Before the Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Lifeline and Link Up Reform and Modernization

CC Docket No. 11-42

ORDER

Adopted: November 25, 2014
Released: November 25, 2014

By the Chief, Telecommunications Access Policy Division:

1. In this Order, we address five petitions related to the requirements established in the 2012 Lifeline Reform Order. Specifically, as set forth below, we grant four petitions for waiver and dismiss one petition for reconsideration as moot.

2. Three petitioners seek waiver of section 54.410(f) of the Commission’s rules which requires that eligible telecommunications carriers (ETCs) annually re-certify the eligibility of their Lifeline subscribers to receive support. Petitioners state that the relevant Lifeline subscribers had recently been enrolled or re-enrolled in the program using certification processes that documented the subscribers’ eligibility for Lifeline support. Based on the facts and circumstances of these specific cases, we find that good cause exists to grant these limited, one-time waiver petitions. Generally, the Commission’s rules may be waived if good cause is shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.

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3 See Budget PrePay Petition at 2, SE Acquisitions Petition at 2, Cricket Petition at 2.

4 Generally, the Commission’s rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969); Northeast Cellular, 897 F.2d at 1166. Waiver of the Commission’s rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. Northeast Cellular, 897 F.2d at 1166.
subscribers are eligible. Requiring re-certification of recently certified subscribers would result in undue burdens for those subscribers. We therefore grant the requests for waiver.

3. We grant a request for waiver filed by the Colorado Public Utilities Commission (Colorado PUC), requesting an extension for the effective date of the uniform eligibility criteria for ETCs in the state of Colorado. The Colorado PUC requested additional time in order to implement the Commission’s requirement and the Colorado legislature has acted to modify its state law consistent with the Commission’s requirement. Based on these facts, we find that it is appropriate to grant the waiver request.

4. Finally, we dismiss as moot a petition filed by NTCH, Inc. seeking reconsideration of the deadline set by the Bureau for broadband pilot applications because the relevant deadline has passed and the broadband pilot program will be ending shortly.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-5 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155 and 254, and sections 0.91, 0.291, and 1.429 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 1.429, the petitions filed by Budget Prepay, Inc., SE Acquisitions, LLC and Leap Wireless International, Inc./Cricket Communications, Inc. and the Colorado Public Utilities Commission, ARE GRANTED, as set forth herein.

6. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-5 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155 and 254, and sections 0.91, 0.291, and 1.429 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 1.429, the petition filed by NTCH, Inc. IS DISMISSED AS MOOT.

7. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission’s rules, 47 C.F.R. § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Ryan B. Palmer
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

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5 See Colorado PUC Petition at 2. See Lifeline Reform Order, 27 FCC Rcd at 6685, para. 65; 47 C.F.R. § 54.409(a) (requiring that each state, at a minimum, utilize the income and program eligibility criteria set forth in the Commission rules).

6 Colorado requested that the effective date for the uniform eligibility criteria be extended until July 1, 2013. Colorado PUC Petition at 3. The Colorado legislature’s amendment became effective July 1, 2013. See Lifeline and Link Up Reform and Modernization, Order, WC Docket No. 11-42, 28 FCC Rcd 12872, 12874, n.5.