Lifeline and the States: Designating and Monitoring Eligible Telecommunications Carriers

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Acknowledgments

Forty-eight states and the District of Columbia responded to this survey. The author thanks the telecommunications experts in these states who provided the responses on which this paper is based. The author specifically thanks **Thomas Wilson** from the Wyoming PSC for reviewing this document in light of his significant experience in Lifeline and **Bob Casey** from the Florida Public Service Commission for identifying survey recipients and reviewing this project on an ongoing basis. Finally, the author thanks **Kerry Worthington** and **Daniel Phelan**, NRRI, for their help in researching this topic and preparing the charts that appear in this paper.

Executive Summary

Lifeline and the States: Designating and Monitoring Eligible Telecommunications Carriers

Congress authorized the Lifeline program in 1985 to ensure that telecommunications services are available to all citizens of the United States, regardless of their financial status. The program provides support to telecommunications carriers so that they may provide reduced-cost service to consumers with incomes at or below the poverty level. Section 214 of the 1996 Telecommunications Act gives states the authority to designate eligible telecommunications carriers (ETCs) for the purpose of offering Lifeline (and High Cost) service, subsidized by state and federal universal-service funds, to low-income state residents. Although it originally supported only wireline services provided by carriers of last resort (COLRs), the Lifeline program was opened to competitive local exchange carriers (CLECs) in 1996 and wireless carriers shortly thereafter. Changes proposed in the USF Transformation Order will result in adding broadband to the services ETCs must provide. As a result of the growing size of the program and questions about the practices of some of the companies participating in it, the FCC issued the Lifeline Reform Order[1] in 2012, adding restrictions to the program to reduce waste, fraud, and abuse by ensuring that only qualified applicants could subscribe to the program and limiting participation to one Lifeline service per household. The FCC has chartered the Universal Service Administrative Company (USAC) with creating a duplicates database to monitor enrollment to one telephone per household and an eligibility database to determine which customers may apply for Lifeline service. The duplicates database became available in October 2013. The eligibility database is still in the planning stage.

The Lifeline program is a key example of the shared responsibility of cooperative federalism. The states and the FCC share the responsibility for designating and monitoring ETCs. The Lifeline Order provides a floor for the requirements providers must meet in order to be designated as ETCs. States, however, may add additional requirements above those designated by the FCC, including customer eligibility requirements and public interest requirements so long as they do not rely on or burden the federal support mechanism.

Currently, 48 states and the District of Columbia designate ETCs. Two states, Delaware and Maine, do not designate ETCs.[2] Of those states that designate Lifeline providers, 5 designate wireline providers only; 18 designate wireline and wireless providers; 5 designate wireline and cable providers; 3 designate wireline, wireless, and cable providers; and 11 would allow carriers to seek certification regardless of the service platform they use (wireline, wireless, cable, and VoIP). Finally, 5 states responded that they address applications on an individual case basis. Carriers that are not certified at the state level may request ETC designation from the FCC.

[1] WC Docket No. 11-42, In the Matter of Lifeline and Link Up Reform Modernization; DA 12-2045; released December 19, 2012.

[2] Louisiana and West Virginia did not respond to the NRRI survey.

In addition to certifying ETCs, 21 states have state Lifeline funds, which provide an additional reimbursement to carriers for providing affordable service to low-income consumers.

A number of states are reviewing their Lifeline programs as a result of changes to the federal Lifeline program, state legislation reducing or eliminating telecommunications oversight or eliminating Lifeline funding, and changes in the process for collecting and distributing universal-service funds. Maine stopped designating ETCs in 2012, deferring the process to the FCC; and Colorado ended its state Lifeline program in 2013. North Carolina will end its state Lifeline subsidy at the end of 2013 as a result of state legislation, while other states, including California, Massachusetts, Missouri, Texas, and Wisconsin, are studying their processes for designating ETCs. A key issue in the state reviews of the Lifeline program is determining whether the technology a carrier employs should affect its ability to become an ETC for the purpose of offering Lifeline service.

This paper reviews the process state commissions use to designate Lifeline ETCs and to monitor the effectiveness of the program, including ensuring that ETCs adhere to the rules designed to limit previous abuses and change the perception of the program. It addresses the following questions.

1. Which states certify ETCs? Is certification limited by technology? Are changes planned?

2. What are the guidelines for state ETC certification?

3. What is the process for state certification? How do states determine that an application is in the public interest?

4. How do state commissions ensure that ETCs "follow the rules"? Is there an enforcement process? Is there an audit process?

5. Will the states use the FCC duplicates and eligibility databases, or will they create their own?

The Lifeline program remains an important means of meeting the national goal of ensuring ubiquitous, affordable telecommunications services across the country, regardless of a consumer's location or income. The states have a critical part to play in this process, particularly as new technologies are introduced and new providers offer service. This paper provides information that the states may use to evaluate and amend their Lifeline processes as the need arises.

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A. Lifeline overview

The universal availability of telecommunications service to all citizens, regardless of location or financial status, is a key national policy goal. As Congress points out in Title I, Section 1 of the Communications Act of 1934, the purpose of the Act itself is to

> Make available to all the people of the United States, without discrimination . . . a rapid, efficient, nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges. . .[3]

The Lifeline program is an important means of meeting the national goal of ensuring ubiquitous, affordable telecommunications services across the country, regardless of a consumer's location or income. The states have a critical part to play in this process, particularly as new technologies are introduced and new providers offer service. This paper provides information that the states may use to evaluate and amend their Lifeline processes as the need arises.

The Lifeline program was established in 1985 (after the AT&T divestiture in1984) to help achieve the goal of universal service by ensuring that basic local service would remain affordable for low-income consumers. The program initially reimbursed the incumbent local exchange carriers (ILECs) for waiving the Subscriber Line Charge (SLC) imposed after divestiture for those consumers at or below the poverty level.[4]

The initial goal of the Lifeline program was to ensure that any rate increases caused by the addition of the SLC would not force low-income households to disconnect a service that had "become crucial to full participation in our society and economy, which are increasingly dependent upon the rapid exchange of information."[5] Initially, the Lifeline program subsidized

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[3] See 47 U.S.C. §151.

[4] Prior to divestiture, AT&T used its long-distance revenues to subsidize local costs, supporting the public interest by keeping local exchange prices relatively stable and affordable. Divestiture divided the long-distance and local markets between AT&T and its new long-distance competitors and the newly established incumbent local exchange carriers (ILECs). The FCC helped the ILECs replace this lost revenue by adding a Subscriber Line Charge (SLC) to each local exchange line.

[5] WC Docket No. 11-42, In the Matter of Lifeline and Link Up Reform Modernization; DA 12-2045; released December 19, 2012. DA 12-11 released February 6, 2012 at 12.(Lifeline Reform Order) quoting the *MTS and WATS Market Structure, and Amendment of Parts 67 & 69 of the Commission's Rules and Establishment of a Joint Board*, Report and Order, 50 Fed. Reg. 939 (Jan. 8, 1985) (*MTS and WATS Market Structure Report and Order*) at 942, para. 11. "We adopt the Joint Board's

service for low-income consumers by funding Carriers of Last Resort (COLRs) to offer special reduced-rate service to those with low incomes. After the passage of the 1996 Telecommunications Act, the program was expanded to include competitive local exchange carriers (CLECs) and wireless carriers, who could be designated as Eligible Telecommunications Carriers (ETCs) for the purpose of providing Lifeline service to low-income consumers. In 2004 the FCC expanded the federal default eligibility criteria to include an income-based criterion and additional means-tested programs, adopted federal certification and verification procedures, and required states, under certain circumstances, to establish certification and verification procedures to minimize potential abuse of these programs.[6] Today, the program has grown to include wireline, wireless, and some cable voice providers. Estimates suggest that wireless service makes up nearly 55 percent of the program.

The FCC will expand Lifeline to include broadband access (and broadband providers) when the 2012 Lifeline Reform Order and the USF Transformation Order are implemented.[7] The Lifeline Reform Order makes the list of services that can be provided under the Lifeline program "technology neutral," adds the ability for consumers to purchase discounted service bundles, and will ultimately include "Lifeline" broadband. The broadband services that will be included in this offer and the rules for providing them will be determined as a result of pilot programs begun in 2013.

Currently, the Lifeline program disburses $2.19 billion in subsidies to carriers serving citizens across the nation. Figure 1 shows federal Lifeline support as a function of state population. As this figure shows, the bulk of the states receive between $1.00 and $5.00 per citizen. On a per capita basis, the largest disbursements are in the south.

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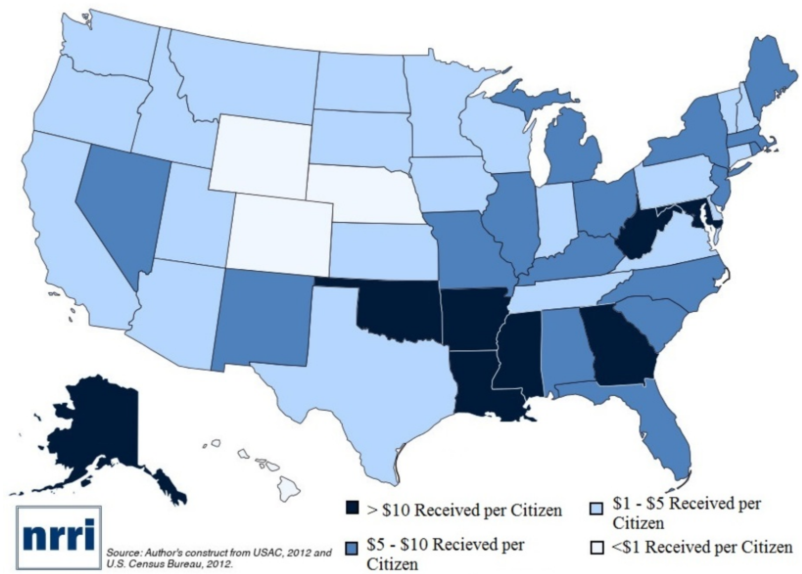
recommendation concerning measures to offset the effect of subscriber line charges on low income houses. In this regard, we agree with their conclusion that the proposed subscriber line charges should not have an adverse effect on universal service.”

[6] WC Docket No. 03-109, Rel. April 29, 2004

[7] Id.

Figure 1. Lifeline disbursements per capita by state.



The growing size of the Lifeline subsidies provided to carriers, particularly pre-paid wireless companies, raised questions about the business practices of some of these providers. The FCC responded to this problem by issuing the 2012 Lifeline Reform Order, which took a number of steps to limit the opportunity for waste, fraud, and abuse in the program.

The Lifeline Reform Order reduced the maximum Lifeline benefit for non-Tribal consumers to $9.25 and ended the Link-Up program for non-Tribal consumers. The revised program provides low-income consumers on Tribal lands with a benefit of up to $34.25 per month and retains coverage for service-initiation charges in those areas where necessary.[8] The program-eligibility rules have also been tightened to ensure that consumers receive only one Lifeline benefit per household.[9]

To further reduce the chance of duplicate applications, the FCC charged the Universal Service Administrative Company (USAC) with creating a National Lifeline Accountability Database (NLAD) to monitor enrollment in the program to ensure that eligible households receive only one Lifeline benefit. The FCC has also proposed creating a national eligibility

[8] See Lifeline Reform Order at ¶¶ 58 and 270

[9] A key complaint of program detractors was that many customers received multiple phones from multiple suppliers. The Reform Order requires carriers to ensure that their customers meet the program-eligibility rules, including allowing only one Lifeline subsidy per household. The FCC monitors these carriers and has fined those who do not comply.

database[10] that will provide carriers with a centralized, automated method to determine whether a customer is eligible for Lifeline service.[11] The national eligibility database will determine customer eligibility based on federal guidelines, which differ in some cases from the eligibility criteria established by the states.

Providers that wish to offer Lifeline must be certified as ETCs by the states or, where the states do not certify ETCs, by the FCC. ETCs must meet specific criteria for service quality and availability. Section 214 of the Act gives states the authority to designate ETCs and to define the criteria for carriers to participate in the program.

> A State commission shall upon its own motion or upon request designate a common carrier . . . as an eligible telecommunications carrier for a service area designated by the State Commission.[12]

Each state[13] determines the types of carriers it will consider for support and the service offerings that will qualify for ETC designation. States that do not designate ETCs may delegate this task back to the FCC. States may also expand the requirements for carriers seeking certification, as long as they are not inconsistent with FCC requirements. State requirements generally include a public interest component, service quality requirements, and rules for checking and monitoring consumer eligibility. States may also require wireless carriers to provide a specified number of minutes or require them to assess a minimum charge for service.[14]

Today, 48 states and the District of Columbia designate ETCs for the federal Lifeline program.[15] Delaware and Maine do not designate ETCs. The types of carriers that the states

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[10] The National Eligibility Database will verify a consumer's initial and ongoing Lifeline eligibility by having an automated means to determine Lifeline eligibility at a minimum through the three most common programs that consumers use to qualify—Medicaid, Food Stamps, and SSI.

[11] The eligibility database will determine customer eligibility based on FCC eligibility requirements. The federal rules provide a floor for determining program eligibility. As we discuss later, state eligibility rules may differ from the federal rules, potentially causing a conflict with the proposed national eligibility database that may hamper its usability. For example, state eligibility guidelines may add additional assistance programs to those cited in the federal statute and may increase the income level for eligible consumers.

[12] 47 USC §214(e)

[13] Except where specified, we include the District of Columbia in the term "states" for ease of reading.

[14] See GA Docket No. 35537: Notice of Proposed Rulemaking to Promulgate Rules Governing Eligible Telecommunications Carriers 515-12-1-.35, Eligible Telecommunications Carriers, available at http://www.psc.state.ga.us/factsv2/Docket.aspx?docketNumber=35537. The FCC explored the idea of a minimum charge and minimum number of minutes in the Lifeline Reform Order but did not establish rules.

[15] Delaware and Maine do not certify ETCs. ETCs in these states are certified by the FCC. Carriers that wish to offer Lifeline service on Tribal lands apply directly to the FCC.

designate for the federal program differ based on state law and commission rulemakings. Some states have limited ETC participation to specific types of carriers—for example, wireline only or wireline and wireless—while others require carriers to meet specific service standards. We discuss specific state requirements in Part II of this paper.

In addition to certifying providers for federal subsidies, nearly half of the states have established state Lifeline funds to provide additional support to low-income consumers. As we will discuss later, a number of these states are reviewing their state funds and may modify or withdraw them in the future.

The Lifeline program is a key example of cooperative federalism, in which the federal government (FCC) and the states share responsibility for designing and implementing programs to promote ubiquitous access to communications services.

> Cooperative federalism programs set forth some uniform federal standards—as embodied in the statute, federal agency regulations, or both—but leave state agencies with discretion to implement the federal law, supplement it with more stringent standards, and, in some cases, receive an exemption from federal requirements. This power allows states to experiment with different approaches and tailor federal law to local conditions.[16]

The states are well-positioned to balance the needs of consumers and service providers in developing and responding to communications policy issues. By working jointly, the states and the FCC have ensured the program's success as measured by the increase in telephone penetration rates for low-income consumers from its inception to today. As a result of the Lifeline subsidies provided by the federal and state programs, the gap between penetration rates for telephone service for low-income consumers and those for other consumers has narrowed from nearly 20 percent in 1984 to only 4 percent in 2011.[17] The program will increase in importance as it becomes the primary method for low-income consumers to obtain broadband connectivity.

B. Lifeline and the states

Because the states and the FCC share responsibility for the Lifeline program, the changes initiated by the Lifeline Reform Order, coupled with the migration of low-income customers to alternate service platforms and changes in state oversight of telecommunications, have resulted in a need for states to relook at their own methods for designating Lifeline carriers and eligible consumers. NRRI surveyed the 50 states and the District of Columbia to understand the effects of these changes on the way in which they manage the Lifeline program, including the types of

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[16] Philip J. Weiser, *Federal Common Law, Cooperative Federalism, and the Enforcement of the Telecom Act*, 76 N.Y.U. L. Rev. 1692, 1697 (2001).

[17] Lifeline Order, ¶15. According to federal statistics, telephone penetration for low-income households in 1984 was 80 percent as compared to 95.4 percent of non-low-income households.

technologies that may be certified and whether the state has a state fund to provide low-income consumers with additional support; and to discover what (if any) changes the states are making to these funds and their ETC designation processes in light of the Lifeline Reform Order.[18] A copy of the Lifeline Survey appears in Appendix A. Copies of the responses by question, by state appear in Appendix B.[19]

This paper provides the results of the Lifeline survey. It addresses the following questions.

1. Which states designate Lifeline ETCs? What guidelines do they use?

2. Do states limit carriers' eligibility for state ETC designation to specific technologies (for example, wireline and wireless but not VoIP or cable voice)?

3. How are states addressing the issue of technology change in light of the migration of consumers to IP-enabled platforms?

4. How do the states ensure that ETCs follow program rules, including determining consumer eligibility?

5. Which states have state Lifeline funds? How are states modifying these funds in light of changing technology and new FCC rules?

This paper also addresses the changes the states are making to their Lifeline programs in light of legislation reducing or eliminating telecommunications oversight, changes in USF funding, and the addition of carriers offering multiple communications platforms to the program. In order to better understand the changes the states are considering and to compare and contrast state programs, the paper also reviews a number of state proceedings addressing ETC certification, state Lifeline funds, and other issues. Finally, the paper reviews key issues in the ETC certification process, including potential oversight issues stemming from the split responsibility for designating and managing Lifeline providers between the FCC and the states, particularly as the network transitions to IP and broadband. The audience for this paper is state commissions, commission staff, and legislators reviewing options for the Lifeline program.

Part I of this paper reviewed the history of the Lifeline program and set out the questions this paper tries to answer. Part II reviews state participation in the Lifeline program, including the process for designating ETCs. In this section, we provide a state-by-state list of types of carriers that the states may certify as ETCs. Part III of this paper addresses state Lifeline funds and reviews the ways in which individual states are modifying these programs in light of reduced

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[18] For ease of reading, we most frequently use the term "states" in this paper to refer collectively to the 50 states and the District of Columbia.

[19] 48 states and the District of Columbia responded to the survey. No responses were received from Louisiana and West Virginia. Where possible, the authors used the information provided in earlier surveys such as the 2011 NRRI USF survey to "fill in the blanks" about the participation of those states in the Lifeline program.

regulation, the transition of the public switched telecommunications network (PSTN) to VoIP, and the increasing number of customers moving to wireless only. Part III also reviews key state rulemakings regarding the Lifeline program, including proceedings under way in California, Massachusetts, Missouri, Texas, and Wisconsin. Finally, Part IV summarizes the key issues facing state regulators and provides options that states may consider in defining and managing the way in which they designate ETCs.

II. State Designation of ETCs

The NRRI Lifeline survey asked states to provide information about the process for designating ETCs and monitoring the performance of those carriers. The survey asked the states to identify the types of carriers (i.e., wireline, wireless, IP-enabled) that could be designated as ETCs. The survey also asked whether ETCs must obtain a Certificate of Public Convenience and Necessity (CPCN) or equivalent authorization from the state commission before applying for ETC status and asked about the process used to evaluate ETC candidates and grant ETC certification. In the case of wireless providers particularly, the survey asked what, if any, requirements are imposed for minutes of use or minimum customer charges.

Forty-six states and the District of Columbia responded to the questions regarding the ETC certification process.[20] This section reviews the responses to those questions.

A. Provider certification

Forty-six states and the District of Columbia allow at least one type of provider (for example, wireline) to apply for certification as a Lifeline-only ETC. Only Delaware and Maine do not designate ETCs at all. Carriers wishing to offer Lifeline service in states that do not designate ETCs, or those offering a type of service that the state does not designate, may seek that designation from the FCC.[21] Carriers designated as ETCs by the FCC rather than the states are not eligible for state Lifeline funding.

At least one state has questioned whether the costs of designating ETCs justifies the benefits of doing so, particularly in states that do not have state Lifeline funds. Maine chose to end its program for certifying Lifeline-only ETCs in April 2013, because

> there is no longer any advantage to Maine consumers, financial or otherwise, for the Commission to certify ETCs . . . Because the FCC will certify Lifeline-only ETCs, Maine consumers will continue to benefit from the availability of the services offered by those carriers . . . Further, as there is no state subsidy for

[20] Louisiana and West Virginia did not respond to the survey. Counts of participants do not include these states.

[21] Non-facilities-based wireless ETC applicants must receive FCC approval of a "compliance plan" to ensure that their service and customer acquisition process meets the Lifeline rules prior to seeking state ETC designation. See Lifeline Reform Order.

> Lifeline service, the Commission expends substantial resources administering what is for all intents and purposes a federal program.[22]

Despite discontinuing its ETCs certification process, Maine will continue to require companies to meet statutory requirements for service quality and availability, as well as require ETCs to reduce the monthly intrastate charges for customers purchasing service bundles by $3.50.[23]

More than half of the states include wireless, cable, and VoIP providers in program eligibility. Of these states,

- 5 states (AL, DC, NH, NC, TN) designate only wireline carriers;
- 18 states (AK, CA,[24] CO, HI, ID, IL, IN, MD, MI, MN, MS, MO, NJ, ND, OK, PA, SC, TX) designate both wireline and wireless providers;
- 5 states (CT, FL, MA, NY, VA) designate wireline and cable providers;
- 3 states (GA, RI, WA) designate wireline, wireless, and cable providers;
- 11 states (AZ, AR, MT, NM,[25]NE, NV, OH, OR, UT, VT,WI) would allow carriers to seek certification regardless of the service platform they use (wireline, wireless, cable, and VoIP);
- 5 states (SD, WY, IA, KS, KY) address applications on an individual case basis; and
- 2 states (ME and DE) do not designate carriers, regardless of service type.

Cable companies such as Cox and Time Warner have requested and been granted ETC certification in a number of states. Although 11 states responded that they would consider applications from interconnected VoIP providers, no provider appears to have applied for ETC designation yet.

Figure 2 summarizes the types of providers eligible for ETC certification by service type, by state. Detailed information by state appears in Appendix B.

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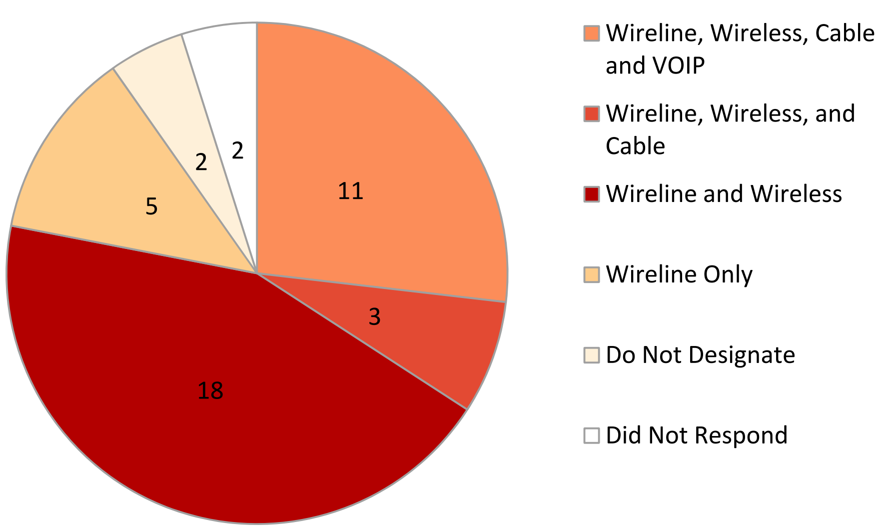
[22] Maine Public Utilities Commission Docket No. 2013-00220, Amendment to Standards for Designating and Certifying Eligible Telecommunications Carries Qualified to Receive Federal Universal-service fund Support (Ch. 206).

[23] Maine Revised Statutes, Title 5, Chapter 294.

[24] California designated Cox as an ETC in October, 2013, as the result of a settlement agreement. A proceeding is open to determine whether the state should include cable companies and other types of providers in its ETC designation rules.

[25] New Mexico has not received an application from a cable company but would consider one for ETC designation if the company so requested.

Figure 2. State designation of ETCs by provider type.



As Figure 2 shows, nearly half of the states (24) include cable voice providers in the list of carrier types that may be certified as ETCs. Florida and Connecticut, which certify only wireline providers, include cable voice providers in the list of service types eligible for ETC certification, because they provide a fixed wireline service.[26] Cox, which provides both fixed wireline and Internet protocol-based cable voice service, has been designated as an ETC to provide Lifeline service in Arizona, Georgia, Louisiana, California, Oklahoma, Kansas, Nebraska, Iowa, Rhode Island, and Connecticut. Time Warner, which provides cable voice service, has been designated as an ETC for Lifeline in New York and has announced its plan to seek designation in other states.[27]

Several states qualified their responses to this survey question by explaining how they reached the decision regarding which types of carriers may apply for ETC status.

Alaska grants ETC status to common carriers (wireless and wireline providers) as defined in 47 U.S.C. 153(11).

> The term "common carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

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[26] Discussions with Bob Casey, FLPSC and Peter Pescosolido, CT PURA.

[27] Time Warner has an ETC application pending at the FCC for designation as a Lifeline-only ETC in Maine. See, In the Matter of Telecommunications Carriers Eligible to Receive Universal Service Support Time Warner Cable Information Services (Maine), LLC Petition for Designation as a Lifeline-Only Eligible Telecommunications Carrier in the State of Maine, WC Docket No. 09-197

Michigan and Hawaii certify wireline and wireless providers and require ETCs to be licensed by the state in order to provide Lifeline service. Hawaii also notes that it has no explicit prohibition on cable or VoIP providers and would consider applications individually. New Jersey certifies only wireline and wireless providers but notes that it has not received any applications from VoIP or cable providers, suggesting that it would consider such applications on a case-by-case basis.

Indiana certifies wireline and wireless providers that can provide the services defined in 47 CFR 54.101 to request ETC certification.

Pennsylvania certifies wireline, wireless, and cable providers as ETCs. The state does not certify VoIP providers. Oversight of VoIP carriers is limited by the rules codified in the 2008 VoIP Freedom Act (P.L. 627, No. 52):

> No department, agency, commission or political subdivision of the Commonwealth may enact or enforce, either directly or indirectly, any law, rule, regulation, standard, order or other provision having the force or effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of VoIP service or IP-enabled service.[28]

This issue was also raised by California.

South Dakota, Washington, and Wisconsin note that they would potentially certify interconnected VoIP providers if they meet the requirements of Section 214(e).

Finally, a number of states—for example, Massachusetts, California, and Missouri—are reviewing their current programs to establish new rules based on the 2012 Lifeline Order and to reflect the migration of low-income consumers from traditional wireline POTs service to wireless and IP-enabled services. We discuss these proceedings later.

The diversity in the types of carriers that may be designated as ETCs results from each state's interpretation of the Act and the Reform Order and their goals for supporting the specific needs of their citizens. As Justice Brandeis pointed out:

> It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.[29]

The Universal Service First Report and Order initially defined the nine supported services a company was required to provide in order to qualify as an ETC in 1997 as

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[28] Voice-over-Internet Protocol Freedom Act, P.L. 627, No. 52, available at http://www.legis.state.pa.us/WU01/LI/LI/US/PDF/2008/0/0052. PDF, codified at 73 Pa C.S. §2251.1

[29] *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932).

> voice grade access to the public switched network; local usage; dual tone multi-frequency (DTMF) 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; and toll limitation to qualifying low-income consumers.[30]

The First Report and Order described these services functionally in order to increase the number of carriers that could become eligible for USF support. Initially, carriers applying for ETC certification for the purpose of offering Lifeline generally met these requirements by offering low-cost wireline basic telephone service to eligible consumers. In the Lifeline Reform Order in 2012, the FCC conditioned forbearance from these requirements subject to compliance plans for wireless providers so that they could also offer the supported services, even when they did not build and own their own networks.

The USF/ICC Transformation Order makes the list of required services technologically neutral by defining the product that a carrier must offer to qualify as a Lifeline ETC as "voice telephony," rather than circuit-switched voice or POTs or wireline or wireless service. The Lifeline Reform Order implements this change by eliminating the purely time-division-multiplexed (TDM) portions of the original definition (e.g., TDM switching and single-party service) and revising the list of services ETCs must provide to include

> voice grade access to the public switched telephone network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency 911 and enhanced 911 service . . . and toll limitation at no charge to qualifying low-income consumers.[31]

As with many other issues regarding non-traditional services, the question of which types of carriers a specific state will certify as an ETC is open to discussion. Moreover, determining the types of services eligible for Lifeline support is made particularly difficult by the FCC's failure to state specifically whether VoIP (whether offered by cable or interconnected VoIP providers such as Vonage or as part of Verizon's FiOS package or AT&T's U-Verse) is a "telecommunications service" or not. Depending on how the Lifeline Reform Order is implemented by individual states, this change may broaden the types of carriers eligible for certification from wireline and wireless-only carriers to cable voice providers and providers of interconnected VoIP.

Some states, like California, are already considering revisions to the types of carriers eligible for ETC designation to determine whether the eligibility standards should be broadened beyond the classical definition of telecommunications service—switched voice provided over the

[30] See Universal Service First Report and Order, 12 FCC Rcd 8776 at 8810, ¶. 61.

[31] Lifeline Reform Order, ¶48.

PSTN.[32] We discuss the California Lifeline proceeding and other state Lifeline eligibility studies in Part II.

B. ETC designation process

1. Service requirements

The rules established in the Lifeline Reform Order require a carrier seeking support solely for providing Lifeline to:

- Demonstrate that it is financially and technically capable of providing the supported service[33]
- Submit information describing the terms, conditions, and rates for the voice telephony service plans offered to Lifeline subscribers
- Provide a compliance plan showing how it will ensure that it meets the Lifeline eligibility rules[34]

The states use a combination of paper proceedings and hearings to determine whether a carrier should be granted ETC status. In making this decision, they rely on the FCC requirements for ETC designation codified in 47 CFR 54.202, as well as their own standards and investigations. The FCC rules provide a floor for ETC compliance; a number of states add additional requirements.

Alaska requires applicants to provide detailed information showing that the carrier is "capable of and proposes to" provide services throughout the supported area, a certification that the carrier will comply with consumer-protection and service-quality standards, and information on the carrier's process for administering the Lifeline program. In addition to meeting the "capability" requirement, wireless Lifeline carriers in Alaska must provide a calling plan that includes at least 500 minutes per month.[35]

South Carolina ETC candidates must submit an outreach plan for advertising the availability of Lifeline service, identifying eligible applicants, and enrolling them in the program.

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[32] California's response to the NRRI Lifeline survey questioned why the survey asked states which types of carriers could be designated for Lifeline-only service in their state. "Section 214(e) of the Communications Act refers to “telecommunications” service and providers. Yet the FCC has studiously declined to classify VoIP service as a telecommunications service. Accordingly, how could a state deem a VoIP provider to be an ETC when neither the FCC nor a court has determined that VoIP service is a “telecommunications service”? How could a state make that finding under federal law?"

[33] Supported services include voice-grade access to the PSTN, free local usage, access to 911 and E-911, and toll limitation for qualifying low-income subscribers.

[34] Id. As described earlier in this paper, the USF Transformation Order redefined the supported service as "voice telephony" and removed the requirement that Lifeline-only ETCs provide a 5-year service-improvement plan.

[35] Alaska Code, 3AAC 53.401.b, available at http://www.touchngo.com/lglcntr/akstats/aac.htm

Carriers must provide a plan for remaining functional in emergencies and demonstrate that they will "satisfy applicable consumer protection and service quality standards."[36] Washington has similar rules, as do a number of other states.

Eight states require wireless ETCs to offer plans that include a specific number of minutes. Colorado, Georgia, Indiana, Iowa, Minnesota, South Carolina, and Washington require that carriers offer at least one plan that includes 250 minutes of use. Oklahoma requires carriers to provide a plan that includes 500 minutes on non-tribal land and 1,000 minutes on tribal lands. Ohio requires carriers to allow calls to customer service without charging the balance of minutes in the customer's plan. California puts a number of specific requirements on state-certified wireless ETCs, including the requirement that the carrier meet service-availability and quality goals. California is currently examining its rules for designating wireless providers as ETCs. We discuss the California docket later in this paper.

2. The public interest requirement

Ensuring that the Lifeline service an ETC provides benefits the public interest is a critical part of the certification process. As the South Carolina ETC regulations point out,

> The purpose of an eligible telecommunications carrier designation is to further the public interest goal of ensuring that consumers in all regions, including those in rural, insular, and high cost areas have access to telecommunications services comparable to those in urban areas.[37]

The FCC summarized the Lifeline ETC designation process for Congress as follows:

> States designate providers as ETCs to participate in the Lifeline program, including in most cases wireless ETCs. Currently, all but ten states and the District of Columbia handle the designation of Lifeline-only wireless ETCs to participate in the program. States have broad authority to conduct thorough reviews of ETC applications. The Commission's new rules require that providers demonstrate that they are "financially and technically capable of providing Lifeline service in compliance with program rules." In deciding whether to designate a provider to participate in Lifeline, a state must, among other things, review how long the company has been in business, whether the provider intends to rely exclusively on universal service disbursements to operate its business, whether the provider receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.[38]

[36] 10 S.C, Code Ann. Regs, 103-690(C)(a)(1)(C).

[37] 10 S.C. Code Ann. Regs. 103-690(A)(2)(2012).

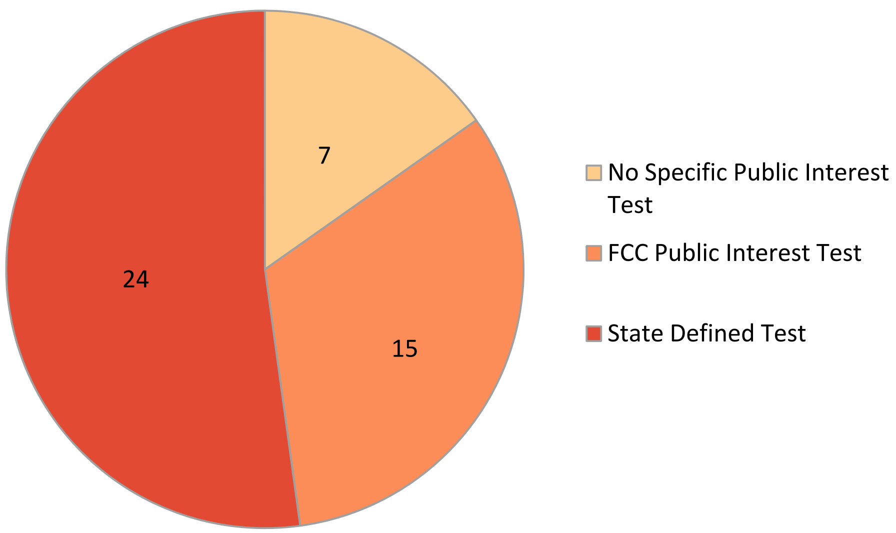
[38] From: June 20, 2013, letter from Kimberly A. Scardino, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, FCC, to The Honorable Steve Stockman, U. S. House of Representatives, under cover letter from Acting FCC Chairwoman Clyburn.

In reviewing applications for ETC designation, the states have a wide latitude to require applicants to show how designating them as Lifeline providers will benefit the public.

Thirty-one of the 49 states responding to the NRRI survey require applicants to meet an explicit public interest test. State responses to this question fall into three categories—the FCC requirements, specific state rules, and individual evaluation. A significant number of states follow the FCC process. Others have statutory public interest tests. States in the third category responded that they do not have an explicit public interest requirement but judge cases based on their own merits or accept FCC approval of a provider's compliance plan as sufficient evidence of the public interest.

Figure 3 summarizes the responses to this question. Individual state responses appear in Appendix A.

Figure 3. State public interest test criteria.



Fifteen states use the FCC's criteria to determine whether an application is in the public interest. Hawaii, for example, examines the public interest using the FCC process—reviewing choice, impact, unique characteristics of the service, and ensuring that the provider is not cream skimming. Idaho, Indiana, Kentucky, and Nebraska follow a similar process. Maryland requires the applicant to "provide a description of why the ETC designation is in the public interest."

Twenty-four states use state-specific public interest tests, generally defined by statute. These states require applicants to explain how the ETC designation will allow them to provide greater service choice and/or multiple rate plans (UT), how their service will further the states' statutory universal service goals (MN), and/or how they will expand service over time (MT).

Montana's requirements, for example, are specific to the needs of a rural state and represent a model that commissions seeking to change or update their ETC designation process might wish to study. Montana statute 38.5.3210, Designation and Maintenance – Public Interest, requires the commission to

> Consider all known factors regarding the designation of an eligible telecommunications carrier and the maintenance of status as an eligible telecommunications carrier that clearly demonstrate a public benefit or a public detriment. . . . A determination of public interest will generally include a consideration and balancing of all relevant factors.[39]

In reviewing Lifeline applications, the commission must determine whether the carriers' service platform is broadband-capable and will enhance the availability of new service offerings; the effect the designation of a specific carrier will have on Montana's universal service fund (USF); and the reliability and availability of the service. Montana's public interest test also includes determining how the service will support the public convenience, including "things such as mobility, quality of service, availability of competition, and market choices."[40]

Minnesota statute 237.011 requires the commission to ensure that carriers seeking ETC designation meet specified state goals for telecommunications service. These goals include

> (1) supporting universal service; (2) maintaining just and reasonable rates; (3) encouraging economically efficient deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission; (4) encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner; (5) maintaining or improving quality of service; (6) promoting customer choice; (7) ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service; and (8) encouraging voluntary resolution of issues between and among competing providers and discouraging litigation.[41]

Arizona, Connecticut, Michigan, Missouri, New Hampshire, New York, North Carolina, Rhode Island, and Virginia do not have specific public interest tests, but review individual applications on their merits.

C. Protecting against waste, fraud, and abuse

An ongoing problem with the Lifeline program has been the perception that despite its important goal, it has become "rife with waste, fraud, and abuse." News stories, television ads,

[39] ARM 38.5.3210, available at http://www.mtrules.org/gateway/ShowRuleFile.asp?RID=16273

[40] ARM 38.5.3210(j).

[41] 2013 Minnesota Statutes 237.01, Telecommunications Goals, available at https://www.revisor.mn.gov/statutes/?id=237.011

and most recently Congress[42] have focused their attention on those carriers that appear to flaunting the rules by handing out mobile phones to any and all comers, regardless of whether they are qualified for the program.

To rectify this problem, reduce the cost of the program, and provide support only to those who need it, the Lifeline Reform Order

> Establishes clear goals and measures and . . . national eligibility criteria to allow low-income consumers to qualify for Lifeline . . . [;] adopts rules for Lifeline enrollment, including enhanced initial and annual certification requirements, and . . . the program's one-per-household requirement. The Order . . . creat[es] a National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers; phas[es] out toll limitation service support; eliminate[es] Link Up. . . except on . . . Tribal lands . . . and [imposes] independent audit requirements on carriers receiving more than $5 million in annual support.

The FCC will use two tools to ensure that the Lifeline program reaches its goal of reducing waste, fraud, and abuse: the National Lifeline Accountability Database (NLAD or the "duplicates" database), which became available in October 2013; and a national eligibility database, to provide a centralized means of determining which consumers are eligible for Lifeline. The eligibility database has not yet been designed, but if developed will provide a centralized system that carriers may use to check a customer's eligibility for the Lifeline benefit.

The FCC has also begun to actively audit carriers and customers to investigate alleged abuse. On September 30, 2013, it fined five carriers a total of $14.4M for failing to ensure customer eligibility for the federal Lifeline program, and for providing duplicate service to customers. The FCC assessed the fines "to protect the integrity of the Lifeline program . . . preserve Lifeline for those who truly need it and prepare it to ensure that low-income Americans have access to robust, affordable broadband."[43] The FCC has issued over 1,500 citations to customers found to be subscribing to more than one Lifeline service per household, ordering them to cease and desist.[44] On November 1, 2013, the FCC announced proposed penalties of $33 million against three carriers for alleged violations of FCC rules limiting Lifeline subscriptions

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[42] On 10/13/13, 44 republican members of Congress, led by Representative Marsha Blackburn, sent Acting FCC Commissioner Mignon Clyburn a letter stating, "This failed [Lifeline] program continues to symbolize everything that is wrong with Washington as it's one of the worst examples of corporate welfare in the federal government," available at http://blackburn.house.gov/uploadedfiles/lifeline_letter_10_11_2013.pdf; *See also* Jillian Kay Melchior, Scripps, National Review Reports on Lifeline Fraud Prompt Congressional Response, National Review On-Line, 9/19/13, available at http://www.nationalreview.com/corner/359021/scripps-national-review-reports-lifeline-fraud-prompt-congressional-response-jillian

[43] FCC Press Release, 9/30/2013, Federal News: FCC Proposes $14M Penalty for Lifeline Service Providers.

[44] FCC Redacted DA 13-420, File No. EB-13-IH-0277, Rel. March 14, 2013.

to one subscriber per household and receipt of payment for thousands of consumers already obtaining Lifeline service from the same company.[45]

1. Validating consumer eligibility

The Lifeline Reform Order instructed USAC to develop the NLAD and the proposed national eligibility database. Carriers will access the databases in real time to ensure that potential service recipients are eligible and do not already have service from another provider. According to USAC,

> The National Lifeline Accountability Database (NLAD) is designed to help carriers identify and resolve duplicate claims for Lifeline Program-supported service and prevent future duplicates. This is done by providing a means for carriers to check on a real-time and nationwide basis if the consumer is already receiving a Lifeline Program-supported service.[46]

The NLAD will begin accepting information on current Lifeline subscribers in Arkansas, Louisiana, Maryland, Oklahoma, and Washington in December 2013, with additional states to follow on a schedule set by the FCC. At the same time, ETCs (or those state commissions that choose to load the database) can begin to add new subscribers as they establish Lifeline service.

The NRRI survey asked respondents to indicate whether they would require carriers to use the NLAD database, allow carriers to make the decision, or continue to use their current process for ensuring against duplicate service and determining customer eligibility. Figure 4 summarizes the responses to this question.

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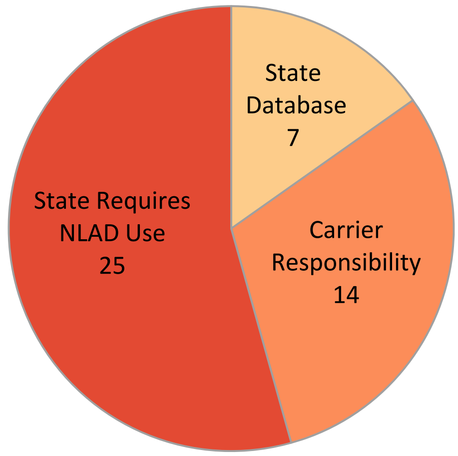
[45] FCC November 1, 2013 Press Release, FCC PROPOSES NEARLY $33 MILLION IN PENALTIES AGAINST LIFELINE PROVIDERS THAT SOUGHT DUPLICATE PAYMENTS FOR INELIGIBLE SUBSCRIBERS

[46] USAC Lifeline Overview, available at http://www.usac.org/li/tools/nlad/default.aspx. The database is still in the trial stage.

Figure 4. Will your state use the NLAD database?



Of the 44 states responding to this question, 25 will direct ETCs to use the NLAD database to determine whether a customer already has a Lifeline account with another provider. In addition, 14 states expect the carriers to use the NLAD database to conform to the FCC duplicates rule but do not require them to do so. As the Regulatory Commission of Alaska pointed out in its response, "It is the responsibility of the ETCs . . . They would be the users of the database."[47]

California, Florida, Idaho, Oregon, Texas, Utah, and Vermont responded that they have been granted waivers by the FCC to continue to use their own Lifeline databases. These states already have automated systems that validate applications and weed out duplicates.[48]

For example, California provides carriers with automated access to its system to allow real-time validation of applications.

> Each transaction undergoes a duplicates check using a matching logic consisting of four main elements: 1) operating carrier number (OCN); 2) subscriber's name; 3) subscriber's telephone number; and 4) subscriber's service address. This process will result in a match if the subscriber's name, along with either the telephone number or the service address, already exists in the database. The

[47] Alaska Survey response.

[48] Oregon does not allow carriers direct access to its authorization database but performs the authorization checks itself based on data submitted by the provider. Colorado had also been granted a waiver but has ended its program.

> Administrator sends specific error codes to the service provider when the check for duplicates shows a match for the same subscriber.[49]

Texas and Idaho use a similar process.

In Oregon, the PUC maintains a database of all Lifeline subscribers to prevent duplicate claims for support. Carriers submit information on customers applying for Lifeline to the PUC to validate customer eligibility for Lifeline and to avoid duplicates. Based on this database, the FCC approved Oregon's application to opt out of the NLAD.[50]

The majority of the states also responded that they will use the FCC/USAC eligibility database (or expect carriers to do so) when it is developed. California, Florida, Oregon, Tennessee, Texas, and Vermont have developed internal eligibility databases. New Jersey and North Carolina are considering developing their own eligibility databases for carriers to query before offering service to a Lifeline customer. Illinois is currently using a state database that includes some but not all of the programs that will qualify recipients for support. The state is considering updating this database to include the full range of programs.

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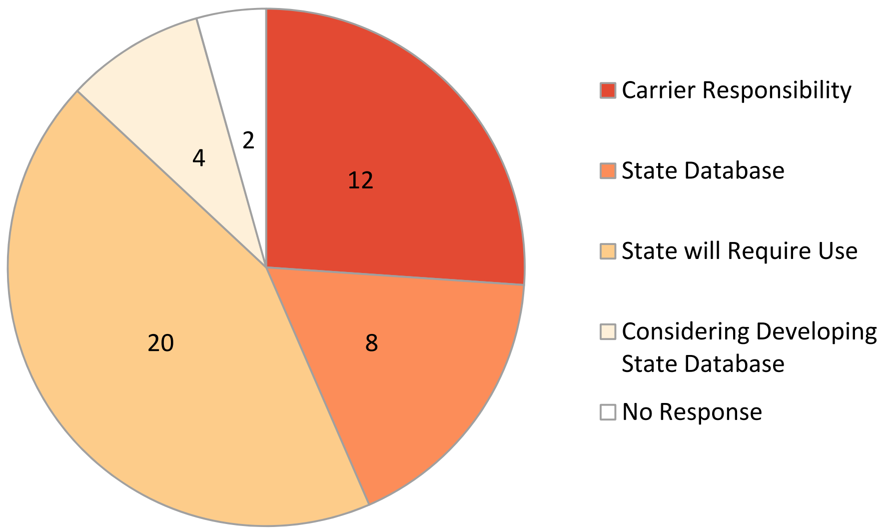
[49] Supplement to the California Public Utilities Commission and the People of the State of California's Petition to Opt Out of National Lifeline Accountability Database; WC Docket No. 11-42,WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23.

[50] *See* Lifeline and Link Up Reform and Modernization et. al., Petition and Certification of the Public Utility Commission of Oregon to Opt Out of the National Lifeline Database, WC Docket Nos. 11-42 et al. (filed November 30, 2012).

Figure 5 shows the breakdown of states that would use the eligibility database. Detailed information by state appears in Appendix B.

Figure 5. Will your state use the USAC Eligibility Database?



One of the issues that must be resolved before the states can use the FCC/USAC database is the difference in eligibility requirements between the FCC and the states. The state level for income eligibility is generally higher than the FCC requirement. In addition, the states often provide the Lifeline benefit to users who qualify for support programs in addition to those identified by the FCC. For this reason, the states may need to create a two-step process for eligibility verification; first using the federal database, and then checking candidates who do not immediately qualify against state requirements. This issue may increase the number of states considering the development of their own eligibility databases.

2. State oversight of Lifeline providers

The states have been vigilant in auditing ETC performance to ensure that providers meet both federal and state rules for the program. As the 2013 Report of the NARUC Federalism Task Force points out,

> The States are experienced in investigating and resolving issues based on evidence and in collecting and examining multiple viewpoints through face-to-face adjudicatory proceedings, often preceded by advance discovery of information under oath, and followed by cross-examination of witnesses. . .[51]

We review three examples of state oversight of these programs here: the Nebraska order rescinding ETC status for a "bad actor," the Washington requirements for ETC designation, and Georgia's decision to require Lifeline recipients to pay a portion of their bill.

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[51] 2013 Federalism Task Force Report, p. 9.

The Nebraska Public Service Commission's investigation of Telrite/Life Wireless Communications provides an example of state oversight of ETCs. Nebraska uses an adjudicatory proceeding to designate ETCs for the purpose of offering Lifeline service. During the hearing, Telrite's president testified that if granted ETC certification, the company would follow the NE rules, including submitting the names of potential Lifeline support recipients to the commission for validation of eligibility before establishing service.

Telrite received state ETC certification in May 2013. Subsequently, the commission discovered that Telrite was violating the Nebraska ETC rules by failing to submit information to the commission to determine customer eligibility and for providing service prior to a determination that the customer was eligible.

The Nebraska Commission responded to this problem by revoking Telrite's ETC certification and ordering the company to

> Cease and desist providing service as a Lifeline provider in the State of Nebraska . . . [and to] give notice of the discontinuance of Lifeline service by Telrite to their Nebraska customers a minimum of thirty (30) days before termination of the service. The customer notice shall include contact information for the Commission, including the Commission's website and toll-free number.[52]

Washington also provides specific conditions for wireless Lifeline providers to ensure that they meet the public interest and enroll only eligible customers. These conditions require the carrier to make a compliance filing with the state commission providing information on the rates, terms, and conditions for Lifeline service; to provide a copy of the language the carrier will use in advertizing the service; and to provide a copy of the carrier's customer application form so that the commission may ensure that the application is clear about the rules concerning duplicate applications. In addition, wireless Lifeline providers must provide at least one plan that gives customers 250 minutes of calling at no cost.

In addition to the initial requirements for certification, the state Department of Social and Health Services (DSHS) audits Lifeline provider customers at least once a year to ensure that they meet eligibility requirements and do not have duplicate service. Most importantly, Washington UTC monitors the quality of service ETCs provide. A Lifeline provider must

> Report on the number of complaints, categorized by the different nature of complaints that it received . . . from customers during the prior calendar year (e.g., billing disputes and service quality complaints). This report shall include complaints filed with [the carrier], the commission's Consumer Protection and Communications Section, the Washington State Office of the Attorney General, and the Federal Communications Commission (FCC). The commission reserves

[52]Application No. NUSF-89/C-4621 Order Revoking Eligible Telecommunications Carrier Designation, entered September 17, 2013, available at http://psc.nebraska.gov/orders/ntips/NUSF-89.pdf. Telrite appealed the Commission's Order revoking its ETC status on 10/1/13, The appellant brief is due 12/19/13.

the right to revoke [the carrier's] ETC designation if [it] fails to provide reasonable quality of service.[53]

Georgia has moved to reduce waste and fraud in the Lifeline program by ordering providers to charge recipients for a portion of the Lifeline service they receive. The Georgia PSC issued a Notice of Proposed Rulemaking in May 2013 to consider changes to the Lifeline program to ensure that only eligible consumers could enroll and would receive only one Lifeline benefit. The perceived ability for consumers to obtain lifeline service from more than one provider (particularly wireless providers) was a key driver for the proceeding.

The Commission issued an Order in October 2013 requiring wireless Lifeline recipients to pay $5 per month for service.[54] Recipients must pay the fee directly; it cannot be waived (or paid on behalf of the customer) by the carrier. The fee will become effective on January 31, 2014, and companies may assess it quarterly rather than monthly. Carriers may avoid charging their customers the fee by providing 500 minutes of service (rather than the current 250 minutes) at no charge. According to one state commissioner, the purpose of the rule is "to reduce fraud, waste, and abuse in the Lifeline discount program . . . and to make sure the program is done right . . . and will . . . [remain] viable for those who truly need it."[55]

Consumer groups have pushed back on the new rule, stating that it will reduce Lifeline subscribership rather than eliminating fraud because those who are truly eligible for the program may not be able to afford the charge. CTIA and a number of wireless ETCs in Georgia have also spoken against the program, stating that it contravenes FCC rules and should not be implemented. CTIA has threatened a lawsuit to stop the rule's implementation.

It is difficult to tell at this time whether the charge will reduce Lifeline subscribership or whether other states may adopt similar requirements.[56]

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[53] *See*, for example, Docket UT-110321, 6/13/13, available at http://www.utc.wa.gov/docs/Pages/DocketLookup.aspx?FilingID=110321

[54] GA PSC Docket 35537, Order issued 10/15/13. CTIA has stated that it will file a lawsuit to rescind the charge. The Order also rescinds a GA rule requiring Lifeline applicants to provide photo identification in order to obtain service.

[55] GA PSC Press Release, 10/15/13, available at http://www.psc.state.ga.us/GetNewsRecordAttachment.aspx?ID=273

[56] Those challenging the bill state that Georgia is the first state to charge a fee. Based on responses to the Lifeline survey, this is not correct. The District of Columbia requires that participants pay $1.00 or $3.00 of their bill, depending on their income level. Wisconsin requires participants to pay $3.50, but this amount can be waived. Oklahoma charges a fee of $1 per month for Lifeline subscribers on tribal lands.

III. State Lifeline Programs

A number of states have created programs to add additional benefits for Lifeline recipients. Other states are reviewing the status of their current programs or the rules they use to designate ETC. We discuss state funds and open proceedings below.

A. State funds

Twenty-one states have created state funds to provide Lifeline users with additional support above the $9.25 federal benefit. Taken together, these funds total $390,513,145. Texas has a single universal-service fund that supports seven programs, including Lifeline.[57] Utah has a similar program.

The Hawaii legislature has authorized the creation of a state Lifeline fund, but one has not been established to date. In Illinois, the state fund provides a benefit for the Link Up (installation charge) program but does not provide additional funding to defray monthly usage charges. The Illinois Link Up fund pays up to 50 percent of the service connection fee (up to $20) for low-income consumers. In Wyoming the Telephone Assistance Program (TAP) authorizes carriers to charge a surcharge not to exceed $0.20 per month per access line per month to fund a $3.50 per month discount for eligible Lifeline customers, supplementing the federal discount. Wyoming ETCs therefore collect and fund the state TAP directly.

A number of states are discontinuing or revising their Lifeline programs as a result of state legislation. Maine discontinued its fund in 2012 as a result of legislation eliminating the Lifeline program. Colorado eliminated the Colorado Low Income Telephone Assistance Program (LITAP) as a result of legislation passed in 2013.[58]

North Carolina will end its $3.50 per month state Lifeline credit on December 31, 2013. North Carolina Session Law 2013-316 (implementing House Bills 998 and 112) repealed the state tax credit for Lifeline subscribers, effectively ending the state Lifeline program.[59] Commission staff's review of the North Carolina Lifeline program found that eliminating the state benefit would not negatively affect participation in the program but recommended that the

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[57] This figure does not include disbursements from the Texas fund or the Utah fund. The Texas USF fund provides a total of $376M to support seven state programs. The Utah fund currently totals $3.8M.

[58] National Regulatory Research Institute, Telecommunications Deregulation: Updating the Scorecard for 2013 (Sept. 2013), available at http://communities.nrri.org/documents/317330/0e3a5988-6f57-492d-8ce5-70926cfe68f4

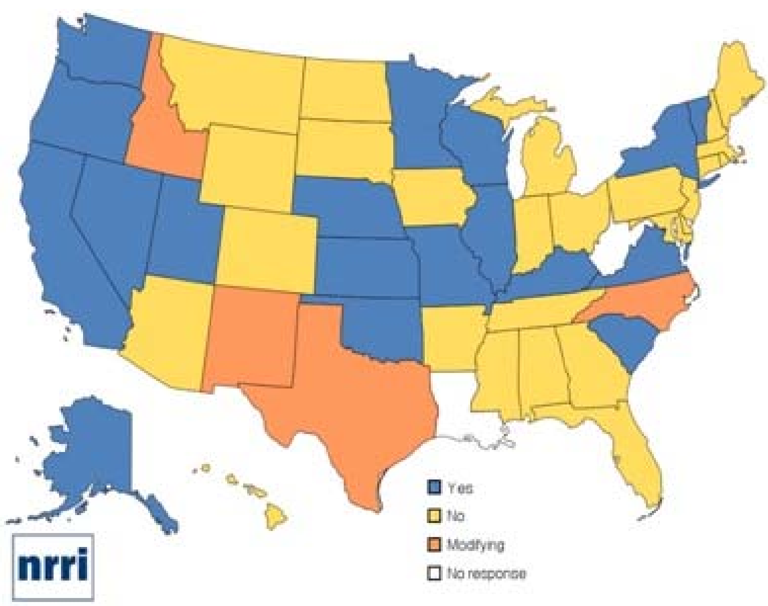
[59] North Carolina Session Law 2013-316, available at http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2013-2014/SL2013-316.pdf

state Lifeline/Link-Up Task Force continue to monitor the program for evidence that it needs to be reinstated.[60]

Idaho reduced its state Lifeline credit to $2.50 per month in 2013, based on the FCC's change to the maximum federal benefit. The New Mexico PRC opened Case 12-00380-UT in January 2013 to review the state's rural universal-service fund. A proposed ruling in this case would rescind the state's $3.50 Lifeline benefit match as a result of changes to the federal universal-service fund.[61]

Figure 6 shows the distribution and status of Lifeline funds across the states.

Figure 6. Does your state have a Lifeline fund?



With the exception of Washington, which appropriates funds from general tax revenues, the funding for state Lifeline programs comes from assessments on service providers. These

[60] Comments of Public Staff, State of North Carolina Utilities Commission, Docket P-100, Sub 133f; In the Matter of Lifeline and Link-Up Services Pursuant to Section 254 of the Telecommunications Act of 1996, 9-30-13, available at http://ncuc.commerce.state.nc.us/cgi-bin/webview/senddoc.pgm?dispfmt=&itype=Q&authorization=&parm2=QAAAAA47231B&parm3=000111995

[61] New Mexico case 12-00380-UT, In the Matter of Possible Changes to the State Rural Universal-service fund Rules as 17,11,10 NMAC, available at http://www.nmprc.state.nm.us/general-counsel/docs/12-00380-UT/12-00380-UT-%20Notice%20of%20Proposed%20Rulemaking%2011-27-12.pdf

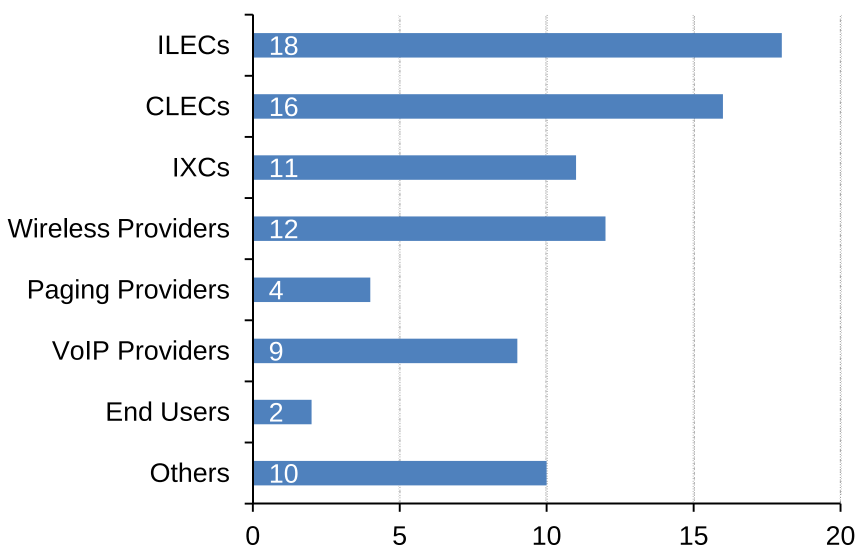
charges are generally passed on to end users as part of their monthly bills (although they are not always assessed on Lifeline recipients). South Carolina limits carrier reimbursements from retail end users to the published USF contribution rate. Idaho does not allow the pass-through of Lifeline charges to Lifeline recipients. Contributions to the Illinois Link Up fund are voluntary from ILEC customers.

The type of providers that contribute to state Lifeline funds differs by state. All of the states with funds (with the exception of Washington) assess traditional carriers, such as ILECs, CLECs, and long-distance providers (IXCs) for Lifeline. A growing number of states assess wireless carriers and VoIP carriers (including cable providers) for state Lifeline funding. In addition, Alaska assesses intrastate video and satellite providers, and Oklahoma assesses resellers and payphone providers, for Lifeline contributions.

VoIP carriers contribute to state Lifeline funds in the District of Columbia and eight states: Kansas, Kentucky, Minnesota, Missouri, New Mexico, South Carolina, Utah, and Wisconsin. In Minnesota, these contributions are voluntary. The Indiana Utility Regulatory Commission denied a request made by the state USF oversight board to open a proceeding to consider adding interconnected VoIP providers to the list of contributors to the state USF fund.[62]

Figure 7 summarizes the types of carriers that contribute to state Lifeline funds.

Figure 7. State Lifeline Fund contributions by carrier type.



[62] In the Matter of Issues Relating to Universal Service and Lifeline Assistance Fund Administration Articulated in Cause Nos. 40785, 42144, And 43082, and the Provisions Set Forth in HEA 1279, CODIFIED AS IC 8-1-36 IURC Cause 42144 S3, available at https://myweb.in.gov/IURC/eds/Guest.aspx?tabid=28

The states base their assessments on a number of different criteria.

- **Gross retail revenues:** DC and Wisconsin
- **Net intrastate revenues:** Kansas, Montana, New Mexico, New York,[63] and Oklahoma[64]
- **End-user revenue:** Alaska and South Carolina
- **Per line surcharge:** Idaho, Kentucky, Minnesota, New Mexico, Oregon

As noted previously, Washington funds the Lifeline program through the general tax fund. Contributions to the Illinois Link-Up fund from ILEC customers are voluntary.

Lifeline funding may decrease as states continue to review their Lifeline expenditures. In states where VoIP providers do not contribute to state Lifeline programs, contribution amounts may decrease as a result of the transition of customers from POTs to VoIP and the reduction in revenues from IXCs.

B. State ETC reviews

A number of states have opened proceedings to address changes to regulations for ETCs and to review the process for determining ETC eligibility. We discuss the proceedings in California, Massachusetts, Missouri, Texas, and Wisconsin here.

1. California

California is reviewing its process for designating ETCs in the second phase of a proceeding that began in 2006. California Docket R.06-05-028 (2006) examined the modifications to the state universal-service program made necessary by increased competition in the telecommunications market and the entry of new providers and services, including cable voice and interconnected VoIP. In the decision in that proceeding (D.10-11.033), the CPUC clarified that non-traditional carriers could participate in the state's LifeLine program but did not provide a process for allowing them to do so.

The Commission's 2006 decision anticipated that a second phase of the Rulemaking, now in progress, would clarify the requirements for these non-traditional carriers to participate in the program. The Scoping Memo for Docket R.11-03-013, Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program, was issued in March 2011. In Docket R.11-03-013, the Commission examines whether (and with what conditions) it should designate non-wireline providers (such as wireless, cable, and VoIP companies) as ETCs in order to participate in the California LifeLine program. The rulemaking will also define the specific requirements that such providers must meet. As part of this rulemaking, the commission is also considering ways to increase LifeLine participation, including changes to the requirements for the Lifeline-service eligibility process, whether the

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[63] New York assesses intrastate revenues less payments to other suppliers.

[64] Oklahoma assesses intrastate "billed" revenue.

state should continue to use a third-party administrator to determine applicant eligibility, and whether state LifeLine subsidies should apply to product bundles rather than only to basic service.

Currently, both wireline and wireless carriers may be designated as ETCs in California if they meet the basic service requirements established in CPUC General Order (G.O.) 153.[65] Among other things, these requirements include a "voice grade connection to the PSTN," access to toll-free services at no extra charge, directory services, and unlimited local calling. The rules also require specific levels of service availability and voice quality. The wireline-centric nature of these rules has made it difficult for wireless and other carriers to become ETCs in California, although they may apply for federal ETC designation.[66] For this reason, the current proceeding is addressing the following question:

> What changes in the LifeLine service elements [would be] appropriate to entice wireless carriers and other nontraditional providers to offer LifeLine service, and to increase competition and choices for Californians about the type of LifeLine service they can receive and the range of providers?[67]

The California legislature has also weighed in on the question of the types of providers that may be eligible to offer LifeLine in the state. The legislature passed Assembly Bill 1409 in September 2013. This bill would have required the CPUC to consider cable and VoIP companies for participation in the LifeLine program. AB 1409 provides that

> a) The PUC may not deny a request to be designated to receive federal lifeline support on the basis of the technology used to provide lifeline service nor may they deny or revoke a CPCN or authorization to provide telecommunications services based on the fact that the telecommunications provider also provides VoIP or IP-enabled services.
>
> b) The PUC may not, in exercising its authority to carry out the state lifeline program or to designate a provider an eligible telecommunications carrier, deny a request based on the provider utilizing any VoIP or IP-enable service.[68]

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[65] R.11-03-013, CPUC Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program, Appendix A, available at http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M063/K547/63547049.PDF

[66] Federally designated wireless ETCs may provide service in California but must include information on potential coverage issues, power requirements, and service-quality issues in their consumer literature. Cricket and Sprint offer wireless Lifeline service in California as "federally designated" ETCs. The CPUC designated Cox Communications as a state-designated ETC in October 2013 as a part of a settlement agreement. Cox offers service in California as both a TDM and VoIP provider.

[67] Id., Scope of the Proceeding, p. 2.

[68] AB 1409 legislative analysis, available at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=a0850599fc51bcc41f9cf5362b16

Governor Brown vetoed AB 1409 in October 2013, in order to allow the commission to complete its work in the current Lifeline proceeding, but urged "the Public Utilities Commission to meet with the cable industry to explore ways it can participate in the Lifeline program with some level of reasonable oversight."[69]

The Commission issued a draft Order in this proceeding in November 2013.

2. Massachusetts

The Massachusetts DTC opened DTC 13-4, Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program, in April 2013, in order to determine how the Department should address the new requirements for Lifeline providers necessitated by the FCC Lifeline Reform Order. The Department issued draft rules in August 2013 and solicited comments from those participating in the proceeding.[70] The purpose of the new rules, as stated in the Motion, is to

> Fulfill the Department's mandate to protect consumers and uphold the integrity of the Lifeline program by maximizing Lifeline subscriptions by eligible consumers while minimizing waste, fraud, and abuse of the Lifeline program.[71]

Many of the new rules codify agreements reached with individual providers as part of their ETC designation proceedings so that they may be extended uniformly to all Massachusetts ETCs. Others will apply specifically to wireless Lifeline providers, which today represent the largest segment of Lifeline providers. The new rules will also address consumer complaints, advertising, service availability, service outages, and the process for initiating and withdrawing service. The DTC proposed rules recognize consumer protection and satisfaction as key elements of the Lifeline program. If the rules are implemented as currently drafted, carriers will be required to file an annual report showing the number of complaints they receive per 1,000 Lifeline customers per year.[72] The rules also require wireless carriers to "work in good faith with the Department to resolve Lifeline complaints" and to list the number of the DTC Consumer Division on their bills.

One of the key facets of the proposed rules is that they recognize that many wireless Lifeline suppliers are not facilities based but rely on service purchased from others. To ensure that wireless users, and particularly the customers of non-facilities-based wireless carriers, are able to access emergency services, the rules will require such carriers to certify that they have

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[69] AB 1409 veto message, available at http://gov.ca.gov/docs/AB_1409_2013_Veto_Message.pdf

[70] DTC 13-4, Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program. Available at http://www.mass.gov/ocabr/docs/dtc/dockets/13-4/noticereqrfc.pdf

[71] Id.

[72] Wireline carriers already provide this information as part of the DTC service quality rules.

tested connectivity with the state Public Safety Answering Points (PSAPs). The rules will also require wireless carriers to follow the Department's service-discontinuance rules, including giving customers and the Department 60 days' advance notice of the ETC's planned discontinuance of Lifeline service in Massachusetts, and working with the Department to ensure that subscribers find alternative service.

The Massachusetts regulations will require ETCs to notify the Department of any changes in ownership or address. The rules will also require ETCs to inform the Department within 60 days

> if its ETC designation has been suspended, revoked, relinquished, or in any way withdrawn or removed in any jurisdiction; or if the FCC, a state commission, a court, or any government agency has rendered or entered a finding, civil judgment, or settlement (including consent decrees and money judgments) related to the Lifeline program, or a criminal conviction (including plea agreements) related to a dishonest act, false statement, or misuse of the Lifeline program against the ETC, its executive(s), or its senior manager(s).[73]

The Department considered but rejected rules requiring carriers to provide specific staffing levels in their call centers and service departments, to allow customers to return non-working equipment, and to require wireless ETCs to provide subscribers with a voice-only service plan with no contract requirement or early termination fee. The Department plans to monitor the success of the rules in increasing Lifeline participation while reducing waste, fraud, and abuse and will propose additional rules as necessary. Docket D.T.C. 13-4 remains open for additional comments on the rules.

3. Missouri

The Missouri Public Service Commission opened Docket TX-2013 in August 2013 to review and revise the rules for designating ETCs and administering the state USF and Lifeline funds. The rulemaking is a result of the USF Reform Order and the Lifeline Reform Order. If the recommendations in this docket are adopted, the Missouri rules governing ETCs would be revised to tighten regulations on companies seeking ETC designation in Missouri.

The new rules would require companies seeking ETC designation to provide a detailed description of the company's service plans, as well as a review of its management expertise, and a discussion of any disciplinary action taken against the company or individuals associated with the company. The rule changes also include new and/or enhanced compliance requirements that go beyond the floor set by the FCC.

For example, ETCs must conduct business using the name under which the Commission granted them ETC status. As PSC staff point out in their comments in this rulemaking, while doing business under a single name is not required by the FCC, adopting this provision will minimize confusion by preventing an ETC from arbitrarily using a name that is not formally

[73] Id., Appendix, Proposed Rule A. 4.

recognized by the Commission. In order to ensure continued compliance with commission rules, Lifeline-only ETCs will also be required to file a yearly report listing the number of Lifeline subscribers, summarizing the results of any compliance audit, and listing any proceedings filed against the company for alleged violation of USF requirements in Missouri or elsewhere in the country.

Most importantly, the new rules provide that ETC designation "shall be deemed acceptance of Missouri Commission jurisdiction over any matter relating to ETC status and USF funding." As staff's comments on the proposed new rules point out,

> Such provisions are intended to clarify requirements for wireless ETCs who sometimes question whether Missouri rules are applicable to them.[74]

The Commission issued the draft rules on September 16, 2013 and is still receiving comments.

4. Texas

Texas is also reviewing the regulations for the state's Lifeline and USF programs. The staff recommendations address changes to Lifeline required by the Lifeline Reform Order. The proceeding addresses a range of issues, including how ETCs will report on Lifeline registration, the discounts that should be offered to Lifeline users, and rules for disconnecting service for non-payment.[75] Because many users now buy bundles of service, the proposed Texas rules prohibit Lifeline providers from discontinuing service to a customer because he owes for other services in the bundle (for example, call waiting, caller ID, or long-distance service). Providers may block a consumer's access to all services except toll-free services for non-payment, but the block must be removed at no cost when the consumer pays the outstanding bill.

Like Massachusetts and Missouri, the new Texas rules include specific reporting requirements. The Texas rules will require ETCs receiving money from the state universal-service fund to provide quarterly reports of customer balances and other information to the state Lifeline administrator. In addition, state-designated ETCs must file a copy of the bill message announcing the availability of the Lifeline program and the requirements for participation with the Commission annually.

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[74] In the Matter of a Proposed Rulemaking to the Missouri Universal-Service fund, Docket TX-2013, Staff Comments, 10/16/2013, available at https://www.efis.psc.mo.gov/mpsc/commoncomponents/view_itemno_details.asp?caseno=TX-2013-0324&attach_id=2014005853 Missouri Docket TX-2013-0324 https://www.efis.psc.mo.gov/mpsc/Docket.asp?caseno=TX-2013-0324

[75] Rulemaking to Consider Amending Subst. R. §26.412, Relating to Lifeline Service Program And §26.413, Relating to Link Up Service Program, Project 41024 available at http://Interchange.Puc.Texas.Gov/Webapp/Interchange/Application/Dbapps/Filings/Pgcontrol.Asp?Txt_Utility_Type=A&Txt_Cntrl_No=41024&Txt_Item_Match=1&Txt_Item_No=&Txt_N_Utility=&Txt_N_File_Party=&Txt_Doc_Type=All&Txt_D_From=&Txt_D_To=&Txt_New=True

5. Wisconsin

The Wisconsin Public Service Commission opened Docket 1-AC-236 to consider changes to the Wisconsin Lifeline certification process based on the Lifeline Reform Order and the state's 2012 deregulation bill.[76] The commission originally began reviewing the process for designating ETCs in 2010 but suspended the proceeding due to the new FCC rules and changes to Wisconsin law. The current proceeding will provide program-specific updates.

6. Wyoming

The Wyoming Public Service Commission has recently designated several Lifeline-only wireless non-facilities based ETCs with an approach tempered to make sure customers are aware of the services, rates, terms and conditions they will receive, while requiring quarterly reports on sales and marketing efforts. Some providers in this niche resell underlying network services that do not have statewide coverage areas and are subject to roaming. Some providers restrict roaming on the Lifeline services they offer, or do not offer Lifeline services to otherwise eligible Tribal customers due to lack of network coverage, so the Wyoming PSC requires careful oversight of marketing practices to make sure Lifeline consumers know the limitations of the Lifeline services offered. Also, the Wyoming PSC requires quarterly status reports to the Commission regarding provider's statewide operations in Wyoming and particularly listing all agents, vendors, and points of process it uses in the state to advertise, and to acquire customers.

[76] Wisconsin Docket 1-AC-236, available at http://psc.wi.gov/apps35/ERF_search/content/SearchResult.aspx

IV. Opportunities and Challenges

The Lifeline program presents states with many opportunities and challenges, including balancing oversight with the public interest, sharing the responsibility for designating and monitoring providers with the FCC, and determining how best to transition Lifeline in individual states from a voice-centric program supporting traditional wireline service to wireless and IP-enabled platforms. We discuss these issues below.

A. Balancing oversight and the public interest

Although recent public discussions of the Lifeline program have focused on eliminating waste, fraud, and abuse by punishing bad actors and placing more stringent controls on eligibility, the program's primary goal remains ensuring that reliable and affordable communications are universally available to all citizens of the United States, regardless of where they live or how much they earn. To meet this goal, state commissions must strike a balance between creating Lifeline rules that prevent waste, fraud, and abuse, and meeting the public interest requirement of increasing the enrollment of eligible consumers in the program.

The political focus on the "bad apple" suppliers may cause consumers to shy away from the program. In addition, the enhanced requirements for proving eligibility and recertifying eligibility yearly may make it difficult to reach those consumers who need Lifeline most. The states are in the best position to determine how to manage this issue.

Ongoing reviews of Lifeline providers to ensure that they are meeting the standards established by the states and the FCC will be helpful. Nebraska's investigation of Telrite and the reporting and audit requirements proposed in the current Massachusetts and Missouri Lifeline proceedings provide good models for states seeking to make their programs more efficient and less prone to waste. To balance oversight with outreach, many states are mandating that Lifeline vendors reach out to eligible consumers to make sure they know that the program is available. In the end, outreach will not only increase the number of eligible consumers that are aware of the program but focus suppliers on providing a good product.

Creating simplified methods for identifying and enrolling eligible consumers are also important tools for reaching those who need Lifeline while reducing waste, fraud, and abuse. A number of the states responding to the Lifeline survey are considering developing their own eligibility databases rather than waiting for the FCC to put its own automated verification system in place. By developing their own databases, the states can not only control how eligibility is defined but also make sure that ETCs do not seek funding for customers who should not be part of the program. Oregon's database, discussed earlier in this paper, is an example of such a program.

One of the key questions raised in every discussion of the Lifeline program is whether the financial support provided to carriers that offer low-cost service to eligible consumers is commensurate with the cost of providing that service. To the extent they can do under state statutes, state commissions may wish to probe more deeply into the business case for Lifeline service from those providers seeking ETC designation in their states. Although the FCC intends to review the current $6.25 reimbursement level at a future date, states with Lifeline funds of their own may want to review a provider's business case before determining state support levels.

B. Sharing jurisdiction and information

The shared jurisdiction between the states and the FCC for certifying and overseeing ETCs is a key facet of cooperative federalism. At the same time, however, this divided oversight may lead to problems when either organization identifies alleged "bad actors" but does not immediately share this information. More importantly, because the states and the FCC may certify and monitor the performance of different types of providers, it is difficult to track the success of the Lifeline program in any specific state. This will be particularly true as more consumers transition to mobile Lifeline providers, the majority of which are certified at the federal level.

Commissions may solve this problem by requiring all ETCs doing business in the state, regardless of which entity provided their certification, to follow state rules as well as federal regulations. In addition, commissions may find it useful to work particularly closely with those Lifeline providers certified outside their states to obtain copies of their reports to the FCC. Information regarding service outages, consumer complaints, and certification problems at the federal level or in other states will help commissions work proactively to avoid problems in their own jurisdictions.

Massachusetts has proposed requiring carriers to provide copies of their FCC filing as part of its revision to the state Lifeline rules. Other states, like Missouri, Oregon, and Washington, require ETCs to report complaints brought against them in all jurisdictions. By tracking the performance of ETCs that are certificated in multiple states, state commissions can be assured that they identify and correct problems with bad performers before those problems effect consumers.

Maine's decision to defer the designation of all ETCs to the FCC presents another solution to the question of balancing jurisdiction between the federal and state levels. Maine reached this decision because the costs of certifying ETCs outweighed the benefits gained by state designation. With no state funds to distribute to state-designated ETCs, the time and work involved in the certification process appeared to benefit only the FCC, whose work was transferred to the state commission without an equivalent transfer of support funds. As more states look for ways to reduce costs without reducing service, other states may consider this path.

C. The IP transition, broadband, and Lifeline

The National Broadband Plan focused on the goal of making broadband connectivity available to all Americans, regardless of their location or income level. The Lifeline Reform Order attempts to move toward this goal by establishing a number of broadband Lifeline pilot programs to determine how best to ensure that broadband is available to those who currently cannot afford it. The Order adds broadband to the list of "supported services" to include voice services provided over broadband facilities and by allowing the Lifeline benefit to be applied to bundled services, which may include a broadband component.

The states face several challenges in implementing this change to the Lifeline program, including limitations on the types of providers the states certify, the apparent reluctance of broadband providers to seek ETC designation even from those states that would certify them, and statutory limitations on regulating VoIP or other IP-enabled services, even for the purpose of qualifying for Lifeline subsidies.

Although the federal Lifeline benefit may be applied to bundled services that include broadband, only some states certify broadband ETCs, and so state control over the packages they offer is limited. More importantly, few IP-based providers appear to be actively seeking Lifeline designation in the states. As the responses to the Lifeline survey point out, even those states that "would" or "could" certify broadband providers have received only a few applications for ETC status, primarily from cable voice providers.[77] This may be because these companies do not see a need to provide Lifeline service or because they already sponsor "Lifeline-like" programs for low-income families, such as Comcast's "Connect to Compete" program. The FCC's Broadband Lifeline pilot programs may increase the number of IP-enabled providers that seek ETC designation, but that remains to be seen.

Not all states require non-traditional providers, such as cable companies and VoIP providers, to contribute to state Lifeline funding, reducing the funding available to add broadband support to state Lifeline funds and increasing the cost of oversight. Indeed, in many states, the contribution from companies offering IP-enabled service is voluntary. The providers contribute as a public service gesture, not because they are regulated by the state commissions. As the number of POTs connections and intrastate IXC revenues continues to drop, this will make it more difficult to sustain state Lifeline funds.

Finally, many states may be statutorily prohibited from certifying IP-based carriers as ETCs, because they do not offer "telephone service" as defined in the statute or because new state laws have placed IP-enabled suppliers "outside" traditional regulation. In addition, wireless has generally been regulated at the federal rather than the state level, so oversight of wireless broadband programs will be limited. This will be a significant issue to grapple with as the transition to wireless and IP-based services continues. Indeed, as the Lifeline Reform Order points out, 55 percent of the current Lifeline consumers use wireless, and that number is expected to rise.

The FCC could resolve the question of regulating non-traditional carriers by finally determining the status of IP services—that is, by designating VoIP once and for all as either a Title II regulated service or as a Title I service—but that decision seems on the back burner at this point. Until the FCC determines how to treat IP-enabled services, however, the states will need to wrestle with this issue individually.

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[77] Cox Communications and Time Warner have received certification as ETCs for providing Lifeline service only from the FCC and in a handful of states, but it appears that other carriers have not leapt at this opportunity.

The outcome of California's Lifeline proceeding may provide a roadmap for other states by determining how to certify these non-traditional carriers to provide service to the Lifeline-eligible consumers who want it within the context of current legislation.

Lifeline remains a key program for the states and for the nation as a whole. The results of the NRRI Lifeline survey show the multiple ways in which the states are addressing this issue in light of changes to the universal-service fund and the new rules adopted in the Lifeline Reform Order. Continuing to study and review information on how individual states are meeting the challenges identified here will remain an important public utility commission goal, now and in the future.

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Appendix A

NRRI Survey of State Lifeline Processes

National Regulatory Research Institute
Survey of State Lifeline Processes
August, 2013

Respondent Information:

Name: ______________________________

Title: ______________________________

State: ______________________________

Contact Information:

Email: ____________________

Telephone: ________________________

Part I: Carrier Certification Process

1. Does your state designate ETCs for the purpose of providing Lifeline service?

   a. ◯ Yes
   b. ◯ No

   (If you answered no to this question, skip to Part II)

2. What types of carriers are eligible for ETC certification in your state? (Check all that apply)

   a. ☐ Wireline
   b. ☐ Wireless
   c. ☐ Cable voice
   d. ☐ Interconnected VoIP
   e. ☐ Other (please specify) ______________

3. Must carriers have a CPCN or equivalent in order to be certified as ETCs?

   a. ◯ Yes
   b. ◯ No

4. Are the types of carriers you may designate as ETCs defined by state law?

a. ◯ Yes
b. ◯ No

If yes, please explain: ______________________________

Please provide a link to your state's ETC/Lifeline rules

____

5. If your state defers certification for specific types of carriers to the FCC (for example, wireless carriers), do you track or monitor the performance of these carriers?

a. ◯ Yes
b. ◯ No

If yes, what process do you use?
a. ☐ ETCs must provide copies of the information they give the FCC
b. ☐ FCC designated ETCs must notify the state commission and provide contact information
c. ☐ ETCs must provide specific state-level information. (Please describe)

____

6. How do you certify ETCs?

a. ☐ Paper filing and approval
b. ☐ Formal adjudicatory case
c. ☐ Other (please describe) ______________

7. Do you require ETCs to provide a compliance plan?

a. ◯ Yes
b. ◯ No

8. Do you require candidates to meet a public interest test prior to certification?

a. ◯ Yes
b. ◯ No
If yes, please describe. ____

____

9. If you certify wireless carriers, do you put any special conditions on their service?

a. ☐ Minimum number of minutes
What is the minimum number of minutes? ________
b. ☐ Usage notification
c. ☐ Carrier must approve an application before providing a handset
d. ☐ Carrier must have a "brick and mortar" location in the state
e. ☐ Carrier must charge customers a minimum fee (for example, $5.00)
What is the minimum fee? ________
f. ☐ Other (please explain) ______________________

Part II. Applicant certification and disbursements

1. What criteria do you use to determine an applicant's eligibility for Lifeline?

a. ◯ FCC requirements
b. ◯ State eligibility requirements (please define) __________________________

2. Will you use the USAC duplicates data base to ensure that applicants receive only one Lifeline product?

a. ◯ Yes
b. ◯ No (Please explain) ____

____

3. Will you use the USAC eligibility data base if/when it is developed?

a. ◯ Yes
b. ◯ No If not, please explain. ____________________________________

____

4. What discounts does your Lifeline program provide? Please provide the discount amount.

a. ☐ Flat dollar amount regardless of technology. _______________

b. ☐ Discount percentage. _______________

Does this discount apply to all services (e.g., service initiation fee, equipment fee, etc.?) ______________

c. ☐ Different amounts depending on the technology used? _______________

d. ☐ Other (please explain) _______________________

5. Do participants receive "free" service or must they pay a minimum charge?

a. ◯ No minimum charge

b. ◯ Yes, participants must pay at least ______.

Part III. Lifeline funds (Note: NRRI collected this information in April 2012 and is now updating it. Please note if any of your answers have changed since that survey.)

1. Does your state have a Lifeline fund?

a. ◯ Yes

b. ◯ No

c. ◯ We have one but are considering modifying it. (Please explain)

____

2. What is the current amount of funding collected for your Lifeline program? Please identify the period on which the data is based (e.g. September 2012-August 2013, January – December 2013, etc.).

Amount ______________________ Period __________________________

3. List each carrier category required to contribute to your Lifeline fund (landline, wireless, VoIP, etc., please check all that apply).

a. ☐ ILECs

b. ☐ CLECs

c. ☐ IXCs

d. ☐ Wireless providers

e. ☐ Paging providers

f. ☐ VOIP providers (all VOIP providers; interconnected providers only)

g. ☐ End users

h. ☐ Others (please describe) _______________________

4. What revenues are assessed for Lifeline contributions? (e.g. total gross state retail revenues, net intrastate retail revenues, seller's revenues, end-users revenues, check those that apply)

a. ☐ Total gross state retail revenues
b. ☐ Net intrastate retail revenues
c. ☐ Seller's revenues
d. ☐ End-users revenues
e. ☐ Other (Please describe) ______________________

5. What is the contribution rate assessed to carriers or end-users for Lifeline? If your state assessment includes one or more programs and only has one rate, please state so. For example, a state may have a 5% assessment rate that includes monies for high-cost, lifeline, Link-Up, and Relay services. Another state may assess 1% for high-cost, .05% for access reform, .75% for Lifeline, etc.

State Fund	ILECs	CLEC	IXCs	Wireless providers	Paging providers	VOIP providers	End users	Others
Lifeline								

6. How many Lifeline providers receive support in your state? ___________________

RETURN THIS SURVEY TO SHERRY LICHTENBERG, NRRI (slichtenberg@nrri.org) BEFORE August 31, 2013 THROUGH EMAIL OR BY CLICKING SUBMIT ABOVE.

For more information or if you have questions, please contact Sherry Lichtenberg (slichtenberg@nrri.org)

Appendix B: NRRI Survey Results

Part I. Questions 1 and 2

State	Does your state designate ETCs for the purpose of providing Lifeline service?	Types of Carriers Certified				
		Wireline	Wireless	Cable Voice	Interconnected VOIP	Other
Alabama	✓	✓				
Alaska	✓	✓	✓			Common Carriers as defined in 47 U.S.C. 153(11).
Arizona	✓	✓	✓	✓	✓	
Arkansas	✓	✓	✓	✓	✓	
California	✓	✓	✓	*		Currently evaluating carriers that may be certified
Colorado	✓	✓	✓			
Connecticut	✓	✓		✓		
Delaware	No					
District of Columbia	✓	✓				
Florida	✓	✓		✓		
Georgia	✓	✓	✓	✓		
Hawaii	✓	✓	✓			No explicit prohibition on other carriers. Require Cert.
Idaho	✓	✓	✓			No other types have applied for ETC

State	Does your state designate ETCs for the purpose of providing Lifeline service?	Types of Carriers Certified				
		Wireline	Wireless	Cable Voice	Interconnected VOIP	Other
Illinois	✓	✓	✓			Wireless carriers are not eligible for state link-up funding.
Indiana	✓	✓	✓			Companies that can provide services defined in 47 CFR 54.101
Iowa	✓	✓	✓	✓	✓	
Kansas	✓	✓	✓	✓	✓	
Kentucky	✓	✓	✓	✓	✓	
Louisiana	No Response					
Maine	No					
Maryland	✓	✓	✓			
Maine	✓	✓		✓		
Michigan	✓	✓	✓			Licensed providers
Minnesota	✓	✓	✓			
Mississippi	✓	✓	✓			
Missouri	✓	✓	✓		✓	
Montana	✓	✓	✓	✓	✓	
Nebraska	✓	✓	✓	✓	✓	
Nevada	✓	✓	✓	✓	✓	
New Hampshire	✓	✓				

State	Does your state designate ETCs for the purpose of providing Lifeline service?	Types of Carriers Certified				
		Wireline	Wireless	Cable Voice	Interconnected VOIP	Other
New Jersey	✓	✓	✓			We have not rec'd any applications from any other type of provider.
New Mexico	✓	✓	✓		✓	No cable apps received
New York	No	✓		✓		
North Carolina	✓	✓				
North Dakota	✓	✓	✓			
Ohio	✓	✓	✓	✓	✓	
Oklahoma	✓	✓	✓			
Oregon	✓	✓	✓	✓	✓	
Pennsylvania	✓	✓	✓			
Rhode Island	✓	✓	✓	✓		
South Carolina	✓	✓	✓			
South Dakota	✓					Eligibility is determined on a case-by-case basis.
Tennessee	✓	✓				
Texas	✓	✓	✓			
Utah	✓	✓	✓	✓	✓	
Vermont	✓	✓	✓	✓	✓	
Virginia	✓	✓		✓		

State	Does your state designate ETCs for the purpose of providing Lifeline service?	Types of Carriers Certified				
		Wireline	Wireless	Cable Voice	Interconnected VOIP	Other
Washington	✓	✓	✓	✓		Facility-based VoIP providers can potentially qualify
West Virginia						
Wisconsin	✓	✓	✓	✓	✓	Any technology, provided it can support all required services.
Wyoming	✓					Authority under 214(e)

Part I. Questions 3, 4, and 5 (Text below verbatim from responses)

State	CPCN Required?	Defined by statute	Explain	State rules	Performance Reports	FCC filings	Provide state contact	State specific results	Explain
AL	✓	No	See attached files		No				
AK	No	No		ETC - 3 AAC 53.400 thru 3 AAC 53.499 Lifeline - 3 AAC 53.390					
AZ	No	No			No				
AR	No	No			No				
CA	✓	No							
CO	No	No		Rule 2187 http://cdn.colorado.gov/cs/Satellite?blobcol=urldata&blobheadername1=Content-Disposition&blobheadername2=Content-Type&blobheadervalue1=inline%3B+filename%3D%22Rules+Regulating+Telecommunications+Providers%2C++Services%2C+and+Products.pdf%22&blobheadervalue2=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251853676714&ssbinary=true	✓	✓		✓	Settlement agreements provide for a list of state specific information that must be provided. If this detail is needed please let me know.
CT	✓	No			No				
DC	✓	No		http://www.dcregs.dc.gov/Gateway/ChapterHome.aspx?ChapterNumber=15-28	No				
FL	✓	✓	The PSC can designate a telecommunications company (as defined by Section 364.02) as an ETC	See Section 364.10, 364.02, 364.105, % 364.107 Florida Statutes; Rule 25-4.0665, Florida Administrative Code	✓			✓	ETCs are required to participate in the Florida on-line Coordinated Lifeline Enrollment Process
GA	No	No		http://rules.sos.state.ga.us/docs/515/12/1/35.pdf					

State	CPCN Required?	Defined by statute	Explain	State rules	Performance Reports	FCC filings	Provide state contact	State specific results	Explain
HI	✓	✓	Chapter 6-81, Hawaii Administrative Rules points to HRS 269-1.	http://www.state.hi.us/budget/adminrules/har6-81.htm	No				
ID	No	No		62-610D Idaho Code- http://www.legislature.idaho.gov/idstat/Title62/T62CH6SECT62-610D.htm; http://www.puc.idaho.gov/fileroom/cases/tele/WST/WSTT0501/ordnotc/20050804FINAL%20ORDER%20NO%2029841.PDF					
IL	✓	✓	Authority for wireless designation is explicit in 220 ILCS 5/13-804(B) of our Public Utilities Act. Authority for wireline designation is implicit.	Most obligations are established in designation orders. Some limited obligations are in our rules.					
IN	✓	No		Policies contained in commission orders and General Administrative Order GAO 2013-2 at http://www.in.gov/iurc/2447.htm	No				
IA	No	No							
KS	No	✓	Kansas has numerous dockets - see LINK below	http://kcc.ks.gov/telecom/aps/lifeline_eligibility_criteria.pdf	No				

State	CPCN Required?	Defined by statute	Explain	State rules	Performance Reports	FCC filings	Provide state contact	State specific results	Explain
KY	✓	✓	The commission must have jurisdiction of the Utility in order for it to designate the carrier an ETC. State Law defines which companies are Utilities.	N/A	No				
MA	✓	No	Open proceeding	N/A	N/A				
ME	N/A								
MD	No	No		We do not have state specific rules right now, except for those described here http://webapp.psc.state.md.us/intranet/Info/brochures/lifeline.pdf. Also, to qualify for State tax breaks, carriers must provide specific services. These services are NOT required to be an ETC.					
MI	No	No		For Lifeline, please see the Michigan Telecommunications Act, Section 316: http://www.dleg.state.mi.us/mpsc/comm/telecom/pa179.pdf	✓	✓			
MN	No	✓	Minn. Rules 7811.1400 provide for the ETC designation of local exchange carriers (both incumbent and competitive).	https://www.revisor.mn.gov/rules/?id=7811.1400&keyword_type=all&keyword=eligible+telecommunications	No				
MS	No	No		http://pscintranet/apps/insite/pages/main.aspx?CASEYEAR=2007&CASENUM=487&vu_searchlimit=999					

State	CPCN Required?	Defined by statute	Explain	State rules	Performance Reports	FCC filings	Provide state contact	State specific results	Explain
MO	No	No		http://sos.mo.gov/adrulesd/csr/current/4csr/4c240-3.pdf (See 4 CSR 240-3.570 and 4 CSR 240-31)					
MT	No	No		http://www.mtrules.org/gateway/Subchapterhome.asp?scn=38%2E5%2E32					
NE	No	No		www.psc.nebraska.gov	No				
NV	✓	No							
NH	✓	✓	The Commission has determined it may only designate public utilities as ETCs who fall within commission jurisdiction.		No				
NJ	No	No		We do not have ETC/Lifeline rules.					
NM	No	No		17.11.10 NMAC STATE RURAL UNIVERSALSVC, 17.11.11 NMAC LIFELINE-LINKUP BENEFITS; http://www.nmprc.state.nm.us/nmac	No				
NY	✓	No			No				
NC	✓	✓	State law prohibits Commission regulation of wireless and interconnected VoIP		No				
ND	✓	No		NDCC 49-21	No				
OH	No	No			No				
OK	✓	No		Beginning at Page 113 http://www.occeweb.com/rules/FY%202014%20CH%2055%20Telecommunications%20eff%207-15-13%20searchable.pdf					

State	CPCN Required?	Defined by statute	Explain	State rules	Performance Reports	FCC filings	Provide state contact	State specific results	Explain
OR	✓	No		OTAP - state Lifeline rules: http://apps.puc.state.or.us/orders/2013ords/13-242.pdf					
PA	No	✓							
RI	No	No		http://ripuc.org/rulesregs/commrules/4337-ETC-Lifeline-Rules(8-30-12).pdf					
SC	No	No		http://www.scstatehouse.gov/coderegs/c103.php-Link to the Commission Regulations Chapter 103 - Regulation 103-690 -ETC Designation	✓	✓	✓	✓	South Carolina ETC application and approval.
SD	No	No		http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=20:10:32&Type=All					
TN	✓	No			No				
TX	No	No	They are defined by FCC		No				
UT	No	No			No				
VT	✓	No							
VA	✓	No			No	✓		✓	
WA	No	✓		http://apps.leg.wa.gov/wac/default.aspx?cite=480-123-030	No				
WI	No	No		http://docs.legis.wisconsin.gov/code/admin_code/psc/160.pdf Lifeline: 160.062. ETC: 160.13.					
WY	No	No	Defined by 214(e)	http://soswy.state.wy.us/Rules/RULES/8174.pdf see rules 513 and 514					

Part I. Questions 6 and 7

State	Certify ETCs with Paper Filing	Certify ETCs with Formal case	Other	Description of Other	Compliance Plan Required
AL	✓	✓			✓
AK		✓			✓
AZ	✓	✓			No
AR		✓			✓
CA	✓				✓
CO		✓			No
CT	✓				No
DC	✓				No
FL	✓		✓	Electronic filing and approval	✓
GA	✓				✓
HI		✓			No
ID		✓			✓
IL		✓			✓
IN		✓			✓
IA	✓				No
KS	✓				✓
KY		✓			✓
MA		✓			✓ for non-facilities based
ME					
MD	✓				No
MI	✓				No
MN	✓	✓			✓
MS	✓		✓	May require PSC hearing if not recommended.	✓
MO	✓				✓

State	Certify ETCs with Paper Filing	Certify ETCs with Formal case	Other	Description of Other	Compliance Plan Required
MT		✓			No
NE		✓			✓
NV	✓				✓
NH			✓	The only ETCs which have been designated by the PUC in NH are ILECs. No other wireline carrier has sought the designation.	No
NJ	✓				✓
NM		✓			✓
NY	✓				No
NC			✓	Public Staff evaluates application and recommends to the Commission whether to approve ETC designation.	No
ND		✓			No
OH	✓		✓	Electronic filing & approval	✓
OK		✓			✓
OR	✓	✓			✓
PA	✓				✓
RI	✓				✓
SC	✓				✓
SD			✓	A case may go to hearing or may be decided without a hearing.	✓
TN	✓				✓
TX	✓	✓			✓
UT		✓			✓

State	Certify ETCs with Paper Filing	Certify ETCs with Formal case	Other	Description of Other	Compliance Plan Required
VT	✓	✓	✓	Individual case basis	✓
VA	✓		✓	A combination of A and B	No
WA	✓				No
WI			✓	Open formal docket, decision delegated to division if no new issues.	No
WY			✓	Open Meeting, may go to formal adjudication	✓

Part I. Question 8

State	Public interest test required for certification	If ✓ (Yes) please describe
Alabama	✓	Financial performance, compliance with rules and regs of the FCC and APSC, and complaint monitoring
Alaska	✓	The common carrier must demonstrate that designation as an ETC is in the public interest by filing information requested in 3AAC 53.410(b).
Arizona	✓	Use FCC public interest test for high-cost applicants (cream skimming).
Arkansas	No	
California	✓	FCC 05-46 Paragraphs 40-57, increased consumer choice, advantages and disadvantages of service offerings
Colorado	✓	As part of any settlement agreement a public interest test is factored in.
Connecticut	No	
District of Columbia	✓	15 DCMR section 2806.2(e) requires that the Commission find that the ETC designation is in the public interest.
Florida	✓	As described in Order FCC 05-46, paragraph 40
Georgia	✓	If seeking designation in rural study areas, a demonstration of public interest is required under federal law.
Hawaii	✓	Public interest is usually examined following FCC's process: Choice, impact, unique characteristics, and cream-skimming.
Idaho	✓	Consumer benefit analysis; verification of remittance of program fees; cream skimming analysis, and other relevant PI determination
Illinois	✓	Public interest standards are established on a case by case basis in designation dockets.
Indiana	✓	The commission has relied upon the public interest criteria in the FCC's 2005 ETC Order and the Lifeline Reform and Modernization Order

State	Public interest test required for certification	If ✓ (Yes) please describe
Iowa	✓	199 IAC 39.2(3)“k” requires an applicant for ETC designation in rural areas of the state to provide a "public interest analysis". In actual practice, the IUB requires all applicants to provide the public interest analysis.
Kansas	✓	
Kentucky	✓	To the extent that federal rules require public interest, a showing must be made.
Maine		
Maryland	✓	It's very general. We want a general description as to why certification is in the public interest.
Michigan	No	
Minnesota	✓	The ETC designation must meet the telecommunication goals set out in Minn. Stat. 237.011. Link to Minn. Stat. 237.011: https://www.revisor.mn.gov/statutes/?id=237.011&year=2012&keyword_type=all&keyword=goals
Mississippi	✓	Minutes, plan, financial ability, competitive pricing, IDV history,
Missouri	No	
Montana	✓	Public interest consideration is set forth in ARM 38.5.3210. On the Compliance plan in question 7: Montana does not require a compliance plan similar to the FCC's, but Competitive ETC applicants must submit a 5-year build-out plan that indicates the carrier will be able to achieve 98% coverage. See ARM 38.5.3213
Nebraska	✓	Similar public interest test that is used by the FCC
Nevada	✓	The ETC applicant is required to demonstrate that their designation is in the public interest.
New Hampshire	No	
New Jersey	✓	Standard test for approval of any carrier seeking to provide service in NJ, for example, a showing of adequate managerial, financial and technical expertise.
New Mexico	✓	The commission is not required to designate additional ETCs in any service area, if not in the public interest. Staff recommends on a number of factors such as increased consumer choice, etc.
New York	No	

State	Public interest test required for certification	If ✓ (Yes) please describe
North Carolina	✓	This applies only if ETC designation is requested in a rural company's service territory. So far we have not had any such cases.
North Dakota	✓	As per the federal ETC requirement for rural service areas.
Ohio	✓	No specific test but on individual case by case basis the commission can determine if designation is in the public interest.
Oklahoma	✓	If designation is in a rural ILEC exchange, the Commission must find that the designation is in the public interest. If designation is in a non-rural exchange, the Commission makes a finding that designation is not contrary to the public interest
Oregon	✓	ETC must demonstrate that designation is in the public interest.
Pennsylvania	✓	
Rhode Island	No	
South Carolina	✓	Financial and Technical Fitness - Required to support state Universal-service fund. See Regulation 103-690(b)
South Dakota	✓	
Tennessee	✓	By statement.
Texas	✓	Only if providing service in a rural area
Utah	✓	In the application companies must show how the additional ETC will provide services that are in the Public Interest. i.e. Greater Choice of Service, different Rate plan
Vermont	✓	Vermont applies the federal standards but would add state requirements on a case by case basis
Virginia	No	
Washington	✓	
Wisconsin	✓	Determinations must meet PI interest in state statutes. Statutes contain exception for certain wireless providers who do not seek state USF funding
Wyoming	✓	

Part I. Question 9

State	Special Conditions on Wireless Carriers	Minimum Number of Minutes	Usage Notification	Approval Before Handset	Brick and Mortar Store	Minimum Fee	Other Requirements
Alabama							
Alaska							
Arizona							
Arkansas							
California							Follow FCC requirements
Colorado	✓	250		✓			Pay 911 fees on imputed free minutes
Connecticut							
District of Columbia							
Florida							
Georgia	✓	250					
Hawaii							Service disruption and call answering stds.
Idaho	✓	$.10/min					If participating in ID lifeline-applications processed by St Administrator
Illinois							Conditions are case specific.
Indiana	✓	At least 1 plan w 250 min.					Reporting requirements; compliance with federal rules
Iowa	✓	250					Iowa follows the FCC's Part 54 requirements.

State	Special Conditions on Wireless Carriers	Minimum Number of Minutes	Usage Notification	Approval Before Handset	Brick and Mortar Store	Minimum Fee	Other Requirements
Kansas	✓	Varies on plan		✓			
Kentucky							
Maine							
Maryland							No real requirements
Michigan							
Minnesota	✓	At least one service option that carries 250 minutes without rollover.					
Mississippi							Prepaid wireless carrier must supply customer lists semi-annually in IDV format
Missouri							
Montana							
Nebraska							Must follow NE specific rules, including NE forms.
Nevada							Depends upon carrier and situation
New Hampshire							

State	Special Conditions on Wireless Carriers	Minimum Number of Minutes	Usage Notification	Approval Before Handset	Brick and Mortar Store	Minimum Fee	Other Requirements
New Jersey							We have a set of 10 - 15 conditions applicable to any ETC approval.
New Mexico	✓	Varies	✓				
New York							
North Carolina							
North Dakota							
Ohio							No degradation of minutes for calls to customer service
Oklahoma	✓	1000 on tribal land, 500 on non-tribal land				$1 on tribal land per month	Must follow mobile marketing rules
Oregon							Depends on individual circumstances
Pennsylvania							
Rhode Island							
South Carolina	✓	250		✓			Additional Minutes
South Dakota							Each case is considered on a case-by-case basis.
Tennessee							
Texas							
Utah							

State	Special Conditions on Wireless Carriers	Minimum Number of Minutes	Usage Notification	Approval Before Handset	Brick and Mortar Store	Minimum Fee	Other Requirements
Vermont							Additional requirements based upon agreements with the Public Advocate
Virginia							
Washington	✓	250		✓			Specific conditions as part of certification
Wisconsin							Minimum $3.50 charge, will waive for prepaid subject to conditions.
Wyoming							None of the above

Part II. Question 1

State	Criteria for Eligibility	State Eligibility Requirements Please Define
Alabama	FCC	
Alaska	State	3 AAC 53.390
Arizona	FCC	
Arkansas	FCC	
California	State	CA uses both program-based and income-based requirements
Colorado	FCC	
Connecticut	State	Applicant must be eligible for or receiving assistance from a low-income assistance or energy assistance program administered by the Connecticut Departments of Income Maintenance and Human Resources such as: Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Low Income Home Energy Assistance Program (LIHEAP), National School Lunch Program's free lunch program, Federal Public Housing Assistance/Section 8, Medicaid or Supplemental Security Income (SSI).
District of Columbia	State	Found at 15 DCMR section 2806.
Florida	State	As defined by Statute and Rules
Georgia	State	FCC minimum requirements plus senior citizen low-income discount offered by the natural gas or power company.
Hawaii	FCC	
Idaho	State	Federal LL-FCC req.; ID LL-income
Illinois	FCC	
Indiana	FCC	
Iowa	FCC	
Kansas	FCC	For state reference LINK in question 4 above
Kentucky	FCC	
Maine	FCC	
Maryland	State	FCC qualifications, except for those who provide wireline Lifeline.
Michigan	FCC	

State	Criteria for Eligibility	State Eligibility Requirements Please Define
Minnesota	State	FCC requirements plus public interest.
Mississippi	FCC	
Missouri	Both	
Montana	FCC	
Nebraska	State	See NE rules
Nevada	State	NAC 704.680474
New Hampshire	FCC	
New Jersey	Both	
New Mexico	Both	State requirements under revision
New York	FCC	
North Carolina	FCC	
North Dakota	FCC	
Ohio	State	See Attachment
Oklahoma	Both	State tax relief program, state vocational rehabilitation program
Oregon	FCC	
Pennsylvania	FCC	In addition, State Blind Pension Fund
Rhode Island	State	FCC eligibility, RI Medical Assistance Program, RI pharmaceutical program, RI Works
South Carolina	FCC	
South Dakota	FCC	
Tennessee	State	
Texas	State	Texas uses the FCC except income is 150%
Utah	FCC	
Virginia	FCC	
Vermont	State	State eligibility requirements include FCC requirements
Washington	FCC	
Wisconsin	State	Federal plus state income tax program
Wyoming	FCC	

Part II Question 2 and 3

State	**Will You Use NLAD?**	**If Not Please Explain**	**Will You Use the NLAD Database?**	**If Not Please Explain**
Alabama	No	Alabama does not maintain the state lifeline program. Each ETC can choose or not choose to use the USAC database at this time.	No	See 2 above
Alaska	No	It is the responsibility of the ETCs.	No	It is the responsibility of the ETCs.
Arizona	No	ACC does not administer Lifeline program. The ETCs designated by the ACC would be the users of the USAC database.	No	ACC does not administer Lifeline program. The ETCs designated by the ACC would be the users of the USAC database.
Arkansas	✓		✓	
CA	No	State database; FCC waiver	No	State database; FCC waiver
Colorado	No	The carriers provide this information as part of their stipulations	No	See above.
Connecticut	✓		✓	
District of Columbia	✓		✓	
Florida	✓		✓	
Georgia	✓		✓	
Hawaii	No	Hawaii does not track duplicate lifeline support.	No	Hawaii does not track duplicate lifeline support.
Idaho	No	Applications thru ST Administrator (SA) will use DHW's database. Federal LL-only ETCs not processed by SA & should use NLAD.	No	Federal Lifeline-only ETCs are not processed by SA. ID LL/Federal LL--SA will use DHW database.

State	Will You Use NLAD?	If Not Please Explain	Will You Use the NLAD Database?	If Not Please Explain
Illinois	✓			Illinois has an eligibility database for some, but not all, qualifying programs. It is not yet known whether and/or how a USAC database would be used.
Indiana	✓	Commission Orders compel ETC to participate in the USAC duplicates database.	✓	This issue has not been addressed yet by the IURC. However, Indiana is a federal default state.
Iowa	No	Iowa ETCs will use it. Not the Iowa Utilities Board.	No	Iowa ETCs will use it. Not the Iowa Utilities Board.
Kansas	✓		✓	
Kentucky	✓		✓	
Maine	✓		✓	
Maryland	✓		✓	
Massachusetts	N/R			
Michigan	✓		✓	
Minnesota	✓		✓	
Mississippi	✓		✓	
Missouri	✓		✓	
Montana	No	The MPSC expects carriers to utilize the database for this purpose, but the MPSC itself will likely only utilize the database for various checks on carriers to ensure a carrier is complying with federal and state law regarding duplicates.	No	The MPSC expects carriers to utilize the database for this purpose, but the MPSC itself will likely only utilize the database for various checks on carriers to ensure a carrier is complying with federal and state law regarding eligibility.
Nebraska	✓		✓	
Nevada	✓		✓	

State	Will You Use NLAD?	If Not Please Explain	Will You Use the NLAD Database?	If Not Please Explain
New Hampshire	✓	NH does not have a state funded Lifeline credit. Providers require certification from end-users.		
New Jersey	✓		No	At this time we intend to use a state database but it has not yet been developed and deployed.
New Mexico	No	Carriers responsible for eligibility verification	No	Carriers responsible for eligibility verification
New York	No	We do not have any role in reviewing Lifeline applications. We leave that to the carriers.	No	We do not have any role in reviewing Lifeline applications. We leave that to the carriers.
North Carolina	No	The companies will be responsible for this. It will not be handled by the Commission.	No	Again, this will be left up to the companies to decide. Also, there is a possibility of using a database developed within the state using client information held by the NC DHHS.
North Dakota	No	We will expect the ETCs to do this	No	We will expect the ETC to do this
Ohio	No	Ohio does not administer Lifeline enrollment, however Lifeline service providers would be expected to utilize the database.	No	Ohio does not administer Lifeline enrollment, however Lifeline service providers would be expected to utilize the database.
Oklahoma	✓		✓	
Oregon	No	No need; opted-out because we have our own state database.	No	No need; have our own state database.
Pennsylvania	✓		✓	
Rhode Island	✓		✓	
South Carolina	✓		✓	

State	Will You Use NLAD?	If Not Please Explain	Will You Use the NLAD Database?	If Not Please Explain
South Dakota				
Tennessee	✓		No	Developing our own database.
Texas	No	Texas was granted the opt-out	No	Texas was granted the opt-out
Utah	✓		✓	
Vermont	No	Vermont database	No	Vermont database
Virginia	No		No	
Washington	✓		✓	
Wisconsin	✓		No	Have existing real-time verification database
Wyoming	✓		✓	

Part II Questions 4 and 5

State	Gross Retail Rev.	Net Intra-state	Sellers Rev.	End User Rev	Other	Other	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
AL														
AK				✓			0.093	0.093	0.093	0.093	0.093		0.093	0.093
AZ														
AR														
CA					✓	NA								
CO	✓													
CT	✓						0.368%	0.368%				0.368%		
DC														
FL							0	0	0	0	0	0	0	0
GA														
HI					✓	Assessed on a per line basis	$.03/line	$.03/line		$.03/line			$.03/line	
ID					✓	Contributions are voluntary from LEC customers.							Voluntary	
IL														
IN														
IA		✓					6.4%							

State	Gross Retail Rev.	Net Intra-state	Sellers Rev.	End User Rev	Other	Other	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
KS					✓	Surcharge $.08 per line per month	$.08	$.08		$.08		$.08		
KY														
MA														
ME														
MD					✓	Per line or line equivalent	3 cents/line	Same						Same
MI														
MN		✓					0.0017%	0.0017%	0.0017%			0.0017%		
MS														
MO														
MT														
NE														
NV		✓			✓	A part of NMRUSF rate at 3.45%							0.1-0.2%	

State	Gross Retail Rev.	Net Intra-state	Sellers Rev.	End User Rev	Other	Other	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
NH					✓	Total regulated intrastate revenues less payments to other carriers	0.015414067	0.015414067	0.015414067					
NJ														
NM														
NY														
NC					✓	Retail-billed intrastate revenues	0.64	0.64	0.64	0.64				
ND					✓	Flat charge per subscriber line/handset							12 cents	
OH														
OK				✓			.6 Lifeline & High Cost	.6 Lifeline & High Cost	.6 Lifeline & High Cost	2.6 Lifeline & High Cost			.6 Lifeline & High Cost	
OR														
PA														

State	Gross Retail Rev.	Net Intra-state	Sellers Rev.	End User Rev	Other	Other	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
RI						Gross intrastate revenue. These are assessed by the TUSF of which lifeline is one of many programs funded by the fund.	3.7	3.7	3.7	3.7	3.7			
SC	✓						0.01	0.01	0.01	0.01	0.01	0.01	0.01	
SD	✓		✓											
TN					✓	New legislature appropriates state Lifeline fund from general tax.								
TX	✓						.02031 total assessment. Of that.00769% is for lifeline.	Same	Same	Same		Same		
UT														
VT														

State	Gross Retail Rev.	Net Intra-state	Sellers Rev.	End User Rev	Other	Other	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
VA														
WA														
WI														
WY														

Part III Questions 1, 2 and 3

State	State Fund	Considering Modifying	Fund Size	Period	ILEC	CLEC	IXC	Wire-less	Paging	VoIP	End Users	Other carrier categories required to contribute to fund
AL	No											
AK	✓		$2,691,192	January - December, 2013	✓	✓	✓	✓	✓			Intrastate video and satellite
AZ	No											
AR	No											
CA	✓		$280,000,000	7/1/12 - 6/30/13	✓	✓	✓	✓	✓	✓		
CO	No	The LITAP fund was eliminated April 1 , 2013 by law										The Colorado Low Income Telephone Assistance Program (LITAP) was eliminated and signed into law April 1, 2013
CT	No				✓							
DC	✓		$690,269	January - December 2013	✓	✓				✓		
FL	No											
GA	No		0									
HI	No	Authorized but not implemented.										

State	State Fund	Considering Modifying	Fund Size	Period	ILEC	CLEC	IXC	Wire-less	Paging	VoIP	End Users	Other carrier categories required to contribute to fund
ID	Modifying	No federal matching, thus ID LL credit was reduced in 2013 to $2.50/month; based on income and food stamps qualification	$1,456,000	January 2012--December 2012	✓	✓		✓			✓	ID Lifeline fund recipients are not assessed the fee.
IL	✓		$20 up to 50% of connection fee.	This is a Link-Up subsidy.								Contributions are voluntary from LEC customers.
IN	No											
IA	No											
KS	✓		$4.66 million	March 2013 - February 2014	✓	✓	✓	✓	✓	✓	✓	
KY	✓		4,000,000	January - December 2012	✓	✓		✓		✓		
ME	No											
MD	No											
MA												
MI	No											

State	State Fund	Considering Modifying	Fund Size	Period	ILEC	CLEC	IXC	Wire-less	Paging	VoIP	End Users	Other carrier categories required to contribute to fund
MN	✓		$1.2 million	Year ending June 30, 2013	✓	✓						Some VoIP providers voluntarily contribute
MS	No											
MO	✓		$3,038,049.16	As of August 31, 2013	✓	✓	✓			✓		Interconnected VOIP providers only
MT	No											
NE			$51.9 million	July 2012-June 2013								
NV	✓		$604,351	1Q - 2Q 2013	✓	✓	✓		✓			
NH	No											
NJ	No											
NM	Modifying	No longer a tier 3 match and proposals have been made to cut state $3.50 match	$1,768,421 (Lifeline support from USF)	January 2012 to December 2012	✓	✓	✓	✓	✓	✓		Carriers pass through to customers
NY	✓		$27,165,000	July 2012-June 2013	✓	✓						
NC	No											
ND	No											
OH	No											

State	State Fund	Considering Modifying	Fund Size	Period	ILEC	CLEC	IXC	Wire-less	Paging	VoIP	End Users	Other carrier categories required to contribute to fund
OK	✓		$3,251,180	July 1, 2013 to June 30, 2014	✓	✓	✓	✓				Resellers, pay phone providers
OR	✓		$2.6 million	July 2012 - June 2013	✓	✓		✓				Carriers collect and remit payments from ened users
PA	No											
RI	No											
SC	✓		$2.1 Million	December 31, 2011 Lifeline Lines	✓	✓	✓	✓		✓		Carrier can obtain reimbursement from retail end users not exceed published contribution factor
SD	No											
TN	No											
TX	Modifying	Texas Universal Fund has over 7 programs in it so there is no dedicated lifeline fund	$376M	11 months ending July 2013. It is for all TUSF Programs. Texas does not collect just for lifeline.	✓	✓	✓	✓	✓			Some VoIP, it is voluntary for them
UT	✓				✓	✓	✓	✓		✓		

State	State Fund	Considering Modifying	Fund Size	Period	ILEC	CLEC	IXC	Wire-less	Paging	VoIP	End Users	Other carrier categories required to contribute to fund
VT	✓		$1,278,656	7/1/12 - 6/30/13	✓	✓	✓	✓		✓		
VA	No				✓		✓					
WA	✓		$4,729,000									New legislature appropriates state Lifeline fund from general tax.
WI	✓		2,110,000	July 2013 - June 2014	✓	✓	✓	✓		✓		
WY	No											

Part III. Questions 4 and 5

State	Gross Retail Rev.	Net Intra-State	Sellers Rev.	End User Rev	Other	Other (Please describe)	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
AL														
AK				Yes			0.093	0.093	0.093	0.093	0.093		0.093	0.093
AZ														
AR														
CA					Yes	NA								
CO	Yes													
CT	Yes						0.368%	0.368%				0.368%		
DC														
FL							0	0	0	0	0	0	0	0
GA														
HI					Yes	Assessed on a per line basis	$.03/line	$.03/line		$.03/line			$.03/line	
ID					Yes	Contributions are voluntary from LEC customers.							Voluntary	
IL														
IN														
IA		Yes					6.4%							
KS					Yes	Surcharge $.08 per line per month	$.08	$.08		$.08		$.08		

State	Gross Retail Rev.	Net Intra-State	Sellers Rev.	End User Rev	Other	Other (Please describe)	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
KY														
ME														
MD														
MA					Yes	Per line or line equivalent	3 cents/line	Same						Same
MI														
MN		Yes					0.0017%	0.0017%	0.0017%			0.0017%		
MS														
MO														
MT														
NE														
NV		Yes			Yes	A part of NMRUSF rate at 3.45%							0.1-0.2%	
NH					Yes	Total regulated intrastate revenues less payments to other carriers	0.015414067	0.015414067	0.015414067					
NJ														
NM														
NY														

State	Gross Retail Rev.	Net Intra-State	Sellers Rev.	End User Rev	Other	Other (Please describe)	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
NC					Yes	Retail-billed intrastate revenues	0.64	0.64	0.64	0.64				
ND					Yes	Flat charge per subscriber line/handset							12 cents	
OH														
OK				Yes			.6 Lifeline & High Cost	.6 Lifeline & High Cost	.6 Lifeline & High Cost	2.6 Lifeline & High Cost			.6 Lifeline & High Cost	
OR														
PA														

State	Gross Retail Rev.	Net Intra-State	Sellers Rev.	End User Rev	Other	Other (Please describe)	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
RI						Gross intrastate revenue. These are assessed by the TUSF of which lifeline is one of many programs funded by the fund.	3.7	3.7	3.7	3.7	3.7			
SC	Yes						0.01	0.01	0.01	0.01	0.01	0.01	0.01	
SD	Yes		Yes											
TN					Yes	New legislature appropriates state Lifeline fund from general tax.								

State	Gross Retail Rev.	Net Intra-State	Sellers Rev.	End User Rev	Other	Other (Please describe)	Contrib. Rate - ILECs	Contrib. Rate CLEC	IXC	Wireless	Paging	VOIP	End users	Others
TX	Yes						.02031 total assessment. Of that.00769% is for lifeline.	Same	Same	Same		Same		
UT														
VT														
VA														
WA														
WI														
WY														

Part III. Question 6

State	How many Lifeline providers receive support in your state?
Alabama	
Alaska	24 ILEC, 8 CETC
Arizona	
Arkansas	
California	33 from fiscal year 2012-2013
Colorado	NA if this refers to state support as there is no longer a state Lifeline program
Connecticut	2
District of Columbia	1
Florida	24 from Federal USF. No state fund.
Georgia	Approximately 50
Hawaii	
Idaho	27
Illinois	Varies (available to wireline LECs only)
Indiana	55 (44 ILECS, 3 CLECs, 11 wireless)
Iowa	
Kansas	56
Kentucky	38
Massachusetts	N/R
Maine	
Maryland	
Michigan	
Minnesota	296 carriers
Mississippi	
Missouri	48
Montana	21 carriers receive Federal Lifeline support

State	How many Lifeline providers receive support in your state?
Nebraska	53
Nevada	29
New Hampshire	
New Jersey	
New Mexico	22 total; 16 get state funds
New York	41
North Carolina	Estimated 16 to 24 companies; 16 regulated ILECs and up to 8 CLPs.
North Dakota	
Ohio	
Oklahoma	85
Oregon	41
Pennsylvania	
Rhode Island	
South Carolina	25
South Dakota	
Tennessee	
Texas	500,000
Utah	23
Vermont	N/A
Virginia	
Washington	35
Wisconsin	Approximately 90
Wyoming	None