



# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU PROVIDES GUIDANCE ON ROLLING RECERTIFICATION PURSUANT TO THE LIFELINE MODERNIZATION ORDER

WC Docket Nos. 11-42, 10-90, 09-197

In this Public Notice, the Wireline Competition Bureau (Bureau) provides guidance regarding the implementation of the rolling recertification process, as established by the *2016 Lifeline Modernization Order (Order)*.<sup>1</sup> The Commission adopted rules to change the subscriber eligibility recertification process from once each calendar-year to a rolling process based on each subscriber's service initiation date.<sup>2</sup> Currently, Lifeline subscribers must recertify their eligibility once every calendar year.<sup>3</sup> The *Order* adopted a rolling recertification process that requires subscriber eligibility to be recertified every 12 months following the subscriber's service initiation date.<sup>4</sup> The Commission established this rolling recertification requirement to improve administrative efficiency and reduce burdens on carriers, USAC and, in the future, the National Verifier.<sup>5</sup>

The subscriber's service initiation date is the first day the carrier provides the Lifeline-supported service to the subscriber. To establish the new rolling recertification requirement, the Commission amended section 54.410(f) in the Commission's rules to read, in relevant part:<sup>6</sup>

“All eligible telecommunications carriers must re-certify all subscribers 12 months after the subscriber's service initiation date and every 12 months thereafter, except for subscribers in states where the National Verifier, state Lifeline administrator, or other state agency is responsible for the annual re-certification of subscribers' Lifeline eligibility.”<sup>7</sup>

<sup>1</sup> *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4115-17, 4120, paras. 416-21, 433 (2016) (*2016 Lifeline Modernization Order* or *Order*).

<sup>2</sup> *Id.*

<sup>3</sup> See 47 CFR § 54.410(f).

<sup>4</sup> *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4115-17, paras. 416-21.

<sup>5</sup> *Id.* at 4115, para. 417. The Bureau expects that the National Verifier will benefit from a rolling recertification process by presenting more manageable deadlines and a process that better reflects the amount of time the subscriber has actually been enrolled in the program. *Id.*

<sup>6</sup> *Id.* at 4116, para. 417.

<sup>7</sup> 47 CFR § 54.410(f)(1). The rules establishing rolling recertification will be effective for all enrollments made beginning January 1, 2017. Subscribers enrolled on or after the effective date will be subject to recertification 12 months after their service initiation date. For existing subscribers subject to a recertification requirement in 2016, those subscribers will be recertified in accordance with current Lifeline rules and must be recertified by December 31, 2016. Additionally, for subscribers enrolled prior to January 1, 2017, rolling recertification will begin July 1, 2017. Beginning July 1, 2017, all subscribers enrolled prior to January 1, 2017 must be recertified on a rolling basis

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The Bureau has received various requests for clarification regarding the rolling recertification process in the wake of the *Order*, including a petition from a group of mobile providers.<sup>8</sup> In response to this petition and other informal requests, the Bureau issues the following guidance on the rolling recertification requirement.<sup>9</sup>

*Rolling recertification timeline.* First, the Bureau clarifies that the rolling recertification process for each subscriber must be *completed*, not merely begun, by 12 months following the subscriber's service initiation date, and every 12 months thereafter.<sup>10</sup> Consistent with the Commission's rules and policies governing recertification, the process is considered complete when a carrier has de-enrolled all relevant subscribers.<sup>11</sup> A carrier should accordingly begin its rolling recertification process for each subscriber with enough time to complete the de-enrollment process pursuant to section 54.405(e)(4) of the Commission's rules, if necessary, by the date 12 months after the subscriber's service initiation date, and every 12 months thereafter.<sup>12</sup>

The Bureau also clarifies the time period in which carriers generally should attempt rolling recertification efforts. Consistent with the USAC administrative process, we strongly encourage carriers

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by 12 months after the subscriber's service initiation date. *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4116, para. 418.

<sup>8</sup> See Petition of Joint Petitioners (American Broadband & Telecommunications Company, Blue Jay Wireless LLC, i-wireless LLC, Telrite Corporation, Assist Wireless LLC, Easy Telephone Services Company d/b/a Easy Wireless, Prepaid Wireless Group LLC, and Telscape Communications Inc./Sage Telecom Communications LLC d/b/a TruConnect) for Reconsideration and Clarification, WC Docket No. 11-42 et al., at 19 (filed June 23, 2016), <https://www.fcc.gov/ecfs/filing/10623236406838/document/106232364068388af0> (*Joint Petitioners*).

<sup>9</sup> Except to the extent that we expressly provide clarification regarding certain issues here, we do not address any of the petitions discussed in the Public Notice, and they remain pending.

<sup>10</sup> The *2016 Lifeline Modernization Order*, in pertinent part, modified a prior rule that imposed a deadline for completing recertification. Interpreting the revised rule to replace a deadline for completing recertification with a rule only imposing a deadline for initiating the recertification process—but no deadline for completing it—would undermine the rule's ability to help prevent the disbursement of Lifeline support for serving ineligible customers. By contrast, our reading better advances the purposes underlying the rule, while remaining consistent with the Commission's stated intent in modifying the recertification process. See *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4115, para. 417 (modifying the deadline for completing recertification to “make the recertification process more manageable and result in a recertification process that reflects the amount of time the subscriber has actually been enrolled in the Lifeline program”).

<sup>11</sup> See 47 CFR §§ 54.405(e)(4), 54.410(f); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4115, para. 416; *Wireline Competition Bureau Reminds Carriers That They Must Re-certify Eligibility of All Lifeline Subscribers by December 31, 2012*, Public Notice, 27 FCC Rcd 12327-28 (WCB 2012) (“ETCs and state agencies must recertify their base of subscribers as of June 1, 2012 and must complete the recertification process by December 31, 2012,” and noting that “[t]he re-certification process is not considered ‘complete’ until the ETC has de-enrolled all subscribers that failed to respond to a re-certification request or are no longer eligible . . .”); *Wireline Competition Bureau Provides Guidance Regarding the 2013 Lifeline Recertification Process*, Public Notice, 28 FCC Rcd 7503, 7504, para. 4 (WCB 2013); *Wireline Competition Bureau Provides Guidance to Eligible Telecommunications Carriers on the Process to Elect USAC to Perform Lifeline Recertification*, Public Notice, 29 FCC Rcd 2155, para. 9 (WCB 2014); *Wireline Competition Bureau Provides Guidance to Eligible Telecommunications Carriers on the Process to Elect USAC to Perform Lifeline Recertification*, Public Notice, 30 FCC Rcd 2797, para. 9 (WCB 2015); *Wireline Competition Bureau Provides Guidance to Eligible Telecommunications Carriers on the Process to Elect USAC to Perform Lifeline Recertification*, Public Notice, 31 FCC Rcd 2310, 2312-13, para. 9 (WCB 2016) (*Recertification Public Notice*).

<sup>12</sup> See 47 CFR § 54.405(e)(4).

to begin recertification within 150 days prior to the subscriber's anniversary date.<sup>13</sup> We believe that, all other things being equal, the 150-day timeline best ensures that ETCs' recertification efforts are reasonably related to the 12-month timeline required by section 54.410(f)(1) of the Commission's rules.<sup>14</sup> The timeline also prevents ETCs from conducting a premature recertification process that might undermine the 12-month period between recertifications established in the *Order* and accompanying rules.<sup>15</sup>

The 150-day period is meant to serve as a guideline for carriers conducting their own rolling recertification efforts. Carriers may conduct rolling recertification efforts in accordance with the Lifeline rules outside of this 150 days, to the extent that the carrier has reasonable justification for why conducting the recertification before this date is appropriate. For instance, General Communication, Inc. ("GCI") explains that it recertifies the substantial majority of its Lifeline customers through a "customer-initiated" approach, taking the opportunity to recertify the customer whenever during the 12-month period the customer makes contact with GCI for other purposes.<sup>16</sup> To the extent that the customer makes that inbound contact prior to the start of the 150-day period, we appreciate the potential for efficiencies in conducting the recertification at that time. On the other hand, where an ETC is attempting to recertify customers on an outbound basis, we would expect the ETC to conduct the recertification within the 150-day period described above.

*Rolling recertification date after Lifeline benefit transfers.* Next, the Bureau clarifies that the service initiation date is the date on which the subscriber began to receive Lifeline-supported service from the current ETC. Several ETCs have jointly requested reconsideration of the Commission's rolling recertification rule under the apparent misunderstanding that a subscriber's service initiation date is the date she was first enrolled in the Lifeline program, even if she has subsequently transferred her Lifeline-supported service to another ETC.<sup>17</sup> If a subscriber transfers her Lifeline benefit to a different ETC (ETC B), ETC B must conduct an initial eligibility determination and then conduct subsequent recertifications for that subscriber every 12 months, as measured by the subscriber's service initiation date with ETC B.<sup>18</sup> We therefore clarify that, in states where the National Verifier is not yet implemented, a subscriber's

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<sup>13</sup> The "anniversary date" refers to the date 12 months after the subscriber's service initiation date and every 12 months thereafter. For example, a subscriber with a service initiation date of September 1, 2016 would have anniversary dates of September 1, 2017, September 1, 2018, September 1, 2019, etc. This is the date by which rolling recertification for that year must be completed and the date from which the 150 days will be measured. Regardless of when recertification begins, the recertification must be complete, including de-enrollment, by the subscriber's anniversary date.

<sup>14</sup> This 150-day period should encompass all recertification efforts conducted by the ETC, including initial subscriber outreach, queries of relevant eligibility or income databases, completion of subscriber certifications, and subscriber de-enrollment when appropriate.

<sup>15</sup> See *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4115, para. 417 ("This will make the recertification process more manageable and result in a recertification process that reflects the amount of time the subscriber has actually been enrolled in the Lifeline program."). In addition to preventing ETCs from recertifying subscribers after substantially fewer than 12 months have elapsed, the 150-day time period prevents ETCs from subsequently recertifying subscribers after substantially more than 12 months have elapsed since the subscriber's previous recertification.

<sup>16</sup> See Letter of Julie A. Veach, Counsel to General Communication, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1-2 (filed October 21, 2016).

<sup>17</sup> See *Joint Petitioners* at 19-22.

<sup>18</sup> See *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4115-16, para. 418. This process does not apply when a Lifeline subscriber transfers to ETC B because of an exception to the Commission's port freeze rules. *Id.* at 4108, para. 394.

service initiation date is determined by the first day the subscriber received service from her current carrier.<sup>19</sup>

*Recertifications conducted by USAC.* Pursuant to the Commission's direction, ETCs will be able to have USAC administer the recertification process on their behalf after the rolling recertification rule is effective.<sup>20</sup> As in past years, the Bureau provides guidance regarding the process for ETCs to elect USAC to perform Lifeline recertification for their subscribers in 2017.<sup>21</sup> This guidance, including the deadlines described below, will remain in place for subsequent calendar years unless affirmatively by Bureau or Commission action. The Bureau also reminds carriers of their responsibility to update the National Lifeline Accountability Database (NLAD) within ten business days of receiving any change to an existing subscriber's information contained in the NLAD.<sup>22</sup> The accuracy of information within the NLAD is essential to the efficient administration of the program and USAC's ability to efficiently manage recertification efforts.

For rolling recertification beginning July 2017, ETCs must provide notice to USAC by December 15, 2016 if they intend to have USAC perform the recertification process on their behalf. USAC will recertify all Study Area Codes (SACs) of the electing ETC unless the ETC affirmatively indicates to USAC which SACs USAC should not recertify. ETCs that do not elect to use USAC will be responsible for conducting recertification of their subscribers.

ETCs should perform their election or revocation by sending an email to USAC at [LIVerifications@usac.org](mailto:LIVerifications@usac.org).<sup>23</sup> USAC will provide guidance to ETCs regarding the format of the information in the email.

Consistent with the Commission's rules, USAC will recertify subscribers by mailing each subscriber a letter that provides the subscriber the notice required by section 54.405(e)(4) of the Commission's rules,<sup>24</sup> informing the subscriber that the subscriber has 60 days to recertify the subscriber's continued eligibility to receive Lifeline service or the subscriber will be de-enrolled from the Lifeline program. The letter will also explain the recertification process and how the subscriber may confirm his or her eligibility.<sup>25</sup> Subscribers also will receive a call or text message during the 60-day period to prompt a response.<sup>26</sup> Any subscriber response submitted after the 60-day deadline will not be processed, and the subscriber will be considered ineligible for the program and will be de-enrolled.<sup>27</sup>

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<sup>19</sup> *Id.* For example, a subscriber who enrolled with ETC A on September 1, 2016 and transfers her benefit after the expiration of her port freeze to ETC B on August 1, 2018 would have a new service initiation date of August 1, 2018, and ETC B would be required to recertify her eligibility by August 1, 2019.

<sup>20</sup> *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4115-16, para. 416-21; *See Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6716, para. 133 (2012) (providing carriers the ability to elect USAC to perform recertification on the carrier's behalf).

<sup>21</sup> *See, e.g., Recertification Public Notice*, 31 FCC Rcd 2310.

<sup>22</sup> 47 CFR § 54.404(b)(8). In the case of de-enrollment, the date of service de-enrollment must be transmitted within one business day. 47 CFR § 54.404(b)(10).

<sup>23</sup> USAC will not be providing live agent support or training materials to ETCs that have elected to use USAC.

<sup>24</sup> 47 CFR § 54.405(e)(4). The recertification form to be used by USAC as well as the recertification letter to subscribers will be made available to ETCs on the USAC website prior to Dec. 15, 2016.

<sup>25</sup> Pursuant to section 54.405(e)(4), subscribers must respond within 60 days of receiving notice that they must recertify or they will be de-enrolled within five business days after expiration of the 60-day response deadline.

<sup>26</sup> ETCs electing to have USAC conduct the recertification process on their behalf may not assess fees for text messages or minutes used by subscribers to complete the recertification process. USAC shall provide the ETCs with sufficient information to identify text messages made and airtime minutes utilized in calls to such subscribers in the process of recertification. In addition, we clarify that any inbound calls to subscribers from USAC, its third-party

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USAC will provide subscribers with three methods to respond to the letter and recertify their eligibility. First, USAC will accept consumer calls made to a toll-free number, during which consumers will be able to recertify eligibility through an Inter-Active Voice Response (IVR). Second, USAC will allow consumers to verify their identity, read the certification language, and submit a response indicating they are recertifying their eligibility through a website maintained by USAC. Third, subscribers may also recertify by signing a recertification form provided by USAC and mailing the signed form to a receiving address designated by USAC.

USAC will utilize NLAD to determine subscriber anniversaries and retrieve the necessary subscriber information to facilitate the recertification process. In the event an ETC operates in an opt-out state or USAC has difficulty in determining subscriber mailing addresses from NLAD, USAC will provide the ETC with a template, instructions and timeline to submit the appropriate data to USAC. Consistent with the Commission's rules, carriers should ensure their subscriber lists in NLAD are updated within ten business days of receiving any change to an existing subscriber's information contained in the NLAD.<sup>28</sup> USAC will conduct rolling recertification in batches throughout the year. Recertification schedule for each batch will vary. USAC will begin recertification no earlier than 150 days before the first subscriber's anniversary date in the batch. Recertification schedule for each batch will be communicated on the USAC website and each ETC will be provided with at least 45-days' notice before the start of each recertification batch. Each ETC that elects USAC to perform the recertification process will provide a toll-free number that USAC can provide to the ETC's consumers who have questions about their service.

USAC will compile the responses and provide each ETC with a record of the subscriber recertification. USAC will provide each ETC with a list of subscribers that did not recertify, and therefore must be de-enrolled,<sup>29</sup> and provide ETCs with sufficient information to compile their FCC Form 555 at least 30 days before the annual January 31 due date. ETCs must de-enroll subscribers within five days of receiving notice from USAC that the subscriber has failed to recertify.<sup>30</sup> Within the same five day period, USAC will provide notice to those consumers, via automated text or call, informing them that their ETC is in the process of de-enrolling them from their Lifeline benefit due to a failure to recertify their eligibility and steps that the consumer can take to re-enroll if they remain eligible.<sup>31</sup> Please note that **all** ETCs, whether using USAC to recertify their consumers or recertifying consumers on their own, must "complete" recertification by the subscriber's anniversary date. Complete means that **all** ETCs must de-

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vendor or the ETC will not constitute "usage" for the purpose of the non-usage rule. *See* 47 CFR § 54.405(e)(3) (if a subscriber fails to use his or her pre-paid Lifeline service for 30 consecutive days, an ETC must provide the subscriber 15 days' notice that he or she must use the Lifeline service within the 15-day notice period, or the Lifeline service will be terminated).

<sup>27</sup> *See* 47 CFR § 54.405(e)(4).

<sup>28</sup> 47 CFR § 54.404(b)(8). In the case of de-enrollment, the date of service de-enrollment must be transmitted within one business day. 47 CFR § 54.404(b)(10). *Cf.* 2013 *Recert Public Notice*, 28 FCC Rcd at 7507, para. 12 (format for 2013 subscriber list). For SACs not contained in the NLAD, USAC will provide ETCs with guidance regarding the necessary format to submit subscriber lists.

<sup>29</sup> 47 CFR § 54.405(e)(4).

<sup>30</sup> *Id.*

<sup>31</sup> We direct USAC to post additional details regarding the timing and content of the automated texts and calls at least 30 days prior to transmission of the first de-enrollment messages to consumers.

enroll all subscribers who do not recertify their eligibility by the subscriber's anniversary date and make any necessary updates to the NLAD within one business day thereafter.<sup>32</sup>

We conclude that good cause exists to make the procedures established in this Public Notice effective immediately upon publication in the Federal Register, pursuant to section 553(d)(3) of the Administrative Procedure Act.<sup>33</sup> We find good cause based on the need for the procedures to be in place and available to ETCs in time for ETCs to be able to submit their elections to USAC, and provide USAC with a subscriber list in time to comply with the procedures we adopt here.

For further information, please contact Christian Hoefly, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-3607, [christian.hoefly@fcc.gov](mailto:christian.hoefly@fcc.gov).

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<sup>32</sup> See 47 CFR § 54.404(b)(10) (one business day to update NLAD after de-enrolling a subscriber). See also *Wireline Competition Bureau Reminds Carriers That They Must Re-certify Eligibility of All Lifeline Subscribers by December 31, 2012*, WC Docket No. 11-42, Public Notice, 27 FCC Rcd 12327 (WCB 2012) (“ETCs and state agencies must recertify their base of subscribers as of June 1, 2012 and must complete the recertification process by December 31, 2012.”); *id.* at 12328 (recertification is “not complete” until the ETC has de-enrolled the non-responding or ineligible subscriber).

<sup>33</sup> 5 U.S.C. § 553(d)(3).