

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

In the Matter of:) CC Docket No. 96-45
)
Federal-State Joint Board on) WC Docket No. 03-109
Universal Service Lifeline and Link Up)
)

COMMENTS OF GENERAL COMMUNICATION, INC.

INTRODUCTION

GCI Communication, Inc. (“GCI”) submits these reply comments in response to the *Public Notice*¹ by the Federal-State Joint Board on Universal Service (“Joint Board”) seeking comments regarding eligibility, verification, and outreach rules for the universal service Lifeline and Link Up Programs. More specifically, the FCC has asked the Joint Board to recommend changes to the Lifeline and Link Up Programs on various issues presented in the Commission’s *Referral Order*.²

To begin with, we must acknowledge the immense benefits provided by the Lifeline program. Alaska, in particular, is a Lifeline success story. Since the Lifeline program began in 1984, telephone subscribership among low income households in

¹ *Federal-State Joint Board on Universal Service Seeks Comment On Lifeline and Link-Up Eligibility, Verification, and, Outreach Issues Referred To Joint Board*, Public Notice, FCC 10J-2 (Joint Board, rel. June 15, 2010) (“*Public Notice*”).

² *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, FCC 10-72 (rel. May 4, 2010) (“*Referral Order*”).

Alaska³ increased from 61.4% to 91.9%. Indeed, more than 75,000 of Alaska's close to 700,000 residents receive supported discounted Lifeline services.⁴

Despite the benefits that Lifeline has produced, the program must be updated, especially for a world that is becoming increasingly reliant on wireless technologies and broadband services. Apart from the significant technological and marketplace changes that have prompted the need for an overall review of the rules underlying the Lifeline and Link Up Programs, many of the existing program restrictions are vague or not even set forth in regulation. As a result, providers are often left to figure out how best to comply with the existing rules. This situation has led to confusion and in some instances conflict with the Universal Service Administrative Company ("USAC"),⁵ which has sought to enforce program requirements even when they are not clearly set forth in regulation or otherwise explained by the Commission in any of its orders.⁶ Accordingly, GCI takes this opportunity to address some of the ambiguities in the Lifeline and Link Up Programs that urgently require clarification by the Commission. Additionally, GCI provides comments to the questions posed by the Commission in its *Referral Order*. These

³ The FCC defines low income households as \$10,000 in household income in 1984 dollars or \$20,732 in annual income – which is below the federal poverty guidelines for Alaska for 2009 for a family of 3 or about 75% of the federal poverty guidelines for an Alaskan family of 4. See <http://aspe.hhs.gov/poverty/09poverty.shtml> and http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297986A1.pdf.

⁴ USAC appendix LI-08 (2009).

⁵ See, e.g., *Comment Sought On TracFone Request For Clarification of Universal Service Lifeline Program "One Per Household" Rule as Applied to Group Living Facilities*, Public Notice, 24 FCC Rcd 12788 (Wireline Comp. Bur. 2009) ("*TracFone Public Notice*").

⁶ *Request for Review by Verizon/Alltel Management Trust of Decision of Universal Service Administrator*, CC Docket No. 96-45, CC Docket No. 03-109 filed on October 5, 2009 ("*Alltel Appeal*").

comments are intended to inform the Joint Board on ways to make the Commission's rules work more effectively and fairly.

I. THE LIFELINE RULES CONTAIN NO CLEAR ONE-PER-HOUSEHOLD RESTRICTION OR A DEFINITION OF "HOUSEHOLD" FOR NON-TRADITIONAL LIVING ARRANGEMENTS.

At the very least, the Commission must update its Lifeline rules to accommodate an increasingly non-wireline world by removing the so-called "one-per-household" limitation,⁷ a source of persistent confusion in the Lifeline program. Although often expressed as a "rule," there is no actual codified rule in the Commission's Lifeline regulations that articulates a "one-per-household" limitation.⁸ None of the orders adopting actual rules for the Lifeline program adopted a "one-per-household" rule. Rather, the oft-referred to "rule" is based on a few, broad policy statements by the Commission in some of its prior Lifeline and Universal Service orders that do not use (let alone define) the term "household." Providers in this and other proceedings have expressed concern about the "one-per-household" limitation and the negative effects it can have on qualifying consumers, especially those in varied and diverse living arrangements, such as homeless shelters and group homes.

Last year, for instance, AT&T stated that:

To the extent the Commission believes that there is a "one-per-household" rule, or that such rule would prohibit an ETC from providing service to more than one low-income subscriber at any residence—including unrelated individuals in a group living arrangement, it should codify that rule in the Code of Federal Regulations. Simply put, the "rules" should be in the "Rules" to eliminate ambiguity and place all parties on notice regarding program requirements.⁹

⁷ See *Referral Order* ¶¶ 21–22.

⁸ See, e.g., 47 C.F.R. § 54.401–54.410.

⁹ Request for Clarification by Tracfone Wireless, Inc., WC Docket No. 03-109, Comments of AT&T Inc., at 2 n.3 (Nov. 20, 2009).

In this proceeding, PR Wireless, Inc. and Smith Bagley, Inc. similarly note that “[t]he rules prescribed by the Commission implementing its Lifeline program do not specifically codify the one-per-household limitation.”¹⁰ GCI made similar arguments in its initial and reply comments filed with the Commission in response to the *Tracfone Public Notice*, which GCI attaches for the Joint Board’s consideration in this proceeding. Notably, GCI’s previously filed comments include a specific proposal on how to clarify the scope and parameters of the “one-per-household” policy in view of the diverse living arrangements that exist among unrelated adults and the increased dependence on mobile service, which is not tied to a particular physical address. Until the Commission clarifies the scope and parameters of this alleged policy, however, there is no enforceable rule in place governing this implied limitation.

Even beyond clarifying the rule, the only way truly to police the “one-per-household” rule is to rely on customers’ self-certifications and weed out duplicate services to the same subscriber (rather than the subscriber’s “household”). It is impossible for carriers to use billing or physical address to differentiate various types of group living arrangements, adults roommates, or committed or married couples with different last names. Moreover, in the age of the cell phone and growing wireless-only subscribership, this type of limitation is bad policy. A “house” cell phone will not be available to provide 911 service if the primary user has it away from home, for example. And a Lifeline subscriber stranded on the tundra on a broken snowmachine can get little emergency help from a landline in their permanent residence.

¹⁰ PR Wireless Comments at 11 n.18; Smith Bagley Comments at 3 n.4.

The comments in the instant proceeding make clear that GCI is not alone in its concerns about the effect of the “one-per-household” limitation on many of those citizens that the Lifeline program is intended to help most. PR Wireless recommended “eliminating the restrictive one-per-household rule” or at least defining “household” “in a manner that ensures that low-income residents of homeless shelters, other group living facilities, and multiple-family dwellings are not lumped together and treated as members of a single household,” thus disqualifying such residents from the Lifeline program.¹¹ As Smith Bagley noted, many of these living arrangements are prevalent in Native American (and Alaska Native) communities, and thus a rigid “one-per-household” restriction adds to the list of impediments to bringing modern communication services to those populations.¹² Similarly, Consumer Groups stated in this proceeding that “the practice of relying on a street address a proxy to identify a ‘household’ restricts the availability of Lifeline service to the first applicant at a particular group housing address,” which is problematic because:

Consumers living in homeless shelters, domestic violence shelters and other forms of group housing tend to be amongst the most vulnerable low-income consumers. Access to Lifeline phone service for these households is essential for personal safety, for finding work and more permanent housing, maintaining connections with health care providers, social service agencies, counselors, family and friends, the school community, etc.¹³

Put simply, the current “one-per-household” restriction is not merely unclear, it is bad policy.

¹¹ PR Wireless Comments at ii, 12.

¹² Smith Bagley Comments at 4.

¹³ Consumer Groups Comments at 12–13.

II. CARRIERS SHOULD NOT BE SUBJECT TO STRICT LIABILITY FOR MISREPRESENTATIONS MADE BY THE CUSTOMER

Another source of confusion arises from USAC's recent attempt to impose strict liability when it found that Alltel should not have received Lifeline reimbursement for customers that were receiving Lifeline service from another carrier, even if the customer certified to Alltel that he/she was not receiving Lifeline service from another carrier.¹⁴ Again, there is no Commission rule imposing strict liability on the provider for misrepresentations made by the customer nor should there be. A provider relies on the representations made by the customer as to his or her eligibility for Lifeline and Link Up service. The provider, for example, is not suited to nor realistically is capable of ensuring that a customer is eligible for Lifeline service beyond reviewing the customer's initial paperwork evidencing household income or participation in one of the qualifying low income programs and otherwise complying with the relevant annual verification requirements. An ETC provider simply is not in the business of overseeing the lives of its customers as a public assistance agency might be capable of doing with its program recipients. If a customer ultimately is found not to be eligible for service despite the certifications obtained from and representations made by the customer, the provider should not subsequently be penalized through the loss of Lifeline support received during the time the carrier was providing service to the customer. Stated differently, the provider is not a guarantor of a customer's eligibility.

Additionally, USAC apparently believes that carriers in a market should collaborate to determine whether customers have more than one Lifeline service, and if so, the carriers, according to USAC, should agree on which carrier should provide the

¹⁴ *Alltel Appeal supra* n.6.

service. Again, there is no such rule directing carriers to divide up Lifeline customers. Indeed, such coordination and sharing of information by competing carriers is unrealistic and possibly even a violation of antitrust rules.

In view of USAC's interpretation of the rules in this instance, GCI filed comments in support of Alltel's appeal, which it attaches for the Joint Board's consideration in this proceeding.

III. THE COMMISSION SHOULD CLARIFY THE RULES ON WHEN LIFELINE SERVICE SHOULD BE TERMINATED.

Another source of confusion in the rules concerns Lifeline customers that sign up for service but do not use the phone for extended periods of time and fail to make payments for the service. The FCC's regulations do not state when an ETC provider must terminate service to a Lifeline customer in these circumstances. The Commission's rules only state that if a carrier has a "reasonable basis" to believe that a subscriber no longer meets the eligibility criteria for Lifeline, then it must provide 60-day notification of impending termination to the subscriber to provide him/her with an opportunity to demonstrate continued eligibility.¹⁵ This regulation, however, fails to adequately address when termination should occur in circumstances involving extended lack of usage and failure to pay. Bear in mind that Lifeline customers are often transient and difficult to reach. Moreover, carriers may be willing to provide extended grace periods to these customers to pay delinquent accounts given their often dire economic circumstances. GCI strongly believes the Joint Board should consider ways to recommend a clarification of the Commission's rules on this subject.

¹⁵ 47 C.F.R. § 54.405(c)-(d).

IV. THE JOINT BOARD SHOULD NOT RECOMMEND AUTOMATIC ENROLLMENT AT THE PRESENT TIME

In its *Referral Order*, the Commission has asked the Joint Board to revisit the issue of whether the Commission should require automatic enrollment in all states in order to participate in the federal low-income programs.¹⁶ The purpose of automatic enrollment appears to be to increase participation in the Lifeline and Link Up Programs. While the concept of “automatic enrollment” sounds appealing, the devil is always in the details. The *Referral Order* describes “automatic enrollment” as an “electronic interface between a state agency and the carrier [that]... allows low-income individuals to automatically enroll in Lifeline/Link-Up programs.”¹⁷ GCI is unsure what this means exactly, what electronic system or modifications to existing back-office systems would be required to implement such interfaces, or even whether state commissions uniformly would be willing or able to develop such electronic interfaces. In GCI’s experience, any change to existing IT systems generally involve complicated tasks that require significant capital investment and resources. Without further study and a more thorough explanation of how such electronic interfaces may be implemented and their costs, the Joint Board should refrain from recommending that the Commission adopt this as a requirement at the present time.

Furthermore, GCI is not aware that Lifeline participation rates are uniformly low across the country to warrant this new potentially onerous and expensive interface requirement. GCI is the largest provider of Lifeline service in Alaska because it actively promotes and advertises the Lifeline Program in all areas where it is an authorized ETC

¹⁶ *Referral Order* at ¶ 18.

¹⁷ *Id.*

provider in Alaska and provides the most competitive Lifeline service offerings in the state. In part due to these efforts, Alaska has some of the best participation rates in the country.¹⁸GCI does not believe that Lifeline participation rates are low in Alaska. If automatic enrollment is required at all, it should only be selectively implemented in states that genuinely have low participation rates.

V. ADDITIONAL CLARIFICATION OF THE RULES IS IF THE LIFELINE PROGRAM IS EXPANDED TO INCLUDE BROADBAND SERVICE

GCI supports the expansion of the low-income program to include broadband service, but cautions that such expansion will require additional clarification of program rules. If a Lifeline customer can apply the Lifeline discounts to both voice and broadband service plans, for instance, there likely will be more delinquent account balances as the costs for both services will be higher. In this situation, the Commission should develop clear rules on how to treat delinquent account balances. For example, if the customer fails to make payment on a bundle of voice and broadband, can the ETC provider terminate or suspend both? How should partial payments be treated? Should a carrier apply a customer's partial payment of a bill to preserve voice but not broadband service? Additionally, will the Commission develop a clear definition of a basic broadband service package or will that be left to ETC provider to fashion? All such questions need to be addressed in expanding Lifeline to include broadband services.

¹⁸ See USAC, 2009 Lifeline Participation Rates by State, http://www.usac.org/_res/documents/li/pdf/li-participation-rate-map-2009.pdf.

CONCLUSION

For the foregoing reasons, GCI urges the Joint Board to consider these reply comments in developing its recommendations to the Commission on how to improve and modify the Lifeline and Link Up Programs.

Respectfully submitted,

/s/

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July 30, 2010