

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

In the Matter of)	
)	
Bridging the Digital Divide for Low-Income Consumers)	WC Docket No. 17-287
)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	

**PETITION OF THE STATE OF VERMONT
FOR A WAIVER OF
THE IMPLEMENTATION OF THE NATIONAL VERIFIER
PURSUANT TO 47 C.F.R. § 1.3**

October 10, 2019

I. INTRODUCTION

NOW COMES the State of Vermont and respectfully requests that the Federal Communications Commission (“FCC” or “Commission”) grant a six-month extension for the hard launch of the National Lifeline Eligibility Verifier (“Verifier”) in Vermont, which is currently slated for launch on October 23, 2019. Vermont and the Universal Service Administrative Company (“USAC”) have been diligently negotiating a data-sharing agreement that would allow for the automated processing of Lifeline Program (“Lifeline”) applications. Unfortunately, the agreement is not in place yet, and without it, Vermont’s Lifeline-eligible applicants risk having to verify their eligibility for Lifeline manually, a process more labor-intensive and prone to error than an automated one. For the reasons outlined below, Vermont asserts that a six-month delay in the hard launch of the Verifier will serve the public interest by allowing Vermont to work with USAC to avoid the aforesaid problems before they occur.

II. LEGAL STANDARD

Pursuant to 47 C.F.R. § 1.3, the Commission may waive its rules for good cause shown.

Section 1.3 states:

The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.

More specifically, the Commission has elaborated that it:

may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the

Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.¹

As demonstrated below, in this case, a temporary waiver of the hard launch of the Verifier in the State of Vermont will serve the public interest because a waiver will: (1) prevent current qualified Lifeline consumers from being de-enrolled and (2) continue to allow qualified low-income consumers to access Lifeline benefits while Vermont and USAC work on a state database sharing agreement that would allow for the automated verification of a consumer's low-income status and Lifeline eligibility. Strict compliance with the hard launch is not in the public interest in this case because it would prevent many otherwise eligible low-income consumers from receiving critical Lifeline benefits during this transitional period.²

III. BACKGROUND

In 2016, the FCC directed USAC to establish a comprehensive nationwide system, the Verifier, to determine subscriber eligibility for the Lifeline program. Lifeline provides critical telecommunication services and internet access to low-income households across the United States. As of March 2019, approximately 8.8 million low-income households received Lifeline service, of which approximately 2.73 million are households with single mothers, 1.06 million are veterans, 1.23 million are elderly, and 3.5 million are minorities. To qualify for Lifeline, a

¹ *In the Matter of Lifeline and Link Up Reform and Modernization*, Order 32 FCC Rcd. 10099 (F.C.C.), 32 F.C.C.R. 10099, 2017 WL 5712829 **2 (footnotes omitted).

² *See Id.* (granting the New York State Public Service Commission ("NYSPUC") an extension of an existing waiver to align its eligibility criteria with the Commission's Lifeline-eligibility rules and update NYSPUC's eligibility database for good cause because without an extended waiver, if an eligible telecommunications carrier relied on New York's database, New York would risk enrolling customers who are eligible for a New York state subsidy, but not the federal subsidy. Consequently, inefficient manual verification would be required to verify federal eligibility, and the potential harm that would result from failing to extend the waiver outweighed the benefits of immediate compliance.); *see also In the Matter of Lifeline and Link Up Reform and Modernization*, Order, 31 FCC Rcd. (F.C.C.), 31 F.C.C.R. 12718, 2016 WL 7036100 (granting Vermont, Michigan, California, Wisconsin, Washington, New York, Utah, Maryland, Oregon, Missouri, New Mexico, and the United States Telecom Association waivers of certain Lifeline requirements for good cause shown.)

household must be enrolled in a public benefit program (for example, the Supplemental Nutrition Assistance Program (“SNAP”) or Medicaid) or the household’s income must be at or below federal poverty levels.

Vermont has just under 8,000 Lifeline subscribers and an estimated 35,397 Lifeline-eligible households. Lifeline is critical to the health, safety, and wellbeing of the low-income residents of Vermont. Following a brief, five-month soft launch³ on November 2, 2018, USAC implemented the Verifier and hard-launched in a first wave of six states: Colorado, Mississippi, Montana, New Mexico, Utah, and Wyoming. Less than a year later, USAC has hard-launched the Verifier in a total of twenty-seven additional states and U.S. territories. On September 23, 2019, the Commission and USAC announced future hard launches in eleven additional states, one of which is Vermont. The Verifier is expected to launch on October 23, 2019, in Vermont.⁴

Unfortunately, the hard launch of the Verifier has raised some concerns in Vermont regarding enrollment and reverification. Among the most significant concerns is the fact that USAC does not yet have access to databases containing enrollment information for Vermont’s administered local-income programs, such as SNAP and Medicaid. Without automated access to state databases to automatically verify a Lifeline applicant’s participation in such low-income programs, such as SNAP or Medicaid, consumers must manually attempt to verify their low-income status. This process is more labor intensive and prone to error. Lifeline eligibility, Lifeline re-verification of the eligibility of existing Lifeline subscribers, and Lifeline participation have dropped precipitously in states where USAC has hard-launched the Verifier and where there is no low-income database connection.

³ During the soft launch, the use of the Verifier to verify Lifeline eligibility was optional. Once hard launched, however, the Verifier provides the sole means of verification.

⁴ <https://www.fcc.gov/document/wcb-announces-launch-national-verifier-11-states>.

Chart 1 below provides details on failure rates as of March 31, 2019, for applications processed by the Verifier in those states that had hard launched as of March 31, 2019. More specifically, Chart 1 shows: (1) the hard launch date for each Verifier state; (2) the number of applications received by the Verifier in each state; (3) the number of applications that were approved by the Verifier after conducting automated eligibility, identity, deceased, address, and duplicate checks; (4) the failure rate for automated verifications; (5) the number of applications that were approved via manual review (which is conducted if automated review fails to confirm eligibility); (6) the failure rate for manual verifications; and (7) whether access to state databases existed.

As Chart 1 demonstrates, in those states/territories with no connection to state databases, the failure rates for *automated* Lifeline eligibility verification range from 42% to 100%. In contrast, in those states/territories with connection to at least one state database, failure rates are lower and range from 27% to 50%. With respect to *manual* verification, the statistics are even grimmer. In states/territories with no connection to state databases, the failure rates for manual Lifeline-eligibility verification range from 47% to 100%. In contrast, in states/territories with at least one connection to state databases, the failure rates for manual Lifeline-eligibility verification range from 71% to 89%. Based on this experience, Vermont is concerned that failure rates in Vermont would be similar because USAC does not currently have access to our state databases.

Chart 1 – Application Failure Rates Through National Verifier⁵

State	Launch Date	Applications Submitted	Applications Approved	Failure Rate	Applications Approved After Manual Review	Failure Rate for Manual Review	State database ⁶
AK	5/7/19	77	17	78%	17	78%	None
AS	5/7/19	3	0	100%	0	100%	None
CO	11/2/18	10,927	7,874	28%	668	82%	SNAP and Medicaid
DC	5/7/19	3	0	100%	0	100%	None
DE	5/7/19	22	4	82%	3	86%	None
GU	1/15/19	133	77	42%	62	47%	None
HI	1/15/19	1,622	423	74%	340	78%	None
ID	1/15/19	2,034	529	74%	472	76%	None
ME	5/7/19	17	4	76%	3	81%	None
MO	3/5/19	2,943	1,904	35%	130	89%	SNAP and Medicaid
MP	5/7/19	6	1	83%	1	83%	None
MS	11/2/18	20,735	10,379	50%	2,215	82%	SNAP
MT	11/2/18	1,323	541	59%	522	60%	None
NC	3/5/19	7,064	4,162	41%	434	87%	SNAP
ND	1/15/19	891	376	58%	321	62%	None
NH	1/15/19	1,496	528	65%	438	69%	None
NM	11/2/18	21,227	15,442	27%	2,420	71%	SNAP and Medicaid
PA	3/5/19	8,275	5,021	39%	862	79%	SNAP
RI	5/7/19	27	10	63%	10	63%	None
SD	1/15/19	885	427	52%	381	55%	None
TN	3/5/19	5,907	3,347	43%	338	88%	SNAP
UT	11/2/18	7,596	4,343	43%	1,050	76%	SNAP
VI	5/7/19	2	0	100%	0	100%	None
WY	11/2/19	169	43	75%	38	77%	None
Total		93,384	55,452	41%	10,275	78%	

Notably, the Commission recently announced a positive development with respect to Medicaid databases. The Commission announced that on September 17, 2019, a nationwide

⁵ Data for Chart 1 was drawn from Commission Chairman Pai's May 13, 2019, letters to members of Congress, Attachment and Attachment Table 1 (Letters were directed to Congresswoman Yvette Clarke, Congresswoman Anna Eshoo, Congressman Mike Doyle, Congressman G.K. Butterfield, Congressman Cárdenas, Congressman Jerry McNerney, and Congressman Marc Veasey).

automated connection between the Medicaid program and the Verifier went live.⁷ While this is a significant development and may result in the automated verification of up to 60% of the Lifeline-eligible population as the Commission hopes, a significant low-income population remains unable to be verified automatically: 40% (or more) of the Lifeline-eligible population.

IV. WAIVER REQUEST

Vermont seeks a six-month extension of the Verifier hard launch in Vermont. Currently, Vermont is working diligently with USAC on the issue of access to state databases. The process of connecting to state databases is both technically and legally complicated. Vermont has made tremendous progress working directly with USAC. However, the negotiations are still in the early stages, and it is our understanding that an agreement would be subject to a 60-day Congressional review period once signed. Vermont anticipates this process to be completed by the end of April 2020.

If USAC were to hard-launch the Verifier in Vermont prior to establishing connections with state databases, experience demonstrates that many of otherwise qualified low-income consumers would be unnecessarily denied Lifeline eligibility, both as initial applicants and in the re-verification process. This result, however, can be avoided by delaying the hard launch of the Verifier in Vermont until a computer matching agreement is in place and implemented.

Therefore, pursuant to 47 C.F.R. § 1.3, Vermont respectfully requests that the Commission:

1. Grant Vermont a waiver of *Lifeline and Link Up Reform and Modernization, et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31

⁶ Note that National Verifier does have access to the Federal Public Housing Assistance Database in the listed jurisdictions having no connection to state databases.

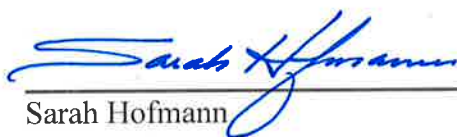
⁷ <https://docs.fcc.gov/public/attachments/DOC-359731A1.pdf>.

FCC Rcd 3962, 4022-40, paras. 168-216 (2016), requiring the hard launch of the Verifier for six months or until the Verifier's connection with state databases is complete.

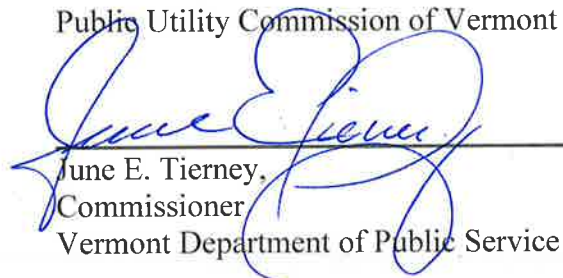
2. Grant such other relief as the Commission may deem appropriate.

Respectfully Submitted,

The State of Vermont



Sarah Hofmann
Commissioner
Public Utility Commission of Vermont



June E. Tierney,
Commissioner
Vermont Department of Public Service

October 10, 2019