65.7636   Lifeline program provider to collect and remit monthly CMRS service charge to board -- Retention of administrative fee -- Enforcement of service charge collection -- No impact on CMRS fees imposed prior to July 15, 2016.

(1)   As used in this section, "Lifeline provider" means a CMRS provider that the Kentucky Public Service Commission has deemed or deems eligible to participate in the wireless low-income Lifeline program and to receive reimbursement from the universal service fund managed by the Federal Communications Commission pursuant to the federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq.

(2)   A Lifeline provider shall be liable for a CMRS service charge equal to the amount of the CMRS postpaid service charge levied under KRS 65.7629 and shall remit payment to the Kentucky 911 Services Board, less the administrative fee described in subsection (6) of this section, as follows:

(a)   Beginning February 1, 2017, an amount equal to the product of the following factors:

1.   The amount of the postpaid CMRS service charge levied under KRS 65.7629; and

2.   The number of unique end users with Kentucky addresses for which the Lifeline provider received reimbursement from the universal service fund during the immediately preceding month.

(b)   A Lifeline provider liable for the CMRS service charge levied under this subsection may bill and collect from each end user the charges calculated under this subsection with respect to each end user. The Lifeline provider shall determine the manner it uses to bill and collect the charges owed under this subsection. A Lifeline provider shall not bill or collect from an end user an amount greater than the charges paid by the Lifeline provider to the Kentucky 911 Services Board with respect to each end user.

(3)   Each Lifeline provider shall act as a collection agent of the service charge levied by this section for the CMRS fund. Each Lifeline provider shall list the service charge as a separate entry on any bill which includes the service charge.

(4)   A Lifeline provider has no obligation to take any legal action to enforce the collection of the service charge levied by this section. Collection actions to enforce the collection of the service charge against any CMRS customer may, however, be initiated by the state, on behalf of the board, in the Circuit Court of the county of residence of the end user, and the reasonable costs and attorney's fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

(5)   State and local taxes shall not apply to a separately stated service charge levied by this section.

(6)   To reimburse itself for the cost of collecting and remitting the service charge levied by this section, each Lifeline provider may deduct and retain from the service charges it collects during each calendar month an amount not to exceed one and one-half percent (1.5%) of the gross aggregate amount of the service charges it

collected that month.

(7) All service charges levied by this section collected by each Lifeline provider, less the administrative fee described in subsection (6) of this section, are due and payable to the board monthly and shall be remitted on or before thirty (30) days after the end of the calendar month. Collection actions may be initiated by the state, on behalf of the board, in the Franklin Circuit Court or any other court of competent jurisdiction, and the reasonable costs and attorney's fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

(8) Nothing in this section shall be interpreted or otherwise construed to impact litigation pending in the courts of the Commonwealth commencing on or before March 1, 2016, regarding the application of CMRS fees imposed prior to January 1, 2017, to CMRS providers receiving reimbursement from the universal service fund.

Effective: January 1, 2017

History: Created 2016 Ky. Acts ch. 111, sec. 29, effective January 1, 2017.