

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
to conform Lifeline/Link-up programs to)
new federal requirements adopted in) Case No. U-14535
47 CFR 54.410 and 54.417)
_____)

At the June 7, 2005 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER

On April 29, 2004, the Federal Communications Commission (FCC) released a Report and Order in WC Docket No. 03-109 (FCC Order), amending the requirements for certification and verification of consumer qualification, and certain recordkeeping requirements, for Lifeline/Link-Up programs. Lifeline/Link-up programs are intended to ensure that quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates. *See*, 47 CFR 54.405(a)(4), 54.411(a)(3); and MCL 484.2316. Michigan has adopted a state-mandated program. *See*, MCL 484.2316; June 14, 1990 order in Case No. U-9368; and November 10, 1988 order in Case No. U-8816. The amendments to 47 CFR 54.410 and

54.417 contained in the FCC Order affect state mandated programs.¹ The FCC Order took effect on June 22, 2004, and state mandated programs must conform to the new requirements no later than June 22, 2005.

Michigan's Lifeline/Link-up program has historically mirrored the federal requirements in most respects. However, the FCC guidelines allow states with existing programs to exercise much freedom in tailoring program parameters to meet the needs of individual state constituencies. The FCC Order, while instituting requirements as to certification and verification of consumer eligibility for the Lifeline/Link-up program based on income, continues to allow program states flexibility in adopting procedures for how participant income may be determined.

Section 316 of the Michigan Telecommunications Act, MCL 484.2101 *et seq.*, provides that each carrier of residential basic local exchange service must offer certain low income customers the availability of basic local exchange service and access service at reduced rates. Section 316 further provides that, to qualify for the reduced rate, the applicant's annual income shall not exceed 150% of the federal poverty income standard. Section 316 does not contain a certification or ongoing verification requirement with respect to an applicant's representations regarding income, nor does it contain a recordkeeping requirement. These requirements are addressed in the FCC Order.

The Commission's June 14, 1990 order in Case No. U-9368, p. 17, required the Michigan Exchange Carriers Association, Inc. to be directly responsible for verifying the eligibility of Lifeline program applicants. The Commission placed the same requirement on Michigan Bell

¹Other requirements contained in the FCC Order affect only those states which default to using the federal program in lieu of a state mandated program, and, therefore, do not affect Michigan. For example, the FCC Order mandates that persons eligible for the Lifeline program must be at or below 135% of the federal poverty level, whereas Michigan sets eligibility at 150% of the federal poverty level in order to allow for greater participation. The FCC Order provides that state mandated programs may retain this alternative criterion. FCC Order, p. 8, note 32.

Telephone Company (now known as SBC Michigan) when its Lifeline program was approved. November 10, 1988 order in Case No. U-8816, pp. 27-28. Hence, the state mandated program currently requires the carrier to be responsible for verifying the income-based eligibility of Lifeline applicants. The FCC Order does not change this requirement; it simply requires the carrier to conform to federal or state procedures for (1) certifying income-based eligibility for the program upon application, (2) verifying continued income-based eligibility, and (3) maintaining the records necessary to support the certification and verification process.

The FCC Order amends the federal regulations applicable to state mandated programs as follows. 47 CFR 54.410(a)(1) provides that “By one year from the effective date of these rules, eligible telecommunications carriers in states that mandate state Lifeline support must comply with state certification procedures to document consumer income-based eligibility for Lifeline prior to that consumer’s enrollment if the consumer is qualifying under an income-based criterion.” Additionally, consumers qualifying under income-based criterion must certify, under penalty of perjury, the number of individuals in their households. 47 CFR 54.410(b)(3). 47 CFR 54.410(b)(1) further provides that, under penalty of perjury, “An officer of the eligible telecommunications carrier in a state that mandates state Lifeline support must certify that the eligible telecommunications carrier is in compliance with state Lifeline income certification procedures and that, to the best of his/her knowledge, documentation of income was presented.” 47 CFR 54.410(c)(1) provides that “By one year from the effective date of these rules, eligible telecommunications carriers in states that mandate state Lifeline support must comply with state verification procedures to validate consumers’ continued eligibility for Lifeline.” Finally, 47 CFR 54.417 provides that: “Eligible telecommunications carriers must maintain records to document compliance with all [FCC] and state requirements governing the Lifeline/Link Up

programs for the three full preceding calendar years and provide that documentation to the [FCC] or [state] upon request.”

The Commission hereby adopts these procedures. In order to continue to encourage participation in the Lifeline/Link-up program, and to enhance program flexibility, the Commission declines to adopt specific requirements as to the documentation necessary to show income-based eligibility. However, the Commission recommends that eligible telecommunications carriers (ETC) require the same type of documentation required in states that have adopted the federal default program, including: the prior year’s state, federal, or tribal tax return, a current income statement from an employer or three consecutive months of paycheck stubs, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Worker’s Compensation statement of benefits, a federal or tribal notice letter of participation in General Assistance, or other official document. *See*, 47 CFR 54.410(a)(2). Certification shall be submitted to the Commission by an officer of each ETC implementing a Lifeline/Link-up program in Michigan, attesting that the ETC is in compliance with these certification, verification, and recordkeeping procedures, on or before April 1 of each year. It is the responsibility of all ETCs receiving Lifeline/Link-up funds to keep the necessary records showing that the ETC is in compliance with all federal and state regulations set forth for this program. The Commission Staff will be auditing the ETCs to ensure that funds are used for the intended purposes. The Commission notes that, as before, members of tribal communities may continue to apply for Lifeline/Link-up benefits under either the state or federal guidelines.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 *et seq.*; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151

et seq.; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*

b. The state mandated Lifeline/Link-up program is amended to conform to federal requirements regarding certification and verification of applicants' income-based eligibility, and certification and recordkeeping requirements for eligible telecommunications carriers.

c. Certification shall be submitted to the Commission by an officer of each eligible telecommunications carrier implementing a Lifeline/Link-up program in Michigan, attesting that the carrier is in compliance with these certification, verification, and recordkeeping procedures, on or before April 1 of each year.

THEREFORE, IT IS ORDERED that:

A. The state mandated Lifeline/Link-up program is amended to conform to federal requirements regarding certification and verification of applicants' income-based eligibility, and certification and recordkeeping requirements for eligible telecommunications carriers.

B. Certification shall be submitted to the Commission by an officer of each eligible telecommunications carrier implementing a Lifeline/Link-up program in Michigan, attesting that the carrier is in compliance with these certification, verification, and recordkeeping procedures, on or before April 1 of each year.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chairman

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of June 7, 2005.

/s/ Mary Jo Kunkle
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of June 7, 2005.

Its Executive Secretary