

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

In the Matter of)
Lifeline and Link Up Reform and Modernization) WC Docket No. 11-42
Telecommunications Carriers Eligible for Universal) WC Docket No. 09-197
Service Support)
Connect America Fund) WC Docket No. 10-90

ORDER

Adopted: October 31, 2017

Released: October 31, 2017

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant in part the petition of Puerto Rico Telephone Company (PRTC)1 and extend the Bureau’s previously granted temporary waiver of the Lifeline Program’s recertification rules2 in Puerto Rico through March 31, 2018.3 We also extend the same waiver, on our own motion, for Lifeline customers in the United States Virgin Islands (USVI).

2. Recovery efforts continue in Puerto Rico and the USVI in the wake of Hurricanes Irma and Maria (“Hurricanes”), which struck the United States and its territories in September 2017.4 Together, the Hurricanes have caused widespread and catastrophic damage, destroyed and damaged countless homes, schools, libraries, and health care facilities, displaced residents, and disrupted communications. Because of these compelling and unique circumstances, we find good cause to waive through March 31, 2018 sections 54.405(e)(4) and 54.410(f) of the Commission’s rules for all eligible telecommunications carriers (ETCs) serving Lifeline subscribers residing in Puerto Rico or the USVI.

II. DISCUSSION

3. Generally, the Commission’s rules may be waived for good cause shown.5 The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent

1 See Puerto Rico Telephone Company, Inc., Emergency Petition for Temporary Suspension and Waiver, WC Docket No. 11-42 et al. (filed Oct. 20, 2017) (PRTC Petition).

2 47 CFR §§ 54.405(e)(4); 54.410(f).

3 Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 et al., Order, DA 17-984 (WCB Oct. 6, 2017) (October Waiver Order).

4 See generally Federal Emergency Management Agency (FEMA), https://www.fema.gov/ (last visited Oct. 25, 2017); CNN, 2017 Atlantic Hurricane Season Facts, http://www.cnn.com/2017/05/15/us/2017-atlantic-hurricane-season-fast-facts/index.html (last visited Oct. 25, 2017).

5 47 CFR § 1.3.

with the public interest.⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an overall basis.⁷

4. Lifeline providers are required to recertify their customers' continued Lifeline eligibility every 12 months.⁸ Providers may elect to have USAC conduct the recertification process.⁹ In response to the widespread damage caused by the Hurricanes, the Commission released orders on September 7, 2017 and October 7, 2017, temporarily suspending and waiving a number of Lifeline rules, including the recertification rule, in Puerto Rico and the USVI.¹⁰ In its waiver request, PRTC argues that a waiver is warranted because the 60-day recertification period for subscribers with subscription anniversary dates in March 2018 would begin in November 2017, and the ongoing disruptions to electrical and communications systems in Puerto Rico make it "difficult, if not impossible," for subscribers to receive and respond to recertification efforts.¹¹

5. The damage caused by Hurricane Maria has made it difficult for Lifeline subscribers in Puerto Rico to receive, or respond to, messages from their Lifeline provider or USAC. Accordingly, in response to PRTC's petition, we extend the previously granted waiver of the recertification rules in Puerto Rico and the USVI through March 31, 2018. This will also delay USAC's commencement of the recertification process for subscribers whose service anniversary date is in March, which will provide additional time to allow USAC to contact Lifeline subscribers in Puerto Rico and the USVI for those ETCs that elected to use USAC for recertification.

6. Based on the record before us, we find that good cause exists to extend the previously granted waiver of section 54.405(e)(4) and 54.410(f) of the Commission's rules through March 31, 2018 for all eligible telecommunications carriers (ETCs) serving Lifeline subscribers residing in Puerto Rico and the USVI.¹² We decline to extend this waiver through April 1, 2018, as requested by PRTC, to align our waiver period with the end of a month to accommodate the common industry practice of conducting recertification in monthly batches. Given the extraordinary damage wreaked by the Hurricanes, strict compliance with these rules would be impracticable and would risk de-enrollment of Lifeline subscribers during the recovery efforts to rebuild in the aftermath of the Hurricanes. Waiver of these rules is in the public interest because it will allow ETCs serving Lifeline subscribers in Puerto Rico and the USVI additional time to complete the recertification process for those subscribers whose service anniversary dates fall within this waiver period. Disruptions to telephone and Internet service resulting from the Hurricanes will make it difficult, if not impossible, for Lifeline subscribers to receive and respond to service provider recertification requests and reminders, and continued electrical outages make it unlikely that ETCs will have reliable access to Puerto Rico's eligibility database in the near future to conduct automated eligibility reverifications.¹³

7. At the expiration of the waiver period, ETCs are expected to begin recertification efforts promptly and subscribers whose anniversary dates fall between September 7, 2017 and March 31, 2018 will have 60 days to respond to their ETC's recertification efforts. Any subscriber whose anniversary date falls within the waiver period but has already recertified their eligibility is not required to undergo an

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁷ *Northeast Cellular*, 897 F.2d at 1166.

⁸ 47 CFR § 54.410(f).

⁹ See USAC-Elected Recertification (last visited Oct. 25, 2017), <http://www.usac.org/li/tools/usac-elected-recertification.aspx>.

¹⁰ *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 et al., Order, DA 17-860 (WCB Sept. 7, 2017); *October Waiver Order* at 5-6.

¹¹ PRTC Petition at 4-5.

¹² See 47 CFR §§ 54.405(e)(4), 54.410(f).

additional recertification at the end of the waiver period, and any subscriber who had previously de-enrolled from the program must re-enroll pursuant to the Commission's rules.

8. *Preventing Waste, Fraud, and Abuse.* We are committed to guarding against waste, fraud, and abuse in the Universal Service Fund (USF) programs. Although we grant the limited waivers described herein, service providers remain otherwise subject to audits and investigations to determine compliance with USF Program rules and requirements. We will require USAC to recover funds that we discover were not used properly through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the USF Programs and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. Additionally, in the event we discover any improper activity resulting from our action today, we will subject the offending party to all available penalties at our disposal, and will direct USAC to recover funds, assess retroactive fees and/or interest, or both. We remain committed to ensuring the integrity of the Programs and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

III. ORDERING CLAUSES

9. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 USC §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that sections 47 CFR 54.405(e)(4) and 54.410(f) of the Commission's rules are waived to the limited extent provided herein.

10. IT IS FURTHER ORDERED, that pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 USC §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that the request for waiver filed by Puerto Rico Telephone Company, Inc. IS GRANTED IN PART AND DENIED IN PART to the extent provided herein.

11. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau