

**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
)
)

ORDER

Adopted: August 25, 2023

Released: August 25, 2023

By the Commission:

I. INTRODUCTION

1. In this Order, the Federal Communications Commission (FCC or Commission) takes quick action to assist those affected by the Hawai'i Wildfires by temporarily waiving certain Lifeline program eligibility rules to ensure that consumers receiving federal disaster assistance can easily apply for and enroll in the Lifeline program. The wildfires caused significant power outages and property damage in homes, schools, libraries, and health care facilities throughout the impacted areas. The Commission has already taken a number of steps to assist in the disaster relief effort,¹ and our action today supplements and expands those activities. Because of the exigent circumstances arising from the Hawai'i Wildfires, we find that there is good cause for further action to ensure that consumers in the affected areas receive critical assistance for their communications needs.²

II. BACKGROUND

2. *Hawai'i Wildfires.* On August 8, 2023, wildfires started in Maui and Hawai'i Counties in the State of Hawai'i and quickly grew, wreaking catastrophic damage and destruction on homes and businesses.³ Tragically, these wildfires have led to at least 115 deaths⁴ and an estimated 850 missing people,⁵ with nearly \$6 billion in damages.⁶ In Maui County, the wildfires and hurricane-strength winds also cut off power and disrupted 911 and other communications services on parts of the island.⁷ More

¹ See, e.g., *Affordable Connectivity Program et al.*, WC Docket No. 21-450, Order, DA 23-723 (WCB Aug. 18, 2023).

² Today's action is limited to the Lifeline program as the eligibility requirements of the Affordable Connectivity Program are prescribed by statute. 47 U.S.C. § 1752(6).

³ Jonathan Oatis, Reuters, *Hawaii wildfires: How did the Maui fires start and are they still burning?* (Aug. 15, 2023), <https://www.reuters.com/world/us/how-did-hawaii-wildfires-start-what-know-about-maui-big-island-blazes-2023-08-11/>.

⁴ Audrey McAvoy, Gene Johnson, Jennifer Sinco Kelleher, AP, *Hawaii officials urge families of people missing after deadly fires to give DNA samples* (Aug. 23, 2023), <https://apnews.com/article/maui-fire-missing-list-lahaina-e6909a2be7860fc7f9062c886a15f979>.

⁵ Jacob Knutson, Axios, *Hawai'i braces for crushing wildfire death toll with 850 missing* (Aug. 21, 2023), <https://www.axios.com/2023/08/16/maui-wildfire-death-toll-missing>.

⁶ Spencer Kimball, CNBC, *Death toll from Hawaii wildfires will rise as search teams comb Lahaina wreckage, governor says* (Aug. 14, 2023), <https://www.cnbc.com/2023/08/14/hawaii-wildfires-leave-at-least-96-dead-more-than-5b-in-damage.html>.

than 2,200 buildings have been destroyed or damaged, and thousands of people have been displaced in the country's deadliest wildfire in modern times.⁸ This is impacting an area with the highest prevalence of food insecurity in the state.⁹ In response, the President has declared a state of emergency for Maui and Hawai'i Counties, allowing federal authorities to provide disaster relief.¹⁰

3. Measures that the FCC has already taken include deploying personnel to Hawai'i to determine the impact to public safety and emergency alerting communications capabilities, granting requests for special temporary authority ("STA"), waiving various rules and filing deadlines, and obtaining information for damage assessment and analysis.¹¹ In this Order, we waive certain Universal Service Fund (USF) Lifeline program rules to more effectively target support to the disaster area and to the people affected by the Hawai'i Wildfires.

4. *The Lifeline Program.* The Lifeline program currently offers qualifying low-income consumers discounts on fixed or mobile voice or broadband Internet access service, as well as on bundled service.¹² Qualifying low-income consumers can receive a \$9.25 monthly discount on Lifeline-supported broadband Internet access service or a \$5.25 monthly discount on Lifeline-supported voice service.¹³ Lifeline consumers residing on qualifying Tribal lands¹⁴ can receive up to a \$34.25 monthly discount on Lifeline-supported service.¹⁵ Consumers can confirm their eligibility for Lifeline through the National Lifeline Eligibility Verifier (National Verifier). Applicants may qualify for the Lifeline program by participating in a qualifying federal assistance program (Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income, Federal Public Housing Assistance, or Veterans and Survivors Pension Benefit) or by having an income at or below 135% of the Federal Poverty Guidelines.¹⁶ Consumers living on qualifying Tribal lands can also qualify for the Lifeline program by meeting the above criteria or by participating in a qualifying Tribal-specific federal assistance program.¹⁷ If an

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⁷ Holly Yan et al., 'Like something out of a horror movie': At least 6 dead and communities decimated in Maui wildfires (Aug. 10, 2023), <https://www.cnn.com/2023/08/09/weather/maui-county-wildfires-hurricane-dora/index.html>.

⁸ See Jorge Garcia and Sandra Stojanovic, Reuters, *Maui's displaced grow anxious as wildfire recovery drags on* (Aug. 16, 2023), <https://www.reuters.com/world/us/maui-officials-urge-patience-search-missing-inches-ahead-2023-08-15/>.

⁹ Ayurella Horn-Muller, Axios, *Hawai'i wildfires' "downward, spiral-like impacts" on food* (Aug. 21, 2023), <https://www.axios.com/2023/08/21/hawaii-wildfires-downward-spiral-like-impacts-on-food>.

¹⁰ See FEMA, President Joseph R. Biden, Jr. Approves Major Disaster Declaration for Hawaii (Aug. 10, 2023), <https://www.fema.gov/press-release/20230810/president-joseph-r-biden-jr-approves-major-disaster-declaration-hawaii> (last visited Aug. 24, 2023); The White House, President Joseph R. Biden, Jr. Approves Hawaii Disaster Declaration (Aug. 10, 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/10/president-joseph-r-biden-jr-approves-hawaii-disaster-declaration-3/> (last visited Aug. 24, 2023). The Major Disaster Declaration authorized assistance for individuals affected by the wildfires in Maui County, and public assistance for emergency protective measures in Hawaii County. *Id.*

¹¹ Press Release, FCC, Chairwoman Commits FCC To Supporting Hawaii As They Recover From Wildfire Devastation (Aug. 18, 2023) <https://www.fcc.gov/document/chairwoman-commits-fcc-supporting-hawaii-wildfire-recovery>.

¹² 47 CFR § 54.401.

¹³ See 47 CFR § 54.403(a)(1)-(2).

¹⁴ See 47 CFR § 54.400(e) (defining Tribal lands for purposes of the Lifeline program, including "Hawaiian Home Lands—areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, *et. seq.*, as amended").

¹⁵ See 47 CFR § 54.403(a)(3).

¹⁶ See 47 CFR § 54.409.

applicant does not participate in one of the qualifying programs, they may submit documentation that establishes that they meet the Lifeline program's income-based eligibility criteria.¹⁸

5. If the National Verifier cannot automatically confirm a Lifeline applicant's eligibility, documentation provided by the applicant to demonstrate that they qualify under the program-based eligibility requirements is manually reviewed by the Universal Service Administrative Company (USAC).¹⁹ Acceptable documentation of program eligibility includes the current or prior year's statement of benefits from a qualifying assistance program, a notice or letter of participation in a qualifying Federal assistance program, program participation documents, or another official document demonstrating that the applicant, one or more of the applicant's dependents, or the applicant's household receives benefits from a qualifying assistance program.²⁰ If an applicant is trying to apply for Lifeline on the basis of their income, they can substantiate their eligibility by providing their prior year's state, federal, or Tribal tax return; a current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workers' Compensation statement of benefit; a federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information.²¹ If the applicant presents documentation of income that does not cover a full year, such as current pay stubs, the applicant must present the same type of documentation covering three consecutive months within the previous twelve months.²²

III. DISCUSSION

6. On our own motion, and consistent with the guidance detailed below, we temporarily waive the Lifeline eligibility requirements to permit households to enter the Lifeline program if they are receiving individual assistance from the Federal Emergency Management Agency's (FEMA) Individuals and Households Program (IHP)²³ as a result of the impacts of the Hawai'i Wildfires. Generally, the Commission's rules may be waived for good cause shown.²⁴ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²⁵ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁶

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¹⁷ See 47 CFR § 54.409(b) (listing the following qualifying Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance, Tribally-administered Temporary Assistance for Needy Families, Head Start (only those households meeting its income qualifying standard), and the Food Distribution Program on Indian Reservations).

¹⁸ See 47 CFR § 54.410(b)(i)(B).

¹⁹ See 47 CFR § 54.410.

²⁰ See, e.g., USAC, *Resolve Application Errors*, <https://www.usac.org/lifeline/national-verifier/how-to-use-nv/resolve-application-errors/> (last visited Aug. 24, 2023).

²¹ See *id.*

²² See *id.*

²³ Currently, Hawaii and Maui counties are covered within the Affected Disaster Areas designated by FEMA. However, only households in Maui county are eligible for individual assistance. See FEMA, *Hawaii Wildfires*, <https://www.fema.gov/disaster/4724/designated-areas> (last visited Aug. 24, 2023). We note that while the corresponding map includes Kalawao county, the text of the FEMA disaster declaration only includes Maui county as eligible for individual assistance.

²⁴ 47 CFR § 1.3.

²⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

²⁶ *Northeast Cellular*, 897 F.2d at 1166.

7. We find that good cause exists to waive, for a period of six months from the date of release of this order, the Lifeline eligibility requirements in section 54.409(a)-(b) of the Commission's rules for households that are receiving individual assistance from FEMA's IHP as a result of the Hawai'i Wildfires.²⁷ To the extent necessary for this waiver to have its intended effect, we also waive definitional portions of our rules that reference these requirements at 54.409(a)-(b) and the de-enrollment requirements tied to the existing Lifeline eligibility standards for those households seeking to enter the program under this waiver.²⁸ The wildfires in Hawai'i present unique circumstances insofar as they appear to be the greatest natural disaster in recorded state history,²⁹ and the casualties and damage they caused have devastated families and communities.³⁰ Under the current disaster declaration, only households in Maui County may be eligible for individual assistance,³¹ but if the scope of households eligible for support through FEMA's IHP expands to cover other geographic areas in response to the Hawai'i Wildfires, households in those areas would also be able to demonstrate eligibility for Lifeline based on receiving support through FEMA's IHP. FEMA's IHP³² offers individual assistance and provides financial and direct services to eligible individuals and households affected by a disaster.³³ Households must apply for IHP support from FEMA, which verifies that a household's needs are directly caused by a declared disaster.³⁴ With this waiver, households benefiting from FEMA's IHP can use documentation confirming their participation in FEMA's IHP to participate in the Lifeline program. We note that while we are waiving the Lifeline program's eligibility requirements to temporarily allow FEMA's IHP as an eligible program, we are not waiving the program's requirement that limits participation in Lifeline to one benefit per household.³⁵ That limitation remains in effect for households seeking to enter the program by virtue of participation in FEMA's IHP. Individual economic households residing at the same address will still be able to participate in the Lifeline program by satisfying existing requirements documenting their independent economic status.³⁶

8. New enrollments into the Lifeline program that rely on this waiver are only permitted for six months from the date of release of this Order. We believe that this time frame will allow sufficient

²⁷ In the event that Hawaii implements a Disaster SNAP (D-SNAP) effort, individuals participating in D-SNAP can already qualify for the Lifeline program because SNAP is already one of the qualifying programs for Lifeline. Such an enrollment would operate the same way as any other Lifeline enrollment with SNAP as the qualifying program, and consumers receiving D-SNAP would not need special permission or waiver to demonstrate their eligibility using D-SNAP.

²⁸ See 47 CFR §§ 54.400(a),(j), 54.405(e)(1).

²⁹ See Sarah McCammon, Bill Dorman, National Public Radio, *Leaders in Hawaii call the wildfires the worst natural disaster in state history* (Aug. 11, 2023), <https://www.npr.org/2023/08/11/1193393681/leaders-in-hawaii-call-the-wildfires-the-worst-natural-disaster-in-state-history>.

³⁰ Martha Kelner, Sky News, *US war veteran says Hawaii wildfires are worse than Afghanistan* (Aug. 13, 2023), <https://news.sky.com/story/us-war-veteran-says-hawaii-wildfires-are-worse-than-afghanistan-12939128>.

³¹ See FEMA, Hawaii Wildfires, <https://www.fema.gov/disaster/4724/designated-areas> (last visited Aug. 24, 2023).

³² FEMA, *Individuals and Households Program*, <https://www.fema.gov/assistance/individual/program> (last visited Aug. 24, 2023).

³³ FEMA, *Individuals and Households Program*, <https://www.fema.gov/fact-sheet/individuals-and-households-program> (last visited Aug. 24, 2023).

³⁴ FEMA, *Individuals and Households Program*, <https://www.fema.gov/fact-sheet/individuals-and-households-program> (last visited Aug. 24, 2023).

³⁵ 47 CFR § 54.409(c). Consistent with this waiver action, the obligation to satisfy subsections (a) or (b) of 54.409, as referenced in 54.409(c), will be considered met by an individual's participation in FEMA's IHP.

³⁶ See USAC, *What is a Household?*, <https://www.lifelinesupport.org/what-is-a-household/> (last visited Aug. 24, 2023).

time for consumers to seek support from FEMA's IHP and be in a position to provide appropriate documentation to USAC to take advantage of this waiver. However, we delegate to the Wireline Competition Bureau the ability to extend this period of initial enrollment for additional time if there is evidence of a continuing need for FEMA IHP participants to be able to apply for the Lifeline benefit. If the Bureau deems such an extension appropriate, it shall release a Public Notice announcing the extension no later than one month before the end of the initial six month waiver period.

9. To implement this waiver, we direct USAC, the Lifeline program administrator, to put processes and procedures into effect that will allow consumers in the affected areas to enroll in the Lifeline program through their participation in FEMA's IHP. To this end, USAC shall ensure that its eligibility verification systems will allow it to receive documentation showing that a household is participating in FEMA's IHP as a result of the wildfires in Hawai'i. USAC shall also ensure that such documentation aligns with the Lifeline applicant's identity information, to ensure that individual households seeking to rely on this waiver to enter the program are actually participating in FEMA's IHP. Once enrolled in the program based on participation in FEMA's IHP, subscribers will be permitted to continue in the Lifeline program for a period of no longer than twelve months from the date of their enrollment, and USAC should conduct recertification activities consistent with existing requirements to recertify eligibility annually and de-enroll subscribers that are no longer eligible to participate in the Lifeline program accordingly.³⁷ Ongoing participation in FEMA's IHP alone will not allow a subscriber to continue to participate in the Lifeline program when they reach their recertification period, but if the household is otherwise eligible to participate in Lifeline they can continue in the program after confirming such eligibility through USAC's recertification processes. Finally, USAC shall prepare outreach materials and communications to publicize this effort through its regular communications channels. All of USAC's efforts directed in this Order shall be completed with as much speed as possible.

10. Pursuant to the statutory language of the Infrastructure Investment and Jobs Act (Infrastructure Act), consumers entering the Lifeline program under this waiver are not permitted to enter the Commission's Affordable Connectivity Program (ACP). The statute establishing the ACP specifically ties Lifeline enrollment into ACP to households that satisfy the requirements of 54.409(a) or (b).³⁸ Today's action waives those requirements for households participating in FEMA's IHP, but it does not modify the underlying rules. As such, we direct USAC to ensure that households entering the Lifeline program under this waiver cannot use their Lifeline enrollment to enroll in ACP. However, we note that the existing eligibility criteria for ACP are broader than the Lifeline program's criteria, and many households entering the Lifeline program under this waiver may already be able to apply for and receive the ACP benefit under existing ACP eligibility rules.

11. In adopting today's waiver of the Lifeline eligibility requirements for households receiving FEMA IHP support, we are not changing any other Lifeline program rules or requirements. That includes the Lifeline program's usage requirement, to the extent that it is not waived by Bureau action.³⁹ We also remind Eligible Telecommunications Carriers (ETCs) of their obligation to "[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service."⁴⁰ The Commission expects that ETCs will publicize this opportunity to impacted households

³⁷ 47 CFR §§ 54.405(e)(4), 54.410(f).

³⁸ 47 U.S.C. § 1752(a)(6)(A). As noted above, applicants may qualify for Lifeline by virtue of participating in Disaster SNAP. Because Lifeline enrollments that relied on Disaster SNAP satisfy the requirements of 47 CFR § 54.409, those households may rely on their Lifeline enrollment to enroll in the ACP. *See supra* n.27.

³⁹ *See Affordable Connectivity Program et al.*, WC Docket No. 21-450, Order, DA 23-723 (WCB 2023) (waiving the Lifeline usage requirements in the Affected Disaster Areas through Oct. 31, 2023).

⁴⁰ 47 CFR § 54.405(b).

and modify their application systems to allow FEMA IHP participants to quickly apply and enroll for the Lifeline program under this waiver.

12. *Protecting Program Integrity.* We remain committed to protecting the integrity of the Lifeline program. Although we grant the waiver described herein, program participants and service providers remain otherwise subject to program integrity reviews, audits and investigations to determine compliance with FCC program rules and requirements. We require USAC to use its normal processes to recover funds that we discover were not used properly. Moreover, we emphasize that we retain the discretion to evaluate the uses of monies disbursed through the Lifeline program and to determine on a case-by-case basis if 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, including directing USAC to recover funds, assess retroactive fees and/or interest, or both. We remain committed to ensuring the integrity of the Lifeline program under our own procedures and in cooperation with law enforcement agencies.

IV. PROCEDURAL MATTERS

13. This Order contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Pursuant to 5 CFR § 1320.18(d), the Office of Management and Budget (OMB) has granted the Commission a temporary waiver of the PRA requirements specific to this waiver Order. Accordingly, we will not submit to OMB for review the information collection requirements that we describe in this Order.

V. ORDERING CLAUSES

14. ACCORDINGLY, IT IS ORDERED, pursuant to the authority in sections 1, 4(i), 4(j), 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C §§ 151, 154(i), 154(j), 254, and 403, 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 §§ 54.400(a), (j), 54.405(e)(1), 54.409(a)-(b) of the Commission's rules are WAIVED to the extent provided herein.

15. IT IS FURTHER ORDERED, 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

Marlene H. Dortch
Secretary