

Lifeline Program: FCC's Compliance Burden Estimates

Presentation to OMB on behalf of
Smith Bagley, Inc.
PR Wireless d/b/a Open Mobile
United States Cellular Corporation
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Lifeline Rules at Issue

Rule	Short Name	Description	Current status
47 C.F.R. section 54.410	Annual Recertification Requirement	All ETCs must annually recertify the eligibility of 100% of their customer base except where state administers recertification process.	OMB extension of temporary approval pending
47 C.F.R. section 54.405(c)	Marketing Disclosures Requirement	All ETCs must include five specific disclosures and a warning against false statements in <i>all</i> marketing materials (including radio, video, billboards, and social media)	OMB approval pending evaluation of FCC initial PRA burden estimates
47 C.F.R. section 54.420(a)	Biennial Audit Requirement	Eligible Telecommunications Carriers (“ETCs”) receiving \$5 million or more in Lifeline must pay for a holding-company level audit every two years	OMB approval pending evaluation of FCC revised PRA burden estimates

Annual Recertification Requirement

- *Lifeline Order explains (para 132):*

“Regardless of the format used to re-certify the subscriber’s continued eligibility for Lifeline, ETCs . . . must convey all of the required information set forth in the amended section 54.410 and obtain from the subscriber an individual certification for each requirement set forth in the rule.”

- *54.410 requires twenty-three data points and recertifications*
- *FCC estimated 16.6 million hours for recertifications each year*
 - (The Empire State Building took 7 million man hours)

Annual Recertification Requirement

► *Burdens underestimated; benefits proving minimal*

- Overall estimated carrier burden of \$413 million divided by estimated 16.1 million subscribers equals \$25.60 per subscriber.
- FCC estimated manual re-certifications to be \$30 per subscriber. Real-world costs as follows:
 - Smith Bagley, Inc. (SBI), an ETC serving remote Tribal lands, showing cost of about \$36 per subscriber, for an expected total annual cost of over \$2.5 million to recertify 72,000 subscribers.
 - PR Wireless, Inc. (PRW), an ETC serving Puerto Rico, showing cost of about \$37 per subscriber.
- To date, SBI has incurred costs over \$343,000, while saving the Fund just \$21,000 in annual support.

► *FCC failed to explore less burdensome options*

- Estimated recertification burden for ETCs of \$413 million is 70 percent of total estimate for ETC Lifeline compliance burden.
- Recertification when customers buy or renew service would have been far more efficient than having to reach out to all customers – including many who have only been customers a few months.
- No exceptions proffered for carriers serving remote tribal areas, where many people do not keep phones turned on, do not speak English well, or are elderly and do not know how to respond to text messaging.
- Fails to recognize overlap with some jurisdictions, including Puerto Rico, which already have rigorous enrollment and recertification requirements.

Marketing Disclosure Requirements

- ▶ *Burden estimates unrealistic*
 - Estimate limited to 30.25 hours per year of staff time.
 - Fails to capture cost of TV/radio time to accommodate lengthy disclosures.
 - Ignores cost of forgoing use of social media that are incompatible with required disclosures.
- ▶ *Requirement is unnecessary*
 - Extensive disclosures are required at the time of Lifeline enrollment and annually thereafter.

Biennial Audit Requirement

- ▶ *Revised burden estimate of \$50K per audit remains inconsistent with historical costs*
 - USAC-reported average \$59K cost for universal service fund (“USF”) audits conducted by third-party auditors
 - Over five years ago (2006-2007)
 - Included large and small companies
 - Limited scope (not holding company-wide)
 - Lifeline rules have since become far more complex
 - FCC estimate focuses on auditor costs; excludes costs of company staff burden
 - Previously averaged \$20,000 per audit
 - GCI reported actual Lifeline compliance audit cost of \$99,500 (including internal and external costs)

Biennial Audit Requirement

▶ *FCC failed to establish this as the least burdensome way to gather information*

- Failed to explain why existing audit program is not already gathering sufficient information about program compliance
- 600 Lifeline Payment Quality Assurance (PQA) reviews annually; 48 random Lifeline audits; targeted Lifeline audits; ongoing “In-Depth Data Validations” (IDVs)
- Insufficient justification for requiring ETCs to pay for their own audits
 - Less burdensome for USAC to conduct these audits as it always has (FCC excludes USAC costs from overall burden analysis)
 - Auditing large Lifeline recipients is less costly per dollar of support audited

