COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Investigation by the Department on its Own Motion in to the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program	))))))	D.T.C. 13-4

INITIAL COMMENTS OF T-MOBILE NORTHEAST LLC

Paul G. Afonso
Amy I. Tierney
Brown Rudnick LLP
One Financial Center
Boston, MA 02111
Tel: 617.856.8200
Fax: 617.856.8201

Michele Thomas
Principal Corporate Counsel – State Regulatory
T-Mobile USA, Inc.
4 Sylvan Way
Parsippany, NJ 07054
Tel: 973-451-8399
Fax: 866-836-6868

April 29, 2013

TABLE OF CONTENTS

I. INTRODUCTION

T-Mobile Northeast LLC, a wholly-owned subsidiary of T-Mobile USA, Inc., ("T-Mobile" or the "Company") respectfully files these Initial Comments with the Department of Telecommunications and Cable ("DTC" or "Department") in response to the Department's Request for Comment and Notice of Public Hearing, dated April 1, 2013 and its Exhibit to Request for Comment & Notice of Public Hearing, dated April 1, 2013 ("Notice") issued in the above-captioned docket. The Department's Notice seeks comments regarding: (1) compliance with existing Department requirements; (2) annual Eligible Telecommunications Carrier ("ETC") certifications and other reporting obligations; (3) expansion of Lifeline eligibility criteria; (4) outreach, consumer safeguards, and service quality issues; and (5) other reasonably related matters.[1]

T-Mobile supports the Department's efforts "to establish appropriate requirements and procedures to implement the *Lifeline Reform Order*[2] in Massachusetts, advance universal service and safeguard the [of Universal Service Fund]."[3] As the first facilities-based carrier granted ETC status by the Department post-*Lifeline Reform Order*, T-Mobile partnered with the Department in a formal designation proceeding during which T-Mobile sought to educate the Department on the unique features of the T-Mobile Lifeline offerings and the practical implications of the *Lifeline Reform Order* on such providers.[4] As T-Mobile noted throughout the proceeding, T-Mobile continues to believe that the reporting and compliance items that it

---

[1] *Investigation by the Dep't on its Own Motion into the Implementation in Mass. of the Fed. Commc'ns Comm'n's Order Reforming the Lifeline Program,* D.T.C. 13-4, *Order Opening Investigation* at 4 (April 1, 2013) *("Order Opening Investigation").*

[2] *See In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012 *("Lifeline Reform Order")*.

[3] *Order Opening Investigation* at 4.

[4] *T-Mobile Northeast LLC Petition for Limited Designation as an Eligible Telecommunications Carriers for Purposes of Low Income Support Only*, D.T.C. 12-4.

agreed to during its designation proceeding are generally consistent with T-Mobile's obligations under the *Lifeline Reform Order* for the Lifeline products T-Mobile offers in Massachusetts.[5]

T-Mobile shares the Department's interest in making Lifeline services available to all eligible Massachusetts consumers while balancing the concerns of fraud, waste and abuse addressed by the *Lifeline Reform Order*. In order to encourage robust, varied and competitive ETC offerings in Massachusetts, T-Mobile respectfully submits that the Department should endeavor to implement Lifeline procedures and reporting requirements consistent with the requirements set forth in the *Lifeline Reform Order*.

A. <u>Background</u>

T-Mobile is a national, facilities-based provider of wireless voice, messaging, and data services investing millions of dollars annually into the expansion, upgrade and operation of its Global Service for Mobility ("GSM") network, which provides consumers with access to a worldwide mobile wireless technology. As a practiced ETC in other states since 2008, T-Mobile believes that low-income consumers in Massachusetts decidedly deserve the same benefits; and, thereby sought designation to offer Lifeline discounted services to eligible consumers in the Commonwealth. On August 30, 2012, the Department granted T-Mobile limited designation as an ETC for purposes of low income support.[6] In addition to Massachusetts, T-Mobile currently offers Lifeline discounted services in 28 states across the country. As such, T-Mobile has offered Lifeline services and complied with the federal requirements both prior to the Lifeline Reform Order as well as after its implementation.

T-Mobile's Massachusetts Lifeline service offerings include a low $9.99 per month Lifeline rate based upon a non-discounted rate of $19.99 per month (less the $10.00 Lifeline

---

[5] *See T-Mobile Northeast LLC Petition for Limited Designation as an Eligible Telecommunications Carriers for Purposes of Low Income Support Only*, D.T.C.12-4, *Order Approving Petition* (Aug. 30, 2012) ("*T-Mobile Order*").
[6] *Id.*

discount), 145 Whenever minutes®, 500 night minutes, and 500 weekend minutes per month, with a per minute overage rate of $0.05, and traditional wireless calling features including call waiting, conference calling, three-way calling, caller identification, voice mail, and access to affordable handsets. ("$19.99 Offering"). The $19.99 Offering also allows qualified subscribers to purchase certain optional features such as handset insurance, text messaging, and others.[7] In addition, T-Mobile currently offers T-Mobile's Wal-Mart Family Mobile plan to eligible Lifeline subscribers in Massachusetts.[8] These plans offer Massachusetts Lifeline customers T-Mobile's robust service without contracts, early termination fees or activation fees.[9] In sum, T-Mobile does not offer a free Lifeline service offering nor does it offer a prepaid Lifeline offering like other ETCs designated in the Commonwealth.

B. The *Lifeline Reform Order*

"Ensuring the availability of communications services for low income households has long been a partnership among . . . the states, the federal government, and the private sector."10 The Lifeline program is governed by federal law, but relies on state commissions for implementation.[11] In 2011, the Federal Communications Commission ("FCC") opened a formal rulemaking proceeding and sought comment on "ways to strengthen the [Lifeline] program, including establishing performance goals for the program, strengthening the program's audit regime, granting blanket forbearance for the [Telecommunications Act of 1996's] facilities requirement, establishing a flat rate of reimbursement, reforming [toll limitation service] and

[7] *See Id.* at 13-14.

[8] *See Id.*

[9] *T-Mobile Order* at 14. Further, T-Mobile continues to consider introducing Lifeline discounts on other traditional rate plans, including the no-contract T-Mobile Monthly4G product.

[10] *Lifeline Reform Order* at ¶5.

[11] 47 U.S.C.§245. In determining whether a carrier qualifies as an ETC, the Department applies substantive federal law, including 47 U.S.C.§214(e) and 47 C.F.R. §§54.101 *et seq.; see also See Fed.-State J. Bd. on Universal Serv., 20 F.C.C.R. 6371* at 6396 *(March 17, 2005) ("Universal Service Order").*

Link Up support, and expanding Tribal Lifeline eligibility."[12] On February 6, 2012, as a result of a robust record and lengthy proceeding, the FCC issued the Lifeline Reform Order comprehensively reforming the program with a primary focus on addressing fraud, waste and abuse.[13]

T-Mobile respectfully submits that the *Lifeline Reform Order*, along with national industry consumer protection standards and the competitive nature of the wireless industry, strikes an effective balance between encouraging a wide-variety of competitive ETC offerings in the states, including Massachusetts; and, provides efficient, as well as, effective administration of Lifeline service without the need for additional and potentially burdensome, state-specific regulation.

II. COMMENTS

A. Existing Department Requirements

T-Mobile values the substantial record in its designation proceeding and the efforts undertaken by the Department on behalf of consumers to approve T-Mobile's request for designation as a facilities-based Lifeline Only ETC in Massachusetts. T-Mobile is committed to complying with requirements set forth in the Department's *T-Mobile Order*. However, T-Mobile appreciates the opportunity that this proceeding offers in that it appropriately enables T-Mobile to further educate the Department on several general areas in that Order and other items under consideration in the *Order Opening Investigation*. T-Mobile believes that such efforts will refine and improve the administration of Lifeline services to customers in the Commonwealth. To that end, T-Mobile offers the following comments on the conditions applicable to a facilities-

[12] *Lifeline Reform Order* at ¶7.
[13] *Lifeline Reform Order at* ¶1.

based provider Lifeline Only ETC such as T-Mobile that are noted in the Order Opening Investigation and Notice:

1. *Reporting to the Department on a quarterly basis the number of Lifeline subscriber accounts terminated for non-usage each month*

The specific condition to which T-Mobile agreed is to "provide quarterly reporting to the Department of customer accounts terminated for inactivity,"[14] which is an important and distinct nuance from the requirements imposed on other types of ETCs, including providers that do not assess or collect a monthly fee from customers and/or prepaid Lifeline providers. Additionally, as noted during the T-Mobile designation proceeding, 47 C.F. R. § 54.405(e)(3) requires carriers that do not assess or collect a monthly fee for their services to (1) de-enroll subscribers who do not use the service for 90 consecutive days (60 days plus 30 days' notice) and (2) report such de-enrollments by month in its annual recertification required under 47 C.F. R. § 54.416.[15] T-Mobile both assesses and collects a monthly fee for all Lifeline plans offered in Massachusetts, and therefore, this federal reporting requirement is not applicable to T-Mobile.[16]

T-Mobile submits that the non-usage de-enrollment requirements, as delineated in 47 C.F. R. § 54.405(e)(3), are appropriate when applied to carriers that do not assess or collect a monthly fee from customers, discourage fraud, waste and abuse, and, when reported on an annual basis, offer the FCC, the Universal Service Administrative Company ("USAC") and the Department important information about Lifeline subscribership without unfairly burdening

[14] *T-Mobile Order* at 20.

[15] *T-Mobile Northeast LLC Petition for Limited Designation as an Eligible Telecommunications Carriers for Purposes of Low Income Support Only*, D.T.C.12-4, Petition at 11 (April 30, 2012); *see also*, T-Mobile's Responses to the Department's Information Requests, D.T.C 12-4, IR 1-24, IR 1-25, dated April 25, 2012 ("*T-Mobile Information Requests*").

[16] *See T-Mobile Northeast LLC Petition for Limited Designation as an Eligible Telecommunications Carriers for Purposes of Low Income Support Only*, D.T.C.12-4, Hearing Transcript (May 16, 2012, at 112-113. T-Mobile confirmed this fact for the Department when it forwarded its Form 555 filed on January 31, 2013. *See* A. Tierney letter to C. Williams enclosing T-Mobile Northeast LLC's Massachusetts FCC Form 555, dated January 31, 2013. T-Mobile expects to routinely either not report on a quarterly basis or report zeros.

carriers. T-Mobile believes that applying the same non-usage requirement to carriers who both assess and collect monthly fees from their subscribers, whether the subscriber selects a more traditional postpaid plan or a pay in advance type service, is unnecessary and is clearly not required nor desired by the FCC and does not serve to address any element of potential fraud, waste or abuse. Similarly, T-Mobile believes that requiring reports on the de-enrollment of subscribers by quarter is potentially overly burdensome to carriers who are otherwise required to only capture and report the information annually.

2. *Reporting to the Department on an quarterly basis the number of consumer complaints from Massachusetts subscribers regarding its Lifeline service*

The *T-Mobile Order* does not specify a time interval for this reporting requirement.[17] As an initial matter, T-Mobile assumes that the 47 C.F. R. § 54.422(b)(2) annual reporting on consumer complaints is sufficient to satisfy this requirement T-Mobile submits that this Department requirement should be satisfied by the 47 C.F. R. § 54.422 annual report which, by rule, must be filed with the state commission that designated the ETC.

3. *Reporting to the Department on a quarterly basis the amount USF support received for Massachusetts Lifeline subscribers each month*

Similarly, the *T-Mobile Order* does not specify a time interval for this reporting requirement.[18] As the Department is aware, the *Lifeline Reform Order* did not address nor establish a requirement for ETCs to submit quarterly reports on the amount of USF support received. T-Mobile submits that a quarterly reporting of USF receipts for Massachusetts Lifeline customers provide little to no program value to the Department as the aggregate total of Lifeline receipts frequently fluctuate greatly by month and/or quarter and will therefore provide a skewed view of subscribers depending on when and how a particular ETC files its reimbursement

[17] *T-Mobile Order* at 20.
[18] *Id.*

requests. For example, the *Lifeline Reform Order* directed USAC to make a transition to payment for monthly Lifeline subsidies on the basis of actual line count filings at the end of the month instead of projections. While USACs previous method of making payments included trending the number of subscribers an ETC would be likely to have based on their past actual line count submissions. This transition to actual line count filings was in fact completed in October 2012 and has aided the FCCs efforts to save millions of dollars under the Federal Lifeline Program.[19]

Now, USAC disburses funds to ETC for low income support based on their actual filings. USAC has established a due date of the 8th of each month for low income support claims for the prior month if carriers want to receive their disbursement at the end of the calendar month. However, it is notable that some carriers do not currently submit their line counts by the 8th of the month following the reportable period, which will delay payment, but also that even for those carriers that do submit their line counts by the 8th of the month, they are only guaranteed to receive payment by the end of the calendar month if they make the filing using USAC's eFile system. To the extent that a carrier, intentionally or unintentionally, makes the filing late or via an alternative method of submission, the payment for the prior period of low income support will be pushed to the following month and potentially aggregated with a payment for the following month(s) making it impossible for the Commission to accurately derive any useful information from the aggregate number that ETCs submit. Additionally, the amount of low income support disbursed to ETC, both in aggregate and broken out by mechanism, on a monthly basis is information that is publicly available on the USAC's website. Therefore, T-Mobile submits that any requirement to submit information related to its federal low income universal service support

---

[19] *See* Federal Communications Commission's "Savings Report" issued January 31, 2013, recently viewed at http://www.fcc.gov/document/lifeline-year-end-savings-report-2012-savings-target-exceeded .

receipts will not glean any significantly pertinent information and the information is readily available to the Department, and consequently, should not be required on a going forward basis.

4. *Filing with Department, within 60 days of being designated an ETC, the rates, terms and conditions of the ETC's Lifeline Service.*

As discussed with Department Staff, T-Mobile uses the Terms and Conditions of its traditional rate plans for Lifeline customers.[20] T-Mobile submitted those Terms and Conditions during the designation proceeding, meeting the Department's requirement.[21] T-Mobile's understanding is that the request to receive its Terms and Conditions was to enable the Department to further evaluate its fitness as an ETC on various matters related to consumer protection and operation of our Lifeline program. To the extent this is an accurate account of the Department's goal, adopting a requirement for ETCs to file their rates, terms and conditions of service within 60 days, T-Mobile submits that this requirement is duplicative and unnecessary for ETCs since such efforts were undertaken and satisfied in the designation proceeding process. T-Mobile notes that all ETCs are required to submit their Lifeline rates to USAC upon designation in accordance with 47 C.F.R. 54.401(d), a requirement that is typically satisfied by providing a copy of the application and designating order which is otherwise required to be submitted to USAC.

5. *Notifying the Department of any changes to the rates, terms, or conditions of the ETC's Lifeline service 30 days prior to the implementation of the changes; except that changes clearly benefitting Lifeline subscribers (e.g., the only change is additional minutes or reduced cost) need not be reported to the Department in advance, but must be reported to the Department at the time the changes are implemented*

Although T-Mobile is committed to complying with the requirement as written in the *T-Mobile Order*, T-Mobile notes that the practical timing of this requirement can prove difficult

[20] T-Mobile discussed this issue during a telephone technical conference with Department Staff on November 29, 2012.
[21] *T-Mobile Order* at 18-19.

from an operational prospective; and more importantly, will result in competitive harm if a carrier is required to expose plans to confidential marketing and other strategies prior to their official release. T-Mobile opposes such a requirement in advance of its plan to market such highly competitive services; and further argues, that any particulars relates to a wireless ETCs rates is preempted under Section 332 of the Federal Telecommunications Act. This type of requirement historically has allowed governing bodies to ensure that proposed changes to regulated landline services would not result in material harm to consumers. T-Mobile suggests that, based on the current, competitive environment of both traditional telecommunications services and in particular those being offered to low-income consumers, including wireless, presents little to no risk of carriers implementing changes that harm consumers, and therefore, limited reason for governing bodies to receive advance notice of such changes. Instead, T-Mobile submits that it should be sufficient for ETCs to notify the Department of any material changes within 30 days of their implementation.

6. *Providing to the Department copies of all marketing materials circulated in the Commonwealth for the ETC's Lifeline service within 30 days of the materials' release.*

T-Mobile appreciates the Department's interest in receiving copies of Lifeline marketing materials distributed in Massachusetts so that the Department can: (1) validate the contents of the material as it relates to state specific requirements and/or conditions of the provider's designation order, and (2) to gain an understanding of the provider's offerings and the process by which consumers can receive those offerings. T-Mobile suggests that to the extent the Department intends to comment upon ETCs' marketing materials, it would be a more fruitful exercise for ETCs to submit draft materials for the Department to comment upon (in one cycle catching all comments) and, to the extent that the carrier has complied with all state specific requirements and/or conditions of the carrier's order, provide further comments as recommendations to the carrier, allowing the carrier to retain its individual preferred messaging to customers.[22] Such efforts would be consistent with the process in others states where T-Mobile is designated as an ETC.

> 7. *Participating in dispute resolution by the Department's Consumer Division to resolve Lifeline subscriber disputes (including eligibility disputes, program offering issues, and limited equipment related issues, but not matters related to rates or entry)*

47 C.F.R. § 54.202(a)(3) requires ETCs to "demonstrate that it will satisfy applicable consumer protection and service standards" and ETCs must annually certify compliance with same per 47 C.F. R. § 54.422(b)(3).[23] In that spirit and consistent with T-Mobile's commitment to the CTIA standards, T-Mobile agreed to participate in the Department's Consumer Division's dispute resolution process with respect to individual Lifeline customers' disputes involving Lifeline related issues pertaining to the consumer's rights under the plan.[24]

> 8. *Including the Department's contact information for consumer complaints on the ETC's Lifeline advertising, Lifeline subscriber applications, website, Lifeline terms and conditions, initial Lifeline subscriber receipts, and Lifeline subscriber bills, if applicable; and including information about the Department's dispute resolution process on its website, Lifeline application form, and Lifeline terms and conditions*

As indicated in the Department's Notice, T-Mobile agreed to include the Department's contact information for consumer complaints in its marketing materials for Massachusetts Lifeline services.[25] T-Mobile complies with this requirement, including the Department's

---

[22] While T-Mobile is pleased to partner with the Department on outreach issues, T-Mobile suggests that the volume of the Department's request for materials should be agreed to in advance and be mindful of costs.
[23] The Department's Notice at FN4 cites the *Department's Rules and Practices Relating to Telephone Services to Residential Customers*, D.P.U. 18448 (1977) ("B&T Rules") in relation to the Department's dispute resolution procedures. T-Mobile notes that the B&T Rules are the subject of an open docket related to the *Regulations Governing the Advertising, Marketing, Billing, Provision, and Termination of Telephone and Cable Television Services to Residential Customers of the Commonwealth of Massachusetts*. It is T-Mobile's understanding and position that the B&T Rules do not apply to wireless carriers. *See* Overview of the Department's Proposed 207 CMR 10.00, at 4 (January 14, 2013).
[24] *See T-Mobile Order* at 18. As T-Mobile asserted in its designation proceeding, the Department does not have jurisdiction to regulate issues related to rates or entry of wireless carriers under 47 U.S.C Section 332 (3)(a).
[25] Notice at 3; *T-Mobile Order* at 20.

contact information for consumer complaints in its Lifeline application, marketing brochures, and on its website. As a practiced ETC, and moreover, as a well-established facilities based service provider with decades of experience serving customers, T-Mobile believes that it provides customers many avenues of contact to resolve any potential customers concerns; and, generally believes that it is able to more efficiently resolve customer concerns when they contact T-Mobile directly. As such, T-Mobile submits that this requirement is unnecessary, could present a barrier to dispute resolution in certain instances, and is duplicative of the ETC's federal obligations to "satisfy additional consumer protection and service standards" discussed above.

9. *Providing public safety answering points ("PSAP") self-certification annually to the Department.*

T-Mobile notes that there is no time interval established for this requirement in the *T-Mobile Order*.[26] Moreover, as discussed during the designation proceeding, this requirement which appears to be based on the federal rules related to forbearance requests from the facilities requirements for ETCs that are only applicable to non-facility based providers (e.g. resellers) should again here only be applied to reseller ETCs who face different E911 challenges than a facilities-based carrier like T-Mobile.[27] T-Mobile voluntarily certified that it is fully compliant with all E911 requirements to meet the qualification requirements that the Department defined in the designation proceeding.[28] However, for the reasons detailed herein and in our designation proceeding, T-Mobile submits that this requirement should not be applicable to facilities-based ETCs on a going forward basis.[29]

B. Annual ETC Certification and Other Annual Reporting Obligations

---

[26] *T-Mobile Order* at 20.
[27] *See T-Mobile Petition* at 11.
[28] *See T-Mobile Order* at 13; *see also T-Mobile Information Requests*, IR 1-8.
[29] As the Department is aware, T-Mobile as a facilities-based provider of commercial mobile radio service is required under federal law to transmit E911 calls in conformity with The Wireless Communications and Public Safety Act of 1999, Public Law 106-81; and as amended under 47 U.S.C. § 151.

1. MA Annual ETC Certification

T-Mobile respectfully submits that a separate annual Massachusetts certification is unnecessary, duplicative and burdensome on Massachusetts ETCs and may discourage additional ETC entries in to the Massachusetts market. During the ETC designation process, the Department "must find that the carrier will comply with additional FCC requirements; the procedures and requirements set forth in the *Lifeline Reform Order* in accordance with established effective dates; and additional requirements imposed by the Department."[30] A separate annual certification as contemplated by the Department's Notice, would in many ways force designated ETCs to resubmit annually to the designation process. Furthermore, the *Lifeline Reform Order* requires service of copies of annual compliance certification pursuant to 47 C.F.R. §§ 54.416 and 54.422 on any state commission that has designated a carrier as an ETC.[31] These annual certifications should be sufficient for the Department to advance universal service and safeguard the USF within the Commonwealth; and, have in fact been deemed sufficient by the overwhelming number of states where T-Mobile is an ETC.

2. Certified copies of FCC or USAC certifications and reports

T-Mobile submits that copies of certifications or reports filed with the FCC or USAC per the *Lifeline Reform Order* should be sufficient for the Department's purposes and should be filed with the Commission as soon as practicably reasonable, or within 30 days, of the submission of the certification or report with the FCC or USAC, to avoid any additional administrative burdens on ETCs. There is little value in the Department receiving such information within 30 days after the federal filing date, and yet some potentially significant administrative burdens to carriers to accomplish concurrent filings. T-Mobile notes once again that the overwhelming states where in

[30] *T-Mobile Order* at 11.
[31] 47 C.F.R. §§ 54.416(b) and 54.422(c).

T-Mobile is designated as an ETC have acknowledged these facts and thereby afforded ETCs the additional time to submit such certifications and reports.

3. Other Annual Reporting Obligations

a. *Annual Certifications.* As noted above, 47 C.F.R. § 54.422(c) requires all carriers to annually file a report including information specified in 47 C.F.R. §§ 54.416 and 54.422(a)-(b) with the relevant states commissions. Additional reporting of this information as contemplated by the Department's Notice is unnecessary and duplicative.[32]

b. *Lifeline Applications.* T-Mobile's current Lifeline subscriber application is readily available for both consumers and the Department to review on the T-Mobile website.[33] Therefore, a requirement that T-Mobile file this application annually would be unnecessary.

c. *Audit Reports.* 47 C.F.R. § 54.420(b) has not yet been approved by the Office of Budget and Management ("OMB"). However, in contemplation of its approval, T-Mobile respectfully submits the "result" of any audit by the Administrator pursuant to 47 C.F.R. § 54.420(b), should be defined as the final action/closing of the audit by the Administrator which may be after the conclusion of any applicable appeals process.

C. Lifeline Eligibility Criteria

T-Mobile is not opposed to the inclusion of additional eligibility programs or a change in the income based thresholds either in Massachusetts or nationally. However, because adding or modifying eligibility criteria expands or contracts the base of eligible subscribers, requires carriers to modify its processes and Lifeline related marketing materials, and impacts consumers, T-Mobile believes that is in the interest of potential Lifeline subscribers, carriers, the Department

[32] *See* Notice at 4.
[33] www.t-mobile.com/lifeline.

and the Federal Universal Service Fund ("Fund") to participate in a cooperative effort to ensure adoption of appropriate eligibility standards.

T-Mobile supports a process whereby the state commissions that desire to add, remove or modify eligibility criteria, either within their state or more global changes to the federal criteria, would seek federal approval to modify the Lifeline eligibility criteria. Such a process would (1) protect the Fund by ensuring that participants in programs must demonstrate sufficient need that is equitable to the existing criteria and mitigate waste; (2) provide carriers an opportunity to participate in the proceeding, providing valuable information about the requested modification and allowing them an opportunity to raise issues important to the modification of the criteria (*e.g.* what constitutes a demonstration of eligibility from a new program); and, (3) offers Lifeline consumers, or consumer protection groups or the state commission in their stead, the opportunity to demonstrate the need to adopt the program in a transparent way avoiding misguided claims of waste in the future. In addition, non-uniform standards can make eligibility confusing for consumers who move to another state and costly for companies who are required manage different and changing criteria on a state by state basis.

T-Mobile does not see value in requiring notification of changes in eligibility requirements to existing subscribers who would have already demonstrated eligibility for Lifeline under the eligibility criteria in place at the time they applied. To the extent that any Lifeline subscriber is required to recertify their eligibility, either via an annual recertification or any other recertification effort implemented by the ETC or an administrator on its behalf, the existing Lifeline subscriber would be made aware of the newly applicable eligibility requirements at the time of the recertification request. Because it is more likely that states will seek to expand, rather than contract, the eligibility criteria, it is likely that there will be minimal to no impact to any existing Lifeline subscribers because any consumer qualified under the original eligibility criteria would remain eligible to the extent that they were an on-going participant of the program or continued to meet the income based threshold. Indeed, even if a request for modification to the eligibility criteria sought to limit the eligibility thresholds, a cooperative proceeding would allow all parties an opportunity to raise and address such issues.

D. Outreach, Consumer Safeguards, and Service Quality

The *Lifeline Reform Order* took steps to ensure more effective outreach, consumer safeguards and service quality within the Lifeline systems. T-Mobile submits that the Department's efforts should strive to be consistent with those requirements.

1. Outreach

As the Department's Notice explains, proposed rule 47 CFR § 54.405(b) requires carriers to publicize the availability of the services "in a manner reasonably designed to reach those likely to qualify" and Section 54.405(c) requires that materials (including print, audio, video and web) that "describe the service or is used to enroll customers" must include certain elements regarding the Lifeline service.[34] Despite the rule not being effective, T-Mobile currently includes the information required by Section 54.405(c) (both on the face of its website as well as on all the brochures and applications) because the website is used to describe the service. USAC guidance on this issue has consistently been that states and carriers should take an approach that includes many methods of distribution, as well as targeting a wide array of consumers who would be likely to qualify.[35]

[34] *See* Notice at 6. It is important to note that 47 CFR § 54.405(c) has not yet been approved by OMB.
[35] *See In re Lifeline & Link-Up*, 19 F.C.C.R. 8302, *Report & Order & Further Notice of Rulemaking* at 8306-8307 (rel. Apr. 29, 2004); *see also* USAC High Cost and Low Income Programs Outreach: Advertising & Best Practices, November 2008, attached hereto as Exhibit A.

Imposing strict requirements to publicize Lifeline via one particular method of distribution (e.g. on a website) and/or in any particular –manner or location contravenes the overall guidance that has been provided by the FCC and the Administrator. Moreover, such action would be administratively burdensome and financially inefficient in that it could serve to limit the visibility/outreach of Lifeline program information to consumers who are likely to qualify.

If the Department's interest is focused on ensuring that carriers are meeting outreach requirements, T-Mobile suggests that a more cooperative effort between the Department and ETCs could be more fruitful. T-Mobile realizes that in today's competitive environment, advertising and outreach are critical to successful programs. How an ETC chooses to meet and/or exceed these requirements varies greatly, is unique to each carrier and ultimately benefits eligible consumers. Just as the Department is somewhat unique in its focused efforts to regularly host literacy events for Lifeline, an ETCs advertising and outreach strategies, such as T-Mobile's, are also unique. Consequently, T-Mobile submits that rather than implementing additional, unique, potentially burdensome and inefficient state-specific advertising and outreach requirements, the Department should continue to work with carriers to underscore ETCs' obligations to comply with all applicable federal outreach and advertising requirements pursuant to 47 C.F.R. § 54.405(b).

2. <u>Consumer Safeguards and Service Quality</u>

a. *Lifeline Offerings.* As the Department is aware, T-Mobile offers a basic voice option to eligible Lifeline subscribers with no contract term or early termination fee for such service. Consistent with T-Mobile's efforts in our designation proceeding, we support the Department's continued efforts to encourage competition and consumer choice. T-Mobile's Lifeline offerings in the Commonwealth are a testament to the Department's efforts in this regard; and more importantly, consistent with federal rules and policies to facilitate a wide-variety of Lifeline plans and options to consumers. Such Department efforts have provided consumers in Massachusetts the opportunity to determine which offering, carrier and available service options are best for them. T-Mobile believes that all consumers - including Lifeline consumers - deserve choices, so as long as the offering meets the federal Lifeline baseline criteria and that the value of the Lifeline discount to the consumer - on its face or by way of the minutes provided – can be demonstrated to meet or exceed the amount of USF support the carrier will be reimbursed, the plan should be approved and made available to Lifeline subscribers.

b. *Consumer Protection.* As stated in the Department's Notice and in compliance with 47 C.F.R. § 54.202(a)(3), T-Mobile abides by CTIA - The Wireless Association's Consumer Code for Wireless Service (a standard required for wireless carriers seeking ETC designation) and is committed to a robust customer service program.[36] Therefore, T-Mobile submits that additional state-specific requirements related to consumer protection, noticing of rates, terms and conditions, and other related matters as contemplated in the Department's Notice[37] are unnecessary and duplicative as applied to wireless carriers. Moreover, T-Mobile agreed to disclose contract commitments and fees in Lifeline advertising because it is consistent with its obligations under the Federal Telecommunications Act.[38]

c. *Service Quality.* T-Mobile submits that individual outage reporting requirements as contemplated in this proceeding and since the adoption of the *Lifeline Reform Order,* would be inconsistent with 47 C.F.R. § 54.422(b)(1). As the Department is aware, federal law requires that ETCs annually report outages that meet certain thresholds. Any

---

[36] *See* Notice at FN14.
[37] *See* Notice at 8-9.
[38] *See generally,* 47 C.F.R. § 64.

requirement of more frequent outage reporting as contemplated in the Department's Notice[39] would be inconsistent with federal law, unnecessary, and premature in the context of efforts already undertaken by the FCC to ensure the reliance of all communication networks.

As the Department is aware, the FCC has begun significant efforts in the past year to revisit the reliability of communications networks in the aftermath of several devastating storms in the Northeast and other parts of the country.[40] The FCC is currently considering various options to further bolster the reliability of all communications services; and, has actively engaged in field hearings to receive input and consider how best to benefit consumers. Some of the issues currently under consideration include but are not limited to: a) modifications to both the FCCs mandatory outage reporting and disaster reporting paradigms; b) improvements to state, local and federal coordination, including information sharing, during such events; and c) how best to communicate information to consumers in a manner that is beneficial to the decision process of choosing what service is best. The FCC generally anticipates making recommendations in various proceedings which are likely to begin in the coming months.

Throughout such efforts, the FCC has routinely noted the positive efforts of the wireless industry during and after these events. As the Department is aware, the wireless industry – particularly the facilities based providers – have lent support and voluntary information to the Department in their efforts during time of crisis (*e.g.* Springfield tornadoes, the Boston Marathon bombings). On-going network and other capital investments by facilities based providers, including T-Mobile, should continue to provide the Department confidence that the reliability of our networks is and will continue to be a critical component of all services we provide, including Lifeline. As a result of the before mentioned information, T-Mobile believes any efforts by the

---

[39] *See* Notice at 9.
[40] *See generally*, Press Release of the Federal Communications Commission date November 21, 2012, recently viewed at: http://www.fcc.gov/document/chairman-genachowski-announces-post-superstorm-sandy-field-hearings .

Department beyond the current federal requirements would lack a sufficient basis to proceed with such requirements, particularly in the context of facilities-based providers of Lifeline services.

E. Other Related Matters

The *Lifeline Reform Order* requirements discussed in the Department's Notice regarding annual subscriber re-certification are robust and streamlined.[41] In addition, as it is in the self-interest of all carriers to retain customers, there is already ample incentive for carriers to communicate clearly and often with their subscribers during recertification. Accordingly, T-Mobile's efforts to communicate with its customers during any recertification attempt, including the annual recertification requirement as contemplated in 47 C.F.R. § 54.410(f), meet and generally exceed the noticing requirements outlined therein. Additionally, as contemplated in the *Lifeline Reform Order,* there are now several methods by which carriers may effectuate properly recorded responses to a recertification effort, including manually in writing or electronically by electronic signature, via text message or recording voice response, options which may serve to differentiate carriers and may change carriers' processes over time.

Implementing requirements for noticing or other communications with consumers such as requiring specific or additional noticing requirements would hamstring carriers traditional processes and require ETCs to perform certification efforts unique to Massachusetts disallowing more efficient universal processes. By allowing carriers to rely on the federal requirements and their individual preferences to communicate with customers and implement their recertification processes, consumers win as carriers' innovations achieve a consumer-friendly yet compliant method for recertification. Consequently, T-Mobile submits that the *Lifeline Reform Order* requirements, along with basic business pressures, adequately incentivize carriers to work to

[41] Notice at 10-11.

retain subscribers. Additional state-specific requirements would only serve to burden carriers unnecessarily and curtail innovations that benefit consumers.

T-Mobile supports continued and strengthened cooperation between the ETCs and the Department to ensure that qualified consumers have access to Lifeline discounted services. For example, as discussed above, T-Mobile believes that a more cooperative an efficient process for reviewing Lifeline marketing materials would assist both the carriers and the Department. Moreover, T-Mobile appreciates and commends the Department's strong community outreach programs and believes that the carriers could add value to those efforts by reviewing the Department's outreach materials and providing feedback and/or participating in such efforts.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

III. CONCLUSION

T-Mobile commends the Department and its Staff for encouraging stakeholder input through this Notice as the issues addressed have critical impact on the Lifeline services offered in Massachusetts. The Departments acknowledgement and understanding of the impact of the *Lifeline Reform Order* on the varied Lifeline programs offered in Massachusetts is essential to a robust, effective Lifeline marketplace. T-Mobile urges the Department to streamline its state-specific Lifeline regulations so that they are consistent with the *Lifeline Reform Order* and applied consistently, as appropriate, to current and future facilities based ETCs and to continue working with all ETCs to efficiently deliver a competitive Lifeline marketplace that can meet the telecommunications needs of all eligible Massachusetts consumers.

Respectfully submitted,

T-MOBILE NORTHEAST LLC

By its attorneys,

Paul G. Afonso
Amy I. Tierney
Brown Rudnick LLP
One Financial Center
Boston, MA 02111
Tel: 617.856.8200
Fax: 617.856.8201

Michele Thomas
Principal Corporate Counsel – State Regulatory
T-Mobile USA, Inc.
4 Sylvan Way
Parsippany, NJ 07054
Tel: 973-451-8399
Fax: 866-836-6868

High Cost & Low Income Programs

Outreach: Advertising & Best Practices

November 2008

USAC
Universal Service Administrative Company
Helping Keep Americans Connected

Advertising and Site Visits

- ETC advertising responsibilities
  - Supported Services
  - Lifeline and Link Up
- Best Practices
- DTV Transition
- USAC outreach initiatives
  - Site Visits
  - Newsletter
  - Other

USAC
Universal Service Administrative Company
Helping Keep Americans Connected

Supported Services

All ETCs are required to advertise the following service and their rates using media of general distribution:

- Voice grade access to the public switched network
- Local usage
- Dual tone multi-frequency signaling or its functional equivalent
- Single-party service or its functional equivalent
- Access to emergency services
- Access to operator services
- Access to interexchange service
- Access to directory assistance
- Toll limitation for qualifying low-income consumers

See 47 C.F.R. § 54.201(d)(2)

Advertising Requirements

- FCC rule on advertising requires ETCs to "publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service."
    - ➢ The Lifeline and Link Up order released in April 2004 offers "guidelines" for effective advertising
- Requirement to publicize Lifeline is mandatory
- Guidelines are recommended, rather than mandatory
- States and carriers have flexibility to determine most appropriate advertising mechanisms

See 47 C.F.R. §54.405(b)

Advertising Requirements (cont.)

Recommended Guidelines

- States and carriers should utilize advertising materials and methods designed to reach households that do not currently have telephone service

  - Notices at public transportation, shelters, soup kitchens, public assistance agencies
  - Public service announcements

- States and carriers should utilize advertising materials and methods designed to reach households that do not currently have telephone service

  - Bill inserts and advertising in telephone books are not likely to attract individuals who do not have phone service
  - Internet notice should not be the primary means of outreach

See In the Matter of Lifeline and Link Up, para. 44-49 (2004)

Advertising Requirements (cont.)

Recommended Guidelines

- States and carriers should develop advertising that can be read by members of any sizeable non-English speaking populations
  - Offer toll-free number in other languages
  - Make available applications in other languages
- States and carriers should coordinate their advertising efforts with governmental agencies that administer any of the relevant government assistance programs
  - Social service agencies
  - Tribal organizations
  - Community centers
  - Organizations such as AARP, United Way

See In the Matter of Lifeline and Link Up, para. 44-49 (2004)

Advertising Requirements (cont.)

Recommended Guidelines

- States and carriers should use USAC as a resource

  - Carriers can post information on USAC's consumer-oriented web site, www.lifelinesupport.org

  - USAC works with carriers, associations, tribal organizations and consumers

See In the Matter of Lifeline and Link Up, para. 44-49 (2004)

Best Practices

- Traditional Methods

  - Word of mouth
  - Third party agencies
  - Brochures
  - Bill inserts
  - Television advertisements
  - Radio advertisements

Best Practices
Con’t

- Traditional Methods, con’t
  - Newspapers
    - -Local newspapers
      - -Press releases
      - -Traditional advertisements
    - -Newspapers geared towards non-English speakers
      - -Widely utilized in some minority communities
    - -Pennysavers
      - -Free to customers

Best Practices
Con't

- Nontraditional Methods

  - Enroll customers as they enter or leave social service agencies
  - Canvas neighborhoods that may have a high population of eligible customers
  - Establish relationships with community schools and public housing directors
  - Cash incentives for employees and social service agencies

USAC
Universal Service Administrative Company
Helping Keep Americans Connected

Best Practices
Con’t

- Nontraditional Methods, con’t

  - Provide applications at municipal events, fairs and other venues where there are activities targeted towards lower income individual
  - Allow Lifeline and Link Up applicants to enroll at “targeted retail outlets”

    -Carrier retail locations or business offices

    -Western Union locations

    -Check cashing stores

    -Rent to own stores

USAC
Universal Service Administrative Company
Helping Keep Americans Connected

Outreach Tools

www.Lifelinesupport.org is a consumer-oriented Lifeline & Link Up website

Low Income

Low Income Households | Familias de Bajos Ingresos | Telecommunications Carriers

About Low Income:

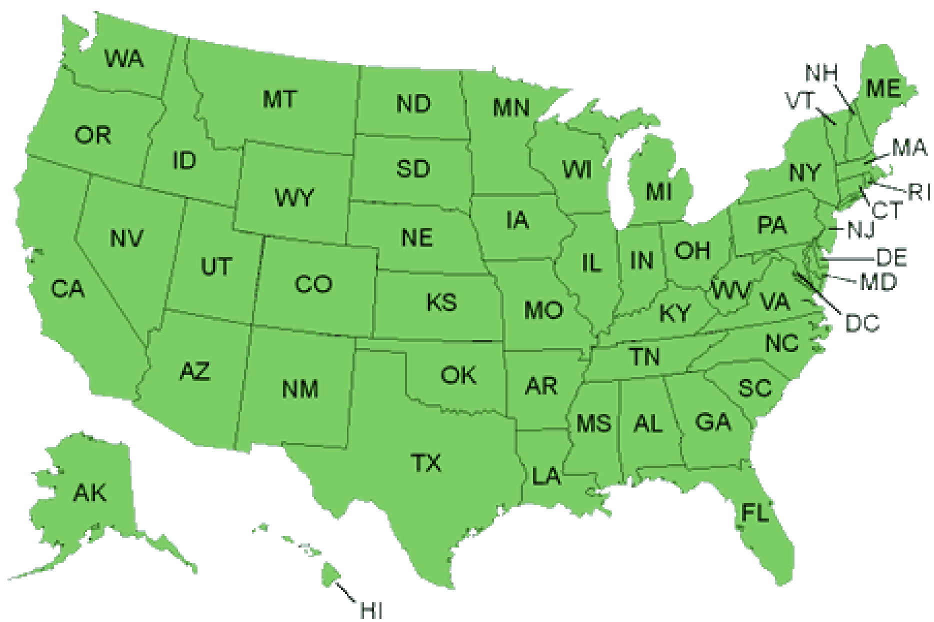
- Overview of the Program
- Overview of the Process
- Site Visits
- Understanding Audits
- Filing Appeals
- Training Events

Low Income Tools:

- Latest News
- Calendar/Reminders
- Required Forms
- Disbursement Data
- Rules and Orders
- Tips and Best Practices
- Frequently Asked Questions
- Program Compliance - Whistleblower Hotline
- Submitting A Complaint

Telephone Assistance Programs for Low Income Households

Lifeline, Link Up, and Toll Limitation Service (TLS) help keep Americans connected by making basic, local telephone service more affordable for more than 7 million Americans. For information about applying for these discounts, click on your state in the map below or contact your phone company directly. Please note, not all companies that offer Lifeline, Link Up, and TLS are listed.



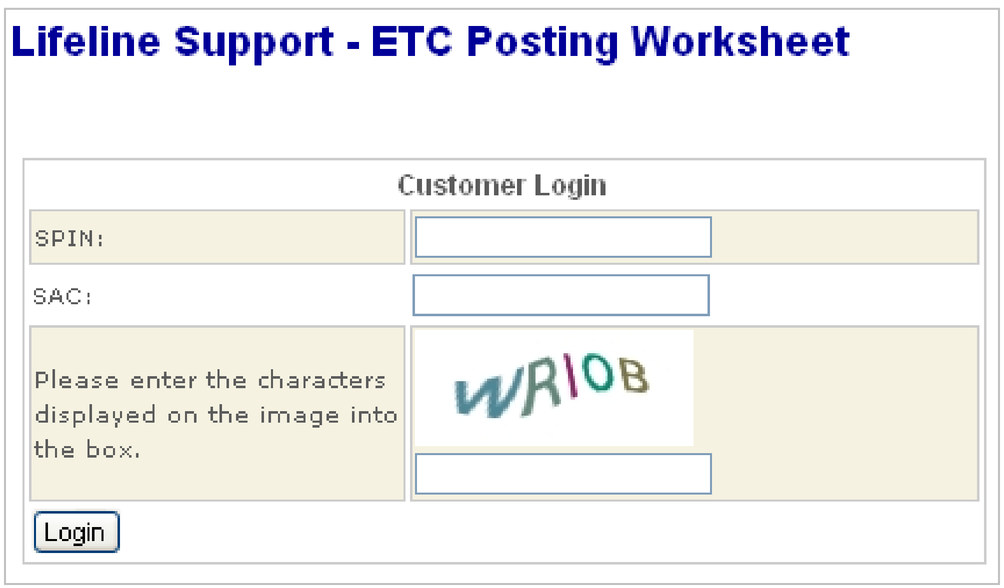
Or select a state from the list: Choose a state

Outreach Tools (cont.)

www.Lifelinesupport.org

- Each ETC has its own page
  - State specific eligibility criteria
  - Carrier specific enrollment process
  - Appropriate contact information
  - Actual applications when available
- ETCs can post Lifeline & Link Up info with the Online Posting Tool:

http://www.universalservice.org/li/low-income/lifelinesupport/form/login.aspx



Lifeline Support - ETC Posting Worksheet

Customer Login

SPIN:

SAC:

Please enter the characters displayed on the image into the box.

Login

USAC
Universal Service Administrative Company
Helping Keep Americans Connected

DTV Transition

- As of April 30, 2008, all ETCs must advertise the February 2009 television broadcasting transition from analog to digital service "DTV transition."
- All outreach materials must convey at least the following information:

"After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive over-the-air broadcasts with an antenna because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products."

"Information about the DTV transition is available from www.DTV.gov and from www.dtv2009.gov or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes."

DTV Transition (cont.)

- All Lifeline and Link Up outreach materials must contain DTV transition language
- ETCs must send monthly notifications to their Lifeline and Link Up customers from April 2008 through March 2009
  - Bill inserts
  - Language on a monthly bill
  - Brochures
  - Postcards
  - Any other medium used to communicate with Lifeline and Link Up consumers

USAC's Site Visits

- Perform carrier outreach (put a face to a name)
- Learn first-hand the challenges carriers face
- Understand the carrier's demographics
- Gain best practices
- Receive feedback from carriers to improve program administration
- Help carriers understand:
  - USAC's role
  - HCLI components and processes
  - Tools provided to help carriers

USAC's Site Visits (cont.)

Site Visit Topics and Discussions

- Metrics (e.g., customer density, loop lengths)
- Company reporting systems and document retention policies
- Uses of High Cost support
- Low Income support calculations
- Consumer eligibility criteria
- Certification, verification, termination procedures
- Familiarity with USAC processes and tools:
    - ➢ Does carrier get USAC statements/notices?
    - ➢ Does carrier have the right contact info?
    - ➢ Is carrier aware of online tools?
- Required services and advertising review
- Carrier feedback for USAC

USAC's Site Visits (cont.)

Common recommendations from companies:

- Make it easier to see what support I received
- Make it easier to see how disbursements are calculated
- Make it easier for me to understand what to file
- Let us file forms online (get rid of paper filings)

USAC
Universal Service Administrative Company
Helping Keep Americans Connected

Online Form 525 for CETCs

Online FCC Form 497 coming 2009!

Disbursement Data

SPIN:	
Study Area Code:	
Study Area Name:	
Year:	ALL
Month:	ALL
State:	ALL

View in HTML View in Excel

This disbursement tool contains data from Jan 2003 through Mar 2008.

Find Clear

Filing Requirements and Deadlines Tool*

Component:	ALL View Definitions
USAC Filing Month:	ALL
Filer Type:	ALL View Definitions

Find Clear

*Disclaimer
Failing to make the mandatory filings may impact High Cost support. If any filings or requirements have been omitted from this tool, carriers and state commissions are not relieved of their obligation to make such filings, and USAC assumes no liability or responsibility for such filings or requirements. If you are aware of any filings or requirements that may have been omitted from this tool, please contact Michael Spead, Manager of the High Cost Group, at 202-263-1646.

USAC
Universal Service Administrative Company
Helping Keep Americans Connected

HCLI Newsletter

HCLI Newsletter

- Filing deadlines
- Program changes
- Tips and best practices
- Common audit findings

June 2008
www.usac.org

USAC CONNECTION
Universal Service Administrative Company

High Cost & Low Income News

Helping Keep Americans Connected

The USAC Connection High Cost & Low Income monthly newsletter will give you information about upcoming program deadlines, tips to help you ensure timely and proper filings, and other timely information.

Registration Open for High Cost/Low Income Training Sessions in Chicago, Denver, and Dallas

USAC is holding one-day training events in Chicago, Denver, and Dallas for companies that participate in the High Cost and Low Income Programs. The trainings provide guidance on program rules, audits, and support payment calculations. Training dates are: **July 22, 2008** in Chicago, IL; **September 10, 2008** in Denver, CO; and **November 19, 2008** in Dallas, TX.

More details on who should attend, topics covered, training registration, and hotel accommodations can be found at High Cost Training Events or Low Income Training Events.

High Cost Program

IAS Annual Self-Certification Due June 30, 2008

Each price-cap carrier, and CETCs serving lines in the service area of a price-cap carrier, must file an annual self-certification **by June 30, 2008** with USAC and the FCC in order to receive Interstate Access Support (IAS) for the upcoming program year (July 1, 2008 to June 30, 2009).

An IAS self-certification sample letter can be found on the High Cost Forms page and may be filed by an authorized representative for the carrier. After you file, go to the Certification Search page to see if your self-certification has been received.

See File Certifications for IAS for more information or call Customer Service at 877-877-4925.

IMPORTANT DATES AND REMINDERS
June 30—IAS Line Counts due (report as of 3/31/08)
June 30—IAS Self-Certifications due at USAC & FCC
June 30—ICLS Self-Certifications due at USAC & FCC
July 31—HCL, LSS, HCM, ICLS Line Counts due

ICLS Annual Self-Certification due June 30, 2008

Each rate-of-return carrier, and CETCs serving lines in the service area of a rate-of-return carrier, must file an annual self-certification **by June 30, 2008** with USAC and the FCC in order to receive Interstate

(Continued on page 2)

Low Income Program

Low Income Tier 3 Support Defined

The Universal Service Fund's Low Income Program reimburses eligible telecommunications carriers (ETCs) for Lifeline and Link Up discounts provided to their eligible low-income consumers.

Tier 3 support is a 50% match of a state-mandated Lifeline discount or state-approved discount provided by the eligible telephone carrier up to a maximum of $1.75 per month in federal support. In order for a carrier to recover Tier 3 support on its FCC Form 497, it must agree to provide the full state discount and matching federal Tier 3 discount to its consumers.

Other USAC Outreach

- Exhibit at consumer focused conferences
  - AARP, NCAI
- Speak at industry events
  - NECA Expo, Iowa Telecom Association
- Host various training events
  - Regional conference, information sessions for carriers in states with low Lifeline participation
- Brochures available on USAC's website (PDFs)