

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1645
of the Nebraska Public Service)
Commission, on its own Motion,) Lifeline and Link-Up
seeking to establish a Lifeline) Assistance Plan Approved
and Link-Up Plan for the State of)
Nebraska.) Entered: December 2, 1997

BY THE COMMISSION:

On May 8, 1997, the Federal Communications Commission (FCC) released its Report and Order on Universal Service, CC Docket No. 96-45, FCC Order No. 97-157 (Order) restructuring both the Link-Up and Lifeline programs. On October 15, 1997, we opened this docket to establish and revise the Lifeline and Link-Up programs in Nebraska in accordance with the FCC's Order. Notice of this docket was published in the Daily Record, Omaha, Nebraska, on October 6, 1997. We set forth a proposed plan and invited public comment. Initial comments were due November 7, 1997. The Nebraska Telephone Association (NTA), US West Communications (US West), and AT&T of the Midwest each filed comments in the matter. The Commission did not receive reply comments.

O P I N I O N A N D F I N D I N G S

In its Order, the FCC instituted several changes to the existing Lifeline program. The FCC made many of these changes to increase consistency between the program and the Act. This is particularly the case with the provisions regarding competitive neutrality. The FCC also initiated changes intended to increase subscribership levels among low-income consumers. The current program, while not operative in Nebraska, only applies to incumbent LECs. Thus, this program is not currently competitively neutral, as required by the Act.

Congress provided that beginning January 1, 1998, each state is eligible to receive federal baseline support in the amount of \$3.50 per subscriber. This support will be available regardless of whether intrastate support is provided. If a state provides additional support through intrastate rates, the amount of federal baseline support will increase from the \$3.50 waiver of the Subscriber Line Charge (SLC) to \$5.25 per subscriber. The federal jurisdiction will also provide additional support in the amount of one-half of any intrastate support, up to \$1.75. All together, each Lifeline subscriber can receive a total of \$7.00 per month in federal universal support.

We find it necessary to clarify our proposed plan so that all consumers and Eligible Telecommunications Carriers (ETCs) fully understand Nebraska's Lifeline and Link-Up programs.

ETCs PETITION FOR WAIVER

Only ETCs are eligible to receive high cost and low income

support. In Docket C-1604, we designated all Nebraska ILECs as Eligible Telecommunications Carriers. The ILECs indicated they were able to provide all the supported services described in the FCC Order, with the exception of toll limitation services, and specifically, toll control. Accordingly, the NTA, on behalf of the ILECs, requested that a two-year waiver be issued as allowed under the terms of 47 C.F.R. 54.101.

States may grant waivers to carriers that are technically incapable of providing toll limitation services. In its order, the FCC clearly expressed that such waivers should be granted infrequently. However, we find exceptional circumstances exist in Nebraska. Currently, toll control is not technically available within the state. Therefore, this Commission will grant the petitions waiving the toll control requirement for a two-year period. In 1999, we will review the technical availability of toll control and re-evaluate the necessity of continued waivers. While the waiver filed by the NTA is granted, we expect the respective ILECs to provide a plan and time line for the provision of toll control on or before March 1, 1999.

A waiver was also filed by United Telephone Company of the West, d/b/a Sprint (Sprint) for the requirement to provide single-party service. In December, 1995, Sprint had approximately 156 multi-party customers in Nebraska. Today, that number has been reduced to approximately 50 customers. Obviously, Sprint has made efforts to upgrade its network in Nebraska. However, we believe that immediately completing the network upgrade may be cost prohibitive for the company. Therefore, we find that Sprint's petition for waiver should be granted for a two-year period. We urge Sprint to complete its network upgrade to provide single-party service throughout Nebraska as soon as possible.

ETC ADVERTISEMENT OF SERVICES

One of the requirements for receipt of federal universal service funding is that the supported services be advertised in a media of general distribution. The NTA suggests that the most efficient way to disseminate this information to eligible persons is through Nebraska's Department of Health and Human Services (HHS). Despite the perceived efficiencies, we have no authority to impose duties upon the state's welfare agency. However, we can require ETCs to work with HHS to ascertain as much information as possible regarding eligibility. So as not to overwhelm HHS, we encourage the ILECs to work with the agency through their state association, the NTA. As the NTA writes, meetings between HHS, the Commission, and the NTA will be crucial to the success of this program. We believe such meetings should commence immediately.

While Nebraska's subscriber penetration rate exceeds the national average, low-income customers would clearly benefit from the availability of Lifeline and Link-Up. The advertising requirement imposed upon ETCs by the Act is not limited to Lifeline. It extends to all supported services. However, we believe that it would be pointless to require ILECs to advertise services other than Lifeline and Link-Up until there is meaningful competition. The high number of subscribers in Nebraska demonstrates that

customers already know that they can obtain service from the "phone company". However, they do not know what other companies may be available to provide a comparable service. Accordingly, we believe that both ILECs and non-ILECs should be required to advertise all supported services, once non-ILEC companies apply to become ETCs. Telephone directories and other direct marketing strategies may be utilized.

We find, on an interim basis, that ETCs should provide Lifeline and Link-Up information in their telephone directories. This information should include material on voluntary toll limitation services and the availability of reduced deposits. If the directory contains an index, Lifeline and Link-Up shall be listed in the index. We recognize that directories have staggered closing dates and publication dates. Therefore, ETCs shall advertise this information in the next possible publication of their directories following the issuance of this order.

ETCs shall also provide a bill insert or a prominent bill message that advertises the availability of services on an annual basis. While bill inserts are not tailored solely to low-income subscribers, they do provide an effective means of notification.

ETC DISCONNECTION OF LIFELINE CUSTOMERS' SERVICE FOR NON-PAYMENT OF TOLL CHARGES

Under the FCC Order, an ETC may not disconnect a Lifeline customer's local telephone service for failure to pay toll charges. However, an ETC may disconnect long distance (toll) service for failure to pay toll charges. One requirement new to the Lifeline program is that ETCs must provide Lifeline customers with toll limitation services at no charge. The presumption behind this requirement is that a prime reason subscribers lose telecommunications services is disconnection for failure to pay toll bills.

A consumer does not need to accept toll-limitation services to receive the benefit of the prohibition against disconnection. Rather, if a consumer chooses to participate in toll blocking, an ETC can waive the customer's deposit. If a customer elects toll control, the ETC may accept a reduced service deposit. ETCs may not collect service deposits from customers who select toll blocking. The NTA raises concerns about customers who may intentionally circumvent toll blocking. While we recognize this is a potential problem, we are bound by the FCC's Order. However, we will re-examine this matter, as suggested by US West, if the FCC alters these rules in a Reconsideration Order.

The disconnection prohibition is limited to Lifeline subscribers because the FCC believes that only low-income consumers experience dramatically lower subscribership levels due to toll charges. The FCC also stated that it will consider whether this rule should apply to all customers if it determines that subscribership levels among non-Lifeline subscribers begins to decrease. ETCs may apply for a waiver of the "no-disconnect" requirement. Our proposed policy provides that to be eligible to receive a waiver, the ETC must demonstrate that: 1) the ETC would

incur substantial costs in complying with such a requirement; 2) the ETC offers toll-limitation services to its Lifeline subscribers; and 3) telephone subscribership among low-income consumers in its service area in the state is at least as high as the national subscribership level for low-income consumers.

We find that an ETC should not disconnect a Lifeline customer's local service for non-payment of toll charges. However, an ETC may disconnect a customer's toll service for non-payment of that service. Where available, ETCs should offer customers toll blocking and toll control, at no charge, and on a voluntary basis, in exchange for zero or reduced deposits.

INCREASED FEDERAL SUPPORT FOR LIFELINE ASSISTANCE PLAN

The FCC's plan provides for federal baseline support of up to \$5.25 in all states, with no matching support required. The Nebraska Legislature has expressed its intent that Nebraska participate in the federal Lifeline Assistance Plan as evidenced by the passage of LB 686 (Session Laws 1997). Accordingly, we believe it is in the best interest of Nebraska's subscribers to obtain this benefit. We therefore approve a reduction of \$1.75 in the amount paid by consumers participating in Lifeline.

As proposed in our October 15, 1997, Lifeline plan, we determine that no matching state support should be given at this time to support Lifeline. Nebraska has not offered its consumers Lifeline assistance in the past. Therefore, we are not convinced that additional state funds to provide support beyond the \$5.25 is necessary. Accordingly, at this time, we find that Nebraska should not pursue the additional \$1.75 in federal support by providing additional matching state funds.

NOTIFICATION TO THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

The plans contained herein should be implemented by all ETCs. To ensure that all carriers are aware of the plans and requirements, every ETC should submit an affidavit stating that it will comply with the terms contained in this order. Upon receipt of the affidavit, and the filing of the appropriate tariff provisions, we will file consolidated information with the Universal Service Administrative Company (USAC) on behalf of all Nebraska ETCs. So that the USAC is timely notified, all ETC affidavits and tariff revisions must be filed on or before December 20, 1997. Note, this is a change from the Commission's proposed plan under General Terms and Conditions, Item A.2. Rather than having each ETC write the USAC individually, we find that it is more efficient for the Commission to assume the initial notification responsibility.

CONSUMER ELIGIBILITY

To achieve compliance with the FCC Order, we must make changes to the eligibility criteria set forth in our proposed plan. Specifically, for a consumer to qualify for support, he or she must participate in one of the following programs: Medicaid; food

stamps; Social Security Income (SSI); federal public housing assistance; or Low-Income Home Energy Assistance Program (LIHEAP). The named subscriber to the local telecommunications service (not any member of a household) must participate in one of these assistance programs in order for that household to receive support. This is a change to the proposed plan under General Terms and Conditions, Item A.3.

FCC RECONSIDERATION

Several issues that we have addressed herein are presently being reconsidered by the FCC. We will re-examine the Lifeline and Link-Up plans if the FCC takes any action that alters the positions taken herein.

The following plan should be implemented by all ETCs in Nebraska effective January 1, 1998:

NEBRASKA LIFELINE AND LINK-UP PLAN

A. General Terms and Conditions

1. All ETCs shall make available Lifeline and Link-Up service to qualifying low-income consumers according to the Nebraska Lifeline and Link-Up Plan. ETCs shall be designated by the Commission.
2. The Nebraska Public Service Commission will file with the Universal Service Administrative Company (USAC) information stating:
 - a) That all ETCs in Nebraska meet the criteria established by the Nebraska Public Service Commission;
 - b) The number, or approximate number, of qualified low-income consumers; and
 - c) That no state matching funds will be provided to receive additional federal support.
3. To qualify for Lifeline or Link-Up, consumers must be eligible to receive:
 - a) Medicaid;
 - b) Food Stamps;
 - c) Social Security Income (SSI);
 - d) Federal Public Housing Assistance; or
 - e) Low Income Home Energy Assistance Program (LIHEAP)

B. Link-Up

1. Link-Up means a reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence.
2. The Link-Up reduction shall be half of the customary connection charges or \$30, whichever is less. ETCs must offer a deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges

not assessed shall be for connection only. Charges of up to \$200 may be deferred for a period not to exceed one year.

3. Charges assessed for commencing service includes any charges that the carrier automatically assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements.
4. The ETC Link-Up program shall allow a consumer to receive the benefit of the Link-Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link-Up assistance was provided previously.

C. Lifeline

1. Lifeline means a retail local service offering for which qualifying low-income consumers pay reduced charges.
2. Lifeline service includes voice-grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance and toll limitation services.
3. ETCs shall adjust the monthly end user bill to qualifying low-income customers by waiving the \$3.50 federal subscriber line charge and by reducing the intrastate portion of the bill for monthly universal service by an additional \$1.75.
4. ETCs shall offer toll limitation services to all qualifying low-income consumers at the time such subscribe to Lifeline service. Toll limitation is defined as toll-blocking and toll control. ETCs must petition for a waiver of this requirement if toll limitation services are not technically available consistent with 47 C.F.R. 54.101. Waivers may be effective for no more than two years, but may be renewed.
5. ETCs shall not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.
6. ETCs shall not disconnect local service for non-payment of toll charges unless a waiver of this requirement is granted by the Public Service Commission for a specific customer. In granting a waiver, the

Public Service Commission will consider the provisions of 47 C.F.R. 54.401(1).

7. ETCs shall advertise the availability of Lifeline and Link-Up services and the charges therefore, using media of general distribution.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Link-Up and Lifeline programs contained herein be adopted.

IT IS FURTHER ORDERED that ETCs notify the Commission via an affidavit of their participation in the Plan herein on or before December 20, 1997.

IT IS FURTHER ORDERED that ETCs file changes in their respective tariffs adopting the plans herein on or before December 20, 1997.

IT IS FURTHER ORDERED that the request for waiver, filed by the Nebraska Telephone Association, of the toll control requirement is granted for a two-year period.

IT IS FURTHER ORDERED that the request for waiver, filed by United Telephone Company of the West, d/b/a Sprint, of the single-party service requirement is granted for a two-year period.

IT IS FINALLY ORDERED that ETCs file plans regarding the implementation of toll-limitation services, and specifically, toll control, on or before March 1, 1999.

MADE AND ENTERED at Lincoln, Nebraska, this 2nd day of December.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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