



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 11-42; DA 15-398]

Lifeline and Link Up Reform

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) clarifies rules regarding subscriber usage of Lifeline-supported service established in the Lifeline Reform Order. The Bureau clarifies that, pursuant to the Lifeline Reform Order, an eligible telecommunications carrier (ETC) must both assess and collect a monthly fee from a subscriber in order to avoid the Lifeline usage requirements, including the requirement to de-enroll inactive subscribers who fail to use the service within any consecutive 60-day period.

DATES: Effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jonathan Lechter, Wireline Competition Bureau, (202) 418-7400 or TTY: (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Wireline Competition Bureau's Lifeline Non-Usage Clarification Order (Order) in WC Docket No. 11-42; DA 15-398, released on March 31, 2015. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The document is also available on

the Commission's web site at: <https://www.fcc.gov/document/clarification-lifeline-supported-service-rules>.

I. Introduction

1. In this Order, the Wireline Competition Bureau (Bureau) clarifies rules regarding subscriber usage of Lifeline-supported service established in the Lifeline Reform Order. The Bureau clarifies that, pursuant to the Lifeline Reform Order, 77 FR 12952, March 2, 2012, an eligible telecommunications carrier (ETC) must both assess and collect a monthly fee from a subscriber in order to avoid the Lifeline usage requirements, including the requirement to de-enroll inactive subscribers who fail to use the service within any consecutive 60-day period.

II. Discussion

2. The Bureau clarifies that in order to obtain Lifeline support, Lifeline ETCs who assess a monthly fee for service from their Lifeline subscribers must also collect the monthly fee from the subscriber, or follow the requisite procedures to de-enroll any inactive subscribers who have not used the service during any consecutive 60-day period. While the Order makes clear that ETCs who do not both assess and collect a monthly fee for service are prohibited from receiving Lifeline support for inactive subscribers, the related Commission rules require pre-paid ETCs to “assess or collect” a monthly fee in order to exempt itself from the non-usage de-enrollment requirements.

3. The usage requirements as described in the Lifeline Reform Order are clear. As discussed in the Order, the consumer usage requirement applies only to “pre-paid” services – or services for which subscribers do not receive monthly bills and do not have a regular billing relationship with the ETC – because the lack of regular contact with the subscriber does not provide a reasonable opportunity for the ETC to ascertain a subscriber’s continued intent to receive Lifeline benefits. Merely assessing a monthly fee on a subscriber does not provide sufficient contact with the subscriber to ascertain the

subscriber's intent to use the service. Similarly, failing to actually collect the assessed fee does not provide the subscriber a sufficient incentive to place a value on the service. In such a situation, the consumer has little to lose by obtaining service that she may not use. Providing support for subscriber lines that are not used wastes limited funds. In contrast, actually collecting some monthly amount from subscribers is sufficient to ascertain subscriber intent and ensures that subscribers will continue to subscribe to the service only to the extent that they value and use the service.

4. In the Lifeline Reform Order, the Bureau was delegated the authority to revise rules as necessary to ensure the reforms adopted through the Order are properly reflected in the rules. Pursuant to this authority, the Bureau clarifies that pre-paid ETCs must both assess and collect a charge for service on a monthly basis, or proceed to follow the procedures to de-enroll inactive subscribers who have not used the service during any consecutive 60-day period. The Bureau amends the rule language to reflect this clarification.

III. Procedural Matters

A. Congressional Review Act

5. The Commission will send a copy of this in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

B. Final Regulatory Flexibility Act Certification

6. The Regulatory Flexibility Act of 1980, as amended (RFA), requires agencies to prepare a regulatory flexibility analysis for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which:

(1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies additional criteria established by the Small Business Administration (SBA).

7. The Bureau hereby certifies that the rule revisions adopted in this Order will not have a significant economic impact on a substantial number of small entities. This Order clarifies rules adopted in the Lifeline Reform Order by correcting conflicts between the language of Order and the codified rules. These revisions do not create any burdens, benefits, or requirements that were not addressed in the Final Regulatory Flexibility Analysis attached to the Lifeline Reform Order. The Commission will send a copy of this Order, including a copy of this final certification, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Order (or a summary thereof) and certification will be published in the Federal Register.

C. Paperwork Reduction Act Analysis

8. This Order modifies information collection requirements adopted in the Lifeline Reform Order and is therefore subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507 of the PRA. The Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-108, the Commission previously sought specific comment on how it might further reduce the information collection burden on small business concerns with fewer than 25 employees.

IV. Ordering Clauses

9. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 5(c), 10, 201 through 206, 214, 218 through 220, 251, 252, 254, 256, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155(c), 160, 201 through 206, 214, 218 through 220, 251, 252, 254, 256, 303(r), 332, 403, 1302, §§ 0.91, 0.291, 1.1, and 1.427 of the Commission's rules, 47 CFR 0.91, 0.291, 1.1, 1.427, and the delegation of authority in paragraph 507 of FCC 12-11, this Order is ADOPTED.

10. IT IS FURTHER ORDERED that, pursuant to Section 1.102(b)(1) of the Commission's rules, 47 CFR 1.102(b)(1), this Order SHALL BE EFFECTIVE **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, except to the extent expressly addressed below.

11. IT IS FURTHER ORDERED that the relevant rules are amended as set forth below. Those rules contain modified information collection requirements that are subject to the PRA and shall become effective **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

12. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

13. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements,
Telecommunications, Telephone.

FEDERAL COMMUNICATIONS COMMISSION.

Ryan B. Palmer,
Chief, Telecommunication Access Policy Division
Wireline Competition Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 to read as follows:

PART 54 – UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

2. Amend § 54.405 by revising paragraph (e)(3) to read as follows:

§54.405 Carrier obligation to offer Lifeline.

* * * * *

(e) * * *

(3) De-enrollment for non-usage. Notwithstanding paragraph (e)(1) of this section, if a Lifeline subscriber fails to use, as “usage” is defined in §54.407(c)(2), for 60 consecutive days a Lifeline service that does not require the eligible telecommunications carrier to assess and collect a monthly fee from its subscribers, an eligible telecommunications carrier must provide the subscriber 30 days’ notice, using clear, easily understood language, that the subscriber’s failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage under this paragraph. If the subscriber uses the Lifeline service with 30 days of the carrier providing such notice, the eligible telecommunications carrier shall not terminate the subscriber’s Lifeline service. Eligible telecommunications carriers shall report to the Commission annually the number of subscribers de-enrolled for non-usage under this paragraph. This de-enrollment information must reported by month and must be submitted to the Commission at the time an eligible telecommunications carrier submits its annual certification report pursuant to §54.416.

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3. Amend § 54.407 by revising the paragraph (c) introductory text to read as follows:

§ 54.407 Reimbursement for offering Lifeline.

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(c) An eligible telecommunications carrier offering a Lifeline service that does not require the eligible telecommunications carrier to assess and collect a monthly fee from its subscribers:

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[FR Doc. 2015-15295 Filed: 6/19/2015 08:45 am; Publication Date: 6/22/2015]