

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.1 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.2 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.3 Based on the facts and circumstances of these specific cases, we find that good cause exists to grant these limited, one-time waiver petitions.4 Specifically, we find that the certification processes of the ETCs were sufficient to satisfy section 54.410(f) to ensure that all Lifeline

1 See Lifeline and Link Up Reform and Modernization et al., Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 11-42 et al., CC Docket. No. 96-45, 27 FCC Rcd 6656 (2012) (Lifeline Reform Order).

2 See Petition for Waiver of Section 54.410(f) of the Commission’s Rules filed by Budget PrePay, Inc., WC Docket No. 11-42, CC Docket No. 96-45 (filed Oct. 25, 2012) (seeking waiver for Budget’s Lifeline subscribers who enrolled or re-enrolled between January 4, 2012 and May 31, 2012) (Budget Prepay Petition); Petition for Waiver of Section 54.410(f) of the Commission’s Rules filed by SE Acquisitions, LLC, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45 (filed Oct. 31, 2012) (seeking waiver for Lightyear Network Solutions’ Lifeline subscribers who enrolled or re-enrolled in the state of Kentucky between January 1, 2012 and May 31, 2012) (SE Acquisitions Petition); Petition for Waiver of Section 54.410(f) of the Commission’s Rules filed by Leap Wireless International, Inc. and Cricket Communications, Inc., WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45 (filed Oct. 16, 2012) (seeking waiver for Cricket’s Lifeline subscribers who enrolled or re-enrolled in the states of Kentucky, Maryland and Missouri between January 1, 2012 and May 31, 2012) (Cricket Petition). See Lifeline Reform Order, 27 FCC Rcd 6714-15, para. 129-132 (requiring eligible telecommunications carriers to annually re-certify the eligibility of Lifeline subscribers); 47 C.F.R. § 54.410(f).

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.⁵ 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.⁶ 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.⁷

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

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.

⁷ See Petition for Reconsideration of NTCH, Inc., WC Docket No. 11-42 (filed May 25, 2012). See *Lifeline Reform Order*, 27 FCC Rcd 6794-95, paras. 324-25; see also *Wireline Competition Bureau Announces Procedures and Deadlines for Applications to Participate in the Broadband Adoption Lifeline Pilot Program*, Public Notice, WC Docket No. 11-42, 27 Rcd 4840 (Wireline Comp. Bur. 2012). See *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, 27 FCC Rcd 15842 (Wireline Comp. Bur. 2012).