

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

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Advancing Broadband Availability Through Digital Literacy Training)	WC Docket No. 12-23
)	
Lifeline and Link Up)	WC Docket No. 03-109

**PETITION FOR CLARIFICATION OF THE PUBLIC SERVICE COMMISSION OF
THE DISTRICT OF COLUMBIA**

The Public Service Commission of the District of Columbia (DC PSC) respectfully files this Petition for Clarification of certain rules promulgated by the *Lifeline Modernization Order* released on February 6, 2012.¹ The DC PSC seeks clarification that state agencies performing eligibility verification activities in jurisdictions where the state commission has no jurisdiction over wireless carriers will not be required to perform the activities set forth in 47 C.F.R. § 54.410 for wireless eligible telecommunications carriers (ETCs). Additionally, the DC PSC urges the FCC to classify Voice over Internet Protocol (VoIP) services as telecommunications services, since VoIP services are now considered supported services eligible for federal Lifeline funds under section 54.401(a)(2).

**SECTION 54.410 SHOULD BE CLARIFIED TO ENSURE THAT STATE AGENCIES
VERIFYING CUSTOMER ELIGIBILITY IN JURISDICTIONS WHERE THERE IS NO**

¹ *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Report and Order and Further Notice of Proposed Rulemaking ("*Lifeline Modernization Order*"), rel. February 6, 2012.

AUTHORITY OVER WIRELESS CARRIERS ARE NOT OBLIGATED TO PERFORM DUTIES FOR WIRELESS ETCs

The new section 54.410 imposes several obligations on ETCs to verify and re-verify customer eligibility for Lifeline service. However, this section provides an exception in cases where a state agency verifies customer eligibility. In these cases, the state agency performs the activities that ETCs would otherwise be required to do. For example, to confirm initial eligibility for Lifeline, that the ETC must make that determination, “[e]xcept where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber’s eligibility.”² In such jurisdictions, the ETC cannot seek reimbursement for a Lifeline customer unless the state agency notifies the ETC of the subscriber’s eligibility and provides the ETC with a copy of the subscriber’s certification.³ For recertification of eligibility, if there is a state agency responsible for recertifying eligibility, the state agency is required to perform recertification activities for ETCs and provide ETCs with the results of their recertification efforts.⁴ Several footnotes in the *Lifeline Modernization Order* affirm this rule.⁵

While these rules appear clear, the DC PSC seeks clarification of this section because of the role of the state agency in the District of Columbia. The District of Columbia has its own universal service fund, the District of Columbia Universal Service Trust Fund. (DC USTF). Subscriber eligibility for Lifeline service is verified by the District Department of the Environment’s Energy Office (DDOE), which also recertifies continued eligibility annually.

Wireless service providers do not participate in the DC USTF because the DC PSC is

² Section 54.410(b)(1); 54.410(c)(1).

³ Section 54.410(b)(2), Section 54.410(c)(2), Section 54.410(e).

⁴ Section 54.410(f).

⁵ *See, e.g., Lifeline Modernization Order* at 54, n. 307; 61, n. 341; 80, n. 482.

expressly prohibited by statute from exercising⁶ any jurisdiction over wireless carriers.

However, several wireless ETCs have been authorized by the FCC to operate in the District of Columbia and these ETCs have signed up many District of Columbia customers.⁷ The DC PSC is concerned about a possible interpretation of section 54.410 that would impose certification, recertification, and reporting obligations for wireless carrier Lifeline customers on DDOE. This would place DDOE in the untenable position of performing obligations for entities over which no government agency in the District of Columbia has any regulatory oversight. It would also impose costly administrative burdens on DDOE to perform eligibility verification activities for an increased number of subscribers. For these reasons, the DC PSC seeks clarification that in jurisdictions that have state universal service funds but no authority over wireless carriers, wireless ETCs are the entities responsible for certifying the eligibility of their customers, not the state agencies that certify eligibility for state wireline universal service programs.⁸

THE FCC SHOULD CLASSIFY VOIP SERVICES AS “TELECOMMUNICATIONS SERVICES”

In the *Lifeline Modernization Order*, the FCC extended its new definition of “voice services” to cover the services supported by Lifeline funds. The new definition of “voice services” includes voice services provided over IP-enhanced networks.⁹ Under this new definition, VoIP service providers may choose to become ETCs to obtain Lifeline (and other)

⁶ D.C. Code § 34-2006(b) (2010 Repl.).

⁷ See, e.g., *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the District of Columbia for the Limited Purpose of Offering Lifeline Service to Qualified Households*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2008); *Telecommunications Carriers Eligible for Universal Service Support, Virgin Mobile USA, L.P. Petition for Designation as an Eligible Telecommunications Carrier in the District of Columbia*, WC Docket No. 09-197, Order, 25 FCC Rcd 17797 (2010).

⁸ This request was included in the DC PSC’s *ex parte* letter, filed March 13, 2012.

⁹ *Lifeline Modernization Order* at ¶ 47.

universal service support. Since most VoIP services are unregulated by state commissions, the change in the definition of “voice services” may result in a large number of VoIP service providers saturating the market for Lifeline customers in much the same way as pre-paid wireless service providers have done, with even less oversight than wireless service providers in many states.

In permitting VoIP service providers to apply for ETC designation, this rule change makes it more imperative to classify VoIP services as telecommunications services. Otherwise, VoIP service providers will gain access to federal Lifeline funding without having to comply with the obligations required of other Title II ETCs, thereby, placing VoIP service providers at a competitive advantage.

The DC PSC appreciates the opportunity to comment in this proceeding.

Respectfully submitted,

**PUBLIC SERVICE COMMISSION
of the DISTRICT OF COLUMBIA**

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April 2, 2012