BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 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 THE
CALIFORNIA PUBLIC UTILITIES COMMISSION

AROCLES AGUILAR
HELEN M. MICKIEWICZ
SINDY J. YUN
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-1999
Facsimile: (415) 703-4592
Email: sindy.yun@cpuc.ca.gov

Attorneys for the California
Public Utilities Commission

February 21, 2018

I. INTRODUCTION AND SUMMARY

The California Public Utilities Commission (CPUC) submits these comments in response to the Federal Communications Commission's (FCC or Commission) December 1, 2017 *Notice of Proposed Rulemaking and Notice of Inquiry* (*NPRM/NOI*)[1] issued in the above-captioned dockets. In the *NPRM/NOI,* the FCC proposes a number of changes to the federal Lifeline program (federal Lifeline) to accomplish two objectives: 1) to curtail waste, fraud, and abuse; and 2) to target low-income areas plagued by the lack of broadband Internet access service (broadband service).

The CPUC shares the FCC's concern about damage to the integrity and reputation of the federal and State universal service programs aimed at helping low-income households. At the same time, the CPUC urges the Commission to recognize that States are the Commission's partners in this ongoing effort to ensure delivery of communications services to all low-income Americans. The CPUC is a good steward of both the State and federal Lifeline programs and can be relied on to verify eligibility among other universal service objectives, because we want to ensure that ratepayers are not paying for subsidies that are neither deserved nor needed. California ratepayers entrust the CPUC to fulfill its fiduciary responsibility to manage the California LifeLine Fund, currently with a budget of approximately $630 million for fiscal year

[1] *See* In the Matter of Lifeline and Link Up Reform and Modernization et al., WC Dkt Nos. 11-42, 09-197, 17-287 Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (*NPRM/NOI*), FCC 17-155 (rel. December 1, 2017).

2017-2018. The CPUC is required by state law to utilize the California LifeLine Fund for the purposes of administering the California LifeLine Program. California has a lot at stake and has a vested interest in protecting our program. Therefore, the CPUC requests that the Commission continue to value and respect States' role in administering the federal Lifeline program.

In these comments, the CPUC: 1) supports the FCC's proposal to reverse the preemption of the States' authority to designate Lifeline Broadband Providers (LBP) as eligible telecommunications carriers (ETC); 2) reaffirms our position that the FCC should preserve States' authority and grant States with flexibility to administer the federal Lifeline program in conjunction with their State universal service programs for low-income households; and 3) supports the FCC's reconsideration of the phase down of Lifeline support for voice service.

Lastly, if the FCC proceeds with additional changes to the federal Lifeline program, we request that the FCC provide States with sufficient time to implement the changes to the federal Lifeline program. To implement federal changes, the CPUC must undergo a regulatory proceeding to allow for transparency and due process regarding rules that may impact the California LifeLine Program. A CPUC proceeding (akin to an FCC docket) can take on average 1.5 years, but can last more than 5 years. The current California LifeLine proceeding began in March 24, 2011. Within a proceeding, the CPUC can issue multiple decisions (akin to an FCC order), multiple rulings, and scoping memos, and host workshops, all-party meetings, public participation hearings, etc. Due to the rapid pace of change in the federal Lifeline

program in the past several years, the CPUC, for example, is still in the process of implementing policies and processes adopted in the FCC's *2016 Lifeline Modernization Order*.[2] On September 22, 2016, the CPUC issued a ruling seeking comments on the *2016 Lifeline Modernization Order* (September 2016 Ruling).[3] Due to numerous changes that the FCC adopted in the *2016 Lifeline Modernization Order*, the CPUC still has several unresolved topics from our September 2016 Ruling. Providing States with a sufficient transition period will allow for States to go through their regulatory processes and to fully analyze the impact to low-income households of the federal Lifeline program's fundamental changes.

II. BACKGROUND

For over three decades, California LifeLine and federal Lifeline programs have provided millions of California consumers with access to affordable basic phone service. As of year-end 2017, approximately 1.78 million households were participating in California LifeLine, which equates to an approximately 58% participation rate. California statutes direct the CPUC to offer high quality basic phone service at affordable rates to the greatest number of low-income households in California.[4] In order to meet this objective, the CPUC administers the California LifeLine Program in conjunction with the federal Lifeline program, and also employs

---

[2] *See In the Matter of Lifeline and Link Up Reform and Modernization* et al., WC Dkt Nos. 11-42, 09-197, 10-90, *Third Report and Order, Further Report and Order, and Order on Reconsideration* (*2016 Lifeline Modernization Order*), FCC 16-38 (rel. April 27, 2016).

[3] *See* http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M167/K192/167192788.PDF.

[4] *See* CA PU Code §§ 871.5 and 871.7.

other state-specific strategies (e.g., reimbursing service providers using a weighted-average method, utilizing CPUC staff to resolve consumers' appeals of their eligibility denials, and using an authentication process to verify a consumer's identity).[5]

California has valued its long-standing State and federal partnership (as well as other States' efforts to promote universal service), and understood that the FCC similarly valued this partnership. Accordingly, the CPUC was surprised by the federal Lifeline program's changes in the *2016 Lifeline Modernization Order*, which included the following policy directives:

1) Preemption of states' authority to designate a sub-set of ETCs called the Lifeline Broadband Providers;[6]
2) Gradual elimination of federal Lifeline support for voice-only services;[7]
3) Elimination of state-specific eligibility criteria;[8] and
4) Requirement for consumers in all states to use the National Lifeline Eligibility Verifier (National Verifier) by December 31, 2019 in order to participate in the federal Lifeline program.[9]

The CPUC appreciates the FCC's change of direction in this *NPRM/NOI* with regards to the preemption of states and the elimination of support for phone services. We hope the FCC will also reverse course pertaining to the other two remaining

---

[5] *See* Comments of the California Public Utilities Commission in Response to Second Further Notice of Proposed Rulemaking (2nd FNPRM), WC Docket No. 11-42, 09-107, 10-90, FCC 15-71, (rel. June 22, 2015), at pp. 17-18, 24-25, 27, 43-47, and 52-53) filed September 24, 2015.

[6] *See 2016 Lifeline Modernization Order*, ¶¶ 249-258.

[7] *Id.*, ¶¶ 52, 55, 117, and 119. *See* also 47 CFR §§ 54.403(a)(2)(i)-(iv).

[8] *Id.*, ¶ 212.

[9] *Id.*, ¶¶ 126-166.

fundamental policy directives adopted in the *2016 Lifeline Modernization Order*.[10]

Our state/federal partnership has produced the following results in California:

1) Enabled millions of low-income households to lower their utility bills while navigating a cohesive enrollment process in California;
2) Improved Lifeline service offerings available in California; and
3) Decreased incidences of waste, fraud, and abuse in California.[11]

Californians also have been net contributors to the federal universal service fund (USF) since 2003.[12] Based on the most recent universal service monitoring report, *2016 Monitoring Report*, California contributed approximately $918 million to USF, but received an estimated 74% of its contributions.[13]

California ratepayers make additional contributions to the state's universal service programs. In 2015, Californians financed a combined $614 million[14] for the

---

[10] *See* Testimony of Chris Nelson, Public Utilities Commissioner from the State of South Dakota, Senate Committee on Commerce, Science, and Transportation at pp. 2-3 (Sept. 6, 2017), http://puc.sd.gov/commission/News/2017/nelsontestimony.pdf.

[11] *See* CPUC President's, Michael Picker, Letter to FCC Chairman, Ajit Pai, dated July 27, 2016, in response to Chairman Pai's request for information (President Picker's Letter). *See* http://cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Communications_-_Telecommunications_and_Broadband/Consumer_Programs/California_LifeLine_Program/CPUC%20Response%20to%20FCC%20Commissioner%20Pai_7-27-16.pdf.

[12] Timeframe is through year 2015. *See* FCC's Monitoring Reports, https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports.

[13] *See* 2016 Monitoring Report, Table 1.9 at p. 19.

[14] Federal Lifeline participants in California received about $223 million worth of federal Low-Income Support payments, which is about 15% of the total federal payments nationwide. The California LifeLine Program's budgets for fiscal years 14-15 and 15-16 were approximately $299 million and $484 million, respectively. Taking the average of the budgets from both fiscal years yields about $391 million. The sum of $223 million and $391 million is $614 million.

state and federal low-income universal service programs to benefit about 2 million[15] California households. This translated to a low-income California household receiving an approximately $307[16] in financial assistance for the year. We believe the CPUC has effectively leveraged California and federal universal service resources and therefore requests that the CPUC be permitted to continue administering the federal Lifeline program in California.

III. DISCUSSION

A. The CPUC Supports the FCC's Reversal of its Preemption of States' Authority to Designate Lifeline Broadband Providers as Eligible Telecommunications Carriers

States should have the primary responsibility of reviewing and granting requests for ETC designation primarily because states are better suited to determine whether a local carrier has met the ETC service and facilities requirements.[17] Previously, we have provided the FCC with a list of issues and approaches for how the CPUC analyzes ETC designation requests.[18] We reiterate some of these here:

1) CPUC staff has found inaccurate and misleading statements in FCC-approved compliance plans regarding

---

[15] This represents the monthly average number of participants for calendar year 2015. *See* http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Communications_-_Telecommunications_and_Broadband/Consumer_Programs/California_LifeLine_Program/2015XeroxSubscriberCountsasof010816.xls

[16] California's maximum monthly support amount for 2015 was $12.65.

[17] *See* Notice of Ex Parte, https://ecfsapi.fcc.gov/file/60001515662.pdf, filed by the CPUC on February 21, 2016 to the FCC, WC Docket No. 11-42.

[18] *Id*.

the technical capability of purported Mobile Virtual Network Operators' subject matter experts.

2) Through due diligence review of corporate officers and affiliated entities, CPUC staff has found individuals who are unlikely to be "good players" based on prior court findings of improper/illegal behavior, and thus would have increased the risk of waste, fraud, and abuse, but for our analysis.

3) CPUC staff reviews new technologies and service offerings to ensure that they are reliable and can reach emergency services. For example, more than once the CPUC has rejected plans with wireless local loop service that neither reliably identified caller location when calling E911 nor completed calls.

The CPUC has developed a detailed process for analyzing ETC designation requests, which includes evaluating these requests in light of our enrollment process for the California LifeLine Program. We utilize a similar review process for service providers desiring to be only a California LifeLine service provider (and not an ETC).[19] If the states' authority to designate LBPs were preempted, California concurs with the FCC that the preemption would have constrained states and created inconsistencies in how the states administer their respective state programs for voice and/or broadband support.[20] The CPUC further agrees with the FCC that reversing the preemption in the *2016 Lifeline Modernization Order* would resolve inconsistencies between state and federal efforts, and would provide benefits to the operations of state and federal programs. Accordingly, we support the FCC's proposal to reverse the preemption of state authority to designate LBPs as ETCs. The CPUC also supports the

---

[19] The CPUC does not require a California LifeLine service provider to also be an ETC.

[20] *See NPRM/NOI*, ¶ 57.

FCC's elimination of the stand-alone LBP designations. Our support for these proposed changes are consistent with: 1) the decades-long record of the CPUC exercising its authority to designate ETCs instead of deferring this responsibility to the FCC;[21] and 2) the CPUC's steadfast position that the federal Lifeline program should both financially support phone service and require ETCs to offer phone service.

B. The CPUC Recommends that State Continue to Administer the Federal Lifeline Program in Conjunction with the States' Universal Service Programs

1. The California LifeLine Program Is a Success Story

The CPUC has strived to administer the California LifeLine Program and the federal Lifeline program as effectively, efficiently, and cohesively as possible, and safeguard both California and federal universal service fund dollars. In addition, the CPUC has fostered a competitive marketplace with state-specific policies so that both the federal Lifeline and California LifeLine Programs will get the "most bang for our buck." Currently, two California LifeLine service providers (Virgin Mobile USA, L.P. and i-wireless, LLC) are offering unlimited voice and text with 2GB data for free to participants. The CPUC's efforts have pushed the needle so that low-income households in California receive service offerings more comparable to those available in the retail, residential communications market than has been true in the past. The CPUC has continually updated its California LifeLine Program to meet changing federal eligibility and enrollment process requirements. California also has adopted

[21] *See* CPUC Resolution T-16086 dated October 9, 1997.

other requirements to meet the State's unique needs and to better protect both California's and the federal program from waste, fraud, and abuse.[22]

In the *2012 Lifeline Reform Order*, the FCC recognized and respected the states' efforts.[23] The FCC enabled states to move forward with their own systems to avoid inhibiting the operation and progress of states' efforts. The *2016 Lifeline Modernization Order* reversed course, preempting the states' ability to designate all ETCs, eliminating state-specific eligibility criteria, and requiring all consumers to use the National Verifier. The CPUC has operated the federal Lifeline program in synergy with the California LifeLine Program for decades. The CPUC hopes the FCC will provide states with a choice to opt-in to the National Verifier, for example, as well as the flexibility to operate their respective state low-income universal service programs without unnecessarily constraining the states' administration.

If the FCC targets households that have not subscribed to broadband service (i.e., broadband non-adopters)[24] or focuses federal Lifeline support in regions or areas where the FCC deems is most needed (i.e., rural areas), the federal Lifeline program will reach fewer households. For example, only 1.3% or167,620 of California's households live in what is considered to be "mostly rural" counties, that is, 50% or more of the population in those counties lives in a Census Bureau-designated rural

---

[22] *See* President Picker's Letter.

[23] *See* Lifeline and Link Up Reform and Modernization et al., Report and Order and Further Notice of Proposed Rulemaking, WC Dkt. Nos. 11-42 *et al.,* CC Dkt. No. 96-45, FCC 12-11 (rel. Feb. 6, 2012) (*2012 Lifeline Reform Order*), ¶ 221.

[24] *See NPRM/NOI*, ¶ 124.

area. Only 38,483 California households with incomes of less than or equal to 135% of the Federal Poverty Guideline reside in these rural counties.[25] As we understand the FCC's vision, federal Lifeline eligibility could potentially be limited to just these 38,438 households for California. A 100% participation rate of these 38,483 households would amount to a projected maximum of $4.27 million per year of federal Lifeline support for California, in contrast to the $223 million for 2015. However, a 100% participation rate is unlikely, which means, the amount of federal Lifeline support under the FCC's potential direction would be even smaller for California. We understand and agree with the FCC that more should be done to assist the deployment of communications infrastructure in rural areas.[26] However, a federal Lifeline program that solely focuses on rural areas could leave millions of low-income Californians (and low-income households throughout the nation) without federal support.

As the FCC recalibrates its approach for the federal Lifeline Program, the need to require States to use the National Verifier - especially those like California with well-established enrollment processes and long-standing eligibility criteria – correspondingly decreases. California maintains that the FCC's stated objectives[27] in requiring California consumers to use the National Verifier do not appear relevant for the following reasons:

---

[25] California's "mostly rural" counties are as follows: Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Inyo, Lassen, Mariposa, Modoc, Mono, Plumas, Tehama, Trinity, Tuolumne and Siskiyou.

[26] *See* Comments of the California Public Utilities Commission in Response to Notice of Proposed Rulemaking in the Matter of Restoring Internet Freedom (*RIF NPRM*), WC Docket No. 17-108, FCC 17-60, (rel. May 23, 2017), at pp. 11-12 and 21 filed July 17, 2017.

[27] *See NPRM/NOI*, ¶ 59.

1) ETCs do not determine consumers' eligibility in California for the federal Lifeline program. The CPUC has a California LifeLine Administrator that is subject to our oversight and administers the enrollment process and renders eligibility determinations.

2) The federal Lifeline program incurs no cost for program administration when the CPUC administers the federal Lifeline program in conjunction and harmony with the California LifeLine Program.

3) The CPUC has employed State-specific strategies to minimize waste, fraud, and abuse. As the CPUC is not a business selling state and federal Lifeline discounted services, we do not have the incentive to enroll households absent their verified eligibility to participate and receive our universal service dollars.

4) The CPUC's cohesive administration of both of our programs already facilitates consumer choice, encourages a competitive marketplace, and simplifies the enrollment experience.

2. More Changes in Federal Lifeline Policy Directives are Needed

California supports further refinement of the federal Lifeline program. First, participation in the National Verifier should be optional for states that have their own third-party administrator and have dedicated State funding. States that conduct their own enrollment process should be allowed to continue using their own process or be able to opt-***in*** to a national process. Further, the FCC should not require States that choose to use their own process, at their own expense, to justify or prove that their enrollment process is comparable to or as robust as the national process that the FCC adopts. The FCC did not provide any funds to the states to implement the changes that were adopted in the 2012 *Lifeline Reform Order*. The CPUC found that some of those changes were unnecessary and ineffective in improving both the federal Lifeline and

California LifeLine Program.[28] The CPUC has a fiduciary responsibility to the California ratepayers to ensure that our California LifeLine funds are used in a fiscally sound and responsible manner. If the FCC continues to require consumers in all states to use the National Verifier, the FCC (and USAC) should provide a clear mechanism and process by which States can be reimbursed for facilitating the National Verifier's functions.

Furthermore, USAC's oversight of the National Verifier does not guarantee compliance with federal rules. For example, the renewal process as described on pages 46-48 of the January 2018 National Verifier Plan does not appear to comport with the requirement for participants to renew every year while avoiding automatic enrollment. It appears that participants can automatically renew each year without affirming that they continue to want the federal Lifeline discount.

The FCC should also restore the States' ability to use State-specific eligibility criteria (i.e., the list of qualifying public assistance programs and the maximum household income threshold) when determining the eligibility of federal Lifeline participants. With the FCC's recalibration of the federal Lifeline program, States' roles and contributions will likely expand. As States bear more responsibilities, their efforts to cohesively administer the state and federal programs should not be inhibited.

The CPUC reaffirms its recommendation that the FCC preserve States' authority and flexibility to administer the federal Lifeline program cohesively and

---

[28] *See* Comments of the California Public Utilities Commission in Response to Second Further Notice of Proposed Rulemaking (2nd FNPRM), WC Docket No. 11-42, 09-107, 10-90, FCC 15-71, (rel. June 22, 2015) at pp. 46-55 filed September 24, 2015.

without impairing States' operations of their own low-income universal service programs. States should be able to develop additional standards, including enrollment and eligibility, that best accommodate their low-income consumers' needs based on the State's available resources, eligibility criteria, local conditions, laws, and budgetary limits as long as the States' considerations are not inconsistent with the federal requirements. This allows States to incorporate their unique characteristics.

C. The CPUC Supports Reconsideration of the Planned Elimination of Federal Lifeline Support for Telephone Service

The CPUC urges the FCC to reconsider the phase down of federal Lifeline support for telephone service. Telephone service is a public safety necessity for reaching E911 and other emergency services, especially in rural areas. Additionally, the California LifeLine Program explicitly subsidizes phone service. As the FCC reconsiders the federal Lifeline support for phone service in rural areas,[29] the CPUC supports any efforts to harmonize the California LifeLine and federal Lifeline supported services. The CPUC also reiterates its recommendation that the federal Lifeline program should financially support phone service and for the FCC to continue to require federal Lifeline providers to offer phone service.[30] We reiterate our opposition to substituting federal Lifeline funding for phone service for broadband

---

[29] *Id.*, ¶ 76.

[30] *See* Comments of the California Public Utilities Commission in Response to Notice of Proposed Rulemaking in the Matter of Restoring Internet Freedom (*RIF NPRM*), WC Docket No. 17-108, FCC 17-60, (rel. May 23, 2017), at pp. 12-13 filed July 17, 2017. *See* Comments of the California Public Utilities Commission in Response to Second Further Notice of Proposed Rulemaking (*2nd FNPRM*), WC Docket No. 11-42, 09-107, 10-90, FCC 15-71, (rel. June 22, 2015), at pp. 3 and 6-12 filed September 24, 2015.

service. Instead the FCC should increase the federal subsidy to also support broadband service.[31] The CPUC supports the inclusion of broadband service support in the federal Lifeline program and agrees with the FCC that there still remains areas where broadband service is non-existent or unaffordable.[32]

Additionally, demand for phone service still exists. Nationwide, the number and percentage of households subscribing to phone services continue to increase (see chart below),[33] with subscribership increasing approximately 13% between 2006 and 2016. As of July 2016, more than 123 million households had phone service. Moreover, for most public safety needs, consumers can only reach 911 with telephone service.[34]

/ / /

/ / /

/ / /

---

[31] *See* Comments of the California Public Utilities Commission in Response to Second Further Notice of Proposed Rulemaking (*2nd FNPRM*), WC Docket No. 11-42, 09-107, 10-90, FCC 15-71, (rel. June 22, 2015), at pp. 10-12 and 62-66 filed September 24, 2015.

[32] *See* Comments of the California Public Utilities Commission in Response to Notice of Proposed Rulemaking in the Matter of Restoring Internet Freedom (*RIF NPRM*), WC Docket No. 17-108, FCC 17-60, (rel. May 23, 2017), at pp. 11-13 and 21 filed July 17, 2017. *See* Comments of the California Public Utilities Commission in Response to Second Further Notice of Proposed Rulemaking (*2nd FNPRM*), WC Docket No. 11-42, 09-107, 10-90, FCC 15-71, (rel. June 22, 2015) at pp. 11-12 filed September 24, 2015.

[33] *See* 2016 Monitoring Report, Table 6.1 at p. 47.

[34] *See* Comments of the California Public Utilities Commission in Response to Second Further Notice of Proposed Rulemaking (*2nd FNPRM*), WC Docket No. 11-42, 09-107, 10-90, FCC 15-71, (rel. June 22, 2015) at pp. 10-11 filed September 24, 2015.

TELEPHONE SERVICE SUBSCRIBERSHIP		
	NUMBER OF HOUSEHOLDS (MILLIONS)	PERCENTAGE OF HOUSEHOLDS
November 2006	108.8	93.4
July 2011	114.1	95.6
July 2012	117.0	96.1
July 2013	118.3	96.1
July 2014	119.0	96.0
July 2015	121.7	96.3
July 2016	123.3	97.1

IV. CONCLUSION

California's partnership with the federal Lifeline program works. The CPUC is as concerned as the FCC about incidences of waste, fraud, and abuse in the low-income universal service program. We are also cognizant of the disparity regarding the progress of deploying communications infrastructure in rural America, and agree that more should be done.[35] The CPUC acknowledges and understands the FCC's efforts to address these two important issues. We hope the FCC will reconsider these two other

[35] *See* Comments of the California Public Utilities Commission in Response to Notice of Proposed Rulemaking in the Matter of Restoring Internet Freedom (*RIF NPRM*), WC Docket No. 17-108, FCC 17-60, (rel. May 23, 2017) at pp. 11-12, 21 filed July 17, 2017.

fundamental policy directives: 1) requiring all consumers to use the National Verifier; and 2) eliminating the State-specific eligibility criteria.

Respectfully submitted,

AROCLES AGUILAR
HELEN M. MICKIEWICZ
SINDY J. YUN

By: /s/ SINDY J. YUN
SINDY J. YUN

Attorneys for the California
Public Utilities Commission

505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-1319
Facsimile: (415) 703-4562
Email: Sindy.yun@cpuc.ca.gov

February 21, 2018