

**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 Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	

**ORDER**

**Adopted: March 1, 2018**

**Released: March 1, 2018**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we grant in part the petition of Telrite Corporation (Telrite)<sup>1</sup> to extend the Bureau’s temporary waiver of the Lifeline Program’s recertification and non-usage rules<sup>2</sup> in Puerto Rico and the United States Virgin Islands (USVI) through May 31, 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.<sup>3</sup> Together, the Hurricanes caused widespread and catastrophic damage, destroyed and damaged countless homes, schools, libraries, and health care facilities, displaced residents, and disrupted communications and access to power. Because of these compelling and unique circumstances, we find good cause to temporarily waive for 30 days sections 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), 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.<sup>4</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>5</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an overall basis.<sup>6</sup>

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<sup>1</sup> See Telrite Corporation Emergency Petition for Extension of Waiver, WC Docket No. 11-42 et al. (filed Feb. 26, 2018) (Telrite Petition).

<sup>2</sup> 47 CFR §§ 54.405(e)(3); 54.405(e)(4); 54.407(c)(2); 54.410(f).

<sup>3</sup> See generally Federal Emergency Management Agency (FEMA), <https://www.fema.gov/> (last visited Feb. 27, 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 Feb. 27, 2018).

<sup>4</sup> 47 CFR § 1.3.

<sup>5</sup> *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.<sup>7</sup> Providers may elect to have USAC conduct the recertification process.<sup>8</sup> Lifeline providers are also required to provide their subscribers who do not pay an end-user charge and have failed to use their Lifeline service for 30 consecutive days with 15 days' notice that failure to use the Lifeline service within the notice period will result in termination of that Lifeline subscriber's benefit.<sup>9</sup> In response to the widespread damage caused by the Hurricanes, the Commission released orders on September 7, 2017, October 7, 2017, October 31, 2017 and February 2, 2018, temporarily suspending and waiving a number of Lifeline rules, including the recertification and non-usage rules, in Puerto Rico and the USVI.<sup>10</sup>

5. Telrite states that, in absence of this waiver being granted, Lifeline subscribers in Puerto Rico and USVI may be de-enrolled due to no fault of their own and during a critical recovery time when communications services are needed the most.<sup>11</sup> 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 or to receive notice of non-usage. Accordingly, in response to Telrite's petition, we temporarily waive the recertification and non-usage rules in USVI and in Puerto Rico for until May 31, 2018. This will extend the recertification deadline for relevant subscribers whose Lifeline provider has elected USAC to conduct recertification. It will also allow subscribers in Puerto Rico and USVI to continue to have access to their Lifeline services when power is restored and they can access such services once again.

6. Under the relief we grant today, in combination with our previous waivers, ETCs must begin the 60-day notice period for recertification by April 1, 2018 for any subscribers whose anniversary dates fall from September 7, 2017 through May 31, 2018. 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. Any subscriber whose anniversary date falls after May 31, 2018, must be recertified pursuant to the timeline established in the Commission's rules.

7. Based on the record before us, we find that good cause exists to temporarily waive sections 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), and 54.410(f) of the Commission's rules through May 31, 2018 for ETCs serving Lifeline subscribers residing in Puerto Rico and the USVI.<sup>12</sup> Given the current circumstances caused 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 electrical

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<sup>6</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>7</sup> 47 CFR § 54.410(f).

<sup>8</sup> See USAC-Elected Recertification, <http://www.usac.org/li/tools/usac-elected-recertification.aspx> (last visited Feb. 27, 2018).

<sup>9</sup> See 47 CFR § 54.405(e)(3).

<sup>10</sup> *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); *Lifeline and Link Up Reform and Modernization*, Order, DA 18-102 (released Feb. 2, 2018).

<sup>11</sup> See Telrite Petition at 6-7.

<sup>12</sup> See 47 CFR §§ 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), 54.410(f).

service and infrastructure resulting from the Hurricanes will make it difficult for Lifeline subscribers to receive and respond to service provider recertification requests and non-usage notifications.<sup>13</sup>

8. We decline to grant an indefinite waiver of the rules, absent further action from the Commission.<sup>14</sup> We find that the waiver period established above is an appropriate time period that accommodates the extraordinary circumstances of the Hurricanes while continuing to protect program integrity. ETCs in the affected areas that are unable to comply with the Lifeline non-usage and recertification requirements at the end of this period for specific households may request additional, narrowly tailored relief from these requirements from the Wireline Competition Bureau.

9. *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

10. 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)(3), 54.405(e)(4), 54.407(c)(2), and 54.410(f) of the Commission's rules are waived to the limited extent provided herein.

11. 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 IN PART AND DENIED IN PART to the extent provided herein.

12. 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

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<sup>13</sup> See Telrite Petition at 7.

<sup>14</sup> See *id.* at 2.