

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

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

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**COMMENTS OF THE PUBLIC SERVICES COMMISSION OF THE  
U.S. VIRGIN ISLANDS**

**January 10, 2013**

The Public Services Commission of the U.S. Virgin Islands (“VI PSC”) supports the request by the Virgin Islands Telephone Corp. (“VITELCO”) d/b/a Innovative Telephone for clarification or waiver of Section 54.409(a) with respect to the programs used to determine consumer eligibility for the Lifeline discount in the U.S. Virgin Islands (“USVI”). Unique circumstances in the USVI call into question whether the Supplemental Security Income (“SSI”) and the National School Lunch Program (“NSLP”) should be used to determine consumer eligibility. Further, no Federal Poverty Guidelines (“FPG”) table has ever been established for the USVI. Accordingly, we support VITELCO’s request for guidance and clarification of Section 54.409(a) with respect to the appropriate FPG that would apply to potential Lifeline consumers.

The VI PSC respectfully urges the FCC to grant the requested clarification and/or waiver as soon as possible. Although the request has been submitted by VITELCO, two other eligible telecommunications carriers (“ETCs”) have been designated in the Territory and must follow the same FCC rules. Further, the VI PSC has decided to conform the eligibility requirements for the local Lifeline program with those established for the federal program. We are concerned that any inconsistencies between ETCs or between the federal and local programs will result in consumer confusion and potential dis-enrollment of some low income subscribers.

### **Supplemental Security Income Program**

The Social Security Act of 1972 (Public Law 92-603) ended Social Security grants to the 50 States and the District of Columbia. In place of these grants, Congress created the SSI program which provides cash payments to eligible consumers. Although later extended to the Northern Marianas Islands, SSI was not extended to the USVI, Guam or Puerto Rico. Instead, four grant programs for the blind, disabled and aged that had previously been authorized under the Social Security Act were continued in these Territories. These programs were Title I, Assistance for the Aged; Title X, Aid for the Blind; Title XIV, Aid to the Permanently and Totally Disabled; and Title

XVI, Aid for the Aged, Blind or Disabled. All of these programs are means tested. Consumers must have incomes and resources below specific threshold amounts. Since SSI was not extended to the USVI, clarification of the rules or a waiver is needed to allow qualification based on participation in one of the four Social Security Act Titles that were retained for the USVI. We point out these four programs have historically been used to qualify Lifeline participants in the USVI and the Universal Service Administrative Company (“USAC”) has been providing reimbursements to VITELCO based on participation in these programs.

### **National School Lunch Program**

Although the NSLP is listed as a qualifying program in Section 54.409 (a)(2), it is not a means tested program in the USVI. Unlike the U.S. Mainland, all students in the public school system receive free school lunches, regardless of family income. All students in private and parochial schools also receive free school lunches if the school applies for the program. There is no income test for individual students and neither students nor their families are required to enroll in the program in order to receive school lunches. Federal law grants an exception to the qualification and certification requirements of the NSLP to Puerto Rico and the USVI. “Because the State agencies of Puerto Rico and the Virgin Islands provide free meals or milk to all children in schools under their jurisdiction, regardless of the economic need of the child’s family, they are not required to make individual eligibility determinations or publicly announce eligibility criteria.” (7 C.F.R 245.4). Our concern is that, under a strict reading of the FCC’s rules, almost any family with school-aged children could qualify for Lifeline benefits, even if the household had a very high income. We believe this would be counter to the intent of the Lifeline program to provide assistance only when needed. Consequently, we urge the Commission to clarify the eligibility requirements or grant VITELCO’s request for a waiver of Section 54.409 (a)(2) to exclude the NSLP from the list of approved programs in the USVI.

## Federal Poverty Guidelines

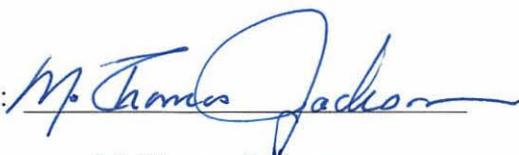
According to Section 54.409(a)(1), consumers will qualify for Lifeline benefits if household income is at or below 135% of the FPG for a household of that size. FPG is published annually by the U.S. Department of Human Services and separate FPG tables are provided for the U.S. Mainland, And Alaska and Hawaii. No separate FPG has been established for any Territory. Consequently, we support VITELCO's request for clarification as to which FPG table should apply in the USVI.

Because the cost of living in the USVI is closer to Hawaii or Alaska than in an average state, it is not clear which FPG table would be appropriate to use here. On the other hand, we understand that this question has been asked numerous times in connection with other means-tested federal programs. Most notably, in 2009 Congress asked the Government Accountability Office (GAO) to explain why no FPG tables had been prepared for the Territories. After a thorough investigation, GAO reported that valid statistical data needed to calculate FPG for the Territories was not available but if the same formula was used for the States and Territories, it was possible the resulting FPG could be higher or lower than national thresholds.<sup>1</sup> Although the possibility of lower FPG appears counterintuitive, GAO did not make any recommendation and was unwilling to proceed further.

For some time, the Virgin Islands Department of Human Services has been applying the FPG for the U.S. Mainland to determine eligibility for the programs it administers and the U.S. Department of Agriculture website for the Supplemental Nutrition Assistance Program ("SNAP") notes that the U.S. Mainland table applies to the USVI. Nevertheless, because the choice of tables for Lifeline qualification ultimately rests with the FCC, a clarification on this issue is needed.

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<sup>1</sup> See letter from David Gootnick, Director, International Affairs and Trade, United States Government Accountability Office to Hon. Jeff Bingaman and Lisa Murkowski of Senate Committee on Energy and Natural Resources and Hon. Madeleine Bordallo and Henry Brown of House Subcommittee on Insular Affairs, Oceans and Wildlife, dated November 10, 2009. GAO Report entitled "*Poverty Determination in U.S. Insular Areas*," GAO-10-240R.

Respectfully Submitted: 

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