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Public Service Commission

December 17, 2013

VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: WC Docket No. 11-42, Lifeline and Link Up Reform Modernization

Dear Ms. Dortch:

Forwarded herewith are Florida Public Service Commission's Ex Parte Comments in response to FCC Public Notice DA 13-2240 seeking comment on waiving certain Lifeline rules for the benefit of those individuals participating in state-administered Address Confidentiality Programs.

Bob Casey at (850) 413-6874 is the primary staff contact on this matter.

Sincerely,

/ s /

Adam J. Teitzman
Attorney Supervisor

AJT:tf
cc: James Bradford Ramsay, NARUC
Best Copy

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	

**EX PARTE COMMENTS OF
THE FLORIDA PUBLIC SERVICE COMMISSION**

CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

December 17, 2013

INTRODUCTION AND SUMMARY

On November 21, 2013, the Federal Communications Commission (“FCC”) released a Public Notice (DA 13-2240) seeking comment on waiving certain Lifeline rules for the benefit of those individuals participating in state-administered Address Confidentiality Programs. Address Confidentiality Programs protect victims of domestic violence by allowing them to use a substitute mailing address rather than their physical home address. The Florida Public Service Commission (FPSC) submits these Ex Parte comments in response to the FCC’s Public Notice. The FPSC encourages the FCC to consider the following:

1. The FCC should waive the rule limiting the use of P.O. Boxes as residential addresses, to allow qualifying, low-income consumers who participate in state-administered Address Confidentiality Programs to receive Lifeline service. In Florida, persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. Sections 741.401-741.409 and 741.465, Florida Statutes, and Chapter 2A-7, Florida Administrative Code (attached), enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, enables interagency cooperation with the Office of the Florida Attorney General in providing address confidentiality for victims of domestic violence, and enables state and local agencies to accept a program participant’s use of an address designated by the Office of the Florida Attorney General as a substitute mailing address.
2. In Florida, Eligible Telecommunications Carriers should accept a Florida Address Confidentiality Program authorization card as proof of Address Confidentiality Program enrollment. Upon certification in the Florida Address Confidentiality Program, each participant is issued an

authorization card, which includes the participant's name, authorization code, substitute mailing address, and expiration date. Eligible Telecommunications Carriers can transmit the substitute mailing address to the National Lifeline Accountability Database as the residential address for that subscriber. The National Lifeline Accountability Database already contains a Flag which is used to identify a subscriber who is in an Address Confidentiality Program.

3. The FCC should waive the requirement for Address Confidentiality Program participants to fill out a one per household worksheet. As with all Lifeline applicants, an Address Confidentiality Program participant would still be required to certify on the Lifeline application that he/she is only receiving one Lifeline benefit per household.

CONCLUSION

During 2012, there were 108,046 cases of domestic violence reported to the Florida Department of Law Enforcement, and many domestic incidents go unreported. Developing a process for Address Confidentiality Program participants to enroll in Lifeline while protecting their physical address is vital. Providing Lifeline service to persons attempting to escape from actual or threatened domestic violence should be a priority. The FPSC encourages the FCC to consider the proposed recommendations noted in these comments.

Respectfully submitted,

/ s/

Adam J. Teitzman, Attorney Supervisor

Office of the General Counsel

FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399-0850

DATED: December 17, 2013

(850) 413-6082

Florida Statutes - Address Confidentiality Program

741.401 Legislative findings; purpose.—The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of ss. 741.401-741.409 is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the Attorney General as a substitute mailing address.

History.—s. 1, ch. 98-404.

741.402 Definitions; ss. 741.401-741.409.—Unless the context clearly requires otherwise, as used in ss. 741.401-741.409, the term:

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under ss. 741.401-741.409.

(2) "Program participant" means a person certified as a program participant under s. 741.403.

(3) "Domestic violence" means an act as defined in s. 741.28 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

History.—s. 2, ch. 98-404.

741.403 Address confidentiality program; application; certification.—

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under chapter 744 may apply to the Attorney General to have an address designated by the Attorney General serve as the person's address or the address of the minor or incapacitated person. To the extent possible within funds appropriated for this purpose, the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if it contains all of the following:

(a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, and that the applicant fears for his or her safety or his or her children's safety or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail.

(c) The mailing address where the applicant can be contacted by the Attorney General, and the phone number or numbers where the applicant can be called by the Attorney General.

(d) A statement that the new address or addresses that the applicant requests must not be disclosed for the reason that disclosure will increase the risk of domestic violence.

(e) The signature of the applicant and of any individual or representative of any office designated in writing under s. 741.408 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications must be filed with the Office of the Attorney General. An application fee may not be charged.

(3) Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who attempts to gain access to a program participant's actual address through fraud commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who knowingly enters the address confidentiality program to evade prosecution of criminal laws or civil liability commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 3, ch. 98-404.

741.404 Certification cancellation.—

(1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The Attorney General may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Attorney General with 14 days' prior notice of the change of address.

(3) The Attorney General may cancel certification of a program participant if mail forwarded by the Attorney General to the program participant's address is returned and is undeliverable or if service of process documents are returned to the Attorney General.

(4) The Attorney General shall cancel certification of a program participant who applies using false information.
History.—s. 4, ch. 98-404.

741.405 Agency use of designated address.—

(1) A program participant may request that state and local agencies or other governmental entities use the address designated by the Attorney General as his or her address. When creating a new public record, state and local agencies or other governmental entities shall accept the address designated by the Attorney General as a program participant's substitute address, unless the Attorney General has determined that:

(a) The agency or entity has a bona fide statutory or administrative requirement for the use of the address that would otherwise be confidential under ss. 741.401-741.409;

(b) This address will be used only for those statutory and administrative purposes;

(c) The agency or entity has identified the specific program participant's record for which the waiver is requested;

(d) The agency or entity has identified the individuals who will have access to the record; and

(e) The agency or entity has explained how its acceptance of a substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(2) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address.

(3) The Attorney General's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of information provided under subsection (1).

(4) If the Attorney General determines that an agency or entity has a bona fide statutory or administrative need for the actual address and that the information will be used only for that purpose, the Attorney General may issue the actual address to the agency or entity. When granting a waiver, the Attorney General shall notify and require the agency or entity to:

(a) Maintain the confidentiality of a program participant's address information;

(b) Limit the use of and access to that address;

(c) Designate an address disposition date after which the agency or entity may no longer maintain the record of the address; and

(d) Comply with any other provisions and qualifications determined appropriate by the Attorney General.

(5) The Attorney General's denial of an agency's or entity's waiver request must be made in writing and include a statement of specific reasons for denial. Acceptance or denial of an agency's or entity's waiver request shall constitute final agency action.

(6) Pursuant to chapter 120, an agency or entity may appeal the denial of its request.

(7) A program participant may use the address designated by the Attorney General as his or her work address.

(8) The Office of the Attorney General shall forward all first class mail to the appropriate program participants at no charge.

History.—s. 5, ch. 98-404.

741.406 Voting by program participant; use of designated address by supervisor of elections.—A program participant who is otherwise qualified to vote may request an absentee ballot pursuant to s. 101.62. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions in which that individual resides in the same manner as absentee voters. The supervisor of elections shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as an absentee voter. The name, address, and telephone number of a program participant may not be included in any list of registered voters available to the public.

History.—s. 6, ch. 98-404; s. 1, ch. 2003-185.

741.408 Assistance for program applicants.—The Attorney General shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Assistance and counseling rendered by the Office of the Attorney General or its designees to applicants does not constitute legal advice.

History.—s. 8, ch. 98-404.

741.409 Adoption of rules.—The Attorney General may adopt rules to facilitate the administration of this chapter by state and local agencies and other governmental entities.

History.—s. 9, ch. 98-404.

741.465 Public records exemption for the Address Confidentiality Program for Victims of Domestic Violence.—

(1) The addresses, corresponding telephone numbers, and social security numbers of program participants in the Address Confidentiality Program for Victims of Domestic Violence held by the Office of the Attorney General are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be

disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of a valid arrest warrant; if directed by a court order, to a person identified in the order; or if the certification has been canceled. For purposes of this section, the term “address” means a residential street address, school address, or work address, as specified on the individual’s application to be a program participant in the Address Confidentiality Program for Victims of Domestic Violence.

(2) The names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence contained in voter registration and voting records held by the supervisor of elections and the Department of State are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of an arrest warrant or, if directed by a court order, to a person identified in the order. This exemption applies to information made exempt by this subsection before, on, or after the effective date of the exemption.

History.—s. 1, ch. 98-405; ss. 3, 4, ch. 2003-185; ss. 2, 3, ch. 2005-279; s. 1, ch. 2010-42; s. 2, ch. 2010-115.

Florida Administrative Code - Address Confidentiality Program

**CHAPTER 2A-7
ADDRESS CONFIDENTIALITY PROGRAM (ACP)**

2A-7.001	Definitions
2A-7.002	Application and Certification Process
2A-7.003	Responsibility of State and Local Agencies and Governmental Entities
2A-7.004	Certification Renewal
2A-7.005	Certification Withdrawal, Invalidation, Expiration, and Cancellation
2A-7.006	Information Release to Law Enforcement Agency
2A-7.007	Agency Use of Designated Address and Agency Exemption Request
2A-7.008	Service of Process
2A-7.009	Maintaining Protected Records Voter Information

2A-7.001 Definitions.

(1) “Address Confidentiality Program” is the statutorily created program responsible for implementing the provisions of Sections 741.401-.409, F.S., within the Office of the Attorney General.

(2) “Agency or Governmental Entity” means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of the aforementioned.

(3) “Applicant” means an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under Chapter 744, F.S., who is applying to the department to have an address designated by the department serve as the person’s address or the address of the minor or incapacitated person.

(4) “Applicant Assistant” means an employee of a state or local agency, or a non-profit organization that has been designated by the department to assist individuals in applying for enrollment in the program.

(5) “Authorization code” is the identification number assigned to a participant.

(6) “Authorized personnel” means an employee of the Department of State, Division of Elections, or Supervisor of Elections, who has been designated by the chief executive officer of the respective agency to process and access voter application and voting records pertaining to program participants.

(7) “Department” means the Department of Legal Affairs, Office of the Attorney General.

(8) “Domestic Violence” means an act as defined in Section 741.28, F.S., and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(9) “Protected records voter” means a program participant who is registered and qualified to vote in this state and has requested an absentee ballot pursuant to Section 101.62, F.S.

(10) "Record" means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(11) "Stalking" means an act as defined in Section 784.048, F.S.

(12) "Substitute mailing address" means the mailing address designated by the department which shall not be the participant's residential address.

Rulemaking Authority 741.409 FS. Law Implemented 741.402, 741.403, 741.405, 741.406, 741.408 FS. History—New 1-27-99, Amended 5-4-11, 10-3-11.

2A-7.002 Application and Certification Process.

Rulemaking Authority 741.409 FS. Law Implemented 741.403, 741.408 FS. History—New 1-27-99, Repealed 5-4-11.

2A-7.0021 Eligibility.

(1) A person who is a victim of domestic violence, or stalking, is eligible to apply for participation in this program.

(2) A person who is a victim of domestic violence or stalking who relocates to Florida may apply for enrollment and is subject to the same eligibility criteria as Florida residents.

(3) A name change will result in the participant's cancellation from the program. However, an individual may re-apply by completing an application for enrollment.

(4) Participation in this program cannot be used to circumvent or nullify any other Florida law that requires an individual to register her or his address with another public agency.

Rulemaking Authority 741.409 FS. Law Implemented 97.058(3), 741.403, 741.404, 741.405, 741.406, 741.409, 741.465, 775.13, 775.21, 784.048, 944.606, 944.607, 944.608, 944.609 FS. History—New 5-4-11, Amended 10-3-11.

2A-7.0022 Application Process.

(1) The applicant shall provide the following information to the department:

(a) Full legal name,

(b) Date of birth,

(c) Last four digits of social security number,

(d) Actual home address (street number and name, city, state, zip code),

(e) Mailing address (if different),

(f) Home telephone number,

(g) Work telephone number,

(h) Other telephone number where applicant can be reached,

(i) Name and physical address of employer(s),

(j) School name and physical address if applicable,

(k) A signed and dated sworn statement by the applicant that he or she has good reason to believe that he or she, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence or stalking, and that the applicant fears for his or her safety or his or her children's safety or the safety of the minor or incapacitated person on whose behalf the application is made.

(2) An application for enrollment may be obtained from an applicant assistant at selected state or local agencies or non-profit organizations that have been designated by the department to assist in the application process.

(3) The application must be received by the department at the following address: Office of the Attorney General, Address Confidentiality Program, P. O. Box 6298, Tallahassee, Florida 32314-6298.

(4) An eligible applicant who has filed a properly completed application with the department shall be certified as a participant. Upon certification, each participant will be issued an authorization card, which will include the following:

- (a) Participant's name,
- (b) Authorization code,
- (c) Substitute mailing address, and
- (d) Expiration date.

(5) Certification shall be effective on the date the application is approved by the department.

(6) Mail received by the department that does not include the name and authorization code of a certified participant may not be able to be forwarded.

(7) If mail forwarded by the department to the participant is returned by the post office, the department will attempt to contact the participant by telephone to verify the address. If contact is not successful within seven days, the participant's certification will be cancelled and the mail will be returned to the United States Postal Service.

Rulemaking Authority 741.409 FS. Law Implemented 97.058(3), 741.403, 741.404, 741.405, 741.406, 741.409, 741.465, 784.048 FS. History—New 5-4-11, Amended 10-3-11.

2A-7.0023 Participant Responsibilities.

(1) The participant shall keep the department informed of her or his current mailing address. The last known address provided to the department will be the address of record.

(2) To protect her or his address confidentiality and exercise her or his right to vote pursuant to Section 741.406, F.S., the participant must personally go to the physical office of the county supervisor of elections and request to vote by absentee ballot.

Rulemaking Authority 741.409 FS. Law Implemented 97.0585, 741.403, 741.404, 741.406 FS. History—New 5-4-11.

2A-7.0024 Applicant Assistant Duties and Responsibilities.

(1) Only those individuals who are employed with a state or local agency or non-profit organization designated by the department and who have completed the required training may assist a victim in applying for enrollment in the program.

(2) An applicant assistant must complete required training every four years. Required training is available only through the department.

(3) The applicant assistant will forward original and supporting documents to the department within 72 hours of completion.

(4) Approval to serve as an applicant assistant is assigned to the individual at a designated state or local agency or non-profit organization and is not transferrable. The applicant assistant serves at the pleasure and on behalf of the department, and may have designation as an applicant assistant terminated with or without cause.

(5) Upon notice to the department by the designated agency that the applicant assistant is no longer employed by that agency, the individual applicant assistant's approval will be rescinded.

Rulemaking Authority 741.409 FS. Law Implemented 97.0585, 741.403, 741.408 FS. History—New 5-4-11.

2A-7.003 Responsibility of State and Local Agencies and Governmental Entities.

(1) When an active participant presents her or his authorization card to a state or local agency or governmental official when creating a new record and requests address confidentiality through the use of the substitute mailing address as it appears on the authorization card, the agency official creating a new record may make a file photocopy of the authorization card and shall immediately return the authorization card to the program participant.

(2) A state or local agency shall accept the substitute mailing address unless the agency has received a

written exemption from the department pursuant to Section 741.405, F.S.

(3) In the event that an authorization card is lost or stolen, or an emergency situation exists, verification of a client's participation in the ACP may be made by calling the ACP at (850)414-3300 or the Attorney General's Victim Information and Referral Line at 1(800)226-6667.

Rulemaking Authority 741.409 FS. Law Implemented 741.405 FS. History--New 1-27-99, Amended 5-4-11.

2A-7.004 Certification Renewal.

Rulemaking Authority 741.409 FS. Law Implemented 741.403 FS. History--New 2-4-99, Repealed 5-4-11.

2A-7.005 Certification Withdrawal, Invalidation, Expiration, and Cancellation.

(1) A participant may withdraw from the program by submitting written notification of her or his intent to withdraw and shall return the department-issued authorization card to the department. Certification shall be canceled immediately upon receipt of the notification.

(2) If the department cancels a participant's certification pursuant to Section 741.404, F.S., the department shall send written notice of the cancellation to the participant's address of record. The participant shall be advised of the right to appeal the cancellation.

(3) Cancellation of certification in the program will result in cancellation for the primary and all secondary participants.

(4) To protest a cancellation, the participant must request a hearing pursuant to the provisions of Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C., Uniform Rules of Procedure.

(5) If the participant was a protected records voter, the department shall notify the Department of State, Division of Elections that the participant's certification has been canceled.

(6) The substitute mailing address is a post office box that is shared with other participants. The participant is not an authorized boxholder customer and is prohibited from filing a change of address with the United States Postal Service when she or he is no longer a program participant.

Rulemaking Authority 741.409 FS. Law Implemented 741.404 FS. History--New 1-27-99, Amended 5-4-11.

2A-7.006 Information Release to Law Enforcement Agency.

A request from a law enforcement agency for release of records in a participant's file shall be made in writing to the department and shall contain the request date, the name of the participant and a copy of the active arrest warrant.

Rulemaking Authority 741.409 FS. Law Implemented 741.407 FS. History--New 1-27-99, Amended 5-4-11.

2A-7.007 Agency Use of Designated Address and Agency Exemption Request.

An agency seeking exemption under Section 741.405, F.S., must provide in writing to the department the specific statute or administrative rule which demonstrates the agency's bona fide requirement and authority to use the participant's actual address.

Rulemaking Authority 741.409 FS. Law Implemented 741.405 FS. History--New 1-27-99, Amended 5-4-11.

2A-7.008 Service of Process.

(1) Service of Process for participants shall be made on the department by mailing two copies of the service of process documents to the substitute mailing address or to the Office of the Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399-1050.

(2) Following service on the department, the documents shall be sent by certified mail, return receipt requested, to the participant's address of record.

(3) In the event the participant's certification has expired or has been cancelled, the service of process will be returned to sender and service declined.

Rulemaking Authority 741.409 FS. Law Implemented 741.403 FS. History—New 1-27-99, Amended 5-4-11.

2A-7.009 Maintaining Protected Records Voter Information.

(1) The Department of State, Division of Elections, shall notify the department when a participant requests protected record status.

(2) All records pertaining to a protected records voter shall be maintained in a manner ensuring that these records are accessible only to authorized personnel. A protected records voter shall not be included in any registered voter list, absentee ballot list, tape, label, or poll book, electronic or otherwise, that is available to the public. Information pertaining to a protected records voter shall not be publicly accessible regardless of the type of records management system except as provided by Sections 741.407 and 741.465, F.S.

Rulemaking Authority 741.409 FS. Law Implemented 97.0585, 741.407, 741.465 FS. History—New 1-27-99, Amended 5-4-11.