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DEPARTMENT OF COMMERCE  
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To: The Public Service Commission of Utah

From: The Office of Consumer Services  
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Copies To: Division of Public Utilities  
Chris Parker  
William Duncan  
Parties to Docket No. 10-2528-01

Date: May 24, 2013

Subject: Response to the Division of Public Utilities' Federal Lifeline  
Compliance Letter

On May 10, 2013, the Division of Public Utilities (Division) submitted a letter to the Public Service Commission of Utah (Commission) regarding Federal Lifeline Compliance (Lifeline Letter.) The Office of Consumer Services (Office) respectfully requests that the Commission accept this memo in response to the Division's Lifeline Letter.

The Office will raise substantive issues not addressed in the letter and general process concerns related to the ongoing treatment of Lifeline issues, as well as make some initial recommendations to the Commission.

### **Substantive Issues Not Addressed**

First, the Division's proposal does not consider all of the relevant policy issues related to its proposal. For example, it is the Office's understanding that one of the reasons Utah pursued a centralized certification for Lifeline participants is out of concerns regarding implementation by some of the small rural ILECs. In some of these small communities, providing personal, financial information to the employees of the local RLEC may involve a potential applicant sharing this private information with a neighbor and may be an impediment to qualified low-income customers seeking the Lifeline benefit. The Office is further concerned that after years of not being required to administer the Lifeline certifications, the ILECs do not likely have the in-house expertise to quickly take over these requirements. The Office also questions whether we lose potential economies of scale by decentralizing this certification process, in the case of the wireline providers.

Second, the Division does not appear to have considered other workable options. In order for the Commission to decide how to move forward, other parties should have the opportunity to critique the Division's proposal and propose other options. For example, the Office asserts that the following options merit consideration:

- The Commission could issue an RFP to evaluate the possibility of a third party (other than DWS) as administrator for the Lifeline certification and verification.
- The Commission could contract with DWS for reduced services (e.g. the use of databases already in place) and conduct the rest of the work internally. As the responsible agency for Relay Utah, the Commission has experience administering programs. It may be possible that the Commission could use USF funds to hire full or part-time staff to conduct the work more cost effectively now that DWS' ability to complete the work is uncertain.

Finally, the Office notes that the Division does not identify what FCC waivers would be necessary for the Commission to request in order for Utah to be in compliance with FCC requirements absent adoption of the Division's process change recommendations. In order for the Commission to properly consider next steps, this information should be made known.

### **General Process Concerns**

The Office is highly concerned that the currently open Docket No. 10-2528-01, opened for the express purpose of evaluating Lifeline issues such as those that are the subject of the Lifeline Letter, has not been utilized for its purpose. Clearly, significant work on these issues has simply taken place behind the scenes. And now, rather than include interested stakeholders in seeking workable solutions, the Division asks to close the docket and shut all stakeholders out of the process. The implication is that neither the ETC providers nor the advocates who represent the beneficiaries (and payees) of the Lifeline program could have valuable contributions to provide. It is also contrary to the typical Commission processes, which are transparent and welcoming to stakeholder participation.

The Office also is concerned with the distribution list used by the Division for its Lifeline Letter. We note that the Division did not serve the Office or the Salt Lake Community Action Program, two of the key stakeholders that have shown a longtime interest and significant involvement in the open Lifeline docket<sup>1</sup>.

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<sup>1</sup> The Office accepts that these problems with distribution were likely an oversight on the part of the Division. However, we have already been disadvantaged by the level of discussion taking place outside of the established, transparent regulatory process. It is essential that we are notified of key summaries of progress and changes in recommendations as are contained in the Division's Lifeline Letter.

## **Conclusions and Recommendations**

The Office asserts that the Commission cannot reverse course and follow the Division's recommendations based on a single letter that does not contain any supporting evidence and may not have been widely enough distributed. However, the Office also appreciates the Division's Lifeline Letter in that it explains the ongoing difficulties experienced in implementing the new FCC requirements, as well as pointing out the currently high administrative costs associated with the Utah Lifeline program that is now paying out significantly less in benefits.

The Office is concerned about the high administrative costs associated with Lifeline and the current contract with DWS, especially now that DWS is unable to provide assistance in meeting the full FCC requirements. It is our understanding that DWS is also no longer conducting the outreach or the one-on-one assistance that was formerly included in the costs of this contract. While many of the wireless Lifeline providers are advertising their services, the Office believes that a significant outreach and information gap is occurring with respect to the availability of wireline Lifeline service.

The Office recommends that the Commission utilize the open docket, Docket No. 10-2528-01, to receive feedback from interested parties on how to move forward on meeting FCC requirements for Lifeline verification and certification. This could be done relatively efficiently either through a request for comments or the scheduling of a technical conference. After receiving broader input, the Commission must act relatively quickly. Requests for waivers to the FCC may be necessary. It appears that a renegotiation of the contract with DWS is appropriate. However, such renegotiation should be done in the context of Commission direction after receiving stakeholder input.

The Office also recommends that the Commission utilize Docket No. 10-2528-01 to assess what additional Lifeline issues need to be addressed. For example, the Office has consistently raised the issue of outreach for the Lifeline program. This might be able to be accomplished with relatively minor changes to current programs and practices. Also, as noted by the Division, the changes to certification and verification will certainly require changes to the Commission's rules. The Office asserts that certain other rule changes will also be necessary to ensure that Lifeline remains a well governed program. It was our understanding that these issues would eventually be addressed in the open docket.

Finally, the Office urges the Commission to keep in mind the public interest in taking its next steps. The Lifeline program is in place to ensure that qualified, low-income Utahns have access to reasonable, low cost telephone service. The Division's Lifeline Letter mentions actions it took "in service to the carriers." The Office recognizes that carriers are an integral part of the Lifeline process but the focus must remain on serving low-income Utahns.