

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

In the Matter of
Federal-State Joint Board on Universal Service
Lifeline and Link Up
CC Docket No. 96-45
WC Docket No. 03-109

ORDER

Adopted: April 28, 2010

Released: May 4, 2010

By the Commission:

I. INTRODUCTION

1. In this Order, we ask the Federal-State Joint Board on Universal Service (Joint Board) to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs...

II. BACKGROUND

2. In 1996, Congress articulated a national goal that consumers in all regions of the nation, including low-income consumers, have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

1 See Connecting America: The National Broadband Plan at 172-173 (rel. Mar. 16, 2010) (National Broadband Plan).

2 See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act); see also 47 U.S.C. § 254(b)(3).

3 See 47 C.F.R. § 54.401(a)(2); see also Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8957, para. 341 (1997) (Universal Service First Report and Order), aff'd in part, rev'd in part, remanded in part sub nom, Texas Office of Public Utility Counsel v. FCC, 183 F.3d 393 (5th Cir.

3. Support for low-income consumers has long been a priority for states as well as the federal government, and the Commission has worked in tandem with states to ensure that support is available to eligible participants. More than 40 states have established their own low-income universal service support programs,⁵ through which they provide consumers with state-supported discounts in addition to the federal discounts available under Lifeline and Link Up.⁶ States with their own low-income programs may elect to establish the criteria regarding consumer eligibility, certification of consumer eligibility, and carrier verification of continued consumer eligibility that would apply to both the state and federal support programs.⁷ For example, in Wisconsin, customers are eligible for state and federal Lifeline and Link Up if they receive the Wisconsin homestead tax credit, an income tax credit for those in households earning below a certain threshold of annual income.⁸

4. In states that do not maintain their own low-income support programs, consumers must comply with the eligibility and eligibility certification criteria specified in the Commission's rules to qualify for low-income support.⁹ The Commission's eligibility criteria include income at or below 135 percent of the federal poverty guidelines, and participation in various income-based public-assistance programs, such as Medicaid, Food Stamps, and Federal Public Housing Assistance.¹⁰ If a consumer's

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1999), *cert. denied*, 530 U.S. 1210 (2000), *cert. dismissed*, 531 U.S. 975 (2000). Under the Commission's rules, there are four tiers of federal Lifeline support, each of which must be passed directly from the eligible telecommunications carrier (ETC) to the qualifying low-income consumer in the form of discounts. All eligible subscribers receive Tier 1 support, which provides a discount equal to the ETC's subscriber line charge. Tier 2 support provides an additional \$1.75 per month in federal support, available if all relevant state regulatory authorities approve such a reduction. Tier 3 support provides one half of the subscriber's state Lifeline support, up to a maximum of \$1.75. Only subscribers residing in a state that has established its own Lifeline program or in which the ETC provides additional Lifeline support may receive Tier 3 support, and only if the ETC has all necessary approvals to pass on the full amount of this total support in discounts to subscribers. Tier 4 support provides eligible subscribers living on tribal lands up to an additional \$25 per month towards reducing basic local service rates, but this discount cannot bring the subscriber's cost for basic local service to less than one dollar. *See* 47 C.F.R. § 54.403.

⁴ *See* 47 C.F.R. § 54.411. Link Up provides a discount of one-half the cost of installation of telephone service or \$30, whichever is less. 47 C.F.R. § 54.411(a)(1). In addition, eligible low-income consumers residing on tribal lands are eligible for an additional discount of up to \$70. 47 C.F.R. § 54.411(a)(3).

⁵ States that do not maintain their own low-income programs and states that choose to follow the federal low-income requirements are known as federal default states. These states must comply with the Commission's low-income eligibility, certification, and verification rules. The current federal default states are Delaware, Hawaii, Indiana, Iowa, Louisiana, New Hampshire, North Dakota, South Dakota, American Samoa, and the Northern Mariana Islands. *See* Universal Service Administrative Company (USAC) website, Low Income, Frequently Asked Questions, <http://www.universalservice.org/li/tools/frequently-asked-questions/faq-lifeline-linkup-order.aspx#q1> (last visited May 4, 2010). All other states have established their own requirements for customer eligibility, certification, and verification.

⁶ 47 C.F.R. § 54.403(a)(3).

⁷ *See, e.g.*, 47 C.F.R. §§ 54.409 (consumer qualification for Lifeline), 54.410 (certification and verification of consumer qualification for Lifeline), 54.415 (consumer qualification for Link Up), 54.416 (certification of consumer qualification for Link Up). States must base eligibility criteria solely on income or factors directly related to income. 47 C.F.R. §§ 54.409(a), 54.415(a).

⁸ *See* WIS. ADMIN. CODE PSC § 160.061 (Link-Up America program); WIS. ADMIN. CODE PSC § 160.062 (Lifeline program). The Wisconsin homestead credit is available to Wisconsin residents who, among other things, have an annual household income of less than \$24,500 (for 2009). *See* WIS. STAT. §§ 71.51-55 (West 2009).

⁹ 47 C.F.R. § 54.409(b), (c).

¹⁰ 47 C.F.R. § 54.409(b).

eligibility is based on income, the consumer must provide acceptable documentation of income eligibility including, among other things, the prior year's state, federal, or tribal tax return and a current income statement from an employer.¹¹

5. Carriers offering Lifeline services in states that do not maintain their own low-income programs must verify annually the continued eligibility of a statistically valid random sample of their Lifeline subscribers.¹² States that have their own Lifeline programs may implement their own procedures for ETCs to follow when verifying continued eligibility of their Lifeline customers.¹³

6. In the 1996 Act, Congress directed the Commission to establish a Federal-State Joint Board on Universal Service to make recommendations to implement the universal service provisions of the Act.¹⁴ The Commission then sought Joint Board comment on numerous universal service issues including, among other things, how to implement the requirement of section 254(b)(3) that low-income consumers have access to "reasonably comparable" telecommunications and information services.¹⁵ The Commission also sought comment on whether services in addition to those supported for consumers in rural, high-cost, and insular areas would be specifically appropriate for low-income users, and whether "changes to the level of support or other changes to our Lifeline and Link Up programs should be made as part of an overall mechanism to ensure that quality services are available at just, reasonable, and affordable rates for low-income subscribers."¹⁶

7. In response, on November 7, 1996, the Joint Board adopted a Recommended Decision in which it made various universal service recommendations to the Commission.¹⁷ In its *Universal Service First Report and Order*, the Commission adopted the Joint Board's recommendation that Lifeline service be made available to low-income consumers nationwide, even in states that did not participate in Lifeline at that time.¹⁸ The Commission also agreed with the Joint Board's recommendation to increase the federal Lifeline support amount, but conditioned such an increase on the state permitting its carriers to reduce intrastate charges paid by the end user.¹⁹ As the Joint Board recommended, the Commission found that Lifeline service should include single-party service, voice grade access to the public switched telephone network, dual-tone multi-frequency signaling or its functional digital equivalent, access to emergency

¹¹ *Id.*; 47 C.F.R. §§ 54.410(a)(2); 54.416.

¹² 47 C.F.R. § 54.410(c)(2).

¹³ 47 C.F.R. § 54.410(a)(1). In a February 2010 declaratory ruling, the Commission found that when a state commission mandates Lifeline support, but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default criteria for certification and verification purposes. *Lifeline and Link Up; Petitions for Declaratory Ruling and Requests for Waiver by US Cellular Corporation, et al.*, WC Docket No. 03-109, Order and Declaratory Ruling, 25 FCC Rcd 1641, 1645, para. 9 (2010) (*Lifeline Declaratory Ruling*).

¹⁴ 47 U.S.C. §§ 254(a)(1), 410(c). The Joint Board is comprised of FCC commissioners, state utility commissioners, and a consumer advocate representative. *Id.*

¹⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking and Order Establishing a Joint Board, 11 FCC Rcd 18092, 18907, para. 6 (1996) (*1996 Universal Service NPRM*); see also 47 U.S.C. §§ 254(b)(3).

¹⁶ See *1996 Universal Service NPRM*, 11 FCC Rcd at 18116, 18123, paras. 50, 64.

¹⁷ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87 (1996).

¹⁸ *Universal Service First Report and Order*, 12 FCC Rcd at 8952, para. 326.

¹⁹ *Id.*

services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation service.²⁰

8. In 2000, the Commission most recently referred questions about the Lifeline and Link Up programs to the Joint Board, with a particular focus on review of income eligibility criteria.²¹ In its 2003 recommended decision, the Joint Board made specific recommendations on eligibility, verification, outreach, and related issues.²² In 2004, the Commission released an order in which it adopted most of the Joint Board's recommendations.²³ Specifically, the Commission: (1) added an income-based criterion to the federal default eligibility criteria; (2) added two additional programs to the list of federal default eligibility criteria; (3) adopted certain certification requirements for consumers qualifying based on income; (4) adopted procedures regarding verification of consumers' continued eligibility; (5) adopted implementation and recordkeeping requirements for ETCs receiving federal low-income support; and (6) adopted advertising guidelines.²⁴ The Commission also released an accompanying notice of proposed rulemaking.²⁵

9. In the *2004 Lifeline and Link Up Order*, the Commission, consistent with the Joint Board's recommendations, also declined to take certain actions. For example, the Commission declined to require all states to adopt an automatic enrollment process, opting instead to encourage all states to adopt such an approach.²⁶ The Commission also declined to change the certification procedures associated with program-based eligibility and declined to adopt mandatory advertising requirements for ETCs receiving federal low-income support.²⁷ Notably, the Commission opted to continue the bifurcated approach discussed above, which permits states that maintain their own low-income programs to dictate the procedures associated with, for example, consumer eligibility and verification for the federal program.²⁸

10. Several developments prompt us to seek the Joint Board's guidance on our low-income universal service programs at this time. First, there have been tremendous changes to telephone service since 2000, when the Commission last referred questions about Lifeline and Link Up to the Joint Board.

²⁰ *Id.* at 8952, para. 328.

²¹ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 25257, 25258, para. 4 (2000) (*2000 Referral Order*).

²² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 18 FCC Rcd 6589 (Jt. Bd. 2003) (*2003 Recommended Decision*).

²³ See *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004) (*2004 Lifeline and Link Up Order*).

²⁴ *Id.* The two federal programs added were Temporary Assistance to Needy Families program (TANF) and the National School Lunch's free lunch program (NSL). See *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8312, para. 13.

²⁵ See *id.* The Commission sought comment on whether the income-based criterion should be increased to 150% of the Federal Poverty Guidelines and whether it should adopt advertising requirements. *Id.* at 8331-33, paras. 56-58.

²⁶ *Id.* at 8318-19, paras. 25-26.

²⁷ *Id.* at 8319, 8326, paras. 27, 44.

²⁸ See, e.g., 47 C.F.R. §§ 54.409 (consumer qualification for Lifeline), 54.410 (certification and verification of consumer qualification for Lifeline), 54.415 (consumer qualification for Link Up), 54.416 (certification of consumer qualification for Link Up); see also *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195, Notice of Inquiry, 23 FCC Rcd 13583, 13594, para. 35 (2008) (noting the ongoing bifurcated federal-state approach to low-income eligibility, certification, and verification procedures, and seeking comment on ways to modify the low-income program's certification and verification requirements to prevent waste, fraud, and abuse).

CTIA-The Wireless Association reports a 55 percent increase in the penetration of mobile phones in the United States between June 2000 and June 2009, with wireless services now reaching 89 percent of the population and approximately 22 percent of the population now relying exclusively on a mobile phone for telephone service.²⁹ Additionally, competition has increased significantly in the residential telecommunications marketplace since 2000. Competitive local exchange carriers (CLECs) served approximately 4.6 million residential lines in June 2000, as compared to approximately 12.4 million residential lines in June 2008.³⁰ Also, according to the National Cable and Telecommunications Association, approximately one million telephone customers were served via cable in 2000, as compared to approximately 22.2 million in 2009.³¹

11. Second, since the Commission last received Joint Board guidance on low-income issues in 2004, both low-income support specifically, and Universal Service Fund support overall, have increased significantly.³² The universe of carriers participating in the low-income programs has expanded greatly, with the recent addition of competitive wireless providers as ETCs resulting in growth in the low-income programs.³³ These changes have meant that low-income consumers have more options to meet their communications needs. With greater participation in the low-income programs, it is an opportune time to revisit the programs to ensure that they are effectively reaching eligible consumers, and that our oversight continues to be appropriately structured to minimize waste, fraud, and abuse.³⁴

12. Third, high-speed broadband service has become an essential mode of communication for many Americans in the last decade. Low-income consumers' adoption of broadband services, however, lags significantly behind the rest of the population. In 2009, for example, approximately 40 percent of those with household incomes of \$20,000 per year or less had broadband at home, while 91 percent of

²⁹ See CTIA-The Wireless Association®, CTIA Media, Wireless Quick Facts, <http://www.ctia.org/media/index.cfm/AID/10323> (last visited May 4, 2010); see also Centers for Disease Control and Prevention, WIRELESS SUBSTITUTION, EARLY RELEASE OF ESTIMATES FROM THE NATIONAL HEALTH INTERVIEW SURVEY 2 (2009), available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200912.pdf>.

³⁰ FEDERAL COMMUNICATIONS COMMISSION, WIRELINE COMPETITION BUREAU, INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, LOCAL TELEPHONE COMPETITION: STATUS AS OF JUNE 30, 2008, at Table 2 (2009), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-292193A1.pdf.

³¹ National Cable and Telecommunications Association, Cable Phone Customers 1998 – 2009, available at <http://www.ncta.com/Stats/CablePhoneSubscribers.aspx> (2010).

³² See, e.g., Universal Service Administrative Company (USAC), Federal Universal Service Support Mechanisms Fund Size Projections for Second Quarter 2010 app. LI06, available at <http://usac.org/about/governance/fcc-filings/2010/quarter-2.aspx> (2010) (support amounts claimed by ETCs each month, January 1998 through December 2009).

³³ See, e.g., *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) (*TracFone ETC Designation Order*); *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al.*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009).

³⁴ In 2004, the low income program disbursed \$763 million. See FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE IN CC DOCKET NO. 98-45, UNIVERSAL SERVICE MONITORING REPORT, CC DOCKET NO. 98-202, 2-2, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-295442A4.pdf (2009). According to preliminary USAC disbursement figures, low-income Support total outlays were \$930 million in FY 2009. Based on USAC's most recent quarterly filing, total outlays for the low-income programs are forecast to be approximately \$1.4 billion in calendar year 2010. See USAC, FEDERAL UNIVERSAL SERVICE SUPPORT MECHANISMS FUND SIZE PROJECTIONS FOR SECOND QUARTER 2010, at 15-17, app. LI06, available at <http://usac.org/about/governance/fcc-filings/2010/quarter-2.aspx> (2010) (USAC SECOND QUARTER 2010 LOW-INCOME PROJECTIONS) (support amounts claimed by ETCs each month, January 1998 through December 2009).

those with household incomes above \$75,000 per year had broadband at home.³⁵ The National Broadband Plan thus recommends that the Commission should expand the Lifeline and Link Up program to make broadband more affordable for low-income households.³⁶ This would be a significant modification to the existing low-income programs, and we want to benefit from the experience and views of the Joint Board as we consider the recommendations of the National Broadband Plan.

13. Finally, the Joint Board's input will be invaluable in considering the effectiveness of the existing partnership between the states and the Commission in the administration of the low-income universal service programs. The National Broadband Plan recommends that the Commission integrate the expanded Lifeline and Link Up programs with other state and local e-government efforts.³⁷ Joint Board input on potential ways to implement that recommendation in partnership with other governmental bodies would be particularly valuable.

III. DISCUSSION

A. Consumer Eligibility

14. Eligibility requirements. The Commission's rules regarding consumer qualification for the low-income programs depend on whether a state maintains its own low-income program. States maintaining their own low-income programs may establish the eligibility criteria and certification requirements with which consumers must comply in order to qualify for both state and federal support, as long as the eligibility criteria are based solely on income or factors directly related to income.³⁸ In federal default states, consumers must comply with the eligibility criteria specified in the Commission's rules in order to qualify for low-income support,³⁹ and ETCs must comply with the Commission's certification requirements to demonstrate program participants' eligibility.⁴⁰

15. We ask the Joint Board to undertake a thorough review of the existing consumer eligibility requirements, as well as the certification and documentation requirements imposed on ETCs. First, we ask the Joint Board to consider whether any changes should be made to the existing eligibility criteria in the Commission's rules. For example, we ask the Joint Board to consider whether customers qualifying for low-income support based on income should be eligible to receive support if their income is at or below a percentage of the federal poverty guidelines different than the current 135 percent threshold. Should the eligibility criteria depend on whether the program supports broadband services, and if so, how? In addition, we ask the Joint Board to consider whether certain classes of individuals, such as residents of homeless shelters, should be automatically eligible for participation in the low-income programs.⁴¹ We also seek input from the Joint Board on whether a consumer should have to provide

³⁵ John B. Horrigan, Ph.D., *Broadband Adoption and Use in America: OBI Working Paper Series No. 1*, 34 (2010), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296442A1.pdf.

³⁶ See National Broadband Plan at 172-173.

³⁷ *Id.*

³⁸ 47 C.F.R. § 54.409(a); 47 C.F.R. § 54.410(a)(1). See also *Lifeline Declaratory Ruling*, 25 FCC Rcd at 1645, para. 9 (finding that, when a state commission mandates Lifeline support, but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default criteria for certification and verification purposes).

³⁹ 47 C.F.R. § 54.409(b), (c).

⁴⁰ 47 C.F.R. § 54.409(d).

⁴¹ *Cf. Comment Sought on TracFone Request for Clarification of Universal Service Lifeline Program "One-Per-Household" Rule as Applied to Group Living Facilities*, Public Notice, 24 FCC Rcd 12788 (Wireline Comp. Bur. 2009) (*TracFone Public Notice*).

additional documentation – beyond that provided to the state – to prove eligibility for federal low-income programs.⁴² This documentation could provide an additional check against abuse, but it could increase administrative burdens and costs. We ask the Joint Board for its recommendations about how to balance the desire for consistency and the need to ensure program integrity with the benefits of relying on state eligibility determinations. We also ask the Joint Board to recommend ways in which the Commission can make the Commission’s rules work more efficiently and effectively.

16. We further ask the Joint Board to consider whether eligibility and certification requirements should be more consistent across the states.⁴³ For example, the Commission could establish a consistent set of eligibility and certification rules that apply for consumers to participate in the federal low-income programs. We seek input on this and other possible ways to increase consistency, and ask the Joint Board to address the costs as well as the benefits of any such approach.

17. Best practices. Given the large number of states that maintain and administer their own low-income programs and the resulting high level of interest in the federal low-income programs on the part of the states, we know that the states are well-versed in the issues surrounding consumer eligibility. We therefore ask the Joint Board to provide the Commission with information on best practices at the state level. We encourage the Joint Board to share the states’ experiences with issues related to consumer eligibility and we also ask the Joint Board to consider which of the best practices should be applicable at the federal level. In addition, we urge the Joint Board to offer information about whether any states support broadband services through their low-income programs, and if so, the nature and level of that support.

18. Automatic enrollment. Some states employ “automatic enrollment” whereby an “electronic interface between a state agency and the carrier . . . allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program.”⁴⁴ Several states have reported that automatic enrollment is an efficient and effective means of increasing participation in the Lifeline and Link Up programs.⁴⁵ In 2004, the Commission agreed with the Joint Board’s recommendation and declined to require all states to adopt automatic enrollment, instead encouraging all states to adopt such an approach.⁴⁶ In so doing, the Commission agreed with the Joint Board’s concern that automatic enrollment could impose significant administrative, technological, and financial burdens on states and ETCs.⁴⁷

⁴² Currently, the Commission’s rules require a consumer to show documentation only when relying on their income for eligibility. 47 C.F.R. § 409(d)(2).

⁴³ In the National Broadband Plan proceeding, some commenters recommended a national set of eligibility standards. See, e.g., National Association of State Utility Consumer Advocates (NASUCA) Comments in re NBP PN #19 (*Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, GN Docket No. 09-47, et al., Public Notice, 24 FCC Rcd 13757 (Wireline Comp. Bur. 2009) (NBP PN #19)), filed Dec. 7, 2009, at 34 (“a single nationwide set of eligibility standards that could be modified in a few years, after experience is gained, would be helpful”).

⁴⁴ See *2003 Recommended Decision*, 18 FCC Rcd at 6608, para. 38; see also LIFELINE ACROSS AMERICA WORKING GROUP, REPORT OF THE FCC/NARUC/NASUCA WORKING GROUP ON LIFELINE AND LINK-UP: “LIFELINE ACROSS AMERICA” 6 (2007), <http://www.lifeline.gov/LLLUReport.pdf> (WORKING GROUP REPORT). In its Report, the Working Group cited Iowa, New Mexico, New Jersey, New York, North Dakota, and Washington as states utilizing automatic enrollment in some fashion. WORKING GROUP REPORT at 6, 10.

⁴⁵ See *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8318, para. 25; see also WORKING GROUP REPORT at 9-10.

⁴⁶ See *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8318, para. 25.

⁴⁷ *Id.*; see also *2003 Recommended Decision*, 18 FCC Rcd at 6608, para. 40.

19. We ask the Joint Board to revisit the issue of whether the Commission should require automatic enrollment in all states in order to participate in the federal low-income programs.⁴⁸ Should the Joint Board recommend such an approach, we further ask how the resulting administrative, technological, and financial challenges could be addressed. For example, would the benefits to the low-income programs exceed the costs associated with mandatory automatic enrollment?

20. Electronic certification and verification of consumer eligibility. Given the widespread transition from paper-based environments to those effectively managed with electronic systems, we ask the Joint Board to review online mechanisms that would allow carriers to automate their interactions with states and the federal government to certify a customer's initial and ongoing eligibility for program discounts. The National Broadband Plan suggests that the Commission should consider a centralized database for online certification and verification, based on numerous such proposals in the record.⁴⁹ We ask the Joint Board to address how any state databases for qualifying needs-based programs might interface with a centralized database for Lifeline and Link Up eligibility. Other architectures are also possible. For example, one commenter in the National Broadband Plan proceeding suggested that "agencies that determine eligibility could provide qualifying customers with a USAC-generated personal identification number (PIN). Those consumers could then provide this PIN to any voice and/or broadband service provider and automatically obtain the discount to which they are entitled."⁵⁰ The National Association of Regulatory Utility Commissioners (NARUC) recently adopted a resolution calling for the Commission and the states to review existing low-income customer eligibility verification processes and to develop and implement as necessary best practices, including real-time verification of customer eligibility.⁵¹ With or without a national database, an electronic query service could be provided to "automate eligibility verification" against records of the state and federal programs in which participation automatically qualifies consumers for the low-income programs.⁵² We ask the Joint Board to review alternatives and recommend mechanisms that are reasonably practical, efficient, accurate, secure, and respectful of customer privacy.

⁴⁸ In the National Broadband Plan proceeding, commenters suggested automatic enrollment would be beneficial. See The Benton Foundation Comments in re NBP PN #19, filed Dec. 7, 2009, at 16 (citing Comments of the National Consumer Law Center, (Aug. 18, 2003), *Lifeline and Link-Up*, WC Docket No. 03-109, available at http://www.consumerlaw.org/initiatives/energy_and_utility/ch081803.shtml) (noting that participation rates are highest in states with automatic enrollment and urging the Commission to "work closely with other federal and state low-income programs in both making eligible households aware of the Broadband Lifeline/Link Up program and automatically enrolling them in it."); Yourtel America, Inc. Comments in re NBP PN #19, filed Dec. 7, 2009, at 6 (suggesting that the benefits of a proposed automated customer qualification database could be "funded either by audit savings and/or a per query transaction fee").

⁴⁹ See National Broadband Plan at 173; see also Nebraska Public Service Commission Comments in re NBP PN #19 at 9 (suggesting "the Commission should work with states to develop an accurate system that could be administered either at a central location or as a cooperative arrangement between states and the Universal Service Administrative Company for eligibility and verification of low-income participants"); NASUCA Comments in re NBP PN #19 at 35 (suggesting that "a universal database could be created to trap 'double-dippers'" who seek to obtain Lifeline-supported service from two different providers).

⁵⁰ See Letter from Jaime M. Tan, Director, Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 03-109, GN Docket Nos. 09-47, 09-51, 09-137 (Dec. 22, 2009).

⁵¹ See Resolution on Lifeline Service Verification, National Association of Regulatory Utility Commissioners (Nov. 18, 2009) (NARUC Verification Resolution), available at <http://www.naruc.org/Resolutions/Resolution%20on%20Lifeline%20Service%20Verification.pdf>.

⁵² See Yourtel America, Inc. Comments in re NBP PN #19 at 4 ("A national database to automate verification against the records of the proxy programs would make the process consumer friendly, quicker, and reduce any possible fraud").

21. Duplicate claims for Lifeline support. The Commission provides low-income support for “a single telephone line in a Lifeline subscriber’s principal residence.”⁵³ In the past, Lifeline consumers received telephone service solely from wireline carriers, which made the Commission’s “one-per-household” rule relatively straightforward to enforce with respect to customer and carrier compliance. Since that rule was adopted, there has been a surge in wireless phone usage among consumers⁵⁴ and many consumers use mobile wireless service as a complement to a residential wireline connection.⁵⁵ These market changes create the potential for the duplication of Lifeline support. Because customers may have both a wireline and a wireless connection and could potentially seek Lifeline support for each, it has become more challenging to ensure compliance with the Commission’s “one-per-household” rule.

22. Considering these changes in the marketplace and the greater potential for duplicate support, we ask the Joint Board to consider how to ensure compliance with the Commission’s “one-per-household” rule to guard against waste, fraud, and abuse.⁵⁶ We also ask the Joint Board to consider what steps the Commission and the states should take to ensure that a low-income consumer is not receiving supported service from multiple ETCs. Many carriers require consumers, upon signing up for Lifeline service, to certify under penalty of perjury that they are not receiving Lifeline service from another carrier. We ask the Joint Board to consider whether a carrier can reasonably rely on this type of certification when assessing a consumer’s eligibility for Lifeline. Is a self-certification requirement the best way to deter consumers from filing duplicate claims for Lifeline-supported services? Furthermore, what role should carriers play in ensuring the validity of a consumer’s self-certification that he or she is not currently receiving Lifeline-supported services from another carrier? Additionally, we ask the Joint Board to consider what an appropriate remedy would be if a consumer files duplicate claims, and how the Commission could enforce that penalty.

23. Carrier documentation retention requirements. All ETCs must maintain records documenting their compliance with federal and state low-income program requirements for the three full preceding calendar years and must provide that documentation to the Commission or USAC upon request.⁵⁷ ETCs in federal default states face an additional obligation which requires them to maintain the documentation required by Commission rules for as long as the customer receives Lifeline service from that ETC.⁵⁸ We ask the Joint Board to consider whether the Commission should adopt a consistent set of document retention rules for all ETCs, whether operating in states maintaining their own low-income programs or in federal default states. If so, we ask the Joint Board to consider what those document retention rules should require.

⁵³ *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8306, para. 4; see also *Universal Service First Report and Order*, 12 FCC Rcd at 8957, para. 341. A similar requirement applies to Link Up. See 47 C.F.R. § 54.411(a)(1).

⁵⁴ The Commission’s TRENDS IN TELEPHONE SERVICE Report indicates that the number of mobile wireless telephone subscribers increased from approximately 92,000 in December 1984 to approximately 240 million as of June 30, 2007. FEDERAL COMMUNICATIONS COMMISSION, WIRELINE COMPETITION BUREAU, INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, TRENDS IN TELEPHONE SERVICE at Table 11-1 (2008) *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-284932A1.pdf.

⁵⁵ A 2009 survey performed by the Centers for Disease Control and Prevention (CDC), for example, found that nearly 60% of households have both a landline and a wireless telephone. CDC, WIRELESS SUBSTITUTION, EARLY RELEASE OF ESTIMATES FROM THE NATIONAL HEALTH INTERVIEW SURVEY 6 (2009), *available at* <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200912.pdf>.

⁵⁶ On October 21, 2009, the Commission sought comment on a letter from TracFone Wireless, which requested clarification on how the “one-per-household” rule may be applied to residents of group living facilities. See *TracFone Public Notice*. Because the Commission already sought comment on the issues raised by TracFone in the *TracFone Public Notice*, we will not seek the Joint Board’s comment on them at this time.

⁵⁷ See 47 C.F.R. § 54.417(a).

⁵⁸ *Id.*

24. Potential application to broadband. Finally, as the Commission considers the recommendations of the National Broadband Plan, we ask the Joint Board to consider how the potential expansion of the low-income program to broadband would affect any of its recommendations. We ask the Joint Board to articulate precisely how and why the inclusion of broadband would affect those recommendations.

B. Verification

25. The Commission's rules governing ongoing verification of consumers' continued eligibility for low-income support are bifurcated in a manner similar to the rules associated with initial eligibility and certification. Verification rules are important to ensure the integrity of the program. There are limited universal service funds and support should not be provided for consumers who are not eligible under program rules.⁵⁹ The Commission's rules require ETCs in states that have their own Lifeline programs to comply with state verification procedures.⁶⁰ ETCs in federal default states are required to implement procedures to verify annually the continued eligibility of a statistically valid random sample of their Lifeline consumers and provide results of that sample to USAC.⁶¹ As a result, consumers qualifying for Lifeline benefits in federal default states may be required to verify with their ETC, on an annual basis, their continued eligibility to receive Lifeline support.⁶²

26. As noted above, there have been significant developments since we last received Joint Board guidance on low-income issues in 2004. The growth of federal low-income support reflects that the programs are offering greater benefits and meeting the needs of more low-income consumers. The recent growth in federal low-income support and expansion of participating carriers convinces us that it is an appropriate time for the Commission to reevaluate whether it is taking all appropriate steps to ensure program integrity.⁶³

27. Because of our concerns about the continued eligibility of Lifeline customers, we ask the Joint Board to undertake a thorough review of the existing low-income verification requirements contained in the Commission's rules. First, we ask the Joint Board to consider whether any changes should be made to the existing verification procedures in the Commission's rules. As it does so, we ask the Joint Board to recommend ways in which the Commission can make the Commission's rules work more efficiently and effectively. We also ask the Joint Board to consider whether the Commission should modify the nature of the annual verification data that federal default ETCs are required to submit. For example, we ask the Joint Board to consider whether the Commission should require that a higher percentage of customers be sampled than is required under the current rules. Alternatively, we ask the Joint Board to consider whether the Commission should require all federal default ETCs to verify the

⁵⁹ See, e.g., USAC, SECOND QUARTER APPENDICES - 2010, available at <http://usac.org/about/governance/fcc-filings/2010/quarter-2.aspx> (2010).

⁶⁰ See 47 C.F.R. § 54.410(c)(1). As explained above, the Commission recently concluded that when a state commission mandates Lifeline support, but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default criteria for certification and verification purposes. See *Lifeline Declaratory Ruling*, 25 FCC Rcd at 1641, 1645, paras. 1, 9.

⁶¹ See 47 C.F.R. § 54.410(c)(2).

⁶² See 47 C.F.R. § 54.410(c). For example, as a condition of designating TracFone Wireless as an ETC eligible to receive Lifeline support, the Commission requires TracFone's subscribers to self-certify at the time of service activation and annually thereafter that they are the head of household and that they receive Lifeline-supported service only from TracFone. See *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15098-99, para. 6 (2005) (*TracFone Forbearance Order*); see also *TracFone ETC Designation Order*, 23 FCC Rcd at 6214-15, para. 21.

⁶³ See, e.g., USAC SECOND QUARTER 2010 LOW-INCOME PROJECTIONS.

eligibility of all of their low-income customers on an annual basis. We also ask the Joint Board to consider whether there might be other ways to improve the statistical sampling process and to articulate the costs and benefits associated with any such approaches.

28. Second, we ask the Joint Board to consider whether verification procedures should be more consistent across the states. Under such an approach, there would be a consistent set of verification requirements with which consumers and ETCs across all states would be required to comply. At a minimum, we ask the Joint Board to consider whether all ETCs should be required to conduct an annual verification of some percentage of their low-income consumers and submit that information to USAC, as ETCs in federal default states currently are required to do. Under the current rules, the Commission only has access to verification results from the federal default states and an additional handful of states that require ETCs to submit information annually to USAC, giving the Commission a less than comprehensive view of the effectiveness of verification associated with federal low-income support. We ask the Joint Board to identify best practices in state verification requirements as it considers this issue. We also ask the Joint Board to address the costs as well as the benefits of any approach.

29. Third, NARUC recently adopted a resolution calling for the Commission and the states to review existing low-income customer eligibility verification processes and to develop and implement best practices as necessary, including real-time verification of customer eligibility.⁶⁴ We ask the Joint Board to consider whether the Commission should adopt an approach to verification of consumer eligibility consistent with NARUC's proposal and/or whether the Commission should create a national database of Lifeline participants.⁶⁵ We ask the Joint Board to address legal and administrative issues if it recommends developing such a database.

30. Finally, as the Commission considers the recommendations of the National Broadband Plan, we ask the Joint Board to consider how the potential expansion of the low-income program to broadband would affect any of its recommendations. We ask the Joint Board to articulate precisely how and why the inclusion of broadband would affect those recommendations.

C. Outreach

31. Section 214(e)(1)(B) of the Act requires all ETCs to advertise the availability of services supported by universal service funds and the charges for such services "using media of general distribution."⁶⁶ In the *Universal Service First Report and Order*, the Commission clarified that "eligible telecommunications carriers will be required to advertise the availability of, and charges for, Lifeline pursuant to their obligations under section 214(e)(1)."⁶⁷ Recognizing the critical importance of effectively publicizing the Lifeline and Link Up programs to low-income consumers and the resulting effect on the telephone penetration rate, the Commission took several opportunities over the years to highlight the importance of outreach. For example, in the June 2000 *Tribal Order*, the Commission amended sections 54.405 and 54.411 of the rules to require that ETCs publicize the availability of Lifeline and Link Up "in a manner reasonably designed to reach those likely to qualify for the service."⁶⁸ The

⁶⁴ See NARUC Verification Resolution.

⁶⁵ See *id.*; see also *supra* n.49 and accompanying text.

⁶⁶ 47 U.S.C. § 214(e)(1)(B).

⁶⁷ *Universal Service First Report and Order*, 12 FCC Rcd at 8993, para. 407.

⁶⁸ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas; Western Wireless Corporation, Crow Reservation in Montana, Smith Bagley, Inc., Cheyenne River Sioux Tribe Telephone Authority, Western Wireless Corporation, Wyoming Cellco Partnership d/b/a Atlantic Mobile, Inc. Petitions for Designation as an Eligible Telecommunications Carrier and for Related Waivers to Provide Universal Service*, CC Docket No. 96-45, Twelfth

(continued....)

Commission chose not to prescribe specific, uniform methods for ETCs to follow in publicizing their low-income programs; rather, the Commission gave carriers the discretion to determine how best to reach qualifying low-income subscribers within their respective service areas.⁶⁹

32. In the April 2004 *Lifeline and Link Up Order*, the Commission implemented more detailed guidelines to assist states and carriers in performing outreach to potential Lifeline and Link-Up customers.⁷⁰ Based on the recommendation of the Joint Board,⁷¹ the Commission adopted the following outreach guidelines: (1) states and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service; (2) states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within a carrier's service area; and (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs.⁷² The Commission emphasized the importance of outreach programs, noting that effective outreach programs had been shown to improve Lifeline and Link Up participation in several instances.⁷³ Additionally, the Commission sought comment on whether to prescribe rules to govern advertisement of the Lifeline and Link Up programs.⁷⁴

33. In July 2005, the Lifeline Across America initiative was created as a nationwide effort to increase consumer awareness of the federal and state Lifeline and Link Up programs.⁷⁵ As part of this initiative, staff from the Commission, NARUC, and NASUCA formed a working group to further outreach efforts and increase Lifeline and Link Up subscribership.⁷⁶ In 2006, the working group helped to enact joint resolutions concerning Lifeline and Link Up carrier outreach and best practices at the NARUC and NASUCA annual conventions.⁷⁷ Additionally, in 2007, the working group published a report detailing its observations and recommendations as to best practices for Lifeline and Link Up

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Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12250, para. 78 (2000) (*Tribal Order*).

⁶⁹ *Id.* at 12250, para. 79. The Commission did require that ETCs “identify communities with the lowest subscribership levels within its service territories and make appropriate efforts to reach qualifying individuals within those communities.” *Id.*

⁷⁰ *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8326, para. 45.

⁷¹ *2003 Recommended Decision*, 18 FCC Rcd at 6612, para. 51.

⁷² *2004 Lifeline and Link Up Order*, 19 FCC at 8326-28, paras. 45-48.

⁷³ *Id.* at 8325, para. 42. An August 2000 report by the Telecommunications Industries Analysis Project demonstrated that “the Lifeline/Link-Up take rate almost tripled from 13.1% to 39.6% when states implemented outreach initiatives designed to increase telephone penetration and participation.” *Id.* In Maine, for example, successful and aggressive outreach helped the telephone penetration rate among low-income households to increase from 90.5% in March 1997 to 96.5% in March 2002. *Id.*

⁷⁴ *Id.* at 8333, para. 58.

⁷⁵ WORKING GROUP REPORT at 1.

⁷⁶ *Id.*

⁷⁷ Lifeline Across America, About Us, <http://www.lifeline.gov/aboutus.html> (last visited May 3, 2010); see CA-1 Resolution on Furthering Lifeline Participation Through Outreach, NARUC (Nov. 15, 2006), available at http://www.naruc.org/Resolutions/ca1_res_furthering_lifeline_participation_through_outreach.pdf; Resolution 2006-01: Increasing Participation in Lifeline and Link-Up Telephone Assistance Programs Through Additional and More Effective Public Outreach, NASUCA (Nov. 2006), available at http://www.nasuca.org/archive/Resolutions/NASUCA_Lifeline-Resolution_2006-01.doc.

outreach.⁷⁸ More recently, the National Broadband Plan suggested that the Commission should encourage state social service agencies to take a more active role in consumer outreach and provide such agencies with educational materials that could be used in such efforts.⁷⁹

34. Given the passage of time since either the Joint Board or the Commission formally reviewed the approach to outreach associated with the low-income programs, we ask the Joint Board to evaluate the effectiveness of the current outreach requirements. The positive impact of effective advertising on telephone subscribership in the low-income community is well-documented.⁸⁰ The Commission's and the states' shared interest in ensuring that eligible consumers are well-informed about the availability and benefits of the low-income programs is even more critical in these challenging economic times. The Commission's ability to audit and enforce compliance with our advertising requirement is hampered, however, by the lack of specificity in our rules. The Commission, therefore, would benefit from Joint Board review of whether the existing guidelines are sufficient to promote consumer awareness of the low-income programs. We also ask the Joint Board to consider whether the Commission should adopt mandatory outreach requirements with which all ETCs must comply. If the Joint Board believes that such an approach is appropriate at this time, we ask the Joint Board to articulate what the outreach requirements would include.

35. Finally, as the Commission considers the recommendations of the National Broadband Plan, we ask the Joint Board to consider how the potential expansion of the low-income program to broadband would affect any of its recommendations. We ask the Joint Board to articulate precisely how and why the inclusion of broadband would affect those recommendations.

IV. ORDERING CLAUSES

36. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(j), 214(e), 254, and 410, that this Order is adopted.

37. IT IS FURTHER ADOPTED, pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(j), 214(e), 254, and 410, that the Federal-State Joint Board on Universal Service is requested to review the Commission's rules relating to the low-income universal service support programs and the related issues described herein and provide recommendations to the Commission within six (6) months of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁷⁸ See generally WORKING GROUP REPORT.

⁷⁹ See National Broadband Plan at 172-173.

⁸⁰ See, e.g., *supra* n.73.