

COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®  
TO THE PUERTO RICO TELECOMMUNICATIONS BOARD'S  
PROPOSED UNIVERSAL SERVICE REGULATION  
JRT-2016-ARP-0001

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COMMONWEALTH OF PUERTO RICO  
PUERTO RICO TELECOMMUNICATIONS BOARD

PUERTO RICO UNIVERSAL SERVICE REGULATION

1. Legal basis

This Regulation is adopted in accordance with the Puerto Rico Telecommunications law of 1996, Act 213-1996 (hereinafter, Act 213), and the Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico, Act No. 170 of 12 August 1988, as amended (hereinafter, UAPA).

The provisions of this Regulation shall be consistent with the Communications Act of 1934, as amended (hereinafter, ~~Federal Law on Communications~~Federal Communications Act) and with the applicable regulations and orders ~~applicable~~ promulgated by the Federal Communications Commission (hereinafter, FCC, by its acronym in English).

**[CTIA COMMENT]:** With respect to section 2, below, the citation therein to Sec. 2.20 of the UAPA references the use of guiding documents by an agency to interpret statutes and establish guidelines. These guiding documents are not subject of the rulemaking framework. Prior to its amendment, Sec. 2.20 (now, Sec. 2.17) stated: *The regulations approved by any agency by virtue of any federal law or by virtue of a delegation of authority by a federal official shall be governed in everything connected to their approval, procedures, promulgation and implementation as provided in applicable federal legislation.*

Comparatively, the Federal Communications Act, under section 254(f), grants authority to any state to adopt “regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.” Such delegation authorizes the Board to establish regulations under the UAPA, thus, rendering unnecessary reference to section Sec. 2.20 (now, Sec. 2.17). Act 213 similarly grants the Board such authority.

The referenced UAPA section is not applicable to the rulemaking procedures, thus, we suggest deleting the reference in paragraph 5 of section 2, above, and replacing it with citations to the Federal Communications Act and Act 213, which expressly grant the Board the authority to adopt this type of regulation.]

## 2. Purpose and Scope

The universal service program, created by Sec. 254 of the Federal Communications ~~Law~~Act, aims to provide telecommunication services of comparable quality to all citizen segments, irrespective of their economic status or geographical location. 47 USC § 254. This statute allows states to adopt regulations to preserve and promote universal service, provided they are not inconsistent with the rules of the Federal Communications Commission (FCC). Under this legal framework~~palium~~, the ~~Puerto Rico Telecommunications Law~~, Act 213, is adopted, which states in its Article III-7 of 27 L.P.R.A. § 269e, the parameters for the creation of the Puerto Rico Universal Service Fund (PR-USF). Act 213 empowers the Telecommunications Regulatory Board (Board) to designate eligible telecommunications companies (ETCs) to provide universal service in Puerto Rico. In addition, it is the Board that establishes the mechanisms for telecommunications companies to contribute on an equitable and non-discriminatory basis to the preservation and development of the universal service in Puerto Rico.

The Board adopted its first *Universal Service Regulation* on February 17, 1998, Regulation Number 5757, which was subsequently repealed by the *Universal Service Regulation*, Regulation Number 7795, approved on January 14, 2010. ~~This in turn was amended by the Provisional Amendments to the Universal Service Regulation, Regulation No. 8093, approved on October 21, 2011~~The Provisional Amendments to the Universal Service Regulation, Regulation No. 8093, approved on October 21, 2011, in turn, amended Regulation 7795.

The Lifeline program provides a monthly benefit on home or wireless phone and broadband service to eligible households. The monthly benefit under the program is subsidized by the Federal Universal Service Fund (FUSF) created by the FCC, and the Puerto Rico Universal Service Fund (PRUSF) created by the Board, pursuant to Administrative Order JRT-2001-SU-0003, dated December 14, 2001.

~~On December 14, 2001, the Board created the Lifeline program through Administrative Order JRT 2001 SU 0003, where the discount on the telephone service would be subsidized by the PR-USF Universal Service Fund of Puerto Rico and by the Federal Universal Service Fund (F USF) created by the FCC, to provide consumers who qualify under the provisions adopted by federal regulations and our regulations.~~

Recognizing the importance of access to broadband services for the social and economic development of citizens, the FCC has modernized the rules of the *Lifeline* program to extend

universal service support to broadband services. With the *2015 Lifeline Reform Order*<sup>1</sup> and the *2016 Lifeline Upgrade Order*,<sup>2</sup> the FCC restructures and modernizes the *Lifeline* program to facilitate broadband access for low-income individuals, strengthen program supervision and management, and take additional measures to eliminate waste, fraud and abuse. This Regulation is intended to conform the universal service regulations of the Board with federal regulatory universal service reforms, including, but not limited to, the Lifeline Reform Order of 2015 and Lifeline Modernization Order of 2016.

Under the federal reform of the *Lifeline* program, the FCC reserves the jurisdiction to designate ETCs that will only be Broadband Internet Access Service (BIAS) providers, called *Lifeline Broadband Providers* (LBP), and the Board retains jurisdiction to designate ETCs interested in providing Lifeline voice services, ~~combined voice services and BIAS~~, or interested in receiving support from PR-USF. In such discharge of authority, the Board has to ensure that the requesting company has the technical and financial capacity to provide the services, including access to 911 and E911, emergency operation capability, and commitment to ~~consumer~~ **Beneficiary** protection and quality of service.

This Regulation is adopted in accordance with UAPA Article II-7 (a) of Act 213, as amended, and section 254(f) of the Federal Communications Act Sec. 2-20 to adjust our ~~establishing the regulatory framework for universal service, including Lifeline, in Puerto Rico and supersedes all prior universal service rules and incompatible orders of the Board. 2015 and Lifeline Modernization Order of 2016. to the federal regulatory reform of the Lifeline program instituted through the 2015 Lifeline Reform Order and the 2016 Lifeline Upgrade Order.~~

### 3. Definitions

**[CTIA COMMENT:** To the extent that this Regulation uses terms that are defined in the FCC Rules, as amended, we suggest incorporating those meanings in section 3, below, by referencing the specific citations to the FCC rules. This will ensure consistency between the local rules and the precise language used in federal definitions. We also suggest using the term “as amended from time to time” for each of the citations to federal law and FCC regulations incorporated into the definitions. This will ensure that the local regulation will be automatically updated whenever the FCC updates its definitions, thereby facilitating the industry and this Board’s goal of maintaining this Regulation at par with the FCC Rules.]

As used in this Regulation, the following terms shall be defined as follows:

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<sup>1</sup> *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015); FCC 15-71.

<sup>2</sup> *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016); FCC 16-38.

- a) ~~Local Incumbent Local Commodity Exchange Carrier:~~ The term “Incumbent Local Exchange Carrier” shall mean Puerto Rico Telephone Company, Inc., as long as there is no effective competition in the market, and consistent with 47 U.S.C. Section 251 (h), as amended from time to time.
- b) Commercial Carrier of Mobile Radio Service: The term “Commercial Carrier of Mobile Radio Service” shall mean any person who is engaged in the provision of rendering commercial mobile radio service (CMRS) as defined in 47 U.S.C. § 332(c), as amended from time to time, by the Federal Communications Law.
- c) Administrator: The term “Administrator” shall refer to the person or entity person or entity that manages designated by the Board to manage the Universal Service Fund of Puerto Rico.
- d) ~~Beneficiary~~ Beneficiary: The term “Beneficiary” Client is a customer who meets the qualifications for receiving Lifeline, as specified in this Regulation.
- e) Cable Company: The term “Cable Company” means aAny person who owns, controls, operates or manages any plant, equipment and facilities that are used to receive, amplify, modify and distribute by coaxial cable, fiber optic, metal or of any kind, the signal originated by one or more television stations or programming service which is transmitted by wire, wireless, satellite or any other means. Excepted from this definition are signals that can be projected in cinemas or that are captured free of cost from satellites and are not broadcast outside the place where received.
- f) Eligible Telecommunications Company Carrier or (ETC): The term “Eligible Telecommunications Carrier” or “ETC” is a carrier designated as such A telecommunications company designated by the Board under this Regulation to provide Universal Service in Puerto Rico.
- g) Telecommunications Company: The term “Telecommunications Company” means aAny person who owns, controls, administers, operates, manages, supplies or resells, partially or totally, directly or indirectly, any telecommunications service in Puerto Rico, including access services to the network; provided that cable companies which provide telecommunications services shall be considered telecommunications companies for the purposes of this Regulation.
- h) FCC: The term “FCC” means the Federal Communications Commission created by the Federal-Federal Communications Law Act of 1934, or its successor in law as amended from time to time.
- i) Federal-State Joint Board on Universal Service or Joint Board: The terms “Federal-State Joint Board on Universal Service” or “Joint Board” mean a bBoard created

pursuant to Sec. 254(a) of the Federal Communications Act to make recommendations on ~~the implementation of the~~ universal service policy, consisting of FCC representatives, state commissioners and a person representing Beneficiary consumer interests representative.

- j) Universal Service Fund of Puerto Rico, or the PRUSE: ~~The terms “Universal Service Fund of Puerto Rico” or “the PRUSE” mean~~ The fund established by the Board to develop and promote the Universal Service in Puerto Rico.
- k) Federal Universal Service Fund or the FUSF: ~~The term “Federal Universal Service Fund” or “the FSUF” mean~~ The fund established by the FCC to develop and promote Universal Service in all geographic areas of the United States, including Puerto Rico.
- l) Household: ~~Will. The term “Household” have~~ has the same meaning as the term “household” is defined in ~~in~~ FCC rules ~~Rule, 47 CFR § 54.400 (h), as amended from time to time.  
~~It refers to the individual or group of individuals who are living together in the same address as an economic unit. A household may include related and unrelated persons.~~~~
- m) Income: ~~The term “Income” For~~ for the purposes of the income eligibility determination ~~in~~ under Rule 12.3 of this Regulation, has the same meaning as the total household income shall have the meaning to ~~the term “Income” is defined in Section 54.400 (f) of the FCC R~~ rules, 47 CFR § 54.400 (f), as amended from time to time.
- n) Board: ~~The term “Board” means~~ The Telecommunications Regulatory Board of Puerto Rico, created by ~~the Puerto Rico Telecommunications Law, Act 213-1996~~ Act 213, as amended from time to time.

FCC Rules: ~~The term “FCC Rules” means the FCC regulations codified under the Federal Code of Regulations (C.F.R.) pursuant to the Federal Communications Act.~~

- o) Financial Board: ~~It shall mean~~ The term “Financial Board” means the Financial Board created ~~in~~ under Article 8 of the " Office of the Commissioner of Financial Institutions Act", Puerto Rico’s Act No. 4 of October 11, 1985, as amended (7 L.P.R.A. § 2008).
- p) Federal Communications Act: ~~The~~ United States Communications Act of 1934, as amended, Pub.L. 73-416, ~~and the regulations codified under the Federal Code of Regulations (CFR)~~
- q) **[CTIA COMMENT:** We recommend deleting this sub-section (q), as it duplicates sub-section (w) below.]

~~Guaranteed Access Service or Lifeline: Low income program as defined in FCC Rule 54.201, 47 CFR § 54.201.~~

- r) **National Lifeline Accountability Database or (NLAD):** ~~The term “National Lifeline Accountability Database” or “NLAD” has the same meaning as the term is defined in refers to the national database ETCs should use to verify the eligibility of potential beneficiaries and detection of duplicates, as established in~~ FCC Rules sections 54.400 (i) and 54.404, 47 CFR §§ 54.400 (i), 54.404, as amended from time to time.
- s) **National Lifeline Eligibility Verifier or National Verifier or- (NV):** ~~A-The term “National Lifeline Eligibility Verifier”, “National Verifier” or “NV” has the same meaning as the term is defined national data system established by the FCC to determine the eligibility of Lifeline subscribers as required by~~in FCC Rules sections 54.400 (o), 54.407 and 54.410, 47 CFR §§ 54,400 (o), 54,407, and 54,410, as amended from time to time.
- t) **Lifeline Broadband Provider -or (LBP):** ~~The term “Lifeline Broadband Provider” or “LBP” is a~~ FCC-designated ETC subcategory, which is only supported by Lifeline for Broadband Internet Access Service (BIAS).
- u) **Commercial Mobile Radio Service or -(CMRS; by its English acronym)** ~~The term “Commercial Mobile Radio Service” or “CMRS” has the same meaning as the term is defined in 47 CFR §20.9, as amended from time to time.A radio communication service that is carried out between mobile stations or receivers and land stations, or by mobile stations that communicate with each other, that is for profit and makes available to the general public the service that is connected to the public switched telephone network (PSTN, by its English acronym).~~
- v) **Broadband Internet Access Service or (BIAS):** ~~The term “Broadband Internet Access Service” or “BIAS” has the same meaning as the term is defined in FCC Rule 47 CFR §54.400 (l), as amended from time to time.Wired or wireless retail access service providing the ability to transmit and receive data from Internet platforms, including the ability to provide Communications or that are inherent to the communications service, except the dial up service.~~
- w) **Guaranteed Access Service or Lifeline:** ~~The terms “Guaranteed Access Service” or “Lifeline” have the same meaning as the term is defined in Low income program as defined in~~FCC Rule 54.4201, 47 CFR § 54.4201, as amended from time to time.
- x) **Intrastate -Telecommunications Service:** ~~The term “Intrastate Telecommunications Service” means t~~The voice Telecommunications Services that originate and terminate in Puerto Rico.
- y) **Telecommunications Service:** ~~The term “Telecommunications Service” has the same meaning as the term is defined in the FCC Rules, 47 CFR §54.5, as amended from time~~

~~the definition of “Universal Service” shall be the same as the definition of “Universal Service” in 47 U.S.C. § 254(c), as amended from time to time.~~

z) **Universal Service:** The term “Universal Service” has the same meaning as the term is defined in 47 U.S.C. §254(c), as amended from time to time.

~~A level of voice service, regardless of the platform being used, evolving within Puerto Rico, as established from time to time by the Board and the FCC. It shall include the services covered by Rule 5 of this Regulation and any other, which is subsequently adopted by this Board or by the FCC.~~

aa) **Interconnected VoIP Service, or ~~(Voice over Internet Protocol Service or VoIP):~~** “Interconnected VoIP Service” or “Voice over Internet Protocol Service” or “VoIP” has the same meaning as the term is defined in 47 C.F.R. §9.3 and is generally considered a service that enables bilateral voice communications, in real time, requiring a broadband connection from the user's location, and subscriber's equipment or terminal compatible with the Internet Protocol, allowing users to receive calls originating from the public switched telephone network (PSTN) as well as to terminate calls on that network; provided that this is consistent with 47 C.F.R. § 9.3, as amended from time to time.

bb) **Fixed Interconnected VoIP Service:** A “Fixed Interconnected VoIP Service” is an Interconnected VoIP Service in which the call originates from a fixed geographical location.

cc) **Nomadic Interconnected VoIP Service:** A “Nomadic interconnected VoIP Service” is an Interconnected VoIP Service in which the subscriber can originate a call from any place or geographical point where the Internet is access through broadband.

dd) **Telecommunications:** The term “Telecommunications” has the same meaning as the term is defined in FCC Rule, 47 CFR §54.5, as amended from time to time. The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

ee) **Economic Unit:** The term “Economic Unit” has the same meaning as the term is defined in FCC Rule, 47 CFR § 54.400 (h), as amended from time to time.

~~the masculine gender includes the feminine and vice versa, except where the context clearly indicates otherwise.~~

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For the terms defined here, the singular number includes the plural and vice versa and the masculine gender includes the feminine and vice versa, except where the context clearly indicates otherwise.

Any term not specifically defined in this Regulation shall have the meaning provided in Act 213, the Federal Communications ~~Law~~Act, the FCC Rules, the Uniform Administrative Procedure Act, or any other applicable Regulations promulgated by this Board. Any contradictions or incompatibilities shall be resolved consistent with the meaning as defined in the Federal Communications Act.

Those terms that are not defined in this Regulation that clearly refer to special and particular technical expressions and telecommunications jargon or computing shall have the meaning as defined in the Federal Communications Act and if not defined, the meaning shall be as generally accepted by the telecommunications or computing industry for that term, provided that such interpretation is consistent with the FCC definitions.

If there is a conflict between the definitions set forth herein and those of the Federal Communications Act, those of the Federal Communications Act shall prevail.

#### **4. Principles of Universal Service**

The Board shall preserve and promote the Universal Service, through predictable, specific and sufficient support mechanisms, pursuant to Act 213, Section 254 of the Federal Communications Act, and FCC orders and regulations, in addition to the following principles:

- a) The goal of universal service is to provide telecommunication and information services comparable to all segments of Puerto Rico's citizenship and geographic areas.
- b) Telecommunications and information services will be available throughout Puerto Rico at fair and reasonable prices, which means that service charges in rural areas will be reasonably comparable with prices in urban areas.
- c) Advanced telecommunications and information services will be available in all municipalities and communities, as well as in all health services, libraries and classrooms in the public schools of Puerto Rico.
- d) All companies will contribute on an equal, non-discriminatory, and competitively neutral basis, as established by the Board, to the preservation and development of the universal service in Puerto Rico.
- e) The ~~structures of the~~ contribution mechanisms the Board develops, implements and periodically revises should complement, but not duplicate, the mechanisms of contribution established at the federal level.

f) Universal service programs shall be established and administered in an open and transparent manner.



g) Any other principle determined by the FCC and the Federal-State Joint Board on Universal Service to be necessary and adequate for the protection of the public interest, convenience and necessity, and that is consistent with the Federal Communications Act.

#### 5. Puerto Rico Universal Service Fund

**ICTIA COMMENT:** We oppose the language in section 5.1 a), below, stating that the PRUSF will bear the cost for a centralized database, as the Board eliminated its local centralized database as part of the NLAD transition in 2016. To the extent that this language refers to another centralized database that the Board may be contemplating, we request clarification and the opportunity to submit supplementary comments thereto.

We also oppose the PRUSF bearing the cost for audits of the Administrator, since Art. III-7(c)(9) of Act 213 clearly establishes a mandate for the Comptroller of Puerto Rico to audit the same. We also note that FCC Rule 54.717 states: "The Administrator shall obtain and pay for an annual audit, conducted by an independent auditor..." Thus, based on the FCC language, the intent is clear that audit costs should not come out of the PRUSF.

We oppose the PRUSF bearing the cost for audits of the PRUSF. As such, we recommend deleting sub-section d), below, as Act 213 provides that the "collection, administration, payments and use" of the Universal Service Fund of Puerto Rico "are subject to audits by the Puerto Rico Comptroller." 27 L.P.R.A. 269e (c)(9).

We suggest deleting the subsections relative to the Telecommunication Relay Service, as this is a discretionary program and it is addressed in sections 8.2 and 8.3 of this Regulation.

The remaining deletions we propose in this section 5.1 are in line with the policy that the PRUSF ought to be used for the Lifeline program itself and any discretionary programs adopted by this Board.]

#### 5.1 Programs and Costs supported by the ~~Universal Service Fund~~PRUSF

The Universal Service Fund of Puerto Rico will bear the cost of the following items:

- ~~a) The administrative costs directly attributable to related to the operation of the Universal Service Fund of Puerto Rico, including costs related to maintaining its centralized database, research on the programs and~~

- ~~administrative services in support of the Fund, and audits to the Administrator.~~
- ~~a)~~
  - ~~b) The cost of the subsidy~~Support provided by the ~~Universal Service Fund of Puerto Rico to the~~PRUSF for ~~Lifeline programs~~service.
  - ~~e) The cost of the subsidy provided by the Universal Service Fund of Puerto Rico to the Lifeline Broadband Access Services.~~
  - ~~d) The cost of audits to the Universal Service Fund of Puerto Rico.~~
  - ~~e) The costs related to the Telecommunication Relay Service (TRS, for its acronym in English).~~
  - ~~c) The cost of providing those discretionary services, as provided in Rule 8.3 of this Regulation.~~
  - ~~g) The cost of promoting the services supported by the Universal Service, when this Board deems it necessary.~~
  - ~~h) The cost of any other service that may be established in the future by the FCC or this Board, pursuant to Act 213 and this Regulation.~~

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**[CTIA COMMENT:** With respect to section 5.2, below, the mandate under Art. III-7(c)(10) of Act 213, states: "The Board shall *annually* review the amount of the obligation that each Telecommunication Company has with the Universal Service Fund and in fixing it will take into consideration the recommendations, if any, by the Administrator" [Emphasis ours]. As such, our proposed language, below, suggests that the calculation be made annually and any additional language included in this section ought to be consistent with the statutory mandate of an annual revision. In addition, we propose language to allow providers to comment upon proposed contribution factors before they become final.]

## 5.2 Determination of contribution

- ~~a) a) The~~Contributions to the ~~Fund~~PRUSF shall be based upon projected universal service expenditures, as determined by quarterly reports by the Administrator.
- ~~b) The Board shall develop a contribution factor, or surcharge, to be applied to intrastate revenues subject to PRUSF surcharges. Such factor shall be calculated to collect anticipated expenditures when applied to projected intrastate revenues subject to PRUSF surcharges. Anticipated expenditures~~

~~shall be determined by the Board of the Fund. The~~  
Administrator shall determine the contribution factor and submit it for the consideration of the Board at least sixty (60) days before the date of its effectiveness. ~~The Administrator shall be notified by the Board of its determination of the contribution factor, after public notice and comment. The Board's decision shall be notified~~ by administrative order, ~~and notified~~ to the Administrator and the companies. To the extent the Board does not establish an annual contribution factor, the prior year's contribution factor shall continue to apply.

b) Thirty (30) days before its effectiveness, the Administrator will notify the companies of the corresponding factor for the next ~~semester-year~~ and will provide instructions for payment.

c) After public notice and comment, ~~The~~ Board, on its own initiative or at the request of the Administrator, may adjust the contribution factor for a specific period, taking into account the annual income of the Fund and the recommendation of the Administrator.

d) Any PRUSF deficit or surplus ~~of the Fund~~ at the end of the calendar year shall be carried over to the next calendar year and shall be used ~~when the contribution for that year is established~~ to establish the new contribution factor.

**[CTIA COMMENT:** The proposed changes in section 5.3, below, are aimed at clarifying that the universal service contribution system in Puerto Rico is based upon intrastate voice telecommunications revenues.]

### 5.3 Contribution

Every contributor, as enumerated in Rule 6, shall contribute on an equitable, ~~and~~ non-discriminatory, ~~and competitively neutral~~ basis to the preservation and development of the Universal Service in Puerto Rico. The contributions to the ~~Fund-PRUSF~~ shall be made in accordance with these Regulations.

Pursuant to section 254 (f) of the Federal Communications Act, ~~The~~ obligation to contribute to the ~~universal service fund~~ PRUSF will begin on the date that the ~~Telecommunications Companies,~~ including those who offer Interconnected Voice over Internet Protocol (VoIP Service) companies, begins to provide Intrastate Telecommunications Services in Puerto Rico and to generate income, ~~pursuant to Section 254 (f) of the Federal Communications Act.~~

Contributors will submit to the Board a copy of the Carrier Remittance Worksheet (CRW), or the form established by the Administrator for these purposes. The Board may establish mechanisms for filing reports electronically.

#### 5.4 *De minimis* exception

Any contributor who generates gross income from services in Puerto Rico, less than twenty five thousand dollars (\$ 25,000.00) per year, will not be obligated to contribute to the ~~Universal Service Fund~~ PRUSE in that particular year.

Contributors who claim this exemption must submit to the Board a copy of the *De minimis* form (*De minimis* Payment Exemption Request) sent to the Administrator.

**ICTIA COMMENT:** We suggest including sub-section 5.5 a) 2), below, to reflect the current practice where carriers use the Carrier Remittance Worksheets for revenue reporting. We also recommend substituting the six-year requirement in sub-section 5.5 b), below, with a three-year record retention period, consistent with FCC Rule 54.417. A document retention period of no more than three years is a reasonable term in light of the biennial audits performed by USAC.]

#### 5.5 Determination of Contribution

- a. ~~The determination of the Individual contributions to be made to the Fund PRUSE by contributors in Puerto Rico shall be made, shall be established~~ through the following information that the companies shall provide to the Administrator:
  - 1) Report of gross revenues ~~obtained in the provision of~~generated from ~~Intrastate- Telecommunications s~~Services in Puerto Rico, which will be submitted monthly in the form and under the instructions provided by the Administrator. Said report will also include the computation of the contribution to the ~~Fund~~PRUSE, corresponding to the previous month. This report must be submitted no later than thirty (30) days after the end of each month.
  - 2) ~~Any Contributors shall submit to the Board a copy of the PRUSE CRW, or any other form established by the Administrator, for revenue reporting. Any changes to the CRW or any other forms used by the Board shall be implemented only after interested parties are provided notice and the opportunity to comment. The Board may also establish mechanisms for electronic reporting, other report required by the Administrator.~~

- b. The companies will maintain the records and relevant documentation, justifying the information reported in the form of income subject to the contribution, for a term of ~~not less than six (6) years~~three full preceding calendar years, for review, if deemed necessary, by this Board or the Administrator.

#### 5.6 Contribution Payment Period and Reconciliation

- a. Every contributor shall make its corresponding contribution payment to the ~~Fund~~PRUSE, together with the information required in the previous paragraph, through the Administrator.
- b. Not later than April 1 of each year, all contributors listed in Rule 6 shall submit to the Administrator and the Board a copy of Form 499-A, or its equivalent, as required by the FCC, and shall include a reconciliation of the contributions made to the ~~Fund~~PRUSE the previous year, using the Form and instructions provided by the Administrator.
- c. Once the reconciliation is completed and together with it, the contributor will proceed to remit the payment of any amount owed, if applicable. If there is a credit in the ~~Fund~~PRUSE in its favor, it will submit the claim to the Administrator for the corresponding procedure.

#### 5.7 Late Payment Penalties

- a. Any contributor that makes its contribution to the ~~Fund~~PRUSE, after the deadline provided in Rule 5.6 hereinabove, will be in arrears and shall be obliged to pay interest and penalties for late payment, in accordance with the following provisions:
  - 1) When the contribution to the ~~Fund~~PRUSE is made thirty (30) days after the date of its expiration, the current interest set by the Financial Board, as certified by the Commissioner of Financial Institutions of Puerto Rico, shall be applied and to the total amount an additional 5% late fee shall be charged.
  - 2) When the contribution to the ~~Universal Service Fund of Puerto Rico~~PRUSE is made sixty (60) days from the date of its expiration, the current interest set by the Financial Board shall be applied, as certified by the Commissioner of Financial Institutions of Puerto Rico, and to the total amount an additional 10% late fee shall be charged.

- b. In addition, the Board may impose any other sanctions for non-compliance with this section, in accordance with Rule 16 c) of these Regulations.

**[CTIA COMMENT:** We propose clarifying language in section 5.8, below, and also suggest streamlining the section consistent with current practice.]

#### 5.8 Recovery of contributions

- a) Contributors who choose to recover their PRUSF contributions from their ~~clients customers their contributions to the Fund~~, through a specific charge on their invoices, must do so uniformly, by using the the current same contribution factor for which clients made is designed to their contributions, so that an amount in excess of that contributed is not recovered. ~~The charges for arrears Late charges and interests, mentioned established~~ in Rule 5.7, cannot be recovered from contributors, through this mechanism or any other. ~~Contributors will be able to carry out a process to adjust the financial impact of Lifeline clients, who shall not be charged Universal Service fees for their voice service, provided that the result does not lead to a greater recovery of the amount contributed.~~
- b) On the first ~~of day of~~ April of each year, the contributors listed in Rule 6 shall submit to this Board a certification, ~~by affidavit of an officer of the~~ through a sworn statement by company a company official, ~~proving with verifiable and quantifiable data~~, the amount contributed to the ~~Fund PRUSF during~~ in the previous year ~~and~~ recovered from its customers, through a recovery mechanism by a specific charge, during ~~the same said~~ year.
- c) The Board may verify, through audits or other mechanisms, ~~that~~ the amounts recovered by the contribution of its users comply with the provisions of these Regulations.

**[CTIA COMMENT:** We propose clarifying and more precise language in sections 5.9 and 5.10 below.]

#### 5.9 Affordability of Subsidized Services by the Universal Service Fund of Puerto Rico

The Universal Service Fund of Puerto Rico shall ensure that the services subsidized by ~~said Fund PRUSF~~ are available at fair, reasonable and affordable prices. ~~This Fund will~~ The PRUSF shall complement the Federal Universal Service Fund in terms of the costs attributable to the local sphere.

#### 5.10 Distribution of the Universal Service Fund of Puerto Rico

ETCs, including LBPs, ~~will receive from the Universal Service Fund of Puerto Rico the applicable subsidy, according to~~ shall be eligible to receive support from the PRUSF for those services supported by ~~this Fund~~ the PRUSF, ~~and as this Board determines, in accordance with these~~ and in accordance with this Regulations.

**[CTIA COMMENT:** The proposed changes in section 6, below, clarify that the universal service contributions are based upon intrastate voice telecommunications revenues and are in line with current practice.]

## 6. Contributors to the Universal Service Fund of Puerto Rico

All companies providing Intrastate Telecommunications Services ~~in Puerto Rico, as well as other services that have been sanctioned by the FCC,~~ will contribute to the ~~Puerto Rico Universal Service Fund~~ PRUSF in an equitable, non-discriminatory and neutrally competitive manner.

### 6.1 Contributors

The following list includes, but is not limited to, the following:

#### 1. Wireless companies

- a) PCS
- b) Cellular
- c) Pager Service (beepers)
- d) Mobile Radio

e) ~~Wireless Interconnected Voice Over Internet Protocol (Wireless Interconnected VoIP)~~ **[CTIA COMMENT:** We recommend deleting the term “Wireless Interconnected Voice Over Internet Protocol” in this sub-section e), as the term is not defined in the definition section of this regulation. Also, there is no definition of the term within the FCC Rules and therefore we suggest not including it, as the intended party would not be on notice with this language. Also, it is already encompassed in the term “Interconnected VoIP Service” as defined in the FCC Rule 47 CFR §9.3, and which is included in the definitions section of this Regulation.]

#### 2. Wired Service Companies

- a) Local Exchange Service Carriers
- b) Competitive Local Service Carriers
- c) Competitive Access Providers
- d) Long Distance Service Providers within Puerto Rico
- e) ~~Interconnected Wireline Voice Over Internet Protocol Service Providers (Fixed Interconnected wireline-VoIP)~~

3. Other Providers

- a) Resellers
- b) Public Telephone Service Providers
- c) Nomadic Interconnected ~~Voice-VoIP Over Internet Protocol Service Providers (nomadic interconnected VoIP)~~
- d) Other companies, such as, ~~Cable service Companies~~, electric power, and others, that provide ~~T~~elecommunications ~~S~~ervices.

**[CTIA COMMENT:** The proposed changes in section 6.2, below, clarify that the potential contributors would be offering Telecommunications Services that would be subject to the universal service contribution in Puerto Rico.]

6.2 Other Contributors

The Board may require any other person or entity to contribute to the ~~Universal Service Fund~~PRUSE if it determines that it is offering a ~~Telecommunications s~~Services ~~in subject to universal service contributions in~~ Puerto Rico ~~that competes with a service provided by any company obligated to contribute to the Fund.~~

**[CTIA COMMENT:** The proposed changes in section 6.3, below, streamlines the section and deletes the penalty provision, as Section 16 of this Regulation addresses penalties.]

6.3 Company Registry



Every company certified by ~~or registered with the Board~~ ~~or registered at the Board must~~ shall keep its certification or registration updated, as applicable, ~~in a way that it fulfills its obligation to contribute to the Universal Service Fund of Puerto Rico.~~

Any breach by the ~~companies~~ Telecommunications Companies with the provisions herein may lead to the imposition of penalties, in accordance with Rule 16 of this Regulation.

## 7. Service Fund Administration for Universal Service

**[CTIA COMMENT: CTIA understands that any fund administrator ought to have experience in the administration of funds and as such, recommends that the experience factor be included as one of the requirements as suggested in section 7.1b, below.]**

### 7.1 Administrator Appointment

The Board shall appoint an independent Administrator, through a competitive bidding process, to administer the amounts deposited in the ~~Puerto Rico Universal Service Fund~~ PRUSF account and to supervise their disbursement to eligible telecommunications companies.

The Administrator must comply, as a minimum, with the following requirements:

~~a.~~ be neutral and unbiased in carrying out the duties and responsibilities that the position entails;

~~a.b.~~ have experience in the administration of funds;

~~b.c.~~ not be affiliated, associated or related to any segment of the telecommunications industry;

~~e.d.~~ have no financial interest in the support mechanisms established for the Universal Service; and

~~e.e.~~ not advocate specific positions before the Board, which constitute a conflict of interest.

**[CTIA COMMENT: The proposed language in section 7.2 c), below, is to require the Administrator to provide publicly available quarterly reports on universal contributions and distributions, similar to USAC, and consistent with the policy of transparency.]**

### 7.2 Administrator Duties and Responsibilities

The Administrator shall comply with all terms and conditions contained in the Agreement entered between the Administrator and this Board and shall perform all inherent duties and functions related to the effective administration of the ~~Fund~~PRUSE, subject to the supervision and instructions of the Board. The Administrator shall not have authority to interpret, substantively, this Regulation.

In addition, the Administrator will comply, without being understood as a limitation, with the following:

- a) ~~To~~ ~~e~~Coordinate and validate the effective collection of the contributions to the ~~Universal Service Fund of Puerto Rico~~PRUSE and to ensure that companies subject to such payment, send their contributions to the Administrator, to be deposited in the special account destined for this purpose in the Bank Government of Development, or in the alternative, and if necessary, in the ~~b~~Bank that is selected for such purpose.
- b) Make the relevant disbursements once approved by the President on or before thirty (30) days from the date of receipt, in accordance with the orders and / or rules approved by the Board.
- c) Maintain the specific records on all the processes of collection, disbursements and updated data for each ETC, and providing publicly available quarterly reports detailing collections and distributions from the PRUSE.
- d) Issue notice to any telecommunications company, which is in delay in the monthly payment of its contribution to the ~~Universal Service Fund of Puerto Rico~~PRUSE, and notify the Board, through the Statement of Fund Performance Report. In addition, issue notice to the ETCs on matters of importance that impact the administration of the ~~Universal Service Fund of Puerto Rico~~.PRUSE.
- e) If a company incurs a delay of sixty (60) days or more, the Administrator must notify the Board, through a special report of arrears for the Board to determine the action to be taken. This report should describe all collection management performed and the result thereof.
- f) Prepare and keep updated all required forms, to be used in the effective administration of the ~~Fund~~PRUSE, providing the necessary guidelines and instructions for them. In addition, it will send all companies required to contribute to the ~~fund~~-PRUSE said forms and their updates.
- g) Prepare and submit to the Board the required periodic reports on the activity of the ~~Fund~~-PRUSE in accordance with the ~~in force contract~~-(Statement of ~~Fund~~-PRUSE Performance Report in effect.)

- h) Coordinate, with the participation of the Board, the annual audits of the ~~Fund~~PRUSE, which will be carried out by an independent auditor.
- i) Notify the Board promptly of any irregularities in the operation or administration of the ~~Fund~~PRUSE, including reporting any breaches or violations of the companies to the regulations or provisions adopted by this Board relating to the administration of the ~~Fund~~PRUSE. In addition, it shall submit to the Board recommendations aimed at improving the administration of the ~~Fund~~PRUSE and compliance with any new regulations affecting the Fund.
- j) Comply with the applicable rules and regulations of the Comptroller of Puerto Rico.
- k) Submit to the Board for its determination, the contribution factor for the contribution to the ~~Fund~~PRUSE by the companies that provide voice service, provided in Rule 12.2 of this Regulation.
- l) With any other function or duty inherent in its performance, as Administrator, that the Board deems pertinent for the effective maintenance of the ~~Fund~~PRUSE.

Any dispute that arises between the Administrator and any telecommunications company shall be submitted to the Board for consideration and adjudication.

The entire process of collecting, administering, disbursing and using the ~~Universal Service funds~~PRUSE will be subject to audits by the Comptroller of Puerto Rico.

### **7.3. Term of the Administrator**

The Administrator selected by the Board shall serve as such for a term of three (3) years. During the term of one hundred and eighty (180) days, before the term of the Administrator expires, the Board may begin ~~an~~ a bidding process to elect an Administrator for the next three (3) years. The Board may also elect to extend the existing contract for an additional term of one (1) year. The incumbent Administrator will be eligible to participate in the bidding process, unless previously disqualified or removed by the Board.

### **7.4 Criteria for Disqualifying or Removing the Administrator**

- 7.4.1** The Board may disqualify or remove the Administrator, taking into account, without being understood as a limitation, the following criteria:

- a) To have been sentenced for the commission of a felony or a misdemeanor, that implies moral depravity, fraud or embezzlement of funds;
- b) Revocation of license to do business in Puerto Rico or in any other jurisdiction, by the Commissioner of Financial Institutions of Puerto Rico or another similar institution;
- c) Irregularities in the management of monies belonging to the Universal Service Fund, as determined by an independent auditor or the Comptroller of Puerto Rico;
- d) Negligence or abandonment of his duties and responsibilities as Administrator;
- e) Existence of conflicts of interest; and
- f) Irreconcilable differences with the Board, regarding the administration of the Universal Service Fund.

7.4.2 The Board shall notify the Administrator, in writing, of its intention to remove him and the relevant grounds. The Administrator shall not have the right to a public hearing or administrative review of this decision. This provision should not be understood as a limitation to other legal remedies, which may have the Administrator.

7.4.3 The Board shall act as an Interim Administrator in the event of removal of the Administrator, or of any other cause that may prevent it from exercising its functions, while appointing a new Administrator.

**8. Programs and Services subsidized by the Universal Service Fund of Puerto Rico.**

**[CTIA COMMENT:** We suggest the edits in section 8.1.1, below, to conform to the definition of eligible voice telephony services in the FCC Rules.]

The following programs shall receive support from the Universal Service Fund of Puerto Rico.

**8.1 Programs for Low Income Customers; Lifeline**

**8.1.1 Eligible Voice Telephony Services**

Eligible voice services include those services defined in 47 CFR § 54.101 (a) (1).<sup>5</sup>

~~a) The eligible voice services provided in FCC Rule 54.101 (a) (1), 47 CFR § 54.101 (a) (1).<sup>5</sup>~~

~~b) Access to operator service;~~

~~-~~

~~c) Access to telecommunications relay services; and~~

~~-~~

~~d) Any other service that, from time to time, is adopted by this Board or by the FCC.~~

**[CTIA COMMENT:** With respect to section 8.1.2, below, as detailed in *Comments of CTIA* filed on February 3, 2015 under Docket No. JRT-2014-SC-0001 (and which we incorporate by reference herein), CTIA believes the Board should not allocate PRUSF for BIAS at this time because the Board should first and foremost resolve the significant outstanding fiscal issues facing the PRUSF and restore the historical \$3.50 Lifeline subsidy for voice telecommunication services. Once the PRUSF is stabilized and the referenced \$3.50 subsidy is restored, we suggest the Board provide notice to ETCs and an opportunity to comment on PRUSF support for BIAS. This notice and comment approach would be in line with a universal contribution system based on transparency in the collection and use of the funds, particularly in light of the serious outstanding fiscal issues confronted by the PRUSF. We suggest language in section 8.1.2, below, to address these concerns. We also propose eliminating the BIAS definition, as it is already included in the definitions section of these regulations.]

#### 8.1.2 Eligible Broadband Internet Access Services (BIAS)

~~Eligible Broadband Access Services (BIASs) shall be those provided by FCC Rules 54.101 (a) (2), 47 CFR § 54.101 (a) (2). BIAS shall receive support from the PRUSF only after the PRUSF is fiscally stable and the \$3.50 Lifeline subsidy for voice telecommunications service is restored, and after a notice and comment period. The effective date of any Board decision providing PRUSF support to BIAS shall be at least ninety (90) days from the date the administrative order to that effect is notified to the Telecommunication Companies.~~

**[CTIA COMMENT:** We suggest language in section 8.1.3, below, providing ETCs a reasonable notification period and opportunity for comment of any modifications to the contribution from the PRUSF to Lifeline low-income programs. This approach would be consistent, for example, with the California Public Utilities Commission Decision 10-11-033, adopted in November 19, 2010, mandating notification of a

modification on the subsidy amount and grants a disclosure period for ETCs to notify subscribers of changes to the tariff and rates offered.]

### 8.1.3 Subsidy amount

The Board ~~shall establish and may annually~~ modify, after notice and opportunity for comment, the amount to be contributed by the Universal Service Fund of Puerto Rico to support the provision of Lifeline service in Puerto Rico. The effective date of any such modification shall be at least ninety (90) days from the date by the administrative order is notified to the ETC's, the amount of the contribution from the universal service fund of Puerto Rico to Lifeline low-income programs, taking into account the projections of income and expenses, the recommendations of the Administrator and the financial health of the fund.

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[CTIA COMMENT: We suggest moving 8.2, below, to new proposed subsection 8.3 a) under discretionary programs to conform this Regulation to FCC requirements, as the FUSF is not used for TRS.]

### 8.2 [CTIA COMMENT: moved text to 8.3 (b), below]

[CTIA COMMENT: We suggest amendments to proposed subsection 8.3(b), below, providing ETCs a reasonable notification period and opportunity for comment of any modifications to the contribution from the Puerto Rico USF to Lifeline low-income programs. This approach would be consistent, for example, with the California Public Utilities Commission Decision 10-11-033, adopted in November 19, 2010, mandating notification of a modification on the subsidy amount and grants a disclosure period for ETCs to notify subscribers of changes to the tariff and rates offered.]

### 8.3 Programs or services supported at the discretion of the Board

(a) Telecommunication Relay Service (TRS): All Local Exchange Service Carriers, including VoIP service providers, shall provide reliable and non-discriminatory access to the Telecom Relay Service (TRS) and all telecommunications companies will cooperate to provide reliable access to the TRS service. The charges associated with providing the TRS service to users in Puerto Rico shall may be subsidized by the PRUSE.

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(b) After a notice and comment proceeding, the Board may, at its discretion, support other programs or services, or terminate or may cease to support for existing programs, in accordance with the needs and resources available in the

Universal Service Fund of Puerto Rico. ~~The effective date of any such modifications shall be at least ninety (90) days from the date notice of the administrative order is provided to is notified to the Telecommunication Companies.~~

## 9. Evaluation of Services Supported by the Universal Service Fund of Puerto Rico

The Board will be able to evaluate the services supported by the ~~Universal Service Fund in Puerto Rico~~ PRUSE in order to adjust them to the technological changes in the telecommunications industry and the FCC ~~regulations~~ Rules, and to address the particular necessities of the moment.

The Board may also periodically review the contribution mechanisms for those services supported by the ~~Universal Service Fund of Puerto Rico~~ PRUSE.

**[CTIA COMMENT:** We suggest the edits to section 9.1 c), below, to conform to FCC requirements.]

### 9.1 Evaluation Criteria

In evaluating whether a service should be added or removed from services supported by the ~~Universal Service Fund of Puerto Rico~~ PRUSE, the Board should consider the following criteria:

- a) The service is essential to education, economic development, health or public safety;
- b) A substantial majority of residential users are subscribed to the service;
- c) The service is ~~disseminated provided by the incumbent and other competing providers offering Telecommunication Service providers within a geographic area. telecommunications companies, through the wired and wireless telecommunications network; and~~
- d) The service is consistent with the public interest, convenience and need.

## 10. Eligible Telecommunication ~~Companies~~ Carrier

The Board shall designate those telecommunication companies that qualify as Eligible Telecommunication ~~Company~~ Carriers (ETC), ~~whose designation authorizes them to receive support from FUSF and/or PRUSE (to the extent support is available), with the exception of Broadband Lifeline Service Providers (LBP), whose designation will accredit to receive subsidy~~

~~from the Federal Universal Service Fund and the Universal Service Fund of Puerto Rico. LBP~~

**[CTIA COMMENT:** We suggest edits to the different subparts in section 10.1, below, to conform to FCC requirements to streamline and add precision to the requirements. We specifically suggest deleting subpart b, below, as the topic therein is fully addressed in section 10.9 of this Regulation.]

## 10.1 Designation

- a) Any telecommunications company that is interested in being designated in Puerto Rico as an ETC must obtain a designation of eligibility of the Board that may be total, or limited to the Lifeline Program, unless preempted by the FCC.
- ~~b) The Board will not designate companies as eligible LBP Lifeline Service Providers (LBP).~~
- c) The Board, on its own initiative or at the request of a party, may designate one or more telecommunications companies eligible to provide Universal Service throughout Puerto Rico or part ~~of Puerto Rico~~ thereof, provided compliance with the requirements set forth in these Regulations they meet all applicable requirements.
- d) ~~In the process of designating an ETC~~ During an ETC designation process, the Board will consider whether the designation safeguards the public interest and provides additional service options to ~~consumers~~ Beneficiaries.
- e) The designation of eligibility will be reviewed, in accordance with the provisions of Rule 10.7 of these Regulations
- f) The Board may initiate, at any time, designation review procedures to determine if the ETC ~~is not~~ in compliance with the applicable requirements, ~~established in these Regulations, and those others established by the Board.~~

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**[CTIA COMMENT:** Given the myriad of options available for promotion and marketing of services, including traditional and non-traditional more advanced promotional options, we suggest eliminating the specific newspaper requirements in section 10.2 b), below, and allowing the ETCs flexibility in determining which promotion strategies and tactics would be most beneficial and competitive. This approach is consistent with the FCC's approach where newspaper advertisements are not specifically required, and instead, the requirement under FCC Rule 54.405 is to



“publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service”.

We also suggest the Board clarify in sub-section 10.2 d), below, the criteria, standards or guidelines it will use to assess the "financial capacity" for a company to be designated as an ETC or to maintain such designation, and provide CTIA with the opportunity to submit supplementary comments thereto.

We suggest eliminating the eligibility verification language, in sub-section e), below, as the NLAD at this time only allows the Lifeline service provider to identify and/or resolve duplicate claims of potential beneficiaries.]

## 10.2 Requirements for ETC designation and to maintain designation.

Any telecommunications company interested in being designated as an ETC or maintaining its designation in force shall:

- a) Offer ~~all~~ approved services supported by the Universal Service program throughout ~~Puerto Rico's designated service area~~, by using its own facilities or a combination of its own facilities and the resale of the services of another telecommunications company.
- b) ~~Publish-Advertise~~ the availability of such services and their charges, ~~in newspapers of general circulation. The publication of the advertisements may be in the digital version of their~~ a manner reasonably designed to reach those likely to qualify for services.
- c) Voluntarily participate in discretionary programs or services, approved by the Board, ~~after notice to providers and the opportunity to comment~~, supported by the Universal Service of Puerto Rico, delimiting the service area to all Puerto Rico. If the service cannot be offered throughout ~~Puerto Rico's designated service area~~, the ETC, by prior request to the Board and by exception, will provide it by municipalities, as constituted in official maps.
- d) ~~For companies seeking Lifeline-Only support, d)~~ Demonstrate that it has the financial and technical capacity to provide the services supported by the PRUSF and the FUSF.
- e) Use the National Lifeline Accountability Database (NLAD) system to ~~verify the eligibility of potential beneficiaries and~~ detect duplicates, as established in FCC rules section 54.404, 47 CFR § 54.404.

- f) Use the National Lifeline Eligibility Verifier or National Verifier (NV) system to determine the eligibility of Lifeline subscribers, as required by sections 54.407 and 54.410 of FCC rules, 47 CFR § 54.407, 54.410, as soon as Puerto Rico integrates into the system. ~~Section 12.4.2 of this Regulation shall be applicable only until such time as the NV system is available in Puerto Rico.~~
- g) Under the provisions of Section 54.201 (i), 47 CFR § 54.201 (i), the Board shall not designate as ETC those companies that provide the services supported by the fund exclusively through the resale of facilities of other companies, unless they obtain ~~a waiver-forbearance~~ from the FCC and submit a copy of the FCC order to the Board.

**10.3 Additional ~~requirements for designation and to maintain designation~~ Designation Requirements**

In addition to the criteria set forth in Rule 10.2, to be designated as ETC and to maintain its designation in accordance with Rule 10.7, the company shall comply with those additional applicable criteria set forth in Section 54.202 of the Federal Code of Regulations, (CFR §54.202), which are incorporated and become part of these Regulations, as amended from time to time.

**[CTIA COMMENT: We suggest the edits to section 10.4, below, to conform this Regulation to FCC requirements and to add precision to the requirements.]**

**10.4 Application for Eligibility Designation**

The request for eligibility designation shall contain the following information:

- a) ~~Indicate The~~ certification number and /or registration of radio mobile ~~C~~commercial ~~C~~earrier ~~of Radio Mobile S~~ervice granted by the Board.
- b) ~~To certify~~Certification that it will provide the service throughout Puerto Rico. If there is no interest in ~~rendering service~~being designated as an ETC throughout all of Puerto Rico, indicate ~~the municipalities where the service will be rendered~~request ETC designation area.
- c) Company certification indicating that it will be able to provide all services covered by the Universal Service identified in Rule 8 of these Regulations and in §54.101 of the FCC rules.
- d) A description of the manner in which the services will be provided. It should be stated whether the telecommunications company will use its own facilities, a combination of its own facilities and the resale of the services of

another telecommunications company. Those companies that do not have their own facilities shall procure any required ~~must obtain a waiver from the~~ FCC approvals and submit a copy of the FCC order to the Board. The request for designation of eligibility shall provide evidence of the manner in which services are intended, such as resale agreements, a letter of intent, a term sheet, or evidence of negotiations. ~~etc.~~ **[CTIA COMMENT: We suggest deleting the word "etc." in this subsection d and substitute with the more definite proposed language.]**

- e) Certification and evidence of its ability to comply with applicable additional requirements set forth in Section 54.202 of the Code of Federal Regulations, (47 C.F.R. §54.202), as provided in Rule 10.3.
- f) Commitment that the company will comply with the provisions of Rule 10.2 (b) of this Regulation on the obligation to promote the Universal Service.
- g) Copy of planned Lifeline fee-rates and plans, enrollment form for the program and promotional material for *Lifeline* services.
- h) Detail how your offer of services will benefit ~~consumers~~ beneficiaries in Puerto Rico.

i) To the extent any of the information listed above changes during the pendency of the designation proceedings, the applicant shall submit updated information within 30 days.

**[CTIA COMMENT: In section 10.5, below, we suggest language allowing for notice and comments in conformance with due process principles. We also suggest eliminating subsection f, as it is burdensome and forces an ETC to provide service to a potentially non cost-effective area. Alternatively, we request clarification as to the scope of the expenses to be incurred in connection herewith and an opportunity to provide supplementary comments thereto.]**

#### 10.5 Designation by the Board for an area determined as not served

- a) When a community or a portion of the same, lacks Universal Service and requests the service, or when this Board concludes that it is necessary to provide the service to an unserved community, the Board will initiate a process to identify which ETC or ETCs are potentially in a better position to provide such service.
- b) The Board shall notify the ETCs, through ~~the a~~ corresponding Administrative Order, of the determination to provide the Universal Service in the

determined area, requesting that they voluntarily express their availability to provide the service, within a ~~reasonable time~~thirty-day period, ~~at the discretion of this Board~~. In accordance with the availability response of the eligible companies, the Board will randomly select the ETC or ETCs that ~~will~~ may potentially provide the service in the area to be served and ~~will notify its designation~~.

- c) In the event that no ETC that receives funds from the ~~Universal Service~~PRUSF manifests its intention to provide the service to the identified community, the Board will randomly determine, in a procedure to be established by Administrative Order, after a notice and comment procedure, the ETC or ETCs that ~~will~~ may potentially provide the service in the ~~a~~Area to be served, alternately selecting ~~the company of~~ the ETCs with current designation, so that the service is distributed among them.
- d) The Board shall order that, within a reasonable period of time, the designated company proceeds to provide the service.
- e) The refusal to accept the designation, under this subsection, or to comply with the terms and conditions set forth, ~~will~~ may lead to sanctions in conformance with section 16 of this Regulation, after the ETC receives notice and has an opportunity to be heard. ~~lead to the cancellation of the designation as ETC.~~
- ~~f) The foregoing notwithstanding, nothing in this Regulation shall be read to conflict with federal law reserving to the FCC exclusive jurisdiction over the construction and operation of wireless facilities. The Board shall not issue any order requiring a wireless ETC to provide service in an area it does not serve, to construct facilities in such an area, to expand its facilities to serve an area, or to adjust its facilities in any way.~~
- ~~f) The ETC designated to provide service in the community not served will cover the costs related to the provision of these services.~~

**[CTIA COMMENT:** With respect to section 10.6, below, we suggest interchanging the order of subsections b) and d), as subsection d) would logically follow subsection a) from a procedural standpoint. We also suggest shorter time frames for the Board and the ETCs respecting the withdrawal procedure.]

#### 10.6 Designation abandonment or refusal to continue providing service

- a) An ETC that intends to resign to its designation or stop providing services to a particular area may only do so with prior authorization of the Board.

- b) Prior to granting such authorization, the Board shall impose on the remaining ETCs the obligation to ensure service to the users of the ETC that withdraws, and shall require sufficient notice to allow, if necessary, the purchase or construction of adequate facilities by any other ETC, if such is the case. The Board shall establish a period of time, which shall not exceed ~~one (1) year~~ ninety (90) days, after the approval of such withdrawal, for the completion of the procedure.
- c) The Board will issue its authorization for abandonment of designation or refusal to continue to provide service within ~~sixty-fourty-five~~ sixty-fourty-five days (~~6045~~) days of submitting the request, except in those cases in which circumstances do not allow it.
- d) When requesting resignation to its designation or its desire to stop providing services to a particular area, the ETC must submit to the Board for approval the notice that will be sent to the affected beneficiaries, if the application is approved, ~~and a listing of those customers who will no longer receive the Lifeline services from such ETC. The list will also include the location of those beneficiaries. Once the request for resignation is submitted, the ETC, in addition, will cease to subscribe new beneficiaries.~~

**[CTIA COMMENT:** We suggest the edits to the subparts in section 10.7, below, to conform this Regulation to FCC requirements and to add precision to the requirements. Also, our intent with the suggested edits in the third paragraph of section 10.7.1 is to ensure that all ETC's undergo designation review at the same date.]

## 10.7 Designation Review

**10.7.1** For the purpose of maintaining active the designation that credits them to receive support from the Federal and Puerto Rico Universal Service Funds, ETCs designated prior to the ~~approval of this effective date of this~~ Regulation, and those designated in the future, shall demonstrate that ~~the funds are being used for the purpose of Universal Service. To that effect, they shall demonstrate to the Board, by means of the required data, that Universal Service funds offset the costs of providing, maintaining and updating facilities, minus the telecommunications revenues received by the company, they are using funds for the intended purposes consistent with 47 U.S.C. § 254(b).~~

In addition, they shall certify compliance with the requirements under Rule ~~—~~10.2, ~~—~~provide evidence of compliance with the additional

~~requirements set forth in Rule 10.8 and 10.9 of this Regulation shall remain in effect pending the final Rule 10.8~~

~~— A review of the designation shall be carried out. Designation review shall take place every two (2) years beginning on April 1, 2018 for all ETC's designated prior to December 31 of the prior year. - In the case of an ETC designated prior to the adoption of these Regulations, the date for submitting the designation review shall be April 1, 2018. In the case of ETCs designated as such after the approval of these Regulations, the date of review shall be every two (2) years, starting from the date of notification of its designation.~~

10.7.2 Once the information mentioned in this Rule has been received, the Board shall determine whether it meets the requirements set forth in this Rule 10. Once compliance is determined, that is, within a period not exceeding ninety (90) days from the date on which the ETC completes the presentation of the relevant documents, except in particular circumstances when a longer review period will be required by this Board, the corresponding Administrative Order will be issued to the ETC, extending, modifying or canceling its designation. During the review process, the designation will remain in effect.

10.7.3 In those cases in which the Board understands that a modification or cancellation of the ETC's designation is required, in accordance with this Rule 10.7, the Board shall request a hearing to that effect, on its own initiative or as a request of the affected ETC. Decisions shall be subject to reconsideration, as provided by the Uniform Administrative Procedures Act and the General Practice and Procedural Rules of the Board.

10.7.4 Failure to comply with all relevant information, certifications, documents and data may result in penalties for such ETC.

**[CTIA COMMENT:** We suggest the edits to the subparts of section 10.8, below, to conform this Regulation to FCC Rules, to add precision to the requirements, and to add notice and comment opportunity, where applicable, consistent with due process principles. We recommend deleting the reference to "self-certification" in the fourth paragraph, below (as well as in the entire Regulation), to avoid confusion, as there is no official "self-certification" form in Puerto Rico to our knowledge. Also, the deletions would provide consistency with FCC nomenclature. We also incorporate herein by reference our comments in section 10.2, above.]

## 10.8 Obligation to Promote Universal Service

ETCs have a continuous obligation to promote the services included in the Universal Service, as established by the Federal Communications Act and Act 213 and the FCC Rules. The promotion will be carried out no less than every three (3) months, ~~in newspapers with daily general circulation and every six (6) months in regional newspapers. The publication of the advertisements may be in the digital version of the newspapers.~~

The promotion may include printed material, advertisements on social networks, radio spots and-or such other mechanisms that the Board deems appropriate, as established from time to time by administrative orders, after a notice and comment, and in harmony with this Regulation.

The promotion of the Lifeline services ~~performed by the ETCs must shall be -undertaken in accordance with 47 C.F.R. 54.405(b) – (d), designed in a manner that can reasonably reach those who may be eligible for the service. Such promotional material should state in an easy-to-understand language that: it is the Lifeline service; it is a government assistance program; the service is non-transferable; only eligible consumers can enroll in the program; the program is limited to one (1) discount per household; and must name the ETC that provides the service.~~

For the purposes of this rule, the term "promotional material" includes without limitations, all printed, audio, video and web materials used to describe or enroll in the Lifeline service offerings, including subscription and self-certification forms.

~~It shall be the duty of each ETC to keep a record with a copy of the published advertisement, date of the publication, and the name of the newspaper or medium where the advertisement was published. ETCs shall retain records of promotional advertising and outreach efforts consistent with 47 C.F.R. § 54.417.~~

**[CTIA COMMENT:** We suggest the edits to section 10.9, below, to allow for any future potential changes to the federal framework allowing only the FCC to designate LBPs.]

#### 10.9 Lifeline Broadband Provider (LBP) Designation

The FCC will designate Lifeline Broadband Providers (~~LBPs~~) authorized to provide services in Puerto Rico, pursuant to in accordance with FCC Rule 54.202, 47 C.F.R. § 54.202.

### 11. Service Designation Areas under the Universal Service

The Universal Service area in Puerto Rico will stretch the entire Island of Puerto Rico, including Vieques and Culebra.

However, the Board, by exception, may grant an ETC designation to provide services in some areas, as provided in Rule 10.2 (c) of this Regulation.

**[CTIA COMMENT: We suggest the edits to sections 12 through 12.14, below, to conform this Regulation to FCC Rules, to add precision to the requirements, to streamline the Regulation, and to add notice and comment opportunity, where applicable, consistent with due process principles.]**

## 12. Subsidy Program for Low Income People (*Lifeline*)

The Guaranteed Access Service program or *Lifeline* provides monthly discounts on the cost of ~~the basic rental of the voice telephone service and/or the broadband Internet access service~~ BIAS (subject to section 8.1.2 of this Regulation) ~~to those customers who qualify~~ eligible customers. In addition to the amount provided by the Federal Universal Service Fund, the Universal Service Fund of Puerto Rico shall contribute the amount determined by the Board, as provided in Rules 8.1.3 and 12.11.

~~Lifeline services offered in Puerto Rico that are supported by PR-USF must comply with the applicable provisions of Part 54, Subpart E of the FCC Rules~~ all applicable requirements established by the Board and the FCC.

### 12.1 Services ~~supported to receive subsidy from the Fund~~ Subsidized by the PRUSF

- a. Lifeline voice services eligible for PR-USF support must include the services listed in Rule 8.1.1 of this Regulation.
- b. Lifeline BIAS services eligible for PRUSF support must include services listed in Rule 8.1.2 of this Regulation. Subject to the provisions in 8.1.2 of this Regulation, (t)he Board will determine, by Administrative Order after a notice and comment procedure, the voice services and/or broadband access services BIAS that will receive support from the PRUSF.

### 12.2 Minimum Service Standards

In order to receive Lifeline support from the PRUSF, the ETC must comply with the minimum service standards established in Section 54.408 of the FCC rules, 47 CFR §54.408.

### 12.3 Applicant Eligibility for the *Lifeline* ~~Income~~ Program



The applicant will be eligible to receive *Lifeline* services in Puerto Rico:

- a. whose total household income is equal to or less than 135% of the federal poverty guidelines, pursuant to section 54.409 (a) (1); or
- b. who participates in any of the following federal programs listed in section 54.409 (a) (2), as they apply to the extent that the program is available to residents of Puerto Rico, ~~Medicaid, Nutrition Assistance Program (NAP/PAN by its Spanish acronym),<sup>3</sup> Federal Public Housing Assistance (Section 8) (FPHA), Veterans or Survivors Pension, and Supplemental Security Income (SSI).~~

In addition to meeting complying with the criteria ~~in of~~ sub-sections (a) or (b) above ~~mentioned, in order to be eligible~~, neither the applicant nor any other member of the Economic Unit may be receiving Lifeline benefits.

**[CTIA COMMENT:** we suggest deleting the word “self” from the 12.4 section title, below, as well as in the title of section 12.4.2, below, for the same reasons expressed in our comment to section 10.8. With respect to section 12.4.1, below, we suggest that the Board mirror FCC Rule, 47 CFR 54.417, requiring document retention during the Beneficiary’s active period, and for three years following relinquishment of service. A document retention period of no more than 3 years is a reasonable term in light of the biennial audits performed by USAC.]

#### 12.4 Eligibility Verification; ~~Self~~ Certification

##### 12.4.1 Obligation to adopt Internal Policies to validate eligibility.

The ETC must implement policies and procedures to validate the client is eligible to receive the *Lifeline* service and that the client is eligible under the criteria listed in Rule 12.3. In addition, it must preserve the documents submitted by the applicant while the client is a client of the ETC, and for ~~six (6)~~three (3) calendar years following the relinquishment of Lifeline service.

##### 12.4.2 ~~Self-e~~Certification and verification

Until the National Verifier is fully implemented and determines eligibility, in order to ~~register a client~~enroll a customer in the Lifeline service, the ETCs shall ~~;~~

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<sup>3</sup> See In Re: Lifeline and Link Up Reform and Modernization; WC Docket No. 11-42, Order, December 1, 2016, DA 16-1324 paragraph 39.

~~a. Obtain an application form for the *Lifeline* program completed by the applicant with all requirements included in FCC Rule 54.410 (d), 47 CFR §54.410 (d). The ETCs shall use an evaluation sheet provided by the Board to assist in determining the existence of an independent Economic Unit, consistent with the FCC Rules, for purposes of the certification and verification process.~~

~~b. Obtain a certification signed by the applicant, under penalty of perjury and temporary or permanent ineligibility, certifying that neither s/he nor any member of his economic unit, are receiving the benefit of the subsidy provided by said program and by which they are filing the application.~~

~~c. Obtain a declaration under penalty of perjury signed by the applicant certifying that neither he/she nor any other member of his economic unit, receives benefits from *Lifeline*, and that, if sharing a physical address with another beneficiary, constitutes an independent economic unit (evaluation sheet as an independent economic unit).~~

~~d. Obtain a signed certification by the applicant pledging to re-certify its eligibility annually and that it will notify the ETC if it ceases to be eligible to receive the *Lifeline* benefits.~~

~~e. Obtain from the applicant evidence of compliance with the poverty guidelines listed in Rule 12.3 (a) or that he/she is participating in any of the federal programs listed in Rule 12.3 (b). To demonstrate revenue eligibility, the ETC may receive the documents listed in FCC Rules 54.410 (b) (B), 47 CFR §54.410 (b) (B). To evidence eligibility for participation in eligible federal programs, the ETC may receive a certification from the state agency administering the program or check the databases of the state agencies administering the programs. The ETC may also verify eligibility by obtaining a certification from the *National Verifier* (NV) as soon as the Commonwealth of Puerto Rico is integrated into the NV.~~

~~f. Verify in NLAD if the applicant is not receiving *Lifeline* service from another ETC.~~

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**[CTIA COMMENT:** We suggest amendments to the first paragraph of section 12.4.3, below, to allow for consistency with FCC's framework in light of the rolling re-certification process that initiated a transition period in 2017 where no re-certifications are required for customers whose anniversary dates fall in the first half of 2017(exemption period). At the end of the year, service providers must report the recertification results using FCC Form 555, which is due January 31 each year. Please refer to FCC's [Public Notice: Guidance on Rolling Recertification](#) (DA 16-1227) released on October 27, 2016 and USAC's link:

[http://www.usac.org/li/program-requirements/recertify-subscribers/.](http://www.usac.org/li/program-requirements/recertify-subscribers/)]

#### 12.4.3 Annual recertification of registered beneficiaries

The ETC shall re-certify annually the ~~beneficiary~~Beneficiary's eligibility ~~on the anniversary of the beneficiary's enrollment date consistent with the FCC Rules, the Lifeline Modernization Order of 2016 and any FCC guidance thereto.~~

Once the Commonwealth of Puerto Rico joins the National Verifier (NV), the ~~beneficiary~~Beneficiary's annual recertification will be done through the NV. If the NV notifies the ETC that the ~~beneficiary~~Beneficiary is no longer eligible to receive the *Lifeline* benefit, the ETC will proceed to withdraw the ~~beneficiary~~Beneficiary, pursuant to Section 54.405 (e) (4) of the FCC rules, 47 CFR §54.405 (e) (4).

**[CTIA COMMENT:** We suggest eliminating the eligibility verification language in the second paragraph of 12.5, below, as the NLAD platform is only used to detect potential duplicates.]

#### 12.5 Eligibility Verification and Duplicates; National Systems

The ETC ~~will have to~~shall implement policies and procedures to validate that the client is eligible to receive the *Lifeline* service and, ~~to the extent required under FCC rules, will have to~~ obtain evidence that the client meets the eligibility criteria listed in Rule 12.3.

The ETC will use the *National Lifeline Accountability Database* (NLAD) system to ~~verify the eligibility of potential beneficiaries and~~ detect duplicates, as established in Section 54.404 of the FCC rules, 47 CFR § 54.404.

Once Puerto Rico is integrated into the *National Lifeline Eligibility Verifier* or *National Verifier* (NV) system, the ETC will need to use this system to determine the eligibility of potential beneficiaries to the *Lifeline* program, as set forth in sections 54.407 and 54.410 of the FCC rules, 47 CFR § 54.407, 54.410.

**[CTIA COMMENT:** With respect to subsections 12.6.1 d.1 – d.3, below, the language seems to be confusing. We question the rationale behind charging a deposit if there are no LD charges. We therefore suggest deleting said sections.]

#### 12.6 ETCs obligation for the *Lifeline* Service

##### 12.6.1 Presentation of Rates

- a. All ETCs, including BLPs, shall submit to the Board ~~their rates corresponding to the an informational tariff containing their~~ *Lifeline* program, ~~on or before~~

~~effective for the purpose of this rule. ETCs that offer service plans subject to additional charges for long distance calls, whether domestic or international, to the monthly charges, will be required to submit an informational tariff. ETCs who include rates and charges thereof on a publicly available website are not required to submit an informational tariff.~~

- b. The informational tariff or website rates shall describe the terms and conditions of any voice service and/or BIAS plan offered exclusively to *Lifeline* subscribers, including details of the number of minutes and/or data included in the plan, additional charges, if any, for long distance calls, the rate plan price prior to the Lifeline discount, the Lifeline discount, and the amount the customer pays after the Lifeline discount. ~~and the price and charge ratio for each of these plans.~~ ETCs shall also provide information regarding these plans through its website.
- c. ETCs that offer service plans subject to additional charges for long distance calls, whether domestic or international, to the monthly charges, will be obliged to offer the ~~beneficiary~~Beneficiary the call blocking-limitation service free of charge.
- d. If long distance blocking-limitation service is not available, the telecommunications company may require a deposit. ~~if:~~
  - 
  - 1) ~~The ETC does not charge subscribers additional charges for long distance services.~~
  - 
  - 2) ~~The ETC charges additional charges for long distance calls, but the subscriber voluntarily chooses to have the long distance call blocking service.~~
  - 
  - 3) ~~The ETC will not be able to disconnect the voice service of the Lifeline beneficiaries, due to lack of payment of their long distance calls~~

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#### 12.6.2 Disclosure and Warnings in Informational Material

Every ETC should use simple and clear language at the point of sale allowing to inform all Lifeline subsidy applicants about the Lifeline subsidy at the point of sale to be aware and promotional or informational material, that:

- a) *Lifeline* is both a federal and state benefit and making false statements for the purpose of receiving such benefits may result in fines, imprisonment, withdrawal from the program, or be declared ineligible.
- b) Only one *Lifeline* service is available per ~~Economic Unit~~Household.

- c) **CTIA COMMENT:** We recommend deleting this subsection 12.6.2 c), as the definition of “Economic Unit” is already included in the **Definitions section of this Regulation.** ~~Economic Unit is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together in the same address and who share their income and expenses.~~
- 
- d) ~~An economic unit~~A Household cannot obtain *Lifeline* benefits from multiple providers.
- e) The violation of the limitation of one service per ~~Economic Unit~~Household will constitute a violation to the FCC and Board rules, resulting in the user being withdrawn from the program; and
- f) *Lifeline* is a non-transferable benefit and the subscriber may not transfer his benefit to any other person.

### 12.6.3 Promotion

- a) ETCs shall promote the availability of *Lifeline* services, through advertising mechanisms that reasonably ensure that the promotion reaches those individuals who can qualify for them. This includes the use of mechanisms that reach existing clients as well as those without voice service. Among the details required in the advertisement are: that *Lifeline* is a government assistance program, that the service cannot be transferred, only qualified persons can register in the program, and the subsidy is limited to one voice service per ~~Household~~economic unit.
- b) This obligation shall be of a continuous nature and in harmony with Rules 10.2 (b) and 10.8 of these Regulations.

### 12.7 Annual Reports.

ETCs shall submit to the Board a copy of the following reports no later than ~~ten-fifteen~~ (4015) calendar days after having submitted them to the FCC or to the FSUF Administrator, depending on the case.

- a) Annual certification required by FCC Rule 54.416, 47 CFR § 54.416.
- b) Annual report required by FCC Rule 54.422, 47 CFR § 54.422.
- c) Form FCC-481.

- d) Form FCC-555.
- e) A report of the total number of eligible clients enrolled in the *Lifeline* Program during the preceding calendar year, to be filed on or before March thirty first (31) of each year.

The Board may establish mechanisms for filing reports electronically. The Board may, by Administrative Order, after notice and comment, add, modify or eliminate the requirements of annual reports.

**CTIA COMMENT:** We suggest including the proposed language in section 12.8, below, allowing the use of copies of monthly reports to aid national ETCs who undertake the regulatory functions outside of Puerto Rico to comply with regulatory requirements in a less burdensome manner. Also, there are ETCs who file on a quarterly basis. Therefore, we are suggesting language to provide for a reasonable term of 15 days after such filings to provide a copy to the Board. CTIA strongly favors electronic filing, as it is more cost-efficient and the Board would receive the information much quicker than through ordinary mail.]

**12.8 Monthly Reports.**

The ETCs shall submit to the Board the original or copies of the following reports within a term of fifteen (15) days after ~~the end of the~~ reporting month report is filed.

- a) Copy of Form FCC-497.
- b) List Reconciliation of *Lifeline* clients that are in dispute with NLAD, using the following format:

<b>Month y Year</b> (month of Line 4(b) of Form FCC-497)			
Number of Subscribers	(a)	(Total on Line 8 of Form FCC-497)	
Number of Subscribers who are in dispute process in NLAD	(b)		
Number of Subscribers not in dispute in NLAD	(c)	(Line (a) minus Line (b))	

- c) Application for Disbursement of PRUSF for *Lifeline* Program (Puerto Rico USF Support Payment Request Form) as provided by Rule 12.12.2, if applicable.

The Board may establish mechanisms for filing reports electronically. The Board may, by Administrative Order, after notice and comment, add, modify or eliminate the requirements of the monthly reports.

## 12.9 De-enrollment

The ETC shall de-enroll the *Lifeline* beneficiaries for the reasons listed in, and following the process of, FCC Rules Section 54.405 (e), 47 CFR §54.405 (e).

~~The ETC must also de-enroll a *Lifeline* beneficiary if it receives a notice from the state agency administering the federal program that makes the beneficiary eligible that the beneficiary no longer participates in the program that made him or her eligible. In these cases, the ETC will notify the user by mail that the *Lifeline* program grant will be discontinued fifteen (15) days from the date of the notice, unless the beneficiary notifies the ETC that an error has been made. If the beneficiary notifies the ETC that an error has been made, the subscription to the *Lifeline* program will continue for thirty (30) days to allow the user sufficient time to correct the records and obtain a confirmation of eligibility from the public agency. If the beneficiary has not obtained a confirmation of eligibility from the corresponding public agency at the end of the thirty (30) day period, the *Lifeline* credit may be discontinued and billing will continue at the applicable rates.~~

## 12.10 Portability Limitations on *Lifeline* Benefit

ETCs receiving support from PR-USF will have the same limitations, as described in FCC Rules Section 54.411, 47 CFR §54.411, to claim or receive ~~PR-USF~~PRUSF refunds for voice and/or broadband *Lifeline* services provided to beneficiaries who change providers.

## 12.11 Amount of *Lifeline* Subsidy; Application

12.11.1 The ~~Federal Universal Service Fund~~FUSE provides ~~the~~contributes an amount ~~of nine dollars and twenty five cents (\$ 9.25) a~~per month to ~~the those~~ ETCs ~~that provides the~~providing *Lifeline* ~~passing through~~ benefit to ~~its~~ ~~clients~~eligible customers pursuant ~~to as established in~~ section 54.403 (a) of the FCC rules, 47 CFR § 54.403 (a). ~~This amount shall~~Said amount may be adjusted gradually in accordance with the provisions of FCC rules section 54.403 (a) (2), 47 CFR §54.403 (a) (2).

12.11.2 In addition to the amount provided by the ~~Federal Universal Service Fund~~FUSE, the ~~Universal Service Fund of Puerto Rico~~ provides thePRUSF may ~~contribute an~~ amount ~~of up to three dollars and fifty cents (\$ 3.50) per month to~~ cover ~~part of the cost of the *Lifeline* service~~Lifeline service discounts that are

~~passed through to eligible customers.~~ The Board may modify such amount ~~at any time~~, as provided in Rules 8.1.3 and 12.11.5 of this regulation.

12.11.3 Both the subsidy provided by the Federal Universal Service Fund and the subsidy provided by the Universal Service Fund of Puerto Rico under this Program shall apply exclusively to a single *Lifeline* service per ~~economic unit~~ Household.

12.11.4 ~~The ETCs shall apply the total subsidy to the service price that would otherwise be incurred by the customer, by means of the corresponding credit in the monthly invoice of the beneficiary.~~ **[CTIA COMMENT: We suggest the amendments to section 12.11.4, above, to account for pre-paid services where invoices are not issued.]**

12.11.5 The Board may review the amount the PR-USF contributes to the *Lifeline* program. If determined necessary to modify the state contribution, it will be established and notified by administrative order, as provided in Rule 8.1.3 of this regulation.

## 12.12 Disbursement of Puerto Rico Universal Service Fund for the *Lifeline* Program

12.12.1 To obtain disbursement from the Fund, ETCs shall submit to the Administrator and the Board a certification indicating the information and documents were obtained, as required by applicable state and federal regulations, under penalty of perjury and the penalties provided for in Rule 16 of this Regulation. This certification must be submitted two (2) times a year, on or before December 1 and on or before May 1.

12.12.2 In addition, the ETCs shall submit on a monthly basis the *Lifeline* Payment Request Form, with the required information on ~~the subsidies granted~~ Lifeline discounts provided to customers, and for which reimbursement is requested. Once approved by the Board, the Payment Form will be submitted to the Administrator for the corresponding process.

## ~~12.13 Waiver of Restriction on Disconnection for Non-Payment of Long Distance Calls~~

~~12.13.1 Upon request by an ETC, the Board may grant a waiver of *Lifeline* service disconnection restriction, due to non-payment of long distance calls, if it proves that:~~

- ~~1) The ETC will incur substantial expenses to comply with this requirement;~~



~~2) The ETC offers its subscribers, the services of control or blocking of long distance calls, and~~

Board take into consideration the applicability of the federal regulations, which mandate USAC to perform biennial audits of ETCs. The USAC audit program is known as the Beneficiary and Contributor Audit Program (BCAP) and provides a general standard procedure in compliance with the Lifeline Reform Order. Because ETCs are already subject to biennial audits, we recommend that the Board eliminate the local audit requirement and rely on the BCAP audit results. This approach would be beneficial to the ETCs, as it would eliminate the significant burdens of duplicate audits. It would also benefit the Board, as it would not have to invest the significant time and resources required of audits. In the alternative, we suggest that the Board expressly define in this Regulation, the audit scope, compliance timeline, sample size, and all other material audit factors consistent with the BCAP, thus providing a clearly defined and less burdensome audit scope for ETCs to comply with. We request that the Board provide CTIA with the opportunity to submit supplementary comments to any new proposed requirements.]

~~3) The penetration of the telephone service for the designated service area, where the waiver is requested, is greater than sixty percent (60%):~~

~~12.13.2 — The grounds for requesting the waiver must be annually certified by the ETC, in order to renew it for an additional period of one (1) year.~~

~~12.13.3 — Upon request of an ETC, the Board may grant a limited waiver of the disconnection restriction of the Lifeline service, due to non-payment of long distance calls. The ETC must demonstrate that, at the moment, it lacks the technical capacity to provide the control service or blocking of long distance calls. The limited waiver will be in effect until the company adopts the necessary equipment to offer the services of control or blocking of long distance calls.~~

~~12.13.4 — The Board shall issue its decision, with respect to the waiver, within a term of thirty (30) days, counted from the date of filing the request for waiver.~~

[**CTIA COMMENT:** With respect to section 12.14, below, we recommend that the Board take into consideration the applicability of the federal regulations, which mandate USAC to perform biennial audits of ETCs. The USAC audit program is known as the Beneficiary and Contributor Audit Program (BCAP) and provides a general standard procedure in compliance with the Lifeline Reform Order. Because ETCs are already subject to biennial audits, we recommend that the Board eliminate the local audit requirement and rely on the BCAP audit results. This approach would be beneficial to the ETCs, as it would eliminate the significant burdens of duplicate audits. It would also benefit the Board, as it would not have to invest the significant time and resources required of audits. In the alternative, we suggest that the Board expressly define in this Regulation, the audit scope, compliance timeline, sample size,

and all other material audit factors consistent with the BCAP, thus providing a clearly defined and less burdensome audit scope for ETCs to comply with. We request that the Board provide CTIA with the opportunity to submit supplementary comments to any new proposed requirements.]

#### 12.14 Verification and Audits

The Board may verify, through random audits or other relevant mechanisms, the application and documents submitted initially and those required in the annual recertification process of enrolled ~~b~~Beneficiaries, under the programs listed in this Regulation, to ensure that continued compliance with the established criteria for receiving ~~the~~ PRUSE subsidies.

Similarly, the Board may conduct audits to ensure that ETC funds from the various support programs are used for the purposes of the universal service under the Federal Communications Act, Act 213, and regulations and orders entered by the FCC and the Board.

### 13. Schools, Libraries and Health Service Providers

Puerto Rico's schools, libraries and health service providers, who qualify, may benefit from the ~~Federal Universal Service Fund~~ FUSE, as established in the Communications Act.

The definitions of applicable terms, eligibility criteria and discounts, among others, are governed by the Federal Communications Act and by the guidelines issued by the FCC in this matter, and Subparts F and G of Title 47, Part 54 of the Code of Federal Regulations.

~~pursuant to FCC Regulation 54.505, 47 CFR §54.505.~~

### 14. Request for Review by beneficiaries of the Lifeline Program.

The Board ~~will have primary~~has primary jurisdiction to review the adjudication by an ETC in regards to complaints from its Lifeline ~~clients~~customers pursuant to the ETC dispute resolution procedure. The Board will not address complaints from beneficiaries that were not first submitted to the telecommunications company as part of the complaint procedure.

Any request for review must be submitted to the Board within the non-extendible term of 30 days from the notification to the ~~beneficiary~~Beneficiary of the ETC determination.

**CTIA COMMENT:** With respect to section 15b, below, we propose eliminating the language referring to "negligent" acts, as it is too broad and any involuntary mistake made

by an employee would unfairly expose the company to sanctions. Alternatively, we suggest that the Board include specific language defining “grossly negligent” act(s) at issue (and not mere negligence), in order to comply with due process requirements. We also add the word “intentionally” to remove the onerous strict liability nature of potential penalties under 15b).]

#### 15. Penalties

To the extent any non-compliance issue falls within the jurisdiction of the Board, penalties may be imposed, subject to the due process rights of Telecommunication Companies:

- a) Any person who attempts to receive *Lifeline* benefits, through false certifications, fraudulent acts or who obtains the *Lifeline* subsidy for more than one (1) voice service line per ~~economic unit~~ Household, may be punished with temporary or permanent ineligibility from the program. The Board may also impose an administrative fine of up to one thousand dollars (\$ 1,000.00) and refer it to the Department of Justice of Puerto Rico and the Department of Justice of the United States of America.
- b) Any ETC that ~~acts negligently in the process of the Lifeline program subscription or intentionally~~ includes ineligible subscribers within the *Lifeline* program or incurs in any other violation of the provisions of this regulation, may be sanctioned, as provided in Rule ~~15-16~~ of this Regulation. The FCC or the federal administrator of the Universal Service Fund may impose additional penalties including the recovery of those funds previously disbursed under the program.
- c) Any company that does not fulfill its obligation to contribute to the fund, or that does not comply with the provisions of this regulation, may be sanctioned as provided in Rule 16 of this Regulation.
- d) The Board may also impose any other penalty it deems applicable, including the recovery of those funds disbursed under the program, then in a procedure to show cause.

[**CTIA COMMENT:** With respect to section 16b), below, we propose eliminating the language "(vi) incur in negligence", as it is too broad. The language does not specify the type of negligence an ETC would be liable for, in any event. Thus, for example an involuntary mistake made by an employee would unfairly expose the company to sanctions. Alternatively, we suggest that the Board include specific language defining “grossly negligent” act(s) at issue (and not mere negligence), in order to comply with due process requirements.]

#### 16. Sanctions

To the extent any non-compliance issue falls within the jurisdiction of the Board, the sanctions may be imposed, subject to the due process rights of ETCs:

- a) Telecommunication companies that do not comply with the provisions of this Regulation will be subject to the imposition of sanctions by this Board.
- b) Actions that may lead to sanctions, without being understood as a limitation, include the following: (i) failure to pay the PRUSF contribution to the Universal Service Fund; (ii) falsifying documents or providing false information, when requesting the designation of eligibility or submitting information regarding the amount of the contribution to the ~~Universal Service Fund~~PRUSF; (iii) failure to provide information required by the Board or the Administrator related to this Regulation; (iv) late, incomplete or incorrect filing of reports or other information expressly required; (v) committing fraud against the ~~Universal Service Fund of Puerto Rico~~PRUSF or the ~~Federal Universal Service Fund~~; ~~(vi) incur in negligence~~, and (vi) recovery of contributions in excess of what was paid or recovery of charges for arrears and interest.
- c) Among the sanctions that can be imposed by the Board, without being understood as a limitation, are the following: (i) ~~revoke revocation of~~ the certification to provide ~~Telecommunications s~~Services in Puerto Rico; (ii) ~~revoke revocation from from~~ the ~~mobile radio commercial service~~ Commercial Mobile Radio Service registry; (iii) ~~revoke revocation of the~~ ETC designation; and (iv) imposition of administrative fines, ~~and penalties~~.

#### 17. **Separability Clause**

If any clause or provision of this Regulation is declared unlawful or unconstitutional by a Court of Justice, with jurisdiction and competence, or by final and firm judgment, such declaration shall not affect the validity of the other clauses of the same, which shall remain valid and effect. The effect of the declaration of nullity or invalidity shall be limited to the Article, Rule, or Subsection, object of said judicial declaration.

#### 18. **Repeal/Revocation Clause**

This Regulation repeals the Universal Service Regulation, Regulation No. 7795, and the Provisional Amendments to the Universal Service Regulation, Regulation No. 8093, filed at the Department of State of Puerto Rico on January 14, 2010 and October 21, 2011, respectively. In addition, it repeals any Resolution and Order, or Administrative Order, issued prior to its adoption, which is contrary to or incompatible with the provisions herein.

#### 19. **Validity**

This Regulation shall take effect thirty (30) days after its filing with the [Puerto Rico](#) Department of State.