

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE) CASE NO.
UNIVERSAL SERVICE FUND) 2016-00059

ORDER

On March 10, 2017, the Commission issued an Order in this case that, *inter alia*, determined that support from the Kentucky Universal Service Fund (KUSF), for Lifeline service provided after April 30, 2017, would be limited to landline providers only. The Commission based its decision, in part, on protecting customers that rely upon landline Lifeline service from increasing rates due to a decrease and ultimate elimination of federal subsidies for voice-only (primarily landline) Lifeline service, as well as the Commission's desire to avoid further increases to the surcharge that funds the KUSF. The Commission ordered that the support for landline Lifeline service increase to a maximum of \$7.50, increasing on cent for cent basis on the same timeline as the decrease of federal support for Lifeline service. On April 20, 2017, the Commission stayed enforcement of the March 10, 2017 Order to determine the effect that enactment of Senate Bill 10,¹ which amended portions of KRS 278.5435, would have on the Commission's decision to limit KUSF solely to landline Lifeline customers. Several factors have changed since the Commission stayed its March 10, 2017 Order, and the Commission finds that it should seek comment, as discussed below, on those changes and the future of the KUSF.

¹ 2017 Ky. Acts Ch. 43.

On April 15, 2019, the Federal Communications Commission (FCC) announced the elimination of the “rate floor” for rural local exchange carriers (RLEC).² In its March 10, 2017 Order, the Commission expressed concern over the FCC’s “rate floor” mandate³ requiring the RLECs to annually raise its rates for basic local exchange rates, and recognized this constant rate increase as a factor in limiting KUSF support to landline Lifeline customers, and increasing the KUSF support for the same.

The second significant change is that the number of landline Lifeline customers has decreased substantially since the Commission issued its March 10, 2017 Order. According to the records maintained by the Universal Service Administrative Company (USAC) in March 2017, there were approximately 15,000 landline Lifeline customers in Kentucky. In March 2019, according to USAC’s records, there were slightly less than 8,800 voice landline Lifeline customers, reflecting an approximate 41% decrease in landline Lifeline customers in the last two years.

² The FCC stated:

After a thorough review of the record evidence, we now eliminate the rate floor and, following a one-year period of monitoring residential retail rates, eliminate the accompanying reporting obligations after July 1, 2020. Doing so ends the de facto federal mandate to needlessly increase telephone service rates for many rural Americans above those carriers would otherwise assess, and avoids a further increase from \$18 to \$26.98 on July 1, 2019—an increase that would have reduced the affordability of telephone service for rural Americans, including the elderly, low-income individuals, veterans, and their families. As a result, we ensure that rural consumers continue to receive quality services at just, reasonable, and affordable rates, while also ensuring that rural carriers continue to receive the predictable and sufficient universal service support needed to serve high-cost areas.

In the Matter of Connect America Fund, FCC19-32, 2019 WL 1651224, at *1 (Apr. 15, 2019).

³ *In the Matter of Connect America Fund et. al., Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking*, FCC 14-54 (June 10, 2014),

A third significant change is a decrease in the amount of requests for disbursements from the KUSF. In this proceeding, the Commission raised the KUSF monthly surcharge to \$.14 per line. In its March 10, 2017 Order, the Commission noted its reluctance to raise the monthly surcharge beyond \$.14 as a factor in limiting the KUSF to landline Lifeline service only. Since then, due to declining demand on the KUSF, the Commission has twice reduced the monthly surcharge, first to \$.09 on August 31, 2017, and recently to \$.07 on February 17, 2019, representing a 50 percent decrease from the surcharge amount established on February 22, 2016. It is unclear what led to the decrease of Lifeline customers in Kentucky.

In reviewing its decision to restrict KUSF money to landline Lifeline customers, the Commission will seek comments on the possibility that, if it were to vacate or modify its March 10, 2016 Order, the Commission would limit KUSF support to voice-only offerings for wireline and wireless Eligible Telecommunications Carriers (ETC). USAC's records of ETCs authorized to provide Lifeline service in Kentucky indicate that the overwhelming majority of Kentucky Lifeline customers subscribe to voice, and not bundled, Lifeline services. The Commission notes that the FCC has expressed reservations⁴ of its decision to phase out voice-only support in the *Lifeline Modernization Order*.⁵

⁴ See, *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, 32 F.C.C. Rcd. 10475 Paras. 75-76(2017), review granted, order vacated sub nom. *National Lifeline Association v. Federal Communications Commission*, 915 F.3d 19 (2019), withdrawn from bound volume, opinion amended and superseded, 921 F.3d 1102 (2019), and review granted, order vacated sub nom. *National Lifeline Association v. Federal Communications Commission*, 921 F.3d 1102 (2019)

⁵ *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42; *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No 09-197; *Connect America Fund*, WC Docket No. 10-90, *Third Report and Order, Further Report and Order, and Order on Reconsideration* (Rel. April 27, 2016). (“*Lifeline Modernization Order*”)

The Commission requests comments on the following issues:

1. The effect, if any, the FCC's elimination of the "rate floor" will have on the price of landline Lifeline service.
2. The factors that have contributed to the decline in the number of landline Lifeline customers and if the trend is expected to continue.
3. The factors that have contributed to the decline in requests for payments from the KUSF since the Commission stayed the March 10, 2017 Order.
4. The possibility that the Commission may vacate or modify its March 10, 2017 Order so that the KUSF would be available for support of voice-only Lifeline offerings for wireline and wireless carriers.

IT IS THEREFORE ORDERED that any comments or responses to the issues raised herein shall be filed no later than 30 days from the date of entry of this Order.

By the Commission

ENTERED
MAY 20 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2016-00059

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