

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of an Investigatory Docket)
to review the Lifeline Program practices of)
American Broadband and Telecommunications)
Company d/b/a American Assistance)

File No. LO-2019-0154

**STAFF UPDATED PROGRESS REPORT AND
MOTION TO PROTECT PERSONAL INFORMATION**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its *Progress Report* in this matter states as follows:

1. The Commission on November 28, 2018, ordered an investigatory docket be opened to permit Staff to investigate American Broadband and Telecommunications Company d/b/a American Assistance (American) due to the issuance on October 23, 2018, by the Federal Communications Commission (FCC) of a Notice of Apparent Liability for Forfeiture (NAL) against American, alleging that American had committed repeated, systematic and large-scale violations of FCC rules governing the Lifeline Program. Staff conducted an investigation and submitted a progress report on May 31, 2019, but asked the Commission to permit it to continue its investigation and file additional information as necessary. Staff now files an *Updated Progress Report* containing additional information regarding its investigation.

2. The Commission granted American status as an eligible telecommunications carrier (ETC) on July 25, 2014 in Case No. RA-2014-0225, which permits it to participate in the federal Lifeline program. Staff has learned that American continues to be under an ongoing investigation by the FCC, for which no set timeline or procedural schedule has been set. Staff's Memo, attached here as Appendix A, outlines many incidences of American failing to produce required enrollment documentation and

enrolling subscribers with noncompliant proof of eligibility documentation. Appendix A also identifies many other areas of concern. As a result of its findings, Staff intends to file a separate complaint with the Commission asking that the Commission revoke American's ETC status.

3. Some of the information contained in Attachment A, attached to Staff's Memo, includes personal information of American's Lifeline Program subscribers and Company sensitive information regarding subscribers' numbers. Therefore, Staff moves that the Commission designate this information Highly Confidential to protect this sensitive information.

WHEREFORE, Staff prays that the Commission will accept this *Updated Progress Report*, designate certain personal subscriber information and subscribers' number information as highly confidential, which has been marked for convenience; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Whitney Payne

Whitney Payne

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 9th day of September, 2019, to all counsel of record.

/s/ Whitney Payne

MEMORANDUM

To: Official Case File
Case No. LO-2019-0154

From: John Van Eschen
Telecommunications Department

Subject: Staff Progress Report regarding American Broadband and Telecommunications
Company d/b/a American Assistance

Date: September 9, 2019

The Commission Staff's (Staff's) investigation was opened November 28, 2018 after the Federal Communications Commission (FCC) released a decision alleging American Broadband and Telecommunications Company d/b/a American Assistance is violating the Lifeline program rules.¹ Staff's Progress Report filed on May 31, 2019 describes Staff's investigation, basic information about American Assistance and its Missouri Lifeline operations and the status of the FCC's action. Staff's initial report also identifies several concerns. Subsequent analysis of company enrollment documentation reveals additional issues. Two main issues regarding the company's enrollment documentation records are:

- In response to Staff's request to see all of the company's Missouri enrollment documentation records, American Assistance failed to produce a significant number of records.
- Many American Assistance subscribers were enrolled using noncompliant proof of eligibility.

These issues will be discussed more thoroughly in this report but overall the number and scope of the incidents suggest American Assistance is not complying with Lifeline program requirements.

Staff requested the enrollment documentation records for all existing American Assistance subscribers.² Confidential Attachment A summarizes Staff's review of this documentation. This attachment identifies 135 specific subscribers with one or more documentation issues whereby at least one issue is serious enough to raise questions as to whether the subscriber should have been

¹ Notice of Apparent Liability for Forfeiture and Order; File No. EB-IHD-17-00023554; NAL/Acct. No.: 201932080001; In the Matter of American Broadband & Telecommunications Company Jeffrey S. Ansted; FCC 18-144; released October 24, 2018.

² Staff Data Request (DR) No. 32 requested enrollment documentation for all subscribers identified in response to Staff DR No. 3. DR 3 asked for a list of American Assistance's current Missouri Lifeline subscribers whereby the company's response listed each existing Lifeline subscriber..

enrolled into the Lifeline program. It should be noted American Assistance recently acknowledged 36 of its Missouri Lifeline subscribers do not have valid proof of eligibility.³ These 36 subscribers are highlighted in Attachment A.

Lifeline Subscriber Documentation Issues

Lack of documentation

FCC rules require a company participating in the Lifeline program to maintain certain documentation:⁴ This documentation includes a copy of a subscriber's enrollment form, household worksheet (as appropriate) and a copy of proof of eligibility for subscribers enrolled on or after February 17, 2016.⁵ The company failed to provide, in response to data request No. 32, certain documentation for 80 subscribers as shown below:⁶

Number of subscribers	Enrollment form	Proof of eligibility
42	None	None*
9	None	Yes
29	Yes	None**

**Absent an enrollment form it is unclear when the subscriber enrolled and whether proof of eligibility should be retained.*

***These subscribers all enrolled on or after February 17, 2016 and consequently proof of eligibility should have been retained.*

American Assistance's failure to provide this documentation violates FCC rule 54.417(a).

Proof of eligibility is not compliant

The proof of eligibility obtained by American Assistance is not compliant with Lifeline qualifying criteria for 24 subscribers. This problem primarily pertains to the Missouri HealthNet qualifying criteria whereby a subscriber's proof of eligibility is a copy of a Gateway health insurance card. This type of insurance card is not acceptable because it does not demonstrate the customer is a current Missouri HealthNet participant.⁷

³ American Broadband and Telecommunications Company d/b/a American Assistance's Supplemental Responses to Staff 5th Set of Data Requests; Case No. LO-2019-0154; July 25, 2019.

⁴ §54.417(a) states ETCs must maintain records to document compliance with all Commission and state requirements governing the Lifeline program for as long as the subscriber receives Lifeline service from the ETC but for no less than the three full preceding calendar years. This rule also identifies the types of acceptable documentation.

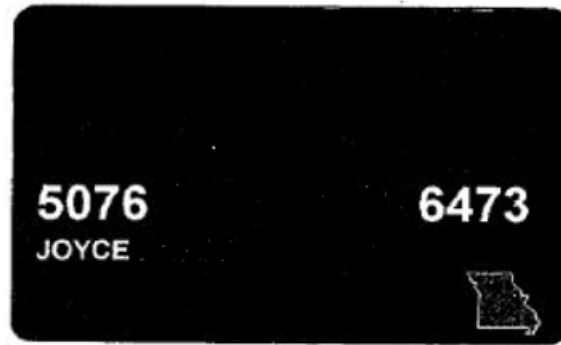
⁵ A company was not allowed to maintain a copy of a subscriber's proof of eligibility prior to this date. The FCC changed this policy in the FCC's Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order; WC Docket No. 11-42 et al; In the Matter of Lifeline and Link Up Reform and Modernization; FCC 15-71; released June 22, 2015; ¶224-232.

⁶ To simplify Staff's review of enrollment documentation, Staff's analysis did not include reviewing household worksheets.

⁷ American Assistance has recently acknowledged such proof is not compliant and has already asked 20 of these subscribers to resubmit acceptable proof of eligibility.

Proof of eligibility is questionable

Staff found it difficult to determine whether the proof of eligibility documentation for 9 subscribers meets acceptable compliance standards.⁸ Five subscribers claiming eligibility via the food stamp program have proof consisting of a dark, nondescript card as shown below:⁹



Two other subscribers claiming eligibility through the food stamp program submitted unusual forms to American Assistance. The two forms may be associated with the Missouri food stamp program but were difficult to assess. A subscriber claiming eligibility for Missouri HealthNet has a MO HealthNet Action Notice. This notice simply indicates the state of Missouri will pay the consumer's Medicare Part B premium and will not be issuing a medical card. One subscriber claiming eligibility through the Veterans Pension or Survivors Pension program has proof consisting of a Veterans healthcare card and printout showing monthly benefits for an unspecified program. Although it is possible all of these 9 subscribers may qualify for the Lifeline program, Staff is singling these subscribers out as examples of subscribers for which Staff is unable to confirm the applicant's eligibility.

Proof of eligibility documentation differs from the criteria indicated by applicant on enrollment form

American Assistance provided proof of eligibility documentation for 7 subscribers that is different than the criteria selected by the applicant on the enrollment form. For example, several enrollment forms indicate the applicant qualifies for the Lifeline program due to participating in the Supplemental Security Income (SSI) program; however, the proof of eligibility is a letter from

⁸ Acceptable proof of eligibility guidelines are listed on USAC's website at <https://www.usac.org/li/program-requirements/verify-eligibility/program-eligibility.aspx>. In general if presented with unusual proof Staff is looking for the proof to somehow identify (1) the name of the program, (2) the applicant's name and (3) a date of issue or expiration date. (Note: The electronic benefits transfer (EBT) card used by Missouri food stamp recipients do not have any dates or identify the SNAP program but nevertheless Staff has accepted a Missouri EBT card as valid proof for the food stamp program.)

⁹ To maintain confidentiality the person's last name and several numbers of a 12 digit number are removed.

Social Security that doesn't reflect SSI.¹⁰ One subscriber indicated they qualified under the food stamps criteria but the proof of eligibility documentation is a Missouri HealthNet card. Such instances could be considered careless administration by American Assistance in not recognizing the discrepancy in the proof provided versus the criteria selected on the enrollment form. Such instances could also be classified as the applicant providing false information if the applicant doesn't actually participate in the program indicated on the enrollment form.¹¹

Failed to sign enrollment form

Two subscribers failed to sign their respective enrollment forms. These two subscribers also did not attempt to use an electronic signature, which is another permissible method for signature. Failure to sign an enrollment form can be considered a violation of FCC rule §54.410 in that the applicant has failed to attest that the information contained in the enrollment form is true and correct and failed to acknowledge that providing false or fraudulent information to receive Lifeline benefits is punishable by law.¹²

Enrollment form lacks any indication an American Assistance official saw proof of eligibility

Five subscribers enrolled prior to February 17, 2016 but their enrollment form lacks any indication that an American Assistance official saw the applicant's proof of eligibility. This type of situation may specifically violate Missouri Commission rule 4 CSR 240-31.120(5)(C)4 which reads, "The ETC shall provide a method, whether on the form or in another format, to allow commission staff, upon request, to easily verify that the customer is providing, and the ETC is reviewing appropriate documentation of customer eligibility."¹³ This type of situation may also violate recordkeeping requirements of §54.417 whereby the FCC has indicated "...Rather, pursuant to section 54.417 of our rules, the ETC or its representative should establish policies and procedures to review such documentation and must keep accurate records detailing how the consumer demonstrated his or her eligibility...."¹⁴ Unless American Assistance can provide additional documentation that acceptable proof of eligibility was reviewed, it appears the company is noncompliant in documenting that acceptable proof of eligibility was provided by the applicant.

¹⁰ Such proof of eligibility documentation may be appropriate for Lifeline's income-based criteria but not for the program-based criteria of SSI.

¹¹ Providing false or fraudulent information to receive Lifeline benefits is punishable by law according to FCC rule §54.410(d)(3)vii.

¹² Report and Order and Further Notice of Proposed Rulemaking; WC Docket No. 11-42 et al; In the Matter of Lifeline and Link Up Reform and Modernization; FCC 12-11; released February 6, 2012; ¶115. (*FCC's 2012 Lifeline Reform Order*).

¹³ This rule was in effect from April 30, 2014 to December 30, 2018.

¹⁴ FCC's 2012 Lifeline Reform Order; ¶101.

Enrollment form is not compliant by failing to ask if applicant's address is permanent or temporary

Two enrollment forms were formatted completely different from other forms and do not ask whether the applicant's address is permanent or temporary. FCC rule §54.410(d)(2)(iii) requires such information.¹⁵

Many completed enrollment forms inserted generic telephone numbers for applicants

Attachment A reflects 28 subscribers whereby the completed enrollment form inserted a generic telephone number for an applicant. The telephone number is noticeable because it typically repeats the same digit (i.e., (555) 555-5555, (222) 222-2222, (314) 111-1111 and so forth) and the same telephone number may be used for several subscribers. These generic telephone numbers, if called, are nonworking telephone numbers. A very large number of enrollment forms contain these generic telephone numbers; however, Attachment A only reflects subscribers with this issue if the subscriber also has other documentation issues. Stated differently, a subscriber is not listed in Attachment A if Staff found no other issues with the subscriber's enrollment documentation. It is unclear why generic nonworking telephone numbers were inserted into enrollment forms because such information can be left blank. The fact such information has been inserted reflects a violation of FCC rules.¹⁶ Applicants are required to indicate the information on the form is true and correct to the best of his or her knowledge. In addition, all enrollment forms require the applicant to acknowledge that providing false or fraudulent information to receive Lifeline benefits is punishable by law. All enrollment forms with generic telephone numbers were signed by the applicants.

Some applicant names on enrollment forms are prefaced with additional letters

Staff observed 7 enrollment forms where the form was electronically filled-out but the applicant's first name is prefaced with additional letters (i.e., tp Cheryl, Cb William, Tp Cb Mary, tp Charles). Inserting extra letters into an applicant's first name creates potential confusion. As previously pointed out for the prior issue, it is a violation of FCC rules to insert untrue information onto the enrollment form.

American Assistance fails to consistently use the name "American Assistance"

Although not specified in Attachment A, many of American Assistance's enrollment forms solely use the name American Broadband. The company's extensive use of this name is a problem

¹⁵ FCC 2012 Lifeline Reform Order; ¶89 states, "...we adopt a rule requiring ETCs to inquire on their Lifeline application forms whether the applicant's address is a temporary one. If it is the ETC must verify with the subscriber every 90 days that he/she continues to rely on that address...."

¹⁶ §54.410(d)(3)(vi) and (vii).

because the Missouri Commission granted ETC status to the company based on the condition the company would do business solely as American Assistance.¹⁷ This condition was specifically addressed in the Commission's order after two companies, who already conduct business as American Broadband, filed to intervene in the company's ETC application case. The condition is also consistent with a Missouri Commission rule requiring a company to only do business using the name under which the Commission grants ETC designation.¹⁸

Status of the FCC's case with American Assistance

The FCC's case against American Assistance remains open and unresolved. Few filings have been entered in the docket since the FCC released its Notice of Apparent Liability on October 25, 2018. The company petitioned the FCC on November 14, 2018 asking the FCC to reconsider denying the company's request for confidentiality. The company filed a response to the FCC's NAL in January 2019 objecting to the financial penalties. A procedural schedule has not been established but the company states it has, "...met with FCC and DOJ personnel to exchange information and discuss the resolution of the Notice of Apparent Liability for Forfeiture and Order. These discussions remain ongoing."¹⁹ An on-going Staff data request requests American Assistance provide copies of any new filings made in the case.²⁰

The National Verifier will eventually independently verify the eligibility of all existing Lifeline subscribers

The National Verifier became fully operational in Missouri in March 2019. The full implementation of the National Verifier means all completed enrollment forms are now routed to USAC who reviews a completed enrollment form and independently verifies the eligibility of a new Lifeline applicant. One aspect of implementing the National Verifier in a state is USAC will also independently verify the eligibility of all existing Lifeline subscribers. USAC refers to this process as "reverification". Staff anticipates USAC's reverification process will result in the de-enrollment of any existing American Assistance Lifeline subscriber unable to prove eligibility. In this regard, some of the enrollment eligibility issues Staff has presented in this memorandum should eventually get addressed, whereby existing Lifeline subscribers without valid proof of eligibility will be de-enrolled.²¹ In addition, the National Verifier should make it much more

¹⁷ Order Granting Amended Application; RA-2014-0225; Application of American Broadband and Telecommunications Company for Designation as an Eligible Telecommunications Carrier for the Purpose of Offering Lifeline Service on a Wireless Basis; June 25, 2014.

¹⁸ 4 CSR 240-31.015(1)(A). This same requirement was present in Commission rules during the 2014 to 2018 time period as 4 CSR 240-31.130(1)(D)2.

¹⁹ American Assistance response to Staff Data Request No. 17.

²⁰ Staff Data Request No. 18.

²¹ In June 2019 Staff contacted USAC to see if they can provide reverification results for Missouri on a company-specific basis. USAC indicated they will consider Missouri's request. USAC also indicated the end of reverification is still months away for Missouri.

difficult for any company to defraud the program by enrolling consumers that don't meet eligibility criteria.

Recommendation

The compliance issues revealed by this investigatory docket are consistent with the FCC's general finding that American Assistance is not complying with Lifeline program requirements. Given the current uncertainty of when the FCC's proceeding will be resolved, Staff recommends that state action is needed to more quickly address American Assistance's failure to comply with Lifeline program requirements. Staff intends to file a separate formal complaint against American Assistance to address the compliance issues raised during this investigation. The main purpose of the complaint will be to ask the Missouri Commission to revoke American Assistance's status as an ETC.²² Staff's complaint may also seek other Missouri Commission action.

Attachment A: List of subscribers with compliance documentation issues.

²² State commissions have the authority to revoke ETC status. See FCC 2012 Lifeline Reform Order; ¶299 where the FCC states, "...Finally, ETCs are subject to revocation of their ETC designation, by either the relevant state commission or this Commission, for failure to comply with program requirements."