



## **I. INTEREST OF THE DIVISION OF RATE COUNSEL**

The Division of Rate Counsel (“Rate Counsel”) is a division within the Department of the New Jersey Public Advocate. Rate Counsel is a New Jersey State agency that represents and protects the interests of all utility consumers, including residential, business, commercial, and industrial entities. Rate Counsel participates actively in relevant Federal and state administrative and judicial proceedings. The above-captioned proceeding is germane to the Rate Counsel’s continued participation and interest in implementation of Lifeline/Link-Up framework under Section 254 of the Communications Act of 1934 (“the Act”), as amended by the Telecommunication Act of 1996 (“the 1996 Act”),<sup>1</sup> on behalf of New Jersey’s senior and low-income consumers/ratepayers.

## **II. INTRODUCTION**

Rate Counsel respectfully submits these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice,<sup>2</sup> to refresh the record with respect to the *Further Notice of Proposed Rulemaking* (“NPRM”)<sup>3</sup> which sought comment on the Recommended Decision Of The Federal-State Joint Board (“Joint Board”) On Universal Service Regarding Modifications To The Lifeline and Link-Up Programs (“Recommended Decision”) for low-income customers, released by the Commission on April 29, 2004. Rate Counsel believes that the Joint Board’s recommendations and proposals are a reasonable means

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<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (“the 1996 Act”). The 1996 Act amended the Communications Act of 1934 (“the Act”).

<sup>2</sup> The Public Notice was published in the Federal Register on July 25, 2007, DA 07-1241.

<sup>3</sup> See the Commission’s *Report and Order and Further Notice of Proposed Rulemaking on Lifeline and Link-Up* WC Docket No. 03-109, adopted April 2, 2004, rel. April 29, 2004, 69 FR 34629, June 22, 2004.

to promote universal telephone service for senior and low-income consumers. Rate Counsel applauds the Commission's efforts and submits additional recommendations to further promote the effectiveness of the Lifeline/Link-Up program. Rate Counsel limits its comments to the following issues:

- Expansion of Income Based Eligibility Criteria
- Expansion of Program-Based Eligibility Criteria
- Verification of Eligibility for Enrollment
- Verification of Continued Eligibility
- Automatic Enrollment
- Dispute/Appeal Process
- No Restriction or Blocking of Vertical Features for Lifeline Program Customers
- Outreach

### **III. EXPANSION OF INCOME-BASED ELIGIBILITY CRITERIA**

Rate Counsel strongly supports the adoption of an income-based eligibility criterion for Lifeline. Rate Counsel however, echoes the belief and the recommendation made by other commentators that the use of a 150% of the Federal Poverty Guideline ("FPG") -- rather than the 135% standard set forth in the Recommended Decision<sup>4</sup> -- more fully meets the public interest. According to the U.S. Department of Health and Human Services, there are more than 10 million households living at or below the federal poverty level, another 4 million households between 100% and 125% of poverty, and at least 2 million more between 125% and 150% of poverty.<sup>5</sup> Based on the U.S. Department of Human Services statistics, there are 6.2 million households reported as receiving Lifeline assistance in 2001, in comparison to the 16 million that potentially qualify by their income. This rate is staggering and alarming and the glaring reason why there is

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<sup>4</sup> Recommended Decision ¶ 10.

<sup>5</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, as reported in HHS Information Memorandum LIHEAP-IM-2002-3.

a pressing need for the use of a 150% FPG -- rather than the 135% standard set forth in the Recommended Decision. It is Rate Counsel's belief that the use of the 150% of the FPG will enable more low-income consumers in a state to subscribe (and continue to subscribe) to telephone service than would be the case at the 135% standard. In addition, expanding eligibility for Lifeline support to subscribers with incomes at 150% of the poverty level makes sense in light of several states including New Jersey where the Lifeline program is already set at or below 150% of the federal poverty level.

For example, the U.S. Census measures poverty by using the dollar amounts adjusted for inflation every year that can be compared across years. Currently these numbers are far below incomes needed to live in New Jersey. In New Jersey, poverty is better measured below a level of double or more the amount of the federal poverty level. Data for New Jersey in year 2004 yielded the following findings:<sup>6</sup>

- 1) Over 1.7 million, one fifth of the state's population, lived in true poverty: defined as 200% of the 2004 federal poverty level or an annual income below \$30,438 for a family of three. This income level is below the "real" costs of living in New Jersey;
- 2) Over 722,000 (8.5%) New Jerseyans had incomes below the federal poverty level: (for a family of three living below the federal poverty threshold, is an annual income below \$15,219;
- 3) Over 311,000 (3.7%) in New Jersey lived in severe poverty: defined as 50% of the federal poverty level or an annual income below \$7,610 for a family of three.

Given the economic realities in any given state, it may be that the federal poverty level as set may not adequately reflect the "real" costs of living in a given state. Therefore the bar should

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<sup>6</sup> Data for years 2003 and 2004 are from the American Community Survey, U.S. Census Bureau, and the New Jersey Poverty Research Institute.

be set at 150% rather than a lower level in order to further maximize the success of the Lifeline/Link-Up program. Moreover, the Commission should adopt the 150% income-based requisite as the national standard for any Lifeline/Link-Up program that receives federal funding.

#### **IV. EXPANSION OF PROGRAM-BASED ELIGIBILITY CRITERIA**

Rate Counsel also supports adding the two named programs to the eligibility list of qualifying programs to include federal programs, such as the Temporary Aid to Needy Families program (“TANF”) and the National School Lunch free lunch program (“NSL”). As of 2000 there were approximately 2.1 million households in the U.S. receive basic assistance through TANF and this number is increasing.<sup>7</sup> Likewise, it is estimated that 25 million households participate in the NSL program.<sup>8</sup> Adding TANF and NSL as suggested by the Joint Board,<sup>9</sup> to the list of qualifying programs for Lifeline and Link-Up would expand the reach to households that would otherwise not be able to benefit from the Lifeline program. Rate Counsel strongly supports the addition of these programs as it would enable more low-income consumers in a state to subscribe (and continue to subscribe) to telephone service than would be the case without Lifeline.

#### **V. VERIFICATION OF ELIGIBILITY FOR ENROLLMENT**

Currently the federal default rule for the verification of eligibility for enrollment under a “program-based eligibility test” is self-certification, under penalty of perjury, while allowing

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<sup>7</sup> Comments submitted by The Center on Law and Social Policy on the reauthorization of TANF ([www.clasp.org/pubs/TANF/TANF%20comments%201101.pdf](http://www.clasp.org/pubs/TANF/TANF%20comments%201101.pdf)).

<sup>8</sup> US Department of Agriculture <http://www.fns.usda.gov/cnd/Lunch/AboutLunch/faqs.htm>.

<sup>9</sup> Recommended Decision ¶ 10

states to require stricter measures. However, Rate Counsel opposes the Joint Board's recommendation that for federal or state Lifeline/Link-Up support under an "income-based eligibility" criterion should be required to present documentation of income eligibility prior to being enrolled in the program. Rate Counsel supports the Joint Board's recommendation that states access the documentation via available online databases such as for example a state's Department of Health and Human Services, Revenue, Treasury, Taxation to determine eligible households/consumers and share the information of eligible clients with utilities in an effort to ensure that the Lifeline/Link-Up Program is maximizing its participation potential.<sup>10</sup>

## **VI. VERIFICATION OF CONTINUED ELIGIBILITY**

Although continued verification of eligibility is important, Rate Counsel believes that the Joint Board's recommendation requiring customers to provide "a tax return ..., a current income statement ..., 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, a divorce decree or child support document, or other office governmental agency documents"<sup>11</sup> is overly burdensome and would discourage a customer from establishing service. The main purpose of the Lifeline program is to eliminate the barriers so that consumers can obtain telephone service. To this extent the self-certification forms currently

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<sup>10</sup> Recommended Decision, ¶ 42. In addition, Rate Counsel notes for example that certain states like Massachusetts are investigating how to maximize participation in the telecommunications industry by the use of a computer matching program, while others such as Texas use electronic sharing of information between utilities and third-party administrators to identify and enroll households eligible for electric and telecommunication discount rates. See: <http://www.state.ma.us/dpu/electric> , [www.puc.state.tx.us](http://www.puc.state.tx.us) and [lifelinesupport@universalservice.org](mailto:lifelinesupport@universalservice.org).

<sup>11</sup> Recommended Decision, ¶ 35.

contain language that effectively discourages fraud.<sup>12</sup> Moreover, as the Joint Board pointed out the utility has the right to perform an eligibility audit<sup>13</sup> after the customer establishes service through self-certification, which is something the Joint Board strongly encourages in its recommendation. Rate Counsel further notes that none of the Ohio telephone companies that offer enrollment based on self-certifying income eligibility have reported cases of abuse or fraud<sup>14</sup> nor was any significant evidence of fraud or abuse reported to the Joint Board.<sup>15</sup> Therefore, to further maximize and meet the programs' objectives of universal service for all, the Commission should not adopt the Joint Board's recommendation, and should instead continue to require use of self-certification.

## **VII. AUTOMATIC ENROLLMENT**

Rate Counsel strongly urges the Commission to require automatic enrollment in the Lifeline program. New Jersey, like several other states, has already implemented automatic enrollment on a carrier-by-carrier basis. Wireline service information submitted by New Jersey in response to a voluntary survey conducted by the FCC in 2004 on Lifeline and Link-Up issues, yielded that within a one year period from implementation of Verizon's automatic enrollment program, telephone service administered through Verizon's Lifeline program had increased from

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<sup>12</sup> *Id.* ¶ 33.

<sup>13</sup> *Id.* ¶ 37.

<sup>14</sup> In Ohio Cincinnati Bell, SBC, Sprint and Verizon -- the four largest local carriers in the state -- offer enrollment based on income eligibility.

<sup>15</sup> Recommended Decision, ¶ 33.

a previous level of 45,000 to 107,000.<sup>16</sup> Since telephone service is an indispensable necessity, automatic enrollment, as illustrated by Verizon NJ's lifeline program, promotes and ensures universal service for those individuals and families that are most economically vulnerable and disadvantaged who may not be aware of the existence of nor of how to enroll in this vital program.<sup>17</sup> New Jersey's and other similar state programs demonstrate that automatic enrollment can effectively promote basic universal service, for the benefit of the Lifeline eligible consumers and other telephone subscribers.<sup>18</sup>

### **VIII. DISPUTE/APPEAL PROCESS**

The Joint Board recommended that the Commission adopt a federal rule that requires carriers to give consumers a 60-day notice for termination of Lifeline benefits and to implement an appeals process.<sup>19</sup> Rate Counsel believes that the Joint Board's recommendation is very reasonable and would allow the consumer sufficient time within which to collect and submit the documentation requested by the utility to cease termination and continue receiving Lifeline benefits.

Rate Counsel further recommends that the Notice of Termination clearly state 1) the date of termination, 2) clearly delineate the type of income or program participation verification necessary to be submitted to cease the termination of Lifeline benefits and 3) advise the

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<sup>16</sup> Verizon New Jersey supplies up-dated states statistics on Lifeline/Link-Up enrollment under "confidential cover," which the Commission may consider directly requesting from Verizon-NJ for a more accurate and current estimate of the success to date of the "Automatic Enrollment" in New Jersey.

<sup>17</sup> See [www.universalservice.org](http://www.universalservice.org) and <http://www.universalservice.org/res/documents/li/doc/state-surveys-2005/NewJerseySurvey.doc>

<sup>18</sup> See [www.NJShares.org](http://www.NJShares.org) and [www.verizonnj.com/about/community/nj/tele/njlifelinerev.asp](http://www.verizonnj.com/about/community/nj/tele/njlifelinerev.asp)

<sup>19</sup> Recommended Decision at ¶¶ 29 and 30.



consumer that they may open a formal complaint with the state's public utility commission if after submittal of documentation the utility decides to terminate their Lifeline benefits. Moreover, to fully afford consumers procedural due process, once a complaint is filed a stay of termination should immediately be triggered until a final determination is issued from that state commission. Rate Counsel strongly urges the Commission to adopt the Joint Board's recommendations along with the addition of due process safeguards, as a reasonable manner to continue protecting eligible households from wrongful termination of Lifeline benefits.

#### **IX. NO RESTRICTION OR BLOCKING OF VERTICAL FEATURES FOR LIFELINE PROGRAM CUSTOMERS**

Rate Counsel believes that the Joint Board was correct in rejecting the suggestion that the Commission should adopt rules prohibiting the purchase of vertical services by consumers taking Lifeline services.<sup>20</sup>

Rate Counsel notes that the Joint Board is correct in making universal telephone service the goal under the Lifeline/Link-Up Program. Today, telephone service is a necessity and not a luxury, it is essential to be connected for health and safety reasons. The lifeline program recognizes that low-income customers should not be viewed differently in meeting their telecommunications needs. Rate Counsel strongly recommends that the Commission urge telephone companies not to restrict which services are made available to Lifeline customers. For example call waiting, caller ID, may be necessary if there are multiple users of a single telephone line, as may be the case when low-income seniors share housing and expenses or for low-income customers who are taking care of the elderly or an infirmed or disabled individual. Low-income

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<sup>20</sup> Recommended Decision, ¶ 62.

disabled customers generally count on the availability of vertical features for health and safety reasons. For example caller ID will serve a consumer who is mobility-disabled and who may find it difficult to reach the phone before the caller hangs up. The advantages of vertical services are well-known, and frequently used by the disabled. Moreover, Rate Counsel notes that any limitation placed against a disabled lifeline consumer should be suspect as discriminatory action and completely contrary to the spirit and mission of the Lifeline/Link-Up Program.

Lastly, the Joint Board recognized the discouraging effect upon enrollment of the vertical services restriction as it explained: “[R]estrictions on the purchase of vertical services may discourage qualified consumers from enrolling in the Lifeline/Link-Up program, effectively serving as a barrier to participation.”<sup>21</sup> In fact, the vertical service restriction may be one of the main reasons why consumers do not enroll in Lifeline.

Therefore, Rate Counsel strongly supports the Joint Board’s recommendation that, at a minimum, the Commission encourage states not to adopt rules that would restrict Lifeline/Link-Up customers from purchasing vertical services.”<sup>22</sup> Moreover, Rate Counsel urges the Commission to go further and prohibit states from restricting the purchase of vertical services by Lifeline customers.<sup>23</sup> Lifeline program customers should not be discriminated against in the provision of vertical features. Today, most vertical features are synonymous to and part and

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<sup>21</sup> Recommended Decision, ¶ 62.

<sup>22</sup> *Id* at ¶ 50

<sup>23</sup> Rate Counsel notes that as Link-Up merely involves the connection to the network, no question involving the purchase of vertical services arises concerning Link-Up.

parcel of basic telephone service and a necessity for disabled customers. For health and safety reasons state or carrier restrictions on these features should not be permitted.

## **X. OUTREACH**

Rate Counsel agrees with and strongly supports the recommendations by the Joint Board that which among several recommendations call for states and carriers to:

1) utilize outreach materials and methods designed to reach households that do not currently have telephone service;

2) develop outreach multi-lingual advertising that can be read or assessed by any sizeable non-English speaking populations within the carriers' service area; and

3) coordinate outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs.<sup>24</sup>

While all of the above recommendation are important, Rate Counsel stresses the urgent need to have outreach materials distributed in different languages. Rate Counsel recommends that the Commission urge state agencies to develop multi-lingual outreach materials, to meet the state's particular demographic/ethnic needs. In addition, and equally important is the Joint Board's recommendation that the Commission encourage states to establish partnerships with other state agencies and telephone companies in order to maximize public awareness and participation in the Lifeline/Link-Up program. Rate Counsel highly recommends and urges the use of state agencies, organizations and the media as invaluable tools in maximizing outreach

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<sup>24</sup> Recommended Decision, ¶ 50.

and awareness to eligible households. Rate Counsel notes for example the success in New Jersey of a non-profit organization known as New Jersey Statewide Heating Assistance and Referral for Energy Services (“NJ- SHARES”) which is charged with a mission to provide assistance to individuals and families living in New Jersey who are in need of temporary help in paying their energy bills. NJ-SHARES is the only statewide, nonprofit 501(c)(3) organization which provides grants to pay the utility bills of households in need through a statewide network of more than 100 community-based social service agencies. More recently, in October 2005, NJ-SHARES partnered with the Verizon Lifeline Call Center (“NJ-SHARES/Verizon”). The collaboration between NJ-SHARES and Verizon has proven to be extremely successful for New Jersey Lifeline/Link-Up program customers. During their first year in partnership/operation the NJ-SHARES/Verizon call center client services assisted over 107,993 individuals, with over 96,000 inbound and outbound calls. Many of these clients are now able to take advantage of the Verizon Lifeline Telephone Discount.<sup>25</sup> Rate Counsel notes that the measure of Lifeline’s effectiveness is whether it enables more low-income consumers in a state to subscribe (and continue to subscribe) to telephone service than would be the case without Lifeline/Link-Up. Thus both adding new subscribers and keeping current subscribers on the network are missions of the federal low-income fund. Automatic enrollment assisted through statewide agencies or organizations such as NJ-SHARES would successfully streamline the eligibility and verification process for state utilities and maximize the outreach to eligible households and further ensure the continued growth and success of the Lifeline/Link-Up program. Lastly, as previously discussed above, Rate Counsel strongly recommends and urges the Commission to adopt automatic

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<sup>25</sup> See [www.NJShares.org](http://www.NJShares.org) and [www.verizonnj.com/about/community/nj/tele/njlifelinerev.asp](http://www.verizonnj.com/about/community/nj/tele/njlifelinerev.asp) .

enrollment as the federal rule. Rate Counsel notes that in New Jersey it has been through the unified efforts and cooperation by and between state agencies, organizations such as NJ-SHARES and utilities such as Verizon that outreach and the benefits of universal service have increased participating households/customers. Moreover, as previously addressed, automatic enrollment has proven to be extremely successful in New Jersey and will alleviate the concerns connected with establishing initial household/customer eligibility and re-certification or re-verification under the Lifeline/Link-Up program.

## **XI. CONCLUSION**

For the foregoing reasons, Rate Counsel respectfully urges the Commission to adopt the recommendations of the Joint Board, except for the proposed recommendation on verification of eligibility for enrollment and verification of continued eligibility, as discussed above.

Respectfully submitted,

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