

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: February 2, 2018

Released: February 2, 2018

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the petition of Telrite Corporation (Telrite)¹ to extend the Bureau’s temporary waiver of the Lifeline Program’s recertification rules² in Puerto Rico and the United States Virgin Islands (USVI) through April 30, 2018.

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 2017.³ Together, the Hurricanes 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 for 30 days 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 whose continued eligibility cannot be verified using an eligibility database and whose anniversary dates fall between April 1, 2018, and April 30, 2018.

II. DISCUSSION

3. Generally, the Commission’s rules may be waived for good cause shown.⁴ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁵ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an overall basis.⁶

¹ See Telrite Corporation Emergency Petition for Extension of Waiver, WC Docket No. 11-42 et al. (filed Jan. 30, 2018) (Telrite Petition).

² 47 CFR §§ 54.405(e)(4); 54.410(f).

³ See generally Federal Emergency Management Agency (FEMA), https://www.fema.gov/ (last visited Jan. 31, 2018); CNN, 2017 Atlantic Hurricane Season Facts, http://www.cnn.com/2017/05/15/us/2017-atlantic-hurricane-season-fast-facts/index.html (last visited Jan. 31, 2018).

⁴ 47 CFR § 1.3.

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

4. Lifeline providers are required to recertify their customers' continued Lifeline eligibility every 12 months.⁷ Providers may elect to have USAC conduct the recertification process.⁸ In response to the widespread damage caused by the Hurricanes, the Commission released orders on September 7, 2017, October 7, 2017, and October 31, 2017, temporarily suspending and waiving a number of Lifeline rules, including the recertification rule, in Puerto Rico and the USVI.⁹ In its waiver request, Telrite argues that a waiver is warranted because the 60-day recertification period for subscribers with subscription anniversary dates on or after on April 1, 2018 would begin on February 1, 2018, and that "there is no indication that the mail systems or power grids in Puerto Rico and the U.S. Virgin Islands will be sufficiently functional [by February 1, 2018] such that it would be reasonable to expect recertification notices to reach affected subscribers."¹⁰

5. The damage caused by the Hurricanes has made it difficult for Lifeline subscribers in Puerto Rico and the USVI to receive, or respond to, messages from their Lifeline provider or USAC to complete the recertification process. Accordingly, in response to Telrite's petition, we temporarily waive the recertification rules in USVI and in Puerto Rico for those subscribers who cannot be recertified by the now-operational Programa de Asistencia Nutricional (PAN) database and whose anniversary dates fall from April 1, 2018 through April 30, 2018.¹¹ This will also extend the recertification deadline for relevant subscribers whose Lifeline provider has elected USAC to conduct recertification. Because Telrite notes in its petition that the PAN eligibility database is now accessible again,¹² we expect that providers will access that database to recertify those subscribers whose anniversary dates fall within the waiver period and whose continued eligibility can be verified through that database.¹³

6. Subscribers who can be recertified through the database are not required to be recertified again until their next anniversary date. ETCs must begin the 60-day notice period by March 1, 2018 for any subscribers whose anniversary dates fall from April 1, 2018 through April 30, 2018 and who cannot be recertified through the PAN database, as noted in the table below.¹⁴ Any subscriber whose anniversary date falls within the waiver period but has already recertified their eligibility or is recertified through an eligibility database is not required to undergo an 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.

Subscriber Anniversary Date	Recertification Process Begins
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⁶ *Northeast Cellular*, 897 F.2d at 1166.

⁷ 47 CFR § 54.410(f).

⁸ See USAC-Elected Recertification, <http://www.usac.org/li/tools/usac-elected-recertification.aspx> (last visited Jan. 31, 2018).

⁹ *Lifeline and Link Up Reform and Modernization*, Order, 32 FCC Rcd 6846 (WCB 2017); *School and Libraries Universal Support Mechanism et al.*, Order, 32 FCC Rcd 7456, 7460-61, paras. 10-13 (WCB 2017); *Lifeline and Link Up Reform and Modernization*, Order, 32 FCC Rcd 9240 (WCB 2017).

¹⁰ Telrite Petition at 7.

¹¹ See *id.* at 5-6, 9.

¹² *Id.* at 5.

¹³ See 47 CFR § 54.410(f)(2)(i).

¹⁴ See 47 CFR §§ 54.405(e)(4), 54.410(f)(2)(iii), 54.410(f)(3)(iii).

September 7, 2017 – March 31, 2018	April 1, 2018
April 1, 2018 – April 30, 2018	March 1, 2018
May 1, 2018 or later	March 1, 2018 or at least 60 days prior to anniversary date, whichever is later

7. Based on the record before us, we find that good cause exists to temporarily waive section 54.405(e)(4) and 54.410(f) of the Commission’s rules through April 30, 2018 for ETCs serving Lifeline subscribers residing in Puerto Rico and the USVI.¹⁵ Given the extraordinary damage wreaked by the Hurricanes and ongoing recovery efforts, 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 electrical service and infrastructure 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.¹⁶

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 Telrite Corporation, Inc. IS GRANTED 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.

¹⁵ See 47 CFR §§ 54.405(e)(4), 54.410(f).

¹⁶ See Telrite Petition at 4-5.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau