

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

In the Matters of:)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90
)	

**PUBLIC SERVICE COMMISSION OF WISCONSIN'S
PETITION FOR WAIVER**

Introduction

On April 27, 2016, the Federal Communications Commission (FCC) issued the Third Report and Order, Further Report and Order, and Order on Reconsideration, *Lifeline and Link Up Reform and Modernization*, FCC 16-38, 31 FCC Rcd. 3962 (2016) (*Lifeline Order*) in the dockets captioned above. The *Lifeline Order* established a national verifier for federal Lifeline eligibility and relieved Lifeline providers of the responsibility for determining individual eligibility. The *Lifeline Order* also modified the list of programs that qualify individuals for federal Lifeline support and, in particular, removed state-specific programs and income-eligibility criteria. The *Lifeline Order* required implementation of these changes by December 1, 2016.

The Public Service Commission of Wisconsin (PSCW) is concerned that the inconsistencies between federal and state eligibility criteria resulting from the *Lifeline Order*, and its impact on Wisconsin's laws, regulations and orders, cannot be resolved by December 1, 2016. For this reason, and to address the specific circumstances for the

Wisconsin Lifeline program, the PSCW respectfully requests a limited-time waiver of the revised rules 54.400(j) and 54.409(a), and applicable sections of the *Lifeline Order*, to permit Lifeline providers in Wisconsin to continue enrolling low-income Wisconsin consumers in the federal Lifeline program based on current federal and state-specific program and income eligibility criteria. This waiver should expire at the earlier of 24 months from its grant or 60 days after the PSCW notifies the FCC and all Eligible Telecommunications Carriers (ETCs) in the state that it has realigned its eligibility criteria with the federal criteria and provided for state-only Lifeline qualification and benefits.

Background

Wisconsin is one of the states in which the state eligibility criteria for the state discount are now different than the new federal criteria. For example, Wisconsin harmonized its Lifeline regulations with federal law on February 1, 2016, and identified the Low-Income Home Energy Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF) and the National School Lunch Program (NSLP) as qualifying Lifeline programs, which the *Lifeline Order* eliminated from the federal eligibility criteria.¹ Further, Wisconsin regulations do not include the Veterans and Survivors Pension Benefit as a qualifying Lifeline program, which the *Lifeline Order* added to the federal eligibility criteria. Granting this waiver to the effective date of the federal eligibility criteria will provide an opportunity for the PSCW and other entities to address the differences between state and federal Lifeline programs, obtain answers to the numerous questions that still remain, and also provide the time to effectuate any necessary regulatory measures to ensure compliance with the *Lifeline Order* and applicable federal

¹ Wisconsin Admin. Code § PSC 160.01(21).

regulations. Misalignment between state and federal eligibility criteria creates a significant implementation issue for Lifeline providers and will lead to customer confusion.

Additionally, Wisconsin has operated an electronic Lifeline verification system since the mid-1990s. In March 2016, the PSCW deployed an updated electronic query interface for Lifeline eligibility validations, named Carrier Access for Lifeline Eligibility Requests (CALER). CALER is a web-based application that allows PSCW staff and Lifeline providers to determine Lifeline program eligibility status electronically and in real time. CALER electronically queries the Wisconsin Department of Health Services (WDHS) database, named the Client Assistance for Reemployment and Economic Support System (CARES), and the Wisconsin Department of Revenue (WDOR) database. CALER now integrates the query of WDOR's tax eligibility source data with the pre-existing WDHS social services database query capabilities. The current interface allows Lifeline providers to verify, in real time, eligibility of most Lifeline customers. CALER queries support all possible current FCC eligibility criteria requirements except the National Free School Lunch and Section 8 federal housing benefits.²

Lifeline providers log into the secure CALER interface and enter the customer's name and last four digits of the customer's social security number. The Lifeline providers must also upload a copy of the customer's signed authorization to initiate the CALER query. CALER then returns either a "yes," if the customer is a participant in one of the qualifying programs, or "no," if the customer is found not eligible. If a customer is found not eligible, Lifeline providers can check customer-provided documentation for receipt of NSLP or Section 8 housing benefits.

This CALER process provides accurate verification while minimizing intrusion into customer

² CALER cannot verify receipt of National Free School Lunch or Section 8 federal housing benefits because information on benefit recipients is not stored in database formats that can accommodate an automated query from a state system.

privacy and reducing the risk of unauthorized access to confidential or sensitive information. Further, Lifeline providers remain accountable because its customer query authorizations are traceable through documentation storage and audit processes. CALER further allows Lifeline providers to upload standardized batch files to complete annual re-certifications of its existing CALER-verified Lifeline customers. CALER runs an eligibility query for each customer in the submitted file and returns eligibility results to Lifeline providers and logs the processing and results of annual re-certifications.

The process to update CALER to provide eligibility results consistent with current federal and state criteria took 18 months after updated cooperative agreements were negotiated with WDHS and WDOR. The Wisconsin regulations³ consistent with the CALER upgrade became effective on February 1, 2016 following a nearly four-year rulemaking process. As a result of changes to the federal eligibility criteria, Wisconsin regulations will soon be out of alignment with the new federal rules because they include LIHEAP, TANF, NSLP, and the Wisconsin Homestead Tax Credit, and do not include Veterans and Survivors Pension Benefits.

Request for Waiver

The Commission may waive its rules for good cause shown.⁴ Given the current misalignment between Wisconsin and federal regulations, the PSCW respectfully requests, pursuant to 47 C.F.R. § 1.3, that the FCC grant a waiver of the revised rules 54.400(j) and 54.409(a), and of those sections of the *Lifeline Order* that prohibit Lifeline providers from continuing to enroll consumers in the federal Lifeline program based on state-specific program and income eligibility criteria. The FCC may exercise its discretion to waive a rule when the

³ Wisconsin Admin. Code ch. PSC 160.

⁴ 47 C.F.R. § 1.3.

particular facts make strict compliance inconsistent with the public interest. The FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵

Historically, in Wisconsin, all customers who qualified under any of the state-specified eligibility criteria could receive both the state and federal Lifeline discounts. Now under the *Lifeline Order*, however, differences between federal and state eligibility criteria could potentially require Lifeline providers to manage three different sets of Lifeline subscribers: (1) those eligible for both federal and state discounts; (2) those eligible for only the federal discount (such as a subscriber relying on Veterans and Survivors Pension Benefit or purchasing stand-alone broadband); and (3) those eligible for only the state discount (such as a subscriber relying on a state-authorized program). In addition to complicating the Lifeline provider's application forms and management processes, the differences between federal and state eligibility criteria from the *Lifeline Order* create significant additional customer confusion, in an already confusing application process.

As described above, in Wisconsin, the eligibility determinations are made via an automated system, and changes to conform with the federal eligibility criteria will require extensive information technology (IT) system work with the WDHS and the WDOR. The PSCW must rely on the scheduling of staff and IT contractors by these agencies that house the affected databases. This IT work is necessary for the PSCW to align Wisconsin's eligibility criteria with the federal eligibility criteria and to create program criteria for a new state-only Lifeline benefit. Eventually, Lifeline providers will need to adjust their procedures to account

⁵ See, e.g., Waiver Order, *Lifeline and Link Up Reform and Modernization*, FCC 12-863, 27 FCC Rcd. 5941 (2012) (granting waiver request with respect to states in which a state Lifeline administrator or other state agency would be collecting subscriber certifications of eligibility, but had not yet modified its procedures in accordance with the applicable FCC order).

for these changes as well. Having Lifeline providers rework all of their processes in Wisconsin in the interim to a manual, paper-based process with significantly more fraud potential is an unnecessary expense for what would only be a short time period before Wisconsin can bring its program and CALER queries into alignment with the federal rules. By granting the requested waiver for a brief interim period, the Commission would avoid customer confusion and unnecessary expense for the PSCW and Lifeline providers.

Wisconsin has committed up to \$800,000 of the state's Universal Service Fund budget for the recently completed CALER upgrade. It has already paid out \$238,484 for this project and awaits the last billings from WDHS for its contractor costs that will likely bring the final cost close to the committed amount. The PSCW regrets the FCC decision to break its longstanding partnership with states in development of a robust, effective and fiscally responsible Lifeline program based on state and federal eligibility criteria. Nevertheless, the PSCW offers to continue a partnership with the FCC in Lifeline eligibility verifications to prevent waste, fraud and abuse in the Lifeline program whether enrollment is under state or federal eligibility criteria. The PSCW would encourage the FCC to support the reprogramming of CALER and to share in the cost of development of CALER so that the national verifier will be able to access and use CALER for validation of federal Lifeline eligibility for low-income Wisconsin residents. Working collaboratively with the PSCW will result in continued robust, confidential, reliable and auditable Lifeline eligibility verification processes in Wisconsin.

Accordingly, good cause exists for the Commission to waive its revised rules 54.400(j) and 54.409(a), and applicable sections of the *Lifeline Order*, to permit Lifeline providers in Wisconsin to continue enrolling low-income Wisconsin consumers in the federal Lifeline program based on current federal and state-specific program and income eligibility criteria. The

PSCW requests a waiver of the effective date of the new federal Lifeline eligibility criteria until at least the earlier of 24 months from its grant or 60 days after the PSCW notifies the FCC and all ETCs in Wisconsin that it has realigned its eligibility criteria with the federal criteria and provided for state-only Lifeline qualification and benefits for non-federal criteria. This will allow Wisconsin the opportunity to make informed decisions and take action necessary to change state databases, state regulations,⁶ and to issue state orders to conform with the *Lifeline Order*, all of which will require more time than the FCC provided under the implementation deadline of December 1, 2016. The requested waiver would also allow Lifeline providers to continue to operate under the regulatory scheme with which they are currently familiar for a period of time, with the result that they would continue to enroll consumers in the federal Lifeline program on the basis of additional state-specified eligibility criteria.

Conclusion

For the foregoing reasons, the PSCW respectfully requests that the FCC grant its petition for waiver.

Dated at Madison, Wisconsin, this 3rd day of November, 2016.

By the Commission:

Sandra J. Paske
Secretary to the Commission

DL: 01472495

⁶ Wisconsin Admin. Code ch. PSC 160.