Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Network Communications International Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) from 47 U.S.C. § 254(d) and 47 C.F.R. § 54.706(a)	)	WC Docket No. 19-232
	)	

REPLY COMMENTS OF GLOBAL TEL*LINK CORPORATION

Global Tel*Link Corporation ("GTL"),[1] by its undersigned counsel, respectfully submits these Reply Comments regarding the Petition for Forbearance ("Petition") filed by Network Communications International Corporation ("NCIC") in the above-referenced matter. The Petition asks the Federal Communications Commission ("Commission" or "FCC") to forbear from enforcing the obligation of inmate calling service ("ICS") providers to contribute to the federal universal service fund ("USF") for interstate and international ICS calls.[2]

GTL agrees with the Commission and several commenters that there is a strong public interest in increased communication between inmates and their friends and family, which plays a role in reducing recidivism.[3] GTL understands the importance of encouraging such communication, and it has been at the forefront of providing innovative communications and information services to the corrections market. Inmate telephone systems, inmate tablets, inmate education solutions, release assistance, visitation management solutions, and financial services

[1] This filing is made by GTL on behalf of itself and its wholly owned subsidiaries that also provide inmate calling services: DSI-ITI, Inc., Public Communications Services, Inc., Value-Added Communications, Inc., and Telmate LLC.

[2] WC Docket No. 19-232, *Pleading Cycle Established for Comments on Network Communications International Corporation's Petition for Forbearance from USF Contribution Requirements*, Public Notice, DA 19-781 (rel. Aug. 16, 2019).

[3] *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14107, ¶ 43 (2013); *see also* Pay Tel at 2-3; Securus at 3; Petition at 7.

are just a few of the products GTL makes available to promote greater access to communication and information services for inmates and their friends and family, while maintaining public safety.

Notwithstanding the benefits that may flow from grant of the Petition, GTL understands the challenges the FCC faces in extending an exemption from USF contribution obligations to a single class of telecommunications service provider. Per the statutory mandate, the Commission was instructed to implement USF contribution requirements that are "equitable and nondiscriminatory."[4] Adhering to this mandate, the Commission determined USF contribution obligations must be "competitively neutral" to ensure the obligations do not "unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another."[5] Similarly, carriers that pass-through USF to their customers must do so to "all of their customers of interstate services in an equitable and nondiscriminatory fashion."[6]

Competitively neutral administration of the USF ensures that "no entity receives an unfair competitive advantage that may skew the marketplace or inhibit competition by limiting the available quantity of services or restricting the entry of potential service providers."[7] Building on this principle, the Commission has concluded the base of contributors to the USF "should be construed broadly,"[8] and "those who benefit from access to the public switched telephone

---

[4] 47 U.S.C. § 254(d) ("All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.").

[5] *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 47 (1997) (subsequent history omitted) ("*1997 USF Order*").

[6] *1997 USF Order* ¶ 851.

[7] *1997 USF Order* ¶ 48.

[8] *1997 USF Order* ¶ 779.

network (PSTN), which is supported by the universal service fund, should contribute."[9] For these public interest reasons, the Commission rejected proposals to exempt from contribution any of the broad classes of telecommunications carriers that provide interstate telecommunications services.[10]

The forbearance recently granted to rural local exchange carriers ("LECs") for certain types of USF contributions is distinguishable from the instant request.[11] There, the Commission found forbearance was necessary to ensure rural LECs were not treated differently than all other types of providers that were not subject to USF contributions for broadband Internet access transmission services.[12] The Commission's forbearance grant was consistent with the Commission's long-standing efforts to reduce the "possibility that carriers with universal service obligations [would] compete directly with carriers without such obligations."[13]

The comparison between ICS and Lifeline services also is misplaced.[14] Lifeline service is designed to provide dialtone or access to the PSTN to those who otherwise would not be able to have any telephone service.[15] The Lifeline program is administered in a manner to make

---

9 *Universal Service Contribution Methodology, et al.*, 27 FCC Rcd 5357, ¶ 8 (2012) ("*2012 USF FNPRM*") (citing *1997 USF Order* ¶¶ 796-97); *see also Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 428 (5th Cir. 1999) ("Congress designed the universal service scheme to exact payments from those companies benefiting from the provision of universal service.").

10 *1997 USF Order* ¶ 787.

11 Petition at 5 (citing *Petition of NTCA – The Rural Broadband Association and the United States Telecom Association for Forbearance Pursuant to 47 U.S.C. § 160(c) from Application of Contribution Obligations on Broadband Internet Access Transmission Services*, 33 FCC Rcd 5712 (2018) ("*NTCA Forbearance Order*")).

12 *NTCA Forbearance Order* ¶ 15 ("By forbearing from application of USF contribution requirements to rural LEC-provided broadband Internet access transmission services, we eliminate the disparate treatment of these services and level the playing field to allow rural LECs to compete more effectively with other broadband providers.").

13 *1997 USF Order* ¶ 795.

14 Worth Rises at 2.

15 47 U.S.C. § 254(b)(1), (3) (stating "[q]uality services" should be available to "low-income consumers"); *see also Lifeline and Link Up Reform Modernization, et al.*, 26 FCC Rcd 2770, ¶ 1 (2011) (noting Lifeline helps "Americans afford basic phone service, providing a 'lifeline' for essential daily communications as well as emergencies").

available Lifeline service to all individuals satisfying the eligibility criteria.[16] The USF Lifeline benefit is either free or discounted monthly local voice service, which gives Lifeline subscribers the ability to make and receive telephone calls from inmates and anyone else connected to the PSTN. The scope of the Lifeline benefit is limited and it does not extend to other types of services for any Lifeline customers.[17] In addition, Lifeline subscribers are not subject to the pass-through of federal USF fees for their Lifeline service because they do not receive or pay for interstate telecommunications services when they subscribe to Lifeline service.[18] However, if a Lifeline customer purchases additional assessable interstate telecommunications services, USF contribution obligations would apply to the interstate end-user revenue and the provider could pass-through federal USF fees to the Lifeline customer per FCC rules.[19] Interstate ICS is not,

---

16 *See, e.g.*, *Lifeline and Link Up Reform and Modernization, et al.*, 27 FCC Rcd 6656, ¶ 70 (2012) ("The Commission previously has stated that eligible low-income consumers may receive low-income support for 'a single line in their principal residence.' This requirement historically was intended to target support where it was needed most and to maximize the number of Americans with access to the telephone network.") *cf.* HRDC at 1; Wright Petitioners at 2.

17 47 C.F.R. §§ 54.400(m), 401(a) (defining "Lifeline" as access to the PSTN for local service).

18 *Federal-State Joint Board on Universal Service, et al.*, 18 FCC Rcd 4818, ¶ 11 (2003) ("*2003 USF Order*") (noting "that because customers of Lifeline services do not generate assessable interstate telecommunications revenues for ETCs, the relevant assessment rate and contribution amounts recovered from such customers would be zero"); *see also* Universal Service Administrative Company, Common Audit Findings: Contributors, Finding: Improper Assessment of USF on Lifeline Customers ("Carriers cannot charge USF to their customers for any revenues that are received [from] USAC as a Lifeline disbursement and in many cases, the USF disbursement is the only revenue the carriers receive for the Lifeline service. . . . With traditional local service, the USF fee is used to cover the [subscriber line charge ("SLC")] charge of their local service and the SLC charge is the interstate portion of their local service so no carrier should charge USF on a customer's Lifeline supported local service. If the customer also received interstate long distance, then they could be assessed USF on those charges. With cellular (or any plan with anywhere minutes) if a provider offers a customer 250 anywhere minutes for the Lifeline support, meaning that the customer pays nothing, they cannot charge that customer USF because they do not have any end user revenues. But if the provider charges the customer an additional $10 for additional anywhere minutes, then the $10 charge must be reported as "end user" and the consumer can be assessed on the interstate portion of that $10."), https://www.usac.org/about/about/program-integrity/findings/common-audit-cont.aspx.

19 *2003 USF Order* ¶ 12 ("we will amend our rules to permit ETCs to recover contribution costs associated with interstate long distance charges form Lifeline customers"); *see also 2012 USF FNPRM* ¶ 409 ("if an ETC offers additional unsupported services to a Lifeline subscriber, it historically has been permitted to recover its contribution costs attributed to those service offerings from the customer through line-item charges").

today, a Lifeline service, and therefore is subject to federal USF contributions that can be passed-through to end users.[20]

In conclusion, any action the Commission takes with respect to federal USF contribution obligations must be equitable and nondiscriminatory, competitively neutral, and not unfairly advantage or disadvantage particular service providers, technologies, or consumers.

Respectfully submitted,

GLOBAL TEL*LINK CORPORATION

/s/ Chérie R. Kiser

Chérie R. Kiser
Angela F. Collins
CAHILL GORDON & REINDEL LLP
1990 K Street, NW, Suite 950
Washington, DC 20006
202-862-8900
ckiser@cahill.com
acollins@cahill.com

Dated: October 1, 2019

Its Attorneys

[20] 47 C.F.R. § 54.706 (requiring USF contributions to be based on interstate and international end user telecommunications or telecommunications service revenues); § 54.712 (allowing for recovery of universal service costs from end users); § 64.6070 (allowing ICS providers to pass-through USF surcharges to users of ICS).