

Appendix B



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 10-3

September 17, 2010

Investigation by the Department on its Own Motion into the Lifeline and Link-Up Programs for Massachusetts Telephone Customers

REQUEST FOR COMMENT & NOTICE OF PUBLIC HEARING

Pursuant to *Investigation by the Department on its Own Motion into the Lifeline and Link-Up Programs for Massachusetts Telephone Customers, D.T.C. 10-3, Order Opening Investigation* (“*Order Opening Investigation*”), issued today for a broad re-examination of the Lifeline and Link-Up low-income programs in Massachusetts, the Massachusetts Department of Telecommunications and Cable (“Department”) is seeking comment on possible changes to the existing programs to make them more effective and efficient and thereby increase subscribership while ensuring the integrity of the programs. The scope of the investigation specifically includes: (1) the certification and verification procedures for ensuring subscriber eligibility; (2) subscriber eligibility criteria; (3) the services to which the Lifeline subscribers may subscribe; (4) outreach requirements; and (5) any other reasonably related issues. In addition, the Department will consider whether all eligible telecommunications carriers (“ETCs”) in Massachusetts, both wireline and wireless, should abide by the same procedures, as discussed more fully below, there are presently differences in the requirements for and procedures used by different carriers, based in part on historical practices, differences in the type of carrier (wireline vs. wireless) and other factors.

Besides seeking initial comments, the Department also will hold a public hearing in this matter, as well as possible additional procedure as may be necessary to fully investigate these issues. This notice is to further explain the issues to be investigated and to seek comment from interested parties, as well as to provide notice of the public hearing.

The Department opened this broad re-examination of the telephone low-income programs because of numerous changes in the telecommunications arena in the years since these programs were last re-examined. Specifically, new types of Lifeline providers have entered the market – first wireline competitive ETCs (“CETCs”), and then wireless CETCs. Also, carriers now offer an array of new and different services to their subscribers. Lifeline customer preferences evolved accordingly, as it is now clear that many Lifeline subscribers seek to subscribe to services beyond basic exchange service. Additionally, as of 2009, the Lifeline penetration rate in Massachusetts was between 20-50% of eligible consumers, leaving significant room for growth.¹ Finally, as the Department found in the recent *TracFone Order*, the audit results in that proceeding indicate the possible existence of fraud within the Lifeline program that current procedures likely fail to address. *See TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers*, D.T.C. 09-9, *Order* at 13 (June 30, 2010) (“*TracFone Order*”) (finding “that the rate of ineligible customers, at 49%, is unacceptably high and raises considerable concern). Accordingly, the Department found in the *Order Opening Investigation* that a comprehensive review of the Lifeline and Link-Up programs is appropriate at this time.

As noted above, the Department will review and consider possible changes to the certification and verification procedures that it requires Massachusetts ETCs to use and will consider whether all Massachusetts ETCs should use the same procedures. Currently, the

¹ Universal Service Administrative Company, 2009 Lifeline Participation Rates by State, *available at* http://www.usac.org/_res/documents/li/pdf/li-participation-rate-map-2009.pdf.

Department permits TracFone Wireless, Inc. (“TracFone”), presently the only wireless ETC in Massachusetts, to enroll Lifeline subscribers once they have self-certified under penalty of perjury that they participate in an eligibility-establishing low income programs. *See TracFone Order* at 4-5. Additionally, TracFone must annually verify the continued eligibility of a random, statistically valid sample of its Lifeline subscribers, and submit the results of that audit to the Department. *See id.* Historically, Verizon Massachusetts (“Verizon”), the dominant wireline ETC in Massachusetts, has both initially certified and annually verified subscriber eligibility directly with the state agencies that administer the eligibility-establishing low income programs.² *See id.* at 4 n.6. In addition, the Department understands that other wireline ETCs, including incumbents and CETCs, follow similar procedures. Specifically, the Department seeks comment on:

1. Which certification and verification procedures will result in the most effective and efficient administration of the Lifeline program.
2. Which procedures will permit timely enrollment of subscribers, while ensuring that only eligible subscribers receive supported services.
3. The use of automatic enrollment systems and real-time verification databases³ in certifying and verifying subscribers, including
 - a. The mechanics of implementing these procedures;
 - b. What, if any, privacy concerns are implicated;

² Beginning this year, Verizon will conduct its annual verification by auditing a sample of 500 customers, which will be verified directly with the Department of Transitional Assistance and the Division of Medical Assistance. Letter from John L. Conroy, Vice President, Regulatory, Verizon Mass. to Michael Isenberg, Director, Competition Div., Mass. Dep’t of Telecomms. & Cable (July 16, 2010) (as approved with conditions by the Department on July 30, 2010).

³ *See Investigation by the Dep’t of Telecomms. and Energy on its own motion, pursuant to G. L. c. 159, § 105 and G. L. c. 164, § 76 to increase the penetration rate for discounted elec., gas and tel. serv.*, D.T.E. 01-106-A, *Order* at 6-7, 13-14 (Aug. 8, 2003) (ordering electric and gas distribution companies, but not ETCs, to participate in an electronic matching and presumptive enrollment program for the purpose of enrolling eligible customers in low-income programs).

- c. The likely impact of these procedures on enrollment rates;
 - d. What interaction would be necessary from Massachusetts' social services agencies, such as Department of Transitional Assistance, Division of Medical Assistance, and the Department of Housing & Community Development; and
 - e. Best practices from other jurisdictions.
4. What changes may be made to improve the current audit process, and more specifically what measures would be likely to:
 - a. Minimize fraud;
 - b. Improve the subscriber response rate;
 - c. Ensure that appropriate follow-up procedures exist for non-respondents.
5. The correlation, if any, between enrollment method and rate of fraudulent enrollments.
6. Whether the same certification and verification procedures are appropriate for use by all ETCs, wireline and wireless, and incumbents and competitive ETCs.

In addition, the Department seeks comment on the expansion of Lifeline eligibility criteria. Currently, subscriber eligibility is based on participation in one of the designated low-income programs.⁴ The Massachusetts Lifeline program currently does not have income-based eligibility like federal default and other states. The Department asks:

⁴ Current programs establishing eligibility are: Emergency Aid to the Elderly, Disabled and Children; Fuel Assistance (Low Income Home Energy Assistance Program); MassHealth or Medicaid; Supplemental Nutrition Assistance Program (formerly known as Food Stamps); Supplemental Security Income; Transitional Aid to Families with Dependent Children. Additionally, the programs establishing eligibility for low income individuals or families

1. Whether additional social services programs should be designated as establishing Lifeline eligibility, and if so, which programs?
2. Whether the Department should provide for eligibility based additionally or solely on income level, and if so,
 - a. What should the qualifying income level be?
 - b. What additional procedures would need to be established to enroll such subscribers?

Further, the Department seeks comment on the services for which Lifeline subscribers may use the discounts. Presently, wireline Lifeline subscribers may subscribe to basic residential services, and may also purchase optional vertical features at tariffed rates. Wireless Lifeline subscribers of TracFone SafeLink Wireless® service may choose from three monthly plans.⁵

The Department asks:

1. Whether Lifeline subscribers should be able to apply the Lifeline subsidy to the basic exchange component of telephone service packages, including unlimited packages, or the telephone component of bundled service packages?
2. Are there any types of vertical features to which Lifeline subscribers should not be permitted to subscribe at tariffed rates?

Lastly, the Department seeks comment on establishing updated outreach requirements, applicable to all Massachusetts ETCs, given changes in how carriers now communicate with their customers (e.g., websites, email, etc.) and changes in types of media for reaching potential Lifeline customers. Some existing requirements may no longer be appropriate and can be

living in tribal lands are: Bureau of Indian Affairs General Assistance; Head Start Program (under income qualifying eligibility provision only); National School Lunch Program (free meals program only); Temporary Assistance for Needy Families.

⁵ See Letter from José A. Fuentes, Director of Gov't Relations, TracFone Wireless, Inc. to Comm'r Geoffrey Why, Dep't of Telecomms. and Cable (Aug. 12, 2010) (outlining the three SafeLink Wireless® plans).

eliminated or modified, while at the same time it may be appropriate to adopt new requirements. Specifically, the Department seeks comment on the sufficiency of the existing outreach requirements. All ETCs nationwide must advertise the availability of their Lifeline services “using media of general distribution”⁶ and “[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.”⁷ The Department has additional outreach requirements for Massachusetts ETCs, which require them to: (1) conduct annual employee training about the Lifeline and Link-Up programs; (2) ensure that internal practices require customer service representatives to inform customers about these programs; (3) include information regarding Lifeline in white pages directories; (4) use bill inserts to notify residential customers of the Lifeline program; (5) limit sales efforts of optional services to Lifeline subscribers; and (6) include incentives for signing up eligible Lifeline subscribers in their sales incentive programs. *Investigation by the Dep’t of Pub. Utils. on its own motion as to the propriety of the rates and charges set forth in tariff schedules D.P.U. Mass. Nos. 10 and 15, filed with the Dep’t on June 14, 1993, to become effective July 14, 1993, by New England Tel. and Tel. Co., D.P.U. 93-125, Order at 53 (Jan. 13, 1994).* The Department seeks comment on:

1. The continued viability of these outreach requirements;
2. The methods of outreach which are most effective at reaching Lifeline-eligible consumers;
3. Specific changes to the outreach requirements that would improve consumer knowledge of the Lifeline program;

⁶ 47 U.S.C. § 214(e)(1)(b); 47 C.F.R. § 54.201(d)(2).

⁷ 47 C.F.R. § 54.405(b).

4. Whether changes in outreach requirements should apply to all Massachusetts ETCs, or whether there should be different outreach requirements for different ETCs (e.g., wireline vs. wireless).

Parties wishing to comment on this matter may submit their comments in writing or electronically to:

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
catrice.williams@state.ma.us

Comments must be received by 5:00 P.M. on October 14, 2010. Reply comments must be received by 5:00 P.M. on October 28, 2010. For questions relating to this matter, please contact Catrice Williams at (617) 305-3580 or at catrice.williams@state.ma.us. Please be sure to reference “Lifeline Program Investigation” in the subject line of all submissions to the Department on this matter. In addition, please contact Catrice Williams to be included on the service list for this matter.

This proceeding has been docketed as D.T.C. 10-3 and is a formal adjudicatory proceeding conducted under G. L. 30A and 220 C.M.R. § 1.00 *et seq.* of the Standard Adjudicatory Rules of Practice and Procedure.

The public hearing will take place at:

10:00 A.M.
November 16, 2010
Department of Telecommunications and Cable
Hearing Room 1-E
1000 Washington Street
Boston, MA 02118

If necessary, immediately following the public hearing, the Department will conduct a procedural conference to establish any additional process necessary for investigating this matter. Any person who desires to participate in this proceeding must file a written petition for leave to intervene or to participate with:

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
617-305-3580
catrice.williams@state.ma.us

Petitions for leave to intervene or to participate must be filed by 5:00 P.M. on November 9, 2010. Such petitions must satisfy the substantive requirements of 220 C.M.R. § 1.03. If possible, petitioners should submit the petitions to the Department in electronic format by e-mail attachment to dtc.efiling@state.ma.us. The text of the e-mails or written petitions must specify: (1) the name of petitioner; (2) the docket number; (3) the name of the person submitting the filing; (4) that person's title, if any; and (5) a brief descriptive title of the document (e.g., petition to intervene or participate). The petitions should also include the name, title, and telephone number of a person to contact in the event of questions about the filing.