

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska	)	Application No. NUSF-2
Public Service Commission, on its	)	Progression Order No. 7
own Motion, seeking to establish	)	
guidelines for the administration	)	ORDER SEEKING COMMENTS
of the Nebraska Telephone	)	
Assistance Program.	)	Entered: July 7, 2004

BY THE COMMISSION:

On May 8, 1997, the Federal Communications Commission (FCC) released its Report and Order on Universal Service, FCC Order 97-157, CC Docket No. 96-45<sup>1</sup> restructuring both the Lifeline and Link-Up programs. On October 15, 1997, the Nebraska Public Service Commission (Commission) opened Docket No. C-1645 to establish and revise the Lifeline and Link-Up programs in Nebraska in accordance with the FCC's Order.

On December 2, 1997, in Docket No. C-1645, the Commission entered an order approving the creation of the Nebraska Telephone Assistance Program (NTAP).<sup>2</sup> Subsequently, the Nebraska Legislature authorized the creation of the Nebraska Universal Service Fund (NUSF) and charged the Commission with maximizing the federal lifeline support for qualified Nebraska telephone subscribers. On March 16, 1999, the Commission opened Docket No. NUSF-2, for the purpose of administering the NTAP.

On April 29, 2004, the FCC released its Report and Order on Lifeline and Link-Up, FCC Order 04-87, WC Docket No. 03-109 (Order),<sup>3</sup> modifying its rules to increase the effectiveness of the low-income support mechanism to make telephone service available to more low-income households.

The Commission opens this docket to determine if modifications of its rules for the administration of NTAP are necessary. Proceedings in this docket will be conducted in a legislative format.

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<sup>1</sup> In the Matter of Federal-State Joint Board on Universal Service, 12 F.C.C.R. 8776 (May 8, 1997), Universal Service, 62 Fed. Reg. 32,862 (June 17, 1997) (codified in 47 C.F.R. pts. 36, 54, and 69).

<sup>2</sup> Pursuant to NUSF-2, Progression Order No. 6 (March 4, 2003), the name Nebraska Lifeline and Link-Up was formally changed to Nebraska Telephone Assistance Program.

<sup>3</sup> See Lifeline and Link-Up, 69 Fed. Reg. 34,590 (June 22, 2004) (to be codified in 47 C.F.R. pts. 36 and 54).

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

The Order sets forth the FCC dividing States into two separate categories: "federal default states" and "non-federal default states." "Federal default state" status is given to those states that have elected to use the federal default standard as their own, or states that do not have their own Lifeline/Link-Up program. In Appendix "G" of the Order the FCC categorizes Nebraska as a "federal default state." The Commission finds that it was never its intention to be categorized as such based solely on the eligibility criteria currently in place for NTAP. Accordingly, a letter will be sent to the FCC informing that the state of Nebraska should not be considered a "federal default state."

In this Progression Order the Commission addresses specific issues outlined in the FCC Order. Commenters are free to comment, not only to the specifics outlined below, but also generally on the NTAP and/or other issues addressed in the FCC Order.

The Order adopts mandatory rules for non-default states to implement by June 22, 2005. The mandatory rules require every state to implement procedures to ensure minimization of potential abuse of the program. The Commission retains the flexibility for design and implementation of the mandatory rules and the additional recommendations set forth in the Order. The Commission specifically seeks comments on the following:

1. Currently, the Commission's application for NTAP requires that all enrollees certify his/her eligibility by providing either a copy of a document proving eligibility or the signature of a caseworker. Should the Commission require further certification and verification procedures to prove eligibility for NTAP benefits, and if so, what and how?
2. The Order mandates that all states implement procedures to verify continued eligibility to participate in the program. Currently, the Commission does not have any procedures in place to fulfill this mandate. Possible verification procedures include:
  - a. Implementing random beneficiary audits where the Commission would send a letter to a beneficiary asking that he/she send current verification that he/she is still eligible to participate in the program. The

Commission suggests that this audit letter be very similar to the initial application process where the beneficiary would either provide documentation or signature of a caseworker as verification.

- b. Annual self-certification letters where the Commission would send a letter to each applicant, requiring that the enrollee self-certify that he/she is still eligible for the program, under penalty of perjury.
- c. The Order also recommends that the Commission electronically interface with those state agencies that run the low-income programs that encompass the eligibility criteria. The Commission does not believe that this is a viable option at this time as not all programs listed as criteria have the ability to be electronically interfaced. The Commission will continue to work with the other agencies and will reconsider this option at a future date.

The Commission notes that, as of June 2004, there were approximately 20,000 enrollees in the NTAP program. The Commission requests that commenters bear this in mind when filing comments.

- 3. The Order requires that ETC's that have a reasonable basis to believe a consumer is no longer eligible to receive benefits notify the consumer of impending termination of benefits and implement a 60-day period to demonstrate continued eligibility. The FCC Order outlines a suggested procedure. The Commission seeks comments on implementation and possible alternatives to ensure due process for enrollees.
- 4. The Order requires federal default states to incorporate an income-based criterion for eligibility. As Nebraska is not a federal-default state, the Commission is not required to implement income as a criterion. The Commission seeks comments from interested parties as to whether the goals of NTAP would be better achieved if the Commission adopts an income-based criterion as outlined by the Order.

The Commission takes note that if it includes an income-based eligibility criterion, the Order mandates certification and verification procedures above and beyond what has already been described.

5. The Order requires federal default states include Temporary Aid for Needy Families (TANF) and the National School Lunch Program (NSL) as additional program-based eligibility criteria. The Commission seeks comment as to whether the goals of NTAP could be better achieved if the Commission adopts TANF and NSL as a part of its eligibility criteria. Current Commission rules require that the telephone bill be in the name of an adult whom is currently enrolled in one of the programs encompassing the eligibility criteria. The Commission seeks comment on how to change its current rules to allow a child in the household to receive benefit and what verification procedures the Commission should implement to ensure minimal abuse of the program.
6. The Order sets forth several recommendations for states to consider when implementing outreach programs to increase participation in the program. The Commission's current outreach programs include:
  - a. Interfacing with Health and Human Services (HHS). Every month HHS sends pre-approved letter applications to participants newly enrolled in its Medicaid and Food Stamps programs.
  - b. HHS includes an application for NTAP in the package of paperwork that all applicants complete when applying for public assistance.
  - c. The Commission currently sends both an English and Spanish version of the application to every potential participant.
  - d. The Commission requires all NETC's to publish information detailing the program in their telephone directories.

These outreach activities encompass the recommendations that the FCC describes in its Order. The Commission seeks comment on whether these outreach activities are sufficient to reach the low-income population of Nebraska, and if not, describe any additional outreach efforts the Commission should employ.

Additionally, separate from the FCC Order, the Commission seeks comment on the following issues:

1. The Commission seeks comment on the current administration of the program and whether ETC's would be better positioned

to administer some aspects of the program more directly. The Commission notes that the Order outlines several required actions, which ETC's responsible for certifying eligibility, must implement beyond what has been described herein.

2. The Commission seeks comment on requiring ETC's to notify the Commission within thirty (30) days of an NTAP enrollee removing service for any reason.
3. The Commission seeks comment on requiring a limit, either by percentage or dollar amount, by which ETC's can collect unpaid balances in an effort to allow for continuing service and repayment over time.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that interested parties may file comments on the issued outline above on or before **September 7, 2004**. Parties should file one original and five paper copies along with one electronic copy in Word or WordPerfect format.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of July, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director