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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 31 2000

FEDERAL COMMUNICATIONS COMMISSION
DEPARTMENT OF THE SECRETARY

In the Matter of)
)
Bell Atlantic-Pennsylvania, Inc.)
)
Waiver of Section 54.409(b) of the)
Commission's Rules and Regulations)

File No. _____

CC: 96-45

PETITION FOR WAIVER

Bell Atlantic-Pennsylvania, Inc. ("Bell Atlantic") respectfully requests a waiver of section 54.409(b) of the Commission's Rules, 47 C.F.R. § 54.409(b), to allow it to utilize the state's Department of Public Welfare ("DPW") database in lieu of a customer certification to ascertain eligibility for Lifeline service wherever possible. The DPW database is a reliable source of information for determining eligibility, because it is a repository of verified information on many of the qualifying programs. Use of that database will impose less of a burden on the customer than the certification specified in the rules and will result in faster certification.

The Pennsylvania Public Utility Commission has recently adopted a new Lifeline program that allows customers to subscribe to vertical services as well as receiving subsidized basic local telephone service.¹ The eligibility standard for this program differs from the existing Lifeline program, which remains in effect. Unlike the pre-existing

¹ *Joint Petition of Bell Atlantic Pennsylvania, Inc., Conectiv Communications, Inc.; Network Access Solutions; and the Rural Telephone Company Coalition for Resolution of Global Telecommunications Proceedings, Opinion and Order, Docket No. P-00991649 (entered Sept. 30, 1999). A copy of the relevant pages from that decision are attached.*

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Lifeline program. the new program is funded entirely from federal support. As a result, the eligibility guidelines in the Commission's rules will apply rather than the state's guidelines for the existing Lifeline program.

Section 54.409(b) of the rules specifies that, where a state does not provide Lifeline support, the consumer must provide the carrier with written certification of eligibility and must agree to notify the carrier if the consumer ceases to qualify. *See* 47 C.F.R. § 54.409(b). The Pennsylvania DPW, however, maintains a database of participation in many of the low-income assistance programs that the Commission has found qualify a consumer for Lifeline service.² The relevant data are entered into the DPW database when the customer qualifies for the low-income program and are updated as soon as revised data become available. In addition, the DPW exchanges information regularly with federal and other state agencies that have information regarding consumers' participation in any of the qualifying programs. In this way, the DPW can be assured that its database is a reliable a source of information on consumers' eligibility for the qualifying program. In fact, Bell Atlantic has successfully used this database for verification of the existing Lifeline program for nearly four years, and the DPW will make it available in connection with the new program as well.

The alternative in the rules, requiring each customer in each case to certify eligibility in writing, is redundant, intrusive to the customer, and is likely to delay certification. Having applied for an assistance program, the customer has already

² Those are Medicaid, food stamps, Supplemental Security Income, federal public housing assistance, and Low-Income Home Energy Assistance Program. *See* 47 C.F.R. § 54.409(b). The DPW database includes information on participation in the first three programs, which represent the bulk of the eligible consumers.

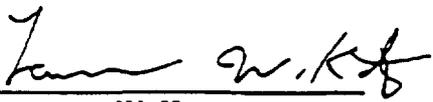
submitted paperwork or participated in an intake interview and has submitted any needed documentation to prove eligibility for the program. The results of that process appears in the DPW database. By accessing that database for Lifeline qualification, Bell Atlantic avoids the need to bother the consumer with yet another document certifying to the same information that already appears in the DPW database. It is also much faster than having to send a form to the customer to be signed and returned. As a result, an eligible consumer will be placed on the program faster.

Upon grant of this waiver, Bell Atlantic will require the written certification specified in section 54.409(b) only where the consumer is enrolled just in one of the two programs – federal public housing assistance or Low-Income Home Energy Assistance Program – that are not contained in the DPW database. Otherwise, Bell Atlantic will use the DPW database to qualify the consumer for Lifeline.

Grant of the waiver is consistent with the Commission's policy in establishing self-certification. It recognized that, where state funding is not involved, the carrier will need to certify eligibility, based on objective criteria of participation in other low-income programs. *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, ¶ 374 (1997). With access to the DPW database, however, in most cases Bell Atlantic will not need to rely on self-certification.

Accordingly, Bell Atlantic asks the Commission to grant it a waiver to allow it to use the DPW database to qualify consumers for the new Pennsylvania Lifeline program wherever possible in lieu of the written certification specified in section 54.409(b) of the rules.

Respectfully submitted,


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December 22, 1999

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held August 26, 1999

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
David W. Rolka
Nora Mead Brownell
Aaron Wilson, Jr.

Docket No.
P-00991648

Joint Petition of Nextlink Pennsylvania, Inc.;
Senator Vincent J. Fumo; Senator Roger Madigan;
Senator Mary Jo White; the city of Philadelphia;
The Pennsylvania Cable & Telecommunications
Association; RCN Telecommunications Services of
Pennsylvania, Inc.; Hyperion telecommunications,
Inc.; ATX Telecommunications; CTSI, Inc.; MCI
Worldcom; and AT&T Communications of
Pennsylvania, Inc. for Adoption of Partial
Settlement Resolving Pending Telecommunications
Issues

P-00991649

Joint Petition of Bell Atlantic Pennsylvania, Inc.,
Conectiv Communications, Inc.; Network Access
Solutions; and the Rural Telephone Company
Coalition for Resolution of Global
Telecommunications Proceedings

OPINION AND ORDER

XI. LIFELINE

Currently all LECs operating in the Commonwealth are required to provide Lifeline service, and to have a Lifeline plan and applicable Lifeline rates filed in their tariff. Our Order on BA-PA's petition seeking approval of an alternative form of regulation, Docket No. P-00930715 entered June 28, 1994, directed BA-PA to submit a revenue neutral Lifeline program and a Universal Telephone Assistance Program (UTAP) for approval. BA-PA's Lifeline program was the first such program in the Commonwealth and it began in 1996. BA-PA revised its Lifeline program in Docket No. R-00974153, approved November 21, 1997. Subsequently, our Order at Docket No. I-00940035, entered July 31, 1997, directed that each LEC must file a Lifeline plan to become effective January 1, 1998. Penetration rates from these Lifeline programs have been disappointing.

As we move into this unprecedented era of local service competition, technology evolution and information expansion, we want to assure that our most vulnerable citizens, those struggling in poverty, do not get left behind. In formulating our position on these petitions in the instant proceeding, we have endeavored to resolve these Lifeline issues in a manner most beneficial to all of the parties. The Lifeline program we support will broaden eligibility requirements, remove obstacles to participation, make the program available to all eligible Pennsylvanians and minimize the costs involved in administering the program.

The Lifeline program plays an important role in making phone service affordable to low income Pennsylvanians. As evidenced by the positions we have taken in this proceeding, this Commission supports actions that will result in making the program available to all eligible households in the Commonwealth. Additionally, we have taken steps to make enrollment easier

and have removed potential obstacles to enrollment. Finally, we have fashioned an efficient program that effectively minimizes administrative costs.

A. Summary of Commission's Determination on Lifeline

By this Order, we determine that Lifeline service will be available to all eligible customers with incomes of up to 150% of the federal poverty level guidelines and that these customers may choose one optional vertical service in accordance with the discussion in this Order. BA-PA's current Lifeline program is grandfathered and is available to all eligible Lifeline customers with incomes of up to 100% of the federal poverty level guidelines with no optional vertical services. In accordance with this Order, BA-PA's eligible Lifeline service customers within the 100% threshold may choose from the existing and the new program options, and all other eligible Lifeline service customers within the 150% threshold will have one (1) program option. A summary of these program options is delineated below:

BA-PA Lifeline Option #1: Eligible BA-PA customers with incomes at or below 100% of the federal poverty level and choosing no optional vertical services. BA-PA's current Lifeline program is grandfathered as it currently exists. As such, BA-PA will provide eligible Lifeline customers whose income level is at or below 100% of the federal poverty level with a \$9.00 total offset and provide for a total restriction on optional vertical services, in accordance with our discussion herein. All existing provisions of BA-PA's Lifeline service as established at Docket No. P-00930715, P-00950958 and R-00974153 apply.

BA-PA Lifeline Option #2: Eligible BA-PA customers with incomes at or below 150% of the federal poverty level and choosing one optional vertical service. BA-PA's Lifeline program will provide eligible Lifeline customers with the federal universal service support total offset, currently \$5.25, and provide for one optional vertical service, at applicable rates, in accordance with our discussion herein. Eligible Lifeline customers are those whose income level is at or below 150% of the federal poverty level; and

are enrolled in Medicaid, food stamps, SSI, federal public housing assistance, or LIHEAP. All existing provisions of BA-PA's Lifeline service as established at Docket No. P-00930715, P-00950958 and R-00974153 apply.

Non-BA-PA Lifeline Option: Eligible Non-BA-PA customers. LEC Lifeline programs will provide eligible Lifeline customers with the federal universal service support total offset, currently \$5.25, and will allow for the purchase of one optional vertical service, at applicable rates, in accordance with our discussion herein. Eligible Lifeline customers are those whose income level is at or below 150% of the federal poverty level; and are enrolled in Medicaid, food stamps, SSI, federal public housing assistance, or LIHEAP. All other existing provisions of Lifeline service as established in the Pennsylvania Telephone Association's (PTA) Lifeline petition at Docket Nos. I-00940035 and P-00971274, November 21, 1997, apply.

All LECs operating in the Commonwealth are required to file Lifeline plans. CLECs operating as pure resellers also must file Lifeline plans and these plans should be consistent with the plan being offered by the ILEC whose service is being resold.

There will be no automatic enrollment mechanism established. The use of the Department of Public Welfare categories, as provided for in 47 C.F.R. §54.409(b), that fall within the Lifeline qualification threshold of 150% of the federal poverty guidelines would be eligible for Lifeline service. The issue of eligible telecommunications carrier (ETC) is discussed, and the situation of pure resellers and ETC status is profiled. The Annual Lifeline Tracking Reports will be revised. And finally, we have determined herein, that all LECs will file modified or initial Lifeline tariffs within sixty (60) days after the entry date of this Order, to become effective on sixty (60) days' notice.

By this Order, we have fashioned a program designed to keep administrative costs to a minimum. However, any company authorized to offer local service in Pennsylvania, that can demonstrate that administrative costs are significant or have affected earnings, and can establish that the increased costs are directly attributable to the implementation of Lifeline can make such a claim in an appropriate proceeding.

B. Petitioner's Positions

1. 1648 Petition

The 1648 Petitioners propose that within sixty (60)-days all ILECs will modify their Lifeline programs to incorporate the following enhancements:

- a) develop Lifeline programs targeted to improve telecommunications penetration rates;
- b) subscribers will not be precluded from any optional services at tariffed rates;
- c) Lifeline benefits will be at least equal to today's benefits;
- d) eligibility for Lifeline for each ILEC should be expanded from 100% to 150% of federal poverty levels at the maximum federal support level (currently \$5.25);
- e) current and future BA-PA Lifeline customers with incomes at or below 100% of poverty level will receive the current offset benefit of \$9.00;
- f) future BA-PA Lifeline customers with incomes from 100% to 150% of the federal poverty level and who agree to limited optional vertical services, including touchtone, voice mail, call waiting, call

- blocking, and call trace, would receive the current offset benefit of \$9.00;
- g) automatic enrollment program will be developed by BA-PA with administrative costs not to exceed \$250,000 per year;
 - h) BA-PA will provide an annual report on the status of Lifeline, LinkUp and UTAP including information regarding telephone penetration rates on county and state levels and segmented by income, rental/ownership of residence and other socio-economic demographics as used in the FCC/Joint Board Lifeline and LinkUp Reports;
 - i) eligibility verification for Lifeline will be identical to Link-Up eligibility with the exception of the automatic enrollment provisions;
 - j) BA-PA will fund its share of any contribution above the federal level from the first year value of the 1998 Price Change Opportunity (PCO), previously unexpended Lifeline funds, and other funding sources as necessary;
 - k) this petition does not intend to reduce or replace BA-PA's continuing obligation to fund the UTAP program at current levels.

2. 1649 Petition

The 1649 Petitioners propose to expand Lifeline from 100% to 150% of the federal poverty guidelines upon FCC Section 271 approval, and this expansion would be funded by the first year value of the 1998 PCO (\$8.5 Million guaranteed by BA-PA). Concurrently, Lifeline would be expanded from 100% to 150% of the federal poverty guidelines for all other LECs, to be funded at the federal universal service support level, currently \$5.25. The Lifeline program would be targeted to improve telephone

penetration rates among low-income customers. An eligibility verification mechanism that is not unduly administratively burdensome will be sought.

3. General Discussion

The OCA testified that a successful Lifeline program must combine an automatic enrollment mechanism, expanded eligibility requirements and the elimination of restrictions on the purchase of some or all vertical services. (N.T. Cooper, April 22, 1999, p. 14). The 1648 Petitioners proposal contains all of these elements. The 1649 Petitioners envision no automatic enrollment provision and continues the restriction on Lifeline participants from purchasing any optional services not currently available under the present programs.

The record in this case indicates that the current Lifeline program has failed to meet expectations in terms of customer participation. The result is that Lifeline has failed to deliver its benefits to low income Pennsylvania households. The City of Philadelphia (City) provided testimony to illustrate the lack of customer participation in Lifeline. The City testified that in BA-PA's 1994 Lifeline proposal, the company projected that 638,061 households would qualify for the program. BA-PA estimated that by July 1, 1996, there would be 217,578 Lifeline customers and that by July 1, 1999, this number would climb to 579,997. According to the City, only 25,000 customers were participating in the program at present. (N.T. James, April 22, 1999, p. 4).¹⁷³

BA-PA provided testimony describing its current Lifeline program. This program is available to Pennsylvanians whose income is at or below 100% of the federal poverty level. In addition, people who are on Temporary Aid for Needy Families (TANF), General Assistance (GA) or Supplemental Security Income (SSI) qualify. Lifeline's benefits include a \$9.00 credit

¹⁷³ We note that BA-PA's most current Annual Lifeline Tracking Report shows that there were 32,087 Lifeline service subscribers as of April 1999.

on the local phone bill and provides a 50% reduction in installation charges. Eligible customers are permitted to subscribe to either the standard or unlimited local usage options. Voluntary toll restriction is available at no charge. The only optional service currently available to Lifeline customers is Call Trace.¹⁷⁴ (N.T. Whelan, April 22, 1999, p. 43). BA-PA maintains that although Lifeline is not an issue raised by any party in any of the underlying dockets, BA-PA has voluntarily offered to expand the eligibility threshold for Lifeline. BA-PA contends that Pennsylvania enjoys a penetration rate of 96.9%, the fourth-highest in the nation, and therefore there is no need for further subsidies. (BA-PA M.B., pp. 45-46).

C. CLEC Participation in Lifeline

The OCA, on the whole, found the 1648 Petitioners' Lifeline proposal to be superior to the 1649 Petitioners' proposal because the former contained the elements the OCA views as necessary to a successful program. However, the OCA testified that one problem with the 1648 Petitioners' plan was the failure to require CLEC participation in Lifeline. (N.T. Cooper, April 22, 1999, p. 14). It is the OCA's position that failing to require CLECs to offer Lifeline while they are competing for residential customers is tantamount to "sanctioning redlining." (N.T. Cooper, April 22, 1999, p. 20).

In the Commission's Universal Service Investigation Order at Docket No. I-00940035, entered January 28, 1997 (January 28, 1997 Order), we agreed with the OCA at that time that "low-income affordability programs such as Lifeline should be made available in other service territories other than Bell's." In the January 28, 1997 Order, we further determined that:

¹⁷⁴ We note that the current plan also provides for private or non-listed telephone number service at tariffed rates, but only in instances where BA-PA finds that a Lifeline subscriber has specifically requested such service; Touch Tone service (the charge for Touch Tone service has been rolled into basic local service rates); and Caller ID line blocking and per-call blocking.

[T]he availability of interstate funds to support the rate reduction makes these programs especially attractive. The federal Lifeline program provides support that reduces the charges low-income consumers incur for local service.... Consequently, we will require LECs to file proposed Lifeline plans to assist low income subscribers in their service territories, within 60 days of the entry date of this Opinion and Order.

Consequently, by our January 28, 1997 Order, we did require CLEC's to offer Lifeline service to their customers. In addition, in our Universal Service Investigation Order at Docket No. I-00940035, entered July 31, 1997, we discussed Lifeline Plans. In the July 31, 1997 Order we determined that "in the future, both ILECs and CLECs qualifying as eligible telecommunications carriers for federal funding purposes, will be required to make Lifeline services available to low-income consumers."

Therefore, what the OCA seeks on this issue in the instant proceeding currently exists.

Therefore, any decisions that we make regarding non-BA-PA carriers' Lifeline programs will apply equally to all non-BA-PA LECs, CLECs as well as ILECs. This Commission has consistently maintained the position that all LECs must provide Lifeline service in the past and we find no compelling reason to alter course at this time.¹⁷⁵

D. Expansion to 150%

These petitions evidence that, in terms of Lifeline, common ground does exist among the 1648 and 1649 Petitioners. Both petitions propose broadening Lifeline's eligibility requirements to include customers with incomes up to 150% of the federal poverty level, an increase from the present 100% of the federal poverty level. This expansion of consumer eligibility would be fully funded by the universal service support mechanisms currently in place.

¹⁷⁵ See the MFS I Order addressing the provision of residential service by CLECs, at Docket No. A-310203F0002, October 4, 1995; also the Vanguard Telecom Corp., d/b/a CellularOne, Order

We support the broadening of the eligibility requirements for all existing and future Lifeline programs to include customers with income levels up to 150% of the federal poverty guidelines. As was discussed in Section B above, this requirement to provide Lifeline service to eligible customers with incomes of up to 150% of the federal poverty guidelines with a credit of the maximum federal universal service support (currently \$5.25) apply equally to BA-PA, other ILECs and CLECs operating in the Commonwealth. Accordingly, all local exchange carriers operating in the Commonwealth will take all necessary steps to modify, or establish, their Lifeline programs consistent with this Order. This expansion is consistent with our position that all Lifeline programs will be targeted to improve telecommunications penetration rates among low income customers.

We note, that the TA-96 provides that only ETCs designated under Section 214(e) shall be eligible to receive federal universal service support. As such, all local service carriers desiring federal universal service support for the Lifeline service offsets must petition this Commission for ETC designation in order to take advantage of the federal universal service support mechanisms available to them. We discuss the ETC issue in more detail in the "ETC" segment of this section on Lifeline.

E. Optional Services

As mentioned previously, the OCA testified as to the elements that must be present in a successful Lifeline program. The OCA maintained that the elimination of restrictions on the purchase of some or all optional vertical services is one such element. The 1649 Petitioners' proposal makes no revisions to this part of the current Lifeline program, and as such, would not permit a Lifeline customer to purchase any optional vertical services, except as provided in BA-

addressing the distinction between CLEC service and CAP service, at Docket No. A-310621F0003 and A-310621F0003, April 8, 1999.

PA's Lifeline tariff. The 1648 Petitioners' proposal removes the restriction on the purchase of optional services.

We recognize that various optional services have become very popular with telephone customers. We agree that services that aid in making sure important calls are answered are important to low income customers. However, a program with no vertical service restriction could be self defeating. That is, a low income household that qualifies for Lifeline but purchases numerous optional services, whose costs exceed the Lifeline benefit, may find that their telephone service is no more affordable than it was without the assistance. Additionally, should customers subsequently lose these services for non-payment, they lose all optional services including those cited as being the most important to low income customers.

It is important to note that contrary to BA-PA's testimony, the availability of these specific optional services will not impact an eligible household's ability to maintain access to the network. (June 24, 1999, Tr. 676-677). This is due to the Commission's Chapter 64 regulations entitled "Standards And Billing Practices For Residential Telephone Services." These regulations do not permit the disconnection of basic telephone service for nonpayment of charges due for optional services. In addition, the regulations require that partial payments be directed to first pay for basic local service. Thus, BA-PA's concern that the availability of optional services might affect the household's ability to maintain access to the network is unwarranted.

In BA-PA's original Lifeline program, we limited access to optional vertical services to insure that its Lifeline program would provide service to those who have a real need and not as a subsidy for optional services. However, the 1648 Petitioners make a persuasive argument that the absence of optional vertical services may play a part in the disappointing penetration rates that Lifeline programs have experienced to date. Accordingly, we will permit existing and future Lifeline customers who participate in the Lifeline programs we create

through this proceeding to purchase one (1) vertical service at applicable rates. This determination to allow the purchase of one (1) vertical service would apply to BA-PA's new Option #2 and the Lifeline plans of all other LECs. We believe that this action removes an obstacle to participation in the Lifeline program, makes important services available to low income households and ensures that Lifeline is making basic telephone service more affordable to eligible households.

We note that the proponents of allowing optional vertical services presented a strong argument for Lifeline customers to have access to voice mail services. Voice mail services fall within the definition of "enhanced services" as defined by the FCC, 47 C.F.R. §64.702(a). Enhanced services do not fall within the regulatory jurisdiction of this Commission. Our research revealed that some voice mail services may require another optional vertical service, such as Call Forwarding, in order to work. However, the optional vertical services proponents have convinced us that it is important for Lifeline subscribers to have the option of receiving voice mail. Accordingly, we will make this one exception to our one (1) optional vertical service determination and allow a Lifeline customer who chooses to receive a voice mail service from its local carrier or a private vendor to also purchase one (1) other optional vertical service if it is a requirement to make the voice mail service work. This is not to be construed as a way to augment a voice mail service, but is only allowed if an additional optional vertical service is absolutely required, within the normal use of the voice mail service, to make the voice mail service function. This is the only exception to the one (1) optional vertical service limitation applied to Lifeline customers as discussed in this Order.

F. Automatic Enrollment

The 1649 Petitioners' proposal contains no automatic enrollment mechanism. BA-PA suggests that automatic enrollment smacks of paternalism and could be described as governmental "slamming." In addition, BA-PA contends that the 1648 Petitioners did not

conduct any studies or analyses to quantify the total cost of their proposal. (BA-PA M.B., pp. 46-47).

The 1648 Petitioners provide for the automatic enrollment of recipients of TANF and GA. The proposal caps administrative costs of the program at \$250,000 per year. As mentioned previously, the OCA has testified in support of an automatic enrollment mechanism. The City testified that discussions with senior officials in the Department of Public Welfare (DPW) indicate that DPW is prepared to cooperate in the development of the automatic enrollment mechanism. The City maintains that the program can be administered under the budget provided in the 1648 Petition. Finally, the City believes that such a program will result in the automatic enrollment of many TANF and GA recipients. (N.T. Cooper, April 22, 1999, p. 10).

In light of our position that Lifeline participants would have access to only one (1) optional vertical service, other than those currently provided, it would be tantamount to reverse-cramming to allow automatic enrollment in Lifeline. Cramming refers to the practice of adding services and charges that were not ordered by the customer. Our concern is that a current local service customer, who has more than one (1) optional vertical service and qualifies for Lifeline, would be automatically enrolled causing an immediate loss of all but one (1) of their optional vertical services, without the customer's consent or instructions. In addition, this entire proceeding is about expanding the competitive marketplace for local telephone service. In large part, competition is about choice, about providing greater choice for the consumer. We believe that the consumer should have the choice - to choose Lifeline service; to choose an optional vertical service that best suits their need, if any; to choose the carrier whose service best fits their needs. The consumer education campaign that we will establish as part of this Order will provide the forum for consumers to make an informed choice about their telecommunications needs.

Accordingly, we do not endorse the establishment of the automatic enrollment mechanism proposed by the 1648 Petitioners. While we are committed to expanding current Lifeline participation rates, we believe that the changes to Lifeline that we establish through this Order adequately address these concerns. We direct BA-PA to work with the other Parties to this action and with the Department of Public Welfare to increase customer utilization of the program.

G. Eligibility Verification

In an effort to streamline eligibility determinations and keep administrative costs low, the 1648 Petitioners propose making eligibility verification for Lifeline and LinkUp identical and propose using the categories presently employed to determine LinkUp eligibility. The 1649 Petitioners contemplated no such categories for eligibility verification.

GTE North points out that in order for Lifeline consumer qualifications to differ from the federal requirements, a state must provide state Lifeline service support. Federal regulations require Lifeline applicants to be participants in certain federal programs when they reside in states without Lifeline support funds. (Supp. Direct Testimony, Blanchard, May 21, 1999, p. 7). Code Section 47 C.F.R. §54.409(b) states as follows:

Sec. 54.409 Consumer qualification for Lifeline.

(a) To qualify to receive Lifeline service in states that provide state Lifeline service support, a consumer must meet the criteria established by the state commission. The state commission shall establish narrowly targeted qualification criteria that are based solely on income or factors directly related to income.

(b) To qualify to receive Lifeline in states that do not provide state Lifeline support, a consumer must participate in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy

Assistance Program. In states not providing state Lifeline support, each carrier offering Lifeline service to a consumer must obtain that consumer's signature on a document certifying under penalty of perjury that consumer receives benefits from one of the programs mentioned in this paragraph and identifying the program or programs from which that consumer receives benefits. On the same document, a qualifying low-income consumer also must agree to notify the carrier if that consumer ceases to participate in the program or programs.

A review of the categories for LinkUp eligibility verification revealed that several of the LinkUp categories are inconsistent with Code Section 47 C.F.R. §54.409(b). The use of the DPW categories, as provided for in Code Section 47 C.F.R. §54.409(b) that fall within the Lifeline qualification threshold of 150% of the federal poverty guidelines would be eligible for Lifeline service. Accordingly, customers whose income is at or below 150% of the federal poverty guidelines, and are enrolled in Medicaid; food stamps; Supplemental Security Income (SSI); federal public housing assistance; or Low Income Home Energy Assistance Program (LIHEAP), would qualify for Lifeline service. Therefore, the local exchange carriers operating in the Commonwealth shall incorporate these categories for eligibility verification into their Lifeline programs consistent with this Order and 47 C.F.R. §54.409(b).

H. Lifeline Discounts

BA-PA's current Lifeline service, as established at Docket No. R-00974153 on November 21, 1997,¹⁷⁶ is available to eligible customers whose income level is at or below 100% of the federal poverty level, provides for a \$9.00 total offset to its Lifeline service subscribers and provides for a total restriction on optional vertical services, except those provided for in BA-PA's Lifeline tariff. Our determination today grandfathers BA-PA's existing program and

¹⁷⁶ The Order at Docket No. R-00974153 modified BA-PA's original Lifeline plan approved at Docket Nos. P-00930715 and P-00950958, August 4, 1995.

creates an additional program giving some eligible BA-PA¹⁷⁷ Lifeline customers two (2) options to choose from for Lifeline service.

BA-PA Lifeline Option #1 grandfathers BA-PA's existing Lifeline program to apply to eligible customers whose income level is at or below 100% of the federal poverty level; restricts optional vertical services to those currently available in BA-PA's Lifeline tariff; and provides for a \$9.00 total offset to BA-PA's Lifeline Service subscribers. In accordance with our previous discussions above, BA-PA Lifeline Option #2 would provide BA-PA's qualified eligible customers whose income level is at or below 150% of the federal poverty level with one (1) optional vertical service, in addition to those currently available in BA-PA's Lifeline tariff, at the applicable rate; and provides for the federal universal service support offset, currently \$5.25, to BA-PA's Lifeline Service subscribers. Accordingly, BA-PA customers within 100% of the federal poverty level guidelines would have two (2) options to choose from for Lifeline service. This determination is distinct from BA-PA's Chapter 30 obligations and in no way affects BA-PA's Chapter 30 obligations.

The advantage of requiring the continuation of the present program is that it makes extra benefits available to eligible participants. That is, customers willing to accept the stricter restriction on optional services will be eligible to receive assistance totaling \$9.00 per month. Under the new program allowing one (1) optional vertical service, the participating household is permitted to purchase one (1) optional vertical service with the offset benefit of the federal universal service support, currently \$5.25 per month. In short, the new plan does not dissolve the old.

The other LECs operating in the Commonwealth, including both ILECs and CLECs, will offer Lifeline service the same as BA-PA's new plan. That is, in accordance with

¹⁷⁷ Discussions related to BA-PA's Lifeline service also apply to those carriers purchasing BA-PA's Lifeline service on a wholesale level and reselling it to an eligible Lifeline customer.

our previous discussions above, Lifeline service will provide qualified eligible customers whose income level is at or below 150% of the federal poverty with one (1) optional vertical service, in addition to those currently available in BA-PA's Lifeline tariff, at the applicable rate; and provides for the federal universal service support offset, currently \$5.25, to Lifeline service subscribers. These companies are required to modify their current Lifeline programs as directed by this Order. Further, any company offering local exchange service in Pennsylvania that does not currently offer a Lifeline service program is directed to establish a Lifeline program consistent with the standards we establish in this Order. We also note that all CLEC pure resellers are also required to establish Lifeline programs as set forth in this Order. There would be no cost to the local carriers as a result of this change.

In accordance with the above discussion, BA-PA customers with incomes within 100% of the federal poverty level that are eligible for Lifeline service may choose from two (2) options,¹⁷⁸ and all qualifying local telephone customers with incomes within 150% of the federal poverty level that are eligible for Lifeline service will have one (1) option. A summary of these options is delineated below:

BA-PA Lifeline Option #1: Eligible BA-PA customers with incomes at or below 100% of the federal poverty level and choosing no optional vertical services. BA-PA's current Lifeline program is grandfathered as it currently exists. As such, BA-PA will provide eligible Lifeline customers whose income level is at or below 100% of the federal poverty level with a \$9.00 total offset and provide for a total restriction on optional vertical services, in accordance with our discussion herein. All existing provisions of BA-PA's Lifeline service as established at Docket No. P-00930715, P-00950958 and R-00974153 apply.

BA-PA Lifeline Option #2: Eligible BA-PA customers with incomes at or below 150% of the federal poverty level and choosing

¹⁷⁸ All options available to BA-PA customers are also available to customers of CLECs that are reselling BA-PA service as discussed in the ETC segment of this Order.

one optional vertical service. BA-PA's Lifeline program will provide eligible Lifeline customers with the federal universal service support total offset, currently \$5.25, and provide for one optional vertical service, at applicable rates, in accordance with our discussion herein. Eligible Lifeline customers are those whose income level is at or below 150% of the federal poverty level; and are enrolled in Medicaid, food stamps, SSI, federal public housing assistance, or LIHEAP. All existing provisions of BA-PA's Lifeline service as established at Docket No. P-00930715, P-00950958 and R-00974153 apply.

Non-BA-PA Lifeline Option: Eligible Non-BA-PA customers. LEC Lifeline programs will provide eligible Lifeline customers with the federal universal service support total offset, currently \$5.25, and will allow for the purchase of one optional vertical service, at applicable rates, in accordance with our discussion herein. Eligible Lifeline customers are those whose income level is at or below 150% of the federal poverty level; and are enrolled in Medicaid, food stamps, SSI, federal public housing assistance, or LIHEAP. All other existing provisions of Lifeline service as established in the Pennsylvania Telephone Association's (PTA) Lifeline petition at Docket Nos. I-00940035 and P-00971274, November 21, 1997, apply.

We are concerned about the potential of Lifeline customers within the 100% threshold moving between the two (2) BA-PA programs. We do not favor a customer purchasing an available optional vertical service (BA-PA Lifeline Option #2), losing those services for nonpayment and then moving to the other program (BA-PA Lifeline Option #1) to obtain the additional offset benefit. Therefore, no customer with a balance due for optional non-basic services will be permitted to choose the BA-PA Lifeline Option #1 program (\$9.00 offset) until the non-basic charges are paid in full. In short, to receive the additional benefit, the customer must accept the restriction on optional services and liquidate any previous charges for non-basic services.

I. BA-PA Lifeline Funding

The original BA-PA Lifeline service program (Docket Nos. P-00930715 and P-00950958, August 4, 1995) was approved with funding attained by an increase in the operator surcharge of \$0.25 assessed on toll calls made from BA-PA coin telephones paid for through the insertion of coins (Coin Paid Customer Dialed Surcharge (CPCD)). This funding mechanism was established to cover the cost of BA-PA's Lifeline contribution of \$2.50 per subscriber plus the non-recurring installation charge contribution. In our Order at Docket No. R-00974176C0001, entered February 5, 1998, we permitted the use of the increased CPCD surcharge to be used to offset other revenue decreases proposed therein on a going-forward basis. At that time the existing Lifeline funding reserve appeared to be sufficient to last until such time that the Lifeline penetration rate exceeds 125,000 subscribers or until the year 2000, as provided for in BA-PA's approved Lifeline Settlement Agreement. The Settlement Agreement establishing BA-PA's Lifeline program, approved at Docket No. P-00930715 and P-00950958, entered August 4, 1995, provided that the CPCD would be the sole funding source for BA-PA's Lifeline program "until such time as the penetration rate exceeds 125,000 Lifeline subscribers or until the year 2000 (whichever comes sooner)." BA-PA's most recent Annual Lifeline Tracking Report shows that there was a reserve of about \$1.5 million as of April 1999.

Another area of agreement between the Petitioners relates to the use of the 1998 Price Change Opportunity (1998 PCO). The 1648 Petitioners proposed that BA-PA fund its share of any contribution above the federal level from the first year value of the 1998 PCO, previously unexpended Lifeline funds, and other funding sources. The 1649 Petitioners proposed that expanding the Lifeline offering to 150% of the federal poverty level should be funded by the first year value of the 1998 PCO with any residual amount going to the BA-PA UTAP program. BA-PA further proposed to guarantee the first year value of the 1998 PCO at \$8.5 million.

BA-PA filed its 1998 PCO filing on November 14, 1997, at Docket No. R-00974221, with an original effective date of January 1, 1998. This PCO filing was made in compliance with BA-PA's Alternative Regulation Plan, Docket No. P-00930175, approved June 28, 1994, for the twelve months ending June 30, 1997. This filing proposed to reduce BA-PA's rates for noncompetitive services by an amount equal to the negative PCO calculated at \$8.455 million.

With this Order we designate that BA-PA will fund its share of any Lifeline contribution above the federal level from the Lifeline reserve (\$1.5 million as of April 1999) and from the first year value of the 1998 PCO, guaranteed by BA-PA in the amount of \$8.5 million. Together these funding sources provide BA-PA with approximately \$10 million to offset the ongoing costs of the grandfathered Lifeline program. Any residual amount not needed for the Lifeline program will be applied to BA-PA's UTAP program. Existing UTAP funding should be unaffected by the resolution of the Lifeline issues. As such, if BA-PA finds itself in the position to need additional funds to cover the costs of the Lifeline program, subsequent to the above thresholds, BA-PA may seek cost recovery via an appropriate action before the Commission, in accordance with the terms of the Settlement Agreement.

J. Eligible Telecommunications Carrier (ETC)

In our January 28, 1997 Order, we determined that "in order to be eligible for universal service support, a local carrier, either an incumbent LEC or a competitor LEC, must seek an eligibility designation." In addition, in our January 28, 1997 Order, we determined as follows:

Section 214 of the Federal Act establishes the criteria for universal service support as applicable to federal funding mechanisms ... [and this Commission] adopted similar eligibility criteria for purposes of qualifying as an "eligible telecommunications carrier" under the

Pennsylvania Universal Service Fund. Consequently, a carrier must meet the requirement of §214 of the Federal Act for purposes of obtaining funding from either the state or federal funding mechanism. Section 214 provides in pertinent part:

(e) PROVISION OF UNIVERSAL SERVICE.--

(1) ELIGIBLE TELECOMMUNICATIONS CARRIERS.--

A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received.--

- (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
- (B) advertise the availability of such services and the charges therefore using media of general distribution.

(2) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS.-- A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural

telephone company, the State commission shall find that the designation is in the public interest.

[47 U.S.C. §214(c).]

Accordingly, in order to be eligible for universal service support, a local carrier, either an incumbent LEC or a competitor LEC, must seek an eligibility designation.... To receive an eligibility determination, the local carrier must commit to offer BUS¹⁷⁹ throughout the service area for which eligibility is requested. By extending its commitment to act as an eligible telecommunications carrier, the carrier agrees to offer BUS throughout the service area and assume carrier of last resort obligations.... If the Commission does not receive applications for a given service area, it will designate a carrier as the "eligible telecommunications carrier" for intrastate services pursuant to the authority given it under §214(e)(3)...

In our view, the customer benefits of the new expanded Lifeline program can be fully funded for all carriers by the federal universal service support. Administrative expenses represent the only remaining obstacle to the provision of Lifeline by all the non-BA-PA local service providers. We believe that the benefits of the program should not be denied to any eligible Pennsylvanian and direct each company to implement a Lifeline program consistent with this Order. Consequently, all local exchange carriers operating in Pennsylvania, including ILECs and CLECs, are required to have a Lifeline program in their tariff filed with this Commission and to provide Lifeline service to eligible customers. In addition, a LEC may choose to seek an ETC designation in order to be eligible to receive universal service support as available on both the state and federal levels.

In its Order of May 8, 1997, CC Docket No. 96-45, the FCC adopted the statutory criteria contained in section 214(e)(1) as the rules for determining whether a telecommunications carrier is eligible to receive universal service support. The FCC further determined that "section 214(e)(1) precludes states from requiring eligible carriers

¹⁷⁹ Basic Universal Service.

to offer service wholly over their own facilities, and also precludes states from designating "pure" resellers as eligible carriers." The FCC affirmed that it is appropriate to "deny pure resellers universal service support because pure resellers receive the benefit of universal service support by purchasing wholesale services at a price based on the retail price of a service -- a price that already includes the universal service support payment received by the incumbent provider." As such, pure resellers are precluded from obtaining ETC designation and would obtain Lifeline service on a wholesale basis after the universal service support is applied. In this situation, the wholesale carrier (i.e., the incumbent) would receive the federal universal service support. We will provide two (2) examples of how this would work for clarity.

Example #1:

ILEC-A, (BA-PA or a non-BA-PA incumbent LEC) provides one-party residential service at a tariffed rate of \$15.00. ILEC-A's Lifeline service provides for a \$5.25 offset benefit to the qualifying residential Lifeline customer. CLEC-B purchases one (1) Lifeline service from ILEC-A for the discounted Lifeline rate of \$9.75 ($\$15.00 - \$5.25 = \9.75), less the applicable wholesale discount rate. For illustrative purposes we will use a wholesale discount rate of 20%. So, in this example, CLEC-B pays \$7.80 for the Lifeline service ($\$9.75 - 20\% = \7.80). CLEC-B then sells this service to its qualifying Lifeline customer at its Lifeline rate of \$5.25 below CLEC-B's one-party residential service rate. CLEC-B must pass on the universal service support offset in total to its Lifeline customer. CLEC-B cannot profit from the universal service support offset that is being passed on to it by the ILEC. The wholesale discount rate does not apply to the universal service support amount, currently \$5.25. ILEC-A receives \$5.25 in federal universal service support for this Lifeline service that it sold to CLEC-B for resale. The incumbent receives the universal service support and the competitive provider receives the wholesale Lifeline service at the discounted retail rate.

Example #2:

In the case of BA-PA's grandfathered Lifeline service that applies to customers with incomes within 100% of the federal poverty guidelines and desiring no optional vertical services, the current Lifeline offset would be \$9.00. In this example, BA-PA provides one-party residential service at a tariffed rate of \$15.00. BA-PA's Lifeline service provides for a \$9.00 offset benefit to the qualifying residential customer. CLEC-C purchases one (1) Lifeline service from BA-PA for the discounted Lifeline rate of \$6.00 ($\$15.00 - \$9.00 = \6.00), less the applicable wholesale discount rate. We will use the same illustrative wholesale discount rate, as above, of 20%. So in this example, CLEC-C pays \$4.80 for the Lifeline service ($\$6.00 - 20\% = \4.80). CLEC-C then sells this service to its qualifying Lifeline customer at its Lifeline rate of \$9.00 below its one-party residential service rate. CLEC-C must fully pass on the universal service support offset to its Lifeline customer. CLEC-C cannot profit from the universal service support offset that is being passed on to it by BA-PA. The discount rate does not apply to the Lifeline offset amount, currently \$9.00. BA-PA receives \$5.25 plus federal matching funds of \$1.25 in federal universal service support plus its own Lifeline funding contribution of \$2.50 for a total of \$9.00 ($\$5.25 + \$1.25 + \$2.50 = \9.00). BA-PA receives the universal service support and the competitive provider receives the Lifeline service at the discounted retail rate.

K. Timing of the Modified Lifeline Program Implementation

The Petitioners disagree as to when the modified Lifeline program should begin. The 1648 Petitioners propose that within sixty (60) days after Commission approval of this proceeding the companies take all necessary steps to modify their Lifeline programs.

The 1649 Petitioners tie the beginning of the modified Lifeline program to BA-PA's Section 271 approval. The 1649 Petitioners are silent as to the basis for such a delay; nor can any explanation for tying the program to BA-PA's Section 271 approval be found in BA-PA's testimony. In our opinion, the current program is failing to meet its public policy objectives. Delaying the implementation of improvements aimed at addressing these deficiencies serves no purpose. There is adequate funding being provided to cover the cost of the Lifeline programs as well as a mechanism for BA-PA to seek cost recovery via an appropriate action before the Commission if the need arises. Therefore, we shall direct that the modified Lifeline programs be filed with this Commission within sixty (60) days after this Order is entered. As such, all LECs operating in the Commonwealth are directed to file modified, or initial, Lifeline service programs in accordance with the discussion and directives contained in this Order, within sixty (60) days of the entry date of this Order, to become effective on sixty (60) days' notice.

L. Annual Lifeline Tracking Report

The 1648 Petitioners would require BA-PA to provide annual reports to the Commission and interested parties on the status of Lifeline, LinkUp and the Universal Telephone Assistance program. The report would provide information detailing penetration rates on state and county levels segmented by income, rental/ownership of residence and other socio-economic demographics used in the FCC Joint Board Lifeline and LinkUp reports together with other information required by the Commission. The 1649 Petitioners proposal does not address the issue of the annual report.

Currently, all carriers providing Lifeline service are required to submit an Annual Lifeline Tracking Report. BA-PA's report is currently due on June 30 and all other carrier's reports are due on March 31. As we have previously determined, we support the issuance of Annual Lifeline Tracking Reports. Since we have had a few years to review the reports being

filed, we believe that there is a need to revise these reports to make them more comprehensive and consistent.

Consequently, we direct BA-PA to work with our Bureau of Consumer Services and the Council on Utility Choice to develop a new reporting format, within sixty (60) days of the entry of this Order. These parties should consider, at a minimum, the following information for inclusion in the revised report: information on the status of the Lifeline, LinkUp and the Universal Telephone Assistance Program; telephone penetration rates on county and state levels segmented by income, rental/ownership of residence and other socio-economic demographics as used in the FCC/Joint Board Lifeline and LinkUp Reports; and other such information as the parties may prescribe. BA-PA will then provide such a report to this Commission and other interested parties (including OCA, OSBA, City of Philadelphia, PULP and the Council on Utility Choice) on an annual basis.

BA-PA's report will be limited to BA-PA customers. Accordingly, we direct the PTA to also meet with the Bureau of Consumer Services and the Council on Utility Choice to revise the current report that applies to non-BA-PA carriers, within sixty (60) days of the entry of this Order. In addition, these parties should decide if other parties should be part of this discussion (such as representative CLECs) and if so, who they should be. This report should be as consistent as possible to the BA-PA report to facilitate the gathering of comparable data. In addition, both sets of parties should discuss revising the reporting due dates so that they are consistent. We note that companies with approved Chapter 30 filings with reduced filing requirements are not exempt from filing these Annual Lifeline Tracking Reports.