

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of	
Lifeline and Link Up Reform and Modernization	WC Docket No. 11-42
Lifeline and Link Up	WC Docket No. 03-109
Federal-State Joint Board on Universal Service	CC Docket No. 96-45
Advancing Broadband Availability Through Digital Literacy Training	WC Docket No. 12-23

**NOTICE AND PETITION FOR WAIVER OF
THE UTAH PUBLIC SERVICE COMMISSION**

I. Introduction

Pursuant to 47 CFR § 1.3 the Public Service Commission of Utah (“PSC”) hereby submits this notice and petition for waiver. This filing provides an update on the progress and status of Utah’s Lifeline administration and petitions for a limited waiver of enforcement against Utah eligible telecommunications carriers pending the outcome of an ongoing state docket. Utah has completed the 2012 recertification process within the waiver periods provided by the FCC’s February 8, 2013 Order.¹ Given challenges encountered by the separate state agency that has been assisting the PSC with Lifeline matters, the PSC is evaluating its involvement in the Lifeline process. While the PSC had hoped to work through these challenges, it has recently

¹ Lifeline and Link Up Reform and Modernization et al., WC Docket Nos. 11-42 et al., Order, DA No. 13-180 (filed Feb. 8, 2013).

become clear a new approach to the recertification process in Utah is required. Utah will not have the revised Lifeline system in place by June 1, 2013. Therefore, Utah requests that the FCC waive enforcement action against carriers until they receive additional PSC direction by year-end 2013, when the PSC plans to conclude a rulemaking process. In the meantime, recertification will be accomplished during the second half of 2013 by the same methods used to complete the 2012 recertification.

II. Background

On December 2, 2010, as part of the follow-up on several on-going federal wireless ETC applications that had been heard by the PSC, the PSC opened a docket to decide a variety of Lifeline related issues.² On January 31, 2012, the FCC Lifeline Reform Order was adopted.³ On April 25, 2012, the United States Telecom Association (“USTA”) applied for a waiver of certain requirements of the Lifeline Reform Order on behalf of states which currently provide some initial certification themselves. Utah is included in the listed states for which a waiver was requested. On May 31, 2012, the FCC granted USTA’s waiver request. The waiver expired on December 1, 2012.

During the 2012 General Legislative Session (January to March), the Utah Legislature passed House Bill 139 and incorporated the agency that the PSC contracted with to perform Lifeline eligibility certification (responsible agency) into the Utah Department of

² See In the Matter of the Resolution of Certain Issues Related to the Designation of a Common Carrier as an Eligible Telecommunications Carrier, Docket No. 10-2528-01 (Utah PSC 2010).

³ Lifeline and Link Up Reform and Modernization et al., WC Docket Nos. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656.

Workforce Services (“DWS”). The resulting change in agency organization became effective in July 2012.

On July 31, 2012, the PSC requested interested parties to file questions and comments concerning the ability of the DWS eRep system to handle the Lifeline eligibility certification process.⁴ The eRep system is the interface and database the State of Utah uses to administer nearly all of its public assistance programs, including those that are automatic qualifiers for the Lifeline program. Adding Lifeline to this system makes sense from an efficiency standpoint; the issue is whether the system is capable of meeting all of the FCC’s requirements and whether it can do so at reasonable cost.

On October 18, 2012, the PSC issued an Amended Order with its final requirements document specifying all criteria that must be met by the DWS eRep system to fulfill the State’s responsibilities to determine Lifeline eligibility of participants.⁵

On February 8, 2013, the FCC issued Order DA No. 13-180 granting the limited one time waivers the PSC requested of the December 31, 2012 recertification deadline in paragraph 130 of the Lifeline Reform Order (moved to February 14, 2013), and moving the annual reporting deadline for Utah’s wireline carriers to March 17, 2013.⁶

The 2012 annual recertification process for wireline subscribers was completed within the additional time granted by the FCC waiver, that is, by February 14, 2013. During the waiver period granted by the FCC, Utah completed the 2012 recertification process for every wireline Lifeline subscriber (24,559). Those subscribers who were not matched against existing

⁴ See In the Matter of the Resolution of Certain Issues Related to the Designation of a Common Carrier as an Eligible Telecommunications Carrier, Docket No. 10-2528-01 (Utah PSC 2010).

⁵ *Id.*, Oct. 18, 2012 Amended Order.

⁶ Lifeline Reform Order, WC Docket Nos. 11-42 et al., Order, DA No. 13-180 (filed Feb. 8, 2013).

public assistance databases were all either recertified based on documents they provided or de-enrolled. Approximately 12,679 subscribers were recertified and 11,880 were de-enrolled. The carriers were notified of the recertification results with sufficient time to submit their reports by March 17, 2013. Recertification of wireless Lifeline participants was performed by the individual wireless carriers.

At the time of the December 2012 waiver request, the DWS was then preparing a bid and work description for the programming and implementation which would be required to integrate Lifeline into its eRep system. The PSC anticipated at that time that the DWS and the PSC would reach an agreement and begin implementation. Since that time, the PSC and the Utah Division of Public Utilities (“DPU”) have worked diligently with the DWS to reach an agreement and implement Lifeline into the eRep system. On February 4, 2013, however, the DPU filed a memo detailing the inability to reach an agreement with the DWS.⁷

Since February 4, the PSC has continued to conduct ongoing discussions and negotiations with the DWS in an attempt to reach an agreement under which DWS would administer Lifeline eligibility; however, no agreement has been reached. It has now become clear that the DWS is unable to integrate the Lifeline program into its ongoing operations within a timeframe that will meet FCC requirements. In any event, the cost of timely integration appears to be unreasonably high.

On May 10, 2013, the DPU filed a memo recommending changes to Utah’s administrative rules governing the state’s role in the initial verification and recertification of Lifeline subscribers. The DPU recommends a reduced role whereby the initial verification and

⁷ Attached as Exhibit A.

recertification processes would be completed primarily by the carriers, and the DWS would provide a check for eligibility based on public assistance program participation. The PSC has invited comments on the DPU's proposal and plans to move forward with a rulemaking process to amend the existing recertification methods to better meet the public interest.

III. Discussion

This filing is intended to provide the FCC with an update of the current status of Utah's Lifeline compliance and the PSC's future involvement in federal Lifeline program administration. It documents for the FCC that Utah has satisfied the conditions of the temporary waiver for the deadlines of the 2012 recertification process. This filing also requests a waiver of certain requirements going forward, including identifying the ongoing Lifeline administration process in place by June 1, 2013, the ability to retain applications on file in a centralized location, and enforcement action against carriers to the extent uncertainty, because of the state's changing recertification process, directly results in a violation.

The PSC's December 2012 Petition explained the issues and difficulties Utah has had with respect to acting as a state administrator of the federal Lifeline program. As noted above, Utah's state agency that previously administered the Lifeline program was reorganized and incorporated within DWS, the agency responsible for administering many of the public assistance programs that qualify participants for the Lifeline program. The PSC, in response, expanded an open docket to examine the future of the agency's involvement with the Lifeline program.

The PSC currently acts in the capacity of state administrator for wireline customers with assistance of the DPU and DWS. It was envisioned the reorganized agency,

DWS, would integrate the Lifeline program into its eRep database used to administer various public assistance programs and expand its Lifeline role to include wireless customers. DWS is a seemingly logical placement for these functions due to the nature of the Lifeline program and the overlap in many of the functions required for other public assistance programs such as verification of addresses, households, and income, as well as automatic program-based qualification of applicants. Administering Lifeline as a stand-alone program eliminates many of the efficiencies that might have been possible with an integrated approach.

Unfortunately, the DWS has determined it is not able to perform the functions required of a state administrator by the Lifeline Reform Order. As a result of this circumstance, the DPU recommended that the PSC re-examine Utah's role as administrator. The DPU proposes that, rather than expand its involvement with the administrative functions, the PSC should adopt an approach that reduces state agency involvement as administrator, while still satisfying federal and state Lifeline requirements.

At this time, the PSC cannot provide the FCC with details of the new recertification methods it will adopt. The DWS' determination that it is unable to perform the necessary functions is a recent development. Other parties to PSC Docket No. 10-2528-01 have been given until June 3, 2013, to provide comments responding to the DPU's proposal and the current situation. The best guidance the PSC can give at this time is to provide an approximate timeline of the rulemaking process, which the PSC envisions concluding by year-end 2013. Accordingly, the PSC proposes to complete the 2013 annual recertification process using the same methods and processes applied in 2012.

Pending the outcome of the PSC rulemaking, the state intends to continue to accept, process, and retain new Lifeline applications (for wireline customers), as well as to retain

the records of the past Lifeline subscriber applications it currently possesses, and recertify current wireline Lifeline subscribers. In the event the new rules adopted by year-end result in the PSC not continuing in an administrator role, the applications and records will be transferred to the appropriate carriers. As previously noted, the 2013 recertification process will be completed in a timely manner following the same methods applied in 2012.

The uncertainties described above leave the wireline carriers in Utah without clear guidance on how to proceed with a permanent recertification process. It would be unjust to take enforcement action against them, or withhold Lifeline support to their subscribers, for actions over which they have no control. The PSC will seek to minimize compliance-related uncertainty during the rulemaking process, but the wireline carriers should be protected from any adverse consequences arising from the absence of a permanent Lifeline recertification process until one can be established through PSC rulemaking by year-end 2013. Therefore, the PSC requests that the FCC temporarily waive the requirement for the state to provide a comprehensive Lifeline process, the requirement for the carriers to obtain the documentation currently in the possession of the state, and waive enforcement against carriers should any non-compliance result directly from uncertainty created by the pending PSC rulemaking process described above.

DATED at Salt Lake City, Utah, this 28th day of May, 2013.

/s/ Melanie A. Reif
PSC Legal Counsel and
Administrative Law Judge

Exhibit A



GARY HEBERT
Governor
GREG BELL
Lieutenant Governor

State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THOMAS BRADY
Deputy Director

CHRIS PARKER
Director, Division of Public Utilities

To: Public Service Commission

From: Chris Parker, Director, Division of Public Utilities

Date: May 10, 2013

Re: Federal Lifeline Compliance

As you know, the Federal Communications Commission (FCC) has imposed new standards for Lifeline customer eligibility certification and recertification. Our staffs have worked together with the Department of Workforce Services (DWS) in an attempt to comply with the new requirements. The expense and the limitations of the DWS work on recertification have led us to conclude that some changes are required to the Commission's rules to comply with the FCC's requirements in an economical and sensible way and serve the public interest. The changes would avoid the need for FCC waivers that would otherwise be required to address the DWS's limitations if the current rule were to be followed. Further, the changes will enable wireless and wireline Lifeline eligibility to be determined in the same manner.

Before describing the proposed framework for certification, which is simple, I should note that the DPU has been fairly involved in recertification in recent years. Largely in service to the carriers and to ensure a smooth process, the DPU has voluntarily acted as a liaison between carriers and the DWS. While this process has had benefits, it has also become more time-consuming in the past year. This is only one factor leading the DPU to conclude changes are needed.

In short, the DPU believes that:

- 1) initial certification for Lifeline eligibility should be done by the carrier, whether wireless or wireline; and
- 2) annual recertification should be accomplished by carriers first submitting information to the DWS for an automated query of program databases to verify program-eligibility, then, for those not verified in the automated process, by the carrier verifying either income or program eligibility.

A version of this process is already followed by wireless Lifeline carriers, which serve a large majority of Lifeline customers in the state.

The DWS can verify some program eligibility rather simply. Income verification and additional program eligibility determination is a more work-intensive process. In various meetings with various DWS personnel, it has become clear that the DWS can quickly process automated information. However, if it is to handle the non-automated processes, the DWS informs us that it will need a 12-month rolling period to complete the work. This would necessitate a waiver from the FCC, which the DPU is not sure could be obtained. This is only one example of the DWS's limitations.

Even assuming the DWS could and would handle all certification and recertification steps, that work would add to the program's administrative expense, which is already quite high relative to the customer benefits paid. Roughly estimating based on past annual expenses, administrative expenses appear to be around \$200,000 while benefits total a bit more than \$500,000. Choosing greater DWS involvement would further exacerbate the problem of high administrative expenses.

Current Lifeline rules, which in any event need changes to comply with the FCC's de-enrollment guidelines, will need to reflect this proposed process. The DPU believes these changes will simplify the rule and the process while saving administrative expense and continuing to reasonably protect the fund from fraud. In connection with the necessary rule changes, the DPU recommends the Commission close Docket No. 10-2528-01, instead using the rulemaking process to address Lifeline changes.

Cc: Docket No. 10-2528-01 Service List

Gordon Walker, Department of Workforce Services