

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 11 TELECOMMUNICATIONS
PART 11 LIFELINE AND LINKUP BENEFITS

17.11.11.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.11.11.1 NMAC - N, 11-15-10]

17.11.11.2 SCOPE: This rule applies to all entities that have been designated by the commission as eligible telecommunications carriers and that may receive disbursements from the state rural universal service fund or the federal universal service fund.
[17.11.11.2 NMAC - N, 11-15-10]

17.11.11.3 STATUTORY AUTHORITY: Sections 8-8-4, 63-9C-4 and 63-9H-6 NMSA 1978.
[17.11.11.3 NMAC - N, 11-15-10]

17.11.11.4 DURATION: Permanent.
[17.11.11.4 NMAC - N, 11-15-10]

17.11.11.5 EFFECTIVE DATE: November 15, 2010, unless a later date is cited at the end of a section.
[17.11.11.5 NMAC - N, 11-15-10]

17.11.11.6 OBJECTIVE: The purpose of this rule is to ensure that each eligible telecommunications carrier designated by the commission provides lifeline and link-up benefits intended to make basic telecommunications services available to qualifying individuals and households under specified public assistance programs or income-based criteria. Lifeline and linkup have also been known in New Mexico as low-income telephone assistance programs or "LITAP."
[17.11.11.6 NMAC - N, 11-15-10]

17.11.11.7 DEFINITIONS:

- A. Applicant** means an eligible customer of an eligible telecommunications carrier.
 - B. Carrier** means an entity that provides intrastate retail public telecommunications services or comparable retail alternative services in New Mexico.
 - C. Eligible telecommunications carrier ("ETC")** means a carrier that has been designated by the commission as eligible to receive disbursement from the state rural universal service fund or the federal universal service fund.
 - D. Federal poverty guidelines** means the poverty guidelines issued each year by the federal health and human services department and published in the federal register.
 - E. Income** means all income actually received by all members of the household. This includes salary before deductions of taxes, public assistance benefits, inheritances, alimony, child support payments, workers' 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.
 - F. Responsible agency** means the state government agency or other entity designated by the commission to administer the certification, verification and continued verifications of lifeline enrollment.
- [17.11.11.7 NMAC - N, 11-15-10]

17.11.11.8 ELIGIBILITY REQUIREMENTS:

- A. Program-Based Criteria.** All ETCs shall provide lifeline and linkup benefits to any applicant who self-certifies, under penalty of perjury, that his or her household is eligible for public assistance under one or more of the following programs:
 - (1) temporary assistance to needy families (TANF);
 - (2) food stamps;
 - (3) low income home energy assistance program (LIHEAP);
 - (4) medicaid;
 - (5) supplemental security income;
 - (6) national school lunch program; or

(7) federal public housing assistance.

B. Income Based Criteria. All ETCs shall provide lifeline and linkup benefits to any applicant who certifies, with supporting documentation and under penalty of perjury, that his or her household income is at or below 150 percent of the applicable federal poverty guidelines upon annual publication by the U.S. department of health and human services in the federal register.

(1) Income-based eligibility is based, in part, on household size. Therefore, an applicant must certify, under penalty of perjury, the number of individuals residing in his or her household.

(2) An applicant must certify, under penalty of perjury, that the documentation supporting income-based certification accurately represents the applicant's annual household income. The following documents, or any combination of these documents, are acceptable to support certification based upon income:

(a) prior year's state, federal or tribal tax returns;
(b) current year-to-date earnings statement from an employer or three consecutive months of paycheck stubs;

(c) social security administration statement of benefits;

(d) veteran's administration statement of benefits;

(e) retirement/pension statement of benefits;

(f) unemployment/workers' compensation statement of benefits;

(g) federal or tribal notice of participation in bureau of Indian affairs general assistance; or

(h) divorce decree or child support wage assignment statement.

C. Application. The application form for participation in lifeline and linkup benefits shall be available from each ETC, the commission's consumer relations division, and the responsible agency, if one has been designated by the commission. Each completed application shall contain the following information, where applicable:

(1) applicant's name, telephone number and home address;

(2) the particular public assistance program(s), if applicable, and identification of the ETC that the applicant anticipates will provide service;

(3) an affirmative statement that the applicant qualifies for lifeline or linkup benefits;

(4) an affirmative statement under penalty of perjury affirming that the applicant is participating in one of the programs listed in Subsection A of 17.11.11.8 NMAC, or a statement under penalty of perjury affirming that the applicant's household income is at or below 150 percent of the federal poverty guideline; and if the application is based on income criteria, a statement under penalty of perjury that identifies the number of individuals residing in the household and affirms that the documentation presented to support income-based eligibility accurately represents the applicant's household income;

(5) the following affirmative statement under penalty of perjury that the applicant is not receiving lifeline benefits of any kind on any other telephone or wireless account: "I agree to notify (name of carrier) when I no longer participate in any of the above qualifying public assistance programs or when there has been a change in the size or income level of my household. I certify under penalty of perjury the above information and attached documentation are true and that I and no one else is receiving lifeline benefits at this address, on either a telephone or wireless telephone account"; and

(6) the applicant's signature.

D. Document Retention. The ETC or responsible agency shall retain eligibility applications for three (3) calendar years.

E. Tribal Land Lifeline and Linkup Benefits. Customers who live on tribal lands and who qualify for state lifeline and linkup benefits based on the program or income criteria set forth in Subsections A and B of 17.11.11.8 NMAC are eligible to receive prescribed federal benefits. Such federal benefits are not within the scope of, nor governed by, this rule.

[17.11.11.8 NMAC - N, 11-15-10]

17.11.11.9 CONTINUING ELIGIBILITY:

A. Annual Verification. The continuing eligibility of customers for lifeline benefits shall be verified annually.

B. Verification Methods. The ETC or responsible agency shall verify the continued eligibility of lifeline customers under the program-based and income-based eligibility criteria. The ETC or responsible agency shall establish methods by which program-based and income-based eligibility shall be verified on an annual basis including, but not limited to, self-certification, reviews of state computer data bases, beneficiary audits, income documentation, or the continued eligibility of a statistically valid sample of lifeline customers.

C. Restoration Of Service And Payment Plans. ETCs must restore service for any customer who has had telephone service discontinued for nonpayment of basic service charges, provided that the customer was not a participant in LITAP at the time of discontinuance, but now qualifies. The ETC must also make a reasonable payment arrangement allowing six months for payment for past due basic service charges.

D. Termination Notices and Dispute Resolution. If a customer fails to establish continued eligibility, the ETC or responsible agency shall notify the customer of its intent to discontinue the customer's eligibility and the basis for that decision.

(1) The eligibility termination notice shall be in writing and shall be delivered to the customer's mailing address.

(2) The eligibility termination notice must allow the customer at least 60 days to demonstrate continued eligibility consistent with the rule. The customer's participation in lifeline service may not be discontinued during this 60-day period.

(3) The eligibility termination notice shall include a statement advising the customer of the option to continue local telephone service after termination of lifeline service benefits at the non-discounted rate.

(4) If the customer fails to provide proof of continued eligibility as required, or the ETC or responsible agency does not accept the customer's proof of continued eligibility, the ETC or responsible agency shall notify the customer in writing of its determination to discontinue the customer's participation in lifeline benefits. The notice shall include instructions for filing an appeal of the determination.

(5) If the customer disputes the non-eligibility determination, he or she shall notify the ETC or responsible agency. If the customer is still unable to resolve the dispute, he or she may appeal a non-eligibility determination within sixty (60) days of the date of the notice from the ETC or responsible agency by filing a written notice of appeal with the commission. Lifeline benefits will continue pending an appeal of a non-eligibility determination.

(6) An appeal pursuant to this rule shall be addressed by the commission consistent with the complaint procedures set forth in the commission's Consumer Protection rule (17.11.16 NMAC).

[17.11.11.9 NMAC - N, 11-15-10]

17.11.11.10 LIFELINE AND LINKUP BENEFITS:

A. Benefits. Lifeline benefits provided by ETCs shall consist of basic service, or its functional equivalent, and usage charges, less a discount of not less than \$3.50 and any other lifeline benefits established by the federal communications commission. ETCs shall provide linkup benefits in accordance with the federal linkup program utilizing the eligibility criteria set forth in Subsections A and B of 17.11.11.8 NMAC.

B. Deposits. When customer security deposits are otherwise required, they will be waived for lifeline service customers if the customer voluntarily elects to receive toll blocking.

C. Nonrecurring Charge Waiver. Lifeline customers will receive a waiver of the nonrecurring charge for changing the type of local exchange usage service to lifeline, or changing from flat rate service to message rate service, or vice versa, but only one such waiver shall be allowed during any 12-month period.

D. Termination. Lifeline benefits shall not be terminated for nonpayment of toll service.

E. Restrictions. A lifeline customer may receive lifeline and linkup benefits only for the customer's principal service line. Lifeline and linkup benefits are not available for service lines used for business purposes.

F. Other Services. A lifeline customer will not be required to purchase other services from the ETC, nor prohibited from purchasing other services, either separately or in a bundle with lifeline supported services, unless the customer has failed to comply with the ETC's terms and conditions for those services.

[17.11.11.10 NMAC - N, 11-15-10]

17.11.11.11 FUNDING OF LIFELINE AND LINKUP BENEFITS:

A. Reporting Requirements. All ETCs seeking cost recovery shall submit to the commission a monthly report, on or before the 15th day of each month, containing a description of the ETC's lifeline and linkup benefits. The report shall contain monthly information on:

(1) the foregone revenue resulting from the discounts provided to lifeline customers;

(2) the amounts of administrative, advertising, voucher and other lifeline and linkup expenses, including only those administrative costs borne by the ETCs over and above what they have expended in connection with their federal universal service duties;

(3) interest accrual amounts on lifeline and linkup funds; and

(4) the number of lifeline customers.

B. Cost Recovery. The total cost of providing lifeline service, including the administrative costs of the ETCs as provided at Paragraph (2) of Subsection A of 17.11.11.11 NMAC, and the costs incurred by the responsible agency, shall be recovered and funded from the state rural universal service fund pursuant to 17.11.10 NMAC.

C. ETC Payment. Within thirty (30) days after review and audit of an ETC's monthly report, the administrator of the state rural universal service fund shall disburse an amount equal to the ETC's lifeline and linkup expenses as provided in this rule, plus lifeline discounts up to \$3.50 per lifeline subscriber.
[17.11.11.11 NMAC - N, 11-15-10]

HISTORY OF 17.11.11 NMAC: [RESERVED]