BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission
DOCKETED
JUN 21 2005
DOCKETED BY

IN THE MATTER OF ADOPTING EXPANDED ELIGIBILITY CRITERIA FOR LIFELINE AND LINK-UP AND CERTIFICATION, VERIFICATION AND RECORDKEEPING REQUIREMENTS	DOCKET NO. T-00000A-05-0380 DECISION NO. 67941 ORDER

Open Meeting
June 14 and 15, 2005
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On April 29, 2004, the Federal Communications Commission ("FCC") released a *Report and Order and Further Notice of Proposed Rulemaking*[1] ("Lifeline Order") which expands Lifeline and Link-Up eligibility criterion based upon the recommendations of the Federal-State Joint Board on Universal Service. On December 21, 2000, the FCC asked the Joint Board to review the current Lifeline/Link-Up program, including income eligibility criteria. The Joint Board issued its Recommended Decision on April 2, 2003. In its Decision, the Joint Board recommended several changes to improve the effectiveness of the low-income support mechanism.

2. Lifeline/Link-up is one of the universal service support mechanisms established by the FCC to further the goals of 47 U.S.C. Section 254(b). Lifeline is a program that allows low-income customers to subscribe to basic local exchange services at discounted rates. Link-Up is a program that reduces the carrier's normal charge for connecting service. Under the FCC's rules

[1] *Lifeline and Link-Up Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 03-109, FCC 04-87 (rel. April 29, 2004).

adopted in 1997, all Eligible Telecommunications Carriers ("ETCs") are required to make Lifeline and Link-Up service available to their low-income customers.

3. Eligibility for Lifeline and Link-Up service is based upon the customer's participation in certain means-tested programs. In 1997, the FCC adopted a list of certain means-tested programs which were referred to as the "federal default eligibility criteria". A customer was eligible if it participated in any one of the following means-tested federal programs: Medicaid, Food Stamps, Supplemental Security Income ("SSI"), Federal Public Housing Assistance (Section 8) ("FPHA"), or the Low Income Home Energy Assistance Program ("LIHEAP")[2].

4. In 1997, this Commission designated all of the State's incumbent local exchange carriers as ETCs and as part of the same orders adopted the federal default eligibility criteria for Arizona's Lifeline and Link-Up programs. There are also two income-based state programs in Arizona, the Qwest Telephone Assistance Program for the Medically Needy ("TAP") and the Senior Discount Program ("ALITAP") provided for under A.R.S. 46-701 *et seq.*

5. Since that time, the Commission has designated, *inter alia,* several wireless carriers as ETCs and as part of that designation required the carriers to offer Lifeline and Link-Up services to qualifying applicants, including but not limited to the provision of wireless services to customers living on tribal lands. In its Twelfth Report and Order, the FCC adopted more expansive Lifeline/Link-Up eligibility criteria for low-income consumers living on tribal lands.

6. **New Eligibility Criteria** The FCC's Lifeline Order adopts several of the Joint Board's recommendations intended to increase current participation levels, including a new federal default income-based criteria allowing participation if the consumer's income is at or below 135 percent of the Federal Poverty Guidelines ("FPG").[3] The FCC estimates that adding an income-based criterion of 135 percent of the FPG could result in approximately 1.17 million to 1.29 million new Lifeline/Link-Up subscribers. Of these new subscribers, approximately one in five

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[2] See *Lifeline Order* at para. 7.

[3] In 1996, Congress passed "the Personal Responsibility and Work Opportunity Reconciliation Act" which instituted sweeping changes to several federal public assistance programs, including time limits and work requirements backed by sanctions. Participation is decreasing in many public assistance programs, including at least one program used to determine eligibility for Lifeline/Link-Up. At the same time, poverty rates in the U. S. are increasing by the traditional measure.

will be new subscribers to telephone service. States, such as Arizona, which have their own end-user assistance programs and are not federal default states may adopt their own income threshold.

7. The FCC's Lifeline Order also adopted two more program-based criteria, the Temporary Assistance to Needy Families program ("TANF") and the National School Lunch's free lunch program ("NSL") to its current list of the 5 program-based criteria discussed in Paragraph 3 above.[4]

8. Arizona ETCs should be required to incorporate these additional eligibility criteria into their Lifeline and Link-Up tariffs. For income-based eligibility, Staff recommends that the Commission adopt a threshold of 150 percent of the FPG, which is consistent with Qwest's TAP program and most of the State's other customer assistance programs which utilize 150 percent of the FPG.[5]

9. **Additional Requirements:** The FCC's Lifeline Order also contains requirements pertaining to dispute resolution procedures, certification procedures, verification procedures, recordkeeping procedures, and outreach.

10. **Dispute Resolution Procedures:** In states that lack dispute resolution procedures applicable to Lifeline termination, the FCC adopted the Joint Board's recommendation that requires ETCs which have a reasonable basis to believe that a customer no longer qualifies for Lifeline to notify the consumer of his or her impending termination of Lifeline benefits and implement a 60-day period of time in which to demonstrate continued eligibility.

11. In Arizona, the Department of Economic Security ("DES"), administers Qwest's Lifeline, TAP and ALITAP programs. It is Staff's understanding that DES does not administer the other ETCs Lifeline programs, but does administer their ALITAP programs. Staff is of the understanding that DES utilizes a notification or verification process similar to the dispute resolution process adopted by the FCC for federal default states, but with a 45-day time period.

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[4] In determining Lifeline eligibility based upon programs such as LIHEAP, ETCs or DES as the case may be, shall ensure that eligibility is based upon the customer meeting the qualification requirements for the program, rather than the customer actually receiving assistance under the program.

[5] See footnote 31 of the FCC Lifeline Order.

12. Staff recommends that the Commission adopt the FCC process for default states to be utilized by all Arizona ETCs for all end-user assistance programs.[6] Under the FCC's process, the ETC would be required to notify consumers of their impending termination of Lifeline benefits by sending a termination of Lifeline benefits notice in a letter separate from the customer's bill. If a consumer receives such a termination notice, the consumer would have up to 60 days from the date of the termination letter in which to demonstrate his or her continued eligibility before Lifeline support is discontinued. If a dispute remains between the customer and the carrier on the customer's continued eligibility, the customer can utilize this Commission's dispute resolution or complaint process (A.A.C. R14-2-510) to resolve the dispute.

13. **Certification Procedures:** Certification occurs at the time an individual is applying to enroll in Lifeline/Link-Up.

14. The FCC determined that no changes were required to certification procedures for consumers qualifying under program-based criteria. Current rules require self-certification, under penalty of perjury, for federal default states, and allow states operating their own Lifeline/Link-Up programs to devise more strict measures as they deem appropriate.

15. Under the federal default criteria, for consumers qualifying under the new income-based criteria, the certification must be accompanied by supporting documentation **at enrollment**. The supporting documentation can include the prior year's state, federal or tribal tax return, current income statements from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance, a divorce decree, or child support document.

16. Under the federal default criteria, if a consumer chooses to submit any thing other than a previous year's state income tax return, the consumer must present three consecutive months worth of the same type of statements within that calendar year. Further, an officer of the

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[6] Thus it will be necessary for DES to incorporate a 60 day period in lieu of the 45 day period it now uses.

ETC enrolling the consumer in Lifeline/Link-Up must certify, under penalty of perjury, that the ETC has procedures in place to review income documentation and that, to the best of his or her knowledge, the company was presented with documentation that the consumer's household income is at or below 135 percent of the Federal Poverty Guidelines. ETCs need only retain records of their self-certifications and those made by the applicant, and not all of the consumer's corroborating documentation. In addition, applicants qualifying under an income-based criterion are required to self-certify, under penalty of perjury, the number of individuals in their households because the Federal Poverty Guidelines change depending upon the number of individuals in a household.

17. Arizona ETCs shall ensure that procedures are in place to meet the minimum certification processes. These processes shall be put in place as quickly as possible but no later than 180 days from the effective date of this Commission's Order on this matter. All Arizona ETCs (or DES as the case may be) shall be required to adopt the certification procedures that provide for self-certification by the subscriber with supporting documentation provided at the time of enrollment.[7] ETCs shall also take steps to ensure, at the time of certification, that eligible subscribers are not currently receiving Lifeline benefits from any other ETC or carrier.

18. Finally, the FCC encouraged, but did not require, states to adopt automatic enrollment as a means of certifying that consumers are eligible for Lifeline/Link-Up. The Joint Board in its recommendation observed that participation rates for Lifeline/Link-Up increased in states that employed automatic enrollment as a means of certifying that consumers are eligible for Lifeline/Link-Up.[8] The FCC did not make this a requirement because automatic enrollment could impose significant administrative, technological, and financial burdens on states and ETCs. It is Staff's understanding that the current DES certification process is an effective one and the benefits associated with the development of an on-line certification process are uncertain at this time.

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[7] Since Arizona has its own Lifeline program, ETCs have some discretion in defining income for certification purposes. ETCs shall be required to adopt a uniform definition of income, for purposes of this requirement, with DES' input. ETCs shall include additional state income-based programs, such as the State Children Health Insurance Plan ("SCHIP") ("KidsCare"), for purposes of determining income eligibility in Arizona.

[8] Massachusetts, Texas, New York, New Jersey, Nevada, and Ohio are examples of states utilizing automatic enrollment in their Lifeline/Link-Up programs.

Nonetheless, as discussed in paragraph 30 below, we ask Arizona ETCs to meet with DES to discuss the benefits associated with implementation of an on-line process in Arizona, and report back to the Commission.

19. **Verification Procedures:** On an ongoing basis, states are required to establish procedures to verify consumers' continued eligibility for the Lifeline/Link-Up program under both program and income-based eligibility criteria. Verification is necessary to ensure that the low-income support mechanism is updated, accurate, and carefully targeted to provide support only to eligible consumers. DES administers all of Qwest's end-user assistance programs, which for Lifeline and ALITAP include annual verifications for each customer. For TAP, subsequent verification is dependent upon the doctor's initial certification period.

20. All Arizona ETCs shall either verify each customer's continued eligibility in Lifeline and ALITAP on an annual basis or shall utilize the federal default requirement which obligates ETCs to verify annually the continued eligibility of a statistically valid sample of its Lifeline subscribers. ETCs may either obtain the necessary information from the state, or they can survey the subscriber directly and provide the results of the sample to the Universal Service Administrative Company ("USAC").

21. For program-based eligible customers, proof of continued eligibility may be made in person or by sending a copy of his or her Medicaid card or other Lifeline-qualifying public assistance card and self-certifying, under penalty of perjury, that they continue to participate in the Lifeline-qualifying public assistance program.

22. For income-based eligible customers, proof of continued eligibility may be made by presenting current documentation consistent with the federal default certification process discussed in Paragraphs 15 and 16 above. These subscribers must also self-certify, under penalty of perjury, the number of individuals in their household and that the documentation presented accurately represents their annual household income.

23. All Arizona ETCs shall ensure that any necessary verification sampling be provided to USAC within 180 days from the effective date of this Order. All Arizona ETCs shall implement

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these new verification procedures as soon as possible but no later than 180 days from the effective date of this Order.

24. The FCC encouraged, but did not require, states to adopt on-line verification systems, given the effectiveness and efficiency of verifying eligibility via on-line databases. Despite the benefits of on-line verification, the FCC recognized that current financial constraints may make it difficult for some states to implement on-line verification. As discussed in paragraph 30 below, ETCs should be required to meet with DES to discuss the potential benefits of an on-line system and report back to the Commission on this issue as well as the other issues identified in paragraph 30.

25. **Implementation and Recordkeeping:** For ETCs that administer their own end-user assistance programs, Staff recommends that the Commission adopt the federal default recordkeeping requirement which requires ETCs to retain ETC and consumer certifications regarding a consumer's eligibility for Lifeline for as long as the consumer receives Lifeline service from that ETC or until the ETC is audited by the Administrator. ETCs must also keep records of compliance with all FCC and Commission requirements governing the Lifeline/Link-Up programs. Such records should include, *inter alia*, documents demonstrating that ETCs have passed through the appropriate discounts to qualifying consumers, proof of advertising of Lifeline/Link-Up service, and billing records for Lifeline customers. All ETCs must retain such documentation for the three full preceding calendar years provided, however, that the ETCs may digitally scan the required documentation and retain it only in electronic form. Staff anticipates that DES will comply with any necessary recordkeeping requirements that are imposed by the FCC for continued state participation in the programs and the receipt of federal funds. All ETCs shall be required to certify to this Commission that they are in compliance with all state and federal requirements on an annual basis.

26. **Outreach:** Currently, there are no specific federal outreach guidelines. The FCC notes in its Lifeline Order that according to an August 2000 report by the Telecommunications Industries Analysis Project, the Lifeline/Link-Up take rate almost tripled from 13.1 percent to 39.6 percent when states implemented outreach initiatives designed to increase telephone penetration

and participation. In its Lifeline Order, the FCC did not require specific outreach procedures for states, but instead provided guidelines for states and carriers so that they could adopt their own specific standards and engage in outreach as they see fit.

27. The following outreach guidelines were adopted by the FCC: (1) states and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service; (2) states and carriers should develop and implement outreach advertising that can be read or accessed by any sizeable non-English speaking populations within a carrier's services area; and (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs.

28. All Arizona ETCs should be required to follow the FCC's outreach program. Within one year from the effective date of the Commission's Decision, all Arizona ETCs shall file a report with the Commission which identifies the results of the carrier's outreach programs utilizing these guidelines.

29. **Summary of Recommendations:** Arizona ETCs maintain tariffs with the Commission which establish the terms and conditions for the provision of Lifeline and Link-Up services. These tariffs should be kept in compliance with the requirements established herein and as established in 47 U.S.C Part 54. All carriers who are ETCs shall amend the Lifeline and Link-Up provisions in their tariff to reflect compliance with the FCC's Lifeline Order and this Decision. The amended tariffs shall be filed within 60 days from the date of Commission's Order in this matter and in addition to current requirements, provide for the following as discussed above:

1, Eligibility for Lifeline and Link-Up services if the consumer's household income is at or below 150 percent of Federal Poverty Guidelines.

2. Eligibility for Lifeline and Link-Up services based upon participation in the TANF and NSL programs.

3. Minimum certification procedures discussed herein including self-certification by the subscriber through supporting documentation at the time of enrollment. Adoption of a uniform definition of income for certification, with input from DES.

4. Minimum verification procedures discussed herein including either annual verification or a statistically valid sample performed on an annual basis. Any

required sampling shall be performed within 180 days of the effective date of this Order and submitted to USAC.

5. A record retention policy as discussed herein and in paragraphs 38 and 39 of the FCC's Lifeline Order, to the extent the carrier rather than DES administers these programs.

6. A report to the Commission within one year from the effective date of this order which identifies the outreach programs implemented by the carrier and discusses their impact on subscribership levels.

30. In addition, Staff recommends that Arizona ETCs meet with DES within 30 days of the effective date of this Order for the purpose of exploring the development of an electronic interface between DES and the carrier that allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program. The ETCs should also explore with DES the development of on-line verification systems. The ETCs should report back to the Commission within six (6) months of the effective date of this Decision with recommendations on the following: 1) whether the development of an electronic interface would be beneficial in Arizona, 2) how other states on line electronic interfaces operate; 3) whether such interfaces have had an impact on subscribership rates in these other states; 4) cost recovery options to cover the costs of any on-line interfaces of this nature; 5) whether centralized administration of all ETC end-user assistance programs by DES would be beneficial; and 6) outreach programs that should be implemented to increase subscribership in Arizona.

CONCLUSIONS OF LAW

1. The ILEC and wireless ETCs are public service corporations within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over ILEC, CLEC and wireless ETCs and over the subject matter of the Lifeline and Link-Up requirements for ETCs in Arizona.

3. Adoption of the additional eligibility criteria contained within the FCC's Lifeline Order for purposes of Arizona's Lifeline and Link-Up are reasonable and in the public interest.

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4. Adoption of the federal default certification and verification procedures contained within the FCC's Lifeline Order for purposes of Arizona's Lifeline and Link-Up are reasonable and in the public interest.

5. Approval of the filing will not result in an increase in rates as contemplated by A.R.S. Section 40-250.

ORDER

IT IS THEREFORE ORDERED that all carriers who have been designated as ETCs should amend the Lifeline and Link-Up provisions in their tariff to reflect compliance with the Lifeline Order, the discussion contained herein, and Finding of Fact No. 29.

IT IS FURTHER ORDERED that all carriers who have been designated as ETCs shall docket updated tariff pages within 60 days from the date of this Order for review and approval by the Utilities Division.

IT IS FURTHER ORDERED that all ETCs shall docket a report with the Commission within 12 months from the effective date of the Commission's Decision which discusses the carrier's outreach programs utilizing the new FCC guidelines and their impact on subscribership levels. ETCs shall reference the Docket No. of this Decision on their filing with the Commission.

IT IS FURTHER ORDERED that the ETCs shall undertake meetings with DES within 30 days from the effective date of this Order and docket a report to the Commission within six (6) months from the effective date of this Decision with recommendations on the following: 1) whether the development of an electronic interface for Lifeline verification and certification would be beneficial in Arizona, 2) how other states on line electronic interfaces operate; 3) whether such

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interfaces have had an impact on subscribership rates in these other states, 4) cost recovery options costs to cover the costs of an on-line interface of this nature; 5) whether centralized administration by DES of all ETC end-user assistance programs would be beneficial; and, 6) outreach programs that should be implemented to increase subscribership in Arizona. ETCs shall reference the Docket No. of this Decision in their filing with the Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 21st day of June, 2005.

BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ:RLB:lhm\MAS

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