

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

PUBLIC UTILITIES COMMISSION

Title of Rule: Certification and Verification Procedures for Telecommunications Carriers Eligible to Receive Payments From the Federal Universal Service Fund

Rule Identifier: 810-RICR-20-00-3

Rulemaking Action: Direct Final Amendment

Important Dates:

Date of Public Notice: 09/11/2018

End of Public Comment: 10/11/2018

Authority for this Rulemaking:

R.I. Gen. Laws § 42-35-1 et seq., 39-2-5(9)(i)

R.I. Gen. Laws § 39-2-5-(9)(i)

Summary of Rulemaking Action:

The regulation sets rules and procedures to certify and designate Eligible Telecommunication Carriers (ETC) eligible to receive funding under the Federal Universal Service Fund to provide lifeline services to eligible consumers. The rules also set procedures for ETCs to certify and verify customer eligibility and enrollment in Link-Up and Lifeline services in the State of Rhode Island.

The proposed amendment will 1) add word "and Purpose" to Section 3.1; 2) incorporate by reference Section 3.2; 3) move two definitions "Tribal Link-up" and "Household" from other sections of rule into the Definitions Section 3.3; 4) remove definition of Tribal Link-up from Section 3.5; and remove definition of "household" from 3.6.

Additional Information and Comments:

If no formal objection is received on or before October 11, 2018, Public Utilities Commission will file the Amendment without opportunity for public comment..

Objections should be addressed to:

Luly Massaro, Commission Clerk,

Public Utilities Commission

89 Jefferson Boulevard

Warwick, RI 02888

luly.massaro@puc.ri.gov

Regulatory Analysis Summary and Supporting Documentation:

Permits the State of Rhode Island to participate in the Universal Service Lifeline Program.

For full regulatory analysis or supporting documentation see agency contact person above.

810-RICR-20-00-3

TITLE 810 - PUBLIC UTILITIES COMMISSION

CHAPTER 20 - TELECOMMUNICATIONS

SUBCHAPTER 00 – N/A

PART 3 - Certification and Verification Procedures for Telecommunications Carriers Eligible to Receive Payments from the Federal Universal Service Fund

3.1 Authority and Purpose

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws § 42-35-1 et seq. and R.I. Gen. Laws § 39-2-5(9)(i) and to implement certain provisions of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in 47 U.S.C. §§ 151-760 ("Act").

2.0 — Background

2.1 — On February 8, 1996, the Congress of the United States passed the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in 47 U.S.C. §§ 151-760 ("Act"). The Act imposed new statutory responsibilities upon the Rhode Island Public Utilities Commission ("Commission"), including the responsibility to certify telecommunications service providers as "eligible" to receive funds from the federal Universal Service Fund (47 U.S.C. Sec. 214(e)) and certain Low Income Programs that are set forth under federal law and programs related to the Federal Poverty Guidelines ("FPG").

2.2 — On April 29, 2004, the FCC issued an Order applicable to all ETCs requiring certification and subsequent verification of customers eligible for Link-Up and Lifeline discounts. The Order also required ETCs in non-default states, such as Rhode Island, to follow that state's certification and verification procedures. (18 FCC Red 8302 (2004)).

2.3 — On February 6, 2012, the FCC released an Order adopting new rules regarding the Universal Service Fund (77 Fed. Reg. 12952 (2012)) ("Lifeline Reform Order") which, among other reforms, set minimum eligibility standards for program participants, minimum certification procedures for ETCs and minimum annual verification procedures for ETCs. While the Commission finds the Rules that were adopted by the FCC in the Lifeline Reform Order are far reaching, nothing in the Order removed the Commission's authority to certify telecommunications providers as eligible to receive payments from the Universal Service Fund.

2.4 — As a result of the Lifeline Reform Order, the Commission finds it necessary to promulgate these Rules and Regulations in order to enable the state to participate in the Universal Service/Lifeline Program.

~~2.5 — All ETCs certified by the Commission shall comply with the FCC's Universal Service Rules codified at 47 C.F.R. Part 54 in addition to these Regulations.~~

3.2 Incorporated Materials

These regulations hereby adopt and incorporate 47 C.F.R Part 54 (2018) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

3.3 Definitions

- A. "Commission" ~~shall~~ means the Rhode Island Public Utilities Commission.
- B. "Department of Human Services" or "DHS" ~~shall~~ means the Rhode Island Department of Human Services.
- C. "Division" ~~shall~~ means the Rhode Island Division of Public Utilities and Carriers.
- D. "ETC" ~~shall~~ means Eligible Telecommunications Carrier.
- E. "FCC" ~~shall~~ means the Federal Communications Commission.
- F. "FPL" ~~shall~~ means Federal Poverty Level.
- G. "Household" ~~is defined as~~ means any individual or group of individuals who are living together at the same address as one economic unit, as further defined in 47 C.F.R. 54.400, incorporated above at § 3.2 of this Part.
- H. "Lifeline" ~~shall have~~ means the same ~~meaning~~ as that which is contained in 47 C.F.R. § 54.401, incorporated above at § 3.2 of this Part.
- I. "Qualifying Assistance Program" ~~shall have~~ means the same ~~meaning~~ as that which is contained in 47 C.F.R. § 54.400, incorporated above at § 3.2 of this Part, and shall also include the programs listed in R.I. Gen. Laws § 39-2-5(9)(i).
- J. "Tribal Link Up" shall have means the same meaning as 47 C.F.R. § 54.413, incorporated above at § 3.2 of this Part.
- K. "USAC" ~~shall~~ means the Universal Service Administration Company

3.4 Contents of Petitions for Certification

A. All petitions for certification must include the following:

1. Evidence that the company is an authorized telecommunications carrier under the laws of the State of Rhode Island and that the company has filed the applicable Application Package with the Division.
2. Demonstrate that the carrier will provide Voice Telephony services that meet each part of “Services designated for support” set forth in 47 C.F.R § 54.101, incorporated above at § 3.2 of this Part.
3. Items contained in 47 C.F.R. § 54.202, incorporated above at § 3.2 of this Part, with the modification contained in §§ 3.4 (A)(5)(a) through (c) of this Part.
4. That the carrier will offer services supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carriers’ services.
5. Carriers seeking limited ETC designation in accordance with Subpart E of 47 C.F.R. Part 54, incorporated above at § 3.2 of this Part to participate in the Lifeline program must also:
 - a. provide evidence that it is capable of complying with the E911 access set forth in 47 C.F.R. § 54.101(a), incorporated above at § 3.2 of this Part;
 - b. file its approved compliance plan referenced in paragraph 368 of The Lifeline Reform Order, if applicable; and
 - c. demonstrate that it is financially and technically capable of providing the supported Lifeline service.
6. A copy of the carrier’s Lifeline plan to demonstrate that it meets the criteria set forth in Subpart E of 47 C.F.R Part 54, incorporated above at § 3.2 of this Part and describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls and rates for each such plan.

7. A copy of the carrier's proposed marketing materials in a form that complies with 47 C.F.R § 54.405, incorporated above at § 3.2 of this Part.
8. A copy of the carrier's enrollment form.
9. A description of the carrier's annual re-certification process and a copy of any documents that will be provided to the customer.

3.5 Tribal Link Up

~~5.1 Tribal Link Up shall have the same meaning as 47 C.F.R. § 54.413.~~

- A. Tribal Link Up is only available to an eligible resident of Tribal lands as defined at 47 C.F.R. § 54.400, incorporated above at § 3.2 of this Part.
- B. Tribal Link Up is available to an eligible resident of Tribal lands who meets the Eligibility criteria set forth in § 3.6 of this Part.
- C. Only certified ETCs who have not sought only the limited ETC designation in accordance with Subpart E of 47 C.F.R. Part 54, incorporated above at § 3.2 of this Part to participate in the Lifeline program may receive payment from the Universal Service Fund for Tribal Link Up.

3.6 Eligibility for Enrolling in and Retaining Lifeline Discounts

- A. The Lifeline discount is available to only one customer within a household from one telecommunications carrier.

~~6.2 Household is defined as any individual or group of individuals who are living together at the same address as one economic unit, as further defined in 47 C.F.R. 54.400.~~

- B. Lifeline shall be available to a customer whose annual income is at or below 135% of FPL.
- C. Lifeline shall be available to a customer who participates in a Qualifying Assistance Program.
- D. Where an ETC enters into an agreement with the Department of Human Services to receive verification from DHS that the subscriber is enrolled in a Qualifying Assistance Program, the carrier may rely on such certification as substantially

similar to the requirements of 47 C.F.R. § 54.410, incorporated above at § 3.2 of this Part.

3.7 Re-certification

- A. All ETCs must annually re-certify all subscribers in a manner in compliance with 47 C.F.R § 54.410, incorporated above at § 3.2 of this Part.
- B. Where an ETC enters into an agreement with the Department of Human Services to receive verification from DHS that the subscriber is still enrolled in a Qualifying Assistance Program, the carrier may rely on such certification as substantially similar to the requirements of 47 C.F.R. § 54.410, incorporated above at § 3.2 of this Part.
- C. ETCs must also comply with the FCC's requirements set forth in 47 C.F.R. § 54.410(g), incorporated above at § 3.2 of this Part.
- D. A copy of the results of the Annual Re-certification must be filed with the Commission within thirty (30) days from the date they are filed with USAC.

3.8 Annual Reporting Requirements

- A. ETCs shall file with the Commission and Division a copy of all reports required by 47 C.F.R. § 54.422, incorporated above at § 3.2 of this Part.
- B. ETCs shall file with the Commission and Division a current Enrollment Form and any Re-Certification materials provided to customers whenever such form or material is amended by the ETC, or at least once annually from the effective date of these Rules.
- C. ETCs shall comply with the Annual Reporting Requirements contained in the Division's Regulations and Fee Schedules for Telecommunications Providers in order to retain ETC status.
- D. ETCs shall file with the Commission and Division, on or by February 28th of each year, the number of Lifeline subscribers it had as of June 1st of the prior year. Such information may be filed under seal in accordance with Commission Rule of Practice and Procedure, [810-RICR-00-00-1.3\(H\)](#) pursuant to R.I. Gen. Laws § 38-22(1)(A)(II)(B). However, the Commission reserves the right to aggregate the data and/or present it in a way that is not identifiable to any particular company.

3.7 ~~Repeal of Prior Regulations~~

~~All Rules and Regulations Governing the Certification and Verification Procedures for Telecommunications Carriers Eligible to Receive Payments from the Federal Universal Service Fund adopted on prior dates are hereby repealed and superseded by these Rules and Regulations in their entirety.~~

3.9 Severability

- A. The provisions of these Rules shall be severable and if the application of any clause, sentence, paragraph, subdivision, section or part of these Rules shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the application of any other clause, sentence paragraph, subdivision, section or part of these Rules.
- B. The provisions of these Rules shall be severable and if the application of any clause, sentence, paragraph, subdivision, section or part of these Rules shall be preempted by Federal Law or subsequent changes to State Law, such preemption shall not affect, impair, or invalidate the application of any other clause, sentence, paragraph, subdivision, section or part of these Rules.