**TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

DIGEST

Adds 170 IAC 7-8 to establish the Indiana lifeline assistance program. Effective 30 days after filing with the Publisher.

**170 IAC 7-8**

 SECTION 1. 170 IAC 7-8 IS ADDED TO READ AS FOLLOWS:

**Rule 8. Rules Regarding Certain Practices and Procedures for Wireless Lifeline-Only Eligible Telecommunications Carriers or ETCs.**

**170 IAC 7-8-1 Policy and scope**

 **Authority: IC 8-1-1-3; IC 8-1-2.6-13(d)(5); IC 8-1-2.6-13**

 **Affected: IC 8-1-2.6-13(c)(5)**

**Sec. 1. (a) The purpose of this rule is to:**

1. **establish standards for marketing and distribution of lifeline wireless phones;**
2. **add additional safeguards to ensure wireless ETCs are performing due diligence in lifeline eligibility determinations and disclosures when marketing the lifeline program from temporary structures or locations; and**
3. **ensure ETCs and their representatives are identifying themselves and their products to prospective customers, and safeguarding customer information appropriately.**

 **(b) This rule applies only to wireless lifeline-only ETCs [when offering?] that offer lifeline services in Indiana from [temporary structures or locations?] locations other than bricks-and-mortar retail establishments owned or managed by the wireless lifeline-only ETCs.**

Comment regarding the clarity of this section – does it apply to an ETC providing other services?

Are providers with bricks and mortar locations who also market in temporary structures completely exempt?

What does bricks-and-mortar mean? Could be phrased as “permanent retail structure” or “permanent address”

Does policy and scope section equally apply to sections 3 and 5? Policy appears limited to temporary locations.

Could have more background about the reason for the policy and the scope.

**170 IAC 7-8-2 Definitions**

 **Authority: IC 8-1-1-3; IC 8-1-2.6-13**

 **Affected: IC 8-1-2.6-13(c)(5)**

**Sec. 2. The following definitions apply throughout this rule:**

**(1) “Eligible telecommunications carrier” or “ETC” means a communications service provider that is designated as an eligible telecommunications carrier by the commission under 47 CFR 54.201 and IC 8-1-2.6-13(c)(5).**

**(2) “Commission” means the Indiana utility regulatory commission.**

**(3) “FCC” means the Federal Communications Commission.**

**(4) “Federal lifeline program” means the local retail service wireless offering of an ETC that is subsidized by the federal universal service fund, as described in 47 CFR 54.401(a).**

**(5) “Lifeline eligibility determination” means the ETC’s process of obtaining and reviewing certifications from prospective customers:**

**(A) demonstrating qualification for the lifeline program; and**

**(B) ensuring that the customer understands the nature and requirements of the program pursuant to the federal lifeline rules.**

**(6) “Participant” means a customer who applies for and is eligible for the federal lifeline program.**

 **(7) “Prospective participant” means an individual inquiring or applying for the federal lifeline program.**

**(8) “Temporary structures or locations” means:**

**(A) tents, buses, vans, booths or other non-permanent structures intended to be at a locations for a limited time period of less than one year, that can be removed or transported and used in another location; or**

**(B) locations that are not owned or leased by the wireless lifeline-only ETC, unless the location is operated by a bricks-and-mortar retail establishment and the marketing takes place indoors.**

**Kiosks in mall – would they qualify as a bricks-and-mortar retail establishment?**

**(9) “Wireless lifeline-only ETC” means an entity that has been designated by the commission as a wireless ETC for the sole purpose of offering services under the federal lifeline program through the distribution of wireless mobile devices to participants in Indiana.**

**170 IAC 7-8-3 Lifeline Agents**

 **Authority: IC 8-1-1-3; IC 8-1-2.6-13**

 **Affected: IC 8-1-2.6-13(c)(5)**

**Sec. 3. A wireless lifeline-only ETC shall perform a criminal background check on each employee or independent agent who interacts with participants or prospective participants on the wireless lifeline-only ETC’s behalf. A document evidencing the criminal background check shall be maintained by the wireless lifeline-only ETC for a period of two years.**

Training of employees, in addition to background check? Possible requirement ETC to keep documentation as to training performed as with the background check.

**170 IAC 7-8-4 Temporary Structures and/or Locations**

 **Authority: IC 8-1-1-3; IC 8-1-2.6-13**

 **Affected: IC 8-1-2.6-13**

**Sec. 4. Enrollment of prospective participants in the federal lifeline program by a wireless lifeline-only ETC from a temporary structure or location is prohibited unless the following conditions are met:**

**Name of ETC or name of validly registered assumed business name?**

1. **There are at least two banners identifying the name of the wireless lifeline- only ETC, in print that is readable from at least thirty (30) feet away.**

**Electronic banners?**

**(b) The banners are at least three (3) foot by five (5) foot in size and the identification of the wireless lifeline-only ETC takes up at least fifty (50) percent of the banner.**

**(c) All agents of employers must wear a shirt that has the name of the wireless lifeline-only ETC permanently affixed to the shirt.**

**Nametag acceptable?**

**(d) The available terms, conditions and rates for the federal lifeline program product(s) must be prominently posted at the location where the marketing is taking place.**

**(e) The wireless lifeline-only ETC must have written permission, available on-site, from either the owner of the property where the marketing is taking place or from the individual or entity responsible for the property.**

**(f) The wireless lifeline-only ETC must have all required city and county licenses necessary for selling a service at that location.**

**(g) All marketing conducted or services provided by the wireless lifeline-only ETC must be provided in a manner that does not create a traffic hazard.**

**(h) The temporary structure must have the name of the wireless lifeline-only ETC permanently affixed on the outside of the temporary structure, in letters that are at least eighteen (18) inches in height;**

**(i) The wireless lifeline-only ETC must provide the commission a list of locations by email where mobile marketing is taking place, including the date, time and location, at least two weeks prior to the marketing from temporary structures;**

What is purpose of this if Commission staff is not checking each temporary location?

Some temporary locations are one day only, and weather dependent, no way to give 2 weeks’ notice in some cases

ETC’s already have approved compliance plans and training manuals

Possibility of alternative to have an appropriate compliance plan in place?

Need flexibility to move the location for events based on a variety of factors.

Could have multiple ETC’s operating at the same location

Competitive concerns

**(k) Any wireless handset provided by the wireless lifeline-only ETC in conjunction with the federal lifeline program must clearly and permanently identify the wireless lifeline-only ETC.**

Expensive to add logo if not already in etc’s procedure, stigma for some knowing whether a wireless phone is a lifeline phone.

Electronic identification of the service provider on start up screen?

NLAD should have records of the subscriber’s address tied to the service provider.

Comment that customer should have some burden to know their provider

**(l) Lifeline eligibility determinations must be conducted before the customer is enrolled in the federal lifeline program and provided with a lifeline phone. The participant or prospective participant must be given adequate time to review the lifeline certification form, which shall be signed and initialed by the participant or prospective participant.**

Possible overlap with FCC on eligibility determination (will FCC take it out of hands of provider anyway?)

Enforcement issues with these regulations? No enforcement mechanism in this rule?

Possibility for affirmative advance reporting of meeting the requirements

**170 IAC 7-8-5 Process for checking accurate subscriber address**

 **Authority: IC 8-1-1-3; IC 8-1-2.6-13**

 **Affected: IC 8-1-2.6-13(c)(5)**

**Sec. 5. In addition to adherence to federal lifeline program rules, when using an online public records database to verify the address of the prospective participant and the online public records database returns an error code, or signal that the address is vacant, non-existent or otherwise non-conforming, the wireless lifeline-only ETC must obtain a document verifying the address. Appropriate documentation may include a utility bill, a driver’s license, credit card bill, other government identification, or federal postal service verification of the address. The wireless lifeline-only ETC must retain such documentation for a period of two years.**

FCC rules already cover CPNI, PII

911 Fee payments issue