



PUBLIC NOTICE

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DA 24-489

Released: May 23, 2024

WIRELINER COMPETITION BUREAU REMINDS ELIGIBLE TELECOMMUNICATIONS CARRIERS OF LIFELINE REQUIREMENTS

WC Docket Nos. 09-197, 11-42

The Wireline Competition Bureau (Bureau) issues this Public Notice to remind Eligible Telecommunications Carriers (ETCs)¹ of certain requirements under the Communications Act of 1934, as amended (the Act), and the Federal Communications Commission's (Commission) Lifeline rules. Due to a lack of additional funding from Congress, the Affordable Connectivity Program (ACP) will not provide benefits after May 2024, and the program will end this month. During this transition period, we anticipate that some ACP households may seek to participate in the Commission's longstanding Lifeline program, which provides low-income households discounted broadband service.² Accordingly, the Bureau issues the following reminders to ETCs of their responsibilities in the Lifeline program.³

Under section 254(e) of the Act, only carriers designated as ETCs may receive reimbursement for providing Lifeline service.⁴ ETCs must comply with all Lifeline requirements in the Act and Commission rules. The Bureau highlights several of these requirements focused on raising awareness of the Lifeline program, properly informing Lifeline consumers, and protecting the integrity of the Lifeline program. Specifically, this Public Notice reminds ETCs of their advertising obligations,⁵ Lifeline consent requirements and certifications,⁶ benefit pass-through requirements,⁷ Lifeline usage requirements for free-to-the-end-user service,⁸ and the Lifeline compliance plan requirement for non-facilities based providers.⁹

¹ 47 U.S.C. §§ 214(e), 254(e); 47 CFR §§ 54.201, 54.202. Carriers may be designated as an ETC for the limited purpose of participating in the federal Lifeline program.

² *Wireline Competition Bureau Announces the Final Month of the Affordable Connectivity Program*, WC Docket No. 21-450, Public Notice, DA 24-195, 1-2 (WCB 2024) (*ACP Funding Public Notice*). The Lifeline program reimburses providers up to \$9.25 per month for qualifying broadband service or \$5.25 for qualifying voice telephony service, or \$34.25 for service provided to eligible subscribers residing on Tribal lands. 47 CFR §54.403(a)(1), (3); *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Order, DA 23-589, 1, para. 1 (WCB 2023).

³ This Public Notice is not an exhaustive list of Lifeline provider obligations, and ETCs are responsible for ensuring they remain in compliance with Commission rules.

⁴ 47 U.S.C. § 254(e).

⁵ See 47 CFR §§ 54.405(e)(3), 54.407(c). Subscribers subject to the usage requirement that have not used their service at least once every 30 days have 15 days to cure their non-usage.

⁶ 47 CFR § 54.404(b)(9), 54.410(d).

⁷ 47 U.S.C. § 254(e), 47 CFR §54.403(a)(1).

⁸ 47 CFR § 54.405(e)(3).

Lifeline Advertising, Certification, and Consent Requirements. ETCs offering Lifeline must comply with requirements to raise awareness of the program and obtain the necessary consumer consents.¹⁰ One such obligation requires ETCs to “[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.”¹¹ All materials describing a Lifeline service must clarify that it is a Lifeline service, Lifeline is a government assistance program, benefits are non-transferable, only eligible consumers may enroll, and no household may receive more than one monthly benefit.¹² Based on our experience with the ACP, trusted community messengers play an important role in outreach to eligible households. We, therefore, encourage ETCs to partner with trusted community messengers in their efforts to publicize the Lifeline program.

ETCs also must receive and retain certain Lifeline certifications.¹³ Additionally, ETCs must obtain from each subscriber consent to transfer their demographic information to the National Lifeline Accountability Database.¹⁴ The consent request must clarify the specific types of information that will be transmitted, that it will be used to administer the program, and that failure to provide consent will result in denial of Lifeline service.¹⁵ These certifications and consents are different than those required in the ACP, and Lifeline providers must ensure that they are making the appropriate disclosures and collecting the appropriate consumer consent for the subscriber’s respective benefit.¹⁶

Requirement to “Pass Through” the Lifeline Benefit. ETCs are required to “pass through the full amount of support” that they receive in exchange for providing Lifeline-discounted service.¹⁷ Therefore, ETCs may not claim the full reimbursement amount for any plan that costs less than the maximum reimbursement amount the ETCs are eligible to receive in exchange for providing service to a particular customer. Reimbursement amounts not properly passed through to the Lifeline subscriber are subject to recoupment.

Lifeline Usage Requirement. Under the Commission’s rules, if an ETC does not assess and collect a monthly fee from a Lifeline subscriber, the subscriber must use the service at least once every thirty days to continue receiving Lifeline support. If a Lifeline subscriber receives a service that is priced equal to or less than the Lifeline support amount, that subscriber does not pay for service directly and the ETC providing the service does not “assess and collect a monthly fee” from the end-user.¹⁸ ETCs must track the usage of those subscribers for which the ETC does not “assess and collect a monthly fee.”¹⁹ If an ETC assesses and collects an end-user fee but does not do so on a monthly basis, the usage requirement applies to that subscriber. A one-time fee or a fee collected from the subscriber annually and

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⁹ *Lifeline Reform Order*, 27 FCC Rcd at 6813, 6815-6817, paras. 368, 379-381, n.1000 (forbearing from the Lifeline facilities requirement in 47 U.S.C. § 214(e)(1)(A) to allow ETCs that have had compliance plans approved by the Bureau to provide Lifeline service without using their own facilities).

¹⁰ *See, e.g.*, 47 CFR §§ 54.400-24.

¹¹ 47 CFR § 54.405(b); *see* 47 U.S.C. § 214(e)(1)(B).

¹² 47 CFR § 54.405(c).

¹³ 47 CFR §§ 54.410(b)(2), (c)(2).

¹⁴ 47 CFR § 54.404(b)(9).

¹⁵ *Id.*

¹⁶ 47 CFR § 54.1810.

¹⁷ *See* 47 U.S.C. § 254(e); 47 CFR § 54.403(a)(1).

¹⁸ *See* 47 CFR §§ 54.405(e)(3), 54.407(c).

¹⁹ *See id.*

decremented on a monthly basis does not satisfy the rule's requirement to "assess and collect a monthly fee."²⁰

Under the Commission's rules, a subscriber's usage includes completing an outbound call or data usage, buying minutes or data to add to their plan, answering an incoming call from a party other than their provider or a representative of their provider, responding to direct contact from the provider to confirm that the subscriber wishes to continue receiving Lifeline service, or sending an outbound text message.²¹ If a Lifeline subscriber does not use their Lifeline service for 30 consecutive days, an ETC must send communication providing the subscriber with "15 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 15-day notice period will result in service termination."²² ETCs are required to then de-enroll subscribers that do not use their service during this cure period.²³ ETCs cannot receive reimbursement for subscribers that failed to use their service at least once every thirty days and failed to cure their non-usage.²⁴

Lifeline Compliance Plan Requirement. By statute, ETCs are required to provide supported service using, in whole or in part, their own facilities.²⁵ Through forbearance in the *Lifeline Reform Order*, the Commission allows an ETC to offer Lifeline service not using its own facilities only if it submits and receives Bureau approval of a compliance plan discussing, in part, how it will comply with all Lifeline service provision and program integrity obligations, how and where it will provide service, Lifeline service plan offering details, subscriber enrollment and reimbursement processes, and sample marketing materials.²⁶ Lifeline compliance plans must list additional important information including how the company complies with public safety requirements, the company's non-usage policy (if applicable), and the names and identifiers used by the carrier, its holding company, operating company and all affiliates.²⁷ All ETCs operating pursuant to a Lifeline compliance plan must not operate contrary to any material terms of their approved Lifeline compliance plans without receiving prior Bureau approval and may not cease providing service without satisfying any applicable discontinuance or relinquishment requirements. Critically, the Bureau considers a Lifeline provider's corporate ownership and control foundational to its Lifeline compliance plan.²⁸ The approval of a Lifeline compliance plan is limited to the entity, and its ownership, as they are described in the Lifeline compliance plan approved by the Bureau, and any material changes in ownership or control require modification of the Lifeline compliance plan that must be approved by the Bureau in advance of the changes.²⁹ If an ETC is found to have transferred control to a new corporate entity without receiving the necessary approval of an updated

²⁰ *Id.*

²¹ See 47 CFR § 54.407(c)(2).

²² 47 CFR § 54.405(e)(3).

²³ See 47 CFR § 54.405(e)(3).

²⁴ See 47 CFR § 54.407(c); see also *Bridging the Digital Divide for Low-Income Consumers et al.*, WC Docket No. 17-287, Report and Order, 34 FCC Rcd 10886, 10937-10938, para. 120 (2019); *Nat'l Lifeline Ass'n v. FCC*, 983 F.3d 498, 510-511 (D.C. Cir. 2020).

²⁵ 47 U.S.C. § 214(e)(1)(A).

²⁶ *Lifeline Reform Order*, 27 FCC Rcd at 6815, para. 379.

²⁷ See *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to The Lifeline Reform Order*, WC Docket Nos. 09-197, 11-42, Public Notice, 27 FCC Rcd 2186, 2189 (WCB 2012).

²⁸ *Wireline Competition Bureau Reminds Carriers of Eligible Telecommunications Carrier Designation and Compliance Plan Approval Requirements for Receipt of Federal Lifeline Universal Service Support*, WC Docket Nos. 09-197, 11-42, Public Notice, 29 FCC Rcd 9144, 9145 (WCB 2014).

²⁹ *Id.*

Lifeline compliance plan, then the ETC may be liable for recovery, forfeiture, and other enforcement actions.

For additional information, please contact Sam Lewis, Attorney Advisor in the Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418-2659 or samuel.lewis@fcc.gov.

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