

**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 UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTelecom)<sup>1</sup> submits these comments in response to the Notice of Proposed Rulemaking (Notice) issued by the Federal Communications Commission (Commission) proposing further reforms to its Lifeline program. In its Notice, the Commission proposes further comprehensive reforms to the agency’s Lifeline program.<sup>2</sup> USTelecom supports several of the Commission’s proposals, particularly those that seek to ensure that the efficiencies and benefits of the National Verifier are achieved.

**I. The Commission Should Not Conflate Lifeline Support with Broadband Deployment Goals.**

In its Notice, the Commission seeks comment on whether it should focus Lifeline support in a manner that encourages investment in broadband-capable networks.<sup>3</sup> While USTelecom

---

<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

<sup>2</sup> Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and order, Notice of Proposed Rulemaking, and Notice of Inquiry, *Bridging the Digital Divide for Low-Income Consumers*, 32 FCC Rcd 10475, FCC 17-155 (released December 1, 2017) (*Notice*).

<sup>3</sup> *Id.*, ¶¶ 63 – 79.

strongly supports policies that encourage investment in broadband-capable networks, the Commission should not utilize the Lifeline program to achieve a goal for which it is not designed. Instead, the Commission should focus its efforts on ensuring the successful implementation of the National Verifier, which will cure the clear majority of the issues raised in the Notice.

Since its inception, the Lifeline program has been an affordability program, and not an accessibility program. Existing frameworks such as the Connect America Fund (CAF) and the other USF High Cost programs are specifically designed to encourage investment in broadband-capable networks, and the Commission should not try to revise the Lifeline program to meet those separate goals.

Rather than repurpose the Lifeline program to address broadband deployment challenges, the Commission should instead continue to utilize the CAF as the principal vehicle for encouraging the deployment of broadband facilities to unserved and under-served areas. Similarly, the Commission should avoid revising the Lifeline program in a way that may damage or hinder its ability to address the affordability challenges faced by low-income households. For example, the proposed elimination of resellers from the Lifeline program would not materially further the deployment of broadband infrastructure, because revenue from resellers already contributes to facilities-based carriers' deployment of broadband facilities, but could harm customers that currently rely on resellers' services. Just as CAF and USF High-Cost funding was not designed to address the affordability challenges of low income families, Lifeline funding is not designed to support the deployment of broadband networks to unserved or underserved Americans.

Finally, after the Commission reformed its Lifeline program in 2016,<sup>4</sup> USTelecom filed a

---

<sup>4</sup> See, Third Report and Order, Further Report And Order, and Order on Reconsideration, *Lifeline and Link Up Reform and Modernization*, FCC 16-38, 31 FCC Rcd. 3962, 81 FR 33025 (2016).

Petition for Reconsideration urging the agency to delete the reference to broadband Internet access service in Commission rule 54.101 which enumerates the services supported by universal service mechanisms.<sup>5</sup> USTelecom noted at the time that identifying broadband Internet access service as a supported service in this rule was inconsistent with the Commission’s narrow intent to make broadband Internet access service a supported service only for the Lifeline program.<sup>6</sup> In its recent Restoring Internet Freedom order, the Commission declined to address the effects of its reclassification of broadband Internet access service on the Lifeline program, concluding instead that such concerns are “more appropriately addressed in the ongoing Lifeline proceeding.”<sup>7</sup>

Although this issue is not expressly raised in the Notice, consistent with USTelecom’s Petition, the Commission should eliminate the references to broadband Internet access service in Rule 54.101. Doing so would at least resolve the inconsistency between this rule which defines broadband Internet access service, now an information service, as a universal service and section 254(c)(1), which defines universal service as an evolving level of *telecommunications services*.

## **II. The Commission Should Improve its Existing Framework for Lifeline Program Audits.**

The Commission should also adopt its proposed improvements to audit procedures associated with the Lifeline program.<sup>8</sup> USTelecom agrees that an appropriately structured audit framework will better target waste, fraud, and abuse in the program and would also utilize

---

<sup>5</sup> USTelecom Petition for Reconsideration, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, June 23, 2016 (*USTelecom Petition*). See also, 47 CFR § 54.101(a)(2).

<sup>6</sup> *USTelecom Petition*, pp. 19 – 22. See also, Letter from Kevin G. Rupy, Vice President, USTelecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90, WC Docket No. 11-42, WC Docket No. 09-197, p. 6 (May 18, 2017) (*USTelecom June 2015 Ex Parte*).

<sup>7</sup> *Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order and Order, FCC 17-166, ¶ 193 (2017).

<sup>8</sup> *Notice*, ¶¶ 84 – 89.

administrative resources more efficiently and effectively than in prior years.<sup>9</sup> USTelecom agrees with the Commission’s proposal to move to purely risk-based audits for the Lifeline program. Such an approach is far more administratively efficient, and will be more effective at identifying instances of waste, fraud and abuse in the Lifeline program.

Given the shift to risk-based audits, the Commission should also eliminate entirely its biennial independent audit requirement. USTelecom agrees that more meaningful results could be achieved through the implementation of a risk-based approach to audits. In contrast to mandating biennial independent audits for certain categories of eligible telecommunications carrier (ETCs), a correctly designed risk-based approach would use meaningful data points (such as results from previous USAC audits) to determine whether a new audit may be appropriate. Such targeting would economize limited Commission and USAC resources by directing them towards audits where instances of waste, fraud and abuse may be more prevalent.

The Commission also notes that audit risk factors would be established by the Wireline Competition Bureau (Bureau), the Office of Managing Director and USAC.<sup>10</sup> USTelecom recommends that these entities be required to coordinate and collaborate with all stakeholders to develop these risk-based standards, so that there is no ambiguity for what actions/practices would be considered within and out of the scope of the new audit framework. In addition, any risk-based approach established through this process needs to be fair, equitable and measurable.

The Commission should also reduce the number of Lifeline Payment Quality Assurance (PQA) Program assessments on ETC affiliate carriers, especially where there are no material findings in prior affiliate carrier assessments. Some Lifeline providers are comprised of many

---

<sup>9</sup> *Id.*, ¶ 84.

<sup>10</sup> *Id.*, ¶ 86.

operating companies and other affiliates, with many operating companies that are separately designated ETCs. In turn, because of the way USAC randomly selects individual ETCs for PQAs, affiliated entities can be subject to scores of PQAs in just a few years. Still further, those assessments may amount to millions of dollars in support reviewed with inconsequential, if any, recovery of the support reviewed. For example, one USTelecom member has ETC affiliates that were subject to approximately 80 Lifeline PQAs in six years. From 2012 – 2017 approximately eight million dollars in Lifeline support was reviewed with a total recovery of less than two thousand dollars resulting in a recovery rate of .02%.

At best this is ineffective; at worst, it is a significant waste of USAC and ETC resources that would be better utilized protecting the integrity of Lifeline funding. The Commission should put measures in place to limit the number of PQA assessments of ETC affiliate companies per year, particularly where those assessments resulted in no material findings of non-compliance. At the very least, the Commission should limit the number of PQAs to not more than four per year for ETC affiliated companies if the prior years' assessments reflect no material findings of non-compliance. Further, the Commission should evaluate the necessity of the PQA program, in general, given the transition to the new Lifeline Claims System (LCS) and its significant role in the payment process.

### **III. The Commission Should Actively Partner with States to Ensure Successful Implementation of the National Verifier.**

State partners are crucial to the Commission's Lifeline reform efforts, particularly given their central administrative role in ensuring the successful implementation of the National Verifier. As the Commission acknowledges in its Notice, "a strong cooperative effort between the Commission and its state partners is critical to advancing" the "laudable objectives" for the

National Verifier.<sup>11</sup> These important objectives include protection against fraud, waste and abuse, lower costs, and better service to eligible beneficiaries.<sup>12</sup>

To ensure these laudable objectives are achieved, USTelecom strongly encourages the Commission and the Universal Service Administrative Company (USAC) to engage in dialogue with the states, especially those with a Lifeline administrator. Given the varying degrees of eligibility verification within each of the states, it will be important for the Commission and USAC to understand the capabilities within the states, and how best to address variations within each to ensure that eligibility verification and other administrative duties solely reside with USAC or other non-ETC affiliated entities

The Commission should not let delayed access to state databases or unresolved administrative issues hinder or interrupt the full transition to the National Verifier. When it established the National Verifier, the Commission anticipated that manual review would be required in many instances. Even when there is a timely transition in a state with a state database for some programs, USAC and the National Verifier will still need to review proof of eligibility for programs for which there is no state database. And, in states with no means of verifying Lifeline eligibility via a state database, the Commission still intended to move forward with a full transition to the National Verifier. Delay in access to a state database will not preclude the National Verifier's ability to accept proof provided directly from the customer to USAC until the state database is available to the National Verifier. In turn, delayed access to a state database should not impede moving forward with the National Verifier transition so that providers can be removed from the eligibility determination process.

---

<sup>11</sup> *Notice*, ¶ 59.

<sup>12</sup> *Id.*

Regardless of whether the federal Lifeline program is administered at the state level, or in instances where states are facing implementation issues, the eligibility determination should not fall back to service providers. Such an approach would frustrate the Commission's stated goal of making the Lifeline program more efficient and less vulnerable to fraud through implementation of the National Verifier.

#### **IV. The Commission Should Improve Program Integrity in Lifeline Eligibility Verification.**

The Commission also seeks comment in its Notice on a variety of proposed changes to improve program integrity in the eligibility verification and reverification process in the Lifeline program. USTelecom supports the Commission's proposal that would require USAC to directly review supporting documents for manual dispute resolutions through the National Lifeline Accountability Database (NLAD), including information regarding the ETC agent submitting the documentation.<sup>13</sup> In implementing its proposal, the Commission should adopt procedures that would require USAC to receive documentation directly from the subscriber to resolve NLAD disputes. The Commission acknowledges in its Notice, that ETC involvement in the dispute resolution process "has been questioned for making the Lifeline program vulnerable to waste, fraud, and abuse."<sup>14</sup> ETCs should also be removed from the underlying dispute resolution process in order to make the process as administratively efficient as possible. Requiring ETCs to process paperwork associated with these disputes will only result in delaying their resolution.

USTelecom does not object to the Commission's proposal to prohibit subscribers from self-certifying their continued eligibility during the Lifeline program's annual recertification process if the consumer is no longer participating in the program they used to demonstrate their

---

<sup>13</sup> Notice, ¶ 95.

<sup>14</sup> *Id.*, ¶ 96.

initial eligibility. However, the obligation to recertify the consumer through review of the necessary documentation should ultimately reside with the National Verifier and with USAC in those states where the National Verifier has not been implemented.<sup>15</sup>

USTelecom also notes that customers often provided proof of eligibility via more than one program when they initially enrolled in Lifeline, but the NLAD only enables carriers to select a single program for the customer's program eligibility supporting Lifeline enrollment. If on recertification the customer identifies a program for which it previously provided documentation – but it is not the one reflected in the NLAD – then the program will unnecessarily burden the customer with providing program eligibility documentation again. This limitation in the initial Lifeline enrollment process is something the Commission should be aware of and address as it moves forward with implementation of the National Verifier.

**V. The Commission Should Not Adopt a Self-Enforcing Budget.**

The Commission should not at this time adopt its proposal to adopt a self-enforcing budget mechanism for the Lifeline program.<sup>16</sup> While the Commission's goal of keeping disbursements at a responsible level and preventing undue burdens on ratepayers is laudable, a self-enforcing budget mechanism could be disruptive to consumers and providers. The Commission can also achieve its desired goals, without resorting to a self-enforcing budget.

The administrative and cost challenges associated with implementing a self-enforcing budget mechanism would be significant. Most notably, the adoption of such a framework would

---

<sup>15</sup> The eligibility process continues to be a major risk area of the program because of the number of entities involved in the process. Accordingly, the Commission should expedite implementation of the National Verifier *and* immediately remove ETCs from the eligibility process. The exchange of eligibility information should flow directly between the National Verifier (or, USAC prior to implementation of the National Verifier) and a state database, state administrator or the consumer.

<sup>16</sup> *Notice*, ¶¶ 104 – 110.

introduce significant complexity into the application of the Lifeline benefit and reimbursement process. The Commission acknowledges as much in its Notice, when it highlights some of the complex issues associated with the mechanism, such as the appropriate timing for assessing disbursement forecasts, the accuracy of such forecasts, and the “administrative difficulties” that USAC should anticipate when forecasting disbursements.<sup>17</sup>

Ultimately, such administrative complexity increases the likelihood of significant confusion amongst Lifeline customers and providers. For example, inaccurate projections in Lifeline support amounts would be tremendously confusing and disruptive to consumers who experience unforeseen reductions in their Lifeline subsidy. Similarly, Lifeline providers would be forced to operate in an environment where budgeted amounts for providing Lifeline service could be significantly adjusted throughout the year. The need for USAC and Lifeline providers to track and manage such budgetary adjustments would be particularly complex.

USTelecom therefore encourages the Commission to defer further consideration of a self-enforcing budget mechanism until *after* the National Verifier is implemented. In this way, the improved tracking and controls associated with the National Verifier will provide the Commission with a more realistic picture of what Lifeline demand truly looks like. In particular, reduced and more stable administrative costs will likely minimize extreme fluctuations in forecasted amounts. This in turn will introduce greater certainty into the Lifeline marketplace, while also avoiding any likelihood of significant confusion.

If the Commission does adopt a self-enforcing budget mechanism that adjusts the Lifeline benefit based on demand, the Commission must make clear that Lifeline providers may decrease the discount they provide to Lifeline customers if the discount/reimbursement level is reduced.

---

<sup>17</sup> Notice, ¶ 106.

Service providers should not be required to make up shortfalls for federal USF programs such as Lifeline.

**VI. The Commission Should Eliminate Unnecessary Regulations.**

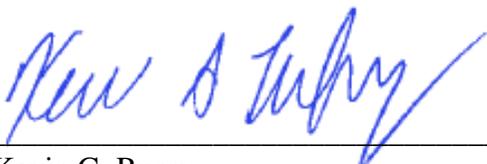
Finally, the Commission should eliminate its rule regarding notification to ETC customers about the digital television (DTV) transition. As the Commission acknowledges in the Notice, the DTV transition was completed in 2009, and the underlying need for rule section 54.418 – requiring ETCs to notify their customers about the transition – is no longer necessary. Eliminating this unnecessary and outdated rule, would be consistent with ensuring regulatory clarity and would not be harmful to consumers.

**VII. Conclusion.**

USTelecom supports the Commission’s efforts to reform the Lifeline program in a comprehensive and deliberate manner. Consistent with USTelecom’s recommendations, the Commission should streamline and centralize administrative frameworks, and adopt appropriate regulatory reforms to the program.

Respectfully submitted,

USTelecom

By:   
Kevin G. Rupy

607 14<sup>th</sup> Street, NW, Suite 400  
Washington, D.C. 20005  
(202) 326-7300

February 21, 2018