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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

G. Nanette Thompson, Chair
Bernie Smith
Patricia M. DeMarco
Will Abbott
James S. Strandberg

In the Matter of Consideration of Lifeline and
Link Up Policies and Determination of Which
Areas of Alaska Are Eligible for Enhanced
Lifeline and Expanded Link Up Services)
_____)

R-00-7
ORDER NO. 3

ORDER ADDRESSING POLICY ISSUES

BY THE COMMISSION:

Summary

We opened this investigation to resolve Lifeline and Link Up program policy issues which arose during our review of utility tariff filings. We have decided that the Federal Communications Commission (FCC) intended that the enhanced Lifeline/Link Up benefits associated with Tribal Lands apply to all Alaska. We direct that local utilities amend their tariffs consistent with this Order and explain how they should advertise Enhanced Lifeline and Link Up services. In this Order we also conclude that Lifeline customers should not be disconnected from local service for failure to pay their long distance bill.

Background

The Lifeline and Link Up programs provide federal and state support to reduce the local rates low income households pay, which will improve their ability to obtain basic telecommunications services. On June 30, 2000, the FCC released its

1 *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of*
2 *Proposed Rulemaking* in CC Docket No. 96-45 (Tribal Order).¹ The Tribal Order
3 provides enhancements to the Lifeline and Linkup programs to encourage
4 infrastructure development and subscribership to local service on Indian reservations
5 and related areas. Those in Alaska qualifying for Enhanced Lifeline and Link Up
6 generally are able to receive local service at a rate of \$1.00 per month, as well as
7 additional discounts related to initial service connection.

8 Under the Tribal Order, the Enhanced Lifeline/Link Up provisions were
9 only available to people living on Tribal Lands (i.e., “on a reservation” or “near a
10 reservation”) as defined by 25 CFR §§ 20.1(r) and 20.1(v).² The FCC later ruled that it
11 would limit Enhanced Lifeline/Link Up services only to those living in areas qualifying
12 under 25 CFR § 20.1(v).³ What portions of Alaska qualify as Tribal Land under the
13 definition of 25 CFR § 20.1(v) became an issue for us to decide.

14 On August 28, 2000, we issued a Public Notice seeking comment on the
15 definition of Tribal Land as applied to Alaska as well as whether we should a) expand
16 the eligibility requirement for either Basic⁴ or Enhanced Lifeline and Link Up services,
17 and b) allow a utility to disconnect a Lifeline customer for failure to pay long distance

18 ¹ *Federal-State Joint Board on Universal Service; Promoting Deployment and*
19 *Subscribership in Unserved and Underserved Areas, Including Tribal and Insular*
20 *Areas*, CC Docket No. 96-45, FCC 00-208 (rel. Jun. 30, 2000).

21 ² See, 25 C.F.R. §§ 20.1(r) and 20.1(v), Attachment 1.

22 ³ See, *Federal-State Joint Board on Universal Service; Promoting Deployment*
23 *and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular*
24 *Areas*, CC Docket No. 96-45, Order and Further Notice of Proposed Rulemaking, FCC
25 00-332 (rel. Aug. 31, 2000).

26 ⁴ “Basic” Lifeline and Link Up refers to the program and benefits provided if the
low income subscriber is not living on tribal land. Under Basic Lifeline the customer’s
local bill and Subscriber Line Charge fees are reduced by \$10.50 per month for most
companies. Enhanced Lifeline increases this support level by an additional \$25 per
month, provided the customer’s local bill does not fall below \$1 per month.

1 charges. On September 6, 2000, the Alaska Public Interest Research Group (AkPIRG)
2 and on October 2, 2000, Alascom, Inc. d/b/a AT&T Alascom (AT&T Alascom) and the
3 Rural Coalition (RC) filed comments on these issues.⁵

4 **Definition of Tribal Lands**

5 The Federal Communications Commission classified “Tribal Land” as a
6 “reservation” defined by the Bureau of Indian Affairs (BIA), Department of Interior
7 regulation at 25 C.F.R. § 20.1(v), which states:

8 Reservation means any federally recognized Indian tribe’s reservation, Pueblo,
9 or Colony, including former reservations in Oklahoma, Alaska Native regions
10 established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688),
and Indian allotments.

11 The Comments of the RC included a memorandum from attorney Heather H. Grahame
12 contending that all of Alaska qualified as Tribal Land under Section 20.1(v). Ms.
13 Grahame provided an interpretation of the FCC’s definition of tribal land:

14 The FCC adopted the BIA [Bureau of Indian Affairs] regulations to define the
15 geographic scope of the FCC Order, reasoning that the BIA’s definitions provide
16 a “widely used and readily verifiable standard.” FCC Order at ¶ 19. The FCC
17 noted that the definitions set forth in 25 C.F.R. § 20.1 (and 25 C.F.R. § 20.20)
are used by the BIA in administering financial assistance and social service
18 programs, and that using the BIA’s definition to “define and identify the
19 geographic areas to which our rule amendments will apply offers significant
20 advantages in the case of its administration.”

21 The BIA defines “reservation” to include “Alaska Native regions established
22 pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian
23 allotments” and has concluded that this definition incorporates all Alaska.⁶

24 ⁵ The Rural Coalition is comprised of the following incumbent local exchange
25 carriers: Arctic Slope Telephone Association Coop., Inc.; Alaska Telephone Co.;
26 Bettles Telephone, Inc.; Bristol Bay Telephone Coop., Inc.; Bush-Tell, Inc.; Copper
Valley Telephone Cooperative, Inc.; Cordova Telephone Coop.; Interior Telephone
Co., Inc.; Ketchikan Public Utilities, Telephone Division; Matanuska Telephone
Association Coop., Inc.; Mukluk Telephone Co.; North Country Telephone, Inc.;
Nushagak Telephone Coop., Inc.; and OTZ Telephone Coop., Inc.

⁶ Memorandum, from Heather H. Grahame to the Members of the Rural
Coalition, July 25, 2000, at 1-2.

1 Ms. Grahame’s memorandum provides an attachment from the Deputy Commissioner
2 of Indian Affairs, to the Juneau Area Director (dated March 31, 1999), stating that the
3 BIA treats all of Alaska as “reservation.” As a reservation, the entire State of Alaska
4 would qualify as Tribal Land where Enhanced Lifeline and Link Up services available
5 for low income customers. In its Comments, the RC states it confirmed through
6 telephone conference with Katherine Schroeder, then Chief of the FCC’s Accounting
7 Policy Division, that the FCC intends all of Alaska to qualify as Tribal Land.

8 In its comments, AT&T Alascom opposes having all of Alaska qualify as
9 Tribal Land, stating it would expand the Enhanced program beyond what was
10 practically intended. AT&T Alascom states that the Commission and the FCC should
11 not be strictly guided by a legal or technical standard that may inappropriately expand
12 the Enhanced programs. AT&T Alascom argues that Ms. Grahame’s interpretation is
13 based on a technical definition that does not fit the profile for locations needing access
14 to the Enhanced Lifeline and Link Up programs. AT&T Alascom states that in general,
15 urban Alaska households have telephone penetration rates roughly equal to or better
16 than the national average, and do not suffer from geographic isolation, income
17 disparity, or lack of economic opportunity, compared to that experienced by
18 households in remote Alaska. AT&T Alascom believes that Enhanced Lifeline and
19 Link Up services should not be provided to the boroughs of Anchorage, Fairbanks
20 North Star, or Juneau, because it would be inconsistent with the FCC’s intent to target
21 low penetration rates in Native areas and would be an inefficient use of the universal
22 service fund.

23 Discussion

24 We are persuaded by the evidence provided by the RC that the FCC
25 intended all of Alaska to qualify as Tribal Lands eligible for Enhanced Lifeline and Link
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1 Up service. AT&T Alascom was the only commentor opposing this interpretation.
2 While AT&T Alascom explains why it opposes the *policy* of treating all Alaska as Tribal
3 Land, it fails to offer a legal basis refuting Ms. Grahame's analysis. Nor did AT&T
4 Alascom offer a more appropriate legal standard we may use for interpreting the
5 definition of "Tribal Lands" outside of recommending we exclude the major urban
6 areas of the state from that definition. If we accept AT&T Alascom's approach we
7 would inappropriately deny Enhanced Lifeline and Link Up services to the significant
8 percentage of Native Alaskans living in urban areas. In summary, we find that all of
9 Alaska is Tribal Land for purposes of eligibility for the Enhanced Lifeline and Link Up
10 programs.

11 We direct that all Eligible Telecommunications Carriers (ETCs)⁷ make
12 Enhanced Lifeline and Link Up services available in their designated ETC service
13 areas and that provision of service should occur as soon as possible, with conditions
14 of service identified under tariff. Within thirty days, each local carrier granted ETC
15 status shall take the following actions:

16 a) Each ETC shall file a tariff amendment to:

17 i) Recognize that all of Alaska is Tribal Land eligible for Enhanced
18 Lifeline and Link Up service; and

19 ii) Offer Enhanced Lifeline and Link Up to qualifying individuals
20 throughout the service areas for which it has ETC status;

21 b) Any ETC that has not filed to provide Enhanced Lifeline and Link Up services
22 shall submit a tariff amendment making the services available;

23 _____
24 ⁷ Eligible Telecommunications Carrier (ETC) status is required for carriers to
25 receive federal and state universal service funding. All incumbent local carriers were
26 granted ETC status in their services areas. GCI Communication Corp. (GCI) was
granted ETC status for its Anchorage service area and has a pending request to
extend the status to its Fairbanks and Juneau areas.

1 c) Each ETC shall remove references from its tariff that Basic Lifeline and Link
2 Up service are an available option; and

3 d) Each ETC shall make preparations to be able to automatically convert
4 existing Basic Lifeline customers to the Enhanced Lifeline program so that each
5 company may expeditiously provide Enhanced Lifeline once tariff approval occurs.

6 A carrier unable to meet the above requirements shall file by no later
7 than May 18, 2001, an explanation for its position.

8 **Eligibility Requirements – Mirroring Basic and Enhanced Criteria**

9 Federal regulations require that low-income consumers must pass an
10 eligibility test in order to qualify for Lifeline and Link Up funding. We sought comment
11 on whether we should change the eligibility criteria for Basic Lifeline/Link Up to match
12 the broader eligibility criteria of Enhanced Lifeline/Link Up services.⁸ No comments
13 opposed expanding the Basic Lifeline eligibility criteria to include those for Enhanced
14 Lifeline. Both AT&T Alascom and the RC contend that changes to the eligibility
15 requirement for Basic Lifeline and Link Up are moot if all Alaska is Tribal Land.

16 Given our previous decision that all of Alaska is Tribal Land, there is no
17 longer a need for Basic Lifeline/Link Up services and we have directed carriers to
18 remove Basic Lifeline/ Link Up service from their tariffs. As a result, we agree with the
19 RC that there is no longer a need to resolve policies concerning Basic service
20 eligibility.⁹

21 ⁸ The criteria for eligibility for Basic Lifeline is enrollment in one of the following
22 programs: Medicaid; food stamps; supplemental security income; federal public
23 housing assistance; or Low Income Home Energy Assistance. Enhanced Lifeline
24 eligibility broadens the criteria to also include: BIA general assistance; Tribally
Administered Temporary Assistance for Needy Families; Head Start (meeting
qualifying income standard); or National School Lunch Program's free lunch program.

25 ⁹ The record in this case suggests that if Basic Lifeline/Link Up service were to
26 continue, the eligibility criteria should be broadened to mirror those for Enhanced
Lifeline/Link Up service.

1 **Supplementing the Eligibility Criteria for Enhanced Service**

2 We also sought comment on whether other eligibility criteria should be
3 added to the Enhanced Lifeline and Link Up programs to improve subscribership by
4 low-income customers. In response AT&T Alascom states that it believes the current
5 eligibility requirements are sufficient and any addition would be unwarranted.

6 We believe that the existing Lifeline and Link Up programs in Alaska
7 could work more efficiently. Many more Alaskans qualify for Lifeline (at least 63,700
8 based on Medicaid data alone) than sign up for service. We do not know if this low
9 level of Lifeline subscribership is the result of inappropriate eligibility criteria, lack of
10 adequate information to the customer, difficulty in signing up for the program, or other
11 factors. Therefore, while we have no new criteria to add to the eligibility standard at
12 this time, we may determine in the future that modifications to the Lifeline and Link Up
13 programs are necessary.

14 **Local Disconnect**

15 Local utilities in Alaska are currently prohibited under tariff from
16 disconnecting local service to a Lifeline customer for failure to pay toll. Several
17 carriers, however, proposed that we change this policy to allow disconnection of
18 service for Lifeline customers. We opened this Docket, in part to investigate this issue.
19 Through Docket R-98-1, we are considering regulations which, if adopted, would
20 prohibit any local customer from being disconnected for failure to pay toll.

21 AT&T Alascom and RC advocate allowing disconnection of local service
22 for Lifeline customers that fail to pay their toll bill. The RC believes Lifeline customers
23 should be treated no better or worse than any other customers. The RC proposes that
24 until we make a final decision regarding our generic disconnect policies in Docket
25 R-98-1, each company's generic tariff provisions regarding disconnection of service
26 should apply to both Lifeline and non-Lifeline customers. The RC supports removing

1 all specific references to disconnect procedures from the Lifeline sections of each
2 company's tariff. The RC states that since Lifeline customers may voluntarily restrict
3 toll to avoid incurring toll charges that are greater than their ability to pay, the RC
4 expects that there would be little, if any, termination of Lifeline customer service due to
5 non-payment of toll.

6 AT&T Alascom states that carriers in Alaska have historically had the
7 ability to disconnect non-Lifeline customers' local service for non-payment of toll.
8 AT&T Alascom opposes requiring local and long distance carriers to incur additional
9 bad debt associated with those who do not pay their long distance bills. AT&T
10 Alascom notes that in Anchorage, the incumbent local carrier has the policy of
11 disconnecting local service for users who do not pay their toll bill yet penetration in
12 Anchorage (96.6%) is greater than the national average. AT&T Alascom believes that
13 a no-disconnect policy fosters irresponsible use of the telephone system. AT&T
14 Alascom suggests allowing disconnection, with monitoring to determine the effect in
15 rural areas. We could then revisit the issue if problems occurred.

16 AkPIRG opposes allowing disconnection of local service for failure to pay
17 toll. AkPIRG contends that the threat of local Lifeline disconnection for failure to pay
18 long distance charges is an outdated remedy given an environment where two
19 different (often competing) providers serve the same customer. AkPIRG states that
20 local phone service is the essential link to the Internet, family, police, and medical
21 services. AkPIRG argues that the technology gap between rich and poor, and urban
22 people in Alaska will be exacerbated if the prohibition on disconnection is lifted.
23 AkPIRG also argues that Lifeline participants have come to depend on the disconnect
24 prohibition.

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Discussion

Many local carriers currently disconnect their non-Lifeline local customers for failure to pay toll. If we took the approach advocated by RC to treat Lifeline and non-Lifeline customers the same, we would allow disconnection of Lifeline customers. We are not persuaded that Lifeline and general local customers should be treated the same.

Historically, Alaska has faced high levels of poverty in rural areas. Subscribership in rural areas of Alaska has at times been substantially lower than the national average. Our Lifeline policies are intended to raise low penetration rates and ensure low income families have access to the critical telecommunications services they need. Allowing disconnection of local service for failure to pay toll runs contrary to this policy goal. Furthermore, no evidence has been provided in this proceeding to demonstrate that material harm has occurred as a result of our current policy prohibiting disconnection of Lifeline customers.

We also are unconvinced by arguments that continuing our “no disconnect” policy will lead to excessive and unfair bad debt on the part of Lifeline customers. Lifeline customers that fail to pay their toll bill face cancellation of toll service. Lifeline customers therefore have an incentive to pay their toll bill and to restrict toll usage in order to avoid toll charges that are greater than their ability to pay. Commentors have failed to adequately demonstrate that cancellation of toll service for failure to pay toll is not an appropriate incentive in these circumstances. Given our goal of improving access to the Lifeline program, we see insufficient justification to require the Lifeline customer to face local service disconnection for failure to pay toll.

The federal Link Up program which reduces the fees a customer must pay for commencing telephone service is only available once at a residence. Generally, Link Up fees are not provided for a second or subsequent time at a

1 customer's residence unless the customer has changed addresses.
2 47 C.F.R. § 54.411(c). As a result, a Lifeline customer who was disconnected from
3 local service could face reconnection fees not covered by the Link Up program,
4 making it less likely that customer will be able or willing to return to the network. We
5 conclude that allowing local disconnect of Lifeline customers interferes with the goals
6 and efficiency of the Link Up program.

7 Last, Alaska currently has low levels of participation in the Lifeline
8 program compared to the people who would likely qualify for Lifeline support.¹⁰ We
9 believe it counter productive to institute policies which would further retard participation
10 in Lifeline by allowing local disconnect for failure to pay toll.

11 We observe that in the new competitive environment, there may be
12 multiple long distance companies available to Lifeline customers. Commentors have
13 not adequately addressed why it is appropriate to disconnect Lifeline service if the
14 customer has not defaulted on their local bill and has found a competitive long
15 distance company willing to provide the customer service in light of bad credit history.

16 In summary, we agree with AkPIRG's comments that the Lifeline
17 Program is an essential service for low income and elderly Alaskans, including those
18 who may need rapid assistance provided by family, police, or medical authorities.
19 Those supporting disconnection have not provided persuasive evidence that
20 disconnection of Lifeline service for failure to pay toll is in the overall public interest.
21 Such disconnection is at odds with the overall goals of the Lifeline and Link Up
22 programs. We therefore conclude that local carriers shall not disconnect Lifeline
23 customers' local service for failure to pay toll.

24 _____
25 ¹⁰ Several local carriers in the state have under 100 Lifeline customers, with
26 some having fewer than 3. See TA3-998 data. 1999. See *also* previous statistic
concerning Medicaid.

1 **Notice**

2 Given our ruling in this matter, we must determine what, if any, methods
3 should be used to notify customers of Enhanced Lifeline service policies.

4 AkPIRG, in its comments, states that for Alaska Natives, the only
5 appropriate notice is through enclosures in regular billings. However, this approach is
6 problematic because the people most in need of Lifeline are those who have no
7 telephone service. While we could consider enclosures in electric or other non-
8 telephone utility bills, this is also problematic because there is no mechanism to allow
9 an electric utility to recover the costs associated with enclosures for telephone
10 services, absent cross-subsidization.

11 AkPIRG suggests legal notice in major newspapers will not be sufficient
12 and consumers need direct notice. AkPIRG also suggests we develop our Lifeline
13 policies after holding public hearings at times and places available for rural and urban
14 Alaskans to meet.¹¹

15 We will take AkPIRG's suggestions under advisement as we continue to
16 work toward improving the Lifeline program. We agree that it may be difficult for the
17 typical Lifeline customer or person without phone service to find out about
18 improvements in the Lifeline and Link Up programs. We intend to review our options
19 in this area further, including whether we can automatically enroll customers
20 depending upon their participation in government programs. We will withhold decision
21 on the best method of notice until we have formulated our plans better regarding
22 improvements to the Lifeline /Link Up programs.

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26 ¹¹ For example, during the Alaska Federation of Natives Convention.

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4. A carrier unable to comply with Paragraph 2 or 3 of this Order shall file by no later than 4pm on May 18, 2001, an explanation for its position.

5. Each Eligible Telecommunications Carrier shall include provisions concerning Enhanced Lifeline and Link Up services in its periodic advertisements and outreach efforts as further explained in this Order.

6. Local carriers shall not disconnect a Lifeline customer for failure to pay toll charges.

DATED AND EFFECTIVE at Anchorage, Alaska, this 11th day of May, 2001.

BY DIRECTION OF THE COMMISSION

(S E A L)

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