

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

Released: October 25, 2017

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systems and that it “must re-examine its eligibility rules” to determine if it will align its state-specific criteria with federal eligibility criteria.⁹

4. On September 5, 2017, California filed a motion requesting that the Bureau extend the previously-granted waiver until December 31, 2018 “due to unforeseen circumstances and staffing constraints.”¹⁰ California states that the printing and mailing services that were previously handled by the California Lifeline Administrator were recently transferred to the California Department of General Services, Office of State Publishing, and that this transition “did not commence until May, 2017” and “will take several more months to complete, until the fourth quarter of 2017.”¹¹ California also states that “it is in the process of hiring a new California Lifeline administrator” that must be “trained and ready to assume control of the Program by April 2018.”¹² On October 13, 2017, California submitted an *ex parte* describing additional work California must complete to implement the federal eligibility changes.¹³ California states “[a]t minimum, the CPUC staff and the California LifeLine Administrator will need additional five months, from November 1, 2017 to March 31, 2018, to complete the implementation process.”¹⁴

5. Generally, the Commission’s rules may be waived for good cause shown.¹⁵ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁷ 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.¹⁸

6. We find there is good cause to extend the Bureau’s previously granted waiver for California through April 30, 2018, or until California has aligned its eligibility criteria with the Commission’s Lifeline eligibility rules and updated its eligibility processes accordingly, whichever is sooner. California indicates that it needs additional time to transition its mailing processes, to hire and train a new California Lifeline Administrator, and to complete additional work to implement the federal eligibility criteria, including revising its Lifeline forms, training manuals, and mailing processes; changing carrier exchange reporting formats; and updating its websites.¹⁹ Moreover, ETCs operating in

⁹ *Id.*; Petition of the California Public Utilities Commission for Temporary Waiver, WC Docket No. 11-42 et al., at 3-4 (filed Oct. 28, 2016) (California Waiver Request).

¹⁰ California Extension Request at 1.

¹¹ *Id.* at 2-3.

¹² *Id.* at 3.

¹³ Letter from Cynthia Walker, Director, California Public Utilities Commission Communications Division, to Marlene Dortch, Secretary, FCC, WC Docket No. 11-42, at 2-3 (filed Oct. 13, 2017)(additional work California states must be completed includes: (1) “[r]evise the California LifeLine forms in different formats”; (2) “[r]evise the mailing process including scanning form revisions”; (3) “[m]odify direct application process used by service providers to submit applications on behalf of applicants”; (4) “[c]hange carrier information exchange reporting formats”; (5) “[p]erform user acceptance testing”; (6) “[r]evise training manuals”; (7) “[u]pdate the California LifeLine Websites”; and (8) “[p]rocess advice letters that service providers will need to file to change service rates and plans.”).

¹⁴ *Id.* at 4.

¹⁵ 47 CFR § 1.3.

¹⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁸ *Northeast Cellular*, 897 F.2d at 1166.

¹⁹ California Extension Request at 2-3.

California are not given the subscriber's qualifying program in the course of the eligibility determination process.²⁰ As a result, if an ETC relied on California's eligibility verification, it would risk enrolling an ineligible customer who is only eligible for the California state subsidy but not for the federal subsidy. Accordingly, ETCs in California would need to manually verify every potential subscriber's eligibility for the federal Lifeline discount. Rendering California's eligibility process unusable could create significant burdens and inefficiency, and would undermine the state's investment in a reliable third-party verification process. We accordingly find that the potential harm that could result from failing to extend the Bureau's previously-granted waiver for California outweighs the desire to bring about these eligibility changes sooner. Based on the record, extending the waiver for this period will have minimal financial impact on the Fund.²¹

7. At the same time, we decline to grant California's request to extend the waiver through December 31, 2018.²² We find that, based on the record before us, extending the Bureau's previously granted waiver for California through April 30, 2018 at the latest is an appropriate time period that provides California sufficient additional time to make the changes necessary to implement the federal eligibility criteria while ensuring the eligibility changes are not unreasonably delayed.

8. Additionally, we clarify that if California does not update its processes such that ETCs may rely on the California PUC's eligibility process to determine whether a consumer is eligible for Lifeline under the revised federal eligibility rules by April 30, 2018,²³ ETCs will be responsible for ensuring that subscribers enrolled or recertified after that date are eligible under the Commission's revised eligibility criteria. As in other states, ETCs may elect to rely on the Universal Service Administrative Company (USAC) to conduct the eligibility recertification process. We direct USAC to establish a process for ETCs operating in California to elect USAC to conduct their recertifications beginning on May 1, 2018, if California has not updated its processes to comply with the revised federal eligibility rules by that date. In such case, USAC and ETCs must complete the recertification process for subscribers in California with anniversary dates falling from May 1, 2018 through July 31, 2018 by July 31, 2018, if the subscriber had not previously completed their 2018 recertification. We also direct USAC to conduct outreach to ETCs operating in California so that they may be prepared to conduct their own eligibility determinations if the California PUC's processes are not updated by the expiration of this waiver period.

9. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the motion for extension of time filed by the California Public Utilities Commission is GRANTED IN PART AND DENIED IN PART.

10. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that sections 54.400(j) and 54.409(a) of the Commission's rules, 47 CFR §§ 54.400(j) and 54.409(a) ARE WAIVED to the limited extent provided herein.

²⁰ See *Waiver Order*, 31 FCC Rcd at 12725, para. 21.

²¹ California Extension Request at 2 & n.8 ("The CPUC estimates that only about four percent of the California LifeLine Program's participants may be impacted by the changes to the federal eligibility rules. Therefore, granting the CPUC's request herein will have a minimal financial impact on the federal Lifeline fund.").

²² California Extension Request at 1.

²³ We note that the California PUC's process can satisfy the revised eligibility rules by informing ETCs whether a prospective subscriber is eligible for the federal Lifeline benefit under the revised eligibility criteria even if the administrator does not inform the ETC of the specific program through which the administrator verified the subscriber's eligibility.

11. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau