



WILTSHIRE  
& GRANNIS LLP

December 19, 2011

Via ECFS

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link Up, WC Docket No. 03-109*

Dear Ms. Dortch:

In addition to points raised in its ex parte letter of November 23, 2011,<sup>1</sup> General Communication, Inc. (“GCI”) urges the Commission to simplify one aspect of the Low Income Program eligibility criteria when it issues its order resulting from the *Low Income Program NPRM*<sup>2</sup> to remove an unnecessary barrier to participation by otherwise eligible individuals. As GCI explained in its comments on the *Low Income Program NPRM*,<sup>3</sup> the rules applicable to federal default states provide that an applicant attempting to qualify for Low Income Program service on the basis of household income must present either (a) documentation of income that covers a full year or (b) at least “three consecutive months worth of the same types of document within that calendar year.”<sup>4</sup> This has been followed by many states in their own eligibility rules, including Alaska.

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<sup>1</sup> See Letter from John T. Nakahata, Counsel to General Communication, Inc., to Marlene H. Dortch, WC Dockets 11-42, 03-109, CC Docket 96-45 (filed Nov. 23, 2011).

<sup>2</sup> *Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link-Up*, Notice of Proposed Rulemaking, FCC 11-32, 26 FCC Rcd. 2770 (2011) (“*Low Income Program NPRM*”).

<sup>3</sup> See GCI Comments at 46-47 (filed April 21, 2011).

<sup>4</sup> 47 C.F.R. § 54.410(a)(2). Alaska’s regulations impose a comparable but slightly different requirement under which an applicant must present documentation of income that covers either (a) a full year or (b) “at least three consecutive months in the current calendar year.” 3 AAC § 54.390(f).

The reference to “in that calendar year” potentially creates an arbitrary and apparently unintended obstacle for many applicants. If “calendar year” is construed as the year beginning January 1 and ending December 31, this means that income eligibility based on less than a full year’s worth of documentation is unavailable during the first three months of the calendar year – an absurd result. For example, a Lifeline applicant who seeks to apply on the basis of income in January through March would be unable to rely on pay stubs or other proof of income covering less than a full year because such proof could not cover three consecutive months in the “calendar year.” For this reason, GCI believes that the term “calendar year” in the last sentence of 47 C.F.R. § 54.410(a)(2) is best construed to mean a period of 12 consecutive months. However, it would be much better in the current rulemaking to remove all doubt by amending the last sentence of 47 C.F.R. § 54.410(a)(2) to read: “If the consumer presents documentation of income that does not cover a full year, such as current pay stubs, the consumer must present three consecutive months worth of the same types of documents,” which deletes the phrase “within that calendar year” from the current rule. Alternatively, the Commission could replace “within that calendar year” with “within the previous twelve months.”

No program protection purpose is served by requiring, for example, that pay stubs or statements of unemployment, social security, pensions or veterans’ benefits all be from the same January through December period, as opposed to, for example, November, December and January or December, January and February. Clarifying the rule as GCI suggests thus cannot in any way increase the potential for waste, fraud and abuse.

Sincerely,

/s/

John T. Nakahata  
*Counsel to General Communication, Inc.*

Attachments

cc (by email): Sharon Gillett  
Carol Matthey  
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