

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: December 18, 2017

Released: December 18, 2017

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. Today, we grant a limited waiver to those eligible telecommunications carriers (ETCs) impacted by the delay of the launch of the National Lifeline Eligibility Verifier (National Verifier).1 Specifically, on our own motion, we temporarily waive the Lifeline Program’s recertification rules2 in Colorado, Montana, Mississippi, New Mexico, Utah, and Wyoming from January 1, 2018 through the date of the soft launch of the National Verifier for subscribers whose recertification deadlines or “anniversary dates” would otherwise fall during that time frame.3

II. DISCUSSION

2. The Commission may waive any provision of its rules on its own motion and for good cause shown.4 In general, the Commission may grant a waiver if: (1) special circumstances warrant a deviation from the general rule; and (2) such deviation would better serve the public interest than strict adherence to the general rule.5 In addition, when determining whether to grant a waiver, the Commission may take into consideration questions of hardship, equity, or more effective implementation of overall policy on an individual basis.6

3. In the 2016 Lifeline Order, the Commission directed the Universal Service Administrative Company (USAC) to establish a National Verifier to independently verify the eligibility of Lifeline

1 Wireline Competition Bureau Announces Postponement of Initial Launch Date of the National Lifeline Eligibility Verifier, WC Docket No. 11-42, Public Notice, DA 17-1167 (WCB Dec. 1, 2017).

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 47 CFR § 1.3.

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

6 WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), aff’d, 459 F.2d 1203 (D.C. Cir. 1972).

subscribers.⁷ As the National Verifier launches in each state, it will reverify the eligibility of all existing Lifeline subscribers to ensure it contains information about eligible subscribers only. The reverification process will include eligibility checks with available state and federal data sources to verify eligibility and the collection of new or existing eligibility documentation where necessary. This comprehensive reverification will fulfill the recertification requirement of section 54.410(f) of the Commission's rules if the reverification date is reasonably related to the consumer's annual recertification deadline.⁸

4. When the National Verifier was scheduled for an initial launch in six states in December 2017, impacted ETCs were instructed not to begin the recertification process for subscribers with anniversary dates that fell in January 2018 or later, because the National Verifier's reverification would accomplish the same objective for those subscribers.⁹ Now that the initial launch of the National Verifier has been delayed, however, those subscribers are at risk, through no fault of their own, of not having completed the recertification process by their anniversary dates.¹⁰

5. Based on the record before us, we find that good cause exists to grant a temporary waiver of section 54.405(e)(4) and 54.410(f) of the Commission's rules for those subscribers in Colorado, Mississippi, Montana, New Mexico, Utah, and Wyoming, whose anniversary dates fall on January 1, 2018 through the soft launch of the National Verifier.¹¹ We expect that the delay of the National Verifier's launch will be of short duration, and this temporary waiver will allow impacted subscribers to be independently and objectively recertified and reverified by the National Verifier. This waiver will also prevent eligible consumers from being de-enrolled due to a lack of time to respond to recertification efforts, as is required by the Commission's rules.¹² Waiver of these rules is in the public interest because it will allow for a smooth transition to reverification by the National Verifier and will minimize consumer confusion and de-enrollment of eligible low-income consumers.

6. When the soft launch of the National Verifier begins, we direct USAC to promptly begin the reverification process for impacted Lifeline consumers, the completion of which will fulfill the recertification requirement in the Commission's rules. Any subscriber who has de-enrolled from the program prior to January 1, 2018 must re-enroll pursuant to the Commission's rules to begin receiving a Lifeline benefit again.¹³

7. *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 waiver described herein, service providers remain otherwise subject to audits and investigations to determine compliance with USF Program rules and requirements.¹⁴ 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

⁷ See *Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration*, 31 FCC Rcd 3962, 4006, para. 126 (2016) (*2016 Lifeline Order*).

⁸ See 47 CFR § 54.410(f); *Wireline Competition Bureau Provides Guidance on Rolling Recertification Pursuant to the Lifeline Modernization Order*, Public Notice, 31 FCC Rcd 11895, 11896-97 (WCB 2016).

⁹ See USAC, National Verifier Update, Lifeline Program, Slide 17 (July 26, 2017), https://usac.org/_res/documents/li/training/2017/National-Verifier-Update.pdf.

¹⁰ See *Wireline Competition Bureau Announces Postponement of Initial Launch Date of the National Lifeline Eligibility Verifier*, WC Docket No. 11-42, Public Notice, DA 17-1167 (WCB Dec. 1, 2017).

¹¹ See 47 CFR §§ 54.405(e)(4), 54.410(f).

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

¹³ See 47 CFR § 54.410(b).

¹⁴ See *Wireline Competition Bureau Reminds Eligible Telecommunications Carriers of Their Ongoing Responsibility to Claim Lifeline Support Online for Eligible Low-Income Consumers*, Public Notice, 32 FCC Rcd 5129 (WCB 2017).

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 Lifeline program 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

8. 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.

9. 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