

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

**GENERAL COMMUNICATION, INC. PETITION FOR RECONSIDERATION AND/OR
CLARIFICATION**

Tina Pidgeon
Chris Nierman
GENERAL COMMUNICATION, INC.
1900 L Street, N.W., Suite 700
Washington, D.C. 20036
(202) 503-2851

John T. Nakahata
Julie A. Veach
Traci Biswese
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street, N.W., 8th Floor
Washington, D.C. 20036
(202) 730-1300

Counsel for General Communication, Inc.

June 23, 2016

Table of Contents

INTRODUCTION AND SUMMARY 1

I. THE RECERTIFICATION PROCESS TODAY 2

II. THE NEW “ROLLING RECERTIFICATION” PROCESS IS PREMATURE AND UNNECESSARY AS APPLIED TO ETCs 4

 A. The Rolling Recertification Process Will Increase the Burden on Subscribers and ETCs 5

 B. Mandatory Rolling Recertification by ETCs Will Not Improve the Program..... 6

III. THE COMMISSION LACKED NOTICE TO ADOPT THE ROLLING RECERTIFICATION REQUIREMENT AS TO ETCs 9

IV. ALTERNATIVE REQUEST FOR CLARIFICATION REGARDING TIMING OF RECERTIFICATION UNDER NEW RULE 9

V. THE 2016 RECERTIFICATION PROCESS 10

VI. CONCLUSION..... 12

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

**GENERAL COMMUNICATION, INC. PETITION FOR RECONSIDERATION AND/OR
CLARIFICATION**

INTRODUCTION AND SUMMARY

Pursuant to Section 405 of the Communications Act of 1934 (“Act”) and Sections 1.2 and 1.429 of the Federal Communication Commission’s (“FCC” or “Commission”) rules,¹ General Communication, Inc. (“GCI”) files this petition for reconsideration and/or clarification of the Commission’s Third Report and Order (“*Order*”), in which the Commission adopted numerous reforms to the Lifeline program.² GCI addresses of only one aspect of the *Order*—the requirement to recertify subscribers by the anniversary of their service initiation date, rather than by December 31 each year. The Commission refers to this as “rolling recertification.” As it applies to ETCs, this new requirement—which the Commission thought would reduce compliance burdens—will increase the burdens associated with participation in the Lifeline

¹ 47 U.S.C. § 405; 47 C.F.R. §§ 1.2, 1.429.

² *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, 31 FCC Rcd. 3962 (2016) (“*Order*”).

program for some ETCs, inconvenience subscribers, and increase the chances of eligible subscribers being de-enrolled. This is especially true in Alaska, where the population is highly migratory during the year, and may spend substantial portions of the year away from their home address. GCI respectfully requests that the Commission reconsider the rolling recertification requirement to the extent it applies to ETCs that conduct their own recertifications until the National Verifier is operational. GCI also seeks clarification, or reconsideration if necessary, as to the Commission's schedule for recertifications for 2016.

I. THE RECERTIFICATION PROCESS TODAY

The rule currently in place requires that ETCs “must annually re-certify all subscribers” unless a state agency handles recertifications; ETCs “must recertify each new subscriber in the calendar year following the year in which the subscriber initially enrolled in the Lifeline program,” and each calendar year thereafter between January 1 and December 31.³ To conduct the recertification, the ETC may query any available eligibility and income databases, but to the extent those are unavailable in the ETC's state, the ETC must “[o]btain[] a signed certification from the subscriber” reconfirming that the subscriber remains eligible under the criteria for initial enrollment.⁴

The State of Alaska does not provide access to databases that could confirm a subscriber's eligibility for the Lifeline program, and there is no Alaska state agency that assesses

³ 47 C.F.R. § 54.410(f)(1); *Wireline Competition Bureau Provides Guidance Regarding the 2013 Lifeline Recertification Process*, Public Notice, DA 13-1188, 28 FCC Rcd. 7503, 7504 ¶ 4 & n.9 (Wireline Comp. Bur. 2015) (“*2013 Recertification Guidance Public Notice*”).

⁴ 47 C.F.R. § 54.410(f)(2).

subscriber eligibility or manages recertification.⁵ GCI reconfirms its subscribers' eligibility each year through means that are designed to be simple and convenient for the customers as well as effective and compliant with the Commission's requirements. Throughout the year, GCI invites customers to recertify in the course of regular customer interactions for other matters. For example, if a customer enters a GCI retail store to pay a monthly bill, replace a lost device, or ask a question, GCI will attempt to recertify the customer (if due) while the customer is in the store. Similarly, if a customer calls GCI customer service to ask a question about the service, GCI will query its database and may attempt to obtain a recertification (if due). This "customer-initiated" recertification process works well for customers and also saves GCI the expense of having to reach out separately to its entire Lifeline subscriber base for the sole purpose of recertification. GCI recertifies some of its Lifeline customers through this "customer-initiated" process. Others are recertified through an outreach campaign. Approximately 70% of customers annually are recertified before October.

While the Commission has made USAC available to conduct the recertification process on behalf of ETCs, GCI has not elected to use this option. USAC's recertification process consists of a letter informing the subscriber that he or she has 30 days to recertify or be de-enrolled, along with "a call or text message during the 30-day period to prompt a response."⁶

⁵ To the extent that GCI provides facts or arguments that are not contained elsewhere in the record of this proceeding, the Commission should find that their consideration is "required in the public interest." 47 C.F.R. § 1.429(b)(3). As explained below, the Commission did not seek comment on a rolling recertification process that requires recertification on each subscriber's anniversary date, and therefore the Commission was not well informed of the costs of such an approach.

⁶ *Wireline Competition Bureau Provides Guidance to Eligible Telecommunications Carriers on the Process to Elect USAC to Perform Lifeline Recertification*, Public Notice, DA 16-347, 31 FCC Rcd. 2310, 2311 ¶ 5 (2016) (footnote omitted).

Although this option may be intended to relieve burdens for ETCs, it is more confusing and burdensome for customers, and as others have pointed out, may result in the de-enrollment of many customers who likely remain eligible for the program.⁷ USAC’s U.S. mail-based approach is particularly ill-suited to Alaska. Certain populations—including the homeless—rarely respond to written communications in GCI’s experience, especially from organizations such as USAC with which they have no relationship. Rural and indigenous populations may be away from postal mail for months for subsistence hunting and fishing. GCI therefore has continued to conduct its own recertifications rather than shifting that task to USAC.

II. THE NEW “ROLLING RECERTIFICATION” PROCESS IS PREMATURE AND UNNECESSARY AS APPLIED TO ETCs

For ETCs in states with no state agency that performs recertifications, GCI urges the Commission reconsider mandatory changes to the recertification process until the National Verifier is operational in the relevant state.⁸ In the *Order*, the Commission adopted a number of administrative changes to the Lifeline program to attempt “to further improve the efficient administration and accountability of the Lifeline program.”⁹ One of these changes requires ETCs to recertify their subscribers’ eligibility annually “based on the subscriber’s service

⁷ See Comments of the Lifeline Joint Commenters on the Second Further Notice of Proposed Rulemaking to Modernize and Restructure the Lifeline Program at 28, WC Docket Nos. 11-42, 09-197 & 09-109 (filed Aug. 31, 2015).

⁸ New rule 47 C.F.R. § 54.410(h) states that “[a]s the National Verifier is implemented in a state, the above referenced and revised obligations with respect to the National Verifier and eligible telecommunications carriers will also take effect.” If the Commission intended this provision to mean that the rolling recertification obligation does not take effect for ETCs until the National Verifier is implemented, GCI requests the Commission to clarify that. Otherwise, GCI requests reconsideration of the requirement as discussed in the text.

⁹ *Order* ¶ 11.

initiation date.”¹⁰ While this change might “make the recertification process more manageable”¹¹ once the National Verifier is implemented, the requirement will only increase burdens and confusion while ETCs continue to recertify their own customers. Of even greater concern is the increased burden and confusion for customers, more of whom will likely be required to respond to mailed notices. These additional burdens would appear to have no countervailing benefit until the National Verifier is up and running, which the Commission does not expect for a majority of states until 2019.¹² Rather than require ETCs to make substantial changes to their processes to accommodate a requirement that is being transitioned away from them, GCI respectfully urges the Commission to permit ETCs to continue to recertify their subscribers under the rule currently in force.

A. The Rolling Recertification Process Will Increase the Burden on Subscribers and ETCs

To comply with the rolling recertification requirement during the interim period before the National Verifier is implemented, GCI and other similarly-situated ETCs would have to make substantial changes to the recertification process. They would have to modify systems to identify and track, on a subscriber-specific basis, the date by which the recertification process must be initiated. While the *Order* was not clear as to how close in time to the anniversary date the recertification must be obtained, any interpretation of that timing will require systems

¹⁰ *Id.* ¶ 417; 47 C.F.R. § 54.410(f)(1) (as amended) (“All eligible telecommunications carriers must re-certify all subscribers 12 months after the subscriber’s service initiation date and every 12 months thereafter, except for subscribers in states where the National Verifier, state Lifeline administrator, or other state agency is responsible for the annual re-certification of subscribers’ Lifeline eligibility.”).

¹¹ *Order* ¶ 417.

¹² *See id.* ¶ 164.

changes for ETCs that rely on the calendar-year method.¹³ Similarly, ETCs will have to modify systems to be prepared to de-enroll customers who are not fully recertified by their anniversary dates.

The customer experience, too, will be downgraded by the changed rule. Assuming the Commission intended for customers to be recertified close in time to their anniversary dates, more customers will have to respond to mailed recertification notices which, for some, is confusing and difficult. The change in process may inadvertently cause some consumers not to recertify and therefore to lose their Lifeline benefit.¹⁴ This can hardly be what the Commission intended through a temporary administrative change.

B. Mandatory Rolling Recertification by ETCs Will Not Improve the Program

Burdens to service providers and customers can only be justified if there is some countervailing public interest benefit. The Commission described what it saw as the benefits to the change; unfortunately none is a benefit to ETCs, subscribers, or the integrity of the program.

First, the Commission believed that the change to rolling recertification would “result in administrative efficiencies and avoid imposing undue burdens on providers, USAC, or the

¹³ See *infra* Part IV (alternatively seeking clarification and/or reconsideration as to whether the recertification may be completed at any point in the 12 months prior to the customer’s anniversary date).

¹⁴ In Alaska, de-enrollment of eligible customers removes their connection to emergency communication; while 911 services may continue to be available on handsets that are no longer actively subscribed, many remote locations in Alaska have no PSAP and 911 calls are transmitted to state troopers hundreds of miles away. Emergency services in Bush Alaska means calling friends or family.

National Verifier.”¹⁵ GCI has explained above that not permitting calendar-year based recertification would actually result in the opposite.

Second, the Commission stated that the new rolling recertification would relieve ETCs and other entities responsible for recertification from “processing recertification and potential de-enrollment procedures for all subscribers at the same time.”¹⁶ This may be a benefit “as the National Verifier is launched in multiple states,”¹⁷ as the Commission suggested, but it is not an improvement for ETCs whose systems are designed for calendar year-based certifications. As GCI described, the current approach allows it to recertify in a way that is convenient to the subscriber, and to handle its follow-up with other subscribers in an efficient end-of-year cycle.

Third, the Commission stated the rolling recertification approach would “result in a recertification process that reflects the amount of time the subscriber has actually been enrolled in the Lifeline program.”¹⁸ The Order does not explain why this is a benefit, and the reason is not self-evident.

Fourth, the Commission stated that the change would allow ETCs (and the National Verifier or state agency) “to respond to any customers who need assistance in the recertification

¹⁵ *Order* ¶ 416; *see also id.* Appx. B (Final Regulatory Flexibility Analysis), ¶ 35 (“Requiring Lifeline providers to annually recertify all subscribers on a rolling basis, based on the subscriber’s date of enrollments, decreases the burden of the recordkeeping requirement for small businesses by eliminating the need to process recertification and potential de-enrollment procedures for all subscribers at the same time. Thus, making the recertification process more manageable for small business and enable providers (and the National Verifier) to respond to any customers who need assistance in the recertification process without being overwhelmed by customer service requests.”).

¹⁶ *Order* ¶ 417.

¹⁷ *Id.*

¹⁸ *Id.*

process without being overwhelmed by customer service requests.”¹⁹ As GCI has explained above, the current process already does this. GCI’s customer service representatives are all trained in the recertification process and respond to customer questions whenever they conduct the recertification. Moving to the rolling recertification approach will likely increase the number of consumer inquiries as more customers are required to respond to more bureaucratic-type recertification methods.

Finally, the Commission states in a footnote that the transition to rolling recertification for current subscribers “needs to begin promptly to maintain program integrity and guard against improper payments,”²⁰ but does not explain why rolling recertification would be an improvement on the current system.

GCI urges the Commission to heed prior statements on this topic. The Wireline Competition Bureau noted in 2013 that the once-per-calendar year approach “balances the importance of the recertification rule with minimizing the burdens and costs on ETCs and consumers, while also providing ETCs with greater flexibility to tailor the recertification process to their particular business processes.”²¹ Indeed, to the extent that other ETCs find the new rolling recertification approach more convenient for them and manageable for their subscribers, the Bureau has already explained that recertification once every 12 months on the subscriber’s service initiation date will also be compliant with the rule currently in force.²² The current approach appropriately ensures that customers are recertified regularly; nothing in the *Order*

¹⁹ *Id.*

²⁰ *Id.* ¶ 418 n.1041.

²¹ *2013 Recertification Guidance Public Notice* ¶ 5.

²² *See id.* ¶ 7.

suggests that these changes of ETCs, for the interim period pending the development of the National Verifier, are necessary to improve the integrity the program.

III. THE COMMISSION LACKED NOTICE TO ADOPT THE ROLLING RECERTIFICATION REQUIREMENT AS TO ETCs

In the Notice of Proposed Rulemaking leading up to the *Order*, the Commission sought comment on a variety of administrative changes to the program, including establishing a National Verifier.²³ While the Commission sought comment on whether the National Verifier should handle recertification, it did not seek comment on making substantial and burdensome changes to the process that will apply in states without a state Lifeline administrator until the National Verifier is up and running. To avoid any doubt as to whether the Commission provided adequate legal notice for the change, the Commission should reconsider its rule change as to ETCs that remain responsible for recertification until such time as the National Verifier or a state agency assumes that responsibility.

IV. ALTERNATIVE REQUEST FOR CLARIFICATION REGARDING TIMING OF RECERTIFICATION UNDER NEW RULE

If the Commission is unwilling to reconsider a mandatory requirement for rolling recertification, GCI urges the Commission to clarify the revised rule. Specifically, the Commission could clarify that the requirement to recertify “12 months after the subscriber’s

²³ See *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, 30 FCC Rcd. 7818, 7846-53 ¶¶ 64-91(2015) (proposing a national verifier to determine initial eligibility); *id.* ¶ 86 (seeking comment on whether the national verifier should become involved in the recertification process and whether the national verifier’s process should differ from that of USAC, but not asking about ETCs’ processes); *id.* ¶ 205 (seeking comment on creating a standardized annual recertification form); *id.* ¶ 207 (proposing to require Lifeline ETCs to record the subscriber execution date on recertification forms).

service initiation date and every 12 months thereafter”²⁴ can be met at any time in the 12 months prior to the anniversary of the subscriber’s service initiation date. In that way, subscribers would continue to be recertified regularly—at least once a year, defined as the 12 months between each service initiation anniversary date—but ETCs could continue more customer-friendly practices of recertifying customers at other convenient times and places. The alternative—requiring recertification close in time to the anniversary of the customer’s service initiation date—would mean that far fewer customers are recertified through a customer-initiated process. For the reasons expressed above, this approach is more burdensome for ETCs, more confusing and potentially ineffective for consumers, and more likely to result in unnecessary de-enrollment of otherwise eligible subscribers. Interpreting the rule to permit recertification at any point in the 12 months preceding an anniversary date would lessen these consequences (but would not relieve ETCs of the costs of modifying their systems and processes).

V. THE 2016 RECERTIFICATION PROCESS

GCI also seeks clarification that the rules for the 2016 recertification process remain unchanged by the *Order*. As part of its explanation of the transition to the new rolling recertification requirement, the Commission stated that “[f]or subscribers enrolled prior to January 1, 2017, recertification for 2016 will be conducted in accordance with current Lifeline practices and require recertification by December 31, 2016.”²⁵ GCI believes that the Commission intended simply to clarify that the existing rules will continue to apply through December 31, 2016. However, the statement could be read to mean that all subscribers—

²⁴ 47 C.F.R. § 54.410(f)(1) (as amended).

²⁵ *Order* ¶ 418 (citing 47 C.F.R. § 54.405(e)(4); *Recertify Subscribers (FCC Form 555)*, Universal Service Administrative Company, <http://www.usac.org/li/program-requirements/recertify-subscribers/>).

including subscribers initially enrolled in 2016—must be recertified by December 31, 2016, even if they have been enrolled in Lifeline less than one year. This reading would lead to absurd results in some cases, requiring customers that are initially enrolled—and have therefore proven their eligibility—as late as December 30, 2016, to be recertified by December 31, 2016. GCI asks the Commission to clarify that it intended that the existing rules continue to apply to recertifications through December 31, 2016. Alternatively, if the Commission actually intended for customers initially enrolled in 2016 all to be recertified by December 31, 2016, GCI respectfully requests that the Commission reconsider this requirement as unnecessary and burdensome.

VI. CONCLUSION

The Commission may have intended its rule change as a minor transitional mechanism pending the establishment of the National Verifier, but the change will increase burdens on ETCs whose systems are geared to the calendar year approach, and will inconvenience consumers with no clear benefit. GCI respectfully urges the Commission to reconsider its rule change and permit ETCs to continue to use the current calendar-year method of recertification until such time as the National Verifier is ready to handle recertification in states where ETCs are currently responsible for that process. At a minimum, the Commission should clarify its rule to permit recertification at any point in the 12 months preceding the anniversary of a subscriber's service initiation date, and reconsider or clarify that the existing rules and deadlines for 2016 remain unchanged.

Respectfully submitted,



Tina Pidgeon
Chris Nierman
GENERAL COMMUNICATION, INC.
1900 L Street, N.W., Suite 700
Washington, D.C. 20036
(202) 503-2851

John T. Nakahata
Julie A. Veach
Traci Biswese
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street, N.W., 8th Floor
Washington, D.C. 20036
(202) 730-1300

June 23, 2016

Counsel for General Communication, Inc.