

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

In the Matter of)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	
)	

**PETITION OF THE NEBRASKA PUBLIC SERVICE COMMISSION
FOR A WAIVER OF
THE IMPLEMENTATION OF THE NATIONAL VERIFIER
PURSUANT TO 47 C.F.R. § 1.3**

I. INTRODUCTION

The Nebraska Public Service Commission (NPSC) hereby seeks a six-month waiver pursuant to 47 C.F.R. § 1.3 regarding implementation of the National Lifeline Eligibility Verifier (National Verifier) system. Section 1.3 authorizes the Federal Communications Commission (FCC) to waive compliance with its rules based on a finding of “good cause.” Specifically, section 1.3 provides:

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.¹

¹ 47 C.F.R. § 1.3 (2019).

Interpreting this section, the Commission has stated 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.²

A temporary waiver of the hard launch date of the National Verifier in the State of Nebraska 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 the NPSC 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 October 23, 2019 hard launch is not in the public interest in this case because it would very likely cause otherwise eligible low-income consumers to be denied Lifeline benefits during this transitional period.³ Further, because the NPSC is the state administrator of the Lifeline program and determines initial enrollment as well as recertification, there is little to no concern that a delay in the hard launch date will result in any harm to the Lifeline program.

² *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order 32 FCC Rcd. 10099, 10100 (F.C.C.), 32 F.C.C.R. 10099, 2017 FCC Lexis 3404, para. 5 (rel. November 27, 2017).

³ *See id.* (granting New York State Public Service Commission an extension of an existing waiver to align its eligibility criteria with the Commission's Lifeline eligibility rules and update its eligibility database for good cause); *see also In The Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order, 31 FCC Rcd 12718, 2016 FCC Lexis 3930* (granting in part ten petitions or requests for waiver of the rules adopted in the *2016 Lifeline Modernization Order*. The waiver petitions of Vermont, Michigan, California, Wisconsin, Washington, New York, Utah, Maryland, Oregon, Missouri, New Mexico, and the United States Telecom Association requesting more time to implement were granted in part for good cause shown).

II. BACKGROUND

In 2016, the FCC directed USAC to establish a comprehensive nationwide system to determine subscriber eligibility for the FCC's Universal Service Fund Lifeline program, the National Verifier.⁴ Lifeline provides affordable access to critical communications services for low-income households in Nebraska. Nebraska is somewhat unique as the NPSC has historically served as the statewide Lifeline administrator due to its use of supplemental universal service fund support to increase benefits to Lifeline subscribers. Consumers seeking Lifeline (and state supplemental) assistance must apply with the NPSC. Once the NPSC receives an application, the NPSC determines whether the applicant is eligible for the federal Lifeline program by verifying that the individual is enrolled in a qualifying federal assistance program such as Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), Federal Public Housing Assistance (FPHA) Medicaid, Veterans Pension and Survivors Benefit), or whether the applicant qualifies based on household income at or below 135% of the federal poverty guidelines. The NPSC further verifies that Lifeline benefits are provided to only one member of each qualifying household. The NPSC then notifies the carrier of choice with enrollment instructions. The NPSC also annually recertifies eligibility.

In the State of Nebraska, as of the date of this petition, there are 4,513 low-income households receiving Lifeline service. Lifeline is critical to the health, safety, and well-being of the low-income residents of Nebraska.

⁴ See *Lifeline and Link Up Reform and Modernization, et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4021-40, paras. 167-216 (2016) (2016 Lifeline Order).

Following a five-month soft launch period,⁵ on November 2, 2018, USAC implemented the National Verifier and hard-launched a batch of six states. These states included Colorado, Mississippi, Montana, New Mexico, Utah, and Wyoming. Less than a year later, USAC hard-launched the National 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 Nebraska. The National Verifier is now scheduled to hard launch in Nebraska on October 23, 2019.⁶

Unfortunately, the hard launch of the National Verifier has raised some concerns in Nebraska due to the significant number of Nebraska consumers who may be improperly dropped from the program. As the Vermont and New York Petitions have indicated, USAC is working with states but as of the present time does not have access to databases containing enrollment information for Nebraska's administered low-income programs. The failure rates for applications processed by the National Verifier in other states are significant. As of the date of the Petition, USAC had not yet begun the process of reviewing Nebraska specific enrollment data. Although, the NPSC has been working with USAC in good faith, we have concerns that a hard launch without further coordination will be harmful to those currently validly enrolled in the Lifeline program.

⁵ During the soft launch period, the use of the National Verifier to determine Lifeline program eligibility is optional. However, once hard-launched, the National Verifier provides the sole means of verification.

⁶ See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., 2019 FCC Lexis 2703*, Wireline Competition Bureau Announces The Launch Of The National Lifeline Eligibility Verifier For All New Enrollments In Eleven States, Public Notice (rel. September 23, 2019).

III. WAIVER REQUEST

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

1. Grant Nebraska 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 FCC Rcd 3962, 4022-40, paras. 168-216 (2016), requiring the hard launch of the National Verifier for a period of six months.
2. Grant such other relief as the Commission may deem appropriate.

Dated this 18th day of October 2019.

Respectfully submitted,

The Nebraska Public Service Commission

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