))  
Leclairryan

Eric Seguin ([sequin@solixinc.com](mailto:sequin@solixinc.com))  
Solix, Inc.

Sonya L. Martinez ([smartinez@slcap.org](mailto:smartinez@slcap.org))  
Betsy Wolf ([bwolf@slcap.org](mailto:bwolf@slcap.org))  
Salt Lake Community Action Program

Sharon M. Bertelsen ([bertelsens@ballardspahr.com](mailto:bertelsens@ballardspahr.com))  
Ballard Spahr

Robin Enkey ([robine@budgetprepay.com](mailto:robine@budgetprepay.com))  
Budget PrePay, Inc.

Thorvald A. Nelson ([tnelson@hollandhart.com](mailto:tnelson@hollandhart.com))  
Sara Kerkhoff Rundell ([sakrundell@hollandhart.com](mailto:sakrundell@hollandhart.com))  
James A. Holtkamp ([jholtkamp@hollandhart.com](mailto:jholtkamp@hollandhart.com))  
Holland & Hart LLP

Patricia Schmid ([pschmid@utah.gov](mailto:pschmid@utah.gov))  
Justin Jetter ([jjetter@utah.gov](mailto:jjetter@utah.gov))  
Brent Coleman ([brentcoleman@utah.gov](mailto:brentcoleman@utah.gov))  
Utah Attorneys General

By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4th Flr.  
Salt Lake City, Utah 84114

Office of Consumer Services  
160 East 300 South, 2nd Flr.  
Salt Lake City, Utah 84114

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Administrative Assistant

# **EXHIBIT A**

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

**R746-341. Lifeline~~[/Link-up]~~ Rule.**

**R746-341-1. Applicability.**

Telecommunications corporations that ~~[have—been]~~ are designated as eligible telecommunications carriers (ETC) by the Commission, pursuant to Section 214 of the Federal Communications Act, shall establish a ~~lifeline~~ Lifeline telephone service pursuant to the requirements of Sections 2 through 10.

**R746-341-2. Definitions.**

A. "Applicant" -- means ~~[the eligible telecommunications]~~ an ETC's customer who legally owns and resides in an ETC's service area ~~[residential property or rents and resides in a residential property]~~.

B. "~~Responsible Agency~~" -- means ~~the state government agency that administers the certification, verification, and continued verification of Lifeline enrollment.~~

~~C.~~ "ETC" -- means the eligible telecommunications carrier.

C. "Federal ETC" -- means an ETC that qualifies for, and participates in, only the federal Lifeline program.

D. "Federal Poverty Guidelines" -- means the poverty guidelines issued each year by the Department of Health and Human Services and published in the Federal Register.

E. "~~Income~~" -- means gross income, whether earned or unearned, received by all members of the household including, but not limited to, salary before deductions. Income shall not include student financial aid, military housing and cost-of-living allowances, or irregular income from occasional small jobs.

F. "Lifeline" -- means either federal or state programs defined by Section 214 of the Federal Communication Act and this rule.

G. "Participant" -- means an ETC's customer currently receiving the Lifeline discount or benefit.

H. "Responsible Agency" -- means the state government agency that administers the certification, eligibility verification, and continued eligibility verification of Lifeline enrollment.

I. "State ETC" -- means an ETC which participates in both the federal and state Lifeline programs.

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

A. Initial Program-Based Criteria - ~~[The ETCs]~~ An ETC shall provide ~~[lifeline]~~ Lifeline telephone service to any applicant who using an approved application form either self-certifies, under the penalty of perjury ~~[7]~~ (in the case of a Federal ETC), or is verified by a responsible agency (in the case of a State ETC) that ~~[his]~~ the applicant's household is eligible for public assistance under one of the following or its successor programs:

- ~~1. Temporary Assistance to Needy Families (TANF);~~
- ~~2. Work Toward Employment;~~
- ~~3. Food Stamps;~~

- ~~4. General Assistance;~~
- ~~5. Home Energy Assistance Target Programs/Help Program;~~
- ~~6. Medicaid;~~
- ~~7. Refugee Assistance;~~
- ~~8. Supplemental Security Income.~~
- ~~9. Federal Public Housing Assistance, including Section 8 Housing;~~
- ~~10. National School Lunch Free Lunch Program; or~~
- ~~11. Head Start Program (income qualifying standard only).]~~
- 1. Medicaid;
- 2. Supplemental Nutrition Assistance Program (Food Stamps or SNAP);
- 3. Supplemental Security Income (SSI);
- 4. Federal Public Housing Assistance (Section 8);
- 5. Low-Income Home Energy Assistance Program (LIHEAP);
- 6. Temporary Assistance to Needy Families (TANF);
- 7. National School Lunch Program's Free Lunch Program;
- 8. Bureau of Indian Affairs General Assistance;
- 9. Tribally-Administered Temporary Assistance for Needy Families (TTANF);
- 10. Food Distribution Program on Indian Reservations (FDPIR); or
- 11. Head Start (if income eligibility criteria are met).

B. Initial Income-Based Criteria - [~~The ETCs~~]An ETC shall provide ~~lifeline~~Lifeline telephone service to any applicant who certifies via supporting documentation, (to either the ETC for Federal ETC customers, or the responsible agency for State ETC customers), under the penalty of perjury, his household income to be 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, the Lifeline [~~customers~~]applicants must certify, under the penalty of perjury, the number of individuals residing in their household.

2. A Lifeline [~~customer~~]applicant must certify, under the 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;
- c. Social Security statement of benefits;
- d. Veterans Administration statement of benefits;
- e. Retirement/pension statement of benefits;
- f. Unemployment/Worker's 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.

C. Eligibility Certification -- The application form for participation will be supplied by the ETC or the responsible

agency and ~~[contain the following]~~ shall be consistent with both the federal requirements then in effect and the following state requirements:

1. ~~[applicant's name, program participating telephone number, if available, identification of the ETC which]~~ complete information for both the applicant ~~[anticipates will provide service,]~~ and ~~[social security number,~~

~~2. a request for lifeline service, and where applicable, a request for Link up America Plan participation;~~

~~3. an affirmative statement that]~~ qualifying household member, if the qualifying household member is different than the applicant ~~[qualifies for lifeline service.], including:~~

a. full Social Security Number(s);

~~[4.]~~ b. mailing and physical addresses;

c. relationship between applicant and qualifying household member; and

d. a statement, under the penalty of perjury, as to whether the person is participating in one of the programs listed in Subsection R746-341-3-A or other federal eligibility criteria; or a statement, under the penalty of perjury, as to whether the person's household income is at or below 135 percent of the current Federal Poverty Guidelines.

[a]e. 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.

f. signature of applicant, either physical or electronic.

D. False Certification Penalties -- A Lifeline telephone service participant who does not qualify and has falsely self-certified and participated in the Lifeline program will be responsible to pay the difference between the Lifeline service rate and the otherwise applicable service rate for the length of time the participant subscribed to Lifeline telephone service for which the participant was not eligible.

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

~~[5. a statement that if the applicant is later shown to have submitted a false self certification for the Lifeline program, the applicant will be responsible to pay the difference between the lifeline service rate and the otherwise applicable service rate;~~

~~6. a statement whether this is a new connection or a reconnection; and~~

~~7. the applicant's signature.~~

~~D. Documentation Retention -- The responsible agency will retain income and program eligibility certification for as long as agreed with the Commission.~~

~~E. Tribal Land Lifeline Discounts -- Customers who live on tribal lands and who qualify for the state Lifeline service rate based on the program qualifications, other federal eligibility criteria, and income qualifications set forth in R746-341-3, are eligible to receive a larger federal discount. Those federal~~

~~discounts are not within the scope of, nor governed by, these rules.~~

~~**R746-341-4. Continuing Eligibility.**~~

~~A. Annual Verification — The continuing eligibility of customers on the Lifeline service rate shall be verified annually~~

~~B. Verification Responsibilities — At least annually, the responsible agency shall provide the ETCs with information identifying customers who are eligible for Lifeline service or Link up America Plan participation.~~

~~C. Verification Methods — The responsible agency will verify the continued eligibility of Lifeline customers under the program based and income based eligibility criteria.~~

~~1. The responsible agency shall identify a method by which income eligibility will be verified on an annual basis including, but not limited to, annual self certification, random beneficiary audits, a periodic submission of income documents, or the continued eligibility of a statistically valid sample of Lifeline customers.~~

~~2. Should the ETC have a reasonable basis to believe that a Lifeline telephone service customer no longer qualifies for Lifeline service in accordance with this rule, the ETC shall inform the responsible agency. If a Lifeline customer does not appear as a participant in a program on the state computer system or the responsible agency otherwise has a basis to believe that the customer no longer qualifies for Lifeline service, the responsible agency will send a notice to the Lifeline customer requesting;~~

~~a. proof of participation in any of the programs listed in R746-341-3.A or other federal eligibility criteria; or~~

~~b. documentation of eligibility under the income based criteria set forth in R746-341-3.B.~~

~~E. f False Certification Penalties — A Lifeline telephone service customer who does not qualify and has falsely self-certified and participated in the Lifeline program will be responsible to pay the difference between the Lifeline service rate and the otherwise applicable service rate for the length of time the customer subscribed to Lifeline telephone service for which the customer was not eligible.]~~

**R746-341-4. Duties of the Responsible Agency.**

A. Initial Eligibility

1. The responsible agency shall process all applications submitted for participation in the state Lifeline telephone service program. The responsible agency shall inform the Applicant and the ETC of the results of the application process.

2. The responsible agency shall verify the initial eligibility status of all new federal only Lifeline telephone service recipients on a monthly basis and shall inform the ETC of its determinations.

B. Continuing Monthly Eligibility

1. The responsible agency shall verify on a monthly basis the continuing eligibility status of both state and federal ETC Lifeline telephone service participants who qualify based on



program eligibility.

C. Annual Eligibility Verification

1. The responsible agency shall verify on an annual basis the continuing eligibility status of both state and federal ETC Lifeline telephone service participants. The annual eligibility verification shall be performed on a participant list current as of December 31, and shall be conducted the following January in place of the normal monthly review of the data submitted.

D. De-Enrollment Process

1. The responsible agency shall manage the de-enrollment process for both state and federal ETC Lifeline telephone service participants determined to be no longer eligible for the program.

a. The responsible agency shall send a notice to each participant determined to be no longer eligible for the program explaining the participant's Lifeline telephone service benefit will be discontinued within 30 days unless the participant can verify his continuing eligibility before that date.

b. At the end of thirty days, if the participant has not demonstrated continuing eligibility, the responsible agency shall notify the relevant ETC to discontinue the ineligible participant's Lifeline telephone service benefit. The benefit must be discontinued in the month following notification, i.e., the next month's benefit cannot be provided.

c. Ineligible applicants may reapply for the Lifeline program, but must do so by submitting a completed application to the responsible agency. An ineligible customer may not reapply through any ETC's initial verification processes.

E. Participants Switching Between ETCs -- When a current Lifeline telephone service participant desires to change to a different ETC's Lifeline telephone service, the participant or the new ETC shall forward the participant's request to the responsible agency. The responsible agency shall verify the participant's intent, and then send notices to the affected ETCs. The switch between ETCs will take effect at the end of the month in which the notice from the Responsible Agency is sent.

F. Documentation Retention -- The Responsible Agency shall retain income and program eligibility certification, in electronic format, for as long as required by federal rule or policy for the state ETC customers' applications it processes. Copies of the relevant eligibility records shall be made available on request to auditors from either the federal Lifeline telephone service program or the state Lifeline telephone service program.

**R746-341-5. Duties of ETCs**

A. State ETCs

1. Each state ETC shall, at least monthly, send to the responsible agency all changes in the status of the Lifeline participants to whom they provide Lifeline telephone service, including:

a. participants changing residence locations (addresses);

b. changes in the size of households;

- c. participants switching carriers; or
- d. customers who no longer receive service.

2. The records sent shall contain the full information for each Participant as required by this rule.

3. Each state ETC shall provide information to potential applicants regarding how to receive an application from the responsible agency. This information shall be provided in-person, in written format at the ETC's offices, and on-line at the ETC's website.

4. Each state ETC shall add the Lifeline discount to a customer's account as directed by the responsible agency within two business days.

5. Each state ETC shall remove the Lifeline discount from a participant's account as directed by the responsible agency beginning with the next month's billing cycle following notification of the participant's ineligible status.

6. Each state ETC shall contemporaneously update the NLAD with all changes in the ETC's participants' Lifeline status as directed by the responsible agency.

7. If a qualified Lifeline participant seeks to switch service from a given ETC to a different ETC, the responsible agency must be notified by the ETC to which the participant seeks to switch its Lifeline benefit. The responsible agency shall verify the participant's desire to switch and shall send notices to both of the ETCs involved in the switch. The new benefit may not be applied until the following month. Both ETCs shall update the NLAD to reflect the change in the participant's status.

8. Annually the State ETCs shall send the responsible agency a full list of all Lifeline Participants, and qualifying individuals if necessary, current as of December 31 of the current year. The list shall be provided to the responsible agency prior to January 15 of the following year. The list shall contain the full identifying information on each individual as specified in R746-341-3.

9. If a state ETC has a reasonable basis to believe a Lifeline telephone service participant no longer qualifies for Lifeline service in accordance with this rule, the ETC shall inform the responsible agency and provide the documentation, or reason, for its belief within two business days.

#### B. Federal ETCs

1. Each federal ETC shall process only initial applications for new Lifeline service from customers who have not been determined ineligible by the responsible agency. Each Federal ETC shall conduct its initial eligibility verification in accordance with both the federal guidelines and the state requirements. The applications and supporting documentation shall be retained by the federal ETC in accordance with federal requirements.

2. Each federal ETC shall check the NLAD to determine if the Applicant, or any member of the applicant's household, is already receiving a Lifeline benefit. Only Applicant households that are cleared through the NLAD may be considered for Lifeline telephone service.

3. Each federal ETC shall extend the Lifeline telephone service discount or benefit to eligible Applicants in accordance with the federal requirements and the provisions of R746-341.

4. Each federal ETC shall contemporaneously update the NLAD to reflect the ETC's initial eligibility verification decision and the Participant's Lifeline status.

5. Each federal ETC shall, at least monthly, send the responsible agency all changes in the status of the Lifeline Participants to whom they provide Lifeline service, including:

- a. newly approved participants;
- b. participants changing residence locations (addresses);
- c. changes in the size of households;
- d. participants switching carriers; or
- e. customers who no longer receive service.

6. The records sent shall contain the full information for each Participant as required by R746-341-3. Each federal ETC shall add, or remove, the Lifeline discount or benefit to, or from, a customer's account as directed by the responsible agency.

7. Each federal ETC shall contemporaneously update the NLAD with all changes in the ETC's participants' Lifeline status as directed by the responsible agency.

8. If a qualified Lifeline participant seeks to switch service from a given ETC to a different ETC the responsible agency must be notified by the ETC to which the participant seeks to switch its lifeline benefit. The responsible agency will verify the participant's desire to switch and shall send notices to both of the ETCs involved in the switch. The new benefit may not be applied until the following month. Both ETCs will update the NLAD to reflect the change in the participant's status.

9. Annually the Federal ETCs shall send the responsible agency a full list of all Lifeline Participants, and qualifying individuals if necessary, current as of December 31. The list shall be provided to the responsible agency prior to January 15 of the following year. The list shall contain the full identifying information on each individual as specified in R746-341-3.

10. If a federal ETC has a reasonable basis to believe that a Lifeline telephone service participant no longer qualifies for Lifeline service in accordance with this rule, the ETC shall inform the responsible agency and provide the documentation, or reason, for its belief within two business days.

#### **R746-341-6. State Lifeline Telephone Service Features.**

A. Discounts -- Lifeline telephone service provided by ETCs shall consist of dial tone line, usage charges or their equivalent, and any Extended Area Service (EAS) charges, less a discount of \$3.50 and any other matching funds established by the Federal Communication Commission.

B. Deposits -- When customer security deposits are otherwise required, they will be waived for Lifeline telephone service [~~eustomers~~]participants if the customer voluntarily elects to receive toll blocking.

C. ~~[Link Up America Plan Participation Companies providing Lifeline service shall apply for the Link Up America Plan provided by the Federal Communications Commission.]~~

~~D.]~~ Nonrecurring Charge Waiver -- Lifeline telephone service [customers]participants [will]shall receive a waiver of the nonrecurring service charge for changing the type of local exchange usage service to Lifeline service, or changing from flat rate service to message rate service, or vice versa, but only one such waiver shall be allowed during any 12-month period.

[E]D. Disconnection -- Lifeline telephone service shall not be disconnected for nonpayment of toll service.

[F]E. Restrictions -- Lifeline telephone service will be subject to the following restrictions:

1. Lifeline telephone service will only be provided to the applicant's principal residence.

2. A Lifeline telephone service [customer]participant will only receive a Lifeline discount on one single residential access line, or one conforming Lifeline service offering.

G. Other Services -- A Lifeline telephone service [customer]participant will not be required to purchase other services from the ETC, nor prohibited from purchasing other services unless the [customer]participant has failed to comply with the ETC's terms and conditions for those services.

**R746-341-7. Federal Lifeline Telephone Service Features.**

A. Federal Lifeline telephone service consists of those features and conditions set forth in applicable federal ETC docket granting ETC status, as modified by subsequent orders and R746-341.

**R746-341-8. ETC Reporting Requirements.**

A. Reporting Requirements -- ETCs shall submit, to the Division of Public Utilities, a semi-annual report, [by]for the periods through June 30 and December 31, of each year, containing a description of the ETC's Lifeline program. The reports shall also contain monthly information on:

1. the forgone revenue resulting from the discounts provided to Lifeline [customers]participants, if any;

2. the amounts of administrative, advertising, [voucher]and other program expenses;

3. interest accrual amounts on Lifeline [and Link up]funds, if any; and

4. the number of Lifeline telephone service [customers]participants by exchange area per month; and

5. a detailed report of outreach efforts.

**R746-341-[8]9. Funding of Lifeline.**

A. Cost Recovery -- The total cost of providing the state portion of Lifeline telephone service, including the administrative costs of the state ETCs and the costs incurred by the responsible agency, shall be recovered and funded as provided in 54-8b-15.

**R746-341-[9]10. Collection and disbursement of Lifeline Funds.**

A. State ETC Payment -- Within 30 days after review and audit of [~~an~~ a state] ETC's semi-annual report, the Public Service Commission shall disburse an amount equal to the ETC's semi-annual Lifeline program expenses and Lifeline discounts granted.

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

**Date of Enactment or Last Substantive Amendment:** October 20, 2005

**Notice of Continuation:** October 18, 2010

**Authorizing, and Implemented or Interpreted Law:** 54-4-1; 54-4-4