

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2090

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2090

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2090

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-24-05

Tape Number	Side A	Side B	Meter #
1	x		1-2760
Committee Clerk Signature			

Minutes: **Chairman Mutch** opened the hearing on SB 2090. All Senators were present.

**SB 2090 relates to powers of the public service commission relating to lifeline and link-up universal service offerings; and to declare an emergency.**

**Tony Clark**, President of the Public Service Commission, introduced the bill. See attached testimony.

**Senator Nething** : Don't we have something like this in place already?

**Tony**: Yes, we do. The state plan that we have actually came out of when there were some buy-sells with the Minot exchanged the number of the rural exchanges about ten years ago, when they were sold from US West. As FCC rules change, the state needs to comply with that.

Rulemaking would be a better way to do it, than an order.

**Chairman Mutch**: You don't have that authority now?

**Tony:** That's correct. The general power section the commission has lifeline and link-up plans.

Not one of the programs that are listed under the authority of the commission under the federal act.

**Chairman Mutch :** Well, maybe you would be pretty much regulated by the FCC anyway?

**Tony:** There are provisions for when you don't have a state plan. In that case you are called a default state. Then the telecommunications companies of your state have to default whatever the federal rules are. This would benefit the telecom industry of North Dakota because it would give more flexibility.

**Senator Nething :** Doesn't the Health Department have something to do with this?

**Tony:** The Department of Human Services currently helped in implementing this and doesn't get any money for this program but do help.

**Chairman Mutch :** Would there be any cost to the Health Dept.?

**Tony:** Human Services incur some expense with mailing, but they have indicated that they are okay with that.

**Senator Nething :** Isn't this the program that if you are in need of special of medical alert, isn't this where this gets involved?

**Tony:** I don't believe that this is the program. That is perhaps a relay service.

Link-up is the program that if you are a qualifying individual and you need some help in building out, getting hooked up, things like that. Lifeline basically gives a monthly subsidy to offset a portion of the cost of the monthly service charges.

**Krebsbach:** Lifeline to me is a program that buy for an elderly person that may need medical assistance to contact help.

**Tony:** There may be another program that has a similar sounding name.

**Chairman Mutch** entertained opposition to the bill.

**Mick Grosz**, Chief Executive Officer of West River Telecommunications Cooperative, spoke in opposition. See attached testimony.

**Senator Klein :** You said that passage of this bill wouldn't have taken care of this issue that you currently have with the FCC and it wouldn't help that uncertainty?

**Mick:** I do not believe that this will help that.

**Senator Nething :** What's the problem? Other than there is another layer of regulation coming in. I'm thinking in terms of YOUR consumer. What is that consumer going to get if we pass this bill, versus what we are getting now?

**Mick:** Nothing. We follow the federal guidelines and any that the PSC has issued.

**Senator Nething :** Would it be fair to assume that if we were to amend out of this bill and leave those jurisdictions who are multiple, like you are, you wouldn't have a problem?

**Mick:** I wouldn't have a chip in the game.

**David Crothers**, Executive Vice President of the North Dakota Association of Telecommunications Cooperatives, spoke in opposition.

**David:** The association and the members in North Dakota concur with Mr. Grosz's testimony. We asked him to testify today because of his extensive knowledge of the lifeline and link-up program. So I stand only to say that there is doubt about whether there is a difference of sentiment within the telecommunications industry.

**Senator Klein :** You are saying that your whole organization, whether they serve across states, or reservations, you co-ops aren't interested in perusing this.

**David:** We are not convinced that there has been a problem that has developed that anyone has suffered any harm. We find ourselves very concerned that it's a federal program with all federal money and that whatever rules the federal government will propagate are going to be the base. There is already a statute with in the century code that says they cannot propagate rules in addition to the federal law. Whatever rules we have, that are going to be what we have.

**Senator Nething :** In the past, we have had legislation that wanted to bring the rural telephone co-ops under the jurisdiction of the PSC. Is this just the camel's nose under the tent?

**David:** Our conversations haven't reflected that at all. This is just issue specific in everyone of our discussions among all of our members.

**Chairman Mutch :** To your knowledge, does South Dakota have a state regulatory agency that has similar authority?

**David:** I don't know. They are not dealing with that this session. .

**Susan Wefald,** Public Service Commission, spoke in support of the bill, offering clarification on the above stated questions. The Commission has issued orders about this. These orders were put out and effect Qwest, SRT, buy-sell companies, some of which were co-ops. Those are the ones that we know that we have jurisdiction over at the present time for the orders that have gone out on lifeline and link-up. They have challenged whether the commission has law making authority and that is the reason we brought this before you.

**Senator Nething:** I am wondering how this is going to provide better service to the citizens?

**Susan:** The value of the commission having this is that we can still issue an order for Qwest, SRT, and the people who have done buy-sell from Qwest. The value to the rest of the customers around the state is that we won't have two different types of programs operating in the state.

**Senator Nething :** If you would choose to rescind the order you have issued, you would still only have one. You are the one that have taken this action, right?

**Susan:** Correct.

**Chairman Mutch :** In the appropriation, there is no reference to any money needed to implement this proposal. How would you do it without more money?

**Susan:** There is no fiscal impact.

**Senator Heitkamp :** Does the commission have a sense that this isn't being offered or being told or getting out to the people and giving them access to it?

**Susan:** We have a plan that is working very well. I'd like to see that continue. It won't work in the same manner if goes with the federal guidelines.

**Hearing was closed. No action was taken.**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2090

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-26-05

Tape Number	Side A	Side B	Meter #
3	xx		1982-2100
Committee Clerk Signature <i>Lesa VanBerkem</i>			

Minutes: **Chairman Mutch** opened committee discussion on SB 2090. All Sentors were present. SB 2090 relates to powers of the public service commission relating to lifeline and linkup universal service offerings.

**Senator Heitkamp** : The rural telephone members know what they want, they have access to the board, they can make those choices, I think Mr. Grosz made his case and therefore..

**Senator Heitkamp** moved a **DO NOT PASS**.

**Senator Nething** seconded.

**Roll Call Vote**: 6 yes. 1 no. 0 absent.

**Carrier**: Senator Nething



**FISCAL NOTE**  
**Requested by Legislative Council**  
12/20/2004

Bill/Resolution No.: SB 2090

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill causes no fiscal impact.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Illona Jeffcoat-Sacco	<b>Agency:</b>	PSC
<b>Phone Number:</b>	701-328-2407	<b>Date Prepared:</b>	01/21/2005

Date: 1-26-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2090

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Heitkamp Seconded By Nothing

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	<input checked="" type="checkbox"/>		Senator Fairfield		<input checked="" type="checkbox"/>
Senator Klein, Vice Chairman	<input checked="" type="checkbox"/>		Senator Heitkamp	<input checked="" type="checkbox"/>	
Senator Krebsbach	<input checked="" type="checkbox"/>				
Senator Nething	<input checked="" type="checkbox"/>				
Senator Espegard	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Nothing

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 27, 2005 7:41 a.m.

**Module No: SR-18-1153**  
**Carrier: Nething**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2090: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends**  
**DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2090 was  
placed on the Eleventh order on the calendar.

**2005 TESTIMONY**

SB 2090

## SENATE IBL COMMITTEE

Senate Bill 2090

January 24, 2005

Mr. Chairman, members of the Senate IBL Committee my name is Mick Grosz. I am the Chief Executive Officer of West River Telecommunications Cooperative headquartered in Hazen, North Dakota.

West River serves approximately 15,000 customers. Our service area covers over 9,700 square miles which is slightly larger than the state of Vermont. We provide telecommunications services in all or parts of 17 counties located in North and South Dakota. WRT also serves the greater part of the Standing Rock Sioux Reservation which is located in both North and South Dakota.

WRT has participated in the Life Line and Link-up program for several years. WRT offers enhanced Life Lined and Link-up to residents of the Reservation. Today, nearly 1000 WRT customers are on the Life Line program and another 1000 are benefiting from the Enhanced Life Line program.

WRT has been following the FCC guidelines plus the guidelines given by the PSC. I have provided you with information provided me by the South Dakota Telecommunications Association. The cover letter from Rich Coit does a nice job of explaining our responsibilities under the FCC order. Appendix A is the FCC order itself. Section 54.409, paragraph (a) gives instructions if a state has its own life line program and paragraph (b) gives instructions if a state does not.

Appendix B is the income requirement guideline at 135%. The PSC has set this at 195%. Appendix C is a suggested application form. Appendix D and E are carrier certification forms. Appendix F is a checklist of things a company must do to implement the program and be in compliance.

7 Implementing the eligibility part of the rules, whether federal or state, has been relatively simple. The Consumer Outreach guidelines are the ones that have proven to be more difficult. The FCC purposely has made them fairly vague. I suspect they thought they were giving companies discretion as to how best to reach the low-income people in their service area. In reality, companies have been left in a position of uncertainty. In November of 2003, an enforcement action was brought against WRT. We were given about three weeks to send documentation of our outreach program. We are still waiting for them to give us their findings. I believe we were frivolously reported for ulterior reasons and will be ultimately found to be in compliance.

Senate IBL Committee  
SB 2090  
Page 2

The Life Line program provides subsidies to low income people to help make local telephone service even more affordable. Regular Life Line customers are subsidized by funds from the federal high cost fund and matching money from the local provider. Enhanced Life Line customers have their local service subsidized so the customer pays only one dollar towards their local service bill.

The Enhanced Life Line subsidy comes totally from the federal high cost fund. The State of North Dakota does not participate financially in either program.

In fairness to the PSC, I am sure they believe they will make life better for companies such as WRT. My fear is that we will just have one more level of bureaucracy to answer to. Also, passage of this bill would most likely make it more difficult for WRT and other companies like WRT who serve people in more than one state and/or a Reservation.

Normally, as you well know, I would be here opposing a PSC regulatory bill saying we do not need regulation as we are a Cooperative regulated by an elected Board of Directors. Also, I would normally prefer state regulators to federal regulators. But in this case I am not asking for the defeat of the bill to escape regulation but rather to have consistency in regulation throughout our whole service area. For that reason I am asking for the defeat of SB 2090.

Thank you, Mr. Chairman

Mick Grosz  
CEO/General Manager  
West River Telecommunications Cooperative  
PO Box 467  
Hazen, ND 58575  
701-748-2211  
[mickg@westriv.com](mailto:mickg@westriv.com)



Senate DBL Comm.  
1-24-05 **OPPOSED**

South Dakota Telecommunications Association  
PO Box 57 ■ 320 East Capitol Avenue ■ Pierre, SD 57501  
605/224-7629 ■ Fax 605/224-1637 ■ sdtaonline.com

1-10-05  
Copy: [unclear]  
Bet [unclear]

MEMO

DATE: January 4, 2004

TO: SDTA Member Company Managers

FROM: Rich Coit *RC*

RE: New Lifeline and Link-Up Requirements

Submitted by  
- Mick Grosz -

Copy to  
Rory Aslakson  
Reservation Tel.  
1-19-05

Sometime ago the FCC released a "Report and Order and Further Notice of Proposed Rulemaking" implementing numerous changes to its current "Lifeline and Link-Up" rules.<sup>1</sup> Generally, the effect of these rule changes is to expand the eligibility requirements for Lifeline and Link-Up (to include among other new eligibility criteria, an income-based criterion), to impose certain new "certification" and "verification" requirements on both telecommunications carriers and subscribers, and to establish specific record keeping requirements for carriers that offer Lifeline and Link-Up services. Many of the new requirements must be complied with by carriers by no later than June 22, 2005. Some of the changes are already in effect, having taken effect on July 22<sup>nd</sup> of this year.

There are a number of things that need to be done in order for carriers to bring themselves into full compliance with the rules by the June 22<sup>nd</sup> deadline. The purpose of this memo is to provide each of the SDTA member companies with a good understanding of the specific rule changes and to provide you with a listing of those actions that need to be taken to meet the new Lifeline and Link-Up requirements. In addition, we are offering with this memo some sample forms that may be used as a model for changing your company's current Lifeline and Link-Up application forms (if you have not already revised your forms) and also for purposes of making the specific "self-certifications" that are required under the new rules.

#### I. Explanation of Rule Changes

Attached hereto for your information (as "Appendix A") is a copy of the FCC's Lifeline and Link-Up rules as revised by the FCC's latest Report and Order.

#### Section 54.400 - Terms and Definitions.

This section was amended to add a definition of "income". This is necessary because the FCC has now changed Lifeline and Link Up to include an additional eligibility

<sup>1</sup> Report and Order and Further Notice of Proposed Rulemaking in WC Docket No. 03-109, FCC04-87, released April 29, 2004.

criterion that is purely "income-based," not tied to subscriber participation in any government assistance program. Specifically, the new and additional qualifying criterion says that "a consumer [is] eligible to participate in Lifeline and Link-Up if the consumer's income is at or below 135% of the Federal Poverty Guidelines ("FPG"). This enables, for example, a family of four whose annual income is at or below \$25,448 to qualify for Lifeline and Link-Up support even if they do not participate in any of the qualifying government assistance programs. (Attached as Appendix B for your reference are the most recent estimated income requirements for various sizes of households taking into account the established threshold of 135% of the FPG. To ensure use of the most current guidelines, access the Universal Service Administrative Company ("USAC") website – [www.universalservice.org](http://www.universalservice.org) ).

The definition of "income" for purposes of this new eligibility criterion is defined, generally, to include "all income actually received by all members of the household." It is clear under the rule that the "income" is to be determined by looking at the "gross" income, prior to taxes. There are some exceptions that are referenced including "student financial aid, military housing and cost of living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like."

#### **Section 54.401 – Lifeline defined.**

This section was amended to simply clarify that eligible telecommunications carriers may not collect a service deposit to initiate Lifeline service, if the qualifying low-income customer voluntarily elects to subscribe to any sort of "toll limitation" service. Previously, the rule referred only to a "toll blocking" service.

In addition, the rule was amended to include new language indicating specifically that ETCs may not charge Lifeline subscribers a monthly number portability charge. This is a requirement that has been in place for sometime, implemented through a different FCC order relating to the provisioning of local number portability by ILECs.

#### **Section 54.405 - Carrier Obligation to offer Lifeline.**

This section of the rules has been amended to add a new requirement applying to those situations where a carrier believes a subscriber is no longer eligible for the Lifeline benefit and takes action to remove the subscriber from the Lifeline service. Under the new provisions, an ETC is required to "[n]otify Lifeline subscribers of impending termination of Lifeline service if the carrier has a reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria." This notification is to be in the form of a letter separate from the subscriber's monthly bill. Further, the letter must allow subscribers a period of 60 days, following the date of the letter, to demonstrate their continued eligibility to receive the Lifeline benefit. Subscribers are directed to make such a demonstration through specific proof



consistent with other verification requirements set forth in the rules. If a subscriber fails to make this demonstration showing continued eligibility within the established 60 day time-frame, the carrier must terminate the subscriber's Lifeline service. (Please note that this procedure is only required where the carrier has initiated termination of benefits. It is not necessary when the Lifeline subscriber has come forward and notified the carrier that he or she is no longer eligible to receive the benefit).

#### **Section 54.409 – Consumer Qualification for Lifeline.**

This section sets forth the qualifications that a consumer must meet in order to receive discounted Lifeline telephone service. As noted above, the FCC rules have been amended to include a criterion that is purely income-based (eligibility to consumers with income at or below 135% of the federal poverty guidelines). (See specifically subsection 54.409(b) of the revised rules). In addition, the FCC has changed the Lifeline and Link-Up rules to add a couple of new criteria including "Temporary Assistance to Needy Families" and consumer participation in the "National School Lunch Program." The eligibility criteria for "Enhanced" Lifeline and Link-up assistance have for some time included participation in the Tribal TANF, and the Tribal National School Lunch Program.

With the expansion of the participation criteria, the FCC has also amended the provisions in its rules requiring a signed, written certification from the consumer applying for Lifeline service. Specifically, subsection 54.409(d) of the rules now requires that any "eligible telecommunications carrier" providing Lifeline service to a low-income consumer must obtain the "consumer's signature on a document certifying under penalty of perjury" that:

- (i) the consumer receives benefits under one of the eligible programs listed and identifying the program or programs under which the consumer receives benefits; or
- (ii) the consumer's household meets the income requirement (at or below 135% of the federal poverty guidelines) and that documentation has been presented accurately representing the consumer's household income; and
- (iii) the consumer will notify the carrier if that consumer ceases to participate in the program or programs or if the consumer's income exceeds 135% of the federal poverty guidelines.

Attached as Appendix C to this memo are two sample application forms for Lifeline and/or Link-Up which have been revised to include reference to the new qualifying assistance programs, the income-based criterion, and also to include new self-certification language consistent with the FCC's new rules. A separate sample form is provided for both the basis Lifeline service and the "Enhanced" Lifeline service (applicable to subscribers on Tribal Land).

In addition, you will find attached as part of each of the revised application forms, a separate self-certification form ("SELF-CERTIFICATION FOR LIFELINE/LINK UP APPLICANTS QUALIFYING UNDER INCOME-BASED CRITERION") that can be used to obtain the additional certification that is required of subscribers who are seeking eligibility under the income-based criterion (see additional subscriber certification requirement noted below).

#### **Section 54.410 -- Certification and Verification of Consumer Qualification for Lifeline.**

New provisions were adopted by the FCC in Section 54.410 of the rules addressing the methods that are used to "certify" and "verify" that consumers participating in the Lifeline/Link-Up programs do in fact meet the established qualification criteria.

The first part of this new rule addresses "certification" which occurs at the time an individual is applying to enroll in Lifeline/Link-Up. The second part of the rule addresses "verification" which is to occur on a periodic basis after the subscriber has already been certified.

#### **Certification**

The self-certification procedures being relied on by the FCC have been revised to add additional requirements that apply in cases where a consumer seeks Lifeline/Link-Up eligibility under the "income-based" criteria. The FCC established a requirement that "income-based" eligibility must be accompanied with supporting documentation. Specifically, subsection 54.410(a) of the rules, provides that "consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Lifeline." In addition, "by one year from the effective date of the rules (June 22, 2005), eligible telecommunications carriers . . . must implement certification procedures to document consumer-income-based eligibility for Lifeline prior to that consumer's enrollment if the consumer is qualifying under the income-based criterion . . ." Acceptable documentation of income eligibility includes the prior year's state, federal, or tribal tax return, a current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, and Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice of letter of participation in General Assistance, a divorce decree, child support, or other official document. If the consumer presents documentation of income that does not cover a full year, such as current pay stubs, the consumer is required to present three consecutive months worth of the same types of document within that calendar year. (The income documentation presented by the consumer must be reviewed, but does not have to be retained by the eligible telecommunications carrier).

In regards to the required "self-certification," in addition to the specific consumer certification requirements that have been in place for sometime, consumers seeking Lifeline assistance under the new "income-based" criterion will now also have to:

- provide a certification indicating the number of individuals in their household (this information is necessary in order to properly compare the total income figure provided with the Federal Poverty Guidelines); and
- self-certify that the income related documentation presented accurately represents the consumer's total annual household income.

As a further means of assuring that documentation of income will be reviewed prior to the enrollment of any consumer in Lifeline under the income-based criterion, an additional carrier certification requirement has been established under the FCC's new rules. Under subsection 54.410(b) of the rules, an officer of each eligible telecommunications carrier is required to certify under penalty of perjury that procedures have been put in place "to review income documentation and that, to the best of his/her knowledge, the carrier was presented with documentation of the consumer's household income." This carrier certification is to be provided to specifically to USAC after the ETC has implemented its "income certification procedures." This implementation is to occur by no later than June 22, 2004. And, it would be advisable to also have your carrier certification relating to that implementation filed with USAC by no later than that date.

Attached as Appendix D is a sample carrier certification form that can be used for this purpose ("CARRIER CERTIFICATION REGARDING INCOME DOCUMENTATION"). Please note, however, that USAC is at this time considering the possibility of revising their Form 497 to include a similar certification statement. If this occurs it will not be necessary to separately file a separate carrier certification form.

### **Verification**

Under the new rules, all states are required to establish procedures to verify consumers' continued eligibility for the Lifeline/Link-Up program under both assistance program and income-based eligibility criteria. Verification procedures may include random beneficiary audits, periodic submission of documents, or annual self-certification. Verification is viewed as an effective way to prevent fraud and abuse and ensure that only eligible consumers receive benefits. The FCC disagreed with commenters that argued that the benefits of its verification procedures did not outweigh the burdens of such procedures.

Certain minimum verification procedures were adopted for eligible telecommunications carriers. Specifically, under subsection 54.410(c) of the

rules, by one year from the effective date of the rules (by June 22, 2005), eligible telecommunications carriers must implement procedures to verify continued eligibility of a statistically valid random sample of their Lifeline consumers. (ETCs are free to verify directly with a state that particular subscribers continue to be eligible by virtue of participation in a qualifying program or income level. Alternatively, to the extent ETCs cannot obtain the necessary information from the state, they may survey subscribers directly and provide the results to USAC. Subscribers who are subject to the verification process and who qualify under the assistance program-based eligibility criteria must prove their continued eligibility by presenting in person or sending a copy of their Medicaid card or other Lifeline-qualifying public assistance card and self-certifying, under penalty of perjury, that they continue to participate in the Lifeline-qualifying assistance program. Subscribers who are subject to the verification process and who qualify under the income-based eligibility criterion must prove their continued eligibility by presenting current documentation of their income level and by self-certifying, under penalty of perjury, the number of individuals in their household and that the documentation presented accurately represents their annual household income. (As is the case with the initial certification process, the documentation of income need not be retained by the ETC).

In addition to verifying the continued eligibility of a sample of Lifeline customers as noted above, an officer of the ETC must certify, under penalty of perjury, that the ETC has income verification procedures in place and that, to the best of his or her knowledge, the company was presented with corroborating documentation.

This certification concerning the carrier's "verification" procedures should be filed specifically with USAC after the carrier has verification procedures in place and has actually verified a statistically valid random sample of its Lifeline subscribers. Section 54.410 of the FCC rules states that the results of the verification review must also be provided to USAC and suggests that both the results of the verification review and the required certification should be provided at the same time.

Attached as Appendix E is a sample form that may be utilized to provide this carrier certification ("CARRIER CERTIFICATION REGARDING VERIFICATION PROCEDURES"). Please note, however, that USAC is at this time considering the possibility of revising their Form 497 to include a similar certification statement. If this occurs it will not be necessary to separately file a separate carrier certification form.

#### **Section 54.416 – Certification of Consumer Qualification for Link-Up.**

This Section notes that consumers, prior to their receipt of Link-Up assistance, must also present documentation of their household income, if they are seeking qualification under the income-based criterion.

### **Section 54.417 – Recordkeeping Requirements.**

States and ETCs are required to implement measures to certify income of consumers when income is the consumer's basis for Lifeline/Link-Up eligibility, and to implement measures to verify continued eligibility for Lifeline/Link-Up, under any of the eligibility criteria, within one year from publication of the FCC's Order establishing the new rules in the Federal Register (June 22, 2004). Accordingly, the deadline for implementing these measures is June 22, 2005. It should further be noted that the FCC stated in its Order that level of income is not an acceptable means of qualifying for Lifeline/Link-Up until certification procedures are in place.

Under Section 54.417, the FCC has now established more specific recordkeeping requirements that apply to ETCs that are providing Lifeline/Link-Up services. The FCC clarifies under the rule that ETCs must retain consumers' self-certifications of eligibility, including self-certifications noting that the income documentation presented accurately reflects household income, for as long the consumer receives Lifeline service from that ETC or until the ETC is audited by the USAC administrator.

In addition, the FCC has established a general requirement that all other records documenting compliance with the Lifeline/Link-Up service program must be maintained by ETCs for a period of at least three years. Examples of these records would be documents demonstrating that ETCs have passed through appropriate discounts to qualifying consumers, proof of advertising of Lifeline/Link-Up service, and billing records for Lifeline customers.

### **Consumer Outreach Guidelines.**

Along with adopting the above described rule changes, the FCC has also now adopted specific "outreach guidelines" that are intended to more effectively target the Lifeline/Link-Up program to low-income consumers. ETCs generally are required to "publicize the availability of Lifeline/Link-Up in a manner that is reasonably designed to reach those likely to qualify for the service." This requirement has now been supplemented with the following guidelines:

- States and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service; (2) states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within a carrier's service area; and (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs.

The FCC, in its Report and Order, also offered the following comments concerning what types of outreach materials and/or methods that may be considered by states and/or carriers:

States or carriers may wish to send regular mailings to eligible households in the form of letters or brochures. Posters could be placed in locations where low-income individuals are likely to visit, such as shelters, soup kitchens, public assistance agencies, and on public transportation. Multi-media outreach approaches could be utilized such as newspaper advertisements, articles in consumer newsletters, press releases, radio commercials, and radio and television public service announcements. For low-income consumers that live in remote areas, including those living on tribal lands, traveling throughout an area or setting up an information booth at a central location may be more suitable outreach methods. States and carriers should ensure that outreach materials and methods accommodate low-income individuals with sight, hearing, and speech disabilities by producing brochures, mailings, and posters in Braille. We also encourage carriers to provide customer service to disabled program participants on an equal basis by using telecommunications relay services (TRS), text telephone (TTY), and speech-to-speech (STS) services. States and carriers should also take into consideration that some low-income consumers may be illiterate or functionally illiterate, and therefore should consider how to supplement outreach materials and methods to accommodate those individuals. States and carriers may post outreach material on the Internet to provide general information; however, the Internet should not be relied on as the sole or primary means of Lifeline/Link-Up outreach. Similarly, although advertising Lifeline/Link-Up in carriers' telephone books may be effective in reaching some low-income individuals, it will not be effective for those without established phone service because carriers only distribute telephone books after phone service is established. States and carriers should also not rely on hotlines as a primary outreach method because many low-income individuals may not have access to a telephone from which to initiate an inquiry on Lifeline/Link-Up benefits.

With respect to the third requirement noted above under the outreach guidelines the FCC commented further that:

The third recommended guideline is that states and carriers should coordinate their outreach efforts with governmental agencies that administer any of the relevant government assistance programs. Coordination should also include cooperative outreach efforts with state commissions, tribal organizations, carriers, social service agencies, community centers, nursing homes, public schools, and private organizations that may serve low-income individuals, such as American Association for Retired Persons and the United Way. Cooperative

outreach among those most likely to have influential contact with low-income individuals will help to target messages about Lifeline/Link-Up to the low-income community. For example, state agencies that conduct outreach efforts for a state's "earned income tax credit," an income tax credit for low-income working individuals and families, could conduct simultaneous outreach efforts for Lifeline/Link-Up. Establishing a marketing or consumer advisory board with state, carrier, non-profit and consumer representatives may also be an effective way of developing outreach materials.

In conjunction with its Report and Order, the FCC also issued a Further Notice of Proposed Rulemaking seeking comment on certain issues related to the offering of Lifeline and Link-Up services. As of yet, however, nothing further has been done based on that Notice to make any further Lifeline and/or Link-Up changes. The FCC rules attached are a complete set of the Lifeline and Link-Up provisions, incorporating all changes made to date.

As a final attachment I've provided herewith a "Lifeline and Link-Up Check List" which can be used as a quick reference to ensure that your company has done all that is necessary to comply with the new FCC requirements (attached as Appendix F).

Page 131-132 State authority vs non state authority

§54.316

designated disaggregation zones of support within the carrier's study area.

[66 FR 30089, June 5, 2001, as amended at 66 FR 59727, Nov. 30, 2001]

§54.316 Rate comparability review and certification for areas served by non-rural carriers.

(a) *Certification.* Each state will be required annually to review the comparability of residential rates in rural areas of the state served by non-rural incumbent local exchange carriers to urban rates nationwide, and to certify to the Commission and the Administrator as to whether the rates are reasonably comparable, for purposes of section 254(b)(3) of the Telecommunications Act of 1996. If a state does not rely on the safe harbor described in paragraph (b) of this section, or certifies that the rates are not reasonably comparable, the state must fully explain its rate comparability analysis and provide data supporting its certification, including but not limited to residential rate data for rural areas within the state served by non-rural incumbent local exchange carriers. If a state certifies that the rates are not reasonably comparable, it must also explain why the rates are not reasonably comparable and explain what action it intends to take to achieve rate comparability.

(b) *Safe harbor.* For the purposes of its certification, a state may presume that the residential rates in rural areas served by non-rural incumbent local exchange carriers are reasonably comparable to urban rates nationwide if the rates are below the nationwide urban rate benchmark. The nationwide urban rate benchmark shall equal the most recent average urban rate plus two weighted standard deviations. The benchmark shall be calculated using the average urban rate and standard deviation shown in the most recent annual *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* published by the Wireline Competition Bureau. To the extent that a state relies on the safe harbor, the rates that it compares to the nationwide urban rate benchmark shall include the access charges and other mandatory monthly rates included in the rate survey published in the most recent an-

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nuar *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service.* The *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* is available for public inspection at the Commission's Reference Center at 445 12th Street, S.W., Washington, D.C. 20554 and on the Commission Web site at [www.fcc.gov/wcb/iatd/lec.html](http://www.fcc.gov/wcb/iatd/lec.html).

(c) *Definition of "rural area."* For the purposes of this section, a "rural area" is a non-metropolitan county or county equivalent, as defined in the Office of Management and Budget's (OMB) Revised Standards for Defining Metropolitan Areas in the 1990s and identifiable from the most recent Metropolitan Statistical Area (MSA) list released by OMB. At a state's discretion, a "rural area" may also include any wire center designated by the state as rural for the purposes of this section. In the event that a state designates a wire center as rural, it must provide an explanation supporting such designation in its certification pursuant to paragraph (a) of this section.

(d) *Schedule for certification.* Annual certifications are required on the schedule set forth in §54.313(d)(3), beginning October 1, 2004. Certifications due on October 1 of each year shall pertain to rates as of the prior July 1. Certifications filed during the remainder of the schedule set forth in §54.313(d)(3) shall pertain to the same date as if they had been filed on October 1.

(e) *Effect of failure to certify.* In the event that a state fails to certify, no eligible telecommunications carrier in the state shall receive support pursuant to §54.309.

[68 FR 69626, Dec. 15, 2003]

Subpart E—Universal Service Support for Low-Income Consumers

§54.400 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) *Qualifying low-income consumer.* A "qualifying low-income consumer" is a consumer who meets the qualifications for Lifeline, as specified in §54.409.

(b) *Toll blocking.* "Toll blocking" is a service provided by carriers that lets



consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

(c) *Toll control*. "Toll control" is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(d) *Toll limitation*. "Toll limitation" denotes either toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, "toll limitation" denotes both toll blocking and toll control.

(e) *Eligible resident of Tribal lands*. An "eligible resident of Tribal lands" is a "qualifying low-income consumer," as defined in paragraph (a) of this section, living on or near a reservation. A "reservation" is defined as any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. "Near reservation" is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation, and administrative feasibility of providing an adequate level of services to the area.

NOTE TO PARAGRAPH (e): The Commission stayed implementation of paragraph (e) as applied to qualifying low-income consumers

living "near reservations" on August 31, 2000 (15 FCC Rcd 17112).

(f) *Income*. "Income" is all income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

[62 FR 32952, June 17, 1997, as amended at 63 FR 2128, Jan. 13, 1998; 65 FR 47905, Aug. 4, 2000; 65 FR 58663, Oct. 2, 2000; 68 FR 41941, July 16, 2003; 69 FR 34600, June 22, 2004]

#### § 54.401 Lifeline defined.

(a) As used in this subpart, *Lifeline* means a retail local service offering:

(1) That is available only to qualifying low-income consumers;

(2) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(3) That includes the services or functionalities enumerated in § 54.101 (a)(1) through (a)(9). The carriers shall offer toll limitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation, that service shall become part of that consumer's Lifeline service.

(b) [Reserved]

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll limitation service from the carrier, where available. If toll limitation services are unavailable, the carrier may charge a service deposit.

(d) The state commission shall file or require the eligible telecommunications carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in this subpart and stating the number of qualifying low-income consumers and the amount of

state assistance. Eligible telecommunications carriers not subject to state commission jurisdiction also shall make such a filing with the Administrator. Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this subpart.

(e) Consistent with § 52.33(a)(1)(i)(C), eligible telecommunications carriers may not charge Lifeline customers a monthly number-portability charge.

[62 FR 32948, June 17, 1997, as amended at 63 FR 2128, Jan. 13, 1998; 64 FR 60358, Nov. 5, 1999; 65 FR 47905, Aug. 4, 2000; 69 FR 34600, June 22, 2004]

#### § 54.403 Lifeline support amount.

(a) The Federal Lifeline support amount for all eligible telecommunications carriers shall equal:

(1) *Tier One.* The tariffed rate in effect for the primary residential End User Common Line charge of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service, as determined in accordance with § 69.104 or §§ 69.152(d)(1) and 69.152(q) of this chapter, whichever is applicable;

(2) *Tier Two.* Additional federal Lifeline support in the amount of \$1.75 per month will be made available to the eligible telecommunications carrier providing Lifeline service to the qualifying low-income consumer, if that carrier certifies to the Administrator that it will pass through the full amount of Tier-Two support to its qualifying, low-income consumers and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

(3) *Tier Three.* Additional federal Lifeline support in an amount equal to one-half the amount of any state-mandated Lifeline support or Lifeline support otherwise provided by the carrier, up to a maximum of \$1.75 per month in federal support, will be made available to the carrier providing Lifeline service to a qualifying low-income consumer if the carrier certifies to the Administrator that it will pass through the full amount of Tier-Three support to its qualifying low-income consumers and that it has received any non-federal

regulatory approvals necessary to implement the required rate reduction.

(4) *Tier Four.* Additional federal Lifeline support of up to \$25 per month will be made available to a eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400(e), to the extent that:

(i) This amount does not bring the basic local residential rate (including any mileage, zonal, or other non-discretionary charges associated with basic residential service) below \$1 per month per qualifying low-income subscribers; and

(ii) The eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tier-Four amount to qualifying eligible residents of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

(b) For a qualifying low-income consumer who is not an eligible resident of Tribal lands, as defined in § 54.400(e), the federal Lifeline support amount shall not exceed \$3.50 plus the tariffed rate in effect for the primary residential End User Common Line charge of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service, as determined in accordance with § 69.104 or § 69.152(d) and (q) of this chapter, whichever is applicable. For an eligible resident of Tribal lands, the federal Lifeline support amount shall not exceed \$28.50 plus that same End User Common Line charge. Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges shall apply Tier-One federal Lifeline support to waive the federal End-User Common Line charges for Lifeline consumers. Such carriers shall apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers shall apply the Tier-One federal Lifeline support amount, plus any additional support amount, to reduce their lowest

tariffed (or otherwise generally available) residential rate for the services enumerated in § 54.101(a)(1) through (a)(9), and charge Lifeline consumers the resulting amount.

(c) Lifeline support for providing toll limitation shall equal the eligible telecommunications carrier's incremental cost of providing either toll blocking or toll control, whichever is selected by the particular consumer.

[62 FR 32948, June 17, 1997, as amended at 63 FR 2128, Jan. 13, 1998; 65 FR 38689, June 21, 2000; 65 FR 47905, Aug. 4, 2000]

**§ 54.405 Carrier obligation to offer Lifeline.**

All eligible telecommunications carriers shall:

(a) Make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers, and

(b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

(c) Notify Lifeline subscribers of impending termination of Lifeline service if the carrier has a reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria, as described in § 54.409. Notification of impending termination shall be in the form of a letter separate from the subscriber's monthly bill. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination, that requires, at a minimum, written notification of impending termination, must comply with the applicable state requirements.

(d) Allow subscribers 60 days following the date of the impending termination letter required in paragraph (c) of this section in which to demonstrate continued eligibility. Subscribers making such a demonstration must present proof of continued eligibility to the carrier consistent with applicable state or federal verification requirements, as described in § 54.410(c). Carriers must terminate subscribers who fail to demonstrate continued eligibility within the 60-day time period. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination

must comply with the applicable state requirements.

[65 FR 47905, Aug. 4, 2000, as amended at 69 FR 34600, June 22, 2004]

EFFECTIVE DATE NOTE: At 69 FR 34600, June 22, 2004, § 54.405, paragraphs (c) and (d) were added. These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 54.407 Reimbursement for offering Lifeline.**

(a) Universal service support for providing Lifeline shall be provided directly to the eligible telecommunications carrier, based on the number of qualifying low-income consumers it serves, under administrative procedures determined by the Administrator.

(b) The eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served. For each consumer receiving Lifeline service, the reimbursement amount shall equal the federal support amount, including the support amount described in § 54.403(c). The eligible telecommunications carrier's universal service support reimbursement shall not exceed the carrier's standard, non-Lifeline rate.

(c) In order to receive universal service support reimbursement, the eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline in conformity with § 54.401. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this Subpart.

**§ 54.409 Consumer qualification for Lifeline.**

(a) To qualify to receive Lifeline service in a state that mandates state Lifeline support, a consumer must meet the eligibility criteria established by the state commission for such support. The state commission shall establish narrowly targeted qualification criteria that are based solely on income or factors directly related to income. A state containing geographic

*State  
Mandated*

§54.410

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areas included in the definition of "reservation" and "near reservation," as defined in §54.400(e), must ensure that its qualification criteria are reasonably designed to apply to low-income individuals living in such areas.

(b) To qualify to receive Lifeline service in a state that does not mandate state Lifeline support, a consumer's income, as defined in §54.400(f), must be at or below 135% of the Federal Poverty Guidelines or a consumer must participate in one of the following federal assistance programs: Medicaid; Food Stamps; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families.

(c) A consumer that lives on a reservation or near a reservation, but does not meet the qualifications for Lifeline specified in paragraphs (a) and (b) of this section, nonetheless shall be a "qualifying low-income consumer" as defined in §54.400(a) and thus an "eligible resident of Tribal lands" as defined in §54.400(e) and shall qualify to receive Tiers One, Two, and Four Lifeline service if the individual participates in one of the following federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those meeting its income qualifying standard); or National School Lunch Program's free lunch program. Such qualifying low-income consumer shall also qualify for Tier-Three Lifeline support, if the carrier offering the Lifeline service is not subject to the regulation of the state and provides carrier-matching funds, as described in §54.403(a)(3). To receive Lifeline support under this paragraph for the eligible resident of Tribal lands, the eligible telecommunications carrier offering the Lifeline service to such consumer must obtain the consumer's signature on a document certifying under penalty of perjury that the consumer receives benefits from at least one of the programs mentioned in this paragraph or paragraph (b) of this section, and lives on or near a reservation, as defined in §54.400(e). In addition to identifying in that document

the program or programs from which that consumer receives benefits, an eligible resident of Tribal lands also must agree to notify the carrier if that consumer ceases to participate in the program or programs. Such qualifying low-income consumer shall also qualify for Tier-Three Lifeline support, if the carrier offering the Lifeline service is not subject to the regulation of the state and provides carrier-matching funds, as described in §54.403(a)(3).

(d) In a state that does not mandate state Lifeline support, each eligible telecommunications carrier providing Lifeline service to a qualifying low-income consumer pursuant to paragraphs (b) or (c) of this section must obtain that consumer's signature on a document certifying under penalty of perjury that:

(1) The consumer receives benefits from one of the programs listed in paragraphs (b) or (c) of this section, and identifying the program or programs from which that consumer receives benefits, or

(2) The consumer's household meets the income requirement of paragraph (b) of this section, and that the presented documentation of income, as described in §§54.400(f), 54.410(a)(ii), accurately represents the consumer's household income; and

(3) The consumer will notify the carrier if that consumer ceases to participate in the program or programs or if the consumer's income exceeds 135% of the Federal Poverty Guidelines.

[65 FR 47905, Aug. 4, 2000, as amended at 68 FR 41942, July 16, 2003; 69 FR 34600, June 22, 2004]

EFFECTIVE DATE NOTE: At 69 FR 34600, June 22, 2004, §54.409 paragraph (d) was added. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§54.410 Certification and Verification of Consumer Qualification for Lifeline.**

(a) *Certification of income.* Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Lifeline.

(1) 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.

(2) By one year from the effective date of these rules, eligible telecommunications carriers in states that do not mandate state Lifeline support must implement certification procedures to document consumer income-based eligibility for Lifeline prior to that consumer's enrollment if the consumer is qualifying under the income-based criterion specified in § 54.409(b). Acceptable documentation of income eligibility includes the prior year's state, federal, or tribal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice letter of participation in General Assistance, a divorce decree, child support, or other official document. If the consumer presents documentation of income that does not cover a full year, such as current pay stubs, the consumer must present three consecutive months worth of the same types of document within that calendar year.

(b) *Self-certifications.* After income certification procedures are implemented, eligible telecommunications carriers and consumers are required to make certain self-certifications, under penalty of perjury, relating to the Lifeline program.

(1) 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.

(2) An officer of the eligible telecommunications carrier in a state that does not mandate state Lifeline sup-

port must certify that the eligible telecommunications carrier has procedures in place to review income documentation and that, to the best of his/her knowledge, the carrier was presented with documentation of the consumer's household income.

(3) Consumers qualifying for Lifeline under an income-based criterion must certify the number of individuals in their households on the document required in § 54.409(d).

(c) *Verification of continued eligibility.* Consumers qualifying for Lifeline may be required to verify continued eligibility on an annual basis.

(1) 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.

(2) By one year from the effective date of these rules, eligible telecommunications carriers in states that do not mandate state Lifeline support must implement procedures to verify the continued eligibility of a statistically valid random sample of their Lifeline consumers to verify continued eligibility and provide the results of the sample to the Administrator. If verifying income, an officer of the eligible telecommunications carrier must certify, under penalty of perjury, that the eligible telecommunications carrier has income verification procedures in place and that, to the best of his/her knowledge, the carrier was presented with corroborating income documentation. In addition, the consumer must certify, under penalty of perjury, that the consumer continues to participate in the Lifeline qualifying program or that the presented documentation accurately represents the consumer's household income and the number of individuals in the household.

[69 FR 34600, June 22, 2004]

EFFECTIVE DATE NOTE: At 69 FR 34600, June 22, 2004, § 54.410 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§54.411 Link Up program defined.**

(a) For purposes of this subpart, the term "Link Up" shall describe the following assistance program for qualifying low-income consumers, which an eligible telecommunications carrier shall offer as part of its obligation set forth in §§54.101(a)(9) and 54.101(b):

(1) A reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reduction shall be half of the customary charge or \$30.00, whichever is less; and

(2) A deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be for connection charges of up to \$200.00 that are deferred for a period not to exceed one year. Charges assessed for commencing service include any charges that the carrier customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements.

(3) For an eligible resident of Tribal lands, a reduction of up to \$70, in addition to the reduction in paragraph (a)(1) of this section, to cover 100 percent of the charges between \$60 and \$130 assessed for commencing telecommunications service at the principal place of residence of the eligible resident of Tribal lands. For purposes of this paragraph, charges assessed for commencing telecommunications services shall include any charges that the carrier customarily assesses to connect subscribers to the network, including facilities-based charges associated with the extension of lines or construction of facilities needed to initiate service. The reduction shall not apply to charges assessed for facilities or equipment that fall on the customer side of demarcation point, as defined in §68.3 of this chapter.

(b) A qualifying low-income consumer may choose one or both of the programs set forth in paragraphs (a)(1) and (a)(2) of this section. An eligible resident of Tribal lands may participate in paragraphs (a)(1), (a)(2), and (a)(3) of this section.

(c) A carrier's Link Up program shall allow a consumer to receive the benefit of the Link Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link Up assistance was provided previously.

(d) An eligible telecommunications carrier shall publicize the availability of Link Up support in a manner reasonably designed to reach those likely to qualify for the support.

[62 FR 32948, June 17, 1997, as amended at 65 FR 47906, Aug. 4, 2000]

**§54.413 Reimbursement for revenue forgone in offering a Link Up program.**

(a) Eligible telecommunications carriers may receive universal service support reimbursement for the revenue they forgo in reducing their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with §54.411.

(b) In order to receive universal service support reimbursement for providing Link Up, eligible telecommunications carriers must keep accurate records of the revenues they forgo in reducing their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with §54.411. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart. The forgone revenues for which the eligible telecommunications carrier may receive reimbursement shall include only the difference between the carrier's customary connection or interest charges and the charges actually assessed to the participating low-income consumer.

**§ 54.415 Consumer qualification for Link Up.**

(a) In a state that mandates state Lifeline support, the consumer qualification criteria for Link Up shall be the same as the criteria that the state established for Lifeline qualification in accord with § 54.409(a).

(b) In a state that does not mandate state Lifeline support, the consumer qualification criteria for Link Up shall be the criteria set forth in § 54.409(b).

(c) Notwithstanding paragraphs (a) and (b) of this section, an eligible resident of Tribal lands, as defined in § 54.400(e), shall qualify to receive Link Up support.

[65 FR 47906, Aug. 4, 2000]

**§ 54.416 Certification of consumer Qualification for Link Up.**

Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Link Up consistent with requirements set forth in §§ 54.410(a) and (b).

[69 FR 34601, June 22, 2004]

EFFECTIVE DATE NOTE: At 69 FR 34601, June 22, 2004, § 54.416 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 54.417 Recordkeeping requirements.**

(a) Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link Up programs for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request.

Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in §§ 54.409(d) and 54.410(b)(3) for as long as the consumer receives Lifeline service from that eligible telecommunications carrier or until audited by the Administrator. If an eligible telecommunications carrier provides Lifeline discounted wholesale services to a reseller, it must obtain a certification from that reseller that it is complying with all Commission re-

quirements governing the Lifeline/Link Up programs.

(b) Non-eligible-telecommunications-carrier resellers that purchase Lifeline discounted wholesale services to offer discounted services to low-income consumers must maintain records to document compliance with all Commission requirements governing the Lifeline/Link Up programs for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. To the extent such a reseller provides discounted services to low-income consumers, it constitutes the eligible telecommunications carrier referenced in §§ 54.405(c), 54.405(d), 54.409(d), 54.410, and 54.416.

[69 FR 34601, June 22, 2004]

EFFECTIVE DATE NOTE: At 69 FR 34601, June 22, 2004, § 54.417 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**Subpart F—Universal Service Support for Schools and Libraries****§ 54.500 Terms and definitions.**

(a) *Billed entity.* A "billed entity" is the entity that remits payment to service providers for services rendered to eligible schools and libraries.

(b) *Educational purposes.* For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, qualify as "educational purposes." Activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons.

(c) *Elementary school.* An "elementary school" is a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

(d) *Library.* A "library" includes:

- (1) A public library;
- (2) A public elementary school or secondary school library;
- (3) An academic library;

1-24-05

2004 Estimated Income Requirements for a Household At or  
Below 135% of the Federal Poverty Guidelines

Size of Family Unit	48 Contiguous States & DC	Alaska	Hawaii
1	\$12,569	\$15,701	\$14,445
2	\$16,862	\$21,074	\$19,386
3	\$21,155	\$26,447	\$24,327
4	\$25,448	\$31,820	\$29,268
5	\$29,741	\$37,193	\$34,209
6	\$34,034	\$42,566	\$39,150
7	\$38,327	\$47,939	\$44,091
8	\$42,620	\$53,312	\$49,032
For each additional person, add	\$4,293	\$5,373	\$4,941



Senate IBC

1-24-05

Appendix C

**LIFELINE/LINK UP ASSISTANCE APPLICATION**

(Please Print)

Name:

\_\_\_\_\_  
Last First M.I.

Address:

\_\_\_\_\_  
Street Apt. No.

City:

\_\_\_\_\_  
City State Zip Code

Social Security Number: \_\_\_\_\_

Telephone Number (if you have existing service): \_\_\_\_\_

Telephone Number where you can be reached or receive messages: \_\_\_\_\_

1. I am applying for: \_\_\_\_\_ Lifeline (monthly telephone service discount)  
\_\_\_\_\_ Link Up (telephone connection charge discount)

Note: Telephone service MUST be in applicant's name.

2. I am currently receiving assistance benefits from at least one of the following programs  
(check all that apply):

\_\_\_\_\_ Medicaid (e.g. Title XIX/Medical, State Supplemental Assistance).  
\_\_\_\_\_ Food Stamps program.  
\_\_\_\_\_ Supplemental Security Income (SSI).  
\_\_\_\_\_ Federal Public Housing Assistance (Section 8).  
\_\_\_\_\_ Low Income Home Energy Assistance.  
\_\_\_\_\_ Temporary Assistance for Needy Families (TANF) program  
\_\_\_\_\_ National School Lunch (NSL) free lunch program.

3. Or,

\_\_\_\_\_ My household income is at or below 135 percent of the Federal Poverty Guidelines.  
(documentation required)

I agree to notify the telephone company when I no longer qualify based on the above criteria.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE. I have read the information on this application and understand that I must meet at least one of the above qualifications to receive Lifeline/Link Up assistance on my primary residential telephone line.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Send the completed application to your local phone company*

**SELF-CERTIFICATION FOR LIFELINE/LINK UP APPLICANTS  
QUALIFYING UNDER INCOME-BASED CRITERION**

I, \_\_\_\_\_, certify under penalty of perjury that I qualify for Lifeline/Link Up assistance based on my household income that is at or below 135 percent of the Federal Poverty Guidelines. I further certify under penalty of perjury that there are \_\_\_\_\_ members in my household and that the supporting income documentation presented to my telecommunications provider accurately represents the annual income of all members of my household.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Lifeline and/or Link-Up Assistance Application for  
Eligible Residents Living on Tribal Lands**

(Please Print)

Name: \_\_\_\_\_

\_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_

\_\_\_\_\_  
Street Apt. No.

City: \_\_\_\_\_

\_\_\_\_\_  
City State Zip Code

Social Security Number: \_\_\_\_\_

Telephone Number (if you have existing service): \_\_\_\_\_

Telephone Number where you can be reached or receive messages: \_\_\_\_\_

1. I am applying for: \_\_\_\_\_ Lifeline (monthly telephone service discount)  
\_\_\_\_\_ Link Up (telephone connection charge discount)

Note: Telephone service MUST be in applicant's name.

2. I am an individual living on "tribal land."

*"An eligible resident of Tribal lands" for purposes of the Lifeline and Link-Up Assistance Programs is a qualifying low-income consumer living on or near a reservation. A "reservation" is defined as any federally recognized Indian Tribe's reservation, pueblo, or colony, and Indian Allotments. "Near reservation" is defined as those areas or communities adjacent or contiguous to reservations which have been designated by the Federal Commission of Indian Affairs (within the Department of the Interior) as locales that are appropriate for the extension of financial assistance and/or social services.*

3. I am currently receiving assistance benefits from at least one of the following programs (check all that apply):

- \_\_\_\_\_ Medicaid (e.g. Title XIX/Medical, State Supplemental Assistance).  
\_\_\_\_\_ Food Stamps program.  
\_\_\_\_\_ Supplemental Security Income (SSI).  
\_\_\_\_\_ Federal Public Housing Assistance (Section 8).  
\_\_\_\_\_ Low Income Home Energy Assistance.  
\_\_\_\_\_ Bureau of Indian Affairs (BIA) general assistance program  
\_\_\_\_\_ Temporary Assistance for Needy Families (TANF) program  
                    (State or Tribally Administered).  
\_\_\_\_\_ National School Lunch (NSL) free lunch program.  
\_\_\_\_\_ Head Start (meeting income qualifying standards)

4. Or,

\_\_\_\_\_ My household income is at or below 135 percent of the Federal Poverty Guidelines.  
(documentation required)

I agree to notify the telephone company when I no longer qualify based on the above criteria.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE. I have read the information on this application and understand that I must meet at least one of the above qualifications to receive Lifeline/Link Up assistance on my primary residential telephone line.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Send the completed application to your local phone company*

**SELF-CERTIFICATION FOR LIFELINE/LINK UP APPLICANTS  
QUALIFYING UNDER INCOME-BASED CRITERION**

I, \_\_\_\_\_, certify under penalty of perjury that I qualify for Lifeline/Link Up assistance based on my household income that is at or below 135 percent of the Federal Poverty Guidelines. I further certify under penalty of perjury that there are \_\_\_\_\_ members in my household and that the supporting income documentation presented to my telecommunications provider accurately represents the annual income of all members of my household.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**CARRIER CERTIFICATION REGARDING INCOME DOCUMENTATION**

I, \_\_\_\_\_, an officer of *XYZ Telephone Company*, hereby certify under penalty of perjury that *XYZ Telephone Company* has established procedures to review income documentation of subscribers that are applying for Lifeline and/or Link-Up assistance, and further certify, to the best of my knowledge, information and belief, that through these procedures the carrier has been presented with documentation of household income from those subscribers who have qualified for Lifeline and/or Link-Up based on the income-based criterion (that their household income be at or below 135 percent of the Federal Poverty Guidelines).

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**CARRIER CERTIFICATION REGARDING VERIFICATION PROCEDURES**

I, \_\_\_\_\_, an officer of *XYZ Telephone Company*, hereby certify under penalty of perjury that *XYZ Telephone Company* has established income verification procedures, and further certify, to the best of my knowledge, information and belief, that through these procedures the carrier has in reviewing the continued eligibility of a statistically valid sample of its Lifeline subscribers been presented with documentation of household income from those subscribers who have qualified for Lifeline and/or Link-Up based on the income-based criterion (that their household income be at or below 135 percent of the Federal Poverty Guidelines).

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **LIFELINE AND LINK-UP CHECKLIST IMPLEMENTATION OF REVISIONS TO PROGRAM**

### **Review of Rules**

- ☐ Review new FCC rules to gain complete understanding of rule changes.

### **Notification of Termination of Lifeline Service**

- ☐ Draft telephone company letter that may be used to notify Lifeline subscribers of pending termination of their Lifeline service (to be used in those situations where the carrier "has reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria").

### **Application Form Changes and Certifications**

- ☐ Amend current Lifeline and Link-Up application forms to include new qualifying criteria and new consumer self-certification language (for Basic and Enhanced Lifeline and Link-Up).
- ☐ Draft form that may be used in providing carrier certification to FCC that procedures to review income-documentation have been established and that income-documentation is being review (where a subscriber seeks qualification under the income-based criteria).
- ☐ Draft form that may be used in providing carrier certification to FCC that verification procedures are in place and that subscribers under such procedures are required to provide documentation that corroborates their continued Lifeline eligibility.

### **New Company Procedures and Record Keeping**

- ☐ Establish process for reviewing income documentation from those subscribers who seek qualification for Lifeline and/or Link-Up under income-based criteria (at or below 135% of the Federal Poverty Guidelines).
- ☐ Establish a set of procedures to verify continued eligibility of subscribers for Lifeline service (these procedures must annually verify a statistically valid random sample of Lifeline customers).



- ☐ Establish procedures to maintain consumer self-certifications for as long as the subscriber receives Lifeline service or until the company has been audited by USAC and the self-certifications have been reviewed (this would include self-certifications obtained at the time a subscriber initially applies for the discounted service or at such time that a subscriber is asked to verify continued eligibility).
  
- ☐ Establish procedures to ensure that all other records documenting compliance with the Lifeline and Link-Up programs are maintained for a period of at least three years.

#### **Miscellaneous**

- ☐ Obtain most current Federal Poverty Guidelines from USAC website.
  
- ☐ Review FCC's outreach guidelines and the company's current methods of offering advertising and offering Lifeline and Link-Up to determine the need for any changes that may assist in more effectively targeting the Lifeline and Link-Up program to low-income consumers.

**S.B. 2090**

**Presented by:**

~~Illona A. Jeffcoat-Sacco~~  
~~Executive Secretary~~  
Public Service Commission

Tony Clark

**Before:**

**Senate Industry Business and Labor**  
**Honorable Duane Mutch, Chairman**

**Date:**

**24 January 2005**

**TESTIMONY**

Mr. Chairman and committee members, I am Illona Jeffcoat-Sacco, I am the Executive Secretary of the Public Service Commission and Director of the Public Utilities Division. The division implements the Commission's jurisdiction over telecommunications, gas and electric utilities. The Commission asked me to appear here today to testify in favor of Senate Bill 2090, introduced at our request.

SB 2090 adds, to the general powers of the Commission, the ability to create and implement telecommunications Lifeline and Link-up plans for the purpose of determining universal service obligations and support mechanisms under the federal act. In the telecommunications world, Lifeline and Link-Up programs or plans are low income assistance programs funded through universal service support mechanisms. Link-Up provides assistance to qualified customers for the connection charges for primary telephone lines. Lifeline provides a monthly discount on the cost of basic monthly service.

Having specific authority in statute to create and implement Lifeline and Link-up plans could have been beneficial in the past and will be helpful to North

Dakota telecommunications companies and customers in the future. On occasion the Federal Communications Commission (FCC) makes changes to the Lifeline and Link-up rules that require corresponding changes to state Lifeline and Link-up plans. Absent SB 2090, the law provides no specific authority to the Commission to adopt or update the North Dakota Lifeline or Link-up Plans to keep them consistent with federal requirements. The FCC has recently adopted changes to the Lifeline and Link Up programs that will likely require changes in the North Dakota Lifeline and Link Up plans.

This completes my testimony. I would be happy to answer any questions you may have.