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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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

COMMENTS OF UTAH RURAL TELECOM ASSOCIATION AND ITS MEMBERS

On October 26, 2016, Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”) filed a Petition for Waiver of Utah Administrative Code R746-341-3. In the CenturyLink Petition, CenturyLink requests that the Utah Public Service Commission (“Commission”) grant a waiver of its Lifeline Rules to keep the Utah Lifeline program aligned with the Federal Lifeline Program. Specifically, CenturyLink seeks a waiver of Utah’s Lifeline rules until there is time to for Utah to complete a rule making proceeding to eliminate the program based eligibility that is inconsistent with the new Federal Lifeline Rules. On October 27, 2016, the Commission issued Notices of Filing and Comment Period inviting interested parties to file comments on the CenturyLink Petition on or before November 9, 2016, with Reply Comments due November 16,

2016. In the Commission's Notice, the Commission specifically sought comments on three separate questions:

1. Is it appropriate to eliminate eligibility requirements based on LIHEAP, TANF, and Free School Lunch program participation in the interest of administrative efficiency for the carriers, even though such action might disqualify individuals who otherwise would qualify for the State Lifeline subsidy?

2. Is the Veterans and Survivors Pension Benefit program eligibility based on income, or is it available to any veteran who receives a pension, or survivor? If the latter, is that criteria consistent with the Utah Lifeline rules, which mandate eligibility be based on income?

3. Is there statutory authority for the Commission's Lifeline Rules?

The Utah Rural Telecom Association ("URTA"), on behalf of itself and its members All West Communications, Inc., Bear Lake Communications, Beehive Telephone Company, Carbon/Emery Telcom, Inc., Central Utah Telephone, Inc., Direct Communications Cedar Valley, Emery Telcom, Inc., Hanksville Telcom, Inc., Manti Telephone Company, Skyline Telecom, South Central Utah Telephone Association, Inc., UBTA-UBET Communications, Inc., and Union Telephone ("URTA Members"), all of whom are wireline eligible ETCs in Utah, hereby files these Comments in support of CenturyLink's Petition for Waiver. URTA also files these comments to address the particular issues identified in the Commission's Notice of Filing and Comment Period.

I. UTAH LIFELINE STATUTES AND RULES

As the Commission is aware, Utah is one of the 28 states and territories whose State Lifeline Program qualification criteria, statutes and regulations are no longer aligned with the new Federal Lifeline Program criteria that will go into effect December 2, 2016.

Statutorily, Utah’s State Universal Service Fund is used to defray the reasonable costs incurred by qualifying telecommunications corporations in providing public telecommunications services to, *inter alia*, “customers that qualify for a commission-approved lifeline program.”

U.C.A. Section 54-ab-15(7)(a).

By Administrative Rule, the Utah Public Service Commission has established the following:

- Applicability of State Lifeline rules (*Utah Admin. Rule R746-341-1*);
- Definitions related to State Lifeline (*Utah Admin. Rule 746-341-2*);
- State Lifeline eligibility requirements (*Utah Admin. Rule R746-341-3*);
- Duties of the lifeline program administrator (*Utah Admin. Rule 746-341-4*);
- Duties of the ETCs (*Utah Admin. Rule R 746-341-5*);
- State Lifeline telephone service features (*Utah Admin. Rule R746-341-6*);
- Federal Lifeline service telephone service features (*Utah Admin. Rule R746-341-7*);
- State ETC reporting requirements (*Utah Admin. Rule R746-341-8*);
- Funding of lifeline (*Utah Admin. Rule R746-341-9*);
- Collection and disbursement of lifeline funds (*Utah Admin. R746-341-10*)

A. Utah Lifeline Support and Supported Services

Pursuant to administrative rule, Utah provides State Lifeline support of \$3.50 per month for qualified individuals for lifeline telephone service including dial tone line, usage charges or their equivalent, and authorized extended area service (“EAS”) on a single residential access line. Lifeline support in Utah is currently limited to support of residential access telephone lines.

B. Qualification for Utah Lifeline Support

An individual can qualify for State Lifeline support in Utah through participation in approved assistance programs including¹:

- Medicaid
- Supplemental Nutrition Assistance Program (SNAP)
- Supplemental Security Income (SSI)
- Federal Public Housing Assistance
- Low-income Home Energy Assistance Program (LIHEAP)
- Temporary Assistance to Needy Families (TANF); or
- National School Lunch Program's Free Lunch Program

In addition to participation in one of the approved assistance programs identified above, Tribal Residents may qualify for State Lifeline support by participating in the following Tribal-specific federal assistance programs:

- Bureau of Indian Affairs General Assistance;
- Tribally-Administered Temporary Assistance for Needy Families (TTANF);
- Head Start; or
- Food Distribution Program on Indian Reservations (FDPIR).

Further, individuals may qualify for State Lifeline support based on income. Individuals who are at or below 135% of the Federal Poverty Guidelines will qualify for State Lifeline support.

II. DISCREPANCIES BETWEEN UTAH AND FEDERAL LIFELINE SUPPORT ELIGIBILITY CRITERIA

¹ Utah Administrative Rule R746-341-3.

Prior to the modification of the Federal Lifeline Support qualification criteria, eligibility under any state qualifying program was an acceptable qualification for Federal Lifeline Support. This State “catch-all” criterion has been eliminated from the Federal qualification requirements². Thus, while individuals will currently still qualify for Utah’s State Lifeline support by their participation in LIHEAP, TANF, or the National School Lunch Program’s Free Lunch Program, participation in such programs will not be a qualifying criterion for eligibility for the Federal Lifeline Program³. Additionally, Utah’s qualification criteria do not include Veterans and Survivor’s Pension Benefits, which, as of December 2, 2016 will be an acceptable method of qualifying for the Federal Lifeline Program.

III. ADMINISTRATIVE BURDENS ASSOCIATED WITH DISPARATE ELIGIBILITY QUALIFICATION REQUIREMENTS

The URTA Members are concerned that the discrepancies between the Federal Lifeline program eligibility requirements and Utah’s State Lifeline eligibility requirements will complicate the Lifeline application process, eligibility determinations, the recertification process, and virtually all aspects of management of the Lifeline program. The URTA Members are concerned that these discrepancies will result in higher administrative costs for the Lifeline Program, increased burdens on consumers in trying to take advantage of the State and Federal Lifeline programs, increased consumer confusion in the application, qualification, and recertification process, and increased burdens on telecom providers.

Additionally, as the Commission is aware, Utah’s State Lifeline Program is administered by a third party, the Department of Workforce Services (“DWS”), with whom the Utah Public Service Commission has contracted to administer the initial eligibility verification and continued

² Lifeline and Link Up Reform and Modernization. WC Docket No. 11-42, Third Report and Order, and Order on Reconsideration at ¶¶167 and 212 (March 21, 2016) (“FCC Lifeline Order”).

³ Id.

eligibility of State Lifeline participants. If DWS is only reviewing applications for eligibility and recertification under the State Lifeline Program requirements, telecom providers will not be able to rely on DWS's state eligibility qualification determination for purposes of determining whether an applicant qualifies for the Federal Lifeline program. It is currently unclear, under Utah Rules, how qualification for the Federal Lifeline discount will be determined. Likely, a customer would need to file a separate federal application with the telecom provider who would need to determine eligibility. However, as the Commission is aware, Utah wireline providers are not currently making this determination, nor are they currently set up to make this determination. Rather, applicants for the Lifeline programs fill out an application which is submitted to DWS. DWS determines eligibility for the Lifeline programs and notifies the providers of that determination. Because qualification under a state program has been an effective criterion for qualification for the Federal Lifeline Program, a separate analysis has not been required. There would be significant time, effort and cost associated with telecom providers gearing up to process direct applications.

IV. COMMISSION SPECIFIC QUESTIONS

A. Is the Elimination of the LIHEAP, TANF and Free Lunch Program as Lifeline Qualifying Programs Appropriate?

The Commission has asked the interested parties to address the appropriateness of elimination of three programs from State Lifeline eligibility criteria, specifically, LIHEAP, TANF and National School Lunch Program's Free Lunch to mirror the federal qualification rules. Because the DWS determines the eligibility of the applicants, URTA does not have the statistical information related to the number of applicants who qualify under one of these programs. However, according to the FCC in the FCC Lifeline Order, the FCC eliminated those programs because they are only used for qualification for Lifeline in 2.74% of all of the

applications for lifeline combined. (FCC Lifeline Order, ¶190). Further, the FCC determined that the retained programs (exclusive of LIHEAP, TANF, and Free School Lunch) will allow the FCC to develop a long term technological solution for determining and verifying Lifeline eligibility which may not be possible with the inclusion of the eliminated programs. (FCC Lifeline Order, ¶196). So contrary to the Commission's assertion, elimination of these programs as State qualifying programs is not merely for the administrative efficiency of the carriers.

Additionally, however, URTA would note that qualification for the LIHEAP program is an income based criteria. This federal program offers assistance to individuals whose income is between 110% and 150% of the federal poverty guidelines. The exact income level for qualification is left to each individual state, and Utah has set the income based criteria at 150% of the Federal Poverty Guidelines. Therefore, because a household with income at or below 135% of the Federal Poverty Guidelines would otherwise qualify for the federal and state lifeline programs, the number of individuals affected by elimination of LIHEAP as a qualifying program could be de minimis.

Similarly the National School Lunch Program's Free Lunch Program has an income based qualification process whereby individuals with a household income of 130% or less of the federal poverty guidelines will qualify for the Free Lunch Program. Again, where Utah and the Federal Lifeline programs have retained an income based criterion at 135% of the Federal Poverty Guidelines, the number of individuals who are likely to be affected by elimination of the Free Lunch Program as a State Lifeline qualifying programs is likely very small.

Additionally, typically individuals who qualify for TANF also qualify for Food Stamps (Supplemental Nutrition Assistance Program), so elimination of the TANF program as a separate

qualifying program for State Lifeline is not likely to have a significant impact on Lifeline qualification in general.

URTA and its members urge the Commission to have parity between the Federal and State Lifeline programs for administrative efficiency and to avoid customer confusion.

B. Is the Veterans and Survivor Pension Benefit Program an Income Based Program?

With regard to the Federal inclusion of the Veterans and Survivor Pension Benefit program as a Lifeline qualifying program, the Commission has requested comments on whether such program is income based. Review of the Veterans and Survivor Pension Benefit Program reveals that there is an income component that recipients must meet. This income level is set by Congress. Therefore, to the extent the Utah Lifeline Rules are required to be income based, inclusion of the Veterans and Survivor Pension Benefit Program as a qualifying program would not violate such rules. However, in these Comments, URTA urges the Commission to ultimately adopt rules consistent with the Federal Lifeline Rules. Therefore, if the Commission feels its current rules would preclude inclusion of the Veterans and Survivor Pension Benefit Program, URTA urges the Commission to specifically address that issue in a future rulemaking procedure.

C. Is there Statutory Authority for the Lifeline Rules Implemented by the Commission?

Utah Code Section 54-8b-15 (7) enacted in 1997, provides that the Utah Universal Service Fund “shall be used to defray the costs, as determined by the commission, of any qualifying telecommunications corporation in providing public telecommunications services to: (a) customers that qualify for a commission approved lifeline program.” Further, in Section 54-8b-15(13), the statute provides that the “commission shall have a bill prepared for the 1998 General Session of the Legislature to place in statute as much of the regulation implemented by

rule pursuant to the act the commission believes is practicable.” The above-quoted language demonstrates statutory authority for the Lifeline program, and requires the Commission to place the appropriate regulation in statute.

IV. CONCLUSION

URTA and its members believe that aligning the State and Federal Lifeline programs is the most efficient way of managing the State Lifeline program while still affording the valuable benefit to the majority of the qualifying participants. The administrative burdens and resulting confusion by two different sets of eligibility requirements require a waiver from either the State or Federal Rules. As such, URTA and its Members have supported USTelecom’s Petition at the FCC for a waiver of the new Federal rules to allow states, such as Utah time to address these issues on a state basis. However, the US Telecom Petition has not been granted. Therefore, URTA and its Members urge the State of Utah and the Utah Public Service Commission to amend Utah’s State Lifeline Program to be in conformity with the Federal Lifeline Program. In the meantime, until such changes are addressed, URTA and its Members support CenturyLink’s Petition for a waiver of the State Lifeline Rules.

DATED this 9th day of November, 2016.

BLACKBURN & STOLL, LC

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November, 2016, I served a true and correct copy of Utah Rural Telecom Association's Comments on CenturyLink's Petition for Waiver of State Lifeline Rules via e-mail transmission to the Public Service Commission Distribution list in this docket and the following persons at the e-mail addresses listed below:

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