Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197

COMMENTS
OF
SPRINT CORPORATION

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Summary

Sprint shares the Commission's goals of bridging the digital divide and ensuring the integrity of the Lifeline program. While the Commission is rightly seeking ways to improve the effectiveness and sustainability of the Lifeline program, it must be cautious about proposals that threaten affordable access to vital voice and broadband services by low income Americans. Accordingly, the Commission should:

- focus regulatory and industry resources on the timely implementation of the National Verifier.

- reject proposals to mandate a minimum end user charge; to implement a self-enforcing budget cap; and to halt Lifeline enrollment in states where there are unspecified "unnecessary" delays in the deployment of the National Verifier. These proposals will adversely impact affordable access to Lifeline service, will not prevent waste, fraud and abuse, and pose implementation issues.

- reject proposals to condition receipt of federal Lifeline support on network build-out. The modest per-subscriber subsidy, whose receipt is not guaranteed, makes the Lifeline program ill-suited as a direct mechanism to spur capital-intensive broadband deployment.

- be cautious about limiting service provider participation in the Lifeline program. Eliminating resellers from the program may have a substantial impact on the availability of service and substantial repercussions for existing and potential subscribers. If it does curtail reseller participation, the Commission must adopt a reasonable transition plan. The Commission should also be cautious in defining "facilities-based" for Lifeline support purposes, and should make clear that any "last mile" standard is not affected by a Lifeline service provider's use of backhaul, access, or intermediate carrier facilities.

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COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint") hereby respectfully submits its comments on several issues raised in the Notice of Proposed Rulemaking ("NPRM") and Notice of Inquiry ("NOI") in the above-captioned proceedings.[1] Sprint shares the Commission's goal of ensuring that Lifeline resources are expended wisely, and supports efforts to improve the effectiveness and sustainability of the federal Lifeline program. At the same time, Sprint urges the Commission to avoid policies and rules which could undermine this critical program and threaten affordable access to vital voice and broadband services by low-income Americans. Sprint also cautions that attempts to cast the Lifeline program as a direct mechanism to spur broadband network deployment are likely to be ineffective given the per-customer subsidy structure, and the increasing minimum performance standards, of the Lifeline program.

[1] *Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry*, released December 1, 2017 (FCC 17-155) ("NPRM").

I. BACKGROUND AND INTRODUCTION.

The federal Lifeline program, the only federal universal service program that is targeted at end users, has helped millions of low-income Americans obtain affordable access to voice and broadband services that are so essential to modern life. It is a valuable program which should be promoted even as it is improved. Sprint participates in the program through its wholly owned Virgin Mobile affiliate, which offers Lifeline service under the Assurance Wireless brand. Several Sprint resellers are also longstanding participants in the Lifeline program.

The Commission has made it clear that it is deeply concerned about inefficiencies and fraud in the Lifeline program.[2] Sprint believes that one of the best means of ensuring the integrity and effectiveness of the Lifeline program is through the deployment of the National Verifier system. If designed and implemented properly, the National Verifier should effectively screen out ineligible end users, without drastically undermining affordable access to critical voice and broadband services by eligible low-income consumers. Sprint urges the Commission to focus industry and regulatory resources on speeding the efficient deployment of the National Verifier.

Many of the proposals contained in the NPRM, including the imposition of mandatory minimum end user fees and a program cap, and a ban on support for services provided by non-facilities based carriers, are likely to reduce service provider and end user participation in the Lifeline program. Sprint is concerned that these changes have the potential to deny millions of eligible Lifeline customers access to service by reducing competitive alternatives and discouraging or prohibiting wireless carrier participation.

[2] *See, e.g.*, NPRM, para. 1 ("…we look to address ongoing waste, fraud, and abuse that undermines the integrity of the program and limits its effectiveness").

While recognizing the goals of reform, Sprint urges the Commission to carefully consider the risks of adopting the following proposals: imposition of a self-enforcing cap on the program; establishment of minimum mandatory end user fees; halting Lifeline enrollment in states where there are "unnecessary" delays in the deployment of the National Verifier; conditioning Lifeline support on network deployment; and elimination of resellers from the Lifeline program.

II. A SELF-ENFORCING LIFELINE PROGRAM CAP WOULD BE CONTRARY TO THE PUBLIC INTEREST AND PROBLEMATIC TO IMPLEMENT.

The Commission has proposed to adopt a "self-enforcing budget mechanism to ensure that Lifeline disbursements are kept at a responsible level and to prevent undue burdens on the ratepayers who contribute to the program."[3] It has asked for comment on how such a budget should be operationalized, including whether USAC should "proportionately reduce support amounts" if disbursements approach the prescribed cap;[4] the appropriate initial amount of this cap;[5] and whether USAC's expenses for administering the Lifeline program should be included in this cap.[6]

The Commission has repeatedly emphasized that bridging the digital divide is its first priority.[7] Because Lifeline is the universal service plan that has the most direct and

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[3] NPRM, para. 105.
[4] NPRM, para. 106.
[5] NPRM, para. 109.
[6] NPRM, para. 109.
[7] *See, e.g.*, Chairman Pai's initial remarks as FCC Chairman, Jan. 24, 2017 ("…there is a digital divide in this country—between those who can use…cutting-edge communications services and those who do not. I believe one of our core priorities going forward should be to close that divide…"); "Chairman Ajit Pai's top priority is to close the digital divide between those who have access to cutting-edge communications services and those who do not" (https://www.fcc.gov/about-fcc/fcc-initiatives/bridging-digital-divide-all-americans); "Closing the digital divide is the Commission's top priority" (Chairman Pai Proposes Over $500 Million in Funding to Promote Rural

immediate effect on end user subscribership to broadband services, it is difficult to reconcile the Commission's stated primary goal with the proposed self-enforcing cap on the Lifeline fund. As the Commission noted in the *2016 Lifeline Order,* a cap could result in rationing of available support to the most economically vulnerable end users, and raises worries that eligible consumers would be denied service.[8]

There is no evidence to suggest that the budget approach adopted in the *2016 Lifeline Order* is not working or that the $2.25 billion budget adopted in that order[9] is unreasonable. In fact, Lifeline program disbursements for 2017 were approximately $1.4 billion (by way of comparison, 2017 high cost/CAF disbursements were $4.5 billion,[10] and Chairman Pai has proposed to make an additional $500 million available to cooperatives and small rural carriers (LECs) for rural broadband deployment[11]). While high cost and CAF USF certainly have a role to play in encouraging broadband deployment, it is problematic from a public policy viewpoint to dramatically increase wireline broadband funding while limiting or potentially decreasing support for wireless services that are the overwhelming and increasing preference of Lifeline subscribers.

If the Commission nonetheless decides to adopt a self-enforcing cap on the Lifeline fund, it should set the initial cap at no lower than $2.25 billion. Over the next two or three years, the Commission will be in a better position to evaluate how effective initiatives such as the National Verifier are at ensuring the integrity of the Lifeline

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Broadband Deployment," news release dated Jan. 16, 2018 ("Pai Rural Broadband Proposal Announcement")).

[8] *Lifeline and Link Up Reform and Modernization, Third Report and Order*, 31 FCC Rcd 3962, para. 399 (2016) ("*2016 Lifeline Order*").

[9] *2016 Lifeline Order*, para. 400.

[10] See USAC forms LI01 and HC01.

[11] See Pai Rural Broadband Proposal Announcement.

program, and whether such initiatives are sufficient to enable funding at current spending levels without compromising either necessary service to low income Americans or the sustainability of the Lifeline fund.

In the event that the cap is reached, the Commission has suggested prioritizing Lifeline spending in the following order: (1) rural Tribal lands, (2) rural areas, and (3) all other areas.[12] Any form of rationing Lifeline service will be painful. However, if rationing is necessary, Sprint recommends a first come-first served approach rather than the prioritization schedule proposed in the NPRM. A consumer who lacks affordable access to voice or broadband service has as great a need for such access if he resides in a rural Tribal area as if he resides in the middle of a large city. Where the individual need is equal, prioritization of the Lifeline benefit on the basis of geography arguably is arbitrary.

In the event the cap is reached, a first come, first served approach also would be preferable to a pro-rated disbursement: rather than decreasing Lifeline support to existing customers, new enrollment should be halted. Existing Lifeline customers and their service providers must be able to rely on a given level of support and a predictable level of service on a monthly basis. If Lifeline funding runs out, first come-first served at the full support level is somewhat less painful for customers than giving existing customers only partial support. The National Verifier, once fully implemented, and the NLAD will be in the position to control new entrants to the Lifeline program, as the NV will know how many customers are enrolled in Lifeline and how much of the budget is still available. Partial support has the potential to upend the marketplace in which service

[12] NPRM, para. 108.

providers build Lifeline offers relying on a baseline of support. Providers would be unable to operationalize what would amount to an entirely different business model in response to a mid-year reduction in support by reducing the offer (which may be impossible in light of the minimum service standards) or by attempting to impose an end user charge. Changes such as these would require complex and costly technological development and extensive customer notice and education.

A partial mid-year reduction could also result in marketplace instability and widespread switching as customers seek out new offers in response to a reduction in service or imposition of an end user charge by their existing carrier. Benefit transfers increase the cost of program administration for USAC and ETCs, and increase the potential for waste, fraud, and abuse. Assurance Wireless processes and reviews several million applications for Lifeline each year, as the result of the proliferation of competitors and aggressive marketing tactics. Each benefit transfer requires a participant to complete an application and provide documentation of their eligibility for a Lifeline subsidy. ETCs bear the cost of determining initial and on-going eligibility, costs that USAC will incur with the implementation of the National Verifier. The Commission should be cautious about adopting proposals that generate widespread regulation-induced transfers.

The Commission has asked for comment on whether any Lifeline budget cap "should include USAC's expenses for administering the Lifeline program."[13] The answer is no. First and foremost, paying for administrative expenses out of the Lifeline budget will reduce the funds directly available to end users. If the Lifeline fund is capped and demand is at the cap, recovering $1 million in administrative costs (which Sprint believes

[13] NPRM, para. 109.

is only a fraction of the likely expense actually incurred) equates to the loss of Lifeline support for over 9000 low-income end users for a full year.

Second, recovering administrative fees from the Lifeline budget is contrary to the cost recovery mechanism in place for every other federal universal service program, and there is no basis for singling out the Lifeline program for separate treatment.[14] As is the case for all other federal USF-related costs incurred by USAC, Lifeline administrative costs should be incorporated into and recovered through the mandated USF contribution factor that is assessed on all contributors.

Some parties might argue that it is unfair for them to be forced to contribute to a program in which they do not participate. However, there are already many carriers that contribute to USF programs who are unable to participate in those programs. Sprint, a major net contributor to the federal USF, pays hundreds of millions of dollars per year in mandatory support of the legacy high-cost, Connect America, and Mobility funds (including the costs incurred by USAC to administer these programs), even though Sprint does not receive a single dollar from any of these funds (in fact, Sprint was not even eligible to participate in the multi-billion CAF I because it is not a wireline local exchange carrier). Sprint also contributes at the same rate (the 2018 Q1 USF contribution factor is 19.5%) to support the E-rate and rural health care programs, even though it is a minor participant in both of these programs. If the Commission's intent here is to recover USAC's administrative costs more directly from carriers that participate in each universal service program rather than from all USF contributors, then fairness dictates that the

[14] Lifeline subscribers and service providers have no control over USAC's administrative expenses – they are not involved in National Verifier or other vendor negotiations; have no choice but to use the NLAD and, when it is operational, the National Verifier; do not

same approach be applied to the legacy high cost, CAF, Mobility, E-rate and Rural Health Care funds.

III. MINIMUM MONTHLY END USER CHARGES ARE INEFFECTIVE AT PREVENTING WASTE, FRAUD AND ABUSE, AND ARE COUNTER-PRODUCTIVE.

The Commission has asked whether it should require application of "a maximum discount level for Lifeline services above which the costs of the service must be borne by the qualifying household."[15] It has suggested that service providers "may engage in fraud or abuse by using no-cost Lifeline offerings to increase their Lifeline customer numbers when the customers do not value or may not even realize they are purportedly receiving a Lifeline-supported service."[16] Maximum discounts (or, put another way, mandatory end user charges) will not prevent waste, fraud and abuse in the Lifeline program, and will directly undermine the Commission's oft-expressed goal of bridging the digital divide.[17] Moreover, the suggestions that service providers that offer Lifeline service at no fee to the end user are engaging in fraud or abuse, or that end users who are enrolled in such plans somehow do not value or are unaware of their receipt of Lifeline service, are without merit.

In the *2012 Lifeline Reform Order*, the Commission declined to adopt a rule requiring ETCs to impose a minimum consumer charge for Lifeline service, finding that such a charge "could be burdensome for those low-income consumers who lack the ability to make such payments electronically or in person, potentially undermining the

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dictate audit schedules; and have no input on USAC Lifeline program staffing decisions. Thus, it makes little sense to, in essence, stick Lifeline program participants with the bill.

[15] NPRM, para. 112.

[16] *Id.*, para. 114.

[17] See footnote 7 *supra*.

program's goal of serving low-income consumers in need."[18] The Commission further found that even a modest minimum charge could be "an excessive financial burden"[19] that will discourage potential low-income consumers from enrolling in Lifeline, and cause existing subscribers to leave the program. The Commission's analysis and conclusion in 2012 were correct, and apply with equal force today.

Assurance Wireless' research indicates that its average Lifeline customer is 47 years old with a household income of approximately $14,000; half have at least one person younger than 18 years old in their household. There surely can be no dispute that imposition of even a seemingly modest end user charge would be a severe hardship for such households. These end users will not finance a Lifeline co-pay by foregoing some frivolous luxury – they are far more likely to go without a meal or skip a prescription refill in order to come up with the money to pay a monthly service charge, or possibly be forced to drop the service altogether (particularly if a lump sum payment is required). Even if the end user can find the funds to pay a minimum service charge, because many Lifeline subscribers are unbanked,[20] the mechanics of remitting payment are likely to be difficult in ways which more financially stable consumers of voice and broadband services – those with bank accounts or credit cards -- cannot begin to imagine.

Beyond the issue of Lifeline customers' ability (or inability) to pay a minimum service charge, Sprint disputes the claim that Lifeline customers may not "value" their

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[18] *Lifeline and Link Up Reform and Modernization, et al.*, 27 FCC Rcd 6656, para. 266 (footnote omitted) (2012).
[19] *Id.*, para. 267.
[20] According to Assurance Wireless' customer survey, only 39% of customers have a credit or debit card. *See also* ex parte letter from Mark Rubin, TracFone, to Marlene Dortch, FCC, WC Docket No. 11-42, dated February 5, 2015 ("many existing Lifeline customers are 'unbanked' (i.e., do not have checking accounts or credit cards) and would be unable to remit payments").

Lifeline service (or that they might value it more if they have to pay an out-of-pocket fee for it), or "may not even realize they are purportedly receiving a Lifeline-supported service."[21] Sprint is aware of no evidence to suggest that Lifeline customers do not grasp the value of Lifeline service or the fact that they are receiving Lifeline service. To the contrary, it is Assurance Wireless' experience that its end users rely heavily on and are fully aware of the importance of their Lifeline service. According to multiple Assurance Wireless customer surveys, subscribers consistently identified the following as major circumstances in which they use their Assurance Wireless Lifeline service:

- to stay in touch with family and friends;
- to contact doctors/manage health care situations;
- for emergency purposes;
- to stay in touch with their employer;
- to try and find employment; and
- to help pursue employment/stay employed.

Using Lifeline service for such purposes is entirely consistent with the intent of the Lifeline program and one of the statutory principles guiding universal service -- promoting the availability of quality services at just, reasonable and affordable rates for all consumers, including low income users. While there are undoubtedly instances of end user fraud in the Lifeline program, Sprint believes such instances are quite rare, and we are aware of no evidence to support the theory that a modest (to ensure that service is affordable) minimum monthly usage fee would deter any end user intent on committing fraud. To the contrary, there is ample real-life evidence that a minimum payment

[21] The NPRM does not explain why legitimately enrolled Lifeline customers may only "purportedly" be receiving Lifeline service. If the customer is properly enrolled in a service plan that meets the Commission's mandated minimum service standards and other service rules, then there should be no dispute that the plan is, in fact, Lifeline service.

constitutes a barrier that deters low income consumers from obtaining Lifeline service[22] -- an outcome which is directly contrary to statutory universal service goals.

Consistent with FCC rules,[23] Assurance Wireless' marketing, sales, and eligibility material and forms, its website, and its customer communications, all clearly and in easily understood language describe the service being offered and that the plan on offer is a Lifeline service. Given these efforts, it would be improbable that subscribers do not realize they are receiving Lifeline service.

A mandatory billing requirement will drive up ETCs' cost of providing Lifeline service. As a prepaid service provider, Assurance Wireless does not have a system for rendering monthly invoices, and given development costs plus on-going billing and collection expenses, a required minimum end user payment could well render prepaid Lifeline service a non-viable business model.[24] Without at least some semblance of evidence that a minimum payment will have any effect on Lifeline program waste, fraud, and abuse, the Commission should strictly avoid interfering in pricing decisions in the highly competitive retail wireless service market.

Finally, any suggestion that offering Lifeline service at no fee to the end user could constitute fraud or abuse by the service provider is utterly without merit or support. The NPRM does not explain what statutory or rule violation occurs from the offering a

[22] See ex parte letter from Norina Moy, Sprint, to Marlene Dortch, FCC, dated March 2, 2016, pp. 1-2 (WC Docket Nos. 09-197, 11-42 and 10-90), describing the impact of co-pays on participation in Assurance Wireless' broadband pilot program.
[23] Section 54.405(c).
[24] Many Assurance Wireless customers use only the basic monthly service package and thus do not incur extra charges for which a bill or a top-up payment would be necessary. Requiring such customers to remit a payment obviates one of the most attractive features of the Assurance Wireless prepaid offering – the lack of an invoice. It is also not uncommon for customers to ignore invoices with a small balance due; in the prepaid

no end user fee service plan – nor could it, as no such violation arises. While Sprint agrees that any waste, fraud and abuse in the Lifeline program should be addressed, any decision to implement safeguards or corrective measures should be based on a factual and reasoned analysis of the need for such measures, and their relative costs and benefits.

IV. END USERS AND ETCs SHOULD NOT BE PENALIZED FOR DELAYS IN THE DEPLOYMENT OF THE NATIONAL VERIFIER THAT ARE OUTSIDE THEIR CONTROL.

Sprint continues to strongly support the National Verifier as a key tool for ensuring the integrity of the federal Lifeline program. There can be no dispute that close coordination and an effective partnership between the states and the National Verifier vendors are essential for its smooth and timely implementation. Insofar as Sprint is aware,[25] there is no evidence to suggest that any state is or will be recalcitrant. To the extent that there are any states in which negotiations are stalled or only in the most preliminary stages, the solution may be as straightforward as adjusting the National Verifier deployment schedule. The FCC and USAC have some flexibility about the order in which states are incorporated into the National Verifier system, and states that are not completely ready for integration could be scheduled for later implementation (by December 2019), to give them as much time as possible under the current deployment timeline to coordinate with the National Verifier.

The Commission has asked for comment on whether it should halt new Lifeline enrollments "in any state at any point if the launch of the National Verifier has been

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context, a late payment results in immediate service cancellation, as the payment triggers the service provision.

[25] Because service providers are not involved in the negotiations between USAC/the National Verifier vendor(s) and the states, Sprint does not have insight into existing or potential problems.

unnecessarily delayed in that state."[26] This approach is vague, potentially arbitrary, and punitive towards parties not responsible for the problem.

The vagueness of this approach is notable. The NPRM does not specify what constitutes an "unnecessary" delay (indeed, the NPRM does not take into consideration that a delay might be on the part of the National Verifier vendors and administrators rather than the state), whether interested parties would be allowed to provide input into the process of assessing readiness, who would decide whether an "unnecessary" delay actually exists, or when the trigger would be pulled (halting Lifeline enrollment "at any point") or lifted. It is possible that a lack of readiness to deploy may reflect unique circumstances in any given state; determination of "unnecessary" delays on an *ad hoc* basis raises the specter of arbitrary and capricious decision making.

If any problem does exist or should arise, it is unreasonable and unfair to hold hostage or otherwise penalize eligible end users and Lifeline service providers because of a state's unwillingness or inability -- technical, financial or other -- to participate in the timely deployment of the National Verifier. Preventing end users and service providers from participating in the Lifeline program for reasons beyond their control is unwarranted and punitive.

Rather than halting enrollments in cases of "unnecessary delays," the Commission should consider other measures to ensure timely deployment of the National Verifier. For example, if a state cannot provide access to its eligibility database(s), the Commission could allow the National Verifier to leverage certain commercially available data sources (*e.g.*, Medicaid HMOs or pharmacies), with the relevant state bearing the incremental costs associated with commercial integration and transaction processing.

[26] NPRM, para. 60.

The Commission might also consider whether financial penalties should be assessed on states that decline to participate in the National Verifier deployment.

Sprint reiterates its support for the National Verifier system, and strongly encourages its timely implementation. The Commission should not halt Lifeline enrollments where the National Verifier system is not yet operational. Instead, it should allow enrollments to continue with eligibility determinations made, as they are today, by neutral third parties or stand-alone (not yet integrated with the National Verifier system) state databases.

V. AVAILABILITY OF FEDERAL LIFELINE SUPPORT TO ETCs

The NPRM has asked for comments on a proposal to eliminate support for service provided by non-facilities-based providers. While Sprint recognizes the Commission's desire to establish a policy that will ensure the integrity of the program and promote network investment, elimination of support for resellers may have a substantial impact on the availability of service and may have substantial repercussions for existing subscribers. As discussed below, there are risks associated with such a dramatic change in the existing program. If, however, the FCC does proceed down this path, it should adopt an appropriate transition plan. The Commission also should decline to adopt proposals to condition receipt of Lifeline support on network build-out. The modest per-person Lifeline subsidy, whose receipt is not guaranteed, is not an appropriate basis on which to make capital-intensive network deployment decisions.

A. Lifeline Support Need Not Be Limited to Facilities-Based Service Providers.

The Commission has stated that it believes that Lifeline support "will best promote access to advanced communications services if it is focused to encourage investment in broadband-capable networks."[27] It has therefore requested comment on a proposal to limit Lifeline support "to facilities-based broadband service provided to a qualifying low-income consumer over the ETC's voice- and broadband-capable last-mile network."[28] Although Sprint recognizes the FCC's desire to focus on network investment, Sprint has several concerns regarding the adoption of this proposal.

Lifeline support is a key element in federal efforts to achieve universal service and to bridge the digital divide. The goal of ensuring that all Americans have reasonable and affordable access to advanced communications services can effectively be achieved by making federal Lifeline support available for broadband and voice Lifeline services generally, whether provided by a facilities-based carrier, or by a reseller. Resellers have played an important and legitimate role in providing competitive broadband and voice service to low-income consumers, and their elimination could have a significant impact on participation in the Lifeline program.

Sustainable competition, particularly in the capital intensive telecommunications industry, is difficult to create and maintain. The development of competition generally, and facilities-based competition in particular, takes time and, among other things, a regulatory environment that not just allows but actively encourages market entry and expansion by service providers with varying business models. This has been the Commission's approach to date, and its pro-resale policies have had a significant impact on the development of competition in the telecommunications market generally and in the Lifeline market specifically.

[27] NPRM, para. 65.
[28] *Id.*

Over four decades ago, the Commission ruled that tariff provisions restricting the resale of common carriers' private line services were unlawful under Sections 201(b) and 202(a) of the Act; it subsequently extended the prohibition on resale restrictions to domestic public switched network services, and then to cellular services, on the same grounds.[29] After divestiture, it encouraged carriers such as Sprint and MCI to extend their long distance service nationwide in part by reselling AT&T long distance service. After passage of the 1996 Telecom Act, the Commission promoted local service competition by establishing the framework for CLECs to purchase unbundled network elements from the incumbent LECs.[30]

To the present day, service providers of all sorts are able to round out their service offerings and coverage gaps by reselling the network facilities and services of underlying carriers through roaming agreements, spectrum leasing, resale of toll-free or operator services, etc. As a stepping stone and complement to achieving facilities-based competition, the Commission has consistently encouraged reseller competition; rarely, if ever, has it explicitly foreclosed market entry and expansion by resellers.

Lifeline service historically has been severely undersubscribed among eligible consumers, and wireless resellers have played a key role in promoting this service to eligible low income Americans. Wireless carriers, including resellers, helped revolutionize the Lifeline market with innovative business models, offering Lifeline service at no charge to the end user, plus a free phone. Without the efforts of wireless

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[29] *Resale and Shared Use of Common Carriers' Services and Facilities*, 60 FCC 2d 261 (1976); *Resale and Shared Use of Common Carrier Domestic Public Switched Network Services*, 83 FCC 2d 176, 193 (1980); *Cellular Communications Systems,* 86 FCC 2d 469, 511 (1981).

[30] ILECs are required under Section 251(c)(4) of the Telecommunications Act to make certain UNEs available at wholesale rates.

Lifeline service providers, both resellers and facilities-based carriers, millions of low-income Americans would not have become connected to communications networks.

Elimination of resellers from the Lifeline program would significantly alter the current Lifeline marketplace. First, there would be a sharp reduction in the number of wireless service providers offering Lifeline service; in some areas, there may remain only a single facilities-based wireless Lifeline service provider, and in other areas, there may be no facilities-based wireless Lifeline service provider at all.

Second, elimination of resellers from the Lifeline program would be disruptive to current and potential Lifeline customers. The majority of Lifeline customers obtain service from resellers, which had an estimated 6.1 million customers as of December 2017.[31] The forced exit of their service providers from the Lifeline market would be confusing to these end users, and could result in at least a temporary disruption in service – some end users will not realize they need to obtain service from a facilities-based carrier, some will not know how to transfer their service, some will not provide required documentation in a timely manner. Some customers will successfully transfer to a facilities-based carrier, but some will lose service altogether. In the event the Commission adopts a proposal to eliminate resellers from the Lifeline program, there should be a reasonable implementation plan to ensure a smooth transition for millions of affected Lifeline subscribers.

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[31] The top five wireless resellers alone (TracFone, Q-link Wireless, Access Wireless, Telrite, and Boomerang) collectively had approximately 5.5 million customers – half the total number of Lifeline subscribers -- as of December 2017. See http://www.usac.org/li/tools/disbursements/default.aspx.

B. The Commission Should Consider a More Expansive Definition of "Facilities" for Lifeline Support Purposes.

As discussed above, there are significant adverse repercussions to eliminating Lifeline support for eligible services provided by properly designated non-facilities-based ETCs. If the Commission nonetheless limits Lifeline support to facilities-based carriers, it should evaluate what types of investments that demonstrate that the service provider is something more than just a marketing and sales entity may also be valid considerations.[32]

The Communications Act specifically contemplates a role for resellers to participate in Lifeline and other universal service programs. Section 214(e)(1)(A) of the Act specifies that a common carrier designated as an ETC shall be eligible to receive USF support throughout the service area for which the designation is received for services provided "either using its own facilities **or a combination of its own facilities and resale of another carrier's services**" (emphasis added). Based on this statutory language, the Commission should carefully consider its definition of "facilities" and should not limit support to service provided entirely over facilities owned by an ETC.

Sprint agrees that a Lifeline service provider must be considered facilities-based if it controls the spectrum needed to provide mobile service.[33] However, this should not be the only valid indicia of facilities-based service. Spectrum, especially spectrum to provide nationwide service, is a finite and extremely expensive asset. Even where a

[32] NPRM, para. 67 (requesting comment on how the Commission should define "facilities" for the purpose of determining which carriers are eligible for Lifeline support).

[33] The Commission has asked whether the same criteria used to identify carriers eligible to receive enhanced Tribal support should also be used to determine which carriers should be eligible to receive the basic $9.25 Lifeline subsidy. One such criterion is that the mobile wireless service provider must provide Lifeline service over licensed or unlicensed spectrum, or hold usage rights under a spectrum license or a long-term spectrum leasing arrangement (NPRM, para. 24).

service provider has spectrum, it may not have yet built it out to the degree necessary for use in providing wireless service.

The Commission also has proposed to limit Lifeline support to service provided over an ETC's "voice- and broadband capable last-mile network."[34] It is unclear what the Commission considers to be "last mile" facilities. Wireless calls may be originated or terminated using LEC-provided backhaul or access facilities, or may be routed over an intermediate carrier's network (to reduce routing expense, for redundancy, for overflow calls, to aggregate traffic to points where direct connections are uneconomic, etc.) – no wireless carrier has dedicated facilities to every end user at both ends of every mobile call. If the Commission adopts a "last mile" standard for determining whether a service is facilities-based, it must clarify that use of backhaul, access, or intermediate carrier facilities does not disqualify a service from receiving Lifeline support.

C. Need for a Reasonable Transition Plan.

If the Commission adopts the proposal to limit Lifeline support to facilities-based service, it must adopt a transition plan which offers end users and affected service providers a reasonable opportunity to adjust to the new rules.[35] Given the impact of a new policy eliminating Lifeline support to resellers, and the disruption associated with the elimination of a large number of providers, substantial confusion among Lifeline subscribers is likely. To help ensure that the transition to a facilities-based only Lifeline program proceeds as smoothly as possible, and to provide a sufficient amount of time for resolution of any challenges, the Commission should adopt a reasonable transition period, with a cliff rather than a phase-down approach.

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[34] NPRM, para. 65.
[35] NPRM, para. 71 (seeking comment on transition period).

Under the cliff approach, resellers would continue to receive the full $9.25 subsidy per month per subscriber for the entire transition period, at the end of which the subsidy would be eliminated. This approach gives affected service providers and their customers a known (hopefully sufficient) period of time to take whatever steps they deem appropriate and necessary. Under a phase-down approach, the reseller receives a progressively smaller percentage of the $9.25 monthly subsidy over the course of the transition period. Sprint is concerned that a phase-down approach may effectively eliminate resellers immediately, to the extent that the reduced subsidy is financially unviable. Given the slim margins even with a $9.25 Lifeline subsidy, the phase-out approach is unlikely to offer an adequate transition.

D. Receipt of Federal Lifeline Support Should Not Be Conditioned on Network Build-Out.

One of the Commission's goals in the instant proceeding is to adopt policies that "improve the business case for deploying facilities to serve low-income households."[36] Sprint agrees that federal subsidies can be an important supplement and significant incentive to private capital investment, and it is possible that, in some cases, the potential receipt of revenues from Lifeline customers could improve the business case for deploying additional network facilities in a given geographic area. However, the Commission should **not** condition payment of Lifeline support on capital investments by the service provider. Modest per person subsidies, whose receipt is not guaranteed, are not a basis on which to make capital-intensive network deployment decisions.

In deciding whether, where, and when to deploy new network facilities, Sprint considers many factors, including total capital budget dollars available; payback periods

[36] NPRM, para. 65.

(the time it takes to recover a given capital expenditure); number of customers (including Lifeline subscribers) affected and volume of traffic impacted; and the type and cost of network upgrade under consideration. Sprint does not deploy network facilities with the sole purpose of serving Lifeline customers. Margins on federal Lifeline service are very thin, sharply affected by high churn rates (much due to de-enrollment for failure to re-certify and for sporadic non-usage over the mandated timeframe), the increasing minimum service standards,[37] the elimination of the port freeze rule (which will hamper efforts to recoup acquisition costs, including the costs of providing a broadband-capable device, and will result in higher costs from reviewing multiple enrollment attempts by a customer seeking to switch service providers), and the ever-increasing resources necessary to comply with regulatory requirements and scrutiny. While federal Lifeline support payments might marginally offset network (and other) costs, those support payments alone are generally insufficient to justify investment in new plant and equipment.

Sprint does not invest in wide-scale network build-out specifically or exclusively to serve Lifeline customers due to the size and revenue opportunities of the Lifeline market as compared to postpaid offerings. Lifeline customers are only a small fraction of Sprint's total wireless customer base and an even smaller percentage of Sprint's total wireless revenues.[38] Sprint's monthly service revenue ARPU for the quarter ending September 2017 was $46.00 for postpaid customers, and its postpaid average billing per account (which includes revenue from installment plan billing and non-operating leases)

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[37] See Section 54.408 of the Rules.

[38] As of September 2017, Sprint had 54 million wireless customers, plus 2.2 million Assurance Wireless subscribers.

was $169.25.[39] In contrast, the federal Lifeline subsidy is $9.25 per customer, and does not include any support for devices (which Assurance Wireless provides free of charge to the end user). Lifeline support is not, and cannot be, the financial determinant of capital-intensive facility deployment decisions.

Furthermore, the nature of federal Lifeline support payments does not lend itself to use in financing capital expenditures. As noted, the per customer Lifeline subsidy is very modest and quite unsteady (Lifeline customers have high churn rates, and, unlike other types of federal universal service support, Lifeline support does not come with a ten-year guaranty). If Lifeline program funds are capped, as is being considered in the instant proceeding, ETCs could experience a cut in Lifeline revenues, either per subscriber or because of a lack of new customers, which could make Lifeline revenue streams even less predictable.

Capital expenditures, in contrast, are large and lumpy. Facilities-based carriers such as Sprint incur large, up-front expenses to deploy a new facility, as well as significant recurring operating expenses. Capital expenses do not disappear if the carrier's anticipated revenue stream dries up. CAF and Mobility Fund USF subsidies, once awarded to a carrier, do not vary based on number of customers and are guaranteed for a 10-year period, and thus are more easily and reliably applied to capital expenditures. This is not the case for Lifeline subsidies, and the Commission should accordingly decline to condition receipt of Lifeline support on network build-out.

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[39] *See* http://s21.q4cdn.com/487940486/files/doc_financials/quarterly/2017/q2/01_Fiscal-2Q17-Earnings-Release-FINAL.pdf.

VI. OTHER PROPOSALS TO IMPROVE THE LIFELINE PROGRAM.

The NPRM includes several proposals to improve the Lifeline program. As discussed briefly below, Sprint supports two of these proposals (the elimination of the Lifeline Broadband Provider (LBP) designation process, and the elimination of the equipment requirements), and expresses caution about the proposal to implement risk-based audits.

LBP: The Commission has proposed to eliminate the LBP category of ETCs and the state preemption on which it is based.[40] Sprint agrees that, consistent with Section 214 of the Act, states should exercise primary responsibility for designating ETCs, and that the federally based LBP process should accordingly be eliminated. To the extent that a state declines to exercise this responsibility, such that applications for ETC designation are submitted to the FCC, the FCC should act promptly on such applications and any related compliance plans.

Equipment requirements: The Commission has proposed to eliminate the rules requiring that Lifeline equipment be WiFi-enabled and be capable of being used as a hotspot, and prohibiting tethering charges.[41] Sprint supports elimination of these rules. Inclusion of these features adds to the cost of the devices being offered to Lifeline customers, with minimal apparent benefit. Because Lifeline support does not extend to devices, it is entirely appropriate to lift these equipment requirements.

Risk-based audits: The Commission has proposed to "transition the independent audit requirements required by section 54.420 of the Commission's rules away from a $5

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[40] NPRM, para. 54.
[41] NPRM, para. 81. These equipment requirements are codified in 47 C.F.R. §54.408(f)(1)-(3).

million threshold and, instead, to move toward identifying companies to be audited based on established risk factors and taking into consideration the potential amount of harm to the Fund."[42] While Sprint favors "smart" audits, we are concerned that basing audits on the level of Lifeline subsidy received will leave only a very small number of service providers subject to audit review. This is of particular concern given the possibility that wireless resellers might be forced out of the Lifeline program.

Lifeline audits are very burdensome on the ETC whose results, processes, and systems are under examination. Based on the experience of its Assurance Wireless business unit, Sprint conservatively estimates that participation in a routine Lifeline audit can consume over 200 man hours, involving both Sprint personnel (finance/accounting, business unit, regulatory and legal) and third party vendors (Assurance Wireless uses a neutral third party to make initial eligibility determinations, and it is this third party which would gather the supporting data that is generally reviewed in an audit). Personnel involved in an audit all have other routine business responsibilities as well, and many audits have occurred at times when major program changes are underway.[43] The time allowed to produce the requested information, and to review and respond to auditors' findings, is quite short, which places additional strain on the audit process.

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[42] NRPM, para. 84.

[43] For example, in 2016, Assurance Wireless was required to validate the identity of tens of thousands of subscribers whose identities USAC was unable to confirm. This audit included subscribers from across the country (not state-by-state, or for a subset of states), some of whom had been enrolled in the Lifeline program for many years, and occurred right before the Thanksgiving holiday and at a time when Assurance Wireless was engaged in system changes and customer notifications regarding impending Lifeline reforms (*e.g.*, changes to usage requirements, offer changes, and the benefit transfer freezes), reminders to complete the annual recertifications, and notices about changes to their service plans to meet new minimum service requirements.

Moreover, the number of subscribers served by a provider is not indicative of its risk profile. Assurance Wireless is the second largest provider of Lifeline service in the country. As a facilities-based provider, Assurance Wireless' operations and conduct in the Lifeline market are guided in large part by the fact that its parent, Sprint, has a complex set of interests and substantive matters pending before the FCC and state regulatory bodies at any given time. Assurance Wireless conducts its Lifeline business in such a manner as to ensure that Sprint's reputation before regulatory entities and its larger interests may be advanced and in no way compromised.

If the Commission adopts a risk-based audit system, it must (1) allow interested parties to participate in the process for identifying risk factors (as noted above, size alone is likely to result in a disproportionate burden on certain Lifeline service providers); and (2) put a reasonable limit on the number of audits any service provider must undergo within a given time frame. For example, barring any finding of systemic errors, Lifeline audits of an ETC should be limited to no more than one state per year.

VII. CONCLUSION.

Sprint shares the Commission's concern about ensuring the integrity of the Lifeline program, and believes that the timely implementation of the National Verifier system constitutes the most effective means of ensuring this outcome. Other proposals included in the NPRM raise policy and implementation concerns, and could have an adverse impact on the millions of low income Americans who rely upon the Lifeline program for basic voice and broadband access. Sprint accordingly cautions against the adoption of a self-enforcing Lifeline program cap; mandatory minimum end user charges; penalizing end users and ETCs for delays in the deployment of the National Verifier that are outside their control; eliminating Lifeline support to non-facilities based service providers; and conditioning receipt of Lifeline support on network build-out.

Respectfully submitted,

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