Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVG) +Elevation in feet (NAVD)
Approximately 4,800 feet downstream of Riverbank Highway	*84
Approximately 4,000 feet upstream of Riverbank Highway	*87
Maps are available for inspection at City Hall, 6707 Third Street, Riverbank, California.	
COLORADO	
Pitkin County, (FEMA Docket No. B–7439)	
Southside Split Flow:	
Approximately 1,200 feet downstream of State Highway 82 Bypass	*6,558
Approximately 6,000 feet upstream of State Highway 82 Bypass	*6,637
Roaring Fork River:	
Approximately 5,500 feet downstream of Hooks Spur Road	*6,526
Approximately 50 feet downstream of confluence of Snowmass Creek	*6,844
Maps are available for inspection at the GIS Department, 130 South Galena Street, Aspen, Colorado.	
MONTANA	
Fort Peck Assionboine and Sioux Tribes (FEMA Docket No. B–7443)	
Big Muddy Creek:	
At confluence with Missouri River	+1,914
Approximately 2 miles upstream of State Route 258 bridge	+1,965
Missouri River:	
Approximately 8 miles downstream of confluence with Big Muddy Creek	+1,910
Approximately 2,000 feet upstream of the confluence with Milk River	+2,032
Poplar River:	
At confluence with Missouri River	+1,955
Approximately 1,200 feet downstream of the confluence with West Fork Poplar River	+2,191
Porcupine Creek:	
Approximately 3,600 feet downstream of U.S. Highway 2	+2,058
Approximately 5 miles downstream of Midway Dam at the boundary of Section 26 and 35 Township 32 North Range 40 East	+2,575
Maps are available for inspection at 501 Medicine Bear Road, Poplar, Montana.	
OREGON	
Portland (City), Clackamas/Multnomah County, (FEMA Docket No. B–7433)	
Crystal Springs Creek:	
Just downstream of SE Sherret Street at confluence with Johnson Creek	*48
Approximately 1,150 feet upstream of 28th Avenue	*77
Johnson Creek:	
Just upstream of SE Ochoco Street	*44
Just downstream of Circle Avenue	*252
Maps are available for inspection at the Office of Planning and Development Review, 1900 Southwest Fourth Avenue, Room 50, Portland, Oregon.	
WASHINGTON	
Chelan County, (FEMA Docket No. B–7443)	
Wenatchee River:	
Approximately 100 feet upstream of Old Monitor Road	*717
Approximately 1.7 miles upstream of Main Street	*1,046
Maps are available for inspection at the Department of Public Works, 350 Orondo Street, Wenatchee, Washington.	
Cashmere (City), Chelan County, (FEMA Docket No.# B–7443)	
Wenatchee River:	
Approximately 1,300 feet downstream of Cottage Avenue	*756
Approximately 1.7 miles upstream of Cottage Avenue	*763
Maps are available for inspection at City Hall, 101 Woodring Street, Cashmere, Washington.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: June 15, 2004.

Archibald C. Reid, III,

Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.

[FR Doc. 04–14103 Filed 6–21–04; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36 and 54

[WC Docket No. 03–109; FCC 04–87]

Lifeline and Link-Up

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies its rules to improve the effectiveness of the low-income support mechanism, which ensures that quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates. The Commission expands the federal default eligibility criteria to include an income-based criterion and additional means-tested programs. The Commission adopts federal certification and verification procedures, and requires states, under certain circumstances, to establish certification and verification procedures to minimize potential abuse of these programs. To target low-income consumers more effectively, the Commission adopts outreach guidelines for the Lifeline/Link-Up program. The Commission issues a voluntary survey to gather data and information from states regarding the administration of Lifeline/Link-Up programs. The actions the Commission takes will result in a more inclusive and robust Lifeline/Link-Up program, consistent with the statutory goals of maintaining affordability and access of low-income consumers to supported services, while ensuring that support is used for its intended purpose.

DATES: Effective July 22, 2004 except for §§ 54.405(c), 54.405(d), 54.409(d), 54.409(d)(3), 54.410, 54.416, 54.417 which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

FOR FURTHER INFORMATION CONTACT: Shannon Lipp, Attorney, and Karen Franklin, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in WC Docket No. 03–109 released on April 29, 2004. A Companion Further Notice of Proposed Rulemaking was also released in WC Docket No. 03–109 released April 29,

2004. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. In this *Report and Order,* we modify our rules to improve the effectiveness of the low-income support mechanism, which ensures that quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates. Since its inception, Lifeline/Link-Up has provided support for telephone service to millions of low-income consumers. Nationally, the telephone penetration rate is 94.7%, in large part due to the success of the Lifeline/Link-Up program and our other universal service programs. Nevertheless, we believe there is more that we can do to make telephone service affordable for more low-income households. Only one-third of households currently eligible for Lifeline/Link-Up assistance actually subscribe to this program. We agree with the Federal-State Joint Board on Universal Service (Joint Board) that the current Lifeline/Link-Up program could be modified to serve the goals of universal service better.

2. Consistent with the Joint Board's recommendation, we expand the federal default eligibility criteria to include an income-based criterion and additional means-tested programs. We adopt federal certification and verification procedures, and require states, under certain circumstances, to establish certification and verification procedures to minimize potential abuse of these programs. To target low-income consumers more effectively, we adopt outreach guidelines for the Lifeline/Link-Up program. We issue a voluntary survey to gather data and information from states regarding the administration of Lifeline/Link-Up programs. The actions we take will result in a more inclusive and robust Lifeline/Link-Up program, consistent with the statutory goals of maintaining affordability and access of low-income consumers to supported services, while ensuring that support is used for its intended purpose.

II. Report and Order

A. Eligibility

a. Income-Based Criteria

3. We adopt the Joint Board's recommendation that a consumer be eligible to participate in Lifeline/Link-Up if the consumer's income is at or below 135% of the Federal Poverty Guidelines (FPG). We agree with the Joint Board that adding an income-based criterion to the federal default eligibility criteria may increase participation in the Lifeline/Link-Up program. This will enable, for example, a family of four whose annual income is at or below $24,840 to qualify for Lifeline/Link-Up support even if they do not participate in one of the current qualifying assistance programs. We have included estimated income requirements for various sizes of households at or below 135% of the FPG. Our staff analysis estimates that adding an income-based criterion of 135% of the FPG could result in approximately 1.17 million to 1.29 million new Lifeline/Link-Up subscribers. Of these new Lifeline/Link-Up subscribers, the analysis projects that approximately one in five likely would be new subscribers to telephone service. Therefore, in addition to ensuring that many low-income subscribers may be better able to afford to maintain their existing service; this criterion will enable many low-income subscribers to have service for the first time. Adding an income-based standard should thereby promote universal service by increasing subscribership and making rates more affordable for existing low-income subscribers.

4. We agree with the majority of commenters that support adding an income-based standard to the current program-based criteria. We also agree with the Joint Board and several commenters that adding an income-based standard likely will capture some low-income consumers who are not eligible for Lifeline/Link-Up because they no longer participate in the qualifying assistance programs. In 1996, Congress passed ''The Personal Responsibility and Work Opportunity Reconciliation Act,'' also known by the acronym ''PRWORA.'' PRWORA instituted sweeping changes to several federal public assistance programs, including time limits and work requirements backed by sanctions. In the *1997 Universal Service Order,* 62 FR 32862, June 17, 1997, the Commission indicated it would monitor the impact of PRWORA on participation in Lifeline/Link-Up qualifying programs and revise eligibility criteria if the program-based criteria model ''becomes an unworkable standard.'' In the *Twelfth Report and Order,* 65 FR 47941, August 4, 2000, the Commission also noted it would consider adding an income-based criterion in the future because it might ''reach more low-income consumers, including low-income tribal members, than the current method of conditioning eligibility on participation in particular low-income assistance programs.'' We understand that participation is decreasing in many public assistance programs, including at least one program used to determine eligibility for Lifeline/Link-Up. At the same time, poverty rates in the U.S. are increasing by the traditional measure. In 2002, 12.1% or 34.6 million people fell below the poverty threshold, compared to 11.3% or 31.1 million people in 2000. At the same time, however, the Census Bureau has published six alternative measures of poverty, none of which appear to show a statistically significant increase in poverty rates between 2001 and 2002. Regardless of factual differences in the data, broadening eligibility criteria to include an income-based standard at this time should ensure continued participation in Lifeline/Link-Up among low-income households, which, in turn, should increase subscribership to the network. Several commenters also state that individuals who are no longer eligible to receive welfare or benefits under federal assistance programs may still be too poor to afford the cost of local telephone service. Adding an income-based standard could increase subscribership among low-income individuals affected by PRWORA. Thus, this action will further the goals of section 254.

5. Consistent with the Joint Board recommendation, we initially set the income-based standard at 135% of the FPG, while we further develop the record on the costs and benefits of adopting a 150% FPG standard. The Joint Board concluded that an income-based standard at 135% of the FPG struck an appropriate balance between increasing subscribership without significantly overburdening the universal service fund. It noted that most commenters supported adoption of an income-based standard ranging from 125% to 150% of the FPG, and that many other federal welfare programs, and state Lifeline programs, base eligibility on a standard within that range. We note that our staff analysis projects that if all states were to adopt an income-based standard at or below 135% of the FPG, federal Lifeline expenditures could increase by $127 to $140 million over current levels; in contrast, if we were to adopt an income-based standard at or below 150% of the FPG, federal Lifeline expenditures could increase by $316 to $348 million. We also note that while our staff analysis projects that adoption of an income-based standard at or below 135% of the FPG could result in more than 200,000 households newly subscribing to telephone service, that study also projects no net increase in new

subscribers under an income-based standard at or below 150% of the FPG. We recognize that a few commenters are concerned about the potential financial burdens placed on the universal service fund due to increased participation in the Lifeline/Link-Up program, but we conclude that the benefits of adopting a 135% income-based standard now—namely, adding new low-income subscribers and retaining existing low-income subscribers on the network—outweigh the potential increased costs. In sum, we conclude that adopting a 135% income-based standard at this time represents a reasonable and cautious approach, while we explore further whether to adopt a 150% income standard.

b. Program-Based Criteria

6. We also adopt the Joint Board's recommendation that the Temporary Assistance to Needy Families program (TANF) and the National School Lunch's free lunch program (NSL) be added to the federal default eligibility criteria. We believe adding these programs is likely to help improve participation in the Lifeline/Link-Up program, and in doing so, would increase telephone subscribership and/or make rates more affordable for low-income households. Additionally, low-income consumers that come into contact with state agencies while enrolling in one public assistance program are often made aware of their eligibility to participate in another public assistance program. Therefore, participation in Lifeline/Link-Up could be increased by adding these public assistance programs to the current program-based criteria because it increases the possibility that low-income consumers could be made aware of Lifeline/Link-Up when they enroll in TANF and NSL and thereby increases or maintains subscribership.

7. Under the Commission's current rules, Tribal TANF is an eligibility criterion for enhanced Lifeline/Link-Up. The Commission extended Lifeline/Link-Up eligibility criteria to include the Tribal TANF program, as well as Bureau of Indian Affairs General Assistance, Tribal National School Lunch's free lunch program, and Tribal Head Start program (income qualifying standard only) concluding that the ''household income thresholds for these newly added programs range[d] from 100–130 percent of the [FPG]'' and were therefore ''consistent with the [income thresholds of those] programs included in our current federal default list.'' Adding TANF to the current list of eligibility criteria may permit more low-income individuals, not just those living on tribal lands, to qualify for Lifeline/Link-Up support, thereby potentially increasing telephone subscribership and making rates more affordable for existing low-income subscribers. Although 5.1 million recipients currently participate in TANF, like the Joint Board, we cannot project how many additional persons may become eligible for Lifeline/Link-Up under this new criterion because many low-income households participate in more than one assistance program. Nevertheless, we share the Joint Board's belief that extending Lifeline/Link-Up benefits to TANF participants will promote the goals of universal service.

8. We note that, in the *1997 Universal Service Order,* the Commission rejected a proposal to add TANF's predecessor, Aid to Families with Dependent Children (AFDC), to the list of qualifying Lifeline/Link-Up programs. At the time, the Commission was concerned about the impact of PRWORA on that particular program. Although TANF participation rates have decreased since fiscal year 1996 and the implementation of PRWORA, participation rates remain high. Accordingly, adding this particular program to the federal default eligibility criteria may still potentially affect significant numbers of low-income consumers.

9. We agree with the Joint Board that one benefit of adding TANF is the broad discretion that states are given to establish eligibility standards for each state's respective TANF program. This broad discretion enables states to tailor the TANF program to meet their constituents' needs. Therefore, we agree with the Joint Board and most commenters that adding TANF as an eligibility criterion for Lifeline/Link-Up will help target the program to appropriate low-income households. Another advantage of adding TANF is that verification of Lifeline/Link-Up eligibility would simply involve checking TANF program records. We agree with NASUCA that monitoring participation in TANF is no more difficult than other programs.

10. We agree with the Joint Board that adding NSL's free lunch program to the current list of federal default eligibility criteria may permit more low-income individuals, not just those living on tribal lands, to qualify for Lifeline/Link-Up support, thereby increasing subscribership and/or making rates more affordable for low-income households. Under the Commission's current rules, Tribal NSL is an eligibility criterion for enhanced Lifeline/Link-Up on tribal lands. In general, NSL's eligibility criteria are the same as for Tribal NSL. To be eligible for NSL's free lunch program, the household income must be at or below 130% of the FPG, which is $23,920 for a family of four. Children are automatically eligible for free school meals if their household receives Food Stamps, benefits under the Food Distribution Program on Indian Reservations or, in most cases, benefits under the TANF program. There were approximately 13.7 million children enrolled in NSL's free lunch program in fiscal year 2003. As with TANF, however, it is difficult to project how many additional persons may become eligible for Lifeline/Link-Up by adopting NSL because many low-income households typically participate in more than one assistance program once they meet the qualifying criteria. We are not aware of any data on the total number of households in which NSL participants reside, because more than one NSL participant may reside in a single household. Nevertheless, we agree with the Joint Board that adding NSL as an eligibility criterion could increase telephone subscribership and/or make rates more affordable for low-income households.

11. There is significant support in the record for adding NSL's free lunch program to the federal default eligibility criteria. We agree with NCLC that adding NSL may improve telephone penetration among low-income subscribers because it may capture many low-income households that may not participate in other Lifeline/Link-Up qualifying public-assistance programs. According to NCLC, many households do not feel that children participating in NSL carries the same social stigma as participation in programs whose aim is assistance for adults. Also, adding NSL's free lunch program is consistent with the Commission's determination in the *Twelfth Report and Order* that eligibility for enhanced Lifeline/Link-Up should be limited to those qualifying for free lunch from NSL. We note that participation in the NSL program is increasing, unlike other assistance programs where PRWORA may have prompted decreased enrollment. It is also easy to verify eligibility under this criterion because it would simply involve checking NSL program records. We note that in the *1997 Universal Service Order,* the Commission found that ''in the interest of administrative ease and avoiding fraud, waste, and abuse, the named subscriber to the local telecommunications service must participate in [the] program[ ] to qualify for Lifeline.'' Although the child is the named participant in the NSL program, it is the household's income

that qualifies the child for participation in the program. No commenters have brought to our attention any evidence of problems with its use in the enhanced Lifeline/Link-Up federal default eligibility criteria for those living on tribal lands. Accordingly, we believe that adding NSL will help to target Lifeline/Link-Up support to the appropriate low-income households.

B. Duration of an Individual's Eligibility for Lifeline/Link-Up

12. We agree with the Joint Board and several commenters that consumers should be given a period of time in which to show continued eligibility for Lifeline. As described, dispute resolution procedures are necessary to allow consumers to demonstrate continued eligibility. Moreover, such a timeframe will provide Lifeline customers, who may not be aware of a change to their eligibility status, a period of time in which to transition to the full cost of non-Lifeline service should they be found to be ineligible. This transitional period will reduce the likelihood that such customers would be subsequently disconnected from the network. Therefore, an appeal and transition period will promote the goals of section 254. Moreover, allowing Lifeline benefits to continue prior to a final decision to terminate enrollment should not burden the fund excessively, while providing administrative stability.

13. We recognize that some states may have existing dispute resolution procedures between telephone companies and consumers governing termination of telephone service that could apply to termination of Lifeline benefits. For example, the Pennsylvania Public Utility Commission (PaPUC) asserts that ''Pennsylvania carriers would treat an appeal regarding termination of Lifeline service as a ''dispute'' and would follow the PaPUC procedural rules regarding the resolution of disputes[.]'' The PaPUC explains that termination of service would be stayed pending resolution of the dispute. Accordingly, in such a state, consumers would have an opportunity to dispute Lifeline termination, and there would be no need for the eligible telecommunication carriers (ETC) to follow the federal default procedures, as described. Therefore, where a state maintains its own procedures that would require, at a minimum, written customer notification of impending termination of Lifeline benefits, similar to the federal default requirements, that state will retain the flexibility to develop its own appeals process. Moreover, we agree with the PaPUC and the Joint Board that preempting a state's existing appeals process could result in customer confusion and unnecessary expense for the carrier. States should make their own determination as to whether the state's existing laws could apply to termination of Lifeline benefits.

14. In states that lack dispute resolution procedures applicable to Lifeline termination, we adopt the Joint Board's recommendation and require ETCs that have a reasonable basis to believe that consumers no longer qualify for Lifeline to notify consumers of their impending termination of Lifeline benefits and implement a 60-day period of time in which to demonstrate continued eligibility. For those states, we adopt the following federal default procedures. ETCs in such states will be required to notify consumers of their impending termination of Lifeline benefits by sending a termination of Lifeline benefits notice in a letter separate from the consumer's monthly bill. If a consumer receives such a termination notice, the consumer would have up to 60 days from the date of the termination letter in which to demonstrate his or her continued eligibility before Lifeline support is discontinued. For example, a consumer who enrolled in Lifeline because he or she participated in Low Income Home Energy Assistance Program (LIHEAP) may nevertheless qualify for Lifeline after discontinuing participation in LIHEAP under a different program-based or income-based criterion. Consumers should be given a period of time in which to make such a showing of continued eligibility if they believe they have received a termination letter in error. The 60-day time period also should ensure that consumers have ample notice to make arrangements to pay the full cost of local service should they wish to continue telephone service after termination of Lifeline benefits. This 60-day time period thus furthers the goal of section 254 to provide access to telecommunications services for low-income consumers. A consumer who appeals must present proof of continued eligibility to the carrier consistent with his or her state's verification requirements or federal verification requirements, if relevant, as modified in the Certification and Verification Procedures section. This procedure is only required when the carrier has initiated termination of benefits. This 60-day period of time is not necessary when the Lifeline subscriber has notified the carrier that he or she is no longer eligible. Presumably such subscribers will be aware of their impending termination of benefits and will be able to budget their resources accordingly.

C. Certification and Verification Procedures

a. Automatic Enrollment

15. We agree with the Joint Board and encourage all states, including federal default states, to adopt automatic enrollment as a means of certifying that consumers are eligible for Lifeline/Link-Up. In its *Recommended Decision,* the Joint Board observed that participation rates for Lifeline/Link-Up increased in states that employed automatic enrollment, aggressive outreach, and intrastate multi-agency cooperation. In particular, the Joint Board highlighted three states that have adopted some form of Lifeline/Link-Up automatic enrollment. In two states, an affirmative act by the participant, such as authorization to release qualifying information and submission of letter indicating participation in the qualifying program, is needed to secure enrollment in Lifeline/Link-Up. In a third state, the state automatically enrolls the consumer in Lifeline/Link-Up at the time of enrollment in a qualifying program, but offers the consumer an opt-out provision to cancel participation in Lifeline/Link-Up. Because we agree with the Joint Board that automatic enrollment may facilitate participation in Lifeline/Link-Up, we adopt the Joint Board's recommendation to encourage states to implement such measures.

16. We decline, however, to require states to adopt automatic enrollment at this time. Instead, we encourage those states that currently do not employ automatic enrollment to consider states that operate automatic enrollment as a model for future implementation. As the Joint Board noted, implementation of automatic enrollment could impose significant administrative, technological, and financial burdens on states and ETCs. Although we recognize the benefits of automatic enrollment, we agree with the Joint Board that we should not force states that may be unable to afford to implement automatic enrollment to do so. We also recognize arguments that requiring automatic enrollment may deter ETCs from participating in the Lifeline/Link-Up program because of the technical requirements associated with interfacing with government agencies or third party administrators.

b. Certification of Program-Based Eligibility

17. We agree with the Joint Board that the current certification procedures for

program-based qualification are sufficient. Current rules require self-certification, under penalty of perjury, for the federal default states, and allow states operating their own Lifeline/Link-Up programs to devise more strict measures as they deem appropriate. We agree with the Joint Board that the ease of self-certification encourages eligible consumers to participate in Lifeline/Link-Up. In addition, self-certification imposes minimal burdens on consumers. Finally, we agree with the Joint Board that participation in need-based programs is easily verified. Accordingly, we conclude, consistent with the views of the Joint Board, that certification of qualified program participation, under penalty of perjury, serves as an effective disincentive to abuse the system at this time.

c. Certification of Income-Based Eligibility

18. We adopt the Joint Board's recommendation to require all states, including federal default states, to adopt certification procedures to document income-based eligibility for Lifeline/Link-Up enrollment. Because it is easier to verify qualifying program enrollment, we share the Joint Board's concerns that there may be a greater potential for fraud and abuse when an individual self-certifies his/her income eligibility. We agree with the many commenters that requiring documentation of income eligibility should protect against waste, fraud, and abuse and ensure that only qualified individuals receive Lifeline/Link-Up assistance. Some commenters, however, contend that self-certification of income, under penalty of perjury, at the enrollment stage is the most cost-effective method to deter abuse of the program. The Florida PSC, on the other hand, notes that California's Lifeline program, which utilizes self-certification of income-based eligibility, appears to have more households receiving the Lifeline discount than the Current Population Survey of Households data would indicate are eligible for the discount. We do not agree with these commenters that argue income certification from another means-tested program should be suitable documentation, because it could be difficult to verify that the means-tested program utilizes the same income eligibility threshold. Therefore, because self-certification of income presents additional vulnerabilities to the Lifeline/Link-Up program, we agree with the Joint Board and several commenters that certification of income-based eligibility must be accompanied by supporting documentation.

19. We agree with the Joint Board that states that operate their own Lifeline/Link-Up programs should maintain the flexibility to develop their own certification procedures other than self-certification, including acceptable documentation to certify consumer eligibility under an income-based criterion, and to determine the certifying entity, whether it is a state agency or an ETC. This flexibility will permit states to develop certification procedures that best accommodate their own Lifeline participants based on the available resources of ETCs and state commissions, each state's eligibility criteria, and local conditions. When developing their certification procedures, we remind states that eligible consumers living on tribal lands may qualify for Lifeline support even if they do not satisfy that state's eligibility criteria. In addition, ETCs must be able to document that they are complying with state regulations and recordkeeping requirements.

20. For federal default states, we adopt rules reflecting the Joint Board's recommendation that consumers must provide documentation of income eligibility at enrollment. Specifically, we agree with the Joint Board's recommendation that the prior year's state, federal, or tribal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance, a divorce decree, or child support document serve as the types of documents acceptable for income verification. We conclude that if a consumer chooses to proffer any document other than a previous year's tribal, federal, or state income tax return as evidence of income, such as current pay stubs, the consumer must present three consecutive months worth of the same type of statements within that calendar year. Three consecutive months of income statements represent one quarter of the calendar year and better substantiate the yearly stated income, without overly burdening consumers.

21. For those states governed by the federal default Lifeline/Link-Up rules, we require an officer of the ETC enrolling the consumer in Lifeline/Link-Up to certify, under penalty of perjury, that the ETC has procedures in place to review income documentation and that, to the best of his or her knowledge, the company was presented with documentation that the consumer's household income is at or below 135% of the FPG. Some commenters oppose certification procedures for income-based eligibility because, they insist, such procedures would be overly burdensome to ETCs. AT&T argues that ETC employees are not trained to review and interpret complex government forms, such as tax forms, W–2 statements, or pay stubs. The rules we adopt today, however, do not require difficult computations or interpretations; rather, they require the ETC to compare the annual income represented in the provided documentation and the number of individuals in the household to a FPG chart posted on the Universal Service Administrative Company's (USAC's) website. Moreover, our rules do not require ETCs to retain the consumer's corroborating documentation. ETCs need only retain records of their self-certifications and those made by the applicant. Where states operate their own Lifeline/Link-Up programs, an officer of the ETC must certify that the ETC is in compliance with state Lifeline/Link-Up income certification procedures and that, to the best of his or her knowledge, documentation of income was presented.

22. Finally, all consumers in all states qualifying under an income-based criterion must self-certify their eligibility to participate. Consumers must make this self-certification under penalty of perjury and must also present all required documentation. Specifically, consumers must self-certify, under penalty of perjury, that the presented documentation accurately represents their annual household income. Moreover, we adopt the Joint Board's recommendation that Lifeline/Link-Up applicants in all states qualifying under an income-based criterion should be required to self-certify, under penalty of perjury, the number of individuals in their households. Because the Federal Poverty Guidelines change depending upon the number of individuals in a household, this information is necessary to determine eligibility.

d. Verification of Continued Eligibility Under Program-Based and Income-Based Eligibility

23. We adopt the Joint Board's recommendation that all states, including federal default states, be required to establish procedures to verify consumers' continued eligibility for the Lifeline/Link-Up program under both program and income-based eligibility criteria. Verification procedures could include random

beneficiary audits, periodic submission of documents, or annual self-certification. We agree with those commenters that assert that verification of continued eligibility should ensure that the low-income support mechanism is updated, accurate, and carefully targeted to provide support only to eligible consumers. We disagree with other commenters that argue that these benefits do not outweigh the burden associated with a verification requirement. We agree with the Joint Board that verification is an effective way to prevent fraud and abuse and ensure that only eligible consumers receive benefits.

24. We also adopt the Joint Board's recommendation to allow states that administer their own Lifeline/Link-Up programs the flexibility to design and implement their own verification procedures to validate consumers' continued eligibility. We note that several states already engage in verification of continued eligibility for Lifeline/Link-Up. For example, in some states, the ETC is responsible for verifying the consumer's continued eligibility, while other states require their state agencies to devise procedures for eligibility verification. Another state establishes eligibility verification procedures that involve state agency and carrier participation. This flexibility will permit states to develop verification procedures that best accommodate their own Lifeline participants based on the available resources of ETCs and state commissions, each state's eligibility criteria, and local conditions. We also note that eligible consumers living on tribal lands may qualify for Lifeline support even if they do not satisfy that state's eligibility criteria. In addition, ETCs must be able to document that they are complying with state regulations and verification requirements.

25. With respect to federal default states, we adopt the Joint Board's recommendation to require ETCs to verify annually the continued eligibility of a statistically valid sample of their Lifeline subscribers. ETCs are free to verify directly with a state that particular subscribers continue to be eligible by virtue of participation in a qualifying program or income level. Alternatively, to the extent ETCs cannot obtain the necessary information from the state, they may survey the subscriber directly and provide the results of the sample to USAC. Subscribers who are subject to this verification and qualify under program-based eligibility criteria must prove their continued eligibility by presenting in person or sending a copy of their Medicaid card or other Lifeline-qualifying public assistance card and self-certifying, under penalty of perjury, that they continue to participate in the Lifeline-qualifying public assistance program. Subscribers who are subject to this verification and qualify under the income-based eligibility criteria must prove their continued eligibility by presenting current documentation consistent with the federal default certification process, as detailed. These subscribers must also self-certify, under penalty of perjury, the number of individuals in their household and that the documentation presented accurately represents their annual household income. As with certification of income-based eligibility, ETCs need not retain documentation of income; however, an officer of the ETC must certify, under penalty of perjury, that the ETC has income verification procedures in place and that, to the best of his or her knowledge, the company was presented with corroborating documentation and retain these records.

26. In addition, we agree with the Joint Board that states should develop on-line verification systems. Several commenters highlight the effectiveness and efficiency of verifying eligibility via on-line databases. We agree with the Joint Board that an on-line verification process, where states can obtain and provide data to allow ETCs real-time access to a database of low-income assistance program participants or income reports, could be a quick, easy, and accurate solution. Nevertheless, we decline to require states to adopt on-line verification at this time. Despite the benefits of on-line verification, we recognize, as did the Joint Board, that current financial constraints may make it difficult for some states to implement on-line verification.

D. Implementation and Recordkeeping

27. States and ETCs will be required to implement measures to certify income of consumers before enrollment in Lifeline/Link-Up when income is the consumer's basis for Lifeline/Link-Up eligibility, and to implement measures to verify continued eligibility for Lifeline/Link-Up under any criteria within one year from the publication of this Order in the **Federal Register**. Given the flexibility afforded states to develop certification and verification procedures, we conclude that one year should provide more than enough time to come into full compliance with the rules we adopt today. Indeed, we encourage states and ETCs to implement certification and verification measures as quickly as possible, but no later than one year. For federal default states, level of income will not be acceptable as a means of qualifying for Lifeline/Link-Up until certification procedures are in place.

28. In addition, we specify that ETCs in federal default states must retain certifications regarding a consumer's eligibility for Lifeline for as long as the consumer receives Lifeline service from that ETC or until the ETC is audited by the Administrator. Section 54.409 of the Commission's rules requires ETCs to obtain a self-certification, under penalty of perjury, from a consumer that he or she receives benefits from one of the qualifying means-tested programs. However, this rule does not specify how long ETCs must retain consumer self-certifications regarding eligibility. In this Order, we clarify our rules to require ETCs in federal default states to retain consumers' self-certifications of eligibility, including self-certifications that income documentation accurately reflects household income, for as long as the consumer receives Lifeline service from that ETC or until the ETC is audited by the Administrator. This requirement will strengthen the Commission's ability to ensure program integrity without unduly burdening ETCs. For example, requiring an ETC to retain a single certification document per consumer will allow the Administrator to confirm in any audit that a consumer was properly enrolled in Lifeline, regardless of when he or she was enrolled.

29. Moreover, we codify the requirement that all ETCs must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link-Up programs and provide that documentation to the Commission or Administrator upon request. These records could include, for example, self-certifications verifying consumers' continued eligibility, documents demonstrating that ETCs have passed through the appropriate discounts to qualifying consumers, proof of advertising of Lifeline/Link-Up service, and billing records for Lifeline customers. All ETCs must retain such documentation for the three full preceding calendar years, *e.g.*, in December 2004, an ETC would maintain records for calendar years 2001–2003, but in January 2005, that ETC would only maintain records for calendar years 2002–2004.

30. Finally, we clarify the recordkeeping obligations of non-ETC resellers that purchase Lifeline-discounted wholesale services from ETCs to offer discounted services to low-income consumers. In such instances, the ETC would have no information regarding the eligibility of

the low-income consumer. Accordingly, in these circumstances, ETCs must obtain certifications from the non-ETC reseller that it is complying with the Commission's Lifeline/Link-Up requirements. Moreover, non-ETC resellers providing discounted services to low-income customers must comply with the applicable federal or state Lifeline/Link-Up requirements, including certification and verification procedures. Thus, such non-ETC resellers would be required to retain the required documentation to demonstrate that they are providing discounted services only to qualifying low-income consumers for the above-specified periods.

E. Outreach

31. We agree with the Joint Board that more vigorous outreach efforts could improve Lifeline/Link-Up subscribership and adopt the Joint Board's recommendation to provide outreach guidelines to states and carriers. We agree that we should not require specific outreach procedures, but should instead provide guidelines for states and carriers so that they can adopt their own specific standards and engage in outreach as they see fit. Commenters were supportive of the proposed outreach guidelines, outlined in the *Recommended Decision* and detailed. We believe that encouraging states to establish partnerships with other state agencies and telephone companies will maximize public awareness and participation in the Lifeline/Link-Up program. We do not believe it is necessary at this time to prescribe specific outreach procedures. Instead, we set forth these guidelines in order to provide states and carriers with examples of how to reach those likely to qualify. States and carriers will still have the flexibility to determine the most appropriate outreach mechanisms for their consumers, as long as they are reasonably designed to reach those likely to qualify for Lifeline/Link-Up.

32. Accordingly, we adopt the following outreach guidelines recommended by the Joint Board: (1) States and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service; (2) states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within a carrier's service area; and (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs. These guidelines are described in detail. An appendix compiling state practices was included in the *Recommended Decision* and is reproduced in this document. State practices include establishing marketing boards to devise outreach materials, providing multi-lingual customer support, and implementing innovative tribal outreach practices.

33. The first recommended guideline is that states and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service. States or carriers may wish to send regular mailings to eligible households in the form of letters or brochures. Posters could be placed in locations where low-income individuals are likely to visit, such as shelters, soup kitchens, public assistance agencies, and on public transportation. Multi-media outreach approaches could be utilized such as newspaper advertisements, articles in consumer newsletters, press releases, radio commercials, and radio and television public service announcements. For low-income consumers that live in remote areas, including those living on tribal lands, traveling throughout an area or setting up an information booth at a central location may be more suitable outreach methods. States and carriers should ensure that outreach materials and methods accommodate low-income individuals with sight, hearing, and speech disabilities by producing brochures, mailings, and posters in Braille. We also encourage carriers to provide customer service to disabled program participants on an equal basis by using telecommunications relay services (TRS), text telephone (TTY), and speech-to-speech (STS) services. States and carriers should also take into consideration that some low-income consumers may be illiterate or functionally illiterate, and therefore should consider how to supplement outreach materials and methods to accommodate those individuals. States and carriers may post outreach material on the Internet to provide general information; however, the Internet should not be relied on as the sole or primary means of Lifeline/Link-Up outreach. Similarly, although advertising Lifeline/Link-Up in carriers' telephone books may be effective in reaching some low-income individuals, it will not be effective for those without established phone service because carriers only distribute telephone books after phone service is established. States and carriers should also not rely on hotlines as a primary outreach method because many low-income individuals may not have access to a telephone from which to initiate an inquiry on Lifeline/Link-Up benefits.

34. The second recommended guideline is that states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within the carrier's service area. For example, many of the suggestions can be implemented in languages other than English, including mailings, print advertisements, radio and television commercials, and posters. States with a large ethnically diverse population should have a toll-free call center to answer questions about Lifeline/Link-Up in the low-income population's native languages. Similarly, enrollment applications should be made available in other languages.

35. The third recommended guideline is that states and carriers should coordinate their outreach efforts with governmental agencies that administer any of the relevant government assistance programs. Coordination should also include cooperative outreach efforts with state commissions, tribal organizations, carriers, social service agencies, community centers, nursing homes, public schools, and private organizations that may serve low-income individuals, such as American Association for Retired Persons and the United Way. Cooperative outreach among those most likely to have influential contact with low-income individuals will help to target messages about Lifeline/Link-Up to the low-income community. For example, state agencies that conduct outreach efforts for a state's ''earned income tax credit,'' an income tax credit for low-income working individuals and families, could conduct simultaneous outreach efforts for Lifeline/Link-Up. Establishing a marketing or consumer advisory board with state, carrier, non-profit and consumer representatives may also be an effective way of developing outreach materials. States and carriers could also issue a joint report to the Commission as to their outreach practices.

36. We also encourage states to utilize USAC as a resource for outreach to states and carriers, similar to USAC's outreach efforts with regard to the Rural Health Care and Schools and Libraries programs. USAC currently engages in outreach for the Lifeline/Link-Up program through its website, <*www.lifelinesupport.org*>, which has information about state Lifeline/Link-Up programs, eligibility criteria, and information for carriers. USAC also speaks about Lifeline/Link-Up at public events such as the National Association

of Regulatory Utility Commissioners (NARUC) conference and the National Congress of American Indians, where USAC staff also meets with tribal members and managers of tribally-owned telephone companies. USAC distributes letters and emails to consumer groups, tribal leaders, and social service organizations to publicize the availability of Lifeline/Link-Up and also sends letters to ETCs to remind them of their outreach obligations. USAC also frequently takes phone calls from consumers and others with questions about the Lifeline/Link-Up program. Finally, we agree with the Joint Board that in addition to USAC's current outreach efforts for Lifeline/Link-Up, USAC should assist in additional outreach efforts for Lifeline/Link-Up similar to what it currently does for the Rural Health Care and Schools and Libraries Programs.

F. Other Issues

a. Voluntary Survey

37. We agree with the Joint Board that gathering data and information about state Lifeline/Link-Up programs through a voluntary survey will enable the Commission to make more informed decisions in any future Lifeline/Link-Up orders. In the *Notice of Proposed Rulemaking,* 68 FR 42333, July 17, 2003, we sought comment on the survey's format and questions to ask.

38. To obtain feedback on the success of the modified Lifeline/Link-Up program, we adopt a voluntary information collection from the states. This voluntary survey form asks states to provide information about the eligibility criteria, certification and verification procedures, and outreach efforts implemented as a result of the changes we adopt in this Order. Collection of this survey will assist us in learning about the reasons for variations in participation rates between and among states, and as a result could help shape Commission policy in the future. We agree with commenters that submission of this survey should be voluntary for states with the first survey due one year following the effective date of this Order. We direct USAC to mail the voluntary survey form to states. We have expanded on some of the Joint Board's recommended questions and added a few questions to the survey, at the suggestion of NCLC.

b. Unpaid Toll Charges

39. We adopt the Joint Board's recommendation to encourage states to consider implementing rules that require ETCs to offer Lifeline service to consumers who may have been previously disconnected for unpaid toll charges. We acknowledge that ETCs often prohibit consumers who have prior outstanding balances for local and/or long distance services, but who otherwise qualify for Lifeline/Link-Up, from signing up for local telephone service. As a result, these outstanding balances stand as a barrier to expanding subscribership among low-income consumers. However, the Fifth Circuit found that the Commission lacked jurisdiction to prohibit ETCs from disconnecting Lifeline customers for failure to pay toll charges. In light of the Fifth Circuit ruling, we adopt the Joint Board's recommendation and take no action on disconnection requirements at this time. We encourage states, however, to consider ways to address this issue.

c. Vertical Services

40. We adopt the Joint Board's recommendation not to adopt rules prohibiting Lifeline/Link-Up customers from purchasing vertical services, such as Caller ID, Call Waiting, and Three-way Calling. Like the Joint Board, we believe any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the program. No commenter supported prohibiting Lifeline/Link-Up subscribers from purchasing vertical services. However, some expressed concern that ETCs may be marketing vertical services to low-income customers who may be unable to afford these features. While we understand these concerns, we do not prohibit the marketing of vertical services to Lifeline/Link-Up customers at this time.

d. Support for Non-ETCs

41. We agree with the Joint Board that we should decline to establish rules that would provide Lifeline/Link-Up support directly to carriers that are not ETCs. Contrary to AT&T's assertion, establishing such rules would be inconsistent with section 254(e), which states that only ETCs may receive universal service support. Extending Lifeline/Link-Up universal service support to carriers that do not satisfy the requirements for designation as an ETC could also serve as a disincentive for other carriers to comply with their ETC obligations.

e. Minor Rule Changes

42. In the *Notice of Proposed Rulemaking,* the Commission identified various proposals to clarify and streamline our rules. Specifically, the Commission proposed to modify Part 54 to reference a provision in § 52.33(a)(1)(i)(C) of the Commission's rules that exempts Lifeline Assistance Program customers from monthly number-portability charges. The Commission also solicited comment on whether § 54.401(c) should be amended by replacing ''toll blocking'' with ''toll limitation'' to accurately reflect the Commission's determination in the *1997 Universal Service Order* that ETCs may not impose service deposit requirements on Lifeline customers who accept toll limitation services. Section 54.401(c) incorrectly limits the service deposit prohibition to customers who accept toll blocking. Finally, the Commission sought comment on whether to delete subpart G of part 36, which states that ''[t]his subpart shall be effective through December 31, 1997. On January 1, 1998, Lifeline Connection Assistance shall be provided in accordance with part 54, subpart E of this chapter.'' We believe these changes will clarify and streamline our Lifeline/Link-Up rules. Therefore, we adopt these minor rule changes as proposed in the *Notice of Proposed Rulemaking.*

III. Procedural Matters

A. Regulatory Flexibility Analysis

43. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking.* The Commission sought comment on the proposals in the *Notice of Proposed Rulemaking,* including comment on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

B. Need for, and Objectives of, the Order

44. In this *Order,* we adopt rules that expand the federal default eligibility criteria for Lifeline/Link-Up to include an income-based criterion of 135% of the Federal Poverty Guidelines and additional means-tested programs. We also adopt rules requiring certification and verification procedures for eligibility under certain circumstances. In addition, we provide outreach guidelines for carriers and states and a voluntary Lifeline/Link-Up administrative survey to better target low-income consumers and improve program operation. Collectively, these rules will improve the effectiveness of the low-income support mechanism and ensure quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates.

C. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

45. There were no comments filed specifically in response to the IRFA. Nevertheless, the agency has considered the potential impact of the rules proposed in the IRFA on small entities. Adding two means-tested programs, Temporary Assistance to Needy Families (TANF) and National School Lunch's free lunch program (NSL), and household income as a basis for Lifeline/Link-Up eligibility does not raise significant issues for small business entities. Some commenters were concerned that certification and verification procedures might pose significant costs on small entities. However, the rules we adopt today strike a balance between minimizing compliance burdens and costs and preserving the integrity of the Lifeline/Link-Up program.

D. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

46. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

47. The Commission's decision to adopt certification and verification requirements would apply to service providers that provide services to qualifying low-income consumers who receive Lifeline/Link-Up support. According to the Universal Service Administrative Company's (USAC) 2002 Annual Report, only local exchange carriers, cellular/personal communications services (PCS) providers, and competitive access providers would be subject to these requirements. Because many of these service providers could include small entities, we expect that the proposal in this proceeding could have a significant economic impact on local exchange carriers, small incumbent local exchange carriers, cellular/PCS providers, and competitive access providers that are small entities.

48. We have included small incumbent local exchange carriers in this present RFA analysis. As noted, a ''small business'' under the RFA is on that, *inter alia,* meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

49. *Incumbent Local Exchange Carrier.* Neither the Commission nor the SBA has developed a size standard specifically for small providers of local exchange services. The closest applicable size standard under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to Commission data, 1,337 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 carriers have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted herein. According to Commission data, 1,337 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 carriers have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted herein.

50. *Competitive Local Exchange Carriers, Competitive Access Providers, and Other Local Exchange Carriers.* Neither the Commission nor the SBA has developed a size standard specifically for small providers of local exchange services. The closest applicable size standard under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the most recent Commission data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 35 carriers reported that they were ''Other Local Exchange Carriers.'' Of the 35 ''Other Local Exchange Carriers,'' an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and ''Other Local Exchange Carriers'' are small entities that may be affected by the rules and policies adopted herein.

51. *Cellular and Other Wireless Telecommunications.* The SBA has developed a small business size standard for Cellular and Other Wireless Telecommunications, which consists of all such firms having 1,500 or fewer employees. According to data for 1997, a total of 977 such firms operated for the entire year. Of those, 965 firms employed 999 or fewer persons for the year, and 12 firms employed of 1,000 or more. Therefore, nearly all such firms were small businesses. In addition, we note that there are 1,807 cellular licenses; however, a cellular licensee may own several licenses. According to Commission data, 858 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio telephony service, which are placed together in the data. We have estimated that 291 of these are small under the SBA small business size standard.

52. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequencies designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-

approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

53. Expanding the eligibility criteria will not create additional reporting, recordkeeping, or other compliance requirements.

54. Several other requirements adopted in this Order, however, affect recordkeeping requirements. First, ETCs will be required to maintain records to document compliance with all Commission requirements governing the Lifeline/Link-Up programs, including numerous self-certifications, and provide that documentation to the Commission or Administrator upon request for the full three preceding calendar years. Specifically, ETCs in federal default states must retain certifications that documentation of income eligibility was presented when the customer was initially enrolled in Lifeline and when the customer was subject to verification of continued eligibility. ETCs in states operating their own Lifeline/Link-Up program must document compliance with state Lifeline regulations and recordkeeping requirements, including state certification and verification procedures. Second, non-ETC resellers must retain documentation to demonstrate that they are providing discounted services only to qualifying low-income customers. Records of customer eligibility must be maintained for as long as the customer receives Lifeline service from that ETC or until that ETC is audited by the Administrator.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

55. Although self-certification of income may be easily administered, we conclude that self-certification of income could invite abuse of the Lifeline/Link-Up program, because it is difficult to verify income. Accordingly, to address concerns of potential waste, fraud, and abuse, we will require consumers qualifying under the income-based criterion to present documentation of income. To minimize burdens on carriers, however, we do not require ETCs in federal default states to maintain this documentation of income. Rather, an officer of the ETC need only self-certify, under penalty of perjury, that the carrier has procedures in place to review income documentation and that, to the best of his or her knowledge, income documentation was presented. In addition, to ensure that only eligible consumers receive Lifeline/Link-Up benefits, we require ETCs in federal default states to verify directly with a state that particular subscribers continue to be eligible or survey subscribers directly by sending annual verification forms to a statistically valid sample of Lifeline subscribers, providing the results of the sample to USAC.

56. We allow states operating their own Lifeline/Link-Up programs flexibility to develop their own certification of income and verification procedures. We note that resources of the carrier, among other things, should be taken into consideration when devising state certification and verification procedures. In addition, an officer of an ETC in states that operate their own Lifeline/Link-Up programs must certify, under of penalty of perjury, that the ETC complies with state certification procedures and that, to the best of his or her knowledge, documentation of income for consumers applying under an income-based criterion was presented.

57. Finally, we provide carriers options regarding retaining records of consumer eligibility. Carriers may either retain such records for as long as the carrier provides Lifeline service to that consumer or until it is audited by the Administrator. These requirements are necessary to ensure program integrity. However, we provide carriers flexibility to choose the more appropriate recordkeeping method.

G. Report to Congress

58. The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

H. Paperwork Reduction Act Analysis

59. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect upon announcement in the **Federal Register** of OMB approval.

IV. Ordering Clauses

60. Accordingly, it is ordered that, pursuant to the authority contained in sections 1, 4(i), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, this Order is adopted.

61. Part 54 of the Commission's rules, is amended as set forth, effective July 22, 2004 except for §§ 54.405(c), 54.405(d), 54.409(d), 54.409(d)(3), 54.410, 54.416, 54.417 which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

List of Subjects

47 CFR Part 36

Communications common carrier, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 36 and 54 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

■ 1. The authority citation continues to read as follows:

Authority: 47 U.S.C. Secs. 151, 154(i) and (j), 205, 221(c), 254, 403, and 410.

§§ 36.701 through 36.741 [Removed]

■ 2. Remove §§ 36.701 through 36.741.

PART 54—UNIVERSAL SERVICE

■ 3. The authority citation for Part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

■ 4. Amend § 54.400 by adding paragraph (f) to read as follows:

§ 54.400 Terms and definitions.

* * * * *

(f) *Income.* ''Income'' is all income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

■ 5. Amend § 54.401 by revising paragraph (c) and by adding paragraph (e) to read as follows:

§ 54.401 Lifeline defined.

* * * * *

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll limitation service from the carrier, where available. If toll limitation services are unavailable, the carrier may charge a service deposit.

* * * * *

(e) Consistent with § 52.33(a)(1)(i)(C), eligible telecommunications carriers may not charge Lifeline customers a monthly number-portability charge.

■ 6. Amend § 54.405 by adding paragraphs (c) and (d) to read as follows:

§ 54.405 Carrier obligation to offer Lifeline.

* * * * *

(c) Notify Lifeline subscribers of impending termination of Lifeline service if the carrier has a reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria, as described in § 54.409. Notification of impending termination shall be in the form of a letter separate from the subscriber's monthly bill. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination, that requires, at a minimum, written notification of impending termination, must comply with the applicable state requirements.

(d) Allow subscribers 60 days following the date of the impending termination letter required in paragraph (c) of this section in which to demonstrate continued eligibility. Subscribers making such a demonstration must present proof of continued eligibility to the carrier consistent with applicable state or federal verification requirements, as described in § 54.410(c). Carriers must terminate subscribers who fail to demonstrate continued eligibility within the 60-day time period. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination must comply with the applicable state requirements.

■ 7. Amend § 54.409 by revising paragraph (b), adding a sentence at the end of paragraph (c), and by adding paragraph (d) to read as follows:

§ 54.409 Consumer qualification for Lifeline.

* * * * *

(b) To qualify to receive Lifeline service in a state that does not mandate state Lifeline support, a consumer's income, as defined in § 54.400(f), must be at or below 135% of the Federal Poverty Guidelines or a consumer must participate in one of the following federal assistance programs: Medicaid; Food Stamps; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families.

(c) * * * Such qualifying low-income consumer shall also qualify for Tier-Three Lifeline support, if the carrier offering the Lifeline service is not subject to the regulation of the state and provides carrier-matching funds, as described in § 54.403(a)(3).

(d) In a state that does not mandate state Lifeline support, each eligible telecommunications carrier providing Lifeline service to a qualifying low-income consumer pursuant to paragraphs (b) or (c) of this section must obtain that consumer's signature on a document certifying under penalty of perjury that:

(1) The consumer receives benefits from one of the programs listed in paragraphs (b) or (c) of this section, and identifying the program or programs from which that consumer receives benefits, or

(2) The consumer's household meets the income requirement of paragraph (b) of this section, and that the presented documentation of income, as described in §§ 54.400(f), 54.410(a)(ii), accurately represents the consumer's household income; and

(3) The consumer will notify the carrier if that consumer ceases to participate in the program or programs or if the consumer's income exceeds 135% of the Federal Poverty Guidelines.

■ 8. Add § 54.410 to subpart E to read as follows:

§ 54.410 Certification and Verification of Consumer Qualification for Lifeline.

(a) *Certification of income.* Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Lifeline.

(1) By one year from the effective date of these rules, eligible telecommunications carriers in states that mandate state Lifeline support must comply with state certification procedures to document consumer income-based eligibility for Lifeline prior to that consumer's enrollment if the consumer is qualifying under an income-based criterion.

(2) By one year from the effective date of these rules, eligible telecommunications carriers in states that do not mandate state Lifeline support must implement certification procedures to document consumer-income-based eligibility for Lifeline prior to that consumer's enrollment if the consumer is qualifying under the income-based criterion specified in § 54.409(b). Acceptable documentation of income eligibility includes the prior year's state, federal, or tribal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice letter of participation in General Assistance, a divorce decree, child support, or other official document. If the consumer presents documentation of income that does not cover a full year, such as

current pay stubs, the consumer must present three consecutive months worth of the same types of document within that calendar year.

(b) *Self-certifications.* After income certification procedures are implemented, eligible telecommunications carriers and consumers are required to make certain self-certifications, under penalty of perjury, relating to the Lifeline program.

(1) An officer of the eligible telecommunications carrier in a state that mandates state Lifeline support must certify that the eligible telecommunications carrier is in compliance with state Lifeline income certification procedures and that, to the best of his/her knowledge, documentation of income was presented.

(2) An officer of the eligible telecommunications carrier in a state that does not mandate state Lifeline support must certify that the eligible telecommunications carrier has procedures in place to review income documentation and that, to the best of his/her knowledge, the carrier was presented with documentation of the consumer's household income.

(3) Consumers qualifying for Lifeline under an income-based criterion must certify the number of individuals in their households on the document required in § 54.409(d).

(c) *Verification of continued eligibility.* Consumers qualifying for Lifeline may be required to verify continued eligibility on an annual basis.

(1) By one year from the effective date of these rules, eligible telecommunications carriers in states that mandate state Lifeline support must comply with state verification procedures to validate consumers' continued eligibility for Lifeline.

(2) By one year from the effective date of these rules, eligible telecommunications carriers in states that do not mandate state Lifeline support must implement procedures to verify the continued eligibility of a statistically valid random sample of their Lifeline consumers to verify continued eligibility and provide the results of the sample to the Administrator. If verifying income, an officer of the eligible telecommunications carrier must certify, under penalty of perjury, that the eligible telecommunications carrier has income verification procedures in place and that, to the best of his/her knowledge, the carrier was presented with corroborating income documentation. In addition, the consumer must certify, under penalty of perjury, that the consumer continues to participate in the Lifeline qualifying program or that the presented documentation accurately represents the consumer's household income and the number of individuals in the household.

■ 9. Add § 54.416 to subpart E to read as follows:

§ 54.416 Certification of consumer Qualification for Link Up.

Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Link Up consistent with requirements set forth in §§ 54.410(a) and (b).

■ 10. Add § 54.417 to subpart E to read as follows:

§ 54.417 Recordkeeping requirements.

(a) Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link Up programs for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request.

Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in §§ 54.409(d) and 54.410(b)(3) for as long as the consumer receives Lifeline service from that eligible telecommunications carrier or until audited by the Administrator. If an eligible telecommunications carrier provides Lifeline discounted wholesale services to a reseller, it must obtain a certification from that reseller that it is complying with all Commission requirements governing the Lifeline/Link Up programs.

(b) Non-eligible-telecommunications-carrier resellers that purchase Lifeline discounted wholesale services to offer discounted services to low-income consumers must maintain records to document compliance with all Commission requirements governing the Lifeline/Link Up programs for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. To the extent such a reseller provides discounted services to low-income consumers, it constitutes the eligible telecommunications carrier referenced in §§ 54.405(c), 54.405(d), 54.409(d), 54.410, and 54.416.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 99–306]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final regulation part 54, which was published in the **Federal Register** on Wednesday, December 1, 1999 (64 FR 67372). This document removes paragraph (a)(4) from § 54.307 of the Commission rules. Section 54.307 relates to the availability of high-cost universal service support to competitive eligible telecommunications carriers.

DATES: Effective June 22, 2004.

FOR FURTHER INFORMATION CONTACT: Theodore Burmeister, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7389.

SUPPLEMENTARY INFORMATION:

Background

Part 54 rules are issued pursuant to the Communications Act of 1934, as amended. The purpose of the part 54 rules is to implement section 254 of the Communications Act of 1934, as amended. 47 U.S.C. 254. This action corrects the final regulation implemented at § 54.307 of the Commission's rules. 47 CFR 54.307. Specifically, this action removes paragraph (a)(4) from § 54.307 from the Commission's rules.

Need for Correction

The December 1, 1999, **Federal Register** Summary (64 FR 67372) inadvertently omitted an instruction to remove paragraph (a)(4) from § 54.307. This correction is consistent with the Commission's Order published in the Federal Register Summary.

List of Subjects in 47 CFR part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

■ Accordingly, 47 CFR part 54 is corrected by making the following correcting amendments:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.