

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of
changes in the Federal Lifeline
Assistance Plan currently
provided by telecommunications
carriers of last resort.

DOCKET NO. 970744-TP
ORDER NO. PSC-98-0328-FOF-TP
ISSUED: February 24, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING CHANGES TO LIFELINE PROGRAM
AND ORDER DISMISSING PROTEST

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

The Federal Communications Commission (FCC) instituted several
changes to the Lifeline Assistance Plan (Lifeline) in its Report
and Order on Universal Service, CC Docket No. 96-45, FCC Order 97-
157, released May 8, 1997 (Order). The FCC adopted some of the
changes to make the program consistent with the Telecommunications
Act of 1996 (the Act), particularly with regard to the principle of
competitive neutrality in the implementation of Universal Service
programs. The previous Lifeline program was a function of
jurisdictional separations and applied only to incumbent local
exchange companies (LECs); thus, it was not competitively neutral.
The FCC also instituted other changes in an attempt to increase
subscriberhip levels among low-income consumers.

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FPSC-RECORDS/REPORTING

Beginning January 1, 1998, baseline federal Lifeline support equal to the \$3.50 Subscriber Line charge (SLC) is available in all states, the District of Columbia, and all territories and possessions, regardless of whether any intrastate support is provided. An additional \$1.75 is available in states that approve it, with no state matching required. The federal jurisdiction also provides additional Lifeline support equal to one-half of any intrastate support, up to an additional \$1.75. Thus, a total of \$7.00 in federal universal support can be received for each Lifeline subscriber, with a state match of \$3.50. With the state match, the grand total of state and federal Lifeline support is \$10.50.

By Order No. PSC-97-1262-FOF-TP, issued October 14, 1997, we adopted the initial \$1.75 that required state approval but not support. We did not, however adopt the remaining \$1.75; based on the FCC's order, it was unclear whether Florida's Lifeline program qualified as providing matching state support. On October 19, 1997, we filed a petition with the FCC, asking for clarification on this issue. Subsequently, on October 30, 1997, the Office of Public Counsel (OPC) protested our decision not to adopt the \$1.75 and requested a Section 120.57(2) hearing on the matter. OPC also filed ex parte comments with the FCC regarding our petition. The FCC addressed the petition in its Fourth Order on Reconsideration in CC Docket No. 96-45, In the Matter of Federal-State Board on Universal Service, issued on December 30, 1997. In that order, the FCC agreed that Florida's Lifeline program meets the requirements for state matching.

In this Order, we will address remaining Lifeline implementation issues, including the adoption of the final \$1.75 in federal support, OPC's protest, and Lifeline and Link Up eligibility requirements.

II. DISCUSSION

Adoption of Additional \$1.75 of FCC Lifeline Support

As discussed above, the federal Universal Service fund will provide an amount equal to one half of any support generated from the intrastate jurisdiction, up to \$1.75. Our approval of this portion of the plan would bring total federal Lifeline support for Florida Lifeline subscribers to \$7.00. In other words, if the state supports \$3.50 per Lifeline consumer, the federal

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jurisdiction will provide another \$1.75 above the \$5.25 (\$3.50 + \$1.75) baseline amount for a total of \$10.50.

On October 19, 1997, we filed a petition with the FCC asking for clarification as to whether Florida's Lifeline program qualified as providing state matching for purposes of receiving federal funds. On December 30, 1997, the FCC responded:

Consistent with the [FCC's] earlier finding that we should not prescribe the methods that states use to generate intrastate Lifeline support in order to qualify for federal support, we conclude that, although all carriers are not required to contribute to Florida's Lifeline support mechanisms, Florida's Lifeline program nevertheless qualifies as providing intrastate matching funds. (FCC 97-420, Fourth Order on Reconsideration in CC Docket 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, ¶132)

Upon consideration, we find that adoption of the remaining \$1.75 is to the benefit of Lifeline subscribers in this state. The amount is supported through the federal Universal Service fund, so that Eligible Telecommunications Carriers (ETCs) will receive reimbursement for the amount, along with other Lifeline support. The ETCs' tariffs shall be revised to include a credit to intrastate rates for Lifeline subscribers. However, at no time should the customer's rate be less than zero.

Upon adoption of the rate reductions for Lifeline, states must notify the Universal Service Administration Company (USAC) of the decision, and provide a copy of the order. ETCs receive reimbursement for the federal portion through USAC. To allow coordination of funding with USAC, we believe it is appropriate for ETCs to begin providing the additional reduction to customers beginning April 1, 1998. We will forward a copy of this Order to USAC as required by the FCC.

Accordingly, we hereby approve the additional \$1.75 requiring state matching of \$3.50. Companies shall file tariffs incorporating this change effective April 1, 1998.

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DISMISSAL OF OPC'S PETITION

On October 30, 1997, OPC filed a protest of the Proposed Agency Action Order No. PSC-97-1262-FOF-TP, issued October 14, 1997. OPC contended that the order "adversely affects the substantial interests of the Citizens by failing to pursue an available \$1.75 in federal matching funding for Lifeline subscribers." The petition asked for hearing on two issues. The first issue was whether Florida's Lifeline Assistance Plan meets federal requirements for matching funds. The second issue was whether this Commission should seek an additional \$1.75 per Lifeline customer in federal Lifeline funding. The petition added that the protest was not intended to affect any other portion of Order No. PSC-97-1262-FOF-TP.

On October 19, 1997, prior to the filing of OPC's petition, we filed a Petition for Declaratory Statement, Waiver and Clarification with the FCC regarding the specific questions upon which OPC later asked for a hearing, as well as other issues on Lifeline implementation. At the same time it filed its petition with us, OPC also filed ex parte comments with the FCC regarding our petition. In those comments, OPC provided invaluable support to aid the FCC in finding that Florida's Lifeline Assistance Plan does indeed meet federal requirements for matching funds.

On December 30, 1997, the FCC ruled on our petition, as discussed above. While the FCC appeared to have reservations about the competitive neutrality of Florida's Lifeline program, the FCC nevertheless agreed that our program meets the matching requirements for Lifeline participation. As a result, we are approving the final \$1.75 of federal Lifeline support.

Accordingly, with the approval of the final \$1.75 of support, we have addressed all issues raised by OPC's petition. Therefore, we hereby dismiss the petition as moot.

ADOPTION OF ADDITIONAL ELIGIBILITY REQUIREMENTS FOR LIFELINE AND LINK UP

One of the provisions of the federal Lifeline and Link Up plans is that states that provide matching Lifeline funds may set eligibility requirements. If states do not provide matching funds, eligibility standards are set by the FCC. The FCC's default eligibility standards in non-participating states include Medicaid,

food stamps, Supplementary Security Income (SSI), Federal Public Housing Assistance (often called Section 8), or Low Income Home Energy Assistance Program (LIHEAP). Aid to Families with Dependent Children (AFDC) was excluded from the federal standards.

Since its inception, Florida's Lifeline and Link Up programs have used AFDC, Medicaid, food stamps, and SSI as eligibility standards for Lifeline. Link Up provides a reduction in connection fees to qualifying subscribers. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 replaced certain federal public assistance programs, including AFDC, with one program called Temporary Assistance to Needy Families (TANF). This program took effect July 1, 1997. In Florida, the TANF-funded programs are administered through the Department of Children and Families. Eligibility is based on income level.

We believe that it is appropriate to continue using these standards to determine eligibility for Lifeline and Link Up. All of the programs remain reliable indicators of income levels among participants. In addition, we find that, due to low subscribership levels in Florida's Lifeline program, it is appropriate to adopt additional standards. Both federal public housing assistance and LIHEAP are part of the FCC's eligibility requirements, and both appear to be appropriate indicators of income levels. LIHEAP is administered through the state Department of Community Affairs, in conjunction with local governments and social service agencies. As with other programs, eligibility for LIHEAP is based on income level. All state plans receiving federal funding from these programs should serve as eligibility indicators for Lifeline and Link Up.

Other programs have been proposed for consideration as Lifeline and Link Up eligibility standards. Examples include the free school lunch program, free health services at county health clinics, state-subsidized child care, nutritional assistance to pregnant women and young children at nutritional risk, and services offered by area councils on aging, where low participant co-payments indicate low income. While we do not order inclusion of these programs at this time, these appear to be programs that we may wish to consider in the future if Florida's Lifeline participation does not reach the same levels of subscribership as in other states. At this time, the number of Lifeline customers appears to be increasing in Florida.

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Upon consideration, we hereby find that the successor of AFDC, now called TANF, and programs included under it shall continue to be used to determine eligibility for Lifeline and Link Up. In addition, we find that Federal Public Housing Assistance and LIHEAP shall be added to the eligibility criteria for Lifeline and Link Up. The eligibility criteria will continue to include Medicaid, SSI, and food stamps. Companies shall include these eligibility standards in their tariffs to be effective April 1, 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the additional \$1.75 of Federal Lifeline funding requiring state matching of \$3.50 is adopted. Incumbent local exchange companies shall file tariffs incorporating this change effective April 1, 1998. It is further

ORDERED that the Office of the Public Counsel's October 30, 1997, petition protesting Proposed Agency Action Order No. PSC-97-1262-FOF-TP, issued October 14, 1997, is dismissed. It is further

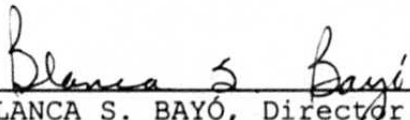
ORDERED that the eligibility standards for Lifeline and Link Up in Florida shall include: programs funded under Temporary Assistance to Needy Families (TANF), Medicaid, Supplementary Security Income (SSI), food stamps, Federal Public Housing Assistance (Section 8), and Low-Income Home Energy Assistance Program (LIHEAP). Incumbent local exchange companies shall file tariffs including these eligibility standards effective April 1, 1998.

ORDERED that the provisions of this Order regarding adoption of federal Lifeline funding and establishment of additional eligibility standards are issued as proposed agency action and shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that this docket shall remain open pending resolution of outstanding petitions protesting Proposed Agency Action Order No. PSC-98-0026-FOF-TP, issued January 5, 1998.

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By ORDER of the Florida Public Service Commission this 24th
day of February, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 17, 1998.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.