



# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU PROVIDES GUIDANCE FOR THE SUBMISSION OF COMPLIANCE PLANS PURSUANT TO THE *LIFELINE REFORM ORDER*

WC Docket Nos. 09-197, 11-42

In this Public Notice, the Wireline Competition Bureau (Bureau) provides guidance on the compliance plans that must be submitted to the Bureau by carriers seeking to avail themselves of the Commission's conditional grant of forbearance in the *Lifeline Reform Order*.<sup>1</sup> Any carrier that seeks to provide Lifeline service to eligible consumers must be designated as an eligible telecommunications carrier (ETC) by the states or territories in which it is providing service or by the Commission.<sup>2</sup> Section 214(e)(1)(A) of the Communications Act of 1934, as amended (Act) provides that in order to be designated as an ETC, a carrier must "offer the services that are supported by Federal universal service support mechanisms...either using its own facilities or a combination of its own facilities and resale of another carrier's services ...."<sup>3</sup> Recently, the Commission amended its rules to define voice telephony as the supported service, removed directory assistance and operator services, among other things, from the list of supported services, and eliminated separate support for toll limitation service.<sup>4</sup> As a result of those amendments, many Lifeline-only ETCs that previously met the facilities requirement no longer meet that requirement.<sup>5</sup>

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<sup>1</sup> See *Lifeline and Link Up Reform and Modernization et al*, WC Dkt No.11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, at paras. 361-381, Appendix A (rel. Feb. 6, 2012) (*Lifeline Reform Order*).

<sup>2</sup> See 47 U.S.C. § 254(e) (providing that only ETCs designated pursuant to section 214(e) are eligible for universal service support).

<sup>3</sup> 41 U.S.C. § 214(e)(1)(A).

<sup>4</sup> See *Connect America Fund et al.*, WC Dkt. No. 10-90 *et al.* Report and Order and Further Notice of Proposed Rulemaking, para. 77-78, 80 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order and FNPRM*); *Connect America Fund et al.*, WC Dkt. No. 10-90 *et al.* Order on Reconsideration, FCC 11-189, (rel. Dec. 23, 2011)(*USF/ICC Transformation Order on Reconsideration*).

<sup>5</sup> See *Lifeline Reform Order*, FCC 12-11 at para. 366; *USF/ICC Transformation Order on Reconsideration* at para. 4.

In the past, the Commission has granted forbearance from the facilities requirement to carriers seeking to provide Lifeline services on a case-by-case basis.<sup>6</sup> In the *Lifeline Reform Order*, however, the Commission found that blanket forbearance of the facilities requirement, subject to certain public safety and compliance obligations, is appropriate for carriers seeking to provide Lifeline-only service.<sup>7</sup> Therefore, in that *Order*, the Commission granted forbearance from the Act's facilities requirement to all telecommunications carriers seeking Lifeline-only ETC designation, subject to the following conditions: (1) compliance with certain 911 and enhanced 911 (E911) public safety requirements; and (2) Bureau approval of a compliance plan providing specific information regarding the carrier and its service offerings and outlining the measures the carrier will take to implement the obligations contained in the *Order*.<sup>8</sup>

This Public Notice summarizes the key elements of a compliance plan in order to provide guidance to Lifeline-only carriers seeking to avail themselves of the Commission's conditional grant of forbearance from the facilities requirement. Non-facilities-based carriers seeking a new Lifeline-only ETC designation and Lifeline-only ETCs designated prior to December 29, 2011 that no longer meet the facilities requirement must file a compliance plan with the Bureau.<sup>9</sup> Pending approval of their compliance plans, Lifeline-only ETCs that no longer meet the facilities requirement may continue to receive reimbursement for Lifeline services they provide in states where they were designated as ETCs prior to December 29, 2011, provided they submit their compliance plans to the Bureau by July 1, 2012.<sup>10</sup> Such existing Lifeline-only ETCs may not receive reimbursement, however, for providing Lifeline services in states where they were not designated ETCs as of December 29, 2011.<sup>11</sup> Non-facilities-based carriers designated after December 29, 2011 will not be eligible to receive universal service support for Lifeline services in those states until the Bureau approves their compliance plans.<sup>12</sup>

Companies should familiarize themselves with the requirements set forth in the *Lifeline Reform Order*. At a minimum, compliance plans should contain the following:

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<sup>6</sup> See *Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support; i-wireless Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Dkt No. 96-45 et al., WC Dkt No. 09-197, Order, 25 FCC Rcd 8784 (2010) (*i-wireless Forbearance Order*); *Telecommunications Carriers Eligible for Universal Service Support; Virgin Mobile USA, L.P. Petitions for Designation as an Eligible Telecommunications Carrier in the State of Alabama et al.*, WC Dkt No. 09-197, Order, 25 FCC Rcd 17797 (2010) (*Virgin Mobile 2010 ETC Order*); *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A) et al.*, CC Dkt No. 96-45, Order, 24 FCC Rcd 3381 (2009) (*Virgin Mobile Forbearance Order*); *Federal-State Joint Board on Universal Service; Petition of TracFone Wireless, Inc. for Forbearance*, CC Dkt No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*). These carriers are not eligible to receive high-cost support.

<sup>7</sup> See *Lifeline Reform Order*, FCC 12-11 at paras. 368-381.

<sup>8</sup> See *Lifeline Reform Order*, FCC 12-11 at paras. 373 and 389.

<sup>9</sup> See 47 C.F.R. § 54.101(a); see also *Lifeline Reform Order*, FCC 12-11 at paras. 366-67, 380, n. 1000 (detailing the obligations of existing Lifeline-only ETCs that no longer meet the requirements of section 214(e)(1)(A) to submit and obtain approval of compliance plans).

<sup>10</sup> See *Lifeline Reform Order*, FCC 12-11 at para. 380.

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

- (1) Information about the carrier and the Lifeline plans it intends to offer: (a) names and identifiers used by the carrier, its holding company, operating company and all affiliates;<sup>13</sup> (b) detailed information demonstrating that the carrier is financially and technically capable of providing the supported Lifeline service in compliance with the Commission's rules;<sup>14</sup> (c), detailed information, including geographic locations, of the carrier's current service offerings if the carrier currently offers service;<sup>15</sup> (d) the terms and conditions of each Lifeline service plan offering, including rates, the number of minutes provided, and additional charges, if any, for toll calls;<sup>16</sup> and (e) all other certifications required under newly amended section 54.202 of the Commission's rules;<sup>17</sup>
- (2) A detailed explanation of how the carrier will comply with the Commission's new rules relating to determinations of subscriber eligibility for Lifeline services, including all of the consumer eligibility, consumer enrollment, and re-certification procedures, as required by Section VI and Appendix C of the *Lifeline Reform Order*, and a copy of the carrier's certification form;<sup>18</sup>
- (3) A detailed explanation of how the carrier will comply with the forbearance conditions relating to public safety and 911/E-911 access;<sup>19</sup>
- (4) A detailed explanation of how the carrier will comply with the Commission's marketing and disclosure requirements for participation in the Lifeline program;<sup>20</sup> and
- (5) A detailed explanation of the carrier's procedures and efforts to prevent waste, fraud and abuse in connection with Lifeline funds, including but not limited to, procedures the carrier has in place to prevent duplicate Lifeline subsidies within its own subscriber base,<sup>21</sup> procedures the carrier undertakes to de-enroll subscribers receiving more than one Lifeline subsidy per household, information regarding the carrier's toll limitation service, if applicable, and the carrier's non-usage policy, if applicable.<sup>22</sup>

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<sup>13</sup> See *id.* at para. 390; see also 47 C.F.R. § 54.222.

<sup>14</sup> See *Lifeline Reform Order*, FCC 12-11 at paras. 387-88; see also 47 C.F.R. § 54.202.

<sup>15</sup> See *Lifeline Reform Order*, FCC 12-11 at para. 379.

<sup>16</sup> See *Lifeline Reform Order*, FCC 12-11 at para. 390; see also 47 C.F.R. § 54.202.

<sup>17</sup> See 47 C.F.R. § 54.202.

<sup>18</sup> See *Lifeline Reform Order*, FCC 12-11 at paras. 60-178, Appendix C; see also 47 C.F.R. § 54.410.

<sup>19</sup> See *Lifeline Reform Order*, FCC 12-11 at paras. 373-75; see also C.F.R. § 54.422 (b).

<sup>20</sup> See *Lifeline Reform Order*, FCC 12-11 at paras. 275-76.

<sup>21</sup> See generally *id.*, Appendix C.

<sup>22</sup> See *id.*, at paras. 255-263.

Carriers must file their compliance plans in **WC Docket No. 09-197** and **WC Docket No. 11-42**. Compliance Plans may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>23</sup>

- Electronic Filers: Compliance Plans may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, D.C. 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

**In addition, one copy of each pleading must be sent to each of the following:**

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, [www.bcpweb.com](http://www.bcpweb.com); phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Divya S. Shenoy, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B442, Washington, D.C. 20554; e-mail: [divya.shenoy@fcc.gov](mailto:divya.shenoy@fcc.gov); and
- (3) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A452, Washington, D.C. 20554; e-mail: [charles.tyler@fcc.gov](mailto:charles.tyler@fcc.gov).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail [www.bcpweb.com](http://www.bcpweb.com).

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>24</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not

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<sup>23</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Dkt No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

<sup>24</sup> 47 C.F.R. §§ 1.1200 *et seq.*

merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.<sup>25</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.<sup>26</sup>

For further information, please contact Divya S. Shenoy, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

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<sup>25</sup> See 47 C.F.R. § 1.1206(b)(2).

<sup>26</sup> 47 C.F.R. § 1.1206(b).