BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Tomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of a Petition by MTA for Modification of Lifeline Verification Survey Procedures

ISSUE DATE: August 11, 2006

DOCKET NO. P-999/IC-06-517

ORDER ESTABLISHING VERIFICATION PROCEDURES

PROCEDURAL HISTORY

The federal Lifeline program subsidizes local telecommunication services provided to low-income consumers by designated local service providers, called "eligible telecommunications carriers" (ETCs).[1]

On April 29, 2004, the Federal Communications Commission (FCC) directed the ETCs to implement procedures for verifying whether customers receiving Lifeline benefits continue to qualify for those benefits.[2]

On June 10, 2005, the Commission issued an Order finding that the Commission has the authority to establish the verification procedures for ETCs to use in Minnesota, and directing ETCs to use the procedures proposed by the FCC.[3]

On April 4, 2006, the Minnesota Telecom Alliance (MTA), on behalf of 98 local service providers in Minnesota, recommended new verification procedures to replace the procedures adopted by the Commission.

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[1] 47 C.F.R. § 54.409.

[2] *Federal-State Joint Board on Universal Service Lifeline and Link-Up*, WC Docket No. 03- 109, Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 8302 (2004) (Lifeline Order).

[3] *In the Matter of Annual Consideration of Possible Changes in the Telephone Assistance Plan Surcharge and the Telephone Assistance Plan State Credit for FY 2005*, Docket No. P-999/CI-05-334, ORDER ESTABLISHING VERIFICATION PROCEDURES, ACCEPTING TAP REPORTS AND MAINTAINING CURRENT SURCHARGE AND CREDIT LEVELS.

On May 2, 2006, the Minnesota Department of Commerce (the Department) filed comments proposing different changes to the verification procedures.

On June 7, 2006, the Department and MTA filed a joint recommendation for changes to the verification procedures, replacing the parties' prior recommendations. The Commission invited comment on this joint recommendation; no party has objected.

On July 3, 2006, the FCC established a deadline of August 31, 2006, for ETCs to certify to the Universal Service Administrative Company (USAC) that they had complied with applicable Lifeline verification procedures.[4]

The matter came before the Commission on July 27, 2006.

FINDINGS AND CONCLUSIONS

I. Problems with the FCC's Verification Process

The FCC's verification procedures direct each ETC to ask some of its Lifeline participants to demonstrate their eligibility to receive the subsidies. The procedures specify the number of customers the ETC must ask, and prohibit the ETC from continuing to provide Lifeline credits to any participant who fails to demonstrate eligibility after having been asked to do so. The Department and MTA variously identify problems with this process.

First, they argue that the FCC's process imposes a disproportionate burden on small ETCs. In the interest of obtaining a statistically valid sample, the FCC specifies that the fewer Lifeline customers an ETC has, the larger the percentage of these customers the ETC must survey. The smallest ETCs must seek verification from all of their Lifeline participants.

Second, the parties question whether the burden of the process is worth the benefit. According to the MTA, the sampling process has revealed few Lifeline participants who did not qualify for the program. The Department notes that the FCC's process may require participants to demonstrate eligibility even if the participant had recently provided such documentation in order to qualify for Lifeline.

Third, MTA suspects that the sampling process is having the effect of excluding people who actually qualify for Lifeline but who are unable or reluctant to provide documentation of eligibility. MTA found many instances when sampled customers simply failed to respond to an ETC's repeated requests to complete the eligibility survey. When the ETCs would stop providing credits to these customers, as federal law requires, some customers subsequently provided the needed documentation. MTA suspects that other qualified customers are being removed from the Lifeline program.

Fourth, the above-mentioned problems compound in future years. The number of Lifeline participants an ETC must ask to demonstrate eligibility depends on the number of Lifeline

[4] FCC Public Notice DA-06-1391.

participants the ETC has and the *estimated* number of these participants who do not qualify for Lifeline. Initially the FCC directs ETCs to estimate that 1% of all participants do not qualify. But as an ETC removes more participants from the Lifeline program – whether because the ETC determined that the customer no longer qualified to receive Lifeline support or because the customer never responded to the survey – the ETC must increase its future estimate of the number of unqualified Lifeline participants. The larger this estimate, the more participants the ETC must survey the next year. The more participants surveyed, the more likely it is that participants will fail to qualify or fail to respond, and the more participants the ETC must remove from its Lifeline program.

II. The Proposed Verification Process

While the FCC provides a statistically valid means of sampling Lifeline participants, the Department and MTA argue that it does not provide the only statistically valid means of doing so. They ask the Commission to adopt a procedure, set forth in their June 7 filing as Attachment 1, that remains statistically valid but ameliorates the burdens of the FCC's verification process.

First, the parties propose dividing the ETCs into three groups: ETCs with fewer than 100 Lifeline customers, ETCs with between 100 and 999 Lifeline customers, and ETCs with more than 999 Lifeline customers. Affiliated ETCs could be treated as a single entity for purposes of complying with this verification process. The parties then propose creating a sampling strategy that would produce statistically valid results for each group rather than for each ETC. This process would partially alleviate the disproportionate burden borne by small ETCs.

Second, the parties recommend providing ETCs with the option of using a sampling method that would not penalize the ETC when participants fail to respond to the survey. The parties propose permitting an ETC to calculate the number of customers than must be surveyed based on the number of *actual* unqualified participants discovered the previous year. The parties argue that this process can maintain statistical validity provided the ETC is willing to increase the number of customers it surveys.

Third, the parties recommend that no participant be required to demonstrate eligibility for Lifeline if the participant had demonstrated eligibility recently. The parties recommend exempting a participant from having to provide documentation for up to three years after demonstrating eligibility.

Fourth, the parties recommend that an ETC continue providing Lifeline support to a participant, even when the participant had failed to respond to a survey, provided the ETC has information from another source demonstrating the participant's eligibility. For example, a customer can qualify for Lifeline support if the customer receives public housing assistance; if an ETC knows from a participant's address that the participant receives public housing assistance, the parties recommend that the ETC be allowed to continue providing Lifeline support.

The parties also make a number of logistical recommendations as set forth in their attachment, specifying how the ETC would communicate with a customer designated to receive a survey, ETC reporting requirements, and limits on a customer's ability to re-enroll in Lifeline. Finally, the parties recommend steps for transitioning to the new verification process. Given the FCC's impending deadline for demonstrating compliance with an applicable Lifeline verification process, MTA says that its members will generally be preparing to comply with the existing FCC process. Nevertheless, the parties agreed that ETCs should have the option of implementing this new verification process in lieu of the FCC's process.

III. Commission Action

Having determined that the Commission has authority to establish Minnesota-specific verification procedures, the Commission is now persuaded that the procedures set forth by the parties are better tailored to the needs of Minnesota than are the procedures set forth by the FCC.

The goal of the Lifeline verification process is to ensure that Lifeline's benefits are targeted to those who qualify for them. The parties' proposal balances the importance of this goal with the burdens of implementing the verification procedure. The parties achieve this balance by modifying some of the more onerous aspects of the FCC's procedures. In particular, the new procedures will alleviate the disproportionate burden borne by small ETCs and their customers. It avoids low-benefit procedures such as seeking documentation from participants who have provided it recently. And by analyzing ETCs in groups rather than as individual firms, the parties' proposal takes advantage of the economies of scale that statistical sampling theory affords.

Moreover, the Commission finds merit in the parties' administrative proposals. These include the processes for interacting with Lifeline participants; compliance filings; procedures for designating each ETC as Small, Medium or Large, and for revising those designations; and provisions for ETCs to transition from the current verification procedure to the new one. In the interest of ensuring efficient administration of the Lifeline program, however, the Commission will decline to adopt the recommendation relieving ETCs of the requirement to file reports with USAC.[5]

Of course, the procedures adopted today may not be the final revision to Minnesota's Lifeline verification procedures. The FCC first required procedures for verifying Lifeline eligibility in 2004, and parties are still learning about the challenges of implementing the process. The Commission may adopt further refinements as all parties gain greater experience, or as necessary to reflect changes in the Lifeline program itself.

For the foregoing reasons, the Commission will adopt the new procedures recommended by the parties except as noted above. A copy of Attachment 1 from the parties' June 7 filing is attached, with the rejected recommendation stricken. Finally, the Commission will direct each ETC, upon complying with the verification procedures and no later than August 31, 2006, to certify to USAC that the ETC has complied with the state verification procedures.

[5] See the Lifeline Order, 18 FCC Rcd at 8324, ¶ 34; FCC Public Notice DA-06-1391 (2006).

ORDER

1. Each ETC in Minnesota shall follow the modified Lifeline verification procedures set forth in Attachment 1 in lieu of the verification procedures set forth by the FCC, with the exception that the Commission does not relieve any ETC of any requirement to make reports to USAC. An ETC shall report on the results of implementing these verification procedures beginning with the ETC's verification filing in 2006 or 2007, at the ETC's discretion.

2. Consistent with the FCC's direction, each ETC in Minnesota shall certify to the USAC that the ETC has complied with applicable state procedures for verifying that Lifeline participants are eligible to receive Lifeline benefits.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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