

EXHIBIT "A"

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

DEC 17 1997
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)
INTO THE LIFELINE AND LINK UP)
PROGRAMS)

FINAL ORDER AND
DECISION; NOTICE OF
ENTRY OF DECISION
TC97-150

At its August 18, 1997, regularly scheduled meeting, the Public Utilities Commission (Commission) voted to open a docket concerning the Federal Communications Commission's (FCC's) Report and Order on Universal Service regarding the Lifeline and Link Up programs. In its Report and Order, the FCC decided that it would provide for additional federal support in the amount of \$1.75, above the current \$3.50 level. However, in order for a state's Lifeline consumers to receive the additional \$1.75 in federal support, the state commission must approve that reduction in the portion of the intrastate rate paid by the end user. 47 C.F.R. § 54.403(a). Additional federal support may also be received in an amount equal to one-half of any support generated from the intrastate jurisdiction, up to a maximum of \$7.00 in federal support. 47 C.F.R. § 54.403(a). A state commission must file or require the carrier to file information with the administrator of the federal universal service fund demonstrating that the carrier's Lifeline plan meets the criteria set forth in 47 C.F.R. § 54.401.

By order dated August 28, 1997, the Commission allowed interested persons and entities to submit written comments concerning how the Commission should implement the FCC's rules on the Lifeline and Link Up programs. In their written comments, interested persons and entities commented on the following questions:

1. Whether the Commission should approve intrastate rate reductions to allow consumers eligible for Lifeline support to receive the additional \$1.75 in federal support?
2. Whether the Commission should set up a state Lifeline Program to fund further reductions in the intrastate rate paid by the end user?
3. Whether the Commission should modify the existing Lifeline or Link Up Programs?
4. Shall the Commission file or require the carrier to file information with the administrator of the federal universal service fund demonstrating that the carrier's Lifeline plan meets the criteria set forth in 47 C.F.R. § 54.401(d)?

By order dated October 16, 1997, the Commission set public hearings to receive public comment on the questions listed above. The hearings were held at the following times and places:

RAPID CITY: Monday, October 27, 1997, 1:00 p.m., Canyon Lake Senior Citizens Center, 2900 Canyon Lake Drive, Rapid City, SD

PIERRE:

Tuesday, October 28, 1997, 1:30 p.m., State Capitol Building, Room 412, 500 East Capitol Avenue, Pierre, SD

SIOUX FALLS:

Wednesday, October 29, 1997, 9:00 a.m., Center for Active Generations, 2300 West 46th, Sioux Falls, SD

At its November 7, 1997, meeting, the Commission ruled as follows: On the first issue, the Commission authorized intrastate rate reductions to allow eligible consumers to receive the additional \$1.75 in federal support. With respect to the second issue, the Commission decided to not set up a state Lifeline program to fund further reductions at this time. On the third issue, the Commission eliminated the existing TAP program that requires U S WEST and carriers that have purchased U S WEST exchanges to fund a \$3.50 reduction of local rates to low income customers age 60 and over. The Commission further ruled that the South Dakota Link Up program follow the FCC rules. In addition, the Commission ordered that staff, in consultation with the carriers, develop a standard form for self-certification; that these forms be sent to all of their customers prior to January 1, 1998, and thereafter, to all new customers; and that the carriers make the forms available to any person or entity upon request. On the fourth issue, the Commission ruled that the carrier be required to file with the FCC the information demonstrating that the carrier's plan meets the applicable FCC criteria and that the carrier send an informational copy to the Commission. Further, that the carriers include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

Based on the written comments and evidence and testimony received at the hearings, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

The current state Lifeline program is referred to as the Telephone Assistance Plan (TAP). The current state Link Up program is referred to as the Link Up America program. The Commission implemented these programs in the U S WEST exchanges pursuant to its Decision and Order dated February 17, 1988, issued in Docket F-3703, In the Matter of the Investigation into Implementation of a Telephone Assistance Plan for South Dakota Customers. Exhibit 1 at page 1. Subsequent buyers of U S WEST exchanges were required to also offer the TAP and Link Up America programs. Id. at pages 1-2.

II

The amount of TAP assistance is \$7.00, \$3.50 of which is federally funded, with the remaining \$3.50 funded by the local telecommunications carrier. Id. at page 3. Although U S WEST was originally allowed to charge a surcharge to fund the program, U S WEST subsequently gave up that right in Docket F-3647-8, In the Matter of the Public Utilities Commission Investigation into the Effects of the 1986 Tax Reform Act on South Dakota Utilities. Exhibit 5. In order to receive the TAP assistance, a member of the household

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must be 60 years of age or older and participate in either the food stamp or the low-income energy assistance program. Exhibit 1 at page 2.

III

The Link Up America program provides assistance in an amount equal to one-half of the qualifying subscriber's telephone service connection charges up to a maximum of \$30.00. *Id.* at page 3. In order to receive Link Up assistance, a customer must be receiving either food stamps or low-income energy assistance, must not presently have local telephone service and must not have been provided telephone service at his or her residence within the previous three months, and must not be a dependent for federal income tax purposes (dependency criteria does not apply to those 60 years of age or older). *Id.* The Link Up program is funded entirely out of federal funds. *Id.*

IV

The FCC revised the current Lifeline and Link Up programs in CC Docket No. 96-45, In the Matter of Federal-State Joint Board on Universal Service, adopted May 7, 1997. Beginning January 1, 1998, the FCC found that the federal baseline Lifeline support will be \$3.50 per qualifying low-income consumer with an additional \$1.75 in federal support if the state commission approves a corresponding reduction in intrastate local rates. 47 C.F.R. § 54.403(a). Additional federal Lifeline support in an amount equal to one-half the amount of any state Lifeline support (not to exceed \$7.00) is also available. *Id.*

V

The FCC further found that the federal support for Link Up will continue to be a reduction in the telecommunications carrier's service connection charges equal to one half of the carrier's customer connection charge or \$30.00, whichever is less. 47 C.F.R. § 54.413(b).

VI

Pursuant to the FCC's rules, if there is no state Lifeline or Link Up program, a consumer is eligible for support if the consumer participates in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or the Low-Income Home Energy Assistance Program. 47 C.F.R. §§ 54.409(b) and 54.415(b). In addition, if there is no state Lifeline or Link Up program, a customer must certify under penalty of perjury that the customer is receiving benefits from one of the programs listed above and agrees to notify the carrier if the customer ceases to participate in such program or programs. *Id.*

VII

The first issue is whether the Commission should approve intrastate rate reductions to allow consumers eligible for Lifeline support to receive the additional \$1.75 in federal

support. The Commission finds that it shall authorize intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support. Thus, the total amount of federal support is \$5.25 per eligible customer.

VIII

The second issue is whether the Commission should set up a state Lifeline program to fund further reductions in the intrastate rate paid by the end user. The Commission finds it will not set up a state Lifeline program to fund further reductions at this time.

IX

The third issue is whether to modify or eliminate the existing Lifeline program or Link Up program. With respect to the existing Lifeline program, the Commission finds that it shall eliminate the existing TAP program that requires U S WEST and carriers that have purchased U S WEST exchanges to fund a \$3.50 reduction of local rates to low income customers age 60 and over. The Commission further finds that the South Dakota Lifeline and Link Up programs shall follow the FCC rules. See 47 U.S.C. §§ 54.400 to 54.417. The effect of following the FCC rules and not instituting further state funded reductions is that the FCC eligibility requirements and self-certification requirements will apply to the South Dakota Lifeline and Link Up programs. In addition, the Commission orders that the Commission staff, in consultation with the carriers, develop a standard form for self-certification. The carriers shall send these forms to each customer prior to January 1, 1998. The carriers shall also send a form to each of their new customers. Finally, the carriers shall make the forms available to any person or entity upon request.

X

The fourth issue is whether the Commission should file, or in the alternative, require the carrier to file information with the fund administrator. See 47 C.F.R. § 54.401(d). The Commission finds the carriers shall be required to file that information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also be required to include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-1.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, 49-31-12.1, 49-31-12.2 and 12.4, and 47 C.F.R. §§ 54.400 to 54.417.

II

Pursuant to 47 C.F.R. § 54.403(a), the Commission authorizes intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support.

III

The Commission declines to institute a state Lifeline program to fund further reductions at this time. The existing South Dakota Lifeline and Link Up programs shall be modified to follow the FCC rules found at 47 U.S.C. §§ 54.400 to 54.417, inclusive, on January 1, 1998. The Commission staff, in consultation with the carriers, shall develop a standard form for self-certification. The carriers shall send these forms to each customer prior to January 1, 1998. The carriers shall also send a form to each of their new customers. Finally, the carriers shall make the forms available to any person or entity upon request.

IV

Pursuant to 47 C.F.R. § 54.401(d), the Commission finds the carriers shall be required to file that information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also be required to include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

It is therefore

ORDERED, that the Commission authorizes intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support; and it is

FURTHER ORDERED, that the Commission will not set up a state Lifeline program to fund further reductions at this time; and it is

FURTHER ORDERED, that the Commission shall eliminate the existing TAP program; that the South Dakota Lifeline and Link Up programs follow the FCC rules; that the Commission staff, in consultation with the carriers, develop a standard form for self-certification; that the carriers shall send these forms to all of their customers prior to January 1, 1998; that the carriers shall also send a form to each of their new customers; and that the carriers make the forms available to any person or entity upon request; and it is

FURTHER ORDERED, that the carrier shall file with the FCC the information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

Dated at Pierre, South Dakota, this 18th day of November, 1997.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By

Mildred Kalbs

Date

11/18/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner