



STATE OF NEW JERSEY
Board of Public Utilities
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TELECOMMUNICATIONS

ORDER

IN THE MATTER OF LIFELINE AND LINKUP REFORM)	
)	DOCKET NO. TO12050367
)	
IN THE MATTER OF THE APPLICATION OF VERIZON NEW JERSEY, INC. FOR APPROVAL (I) OF A NEW PLAN FOR AN ALTERNATIVE FORM OF REGULATION AND (II) TO RECLASSIFY MULTI-LINE RATE REGULATED BUSINESS SERVICES AS COMPETITIVE SERVICE, AND COMPLIANCE FILING, ("PAR-2") "DECISION AND ORDER"; and)	
)	DOCKET NO. TO01020095
)	
IN THE MATTER OF THE APPLICATION OF UNITED TELEPHONE COMPANY OF NEW JERSEY, INC. D/B/A EMBARQ FOR APPROVAL OF A PLAN FOR ALTERNATIVE REGULATION)	
)	DOCKET NO. TO08060451
)	

Parties of Record:

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- William K. Mosca, Esq.**, for AT&T Communications of NJ, LP
- Cynthia J. Jahn, Esq.**, for New Jersey School Boards Association
- Kelly Faul, Esq.**, for XO New Jersey
- Shirley Michael** for New Jersey Cable Telecommunications Association
- Sue Benedek, Esq.**, for United Telephone of New Jersey, Inc. d/b/a CenturyLink
- Benjamin J. Aron, Esq.**, for Sprint Nextel Corp

BY THE BOARD:

On February 6, 2012, the Federal Communications Commission ("FCC") issued a Report and Order and Further Notice of Proposed Rulemaking ("FCC Order"), setting forth significant changes to the Federal Lifeline program which are applicable to all states, including New

Jersey.¹ The FCC Order includes an appendix containing amendments to the FCC's rules, as well as a Further Notice of Proposed Rulemaking.

At paragraphs 170-178 of the FCC Order, the FCC announced that it is limiting automatic enrollment by states and encouraging the use of "coordinated enrollment." Additionally, the FCC directed that "states with automatic enrollment programs must modify those programs, as necessary, to comply with our rules, so that consumers are not automatically enrolled without consumers' express consent."² (FCC Order at ¶ 173). The FCC limited automatic enrollment in order "to protect the Fund against duplicative Lifeline support, increase adherence to consumer certification rules, and ensure that all [Eligible Telecommunication Carriers ("ETCs")] have an opportunity to compete for subscribers." *Ibid.*

The FCC Order also contains a Further Notice of Proposed Rulemaking which, among other things, concluded that it is important to accelerate the adoption of a widespread, automated means of verifying eligibility for the Lifeline program. The FCC indicated that, no later than the end of 2013, there be an automated means to determine eligibility for, at a minimum, the three most common programs through which consumers qualify for Lifeline (i.e., Medicaid, Food Stamps and Supplemental Security Income ("SSI")). To ensure that the FCC has sufficient information to implement such a solution, it sought comment on a multitude of issues such as costs, privacy, state vs. a national database, who would populate the database, etc. Additionally, the FCC has required the coordination of Lifeline enrollment to ensure that persons are not receiving Lifeline benefits from multiple ETCs.

As part of Plans for Alternative Regulation ("PARs"), the Board previously required Verizon New Jersey Inc. ("Verizon") (Docket No. TO01020095, August 19, 2003 Decision and Order) and United Telephone Company of New Jersey Inc., d/b/a CenturyLink ("CenturyLink"), f/d/b/a Embarq (Docket No. TO08060451, August 20, 2008 Decision and Order) to develop an automatic enrollment process. This process was intended to rely on data provided by State public assistance agencies. These Board Orders further required the carriers to match data received to current customers of Verizon and CenturyLink to facilitate automatic enrollment in Lifeline.

By separate petitions dated on or about May 11, 2012, Verizon and CenturyLink requested that the Board modify automatic enrollment requirements in their respective PARs. Verizon and CenturyLink served copies of their petitions on all parties to their respective PAR proceedings. Additionally, Board Staff notified these parties that the Board would be considering the petitions at its May 23, 2012 agenda meeting.

In their petitions, Verizon and CenturyLink state that the automatic enrollment requirements as structured do not comply with new FCC requirements that customers not be enrolled in Lifeline without opt-in consent by certification. The opt-in consent requirement became effective on June 1, 2012. No person may be newly enrolled in Lifeline after June 1, 2012 without complying with applicable certification requirements. Additionally, the Petitioners indicated that privacy concerns have prevented full implementation of the automatic enrollment process

¹ The FCC Order is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf

² Automatic enrollment entails a state or agent automatically placing an eligible consumer in the Lifeline program without the consumer submitting an application or affirmatively consenting to enrollment. Coordinated enrollment differs in that it permits consumers to enroll in Lifeline at the same time that they are enrolling in a qualifying public assistance program. See, Lifeline Reform Order paragraphs 170-173.

originally contemplated by the Board. Accordingly, they requested that the Board eliminate all requirements associated with Lifeline automatic enrollment.

To avoid any conflicts with the FCC Order, the Board, by Order dated May 23, 2012, temporarily suspended Verizon and CenturyLink's automatic enrollment requirements prior to June 1, 2012 to avoid conflicts. Additionally, the Board determined that it should accord an opportunity for comments from interested parties before rendering a final determination as to the current automatic enrollment process.

SUMMARY OF COMMENTS

INITIAL COMMENTS

Comments were received from six parties: Rate Counsel, AARP, Citizen Action, TracFone, Verizon and CenturyLink. Rate Counsel, with the support of AARP and Citizen Action requested that a new process be implemented so that consumers can continue to avail themselves of this important benefit. Rate Counsel offered two potential solutions, as described below.

TracFone, Verizon and CenturyLink all encourage the Board to permanently eliminate the Verizon and CenturyLink automatic enrollment plans and/or obligations. TracFone endorses a database solution for future enrollments, while Verizon and CenturyLink suggest that the current "full-certification" process set forth by the FCC is sufficient. Both carriers express their willingness to discuss alternative measures with interested parties following the elimination of automatic enrollment.

TRACFONE

TracFone supported the Board's action to suspend New Jersey's current automatic enrollment programs and suggested the Board should permanently abolish automatic enrollment. TracFone noted that automatic enrollment is antithetical to a competitive Lifeline Services marketplace because it limits choice. TracFone further noted that innovative Lifeline Service offerings such as those from TracFone and other non-traditional ETCs has extended competitive choice, price competition and service innovation to low income consumers, and automatic enrollment models impede the ability of those ETCs to enroll customers. Automatically enrolling low income consumers in ILEC Lifeline programs by virtue of their participation in social programs locks in consumers to a single providers' Lifeline offering without regard to whether other ETC's offerings might better meet their needs and preferences.

TracFone advised that the Board should maximize Lifeline enrollment by taking immediate steps to facilitate immediate access by ETCs to state administered Lifeline eligibility databases. TracFone referenced the FCC's mandate for a national eligibility database by year end 2013 and the FCC's conclusion that the most reliable and accurate evidence of Lifeline enrollment eligibility is the original source of eligibility – government databases of enrollment in qualifying programs. TracFone noted that development of a national eligibility database is a laudable goal but it is unknown if it can be accomplished in 18 months.

TracFone also noted the FCC's "full certification" requirement whereby ETCs must require applicants for Lifeline enrollment to produce documentation of enrollment in qualifying programs is ill-advised and will do little to prevent fraud and abuse. TracFone concluded that full certification will preclude thousands of qualified low-income consumers from completing the Lifeline enrollment process due to unavailability of documentation or the means to deliver the documentation.

TracFone recommends the Board, in cooperation with other New Jersey governmental departments and agencies take immediate steps to make available to ETCs reasonable access to state databases. They cited Maryland, Wisconsin, Florida and Washington as states currently allowing access and South Carolina, Tennessee, Louisiana and Texas as states which have committed to allow access. TracFone noted that database access can be allowed without compromising privacy rights. All that is needed is an indication that a Lifeline applicant is enrolled in a qualifying program. ETCs do not need access to any demographic data of any applicant; how the applicant qualifies and what medical conditions, if any affect the applicants. They only need to receive an indication that the applicant is Lifeline – eligible as a result of being enrolled in a qualifying program. Some states have required ETCs to execute confidentiality agreements with the state to ensure the information will not be used for purposes other than to confirm Lifeline eligibility. TracFone is supportive of efforts to execute such an agreement with the Board or any other state department or agency if that were deemed necessary.

RATE COUNSEL

Rate Counsel noted that the FCC Order places limitations on how states' automatic enrollment processes can be utilized, and that the FCC Order recommends that states initiate "coordinated enrollment" procedures to ensure compliance with the "one per household" requirement. Rate Counsel also noted that as a result of privacy concerns, New Jersey Department of Human Services ("DHS") and the Department of Health and Senior Services ("DHSS") ceased providing consumer information to third party telecommunications service providers in New Jersey. Rate Counsel submitted two proposals for the Board's consideration that it suggests would allow continuation of service offerings under the Lifeline program and determinations of eligibility of participants by telecommunications service providers in New Jersey.

The proposals are as follows:

DHS and/or DHSS should provide eligible recipients of income-based benefits with a list of available Lifeline/Link Up Program telecommunications service providers along with a "Consent Form." The consent form would give the eligible customer the ability to "Opt-In" and consent to the agency's disclosure of the information to their carrier of choice, or the ability to "Opt-Out" of participating in the available Lifeline/Link Up Program; or

The Board should create an Eligibility Data Base ("EDB") with information shared and provided by DHS and/or DHSS to the Board. The Board would then provide eligible persons written notification of their eligibility in the Lifeline/Link Up Program and contact information available for telecommunications service providers throughout New Jersey. Upon request, those providers would then provide the consumer with a consent form that allow the consumer to "Opt-In" and consent to

the agency's disclosure of the information to their carrier of choice, or the ability to "Opt-Out" of participating in the available Lifeline/Link Up Program.

Rate Counsel asserts that the above options promote coordinated enrollment that permits, but does not compel, consumer enrollment in Lifeline/linkup and satisfy the FCC's goal of protecting the Fund against duplicative Lifeline support and increase adherence to consumer certification rules. Rate Counsel believes that the above recommendations would be fully compliant with the new Lifeline/Link Up federal requirements, but would also address any HIPAA concerns raised by DHS, and DHSS. Rate Counsel further believes that the above options can be implemented without unduly burdening the relevant state agencies; and through either of these options New Jersey may continue to guarantee that its most vulnerable consumers continue to receive vital telecommunications services.

Accordingly, Rate Counsel requested that the Board reinstate the Lifeline/Link Up Program for eligible New Jersey ratepayers under either of the recommended mechanisms addressed or a similar solution. Rate Counsel notes that implementing these proposals should include all eligible telecommunications carriers ("ETCs") in New Jersey. Rate Counsel believes that a modified automatic enrollment process should continue and should be expanded so that Lifeline participants have the option to select from a list that includes both ILECs and other ETCs who provide Lifeline service.

AARP

AARP strongly believes that achieving universal service for low-income consumers should be a top priority for both legislators and regulators. The Board should take the necessary steps to ensure that the FCC-mandated revisions do not discourage participation in the program or result in an unduly onerous or discouraging process for Lifeline – eligible households to participate in the Lifeline program. AARP strongly supports the enrollment proposals offered by Rate Counsel. In its efforts to assist the FCC in achieving savings targets for the Lifeline program, it is critically important that New Jersey not jeopardize efforts to increase awareness of and participation in the Lifeline program which continues to be well below 50% of eligible households. AARP is hopeful the Board will take necessary steps to ensure that a new coordinated enrollment process will minimize the burden on applicants and urges the Board to work with the relevant state agencies, community and social service organizations to ensure that New Jersey's most vulnerable citizens do not confront unnecessary difficulties in enrolling in the Lifeline program.

CITIZEN ACTION

Citizen Action has over 60,000 individual members and more than 100 affiliate organizations including a range of labor, senior, religious, environmental, womens, civil rights, civic and community groups whose rights it seeks to preserve regarding Lifeline. Citizen Action believes the automatic enrollment process needs to continue and be expanded and the Board should reinstate the Lifeline/Link Up Program. Citizen Action proposed two recommendations identical to Rate Counsel's to maintain a modified automatic enrollment program.

REPLY COMMENTS

VERIZON

Verizon argues that the Board did not request, nor should it consider the submittal of alternative proposals from the parties. If the Board elects to consider Rate Counsel's proposals, they should be rejected as unclear, redundant and overly burdensome. Since the FCC has already directed USAC to create a national database for the same purpose, creation of another database by the Board would be duplicative and unnecessary. Verizon contends that the Board should not use its limited resources on such a duplicative effort. Verizon stated that even with the adoption of the additional steps recommended by Rate Counsel, uncertainty would remain as to whether the agencies would be able to furnish data to the Board without violating HIPAA privacy rules. The customer can simply fill out a Lifeline application, provide proof of eligibility and be enrolled in the program without taking additional steps Rate Counsel proposes. Verizon is willing to work with Staff, Rate Counsel, AARP, ETCs and other interested parties in arriving at solutions that promote Lifeline services while not placing unnecessary burdens on customers, carriers and the Board. The Board should grant Verizon's request to discontinue automatic enrollment in light of the uncontested fact that it is inconsistent with the FCC's new rules.

CENTURYLINK

CenturyLink does not support the recommendations and proposals advanced by Rate Counsel and supported by the AARP. It further asserts that the FCC modified requirements are sufficient to manage New Jersey's Lifeline program. CenturyLink expressed its belief that the FCC's mandated changes to the federal Lifeline and Link Up Programs should not be undermined by onerous and duplicative requirements.

DISCUSSION

The Board has reviewed the comments and agrees that the automatic enrollment programs that were established in 2003 for Verizon and 2008 for CenturyLink are now inconsistent with the FCC Order and **HEREBY ORDERS** that the automatic enrollment program requirements for Verizon and CenturyLink be eliminated. As was the case in the May 23, 2012 Order that temporarily suspended these programs, this action is limited to the automatic enrollment and related processes described in the petitions whereby Verizon and CenturyLink are required to obtain data from state public assistance programs, match the data to current subscribers and automatically enroll eligible recipients in Lifeline. Verizon and CenturyLink are not relieved of their obligations to make appropriate efforts to enroll eligible recipients in Lifeline through other appropriate means, consistent with the FCC Order.

The Board agrees with parties who maintain that with the elimination of automatic enrollment, the Board should take steps to implement an alternative automated means of verifying eligibility and otherwise promote enrollment in New Jersey. The Board views such comments on what type of alternative enrollment should exist as well within the scope of comments sought on the petitions seeking to eliminate automatic enrollment. The Board believes that the use of a State Lifeline eligibility database or other electronic means of verifying lifeline eligibility, with

information populated by State agencies where program eligibility data resides, will promote these goals. The Board does not believe it is prudent to wait for the implementation of a federal database.

Implementation of a State Lifeline eligibility database, where ETCs can check program eligibility of applicants, would be consistent with the FCC Order and serves to enhance Lifeline enrollment in New Jersey, which is the desire of the commenters in this matter as well as the Board. Such a database would be available to all ETCs – with appropriate protections to address any privacy and HIPPA concerns – and appears to be a reliable and accurate way to verify Lifeline eligibility while promoting the goals set forth by the FCC Order.

Pursuant to the May 23, 2012 order, Board Staff has been in contact with various State agencies and initiated discussions regarding confidentiality and the feasibility of a means of electronically verifying enrollment in eligible assistance programs. In furtherance of these efforts, the Board **FURTHER ORDERS** Board Staff to convene a meeting within 45 days of the effective date of this Order to discuss the establishment of a state Lifeline eligibility database or similar mechanism. Board Staff should invite current and potential future ETCs, the commenters in this matter, and the relevant State Agencies involved in the development of such a database to discuss the technical, policy and funding requirements of a database as well as any additional or modified state or ETC obligations if a state eligibility database is established. The Board anticipates cooperation among all interested parties to quickly make a recommendation to the Board regarding establishing a state Lifeline eligibility database or similar mechanism so that the benefits of this important program are available to all eligible consumers. At the same time, the database will serve to minimize potential fraud and abuse, which is the intent of the FCC and the Board and is the focus of the significant changes to the program. Additionally, the Board anticipates that any mechanism will minimize access to confidential information and address issues relating to privacy and appropriate consent from applicants.


The Board further believes that it would be prudent to consider the feasibility of implementing additional processes, such as coordinated enrollment, to allow applicants from various assistance programs to obtain information or enroll in Lifeline while applying for other programs. Such a process, while not being directed in this Order, should be reviewed by the parties, including the applicable state agencies during their discussions.


This Order shall be effective on December 31, 2012.


DATED: 12/19/12

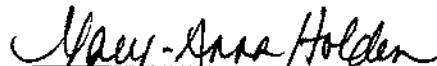
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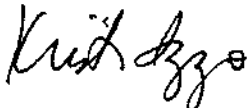

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I HEREBY CERTIFY that the within
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**IN THE MATTER OF LIFELINE AND LINKUP REFORM –
DOCKET NO. TO12050367**

**IN THE MATTER OF THE APPLICATION OF VERIZON NEW JERSEY, INC. FOR
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**IN THE MATTER OF APPLICATION OF UNITED TELEPHONE COMPANY OF NEW JERSEY
D/B/A EMBARQ FOR APPROVAL OF PLAN OF ALTERNATIVE REGULATION –
DOCKET NO. TO08060451**

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