

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Advancing Broadband Availability)	WC Docket No. 12-23
Through Digital Literacy Training)	

**PETITION FOR RECONSIDERATION
OF
SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint”), on behalf of its affiliate Virgin Mobile USA, L.P., which offers Lifeline service under the brand name Assurance Wireless Brought To You By Virgin Mobile (“Assurance Wireless”), hereby requests reconsideration of two aspects of the Commission’s *Lifeline Reform Order*:¹ (1) the requirement that Lifeline service providers contact any subscriber who provides a temporary address every 90 days until the subscriber provides a permanent address, and to de-enroll any subscriber who does not respond to the carrier’s inquiries regarding the temporary address; and (2) the requirement to provide a 30-day grace period prior to de-enrollment for Lifeline customers who voluntarily request de-enrollment or who self-

¹ *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42; *Lifeline and Link Up*, WC Docket No. 03-109; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 12-23; *Report and Order and Further Notice of Proposed Rulemaking*, FCC 12-11, released Feb. 6, 2012 (“*Lifeline Reform Order*”).

report that they are no longer eligible for the Lifeline benefit. As demonstrated below, the rule changes requested here by Sprint will generate savings for the Lifeline USF, and will ease an onerous burden on ETCs resulting from unsupported new rules, without jeopardizing any of the Commission's universal service goals.

1. Temporary Addresses

In the *Lifeline Reform Order* (para. 89), the Commission appropriately concluded that “consumers without permanent addresses should not be precluded from participation in Lifeline.” However, to “assist ETCs in more easily confirming such consumers’ continued eligibility for the program,” the Commission has adopted a rule requiring ETCs to inquire on the application form whether the applicant’s address is a temporary one, and if so, to verify with the subscriber every 90 days that he/she continues to rely on that address.² If the subscriber fails to respond within 30 days of the ETC’s attempts to verify the temporary address, the ETC must de-enroll that subscriber from the Lifeline program.

The temporary address policy should be reconsidered, and the implementing rules should be deleted, as they are unsupported by the record below, unreasonably burdensome, and unnecessary. The public interest is not served by singling out end users with temporary addresses for special attention, and the costs associated with this policy outweigh any possible benefit.³

² *Id.*; see also Section 54.410(g) of the Rules (90-day re-certification rule) and Section 54.405(e)(4) (mandating de-enrollment of any Lifeline subscriber who fails to respond to the carrier’s attempt to re-certify the subscriber’s temporary address).

³ There is also considerable doubt that this rule satisfies the Paperwork Reduction Act. See letter from John Nakahata *et al.*, Counsel for General Communication, Inc., to Nicholas Fraser, Office of Management and Budget, dated March 23, 2012, re OMB Control Number 3060-0819 (“GCI Letter”).

In adopting the temporary address policy, the Commission expressed the view that its 90-day requirement would not impose “unreasonable burdens on ETCs” in part because the rule “is likely to be applicable to only a small portion of an ETC’s Lifeline subscriber base.”⁴ However, no record evidence is cited to support this expectation. Insofar as Sprint is aware, there is no information in the record below about the number of Lifeline subscribers who rely upon a temporary address – hardly surprising, given that the *Lifeline Reform NPRM*⁵ did not request comment on any proposal to require potentially multiple re-certifications of temporary addresses. Indeed, it is doubtful that any ETCs even have information on the number of applicants and customers who rely upon a temporary address, since, prior to release of the *Lifeline Reform Order*, there was no regulatory reason to collect or report such information.

Moreover, it is unclear what potential benefit the temporary address policy will generate. If, as the Commission has assumed, the number of subscribers who rely upon a temporary address is low, then any cost savings to the Low Income fund which might be generated by de-enrollment of non-responsive subscribers are also likely to be low, and is likely to be outweighed by the costs incurred by ETCs to comply and the harm to the affected low income consumers. On the other hand, if the number of Lifeline subscribers at temporary addresses is high, then the cost of identifying, tracking and contacting these subscribers and re-certifying their addresses (potentially multiple times), is also likely to be high. Without data, it is impossible to determine the relative costs and benefits of the Commission’s new temporary address policy.

⁴ *Lifeline Reform Order*, footnote 241.

⁵ *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42 *et al.*, *Notice of Proposed Rulemaking* released March 4, 2011 (FCC 11-32).

Because the proposal to require 90-day re-certification of temporary addresses was inadequately noticed, the record below also does not include estimates on the costs ETCs will incur to comply with the new rule. However, based on its analysis of the *Lifeline Reform Order*, Sprint now estimates that it would cost approximately \$800,000 per year to contact identified subscribers every 90 days to confirm whether they still have a temporary address, assuming that 5% of Assurance Wireless' subscriber base has a temporary address.⁶ This cost estimate could easily be higher, since Assurance Wireless does not have good information on the number of customers who might be affected by this new rule, nor can it predict how many re-certifications might be necessary per subscriber until the subscriber secures a permanent address.

In addition to the \$800,000 in recurring costs, Assurance Wireless also will incur a one-time expense to upgrade its computer and administrative systems to comply with the new temporary address rules. Assurance Wireless' systems currently do not indicate whether an address is temporary or permanent, and do not include an automated mechanism to trigger 90-day re-certification attempts for temporary addresses. To upgrade these systems to incorporate these features would cost approximately \$350,000.

The Commission has also expressed the view that the compliance burden on ETCs would not be "unreasonable" because it did not mandate a specific method ETCs must use to verify the address of subscribers with a temporary address, and that a text message "could be sufficient."⁷ However, it does not appear that a text message would work in Assurance Wireless' case, because it has no way of capturing a responsive text

⁶ The 5% figure is only an assumption. Because Sprint does not currently track whether applicants or subscribers are using a temporary address, it does not know how many end users might be affected by this new rule.

⁷ *Lifeline Reform Order*, footnote 239.

back from the subscriber – even assuming that the subscriber chooses to respond via text and is willing to incur a text messaging charge (the Lifeline offering is for voice only, and does not cover text messages). The alternatives – outbound calling or direct mail to contact affected subscribers, and live operators to document the subscribers’ responses – are very costly.

The 90-day verification process is burdensome not only for ETCs, but also for affected subscribers. It is not clear precisely what constitutes a “temporary” address,⁸ and even if the Commission were to limit this rule to shelters, the 90-day verification rule would still be excessively burdensome on affected customers. End users who have a temporary address may well be facing substantial financial and personal stress and instability, which is hardly conducive to high rates of response to queries about their address. De-enrollment for failure to respond under such circumstances will harm a customer segment that has a dire need for Lifeline service.

Finally, it is not clear why the 90-day re-certification rule is even necessary. Lifeline service providers are required under Section 54.410(f) to re-certify the eligibility of their entire Lifeline customer base annually, and subscribers who move to a new address are required under Section 54.410(d)(3)(iii) to notify the ETC of their new address within 30 days. Either/both of these processes will presumably capture the information being sought with the 90-day re-certification process, rendering such process duplicative and inefficient.

⁸ As GCI has pointed out, soldiers and students may be in “long-term yet impermanent living situations” (GCI Letter, p. 11). There is little reason to believe that the Commission intended to corral Lifeline customers who may also be soldiers or students in the temporary address rule.

Imposition of costs such as those described above represent a substantial burden on ETCs such as Assurance Wireless, and, in combination with the costs of complying with the other expanded requirements adopted in the *Lifeline Reform Order*, could substantially reduce the level of resources ETCs have available to address the problem of lack of universal voice service among low income populations. Given the extra burden the temporary address policy also places on affected end users (including the increased likelihood of de-enrollment of otherwise eligible consumers), and the overlap this policy has with other Lifeline rules, the Commission should reconsider its temporary address policy and delete the relevant implementing rules.

2. Voluntary De-enrollments

Section 54.405(e)(1) requires that if an ETC “has a reasonable basis to believe that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low income consumer under §54.409, the carrier must notify the subscriber of impending termination of his or her Lifeline service. Notification of impending termination must be sent in writing separate from the subscriber’s monthly bill, if one is provided.... The carrier must allow a subscriber 30 days following the date of the impending termination letter to demonstrate continued eligibility....”

Sprint agrees that Lifeline subscribers should be given a reasonable opportunity to demonstrate their on-going eligibility to receive a Lifeline benefit, and supports the policy of giving subscribers who failed to respond to re-certification requests an extra 30-day period (starting from the date of a de-enrollment letter) in which to demonstrate their on-going eligibility. However, the 30-day grace period is not necessary and should not apply to consumers who self-report their ineligibility or who voluntarily request de-

enrollment from the Lifeline program for any reason. These end users presumably expect and intend that their Lifeline service would be cancelled immediately, and do not need additional time to provide proof of their continued eligibility to their Lifeline service provider.

End users who self-report that they are no longer eligible are akin to consumers who are de-enrolled because of duplicative support, and their Lifeline benefit should be handled similarly.⁹ Thus, the Commission should revise Section 54.405(e) to exclude from the 30-day notification rule those subscribers who self-report that they are ineligible or who voluntarily request de-enrollment from the Lifeline program. Instead, the Commission should require ETCs to de-enroll such subscribers from the Lifeline program within 5 business days from notification by the end user, and to update the database within 1 business day. This avoids at least one month's payment of Lifeline benefits to end users who do not want or are ineligible to receive it, which will add to the projected savings to the Low Income USF.¹⁰

Finally, the Commission should make clear that de-enrolled customers are not barred from re-applying for the Lifeline benefit. Consumers who voluntarily disconnect from their current Lifeline service provider for reasons unrelated to their eligibility would be allowed to re-apply for the Lifeline benefit from another ETC any time after de-enrollment from the first ETC has been effected; and consumers who self-reported their

⁹ Subscribers who are identified as receiving duplicative Lifeline support must be de-enrolled from the Lifeline program within five business days. *See* Section 54.405(e)(2).

¹⁰ ETCs also will garner some administrative cost savings if they are not required to provide 30-day notification letters to these customers. Sprint estimates it would save approximately \$400,000 in systems costs and approximately \$100,000 per year in notification-related expenses if Section 54.405(e)(1) did not apply to subscribers who self-report their ineligibility or who advise they no longer wish to receive Assurance Wireless service.

ineligibility but who subsequently become eligible again could apply for service from any Lifeline service provider.

* * * * *

Reconsideration of the two issues raised herein is justified by a more complete record, by the relative costs and benefits of the proposed rule revisions, and by the public interest. Expeditious implementation of these proposed revisions will minimize customer confusion and prevent wasteful compliance expenditures by ETCs.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Charles W. McKee

Charles W. McKee
Vice President, Government Affairs
Federal and State Regulatory

Norina T. Moy
Director, Government Affairs

900 Seventh St. NW, Suite 700
Washington, DC 20001
(703) 433-4503

April 2, 2012

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Sprint Nextel Corporation was filed electronically or via US Mail on this 2nd day of April, 2012 to the parties listed below.

/s/ Norina T. Moy

Norina T. Moy

Charles Tyler
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Charles.Tyler@fcc.gov

Jonathan Lechter
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Jonathan.Lechter@fcc.gov

Best Copy and Printing, Inc.
Portals II
445 12th St., SW, Room CY-B402
Washington, DC 20554
fcc@bcpiweb.com