

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
JOINT BOARD ON UNIVERSAL SERVICE
CC DOCKET NO. 96-45/FCC 01J-2**

**COMMENTS OF THE NATIONAL CONSUMER LAW CENTER
ON BEHALF OF MASSACHUSETTS UNION OF PUBLIC HOUSING TENANTS**

DECEMBER 28, 2001

1. INTRODUCTION

The National Consumer Law Center (“NCLC”), on behalf of and in conjunction with the Massachusetts Union of Public Housing Tenants (“MUPHT”), offers these comments in response to the solicitation by the Federal-State Joint Board on Universal Service (“Joint Board”) regarding the Lifeline and Link-Up programs for low-income customers.¹ MUPHT and NCLC believe that most states can reach a much higher percentage of the households eligible for Lifeline and Linkup than have been reached to date, especially if the telephone companies and relevant government agencies: arrange for automatic enrollment of programmatically-eligible households (e.g., those on fuel assistance, food stamps and other qualifying public benefits programs) or allow for self-certification by eligible households; facilitate the electronic transfer of information to telephone companies that would identify eligible households; and increase their outreach efforts. MUPHT and NCLC also urge the Joint Board to make Community Voice Mail one of the services that would receive support from the Universal Service Fund. These and other points are discussed more fully below.

MUPHT is the oldest state-wide association of public and subsidized housing tenants in the United States. Its thirteen member board is elected from tenants who live in public or subsidized housing. The tenants who MUPHT represents are predominantly senior citizens

¹ 66 Fed. Reg. 54967 (Oct. 31, 2001).

living on small, fixed incomes and families with low-wage jobs. MUPHT is concerned, among other issues, that its members and other low-income people constantly struggle to pay their bills for necessities such as food, housing, medical care and utilities. MUPHT sees Lifeline and Linkup as vital programs in that they help make basic telephone service more affordable. In the 21st century, phone service is an essential tool for participating in society, for staying in touch with friends and relatives, purchasing goods and services, communicating with government agencies, and obtaining medical care. Lifeline and Linkup should be designed and implemented to reach the largest number of eligible households possible. At the present time, however, many states run their programs in ways that tend to limit enrollment.

NCLC is a non-profit corporation organized under the laws of the Commonwealth of Massachusetts in 1971. Its purposes include representing the interest of low-income people and enhancing the rights of consumers. Throughout its history, NCLC has worked to make utility services (telephone, gas, electricity, and water) more affordable and accessible to low-income households.

2. PENETRATION RATES FOR LIFELINE VARY SIGNIFICANTLY, CORRELATING WITH OUTREACH AND ENROLLMENT PROCEDURES

The Joint Board has solicited comments:

on the number and of low-income households who receive Lifeline/Link-Up support; the number and percentage of low-income households who do not receive Lifeline/Link-Up support; and the number and percentage of households that are low-income and not enrolled in federal assistance programs.²

² 66 Fed. Reg. 54968.

NCLC and MUPHT (hereafter, “NCLC”) have been able to compile reasonable estimates of the penetration rate by state of the Lifeline program, defining penetration rate as the number of households enrolled in Lifeline³ divided by the number of households eligible for LIHEAP (Low-Income Home Energy Assistance Program)⁴ assistance, based on each state’s own LIHEAP eligibility criteria.⁵ While there no unequivocally precise means of determining the denominator of this ratio, NCLC chose the number of households eligible for LIHEAP for three reasons. First, in most states, the LIHEAP program has the highest income eligibility criteria among the benefits programs listed in 47 CFR 54.409(b). Thus, LIHEAP eligibility data capture the largest number of eligible households, compared to any other *single* program.⁶ Second, the Department of Health and Human Services (“HHS”) has current (2001) data on the LIHEAP eligible population.⁷ Third, HHS varies its low-income population estimate by each state’s own

³ As reported in 2001 *Trends in Telephone Service Report*.

⁴ LIHEAP, also known as fuel assistance, is authorized by 42 U.S.C. §8621 *et seq*.

⁵ As determined by the Department of Health and Human Services in an Information Memorandum, Transmittal No. LIHEAP-IM-2002-3.

⁶ NCLC does not know of any data source that allows one to make a non-redundant count of households eligible for Lifeline due to their participation in any of the five programs listed in 47 CFR 54.409. Also, while households earning up to 80% of median income are theoretically eligible for public housing, the federal income-targeting rules and the local preference rules developed by the 3,300 local housing authorities in the United States effectively limit public housing to a much poorer population, often at or below 30% of median income. See 42 USC §1437a(b)(2) and www.hud.gov/renting/phprog.cfm. Thus, a state-by-state count of LIHEAP eligible households is perhaps the best available proxy for households eligible for Lifeline.

⁷ By contrast, census data stratified by income level of households has not yet been released from the 2000 census survey. Therefore, the available census data dates back to 1990.

LIHEAP rules. For example, HHS estimates that there are 347,936 Alabama households eligible for LIHEAP using Alabama's maximum eligibility of 125% of poverty and 540,204 Massachusetts households eligible using that state's cutoff of 175% of poverty. The HHS data thus provide useful information about the single largest group of households eligible for Lifeline due to participation in a government benefits program.

The results (see Attachment A) are startling. Twenty-two states have penetration rates, as calculated in Attachment A, of 10% or less. Six of those states (Arkansas, Delaware, Louisiana, Maryland, West Virginia and Wyoming) have participation rates of 5.0% or less. At the other end of the spectrum, seven states (California, Connecticut, Maine, Massachusetts, New York, Rhode Island and Vermont) have penetration rates of 30% or more. While the precise percentage numbers can no doubt be questioned, the relative penetration rates by state are unquestionably meaningful. There is no doubt that California, Maine and New York are reaching a vastly higher percentage of eligible households than Arkansas or Louisiana.

Further, the differences among the states are explained by a few salient variables. States with high enrollment rates employ one or more of the following: automatic enrollment of households identified as eligible by government benefits programs, self-certification by eligible households, and aggressive (sometimes well-funded) outreach. Conversely, it appears that many of the states with low penetration rates simply rely on periodic bill stuffers to spread the word about Lifeline and rely on eligible households to fill out individual application forms.

In New York, agencies that administer government benefits programs are able to automatically enroll into Lifeline households that receive benefits or assistance. Thus, eligible households need not fill out individual application forms. This automatic enrollment feature

explains New York's success in reaching such a large percentage of the eligible households.

California allows for self-certification by eligible households and has spent tens of millions of dollars on outreach, including targeted outreach to non-English speaking communities. For example, on December 11, 2001, the California Public Utilities Commission approved a one year, \$5 million contract to "design and implement a competitively neutral public awareness and outreach program in order to increase Universal Lifeline Telephone Service subscribership." Resolution T-16569.⁸ The marketing program includes advertising and programs "to heighten awareness of the ULTS program among the following target groups: African-American, Cambodian, Chinese, Filipino, Hispanic, Korean, Laotian and Vietnamese." One goal of this marketing program is to "increase telephone penetration to 95% among all groups by means of increased ULTS subscribership by eligible households." Also on December 11, 2001, the California PUC approved a three year, \$1.5 million contract for the operation of a multi-lingual call center to provide customer service information about the Lifeline program. California, which appears to have the highest penetration rate in the country, has done more than any other state to insure that the public is well aware of the Lifeline program.

California also allows for self-certification of eligibility. See California PUC General Order 153 ("GO 153"). Telephone companies must "immediately enroll" a customer who verbally certifies that he or she is eligible to participate in the Lifeline program. GO 153, §4.2.2. The company then sends the customer a self-certification form on which the customer affirms in writing that he or she is eligible for Lifeline and agrees that the company may verify his or her

⁸ The California PUC has overseen a lifeline marketing program for several years. *Id.*

income. If the customer does not return the form within 30 days or if the company determines that the customer is not in fact eligible, the customer is removed from the program.

Massachusetts is another state with relatively high Lifeline penetration (30.6%, by NCLC's calculation).⁹ Massachusetts has automatic enrollment for only one benefits program: LIHEAP. In Massachusetts, the state agency that operates LIHEAP, the Department of Housing and Community Development, subcontracts with approximately two dozen local community organizations to administer the program. These agencies take the LIHEAP applications, determine who is eligible, and make the benefits payments. They also send Verizon lists of the LIHEAP-eligible households, in most instances electronically.¹⁰ Those households are automatically enrolled in the telephone Lifeline program.¹¹

⁹ Information on Massachusetts obtained in conversations with the state Department of Telecommunications and Energy, agencies that administer LIHEAP, and Verizon.

¹⁰ NCLC understands that some of the subgrantee agencies may send hard-copy lists.

¹¹ At the time of applying for LIHEAP, households are informed in writing that the subgrantee agency may provide program eligibility information to phone companies and that the household may thus be automatically signed up for Lifeline. By signing the application, applicants grant the subgrantee permission to share this information with telephone companies.

The state of Maine recently used creative and targeted outreach to significantly increase its already high percentage of eligible households enrolled in Lifeline.¹² Maine identified all households that are on the public assistance programs that qualify a household for Lifeline. In the case of all but the LIHEAP households, they received a letter from the Maine Telecommunications Education Board advising them of the programs benefits and eligibility rules. The LIHEAP households received a flyer from the community action agencies that operate the program in Maine. These letters and flyers resulted in an increase in enrollment from 60% to 71% within the space of six months, according to the Maine commission's calculations.

Maine's public assistance agencies also explain the Lifeline program whenever a household applies for public assistance. The state's telephone companies mention Lifeline whenever a customer applies for service. A household can apply for Lifeline by phone, simply by stating that they receive one of the listed public benefits and providing either a social security number or welfare ID number. Maine credits its high penetration rates to this combination of innovative outreach and easy application methods.

¹² Information regarding Maine derived from conversations with Barbara Alexander, a consultant to the Maine commission, and Derek Davidson, a commission staff member, as well as from a memorandum to the commission from Mr. Davidson dated May 1, 2000.

There are other issues that may be affecting Lifeline penetration rates. Few telephone companies and few public utility commissions have easily accessible information on their web sites regarding Lifeline. Neither Verizon, QWEST nor SBC Pacific Bell, three of the larger phone companies in the country, has easily-accessible information on their web sites regarding Lifeline.¹³ Several utility commissions have no consumer-oriented information regarding Lifeline on their web sites.¹⁴

Similarly, advertising and outreach regarding Lifeline and Link-Up vary widely but generally appear to be minimal. While California has run multi-million dollar public education and outreach campaigns, including the funding of a multi-lingual call center devoted to Lifeline,¹⁵ most companies may do little more than send out one or two bill stuffers a year and disseminate printed information at community meetings that company employees attend. Bill

¹³ On each of these sites, a consumer has to use the “search” engine and enter the word “lifeline.” There is no information on Lifeline on the Home Page for these companies, little or no information on Lifeline within “FAQs” (frequently asked questions), and little or no information within the links to “residential,” (or “home,” depending on the company’s terminology) or “products and services.” Only those who are experienced in web searches will find the Lifeline information.

¹⁴ While some commissions have relevant commission orders or reports regarding Lifeline posted on their web sites, only some have Lifeline information within links titled “consumer assistance” (or similar words) or “telecommunications” (or similar words). The Washington Commission, which appears to be more the exception than the rule, has easily-accessible information on the Washington Telephone Assistance Program by following the links to “Consumer Info” and “Telephone.” See www.wutc.wa.gov. On the other hand, the Arkansas commission appears not to mention Lifeline on its web site, except when describing the universal service fund charge that appears on customer bills.

¹⁵ NCLC understands that these programs have in large part been funded by fines and penalties assessed by the California commission on various telecommunications companies. Therefore, NCLC does not mean to imply that programs of this scale could easily be replicated elsewhere.

stuffers, of course, have no impact on families who do not yet have phone service. They only benefit low-income households with phones who for some reason have not signed up for Lifeline. Since the percentage of households that have phone service varies directly with income,¹⁶ Lifeline outreach will not succeed if it does not find means other than the billing envelope to reach non-participating but eligible households. Some of the states with the lowest overall telephone penetration rates (Arkansas, at 88.9% and Louisiana, at 90.9%¹⁷) also have the lowest penetration rates for Lifeline. If one goal of Lifeline is “to increase subscribership [for telephone service] by reducing charges to low-income customers,”¹⁸ then companies must develop outreach tools designed to reach those who do not currently have telephone service. Outreach efforts must also recognize that many low-income households eligible for Lifeline are members of linguistic and cultural minorities who may not read or respond to existing outreach tools such as bill stuffers or traditional advertising.¹⁹

3. RECOMMENDATIONS REGARDING ENROLLMENT AND OUTREACH

The Joint Board should adopt and recommend to the full Commission several revisions to the Lifeline program that would significantly increase the penetration rates of this vital program.

¹⁶ While more than 95% of households with incomes of at least \$20,000 have telephones, only 85% of households with incomes below \$10,000 have telephones. See “Trends in Universal Service and Access,” a slide presentation by Larry Irving, Assistant Secretary for Communications and Information, National Telecommunications and Information Administration (July 29, 1998), at www.ntia.doc.gov/ntiahome/net2/presentation/index.html.

¹⁷ “Trends in Universal Service and Access,” *id.*

¹⁸ *Universal Service Order*, CC Docket 96-45, FCC 97-157, ¶329.

¹⁹ According to Census Bureau (Current Population Survey, Table B, “Number of Poor and Poverty Rate by Race and Hispanic Origin, 1998-2000”), the poverty rate for whites is 7.8% while the poverty rate for Hispanics and blacks are, respectively, 23.1% and 23.9%.

First, the Lifeline regulations (47 CFR §54.405(b)) should more clearly define the outreach obligations of eligible telecommunications carriers (“ETCs”). NCLC suggests the following additions to 47 CFR §54.405(b):

In carrying out the obligations of sub-paragraph (b), eligible telecommunications shall:

- (i) utilize outreach materials and methods designed to reach households that do not currently have telephone service and that therefore do not receive telephone bills;
- (ii) develop outreach materials and advertising that can be read or accessed by any sizeable non-English speaking populations within the ETC’s service area; and
- (iii) coordinate their outreach efforts with governmental agencies that administer any of the government assistance programs listed in §54.409(b) and any additional programs included a state that adopts its own eligibility criteria pursuant to §54.409(a).

Second, ETCs should utilize automatic enrollment techniques wherever feasible. Since automatic enrollment can only occur with the cooperation of relevant government agencies, the Joint Board can do little more than require ETCs to engage in reasonable efforts to establish automatic enrollment. NCLC therefore suggests that the following new paragraph (c) be added to §54.405:

(c) make all reasonable and feasible efforts to establish automatic enrollment procedures for eligible households. “Automatic enrollment procedures” include any method by which the ETC (i) obtains information from a government agency (or authorized grantee, sub-grantee or contractor of the relevant government agency) identifying a household as eligible for Lifeline due to its participation in one of the federal assistance programs in §54.409(b) or comparable programs that are part of any state’s criteria adopted pursuant to §54.409(a), and (ii) enrolls the household in Lifeline without further application from the household, provided that the ETC obtains reasonable assurance from the government agency that its release of information to the ETC does not violate the privacy rights of the recipients of governmental assistance.

The Joint Board should also recommend to the Commission that 47 CFR §54.409(b) be

revised to include Temporary Assistance to Needy Families (“TANF”).²⁰ TANF is a basic assistance program that serves approximately 2.1 million households. While the number of TANF households has declined significantly since the advent of welfare reform,²¹ it still serves a large portion of low-income households in this country. Many states that adopt their own eligibility criteria for Lifeline pursuant to 47 CFR §54.409(a) add TANF to the list of assistance programs in §54.409(b). NCLC sees no reason why TANF should not be included in §54.409(b). There are no doubt households that are on TANF but, for various reasons, are not on any of the other listed programs.²² The failure to include TANF in §54.409(b) inevitably has the effect of precluding otherwise income-eligible households from the Lifeline program.

²⁰ Authorized by 42 USC §§601 *et seq.*

²¹ According to comments submitted November 30, 2001 by the Center on Law and Social Policy on the reauthorization of TANF (see www.clasp.org/pubs/TANF/TANF%20comments%201101.pdf), there were 5 million households on the Aid to Families for Dependent Children (“AFDC”) program, the predecessor to TANF, in 1995. As of March 2001, there were 2.1 million households on TANF. The TANF caseload has been increasing slowly, however, in the last half of 2001.

²² For example, many TANF households may not be eligible for LIHEAP because they are not responsible for their own heating bills. TANF households also are not automatically eligible for Supplemental Security Income and may not live in public housing.

This discussion of TANF points to a larger flaw with the current design of the Lifeline program. There are more than 10 million households living at or below the federal poverty level, at least another 4 million between 100% and 125% of poverty, and at least 2 million more between 125% and 150% of poverty.²³ These 16 million households far dwarf the 5.9 million households reported as receiving Lifeline assistance in 2000.²⁴ Low-income people who would otherwise be eligible for Lifeline are not necessarily enrolled in the public benefits programs that make them eligible for Lifeline. For example, as a result of welfare reform and other reasons, the welfare rolls declined by more than 50% during the past decade. Food stamp enrollment declined by one third.²⁵ These households that are no longer on welfare or food stamps may not be on any other government assistance program and, therefore would not be eligible for Lifeline under 47 CFR 54.409(b). Similarly, millions of low-income households are not eligible for fuel assistance because they do not pay their own heating bills directly or otherwise do not meet eligibility rules. Very few income-eligible households actually live in public housing because waiting lists are so long. To be eligible for Supplemental Security Income, the applicant must be disabled, thus excluding most income-eligible households. Finally, Medicaid applicants must meet complex eligibility rules to qualify.²⁶ In short, there are any number of reasons why a low-income family may not be participating in various government assistance programs.

²³ Source: Data prepared by Roper Strach Worldwide for the Department of Health and Human Services, Administration for Children and Families, Office of Community Services, as reported in HHS Information Memorandum LIHEAP-IM-2002-3.

²⁴ 2001 *Trends in Telephone Service Report*, cited at 66 Fed. Reg. 54968 (Oct. 31, 2001).

²⁵ “The Decline in Food Stamp Participation: A Report to Congress,” Report No. FSP-01-WEL (USDA/Food and Nutrition Service, July 2001).

²⁶ See www.hcfa.gov/medicaid/medigib.htm.
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The Joint Board should address the situation of the possibly millions of households who are not currently enrolled in any government program listed in 47 CFR §54.409(b). Households that are not enrolled in any government program should be allowed to apply for Lifeline through an initial self-certification process, subject to later verification.²⁷ As in California, households should be allowed to self-certify that their income is at or below the eligibility limit, but the household must also agree to verify income upon request. To date, there is little evidence that this system leads to any significant level of fraud by applicants, and it eliminates the need for telephone companies to engage in expensive and time-consuming income verification for which they are ill-equipped. However, if self-certification is allowed, companies may wish to enter arrangements with local government agencies or non-profit organizations that are experienced in operating income-tested programs under which the latter agencies would verify the income of a random sample of Lifeline applicants who self-certify. This would act as a deterrent against fraud without imposing cumbersome administrative burdens in connection with each individual application.

4. THE JOINT BOARD SHOULD DETERMINE THAT COMMUNITY VOICE MAIL IS ELIGIBLE FOR SUPPORT

²⁷ However, automatic enrollment of households receiving government assistance should be employed to minimize the number of self-certifying households.

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Lifeline is “designed to promote universal service by providing low-income individuals with monthly discounts on the cost of receiving telephone service.” 66 Fed. Reg. 54968. However, even discounts will not bring telephone service to the hundreds of thousands of homeless people in America.²⁸ Community groups that work with the homeless have developed a solution that helps homeless people apply for jobs, speak to medical providers, search for shelter, keep in touch with their children’s schools, and generally stay more connected to society: community voice mail (CVM). A CVM system allows homeless people to leave a phone number where they can be reached. A community organization sets up the system using voice mail computers linked to phone lines and Direct Inward Dials purchased from the local telephone company. Homeless people can access their mailboxes using a personalized number provided by the community organization. The Joint Board should include CVM as a telephone service that would qualify for Lifeline assistance. Since the cost of CVM is borne by the community organization, not the homeless people who use CVM, the Lifeline assistance would defray the community organization’s cost of making this valuable service available.

5. CONCLUSION

NCLC and MUPHT urge the Joint Board to adopt their recommendations.

Respectfully submitted,
Massachusetts Union of Public Housing Tenants
BY ITS ATTORNEY:

²⁸ It is virtually impossible to develop a good estimate of the number of homeless people in America, but even conservative estimates assume that there are several hundred thousand homeless. See Encarta entry on “Homelessness,” <http://encarta.msn.com>.

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