



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

DA 13-1435  
June 25, 2013  
Enforcement Advisory No. 2013-4

## FCC ENFORCEMENT ADVISORY

### LIFELINE PROGRAM

#### LIFELINE PROVIDERS ARE LIABLE IF THEIR AGENTS OR REPRESENTATIVES VIOLATE THE FCC'S LIFELINE PROGRAM RULES

The FCC's Enforcement Bureau reminds Eligible Telecommunications Carriers (ETCs) receiving federal universal service support from the Lifeline program that they are liable for any conduct by their agents, contractors, or representatives (acting within the scope of their employment) that violates the FCC's Lifeline rules. ETCs, therefore, should take all necessary steps to ensure that they and their agents, contractors, and representatives scrupulously adhere to the Lifeline rules. ETCs could face significant monetary penalties of up to \$1.5 million for each failure to comply.

The Lifeline program helps low-income Americans access affordable phone service by providing discounts on basic monthly telephone service (either wireline or wireless) for qualified subscribers. The Enforcement Bureau is committed to rooting out waste, fraud and abuse in the Lifeline program, and it is particularly concerned that some ETCs are failing to ensure that their agents, contractors, and representatives adhere to the Lifeline rules. Accordingly, the Bureau is aggressively pursuing possible misconduct on the part of ETCs as well as their agents, contractors, and representatives.

**What Do The Lifeline Rules Require?** The Commission's Lifeline rules impose detailed requirements on ETCs that offer Lifeline service, including (without limitation) obligations to:

- implement policies and procedures to ensure subscribers are eligible to receive Lifeline service;<sup>1</sup>
- confirm each subscriber's eligibility *before* activating Lifeline service;<sup>2</sup>
- confirm each subscriber's eligibility *before* seeking reimbursement from the Universal Service Fund for that subscriber;<sup>3</sup>
- require applicants to certify under penalty of perjury that they are eligible and that their households do not already receive Lifeline service.<sup>4</sup>
- keep records detailing the documents or data source used to determine each subscriber's eligibility;<sup>5</sup>
- provide Lifeline service only to qualified individuals who do not reside in households that already benefit from Lifeline service;<sup>6</sup> and

<sup>1</sup> 47 C.F.R. § 54.410(a).

<sup>2</sup> *Lifeline and Link Up Modernization and Reform*, WC Docket No. 11-42, Order, paras. 3-6 (WCB, rel. June 25, 2013).

<sup>3</sup> *Id.* § 54.410(b)(1)(i), (c)(1)(i).

<sup>4</sup> *Id.* § 54.410(d)(3)(vi).

<sup>5</sup> *Id.* § 54.410(b)(1)(iii), (c)(1)(iii).

<sup>6</sup> *Id.* §§ 54.405(a), 54.409(c).

- explain to subscribers that Lifeline is a government assistance program and the service is non-transferable—that is, it may not be sold or given to any other party.

We again emphasize that ETCs are liable for violations of these and other Lifeline rules—and their liability extends to violations on the part of their agents, contractors, and representatives.<sup>7</sup> Therefore, if an ETC retains an agent, contractor or representative to check eligibility documentation, record details regarding the documentation applicants provide, obtain applicant certifications, or engage in any other work related to the Lifeline program, the ETC itself would be liable for any act, omission, or failure on the part of the agent, contractor, or representative that violates the Lifeline rules.

**What Specific Laws Apply?** The Communications Act, as amended, and the Commission’s *Lifeline Reform Order* provide that ETCs are liable for the conduct of agents, contractors, and representatives in connection with the work they are retained to perform.

- Section 217 of the Act provides generally that any “act, omission, or failure” of an agent acting within the scope of its employment by a common carrier “shall in every case be also deemed to be the act, omission, or failure of such carrier.”<sup>8</sup>
- Referring expressly to ETCs and their agents, the *Lifeline Reform Order* states that while ETCs may contract with agents and representatives in connection with providing Lifeline service, “the ETC remains liable for ensuring the agent’s or representative’s compliance with the Lifeline program rules.”<sup>9</sup>

**What Are The Potential Penalties?** Violations of the Lifeline rules—whether committed by an ETC itself or its agents or representatives—may subject an ETC to monetary forfeitures of up to \$150,000 for each violation or each day of a continuing violation, up to a maximum of \$1,500,000 for any particular act or failure to act.<sup>10</sup> Moreover, in egregious cases a carrier may face revocation of its ETC status (and thus its eligibility to participate and receive support in the federal Lifeline universal service program) and/or revocation of its Section 214 authorization to operate as a carrier.<sup>11</sup> In addition, false statements or misrepresentations to the Commission may result in additional forfeiture liability and may be punishable by fine or imprisonment under Title 18 of the U.S. Code.

**Need More Information?** For more information about enforcement of the Lifeline rules, please contact Mindy Littell, Attorney, Investigations and Hearings Division, Enforcement Bureau, at (202) 418-0789 or [Mindy.Littell@fcc.gov](mailto:Mindy.Littell@fcc.gov). Media inquiries should be directed to Mark Wigfield at 202-418-0253 or [Mark.Wigfield@fcc.gov](mailto:Mark.Wigfield@fcc.gov).

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). You may also contact the Enforcement Bureau on its TTY line at (202) 418-1148 for further information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-TELL-FCC (1-888-835-5322) for further information about Lifeline rules.

Issued by: Acting Chief, Enforcement Bureau

-FCC-

---

<sup>7</sup> As noted in the *Lifeline Reform Order*, “[t]he Commission has consistently found that ‘[i]ncensees and other Commission regulatees are responsible for the acts and omissions of their employees and independent contractors,’ and has held the regulated party responsible for violations of the Commission’s rules committed by agents.” *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6708-09, para. 110 (2012) (*Lifeline Reform Order*).

<sup>8</sup> 47 U.S.C. § 217.

<sup>9</sup> *Lifeline Reform Order*, 27 FCC Rcd at 6708-09, para 110.

<sup>10</sup> 47 U.S.C. § 503(b)(2)(B); 47 C.F.R. § 1.80(b)(2); *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 23 FCC Rcd 9845 (2008).

<sup>11</sup> 47 U.S.C. § 214.