

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

In the Matter of)	
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
NTCH, Inc. Petition for Forbearance from 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b))	
)	

NTCH, INC. COMPLIANCE PLAN

NTCH, Inc. and its affiliated entities (collectively, “NTCH”) submit this Compliance Plan in satisfaction of Condition 11 of the Commission’s order granting its Petition for Forbearance (the “NTCH Order”).¹ In the NTCH Order, the Commission forbore from enforcing the requirement that NTCH’s service area conform to the service area of any rural telephone company serving the same area, for the limited purpose of designation as a Lifeline-only eligible telecommunications carrier (“ETC”).

The Commission found that NTCH’s request satisfied each prong of the forbearance standard of section 10 of the Communications Act of 1930 and that forbearance was therefore required.² Nonetheless, it imposed conditions on NTCH designed to reduce the risk of fraud, waste, and abuse in the Lifeline program. NTCH is committed to safeguarding against misuse of the Lifeline program and will fully comply with the Order as well as with the Commission’s Lifeline rules and policies generally, as described below.

¹ *Telecommunications Carriers Eligible for Universal Service Support, NTCH, Inc. and Cricket Communications, Inc.*, Order, Docket 09-197, FCC 11-137 (rel. Sept. 16, 2011), ¶ 15.

² *Id.* ¶¶ 8-14.

NTCH intends to keep the measures set out in its Compliance Plan in effect until such time as the Commission implements its planned duplicates database and any other new requirements resulting from the pending Lifeline rulemaking proceeding (WC Docket 11-42) (at which point NTCH will comply with those requirements in lieu of the Compliance Plan, except as otherwise noted herein). IN the event that the Commission does not impose similar requirements on other Lifeline providers as part of the rulemaking process, NTCH will seek prompt relief from the conditions imposed by the Forbearance Order since compliance will put NTCH at a significant competitive disadvantage vis a vis other providers who would not have to demand onerous verification proofs from potential customers.

I. Conditions of Forbearance

The Commission conditioned its grant of forbearance to NTCH by:

- (1) requiring each eligible Lifeline consumer to self-certify under penalty of perjury at the time of enrollment and annually thereafter until a national duplicates database is in place that he or she is the head of household, receives Lifeline-supported service only from NTCH, and does not receive Lifeline from any other provider;
- (2) requiring each eligible Lifeline consumer at the time of enrollment to initial on the certification form that to the best of his or her knowledge that he or she is not receiving Lifeline-supported service from any other Lifeline provider, and listing as examples the brand names of at least the leading wireline and leading two wireless Lifeline providers in the area to ensure the consumer understands what is meant by “Lifeline-supported service”;
- (3) requiring NTCH to make available state-specific subscriber data, including name and address of Lifeline subscribers, to the Universal Service Administrative Company (USAC) and to each state public utilities commission where it operates for the purpose of determining whether an existing Lifeline subscriber receives Lifeline service from another carrier;
- (4) requiring NTCH to assist the Commission, USAC, state commissions, and other ETCs in resolving instances of duplicative enrollment by Lifeline subscribers, including by providing to USAC and/or any state commission, upon request, the necessary information to detect and resolve duplicative Lifeline claims;

- (5) requiring NTCH to establish safeguards to prevent their subscribers from receiving multiple Lifeline subsidies at the same address and safeguards to prevent individual subscribers from receiving more than one Lifeline discount;
- (6) requiring NTCH to implement a non-usage policy, if applicable, in all states where NTCH provides Lifeline services to subscribers at no monthly charge³, requiring NTCH to identify its subscribers that have not used its Lifeline service for 60 days and not seek support for such subscribers if they do not actively use its Lifeline service during a 30-day grace period;
- (7) requiring NTCH to deal directly with the subscriber to certify and verify the subscriber's Lifeline eligibility;
- (8) requiring NTCH to explain in prominent, plain, easily comprehensible language to all new and potential subscribers that no consumer is permitted to receive more than one Lifeline subsidy;
- (9) requiring NTCH to ensure that all marketing materials for the service make clear that it is a Lifeline-supported service;
- (10) requiring NTCH to immediately de-enroll any subscriber whom NTCH knows is receiving Lifeline-supported service from another ETC or knows is no longer eligible; and
- (11) requiring NTCH to submit to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement the obligations contained in this order within 30 days of the effective date of this order.

III. Certification of Lifeline Customers' Eligibility

A. Policy

NTCH will comply with all certification and verification requirements for Lifeline eligibility established by states where it is designated as an ETC. In states where there are no state-imposed requirements, NTCH will comply with the certification and verification procedures in effect in that state as reflected on the website of the Universal Service Administration Company ("USAC"). For any states that do not mandate Lifeline support and/or do not have established rules of procedure in place, NTCH will certify at the outset and will verify annually consumers' Lifeline eligibility in accordance with the Commission's requirements.

³ This obligation does not apply if NTCH requires subscribers to pay a monthly fee for the service.

B. Certification Procedures

NTCH will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance to NTCH employees or agents (collectively, “NTCH personnel”). These procedures are designed to ensure that NTCH customers do not, either intentionally or inadvertently, abuse the Lifeline program. The measures outlined involve both written disclosures as well as live person-to-person due diligence.

Marketing and pre-enrollment safeguards. As a safeguard to prevent subscribers from receiving multiple Lifeline subsidies at the same address and preventing individual subscribers from receiving more than one Lifeline discount,⁴ NTCH will make available at each NTCH retail location, and otherwise upon customer request, printed materials describing NTCH’s Lifeline program, including eligibility requirements and instructions for enrollment. Similar information will be available on NTCH’s website. These materials will explain in prominent, plain, and easily comprehensible language that no consumer is permitted to receive more than one Lifeline subsidy. Furthermore, NTCH’s marketing materials, including the relevant pages on its website, will feature the following statement in bold font in a high-contrast color:

Note: By law, the Lifeline program is only available for one phone per household.

NTCH’s marketing materials will clearly identify supported plans as “Lifeline” plans, consistent with NTCH’s current practice and policies.⁵ In addition, application materials for Lifeline-supported plans will be clearly identified as such and will describe, in detail, the Lifeline discount available in the relevant state.

⁴ See NTCH Order, *supra* note 1, ¶ 15(5).

⁵ *Id.* ¶ 15(9).

Eligibility verification. At enrollment, NTCH will deal directly with all subscribers to certify and verify subscribers' Lifeline eligibility, either in person through its employees or agents or via the telephone (including facsimile) or mail.⁶ All personnel who interact with existing or potential subscribers will be trained to advise Lifeline applicants on whether or not they are eligible to participate, based on state-specific eligibility criteria, including income and program-based criteria. NTCH personnel will be trained to answer any questions subscribers may have regarding eligibility.

In processing Lifeline applications, NTCH personnel will review any required documentation to determine whether it satisfies state-specific eligibility requirements using state-specific checklists.⁷ (To the extent that a state requires Lifeline ETCs to enroll subscribers identified by the state or through a state database, NTCH will continue to rely on the state identification or database.) If NTCH personnel determine that an applicant is not eligible, NTCH will deny the application and inform the applicant of the reason for denial. If NTCH personnel are not able to ascertain an applicant's eligibility, they will refer the matter to supervisory personnel.

Non-duplication. NTCH personnel will explain the "one Lifeline phone per household" rule in clear, easily comprehensible language to new and potential subscribers and will assist them in determining whether they are already benefiting from Lifeline discounts.⁸ During the application process, NTCH personnel will call applicants' attention to the various eligibility and

⁶ *Id.* ¶ 15(7).

⁷ Training materials will include a discussion of the limitation of one Lifeline phone per consumer/household and the need to ensure that the customer is informed of this restriction.

⁸ *See* NTCH Order, *supra* note 1, ¶ 15(5),(8).

non-duplication provisions of the Lifeline Certification form (see below), including identifying the leading wireline and two wireless carriers in the relevant market by brand name to ensure the consumer understands what is meant by “Lifeline-supported service.”⁹

NTCH personnel will also work with applicants to determine whether they might be receiving Lifeline discounts under another name. If NTCH or an applicant determines that he or she already receives Lifeline support from another carrier, NTCH will notify the applicant that he or she is not permitted by law to participate in NTCH’s Lifeline services and will cease further processing of the application.

As an additional safeguard against duplicative enrollment, NTCH will check each Lifeline applicant’s name and address against its subscriber database to determine whether or not that customer already receives Lifeline service. If NTCH’s investigation concludes that the application is duplicative, NTCH will deny the Lifeline application and advise the applicant of the basis for denial.¹⁰ Prior to requesting a subsidy, NTCH will process and validate its subsidy data to prevent duplicative same-month Lifeline subsidies (i.e., “double-dipping”). Any household that is already receiving a Lifeline subsidy from NTCH will be automatically preventing from receiving a second Lifeline subsidy in that same month.¹¹

Lifeline Certification form. To prevent duplication and ensure eligibility, NTCH will have each Lifeline applicant complete a Lifeline Certification at the time of enrollment.¹² The Lifeline Certification form will:

⁹ *Id.* ¶ 15(2).

¹⁰ *Id.* ¶ 15(5).

¹¹ *Id.* ¶ 15(4),(5),(10).

¹² *Id.* ¶ 15(5).

- a. Require the applicant to provide his or her name and primary residential address, as well as other identifying information, to enable NTCH to check for instances of duplicative support¹³ and make state-specific subscriber data available to the USAC and the relevant state commission;¹⁴
- b. Clearly state that the service plan being applied for is Lifeline-supported.¹⁵
- c. Explain, in prominent, plain, and easily comprehensible language, that no consumer is permitted to receive more than one Lifeline subsidy;¹⁶
- d. Require the Lifeline applicant to self-certify under penalty of perjury that he or she is the head of household, receives Lifeline-supported service only from NTCH, and does not receive Lifeline-supported service from any other provider;¹⁷
- e. Require the Lifeline applicant to initial a statement that to the best of his or her knowledge that he or she is not receiving Lifeline-supported service from any other Lifeline provider;¹⁸
- f. Require the Lifeline applicant to agree to notify NTCH if the applicant adds Lifeline on another phone (wireline or wireless) so that NTCH may discontinue his or her Lifeline credit;
- g. In states with program-based eligibility criteria, list each qualifying program and require the applicant to identify the program(s) in which he or she participates, certifying that he or she participates in such program(s) and has provided documentation to NTCH personnel to verify participation in such program, regardless of whether such proof is required under state law; and agreeing to notify NTCH should he or she cease to participate in such program;¹⁹
- h. In states with income-based eligibility criteria (and where the applicant claims income-based eligibility) require the applicant to certify that his or her household income does not exceed the relevant threshold (*e.g.*, 135% of the Federal Poverty Guidelines for federal default states) and that he or she has provided proof of such income-based eligibility;
- i. Require the Lifeline applicant to acknowledge that he or she may be required to verify continued eligibility for Lifeline credit and that failure to do so will result in termination of Lifeline benefits;
- j. Require the Lifeline applicant to authorize NTCH to access any records required to verify the statements contained in the Lifeline Certification, to confirm eligibility,

¹³ *Id.* ¶ 15(5).

¹⁴ *Id.* ¶ 15(3),(4).

¹⁵ *Id.* ¶ 15(9).

¹⁶ *Id.* ¶ 15(8).

¹⁷ *Id.* ¶ 15(1),(2).

¹⁸ *Id.* ¶ 15(2).

¹⁹ *Id.* ¶ 15(7).

and to release any subscriber records required for administration of the Lifeline program, including to state or federal authorities;

- k. Require the Lifeline applicant to acknowledge that completion of the application does not constitute immediate approval for Lifeline benefits and that it may take up to 60 days for the credit to appear in the applicant's account;
- l. Include a certification section where the applicant must attest and sign under penalty of perjury that the representations above are true and correct.

4. Annual Verification Procedures

NTCH will require every consumer enrolled in its Lifeline program to verify annually that they are the head of their household and only receive Lifeline service from NTCH.²⁰ NTCH will notify each participating Lifeline consumer prior to their service anniversary date that they must confirm their continued eligibility in accordance with the applicable requirements. This notification will be mailed via the U.S. Postal Service to the address on record with NTCH and/or sent via SMS text message to the customer's NTCH telephone number. The notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact NTCH. Customers will have 60 days to certify under penalty of perjury that they are the head of household and receive Lifeline service only from NTCH, either by mail, reply text message, or a comparable process (such as through NTCH's website). Anyone who does not respond to the mailing and certify their continued eligibility will be removed from NTCH's Lifeline program.²¹

5. Non-Usage Policy

Because NTCH does not offer a Lifeline service at no monthly charge, condition (6), requiring a "non-usage" policy, does not apply to NTCH.²²

²⁰ *Id.* ¶ 15(1).

²¹ *Id.* ¶ 15(10).

²² *Id.* ¶ 15(6), n.3.

6. Cooperation with state and federal regulators

NTCH will cooperate with federal and state regulators to prevent fraud, waste, and abuse in the Lifeline program by:

- a. Making available state-specific subscriber data, including names and addresses of Lifeline subscribers, to USAC and to each state public utilities commission where it operates, for the purpose of determining whether an existing Lifeline subscriber receives Lifeline service from another carrier;²³
- b. Assisting the Commission, USAC, state commissions, and other ETCs in resolving instances of duplicative enrollment by Lifeline subscribers, including by providing to USAC and/or any state commission, upon request, the necessary information to detect and resolve duplicative Lifeline claims;²⁴
- c. Promptly investigating any notification that it receives from a state commission, the FCC, or USAC that one of its customers already receives Lifeline service from another carrier;²⁵ and
- d. Immediately deactivating a customer's Lifeline service, and no longer reporting that customer on its USAC Form 497, if NTCH's investigation, the FCC, or USAC concludes that the customer receives Lifeline services from another carrier and that the customer's Lifeline service from NTCH should be discontinued to resolve the duplication.²⁶

7. De-enrollment

NTCH will de-enroll any subscriber whom NTCH knows is receiving Lifeline-supported service from another ETC or knows is no longer eligible.²⁷ This information may be received from: (1) subscriber failure to reply to annual verification notices; (2) subscriber notification of a change in eligibility status; (3) subscriber notification of duplicative enrollment; (3) state or federal regulator notification of ineligibility or duplicative enrollment; or (4) NTCH's investigation or database checks as described herein.

²³ *Id.* ¶ 15(3).

²⁴ *Id.* ¶ 15(4).

²⁵ *Id.* ¶ 15(4).

²⁶ *Id.* ¶ 15(4),(10).

²⁷ *Id.* ¶ 15(10).

NTCH submits that its Compliance Plan fully satisfies the conditions set forth in the Commission's Order granting NTCH forbearance. According, NTCH respectfully requests that the Commission expeditiously approve its Compliance Plan.

Respectfully submitted,

NTCH, Inc.

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