



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark
Brian P. Kalk
Kevin Cramer

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

December 22, 2011

Essential Telecommunications Carriers (ETCs)

Ron Knutson, Director of Energy Assistance
Department of Human Services

RE: FCC Enforcement Advisory concerning Lifeline Service

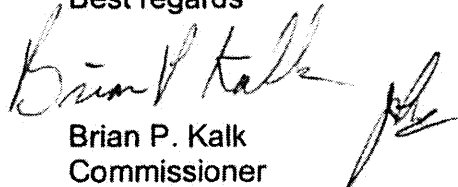
Earlier this year, the Federal Communications Commission (FCC) launched a proceeding to comprehensively reform and modernize Lifeline, including to significantly strengthen protections against waste, fraud, and abuse, and to prepare the program for the broadband era.

Attached is a December 12, 2011 letter from FCC Chairman Genachowski to State Commissioners describing the key actions the FCC has taken over the past year to eliminate waste and abuse in the Lifeline program. Attached to Chairman Genachowski's letter is an FCC Enforcement Advisory.

Just as the FCC has requested that the North Dakota Public Service Commission distribute the Advisory to state and local partners who can help spread the word about the initiative to prevent waste and abuse and protect the Lifeline program, we ask you to further distribute the Advisory to appropriate state and local partners who can help spread the word.

If you have any questions please let me know.

Best regards


Brian P. Kalk
Commissioner



FEDERAL COMMUNICATIONS COMMISSION

JULIUS GENACHOWSKI
CHAIRMAN

December 12, 2011

Dear State Commissioners:

I want to take this opportunity to thank you and your staffs for participating in last week's conference call with FCC staff to improve management and oversight of the Lifeline program; I also write to urge you to increase your efforts to eliminate waste, fraud, and abuse from Lifeline.

Since 1984, this important program has connected millions of low-income Americans to the telephone network, enabling them to more fully participate in our economy and to reach public safety and other critical resources. Last year, the Lifeline program served more than 10 million low-income Americans. During these economically challenging times, it is particularly important that we work together to ensure the integrity of Lifeline, so it can continue to help Americans who need phone service to find a job, coordinate child care, and call 9-1-1 during emergencies.

Earlier this year, the FCC launched a proceeding to comprehensively reform and modernize Lifeline, including to significantly strengthen protections against waste, fraud, and abuse, and to prepare the program for the broadband era. I expect the FCC to vote soon to adopt reforms.

Even as our rulemaking has progressed, we have been focused on immediate measures to eliminate waste and abuse in the Lifeline program. I commend the work of a number of states, including Florida and Wisconsin, that have already taken steps to identify and eliminate fraud in the program. Strengthening and enforcing Lifeline rules is a top priority for the FCC, and we have taken a number of key actions over the past year to this end, including:

- In March, adopted a Notice of Proposed Rulemaking to comprehensively reform Lifeline to strengthen protections against waste, fraud and abuse and modernize the program, building on recommendations from the Federal-State Joint Board on Universal Service.
- Directed USAC to increase oversight over the Lifeline program, which identified duplicative support and led the Commission to undertake the Duplicates Resolution Process.
- Adopted a Duplicates Resolution Order in June, which clearly prohibits providing more than one Lifeline benefit to an eligible consumer.
- Following the Duplicates Resolution Order, launched an unprecedented Duplicates Resolution Process. This process analyzed more than 3.6 million Lifeline subscriptions for duplicative benefits across 15 major Lifeline providers. To date, notices have been sent to over 250,000 subscribers in 12 states who had multiple Lifeline subscriptions, in order to eliminate duplicative benefits. USAC will continue investigating duplicates in other states, and requiring de-enrollment of duplicate subscribers.
- Together with the Department of Justice, reached a first-of-its-kind \$1.5 million settlement

agreement with a Lifeline provider to settle fraud allegations related to improperly signing up Lifeline subscribers.

- Launched multiple investigations of Lifeline providers that may be engaging in fraud or other violations of program rules.
- Toughened requirements on new Lifeline providers to prevent waste and abuse, including requiring that they check the eligibility of all new subscribers and inform subscribers of program requirements designed to prevent duplicative support and other waste.
- Issued an FCC Enforcement Advisory (attached) highlighting the need for carriers to be vigilant about following the Commission's rules in order to protect the Fund against waste and abuse. We have received reports that some carriers may be distributing Lifeline-subsidized cell phone subscriptions without verifying whether the consumers are eligible, or whether they already have a Lifeline subscription. I ask you to distribute the Advisory to the appropriate state and local partners in your community, who can help spread the word that Lifeline-supported services are only available to qualifying low-income consumers, and that consumers may not transfer a handset with subsidized service to others.
- Worked closely with you, the states, as well as USAC, to strengthen enforcement and oversight of Lifeline, including through dozens of calls and meetings over the past year with FCC staff.

I know states stand with us in combating waste and abuse in Lifeline. I encourage all of you to join the FCC in our efforts to reform the Lifeline program by closely scrutinizing the requests for ETC designation pending before you, to be on guard for abuse by ETCs designated to provide Lifeline service in your states, and to take swift and strong action when necessary to protect the program.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Genachowski', with a stylized flourish at the end.

Julius Genachowski

cc: State Attorneys General
cc: U.S. Department of Justice



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 11-1971
December 5, 2011
Enforcement Advisory No. 2011-11

FCC ENFORCEMENT ADVISORY

FCC LIFELINE RULES

ELIGIBLE TELECOMMUNICATIONS CARRIERS OFFERING LIFELINE SERVICE ARE REMINDED OF THEIR OBLIGATION TO CONFIRM CONSUMERS' ELIGIBILITY AND TO AVOID PROVIDING DUPLICATIVE SERVICE

The Lifeline program helps low-income Americans access affordable phone service by providing discounts on one basic monthly telephone service (either wireline or wireless) for qualified subscribers. In order to ensure that the program is able to meet this important objective, and that critical communications services reach the targeted population, the FCC's Enforcement Bureau is issuing this Enforcement Advisory reminding all eligible telecommunications carriers (ETCs) offering Lifeline service of their obligation to properly confirm consumers' eligibility for the service, and to ensure that any consumers they enroll are not already receiving Lifeline service from another provider. It has been brought to the Bureau's attention that certain Lifeline providers may be in violation of these rules. We are actively investigating these allegations, and issue this Enforcement Advisory to alert Lifeline service providers that they face stiff penalties, potentially including revocation of their ETC status or their section 214 authorization to operate as carriers, if they do not strictly adhere to the Commission's rules. Preventing waste, fraud, and abuse in universal service programs, including the Lifeline program, is a paramount objective of the Commission, and the Enforcement Bureau will take all necessary steps to ensure that this vital program is protected.

What Do The Rules Require? The Commission's Lifeline rules prohibit ETCs from signing up for Lifeline service any consumer who is already enrolled in the program. Sections 54.401(a)(1) and 54.405 of the Commission's rules state that an ETC may only make Lifeline available to consumers who are not currently receiving Lifeline service.¹ The Commission's 2011 Duplicative Program Payments Order requires ETCs to explain to consumers in plain, easily comprehensible language that they are not permitted to receive more than one Lifeline subsidy.² Enrolling consumers in Lifeline without first asking if they are receiving Lifeline service from another provider violates the Commission's rules.

The Lifeline rules also require ETCs either to comply with state certification procedures to document consumer eligibility for Lifeline service (in states that mandate state Lifeline support), or to implement certification procedures as described in the Commission's rules, and to certify to the Commission that they are in compliance with the relevant procedures and were provided with documentation of the consumer's income, when income was the basis for eligibility.

¹ 47 C.F.R. §§ 54.401(a)(1) and 54.405.

² *Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up, Report and Order, CC Docket No. 96-45, WC Docket Nos. 11-42, 03-109, 26 FCC Rcd 9022 at para. 9 (2011).*

What Are The Potential Penalties? Violation of the Lifeline rules may subject a company to monetary forfeitures of up to \$150,000 for each violation or each day of a continuing violation, up to a maximum of \$1,500,000.³ Moreover, in egregious cases a carrier could face revocation of its ETC status, and thus its eligibility to participate in the universal service program, or even revocation of its section 214 authorization to operate as a carrier.⁴ In addition, false statements or misrepresentations to the Commission may be punishable by fine or imprisonment under Title 18 of the U.S. Code.

Need More Information? For more information about enforcement of the Lifeline rules, please contact Terry Cavanaugh in the Investigations and Hearings Division, Enforcement Bureau, at 202-418-1553 or Terry.Cavanaugh@fcc.gov. Media inquiries should be directed to Mark Wigfield at 202- 418-0253 or Mark.Wigfield@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), (202) 418-0432 (TTY). You may also contact the Enforcement Bureau on its TTY line at (202) 418-1148 for further information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-TELL-FCC (1-888-835-5322) for further information about Lifeline rules.

Issued by: Chief, Enforcement Bureau

-FCC-

³ 47 U.S.C. § 503(b)(2)(B); 47 C.F.R. § 180(b)(2); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 23 FCC Rcd 9845 (2008).

⁴ See 47 U.S.C. § 214.