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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

Approved
MBK

DATE: March 23, 2012

TO: Ann Cole, Commission Clerk, Office of Commission Clerk

FROM: Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Lawrence D. Harris Jr., Senior Attorney, Office of the General Counsel

RE: Docket No. 120052-TP, Florida Link Up and Lifeline Program Modernization

MBK

Attached is a revised recommendation for consideration by Commissioners at the March 27, 2012 Commission Agenda. Because of tariffing and noticing requirements in different states, some carriers will not be able to meet the April 2, 2012 effective date to discontinue non-Tribal Link Up and change the amount of federal Lifeline reimbursement provided to ETCs.

On March 9, 2012, a number of telecommunications associations¹ (the Joint Petitioners) filed a Petition with the FCC requesting that for postpaid ETCs, the FCC defer the April effective date for the establishment of the new Lifeline reimbursement amount, and defer the changes to the Link-Up program until October 1, 2012. Twenty-one regulatory and industry parties responded to an FCC Public Notice requesting comment on the Joint Petitioner's filing. All parties supported the Joint Petitioners filing.

Because the decision regarding a FCC deferral will not be known at the time Commissioners consider this recommendation, staff amended its recommendation on Issues 1 and 2 to change the recommended effective date of April 2, 2012, to "the effective date set by the FCC." This was done for efficiency purposes to prevent staff having to file a subsequent recommendation for Commissioner's consideration when the FCC makes a decision on the Joint Petitioners filing.

The following changes have been made to the recommendation.

Page 2 - Background change

Because of tariffing and noticing requirements in different states, some carriers will not be able to meet these effective dates. On March 9, 2012, a number of telecommunications associations² (the Joint Petitioners) filed a Petition with the FCC requesting that for postpaid

¹ United States Telecom Association, the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, the Western Telecommunications Alliance, and the Eastern Rural Telecom Association

² Id.

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ETCs, the FCC defer the April effective date for the establishment of the new Lifeline reimbursement amount, and defer the changes to the Link-Up program until October 1, 2012.

Twenty-one regulatory and industry parties responded to an FCC Public Notice requesting comment on the Joint Petitioner's filing. All parties supported the Joint Petitioners filing.

Page 3 – Issue and Recommendation Statement change

Issue 1: Should the Florida Public Service Commission (FPSC or Commission) remove non-Tribal Link Up from the Florida Lifeline program ~~effective April 2, 2012?~~

Recommendation: Yes, the Commission should remove non-Tribal Link Up from the Florida Lifeline program ~~effective April 2, 2012.~~ The effective date for removal of non-Tribal Link Up from the Florida Lifeline program should be the effective date set by the FCC.

Page 4 – Staff Analysis change

As mentioned in the case background, there is a pending petition at the FCC to defer the April 2, 2012 effective date for removal of non-Tribal Link Up to October 1, 2012. Staff recommends that the Commission should remove non-Tribal Link Up from the Florida Lifeline program ~~effective April 2, 2012, since there will be no way for ETCs to recover these costs.~~ The effective date for removal of non-Tribal Link Up from the Florida Lifeline program should be the effective date set by the FCC.

Page 5 – Issue and Recommendation Statement change

Issue 2: Should the monthly amount of Lifeline credit provided to Florida Lifeline customers be changed from \$13.50 to \$12.75 ~~effective April 2, 2012,~~ for Florida's Lifeline program?

Recommendation: Yes, staff recommends that the monthly amount of Lifeline credit provided to Florida Lifeline customers be changed from \$13.50 to \$12.75 ~~effective April 2, 2012,~~ for Florida's Lifeline program. The effective date for the change in the amount of Lifeline credit for the Florida Lifeline program should be the effective date set by the FCC.

Page 6 – Staff Analysis change

As mentioned in the case background, there is a pending petition at the FCC to defer the April 2, 2012 effective date to October 1, 2012, for the change in the amount of Lifeline credit. Staff recommends that the monthly amount of Lifeline credit provided to Lifeline customers be changed from \$13.50 to \$12.75 ~~effective April 2, 2012,~~ for Florida's Lifeline program. The effective date for the change in the amount of Lifeline credit for the Florida Lifeline program should be the effective date set by the FCC.

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 15, 2012

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Harris) *[Signature]*
Division of Regulatory Analysis (Casey) *[Signature]*

RE: Docket No. 120052-TP – Florida Link Up and Lifeline Program Modernization.

AGENDA: 03/27/12 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: April 2, 2012, FCC Effective Date of Changes

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RAD\WP\120052.RCM.DOC

*Approved
MB/KD*

Case Background

On February 6, 2012, the Federal Communications Commission (FCC) released a Report and Order (Order FCC 12-11) and Further Notice of Proposed Rulemaking (FNPRM) addressing Lifeline and Link Up Reform and Modernization.¹ The stated purposes of the FCC's Order 12-11 are to strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program to include broadband; and constrain the growth of the program in order to reduce the

¹ In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Lifeline and Link Up (WC Docket No. 03-109), Federal-State Joint Board on Universal Service (CC Docket No. 96-45), Advancing Broadband Availability Through Digital Literacy Training (WC Docket No. 12-23), Report and Order and Further Notice of Proposed Rulemaking. Order No. FCC 12-11. Adopted: January 31, 2012, Released: February 6, 2012.

burden on all who contribute to the Federal Universal Service Fund (USF). The FCC's goal is to save \$200 million in 2012, and up to \$2 billion over the next three years. Many of the modifications contained in Order FCC 12-11 will affect Florida's Lifeline program.

In addition to the three issues discussed in this recommendation, Order FCC 12-11 also eliminates toll limitation service (TLS) reimbursement from the USF effective January 1, 2014. TLS is premised on the belief that one of the primary reasons subscribers lose access to telecommunications services is disconnection for failure to pay long distance (toll) bills. TLS historically has included both toll blocking, which prevents the placement of all long distance and international calls for which the subscriber would be charged, and toll control, which limits to a preset amount the long-distance calls.

In 2010, USAC disbursed \$22.5 million in TLS support – an increase from \$8.9 million in 2009. USAC reported \$7.8 million in TLS disbursements in 2011. For the year 2010, Florida ETCs were reimbursed \$2,183,593 for TLS expenses. Because of the growth and variance in TLS support, the FCC is concerned that there may be significant waste or abuse in claims for TLS support. In Order FCC 12-11, the FCC concluded that it should eliminate USF reimbursement for TLS over a period of time. Beginning April 2, 2012, TLS support of \$3.00 per month per TLS subscriber will be implemented through the remainder of 2012. TLS support will be reduced to \$2.00 in 2013, and will be eliminated and unavailable at the beginning of 2014.

Staff points out that TLS is specifically required by Section 364.10(1)(b), Florida Statutes (F.S.). Accordingly, it appears that the legislature will need to address this issue.

The purpose of this recommendation is to address three changes in the Florida Lifeline and Link Up program as a result of the issuance of Order FCC 12-11: the elimination of Link Up USF reimbursement effective April 2, 2012; the change in the amount of Lifeline credit provided to customers effective April 2, 2012; and the elimination of the Lifeline simplified certification process effective June 1, 2012.

Because of tariffing and noticing requirements in different states, some carriers will not be able to meet these effective dates. On March 9, 2012, a number of telecommunications associations² (the Joint Petitioners) filed a Petition with the FCC requesting that for postpaid ETCs, the FCC defer the April effective date for the establishment of the new Lifeline reimbursement amount, and defer the changes to the Link-Up program until October 1, 2012.

Twenty-one regulatory and industry parties responded to an FCC Public Notice requesting comment on the Joint Petitioner's filing. All parties supported the Joint Petitioners filing. The Commission has authority under Section 364.10, Florida Statutes, to administer the Florida Lifeline and Link Up program.

² United States Telecom Association, the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, the Western Telecommunications Alliance, and the Eastern Rural Telecom Association

Discussion of Issues

Issue 1: Should the Florida Public Service Commission (FPSC or Commission) remove non-Tribal Link Up from the Florida Lifeline program ~~effective April 2, 2012?~~

Recommendation: Yes, the Commission should remove non-Tribal Link Up from the Florida Lifeline program ~~effective April 2, 2012~~. The effective date for removal of non-Tribal Link Up from the Florida Lifeline program should be the effective date set by the FCC. (Casey, Harris)

Staff Analysis: The Link Up program has helped low-income consumers by reducing the telephone service installation charge by one-half (up to a maximum of \$30) of the initial installation fee for a traditional wireline telephone or an activation fee for a wireless telephone if applicable. For the year 2010, Florida Eligible Telecommunications Carriers (ETCs) were reimbursed \$3,655,736 from the Federal USF for Link Up expenses which equates to initial hook-up savings for approximately 121,858 Florida Lifeline applicants.

Nationally, Link Up support has increased over 230 percent in the last three years. The Universal Service Administrative Company (USAC) projects that it will disburse more than \$180 million in Link Up support to ETCs in 2012, compared to \$122.9 million in 2011, \$77.5 million in 2010, \$48.3 million in 2009, and \$37.2 million disbursed in 2008. The increase in support is largely the result of certain Lifeline-only wireless ETCs entering the market in recent years and seeking reimbursement for Link Up fees. In September 2011, incumbent local exchange companies (LECs) accounted for 27 percent of Link Up claims, while competitive ETCs accounted for 73 percent.

By Order FCC 12-11, the FCC amended its rules to eliminate Link Up support on non-Tribal lands for all ETCs.³ The FCC concluded that dollars currently spent for non-Tribal Link Up in its current form can be more effectively spent to improve and modernize the Lifeline program. The FCC stated that it doesn't make sense to provide Link Up support to ETCs with high activation fees for voice service when low-income consumers can get Lifeline service from another provider in the same area without paying an activation fee. Declining costs and competitive pressures have led many ETCs to stop assessing or reduce connection charges for low-income consumers. The FCC found that the Link Up program is potentially susceptible to abuse, is creating unhelpful incentives, and is providing little public-interest benefit, and concluded that it should be eliminated beginning with the April 2012 support claims.⁴ Florida ETCs will not be able to recover Link Up support from the Federal universal service program after this date.

Rule 25-4.0665(4), Florida Administrative Code, provides that "Eligible telecommunications carriers that charge an initial connection charge must offer Link-Up service to subscribers who are eligible for Lifeline service pursuant to this rule." This rule will need to be amended in order to conform to the requirements of Order FCC 12-11.

³ At the present time, Tribal lands will maintain enhanced Link Up support for those ETCs that also receive high-cost support.

⁴ ETCs file at USAC for April 2012 reimbursements in May 2012.

As mentioned in the case background, there is a pending petition at the FCC to defer the April 2, 2012 effective date for removal of non-Tribal Link Up to October 1, 2012. Staff recommends that the Commission should remove non-Tribal Link Up from the Florida Lifeline program effective April 2, 2012, since there will be no way for ETCs to recover these costs. The effective date for removal of non-Tribal Link Up from the Florida Lifeline program should be the effective date set by the FCC.

Issue 2: Should the monthly amount of Lifeline credit provided to Florida Lifeline customers be changed from \$13.50 to \$12.75 ~~effective April 2, 2012~~, for Florida's Lifeline program?

Recommendation: Yes, staff recommends that the monthly amount of Lifeline credit provided to Florida Lifeline customers be changed from \$13.50 to \$12.75 ~~effective April 2, 2012~~, for Florida's Lifeline program. The effective date for the change in the amount of Lifeline credit for the Florida Lifeline program should be the effective date set by the FCC. (Casey, Harris)

Staff Analysis: Lifeline was originally implemented in 1985 to ensure that the federal Subscriber Line Charge (SLC), imposed in the aftermath of the breakup of AT&T, would not put local phone service out of reach for low-income households. Since its inception, the amount of support has been tied to the SLC, a flat monthly charge that incumbent local exchange carriers (ILECs) assess on their subscribers to recover some of their network costs assigned to the interstate jurisdiction. Support levels for competitive ETCs are based on the SLC of the incumbent carriers in the relevant service area. Under the FCC rules, there have been four tiers of monthly federal Lifeline support.

- The first tier of federal support is a \$6.50 monthly credit for the federal subscriber line charge, which is available to all eligible subscribers.
- The second tier of federal support is a \$1.75 monthly credit that is available to subscribers in those states that have approved the credit such as Florida.
- The third tier of federal support is one-half the amount of additional state support⁵ up to a maximum of \$1.75 in federal support.⁶
- The fourth tier of support, available only to eligible subscribers living on tribal lands, provides an additional credit up to \$25.00 per month.

By Order FCC 12-11, the FCC replaces Tiers One, Two and Three of Lifeline support with an interim uniform flat-rate USF reimbursement amount of \$9.25⁷ for non-Tribal Lifeline beginning with the April 2012 USAC disbursements. The FCC seeks further comment in the Further Notice of Proposed Rulemaking on the establishment of an appropriate amount for Lifeline reimbursement.

The FCC found that an ILEC's SLC is no longer the appropriate metric for determining the amount of Lifeline reimbursement. The FCC believes the prices consumers face in the

⁵ By Order No. PSC-98-0328-FOF-TP, issued February 24, 1998, in Docket No. 970744-TP, the Commission approved the additional \$1.75 requiring state matching of \$3.50, and ordered companies to file tariffs incorporating this change effective April 1, 1998.

⁶ Because Florida carriers provide an additional \$3.50 credit to Lifeline customers' bills, Florida Lifeline subscribers currently receive a total monthly credit of \$13.50, consisting of \$10.00 (\$6.50, \$1.75, and \$1.75) in federal support and \$3.50 in state support. The telephone subscriber may receive a credit less than \$13.50 if the subscriber's bill for basic local telephone service is less than the maximum available credit, or the ETC has an FCC approved subscriber line charges less than \$6.50.

⁷ ETCs currently receive a USF reimbursement of \$10.00 (\$6.50, \$1.75, and \$1.75) in federal support for Tiers One, Two, and Three. The reimbursement may be less if the ETC's approved subscriber line charges less than \$6.50.

marketplace are what determine affordability and adoption decisions, not the network costs of the incumbent LEC (the original basis for the SLC). Competitive ETCs do not assess SLCs on their subscribers as ILECs do. A competitive ETC's cost structure is unrelated to the SLC, but some competitive ETCs charge customers a "network charge" equal to the amount of the ILEC SLC. Lifeline support for wireless ETCs is determined by the SLC of the ILEC in the area they serve. The FCC also believes it is administratively burdensome for both the ETC and USAC to determine the correct amount of Tier 1 support because there are typically multiple ILECs in a state with different SLCs.

Currently, on a national basis, Tier One support (equivalent to the relevant SLC) ranges from \$2.24 per month to \$6.50 per month, while Tier Two support ranges from \$0 to \$1.75 per month. Tier Three support ranges from \$0 to \$1.75 and the average combined support is \$9.25. The FCC set the interim amount of Lifeline support at this average of \$9.25 per line per month. Since Florida ETCs will only be able to recover \$9.25 rather than \$10.00 in non-Tribal Lifeline support, the current Lifeline monthly discount should be lowered to permit recovery of these costs.

As mentioned in the case background, there is a pending petition at the FCC to defer the April 2, 2012 effective date to October 1, 2012, for the change in the amount of Lifeline credit. Staff recommends that the monthly amount of Lifeline credit provided to Lifeline customers be changed from \$13.50 to \$12.75 effective April 2, 2012, for Florida's Lifeline program. The effective date for the change in the amount of Lifeline credit for the Florida Lifeline program should be the effective date set by the FCC.

Issue 3: Should the Florida Lifeline Simplified Certification process be eliminated as of June 1, 2012?

Recommendation: Yes, staff recommends that the Florida Lifeline Simplified Certification process be eliminated as of June 1, 2012. (Casey, Harris)

Staff Analysis: The simplified certification process allows eligible customers to enroll in Lifeline and Link Up by simply signing a document certifying, under penalty of perjury, that the customer participates in one of the Florida Lifeline and Link Up qualifying assistance programs. Eligibility for both Lifeline and Link Up in Florida is determined by customer enrollment in one of the following programs:

Temporary Assistance to Needy Families
Supplemental Security Income
Supplemental Nutrition Assistance Program (SNAP)
Medicaid
Federal Public Housing Assistance
Low-Income Home Energy Assistance Plan
National School Lunch Program - Free Lunch
Bureau of Indian Affairs programs

By Order No. PSC-05-0153-AS-TL, issued February 8, 2005,⁸ the Commission approved a plan to initiate the Simplified Certification Process for BellSouth Telecommunications, Inc., Verizon Florida, Inc., and Sprint-Florida. The three companies were initially concerned about possible fraud occurring with the simplified certification process. To address these concerns, the Commission established a one-year period to allow parties to assess the impact of the program and any evidence of fraud.

Upon expiration of the one-year period, no complaints or evidence of fraud was communicated to staff regarding implementation of the simplified certification process. By Order No. PSC-06-0680-PAA-TL, issued August 7, 2006,⁹ the Commission expanded the application of the simplified certification enrollment process by requiring all Florida ETCs to adopt this method of enrollment for the Lifeline and Link Up programs.

By Order FCC 12-11, the FCC found that consumer self-certification of program-based eligibility does not effectively prevent ineligible consumers from enrolling in Lifeline. Recent verification data provides evidence that additional measures are needed to prevent ineligible consumers from signing up for Lifeline. Up to an estimated 15 percent of existing Lifeline subscribers could be ineligible for Lifeline benefits, potentially representing hundreds of millions of dollars in support that could have been used to serve eligible subscribers.

Beginning June 1, 2012, the FCC is requiring ETCs to document the eligibility of those consumers seeking to qualify for Lifeline under program-based criteria. Therefore, Lifeline

⁸ Docket No. 040604-TL, In Re: Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link Up programs.

⁹ *See id.*

simplified certification will no longer be an option for Florida. Where ETCs can access state or federal databases to make determinations about consumer eligibility for Lifeline, the FCC will not require ETCs to obtain a new subscriber's documentation of his or her participation in a qualifying program. However, the ETC or its representative must note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline (e.g., name of a state or Federal database.)

In 2008, the FPSC and the Florida Department of Children and Families (DCF) began working on the concept of a computer portal which would allow ETCs to verify in real-time whether Lifeline applicants are enrolled in a DCF qualifying eligible program. Under the portal program, the ETC enters the first and last names of the person, the last four digits of the social security number, and the date of birth. DCF's computer automatically replies with information as to whether that person is or is not participating in a DCF qualifying Lifeline program (without identifying the program).

Certification and verification can be accomplished using this process if the applicant, in the case of certification, or an existing Lifeline customer in the case of verification, participates in the SNAP, Temporary Assistance for Needy Families (TANF), or Medicaid programs which are administered by the DCF. If a program other than SNAP, TANF, or Medicaid is used for certification, the provider would have to turn to the agency administering that program, which could be the Florida Department of Education (free school lunch program), the Social Security Administration (Supplemental Security Income), a county-level agency (Low-Income Home Energy Assistance Plan or Section 8 Housing), or the Bureau of Indian Affairs. However, FPSC data shows that over ninety percent of applicants using the Lifeline coordinated enrollment process¹⁰ use SNAP, TANF, or Medicaid for eligibility. The computer portal for Lifeline certification and verification pilot program is now available to all Florida ETCs.

If an ETC does not have access to state or federal databases to make determinations about consumer eligibility, an ETC must review documentation to determine eligibility for new subscribers until such time a qualifying eligibility database is available. Acceptable documentation of program eligibility would include: (1) the current or prior year's statement of benefits from a qualifying state, federal or Tribal program; (2) a notice letter of participation in a qualifying state, federal or Tribal program; (3) program participation documents (e.g., the consumer's SNAP electronic benefit transfer card or Medicaid participation card (or copy thereof); or (4) another official document evidencing the consumer's participation in a qualifying state, federal or Tribal program.

Staff believes Florida's proactive actions of having a Lifeline coordinated enrollment process and Lifeline computer portal certification and verification process in place will help ease the transition from Lifeline simplified certification. ETCs can still receive Lifeline applications through the coordinated enrollment process with DCF, and certify or verify participation in a DCF Lifeline-qualifying program through the DCF computer portal.

¹⁰ Coordinated Lifeline enrollment is a mechanism that permits but does not compel consumers to enroll in Lifeline and Link Up at the same time they enroll in a qualifying public assistance program.

Docket No. 120052-TP
Date: March 15, 2012

Rule 25-4.0665(6) and (7), Florida Administrative Code, addresses the Lifeline simplified certification process. This rule will need to be amended in order to conform to the requirements of Order FCC 12-11. Staff recommends that the Florida Lifeline Simplified Certification process be eliminated as of June 1, 2012.

Docket No. 120052-TP
Date: March 15, 2012

Issue 4: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. This docket should remain open to address any additional changes that need to be made to Florida's Lifeline program due to the FCC Lifeline Reform and Modernization. (Harris)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. This docket should remain open to address any additional changes that need to be made to Florida's Lifeline program due to the FCC Lifeline Reform and Modernization.