



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: Utah Public Service Commission

From: Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst

Date: September 13, 2012

Re: In the Matter of the Resolution of Issues Related to the Designation of a Common Carrier as an Eligible Telecommunications Carrier Docket No. 10-2528-01

Background

On August 30, 2012, the Public Service Commission issued a Scheduling Order and Notice of Technical Conference (August 30 Order). The Division of Public Utilities (Division) was to file a report on August 31, 2012, "describing the initial on ongoing eligibility verification requirements Utah's Lifeline program must meet to satisfy state and federal mandates, in particular the provisions of the FCC's Transformation Order".

On September 10, 2012 parties were to file comments on the Division's report. On Monday, September 17, 2012 – Department of Workforce Services (DWS) will file a written overview of how the eRep system could be adapted to satisfy the requirements described in the Division's report, and the startup and ongoing costs of providing the required eligibility verification services.

The Division's report was filed on September 10, 2012. On September 11 the Commission extended the deadline for parties to file comments to September 13, 2012.

The Office of Consumer Services (Office) offers the following comments regarding the Division's Report.

Office Initial Statement

The Office appreciates the Commission's efforts to add structure to this process and set deadlines to advance progress. However, the Office is concerned that the process is not moving forward in the methodical way envisioned by the Commission's schedule. In our

view, the Division's memo contained a wide variety of issues going beyond the description of the process required in the Commission's order and making it difficult to know how to appropriately respond. Also, the delay in filing has resulted in insufficient time to clarify issues prior to filing our comments.

The Office has structured its comments in the following manner:

- First, the Office addresses design issues that we believe should be taken into account as the DWS develops its high level estimate and proposal.
- Second, the Office addresses three additional issues raised within the Division's memo that we believe must be quickly acted upon by the Commission:
 - whether Utah will participate in the National Lifeline Accountability Database,
 - necessary changes to the Lifeline Assistance program Application, and
 - the upcoming deadline for annual recertification.

Proposal for Moving Lifeline/UTAP into eREP.

The Office supports having DWS move forward in providing a high level scope and cost estimate for incorporating the Lifeline program into the eREP eligibility system. We offer the following clarifying comments.

First, the DWS proposal *must be based on a program design that does not require an applicant to have an existing telephone number in order to apply.* The Division's report appears to contemplate such design when it states that the program should, "Allow for a paper and/or online application process. During the customer application process allow for a customer to obtain a phone number and carrier (if they don't currently have one) prior to an application denying at the end of the application period." However, the Division also indicates that the Commission needs to decide if eligibility processing will be for only those with a current telecommunication approved service or not. The Office disagrees that such a determination needs to be made since having an existing telephone number is not a current requirement of the Lifeline program. The Office would oppose the imposition of such a requirement.

Second, the DWS will likely need to indicate any cost differences that would be associated with using the FCC definition of a household since the definition of household has been identified as an outstanding issue. The specific differences between the DWS and the FCC definition were not identified in the Division's report. The Office would need to better understand the differences before taking a position on what definition should be used.

Utah Participation in the National Lifeline Accountability Database

As noted in the Division's memo, the Commission must decide by October 2, 2012 whether to opt into or out of the National Lifeline Accountability Database (NLAD). ETC's will be required to supply information to the NLAD if the PSC does not provide a robust

system in place to prevent duplicative federal lifeline support and the required information to the NLAD. This fast approaching deadline does not allow much opportunity for the Commission to solicit comments on this issue. The Office recommends that the Commission provide a revised notice and accept either written or oral comments at the time of the technical conference already scheduled for September 24, 2012. Based on the information known today, the Office recommends that the Commission opt in to the National Lifeline Accountability Database.

Necessary Changes to the Lifeline Assistance Program Application (Attachment 1)

The Office understands that the Lifeline Assistance Program Application provided as attachment 1 is currently in use by DWS. The Office has grave concerns with the Application. The following is a list of issues that is not comprehensive but will provide the Commission with an overview of the seriousness of the issues that need to be addressed and remedied.

- **The application imposes a new requirement on applicants that is not contemplated in the Lifeline program.** The application requests that the applicant report its phone number. It is the Office's understanding that applicants are being required to have an existing number. Having an existing phone number prior to applying for Lifeline is not a requirement imposed by the Lifeline program or the Commission. In fact, it may preclude applicants from using certain providers or, in the alternative, impose the risk of paying for unnecessary telephone service as part of the process of converting to Lifeline. This requirement cannot be allowed to be imposed.
- **Potential problems with the listing of wireless providers.** It was our understanding that only wire-line customers were currently being processed through DWS yet five wireless carriers are listed. Further, the Division's Report indicates three wireless carriers have been granted ETC status by the Commission yet the Application lists five wireless carriers. We are uncertain as to the origin of two of the wireless carriers which do not appear to have been granted authority by the Commission: 1) Wireless carrier Smith Bagley seems to have been associated with Navajo Communications (2002). We have not located any wireless ETC information for that carrier. 2) On March 10, 2011 the Commission granted Sprint Spectrum's request to relinquish its ETC designation. Therefore it is not clear whether they have the authority to be a wireless Lifeline provider.
- **Potential problems with the maintenance of accurate provider lists.** It is not clear who will make sure the list of carriers is up to date, accurate and complete. The Office recommends that the Application should simply contain a line on which the Applicant can write in the selection of provider. The list of providers should be kept separately so that the application form does not need to be updated as frequently. The Office notes that multiple new carriers are in various stages of the process of requesting approval from the Commission; thus, multiple changes to this

list would be anticipated just in the next few months. Further, providers should be identified by the retail names under which they are soliciting customers.

- **Unclear and burdensome certification requirements for applicants.** An applicant must certify that "My household meets the income-based or program-based eligibility criteria for receiving Lifeline assistance according to the Public Service Commission of Utah rule 746-341 and as provided by the FCC order 54.409. Federal codes are mentioned in a few other places as well. There is no definition of what those rules and codes are or how they can be easily accessed. It is unreasonable to ask applicants to sign and attest to requirements that are not easily knowable by such applicants. Further, the long list of "fine print" items does not emphasize the key aspects of the program that must be understood to ensure the public interest is met.

Due to the serious nature of these concerns, the Office requests that the Commission address this Application as soon as possible. The Office recommends that the Commission schedule a technical conference with a scheduling conference to be held at the end. The technical conference could be used for interested parties to discuss the elements of the application that may need to be amended. If changes are not unanimously agreed to, then the Commission should schedule a process for comments and reply comments so that the Commission will have adequate information to make a formal ruling on what should be contained in this application.

Deadline for Recertification

The Office notes that the Division's memo also identifies January 31, 2013 as the deadline by which State Lifeline Administrators/ETC's must complete the annual recertification process for all current participants as of June 1, 2012 by submitting an eligibility and certification form to USAC. It is not clear to the Office whether adequate processes are in place for this recertification to take place as required. The Office recommends that the Commission query the applicable agencies and providers to ensure that this process is able to be completed by the deadline.

Recommendations

The Office recommends that the DWS high level project overview and estimate be based upon a design that does **not** require participants to acquire a telephone number prior to applying for Lifeline eligibility.

The Office also recommends that the Commission take the following actions on other Lifeline issues that need to be quickly addressed:

- Revise its notice for the September 24, 2012 technical conference to incorporate either oral or written recommendations regarding Utah's participation in the National Lifeline Accountability Database.
- Schedule a second technical and scheduling conference to address the details of the Lifeline Assistance Program Application. Since this application is already in

use and contains problematic information, this conference should be scheduled as soon as practicable.

- Query the applicable agencies and providers to determine whether additional actions are necessary to accomplish the recertification process, which also has an upcoming deadline.