

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-2
Public Service Commission, on its)	Progression Order No. 11
own Motion, seeking to establish)	
guidelines for the administration)	ORDER
of the Nebraska Telephone)	
Assistance Program.)	Entered: October 12, 2016

BY THE COMMISSION:

On April 27, 2016 the Federal Communications Commission (FCC) released its Third Report and Order, Further Report and Order, and Order on Reconsideration ("Third Report and Order") relative to Lifeline and Link Up reform and modernization.¹ In the Third Report and Order, the FCC adopted a number of significant changes affecting eligibility of and verification of Lifeline recipients. The Commission issues this Progression Order to adopt the necessary changes to its Nebraska Telephone Assistance Program (NTAP) eligibility requirements and to seek comments from interested parties on discretionary changes to the NTAP.

Eligibility Criteria

In its Third Report and Order the FCC again revises the eligibility criteria states are required to use when determining eligibility for Lifeline support. In its Third Report and Order, the FCC modified 47 C.F.R. § 54.409, with such rule to be effective December 1, 2016, and provides

The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit. A consumer can also qualify based on income. The consumer's household income as defined in § 54.400(f) must be at or below 135 percent of the Federal Poverty Guidelines for a household of that size.

States are now required to use the federal criteria for Lifeline eligibility. While the FCC had traditionally allowed

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking (rel. April 27, 2016) (Report and Order).

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states to establish eligibility for the federal program, the FCC amended its rules to remove state-specified eligibility criteria for Lifeline support. Consequently, the Commission believes that its eligibility criteria must be modified so that the criteria is consistent with Rule 47 C.F.R. § 54.409. The Commission hereby incorporates the new requirements of § 54.409 into this Order.

In addition, we clarify, we will continue to support eligible Lifeline subscribers through the Commission's NTAP support mechanism. Near term, the Commission proposes to continue to supplement the Lifeline program where a standalone voice service is offered or where a voice service is offered in combination with a broadband internet access service (BIAS). However, as described further below, we seek comment on the provision of supplemental support on standalone BIAS Lifeline service going forward.

Request for Comments

The Commission seeks comments on supplemental support for standalone BIAS offered by ETCs designated by the Commission and those designated by the FCC. The Third Report and Order transitions Lifeline support to BIAS and phases out the support of voice service. The Commission seeks comment on whether to apply the additional state support of \$3.50 per eligible subscriber to standalone BIAS. Should the Commission distinguish between ETCs designated by the Commission versus ETCs designated by the FCC? How would any distinction impact consumers? How will the Commission determine whether voice or broadband services are provided to the subscriber? Given the decision in the Third Report and Order to preempt states from designating ETCs seeking Lifeline support for broadband service, should the Commission continue to determine eligibility of the Lifeline subscribers in the same manner? Should the Commission continue to oversee the recertification process for ETCs designated by the FCC? Does the Commission need to change the manner in which subscribers are de-enrolled from the program? If so, how?

The FCC adopted several other changes which will require changes to our administrative processes and more importantly will require consumer education. For example, the National School Lunch Program (NSLP) which was adopted as criteria for eligibility will no longer be used. In addition, Temporary Assistance for Needy Families (TANF) and Low-Income Energy

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Assistance Program (LIHEAP) were removed as eligibility criteria. The Veterans and Survivors Pension Benefit programs were added. Also, we anticipate the FCC's new 60-day discount transfer freeze will significantly impact consumers' choice in providers.² First, there are a number of exceptions to this rule such as 1) change in subscriber address; 2) the provider ceases operation or otherwise fails to provide service; 3) the provider has imposed late fees for non-payment greater than or equal to the monthly end-user charge for the supported service; and 4) the subscriber's provider is found to be in violation of the FCC's rules and the subscriber is impacted by the violation. The Commission will need to rely on the provider and on the NLAD database to determine whether a subscriber can make a change and still receive the Lifeline discount.

The Commission plans to make adjustments internally to process applications and to account for these new rules, however consumers must be educated about the eligibility criteria and the limitations on changing service providers. The Commission is concerned that it and the carriers will bear the responsibility to educate consumers about these rules which will negatively impact their choice or eligibility. Who should be responsible for educating consumers? Does the Commission need to take on this responsibility? If so, how should this education be conducted?

The Commission requests that interested parties provide comments responsive to the issues raised herein and any other issues needing clarification on or before **November 8, 2016**. Reply comments may be filed on or before **November 22, 2016**. Commenters should file one (1) paper copy and one (1) electronic copy of their Comments with the Commission. Electronic copies should be sent to Sue.Vanicek@nebraska.gov and Brandy.Zierott@nebraska.gov.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the eligibility requirements be modified consistent with 47 C.F.R. § 54.409.

² The FCC adopted a 12-month freeze for broadband internet access service as well. Consumers will need to be educated that they are at risk of losing their discount if they change broadband providers within this 12-month timeframe.

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IT IS FURTHER ORDERED that interested parties are invited to comment on the issues raised herein on or before **November 8, 2016** in the manner prescribed herein. Reply comments may be filed on or before **November 22, 2016**.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 12th day of October, 2016.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s//Rod Johnson
//s//Crystal Rhoades
//s//Tim Schram
//s//Gerald L. Vap


Chairman

ATTEST:


Executive Director