

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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| In the Matter 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 |

**PETITION FOR RECONSIDERATION
OF
SPRINT CORPORATION**

Sprint Corporation (“Sprint”), on behalf of its Assurance Wireless affiliate, hereby respectfully requests reconsideration of a provision included in both the *New York Waiver Extension Order*¹ and in the *Michigan Waiver Extension Order*² which holds ETCs responsible for eligibility determinations of New York and Michigan Lifeline applicants and for recertification of Lifeline subscribers in the event that the state databases are not updated to comply with federal eligibility rules by April 30, 2018 (New York), and June 30, 2018 (Michigan).

New York and Michigan each maintains a database which is used to help determine whether an end user is eligible to participate in the federal Lifeline program. In the *Waiver Extension Orders*, the FCC granted requests filed by the Public Service

¹ *Lifeline and Link Up Reform and Modernization, Order* released November 27, 2017 (DA 17-1145) in WC Docket No. 11-42.

² *Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund, Order* released December 18, 2017 (DA 17-1211) in WC Docket Nos. 11-42, 09-197 and 10-90.

Commissions of New York and Michigan for additional time to modify their respective databases to reflect the federal streamlined Lifeline eligibility programs. New York now has until April 30, 2018 to make such modifications, and Michigan has until June 30, 2018. In the *New York Waiver Extension Order* (para. 8, footnote omitted), the FCC stated that:

...if New York does not update its database such that ETCs may rely on that database to determine whether a consumer is eligible for Lifeline under the revised federal eligibility rules by April 30, 2018, 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.

The Commission imposed this same obligation on ETCs in the *Michigan Waiver Extension Order* (para. 8, footnote omitted):

...if Michigan does not update its database such that ETCs may rely on that database to determine whether a consumer is eligible for Lifeline under the revised federal eligibility rules by June 30, 2018, 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.

Sprint does not doubt that both New York and Michigan will make a full and good faith effort to meet their respective deadlines, and Sprint pledges to work cooperatively with New York and Michigan in their efforts to meet their deadlines. Sprint also understands and supports the FCC's desire to ensure compliance with federal Lifeline eligibility rules by a date certain. However, it is highly unusual -- perhaps unprecedented -- for the FCC to hold a third party responsible in the event that the party at which an order is directed is unwilling or unable to comply with such order, especially when the third party has no control over the second party.

The FCC’s mandated shift of the compliance burden onto ETCs should New York or Michigan be unable to meet their respective deadlines is unreasonable and was imposed without any opportunity for comment. These *Waiver Extension Orders* place the burden of performing the initial eligibility determination of New York or Michigan Lifeline applicants, and of performing requisite recertifications of current Lifeline customers, squarely on the shoulders of the ETCs such as Assurance Wireless, rather than allowing ETCs to continue to take advantage of the efficiencies of using the state eligibility verification databases. Even if ETCs elect to have USAC perform the recertifications, it is not clear whether the information needed to successfully fulfill this function has been, or will be, loaded into NLAD.³

The FCC has recognized the “significant burdens and inefficiency” that will result if ETCs in New York and Michigan are required “to manually verify every potential subscriber’s eligibility for the federal Lifeline benefit.”⁴ Foreclosing the use of these state databases “could create significant burdens on consumers and ETCs and introduce substantial inefficiency to the enrollment and eligibility determination process, and would also undermine the state’s investment in an eligibility verification database.”⁵

Sprint agrees that foreclosing the use of the New York and Michigan eligibility databases, and forcing ETCs to assume responsibility for initial eligibility and re-verification in the event that the state databases are not brought into compliance with federal standards by the due dates, will impose burdens on both consumers and ETCs.

³ It is unclear whether NLAD records will reflect the program under which a New York or Michigan Lifeline subscriber originally qualified. USAC would have to know if the subscriber qualified under a plan that is now ineligible under federal rules, so that it could request updated eligibility documentation as part of the recertification process.

⁴ *New York Waiver Extension Order*, para. 6; *Michigan Waiver Extension Order*, para. 6.

⁵ *Michigan Waiver Extension Order*, para. 6.

Assurance Wireless estimates that it will incur a one-time charge to turn off use of each of these state databases; another one-time charge to turn back on use of these state databases once they become compliant; and incremental costs to perform eligibility and re-certification determinations that would otherwise have been accomplished by checking the state databases. Assurance Wireless (which is only one of multiple service providers in New York and Michigan) has estimated that these additional costs will amount to several hundred thousand dollars for Assurance Wireless alone. In addition, Assurance Wireless expects that if Lifeline subscribers have to manually re-certify their eligibility (rather than be re-certified via the state database), tens of thousands of its customers will be de-enrolled not because they are no longer eligible, but because they will not take the requisite steps to re-certify. It makes little sense to place at risk the Lifeline service of so many end users, and to force ETCs to incur significant costs, when the likelihood of qualifying end users under non-eligible federal programs appears to be extremely low. New York, for example, estimated that “likely fewer than 1,000” end users would receive Lifeline benefits by qualifying under non-eligible federal programs LIHEAP, NSLP, or TANF during the requested extension period.⁶ Michigan similarly estimated that the impact of allowing end users who participate in LIHEAP, NSLP or TANF to receive the federal Lifeline benefit during its requested extension period would be “minimal.”⁷

⁶ See *ex parte* letter from Graham Jesmer, NY PSC, to Marlene Dortch, FCC, received Nov. 14, 2017 in WC Docket 11-42, p. 2. New York originally requested an extension through June 29, 2018.

⁷ See *ex parte* letter from Sally Talberg, Michigan PSC, to Marlene Dortch, FCC, dated December 11, 2017 in WC Docket 11-42, p. 2 (using generalized data, providing the federal Lifeline benefit during the requested extension period to Michigan subscribers who participate in TANF, LIHEAP and NSLP would increase the number of Michigan Lifeline subscribers by an estimated 2.7%).

The planning and implementation of these New York and Michigan contingency efforts cannot be implemented overnight and must be started well in advance of the extension deadlines in order to ensure Assurance would be ready to assume responsibilities in the unlikely event that New York or Michigan's systems are not ready. Notably, work for both states must occur at the same time, and involve the same resources as are required to manage on-going business operations, the transition to the National Verifier, and any changes mandated by the Commission's recent Lifeline order.⁸ Sprint and other ETCs would, of course, be forced to devise and implement their New York and Michigan contingency plans, and incur the associated costs, before it is known whether either state will be able to meet their deadlines. If it turns out that New York or Michigan are successful at meeting their respective deadlines, these efforts and costs will have been wasted.

The FCC's emphasis on the need for New York and Michigan to come into compliance with federal rules by April 30, 2018 and June 30, 2018 respectively, is very clear, and Sprint agrees that requests for further extensions of time should be strongly discouraged. However, it is premature to foreclose on the possibility that an additional waiver extension might be warranted, and the FCC should evaluate any possible future waiver request using the same "good cause" standard it has always relied upon. Rather than shifting eligibility determinations and recertification responsibilities onto ETCs in the event that the April 30 and June 30 deadlines are not met, the FCC should monitor the situation carefully, and continue to work closely with New York and Michigan to help

⁸ *Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, *Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry*, released December 1, 2017 (FCC 17-155).

ensure that their respective deadlines are met. The FCC would thus have advance warning of any extenuating circumstances that might threaten either state's ability to meet the compliance deadline. As with all waiver requests, the Commission has the right and responsibility to determine whether good cause exists to grant any waiver request.

If the FCC forecloses any possibility of considering an additional waiver request that might prove to be necessary, and instead persists in an iron-clad April 30, 2018 compliance deadline for New York, and June 30, 2018 deadline for Michigan, it should at least reconsider paragraph 8 of the New York and Michigan *Waiver Extension Orders* and remove the ETC middleman. The FCC should accordingly direct that the National Verifier database be made available for making the initial Lifeline eligibility determinations and for the recertification process if either the New York or Michigan database is unavailable for use.

Respectfully submitted,

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December 27, 2017