

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  MODIFICATION OF LIFELINE AND LINK-UP RULES [199 IAC 39.3(4) AND (5)]	DOCKET NO. RMU-05-5
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**ORDER ADOPTING AMENDMENTS**

(Issued April 22, 2005)

Pursuant to Iowa Code §§ 17A.4, 17A.5, 476.1, and 476.2 (2005), the Utilities Board (Board) is adopting amendments to subrules 199 IAC 39.3(4) and (5) to comply with eligibility criteria for the Lifeline and Link-Up programs established by the Federal Communications Commission (FCC) as attached hereto and incorporated herein by reference. On August 27, 2004, the Board issued an "Order Adopting Emergency Rule" that adopted the new eligibility criteria established by the FCC. The emergency rule was published in IAB Vol. XXVII, No. 6 (9/15/04) p. 418, as ARC 3666B. The amendments adopted in this order are to implement certification and verification requirements established by the FCC.

A "Notice of Intended Action" with the proposed amendments was published in IAB Vol. XXVII, No. 18 (3/2/05) p. 1186, as ARC 4028B. The Rural Iowa Independent Telephone Association (RIITA) and Qwest Corporation (Qwest) filed statements of position with comments. The Consumer Advocate Division of the

Department of Justice (Consumer Advocate) filed a statement of position supporting the proposed amendments.

The Lifeline and Link-Up programs are two of several federal support mechanisms for universal telephone service. The Lifeline program provides low-income consumers with discounts of up to \$10 off the monthly cost of telephone service for a single telephone line in a consumer's principal residence. The Link-Up program provides low-income consumers with discounts of up to \$30 off the initial cost of installing telephone service. Pursuant to the rules of the FCC, low-income consumers have been able to establish eligibility for Lifeline and Link-Up support by participating in other federal assistance programs.

On April 29, 2004, the FCC issued its "Report and Order and Further Notice of Proposed Rulemaking" in WC Docket No. 03-109.<sup>1</sup> In that order, the FCC adopted rules adding three new eligibility criteria for the Lifeline and Link-Up programs. The FCC ordered that participation in the Temporary Assistance to Needy Families program and the National School Lunch Program's free lunch program should be added to the default eligibility criteria. In addition, the FCC ordered that a consumer is eligible to participate in Lifeline and Link-Up if the consumer's income is at or below 135 percent of the Federal Poverty Guidelines. These new criteria were adopted by the Board in the emergency rule making in Docket No. RMU-04-7.

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<sup>1</sup> *In the Matter of Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, Release No. 04-87, 199 FCC Rcd 8302 (Apr. 29, 2004).

In addition to creating three new eligibility criteria, the FCC has required that federal default states, such as Iowa, implement certification and verification procedures for the Lifeline and Link-Up programs. The certification procedures require eligible telecommunications carriers (ETCs) enrolling consumers under the new Federal Poverty Guidelines criteria to certify that participants come within the guidelines. The verification procedures require ETCs to implement measures to verify that program participants continue to meet eligibility requirements once enrolled. Iowa's certification and verification procedures must be in place by June 22, 2005. The amendments to subrules 39.3(4) and (5) proposed verification and certification procedures for Iowa.

The comments and any revisions to the amendments proposed by the Board are discussed below.

**1. Subrule 39.3(4)**

Proposed subrule 39.3(4) would modify the Link-Up/Lifeline certification form to include the new eligibility criteria.

Qwest indicates that it has modified its own application form for customers wishing to participate in the telephone assistance programs to include a table that customers can use to determine their eligibility for telephone assistance based on family size and income. Qwest states that there is a benefit to providing the table to help customer's determine their eligibility and that Qwest plans to distribute and begin

using the form within the next month. Qwest indicates that it will use the form for both certification and as a verification tool.

The Board agrees that the table provides information that could help a customer to determine eligibility but finds that the table should not be required to be added to the application form. Because the figures will undoubtedly be updated periodically, the Board does not find it appropriate to include the table itself in the application form to be included in the rules. If a company wishes to provide a similar table as that proposed by Qwest to its customers to assist them, they can do so.

**2. Subrule 39.3(5)**

The Board proposed to amend subrule 39.3(5) to include the new verification process required by the FCC.

RIITA indicates that it filed comments in the FCC proceeding WC Docket No. 03-109 suggesting the FCC reject certain recommendations made by the Joint Federal-State Board relating to verification and certification of qualifications for Lifeline and Link-up.

RIITA notes that although the FCC did not adopt its suggestions, it did provide for local compliance and verification. RIITA states that the concerns it raised with the FCC still exist and should be addressed by the Board.

First, RIITA requests that the subrule be clarified to specifically state that the 1 percent of subscribers who will be sent the verification form to verify continued

eligibility for the program be chosen at random. This will allow companies to ensure that a customer is not being singled out for verification.

Second, RIITA requests that the subrule specifically address what actions the company must take if the verification form is not returned. RIITA requests clarification of whether its members should take action to terminate the customer's participation in the program or whether they should only keep a record that the form was sent.

Qwest states that Iowa is a "default state" and has decided to follow FCC guidelines in the implementation of the Lifeline and Link-Up Programs. Accordingly, Qwest asserts, when the FCC issues a pronouncement, the Board should follow that pronouncement rather than attempt to establish different rules. Qwest contends that the proposed amendments to subrule 39.3(4) do not follow FCC rules because the proposed amendments would require Qwest to send verification forms to approximately 250 more customers each year than the FCC's 2004 order requires for default states. The additional mailing will cost Qwest 250 more man-hours each year and will probably have a similar effect on other carriers. Qwest states that there is no perceptible advantage to requiring the additional verification. Qwest requests the Board follow the FCC order rather than require a set percentage of subscribers to receive the verification form.

Qwest notes that the FCC provided a description in Appendix J to the order of how ETCs may draw a statistically valid sample. Qwest asserts that the sampling

method described by the FCC would require Qwest to assume, in the first year and in the absence of other evidence, that the proportion of subscribers inappropriately taking services is 0.1 or 1 percent. This does not mean that the sample to test is 1 percent as the Board has proposed.

Qwest states that the FCC then provides a table for determining the appropriate number of subscribers to sample, depending on the number of total subscribers the ETC has certified. Qwest states that the FCC table would require it to make 43 verifications in Iowa, rather than the more than 300 it would have to make under the proposed amendments.

Qwest asserts there is no reason to deviate from the FCC standard. The FCC standard is statistically valid and as a federal default state with respect to Lifeline and Link-up administration, Iowa should follow the FCC standard. Qwest suggests the following language be substituted for the amendment proposed:

In addition, eligible carriers shall mail each year to Lifeline and Link-Up subscribers the verification form set out below (or another form that requests the same information), in a sample size consistent with the formulas and table set forth in Appendix J of In the Matter of Lifeline and Link-up, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, Release No. 04-87, 199 FCC Rcd 8302 (April 29, 2004). Eligible carriers shall then verify on their annual report that they have performed the required verification.

Based on these comments, the Board will modify the proposed rules and adopt them.

First, the proposal that the subrule be modified to clarify that the subscribers who will be sent the verification form will be chosen at random from among the group of subscribers appears to be appropriate. The Board will incorporate this suggestion into the final amendment to 199 IAC 39.3(5).

Second, RIITA's comment concerning unreturned forms also appears to be valid. However, the Board is concerned that a subscriber's participation should not be terminated just because a form was not returned; there are many reasons why that might occur that are beyond the control of the subscriber. Therefore, the Board will allow the company the option to suspend participation by any subscriber who fails to return the verification within 30 days, but only after the company has made at least one additional reasonable effort to contact and inform the subscriber of this possible suspension. That effort may consist of a telephone call or a separate mailed notice or other steps that are reasonable under the circumstances. Moreover, companies that intend to use a suspension of eligibility to encourage return of survey reforms will need to modify the verification form to give customers notice of this possibility.

Third, Qwest's concern regarding the sample size appears to be legitimate. The Board will incorporate the suggested language into its other modifications.

In the "Order Commencing Rule Making," the Board requested that utilities provide estimates of any additional costs that might be generated by the proposed amendments. No cost estimates were filed, although Qwest did indicate that the proposed amendments would require approximately 250 more man-hours a year than

the FCC order requires. Because the Board incorporated Qwest's language into the rule, this additional cost will no longer apply.

**IT IS THEREFORE ORDERED:**

1. Amendments to subrules 199 IAC 39.3(4) and (5), identified as Docket No. RMU-05-5, are adopted.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

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Dated at Des Moines, Iowa, this 22<sup>nd</sup> day of April, 2005.

## **UTILITIES DIVISION [199]**

### **Adopted and Filed**

Pursuant to Iowa Code §§ 17A.4, 17A.5, 476.1, and 476.2, the Utilities Board (Board) gives notice that on April 22, 2005, the Board issued an order in Docket No. RMU-05-5, In re: Amendments to Lifeline and Link-Up Rules [199 IAC 39.3(4) and (5)], "Order Adopting Amendments." The Board is adopting the amendments to its Lifeline and Link-Up rules to comply with eligibility criteria established by the Federal Communications Commission (FCC). On August 27, 2004, the Board issued an "Order Adopting Emergency Rule" that adopted the new eligibility criteria established by the FCC. The emergency rule was published in IAB Vol. XXVII, No. 6 (9/15/04) p. 418, as ARC 3666B. The amendments adopted in this order are to incorporate additional requirements established by the FCC.

A Notice of Intended Action with the proposed amendments was published in IAB Vol. XXVII, No. 18 (3/2/05) p. 1186, as ARC 4028B. The Rural Iowa Independent Telephone Association (RIITA) and Qwest Corporation (Qwest) filed statements of position with comments. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a statement of position supporting the proposed amendments. RIITA suggested some clarification to the proposed amendments while Qwest recommended the proposed amendments not be adopted and provided amendments consistent with its position.

The Board has reviewed the written comments and is adopting the amendments, with revisions. The Board's order provides a detailed analysis of the amendments and the comments received. It is available on the Board's Web site at [www.state.ia.us/iub](http://www.state.ia.us/iub) or on paper from the Board's Records Center at 350 Maple Street, Des Moines, Iowa 50319-0069.

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 17A.4, and the Telecommunications Act of 1996, 47 U.S.C. § 214 and 254.

These amendments shall become effective June 15, 2005.

The following amendments are adopted.

Item 1. Amend subrule 39.3(4) as follows:

**39.3(4) Application Certification.** The ~~application~~ certification of eligibility for Lifeline or Link-Up rate assistance shall be upon a form as set forth below. The form shall be supplied to the applicant by the eligible carrier.

LIFELINE AND LINK-UP RATE ASSISTANCE ~~APPLICATION~~ CERTIFICATION

Name \_\_\_\_\_

Address \_\_\_\_\_

Soc. Sec. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Number where you may be reached or receive messages (\_\_\_\_\_) \_\_\_\_\_

Please answer the following questions (indicate by check mark):

1. By filling out this application I (the applicant) request:  
 Low-income telephone connection assistance (Link-Up) and/or  
 Low-income telephone Lifeline assistance.

2. Have you received Link-Up assistance at the above address in the past?

Yes

No

If the answer is "yes," you are not eligible for Link-Up assistance.

3. Are you participating in any of the following programs?

Medicaid (e.g., Title XIX/Medical, State Supplemental Assistance)

Food Stamps

Supplemental Security Income

Federal Public Housing Assistance Section 8

Low-Income Home Energy Assistance

Temporary Assistance to Needy Families program

National School Lunch Program's free lunch program

4. Is your income at or below 135 percent of the Federal Poverty Guidelines?

Yes

No

I understand completion of this application does not constitute immediate acceptance into these programs. I agree to notify the telecommunications carrier if I cease to participate in any of the public assistance programs I checked above or if my income becomes greater than 135 percent of the Federal Poverty Guidelines.

I certify under penalty of perjury the above information is true. I have read the information on this application and understand I must meet the above qualifications to receive assistance from these programs.

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

Item 2. Amend subrule 39.3(5) as follows:

**39.3(5)** Data collection. Eligible carriers shall keep records of the number of subscribers receiving Lifeline and Link-Up assistance. Each eligible carrier must keep accurate records of the revenues it forgoes in providing Lifeline and Link-Up. The board requires that the carrier file information with the federal administrator demonstrating the carrier's Lifeline and Link-Up plans meet the federal criteria, the number of qualifying low-income consumers, and stating there are no state contributions.

In addition, eligible carriers shall mail each year to Lifeline and Link-Up subscribers the verification form set out below (or another form that requests the same information), in a sample size consistent with the formulas and table set forth in Appendix J of In the Matter of Lifeline and Link-Up, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, Release No. 04-87, 199 FCC Rcd 8302 (April 29, 2004). Those subscribers who receive the verification form should be selected at random. Eligible carriers shall then verify on their annual report that they have performed the required verification.

**LIFELINE AND LINK-UP RATE ASSISTANCE VERIFICATION FORM**

Failure to return this verification within 30 days may cause the customer to no longer be eligible for this subsidy.

Name \_\_\_\_\_ SSN \_\_\_\_\_

—

Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**I am currently receiving Low-income monthly telephone bill assistance (Lifeline) at the following:**

**Phone Number:** \_\_\_\_\_

**Address:** \_\_\_\_\_

I am currently participating in the following program(s)

\_\_\_ Medicaid (e.g., Title XIX/Medical, State Supplemental Assistance)

\_\_\_ Food Stamps;

\_\_\_ Supplemental Security Income;

\_\_\_ Federal Public Housing Assistance Section 8;

\_\_\_ Low-Income Home Energy Assistance;

\_\_\_ Temporary Assistance to Needy Families program;

\_\_\_ National School Lunch Program's free lunch program; or\_

\_\_\_ My income is at or below 135 percent of the Federal Poverty Guidelines.

I agree to notify the telecommunications carrier if I cease to participate in any of the public assistance programs I checked above or if my income becomes greater than 135 percent of the Federal Poverty Guidelines.

I certify under penalty of perjury the above information is true. I have read the information on this application and understand I must meet the above qualifications to receive assistance from these programs.

SIGNATURE

DATE

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April 22, 2005

/s/ John R. Norris

John R. Norris

Chairman