

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Lifeline and Link Up Reform and Modernization) WC Docket No. 11-42
Telecommunications Carriers Eligible for Universal) WC Docket No. 09-197
Service Support)
Connect America Fund) WC Docket No. 10-90

ORDER

Adopted: September 7, 2017

Released: September 7, 2017

By the Chief, Wireline Competition Bureau

1. In this Order, the Wireline Competition Bureau (Bureau) grants in part Telrite Corporation’s (Telrite) request for a temporary waiver of the Lifeline Program’s non-usage and recertification rules for Lifeline customers residing in Puerto Rico and the U.S. Virgin Islands.1 Based on the record before us, we find that good cause exists to waive for 90 days following the release of this Order sections 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), and 54.410(f) of the Commission’s rules for eligible telecommunications carriers (ETCs) serving Lifeline subscribers residing in the U.S. Virgin Islands or Puerto Rico.2 Strict compliance with these rules would be impracticable and would risk de-enrollment of Lifeline subscribers in the immediate aftermath of Hurricane Irma.

2. Hurricane Irma, a Category 5 hurricane, is moving through the Caribbean, impacting Puerto Rico and the U.S. Virgin Islands. Hurricane Irma has caused significant damage in the areas within its path, including storm surge, wind damage, and flooding. It also appears to have caused substantial damage to the communications network, resulting in service disruptions and outages throughout these areas. As of June 2017, there were approximately 518,000 Lifeline subscribers in Puerto Rico and 2,500 Lifeline subscribers in the U.S. Virgin Islands.3

3. On September 6, 2017 Telrite submitted a request for temporary waiver of the Lifeline non-usage and recertification rules for subscribers in Puerto Rico and the U.S. Virgin Islands because Hurricane Irma was expected to cause power and network outages, and displacements in both areas.4 Telrite requests a waiver of these rules “for a minimum of 60 days following Hurricane Irma and until such time that the Commission assesses the totality of circumstances in Puerto Rico and the U.S. Virgin

1 Telrite Corporation Emergency Petition for Temporary Suspension and Waiver, WC Docket Nos. 11-42, 09-197, 10-90 (filed Sept. 6, 2017) (Telrite Petition).

2 See 47 CFR §§ 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), 54.410(f).

3 See Universal Service Administrative Company, 2017 Fourth Quarter Filings, LI08 Lifeline Subscribers by State or Jurisdiction – January 2017 through June 2017 (last visited Sept. 6, 2017), http://www.usac.org/about/tools/fcc/filings/2017/Q4/LI08%20Lifeline%20Subscribers%20by%20State%20or%20Jurisdiction%20-%20January%202017%20through%20June%202017.xlsx.

4 Telrite Petition at 1, 7-8.

Islands and determines that lifting the waiver is in the public interest.”⁵

4. Generally, the Commission’s rules may be waived for good cause shown.⁶ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁷ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an overall basis.⁸ Waiver of the Commission’s rules is therefore, appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁹

5. In order to promote the maintenance and rebuilding of communities affected by Hurricane Irma and to facilitate continued access to telecommunications services for disaster victims, it is in the public interest to temporarily waive sections 54.405(e)(3) and 54.407(c)(2) of the Commission’s rules.¹⁰ Under these rules, ETCs must de-enroll Lifeline subscribers who do not pay a monthly fee for their Lifeline-supported service and do not use that service for 30 consecutive days.¹¹ Waiver of these rules will help low-income consumers retain access to emergency communications services during this natural disaster, and allows ETCs to continue providing Lifeline service to disaster victims in the affected areas without requiring those subscribers to de-enroll and re-enroll in the program as they are rebuilding from the devastation of a hurricane. At the expiration of the waiver period, Lifeline subscribers who are subject to the non-usage rule will have 30 days to use their Lifeline service for the purposes of section 54.405(e)(3) of the Commission’s rules.

6. It is also in the public interest to temporarily waive sections 54.405(e)(4) and 54.410(f) of the Commission’s rules for ETCs with subscribers whose service anniversary dates fall within the next 90 days.¹² Waiver of these rules will allow ETCs serving Lifeline subscribers in Puerto Rico and the U.S. Virgin Islands additional time to complete the recertification process for those subscribers whose service anniversary dates fall within the next 90 days. Disruptions to telephone and Internet service resulting from Hurricane Irma will make it difficult, if not impossible, for Lifeline subscribers to receive and respond to service provider recertification requests and reminders, and ETCs are unlikely to have reliable access to Puerto Rico’s eligibility database in the near future to conduct automated eligibility reverifications.¹³ At the expiration of the waiver period, subscribers whose service anniversary dates fell during the waiver period will have 60 days to respond to their ETC’s recertification efforts.

7. Finally, we decline to grant Telrite’s request for an indefinite waiver of the rules, absent further action from the Commission.¹⁴ We find that a 90-day waiver period is an appropriate time period that accommodates the extraordinary circumstances of Hurricane Irma while continuing to protect program integrity. ETCs in the affected areas that are unable to comply with the Lifeline non-usage and recertification requirements at the end of this period for specific households may request additional, narrowly tailored relief from these requirements from the Wireline Competition Bureau.

⁵ Telrite Petition at 2, 5.

⁶ 47 CFR § 1.3.

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁹ *Northeast Cellular*, 897 F.2d at 1166.

¹⁰ 47 CFR §§ 54.405(e)(3), 54.407(c)(2).

¹¹ *See id.*

¹² 47 CFR §§ 54.405(e)(4), 54.410(f).

¹³ Telrite Petition at 7-8.

¹⁴ *See* Telrite Petition at 2.

8. ACCORDINGLY IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that the request for waiver filed by Telrite IS GRANTED IN PART AND DENIED IN PART.

9. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that sections 54.405(e)(3), 54.405(e)(4), 54.407(c)(2), and 54.410(f) of the Commission's rules are waived to the limited extent provided herein.

10. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris A. Monteith
Chief
Wireline Competition Bureau