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MAY 5, 2016

SPECIAL BULLETIN

FCC Lifeline Reform Order

Executive Summary

The FCC released the Lifeline Reform order it adopted at the March 31, 2016 open meeting on April 27. While there are no big surprises in the text of the order, as always the details present a rather complicated and in some places significant departure for the federal Lifeline program.

For the first time, the Lifeline program will operate under a budget—\$2.25 billion that will be indexed to inflation. The amount of this budget over recent annual disbursements (around \$1.6 billion) is in large part due to the expansion of the program to cover stand-alone broadband services. Along with the expansion in the broadband arena, the federal Lifeline program will phase-out support of voice only services over a five and a half year period.

A new class of eligible telecommunications carrier (ETC) is established—Lifeline Broadband Provider (LBP), the designation of which will rest solely in the hands of the FCC. LBPs will be subject to a streamlined designation process that takes no more than 60 days. States will not have the authority to designate LBP ETCs, but will continue their involvement in other types of ETC designations.

Finally, the Commission adopted a National Lifeline Eligibility Verifier system that will take over many of the eligibility certification and recertification responsibilities currently handled by Lifeline providers. This process is expected to be operational in all fifty states by December 31, 2019.

Broadband Support/Phase-Out of Voice Support

The FCC decided to add fixed and mobile stand-alone broadband Internet access service (BIAS) to Lifeline-supported services (broadband included in a bundle was previously made eligible for Lifeline credits), and in order to focus the Lifeline program on the affordability of BIAS, will phase-out credits that can be applied to voice-only service.

In order to be eligible for reimbursement for providing Lifeline service in the future, ETCs will have to include BIAS, except where the ETC is the only Lifeline provider in a given census block. The non-Tribal level of support, \$9.25, will begin phasing down on 12/1/2019 for voice only Lifeline service, and will reach \$5.25 by November 30, 2021. On December 1, 2021, there will be, in general, no Lifeline support provided for voice-only service. As mentioned above, the \$5.25 Lifeline credit will continue to be made available to eligible subscribers in census blocks with only one ETC.

The FCC declined, at this time, to increase the Lifeline credits (non-Tribal is currently \$9.25 and the enhanced Tribal credit is as much as \$34.95) in recognition of the higher rates charged for BIAS as compared to voice service.



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Questions? Comments?

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Minimum Service Standards

Minimum service standards were adopted for fixed and mobile BIAS, as well as a phased-in schedule for mobile voice services.

Fixed Broadband—must include speeds of at least 10/1 mbps and a monthly data usage allowance of 150 gb. These obligations will be updated in the future based on data obtained from FCC Form 477.

Mobile Broadband—must be provided at 3G speeds or better, with a phase-in schedule for monthly data usage allowance starting at 500 mb/month on 12/1/2016 and ending at 2 gb/month on 12/1/2018. From December 1, 2019 forward the data allowance will be determined pursuant to the FCC’s adopted procedures.

Fixed Voice—no minimum standards were adopted.

Mobile Voice—At 12/1/2016 (assuming PRA approval), mobile Lifeline providers will be required to provide 500 minutes per month. This ramps up until it hits 1,000 minutes on 12/1/2018 (until voice is no longer a supported service).

Bundled Offerings—In order to receive the full Lifeline credit reimbursement, bundled service offerings must meet the applicable minimum standards.

Exceptions for Fixed Broadband—A fixed BIAS provider will still qualify for full (\$9.25 non-Tribal, up to \$34.25 Tribal) even if it does not provide service meeting the minimum service standards. The exemption only applies where the provider does not offer *any* generally available residential fixed broadband packages meeting the standards (10/1 speed, etc), but does offer services of at least 4/1 speeds.

Lifeline Broadband Providers

The FCC adopted a new type of Lifeline provider—Lifeline Broadband Provider (LBP) - in recognition of the changes to the Lifeline program to better focus on BIAS. LBPs are still subject to ETC rules, but will enjoy a streamlined designation process (to generally take 60 days) that will be administered solely by the FCC (states are preempted from designating LBP ETCs).

In order to qualify as a LBP, a provider must have provided service for at least two years prior to its designation filing, must serve at least 1,000 customers, must prove financial stability and be experienced at providing BIAS.

State authority over the designation of Lifeline only voice ETCs and ETCs receiving a combination of high cost and Lifeline support remains unchanged.

Current Lifeline-only ETCs do not have to receive LBP designation from the FCC in order to receive Lifeline support for providing qualifying BIAS. However, such ETCs may, upon notice to the FCC, elect not to provide BIAS and thus remain voice-only Lifeline providers (subject to the revised credit reimbursement phase down plan discussed above).

Non Lifeline-only ETCs (e.g., those that also receive federal high cost support) are not obligated to provide BIAS in areas where they do not receive high cost support. Such carriers must also notify the FCC of the intent to not to provide BIAS.

Finally, in areas where an ETC receives high-cost support but has not yet deployed a network consistent with the provider’s high cost service obligations, the requirement to provide BIAS begins only when the provider has deployed such a network and makes BIAS



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As for the designation of LBP ETCs on Tribal lands, the FCC states the streamlined procedures will also apply to Tribally-owned and controlled facilities-based providers that serve Tribal lands, regardless of whether they meet the period of service or existing customer criteria.

National Eligibility Verifier

The Commission adopted for the first time a “National Eligibility Verifier”, a system that will be tasked with the initial determination of subscriber eligibility, population of the Lifeline Eligibility Database (LED), determination of support payments, and providing access to a wide array of users (providers, subscribers, government agencies, etc). USAC is to procure, under the direction of the FCC’s Wireline Competition Bureau (WCB) and Office of Managing Director (OMD), the necessary parts of the National Verifier. Thus, the main effect of the National Verifier will be to remove eligibility determination (and annual certification) responsibilities from Lifeline providers.

The LED will form the basis of support payments paid to Lifeline providers, which, when operational, will eliminate the need to file monthly Form 497s.

Timeline—USAC is to, by 12/1/2016, submit a “Draft National Verifier Plan” to the WCB and OMD, after which USAC is to provide biannual status reports. The FCC expects USAC will deploy the National Verifier in five states by 12/31/2017, with all states being operational by 12/31/2019.

Streamlined Eligibility Criteria

Several fairly major changes were made to the Lifeline program eligibility criteria. First, the Commission removed Low-Income Home Energy Assistance Program (LIHEAP), National School Lunch Program’s free lunch program, and Temporary Assistance for Needy Families (TANF) from the list of eligible programs. This means *beginning on the later of December 1, 2016 or 60 days following PRA approval*, consumers will be able to participate in the federal Lifeline program if they receive benefits from low-income households who qualify for and receive SNAP, Medicaid, Supplemental Security Income (SSI), Federal Public Housing Assistance (FPHA), or the Veterans Pension benefits (including Survivor’s Benefits).

Income-based and Tribal-specific criteria were maintained, but any state-specific criteria applied to the federal program are eliminated.

Finally, the FCC amended its rules to define income consistently with the IRS’ definition of gross income.

Other Items

⇒ **Budget.** For the first time, the federal Lifeline program will be subject to an overall budget, beginning January 1, 2017. The amount, initially \$2.25 billion, is designed to cover the expected increase in demand resulting from the adopted reforms and will be tied to inflation (CPI). In addition, if and when actual program disbursements reach 90% of the budget, the WCB is to issue a report to the FCC to assist in the decision of whether or not to change the budget, enact further reforms, etc.



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- ⇒ **Rolling Recertification.** Providers (and eventually the National Verifier) will now be able to annually recertify Lifeline customers on a rolling basis, meaning all customers must be recertified every 12 months, as measured from the subscriber's service initiation date (as opposed to all customers being recertified by 12/31 of each year). Prior to the implementation date of the National Verifier, providers will be required to conduct an initial eligibility determination for every enrolling customer, regardless of whether that customer had previously received Lifeline-discounted service from another provider.
- ⇒ **Lifeline Service Innovation.** Lifeline providers who make devices available with or without charge for use with a Lifeline-supported fixed or mobile broadband service must ensure that all such devices are WiFi enabled. In addition, mobile broadband providers must ensure that such devices are capable of being used as a WiFi hotspot.
- ⇒ **Universal Forms.** The WCB will generate universal forms for certification, recertification, and household determination in the near future for all providers to use.

Conclusion

The FCC's latest effort at Lifeline reform should not affect most RLECs that already provide broadband services at the minimum service levels (10/1 mbps, etc). With the effective date of this Order, and more likely on 12/1/2016 or perhaps even later, Lifeline customers will be able to apply credits to stand alone broadband service, as well as bundled packages as they do today. The biggest change, the adoption of a National Eligibility Verifier, will eventually take the eligibility responsibilities away from providers, which should result in less compliance time and lower regulatory costs.

All Lifeline providers should prepare for the most immediate changes—the elimination of certain programs for Lifeline eligibility, for which tariff changes may be necessary, and the revision of the definition of income that was made consistent with the IRS definition of gross income. In addition, providers will now be able to recertify Lifeline customers on a rolling basis, thereby alleviating the common problem of de-enrolling large groups of customers at the end of each year (the requirement remains that all Lifeline customers must be recertified annually).

Please contact us if you have any questions.