

**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 Q LINK WIRELESS, LLC

Q Link Wireless LLC (“Q Link”) hereby supports the petition for reconsideration filed by Telrite Corporation, i-Wireless, LLC, and Amerimex Communications Corp. (“Petitioners”)¹ with respect to the Commission’s decision to eliminate the 60-day port freeze for voice services and the 12-month port freeze for broadband Internet access services found in Section 54.411 of the Commission’s rules.² As the Petitioners explain, port freezes of a reasonable length are essential to prevent abusive “flipping” in the Lifeline program. By eliminating them altogether, the Commission has exposed the program to consumer fraud, raised costs for the Universal

¹ Petition of Telrite Corporation d/b/a Life Wireless, i-Wireless, LLC and Amerimex Communications Corp d/b/a SafetyNet Wireless for Partial Reconsideration of Order on Reconsideration and Reconsideration of Memorandum Opinion and Order, WC Dockets Nos. 17-287, 11-42, and 09-197 (filed Feb. 15, 2018) (“Petition”).

² See *Bridging the Digital Divide for Low-Income Consumers Lifeline and Link Up Reform and Modernization Telecommunications Carriers Eligible for Universal Service Support*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155, WC Docket Nos. 17-287, 11-42, and 09-197, ¶ 33 (rel. Dec. 1, 2017) (“*Order on Reconsideration*”). See also 47 C.F.R. § 54.411.

Service Administrative Company (“USAC”), and forced Eligible Telecommunications Carriers (“ETCs”) to provide uncompensated, unreimbursed Lifeline service.

The Commission thus should reinstate the Lifeline port freeze rules, and conduct an analysis that more reasonably accounts for all costs and benefits if it believes port freezes of shorter length could strike a better balance for consumers. At a minimum, as Q Link has previously suggested, the Commission should reinstate a 60-day port freeze to eliminate the ability for a Lifeline subscriber to obtain multiple Lifeline mandatory minimum service plans within a single month, and to limit the administrative burden imposed on USAC and carriers to process repeated applications that result from “flipping”.

I. PORT FREEZES OF A REASONABLE LENGTH ARE A NECESSARY COMPLEMENT TO LIFELINE SERVICE MANDATES.

Q Link agrees with Petitioners that port freezes “protect the integrity of the Lifeline program,” and provide “a key tool for [USAC] to control program administrative costs” by preventing flipping.³ Without port freezes, the Commission’s Lifeline regulations—and not market forces—interact to encourage abusive consumer behavior.

Under the Commission’s rules, ETCs must provide Lifeline service to any eligible customer that requests service.⁴ For mobile Lifeline providers, qualifying service must include a minimum of 1 GB of data or 750 minutes.⁵ In addition, the Commission effectively requires that all mobile devices provided to the consumer are smartphones, by mandating that all “such devices . . . are Wi-Fi enabled,” and that an increasing number of “such devices are capable of

³ Petition at 2.

⁴ See 47 C.F.R. § 54.405(a).

⁵ See *id.* § 54.408(b)(2)-(3).

being used as a hotspot.”⁶ Moreover, by rule, ETCs must report on Form 497 Lifeline the number of eligible customers served on the first day of the month as a snapshot.⁷ The Commission’s rules do not, however, make the Lifeline providers’ obligation to provide discounted service to an eligible Lifeline consumer contingent upon the consumer remaining a customer until the first day of the month.

As Q Link explained previously,⁸ these rules, in the absence of a port freeze, effectively suborn service fraud by unscrupulous Lifeline consumers. To engage in flipping, a consumer enrolls in Lifeline service from one provider. By doing so, he or she receives a full month’s allocation of minimum data or voice service as required by the Commission’s rules. Once the customer exhausts the first provider’s service, he or she can simply port to another provider and obtain a new full month’s allocation of data or voice service, and may even repeat the process multiple times within the month. Moreover, while every Lifeline provider gamed by the flipper would be required to provide qualifying service, only one—the provider serving the customer on the first day of the month—actually gets reimbursed. Importantly, the costs incurred to provide unreimbursed service to flippers are borne by all Lifeline consumers, as they directly limit a provider’s ability to provide more service for the same amount of USF support.

As if promoting fraud and mandating uncompensated service were not bad enough, flipping also increases the costs of administering the Lifeline program for USAC. As Petitioners explain, “every attempted enrollment in the Lifeline program imposes costs on USAC and on the

⁶ See *id.* § 54.408(f).

⁷ See *id.* § 54.407(a).

⁸ See Letter from John T. Nakahata, Counsel to Q Link, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 17-287, 11-42, and 09-197 (filed Nov. 6, 2017); Letter from John T. Nakahata, Counsel to Q Link, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 17-287, 11-42, and 09-197 (filed Nov. 9, 2017) (“*Q Link Nov. 9 Ex Parte*”).

ETC through which a consumer submits an application.”⁹ Thus, from the perspective of administrative efficiency alone, the Commission has every reason to ensure that its rules “limit[] attempted enrollments for Lifeline service to those that are in need as opposed to those that are ‘flipping’ and abusing the program and service providers to accumulate multiple devices or multiple allotments of minutes or megabytes in a single month.”¹⁰

II. THE *ORDER ON RECONSIDERATION* DID NOT REASONABLY CONSIDER THE IMPORTANCE OF PORT FREEZES IN THE LIFELINE CONTEXT.

In the *Order on Reconsideration*, the Commission concluded that “the disadvantages to consumers of the port freeze rule, in practice, outweigh the anticipated advantages.”¹¹ In doing so, however, the Commission did not reasonably consider how its Lifeline rules interact to encourage flipping. Instead, the Commission dismissed the concerns about consumer fraud raised by Q Link and others on the basis that “flipping and consumer churn are not unique to the Lifeline marketplace,” and that Lifeline providers can “turn[] to voluntary agreements (such as contracts) and alternative business models (such as prepaid plans) to address such concerns without the federal government artificially limiting consumer choice.”¹²

These defenses of the port freeze elimination do not make sense in the Lifeline context and should be revisited by the Commission. As an initial matter, in abandoning the port freeze, the Commission did not consider the harm to all USF programs of requiring USAC to verify the many wasteful applications typically submitted by consumers engaged in flipping. Moreover, the Commission inappropriately conflated flipping and general consumer churn as one and the

⁹ Petition at 4.

¹⁰ *Id.* at 5.

¹¹ *Order on Reconsideration* ¶ 35.

¹² *Id.* ¶ 36.

same. Churn is legitimate switching between providers in a search for improved service or value. Flipping, on the other hand, is a practice that exploits the rules of the game adopted by the Commission, which mandate the offering of Lifeline service to any eligible customer, mandate generous allocations of voice and data, mandate that any device offered to the customer be a smartphone, and limit compensation to the provider serving the customer on the first of each month.

For similar reasons, the Commission's suggested alternatives—contracts and prepaid plans—do not make sense in the Lifeline context. First, as Q Link explained to the Commission, “imposing an early termination fee on Lifeline consumers would be an exercise in futility, given that these consumers are poor and have difficulty paying any additional amounts for service.”¹³ Second, the suggestion to adopt a prepaid plan as an antidote to Lifeline flipping is nonsensical. If a Lifeline provider were to adopt prepaid as an alternative to Lifeline, it would be ceasing to provide Lifeline service. While a Lifeline provider can offer prepaid *in addition to* Lifeline, that does not in any way prevent flipping to obtain multiple Lifeline mandatory service packages within a given month. In addition, in Q Link's experience, Lifeline customers have trouble coming up with even \$5 or \$10 when they exhaust their minutes or data. A prepaid plan that requires payment upfront erects cash payment barriers to obtaining service that Lifeline otherwise eliminates. Third, because of robust competition in the Lifeline program, many Lifeline providers have streamlined their operations, and accepted substantially less profit per customer than non-Lifeline providers, so that they can offer qualifying service with little to no added cost to low-income consumers. These marketplace developments, which have made each

¹³ See *Q Link Nov. 9 Ex Parte* at 2.

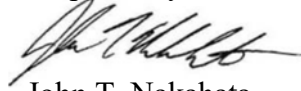
USF dollar travel farther in meeting the Commission's affordability goals, render prepaid plans incapable of preventing flipping.

CONCLUSION

In short, the *Order on Reconsideration* has resulted in the deliberate construction of a system of rules that forces Lifeline providers to provide uncompensated, unreimbursed Lifeline service. While Q Link understands and appreciates that the length of a port freeze must be calibrated carefully, eliminating port freezes altogether, as the Commission has done, has undermined the integrity of the Lifeline program, encouraged waste, fraud, and abuse, and raised serious legal questions about the lawfulness of the Commission's Lifeline service mandates.¹⁴

Accordingly, the Commission should grant the Petition, and reinstate the Lifeline port freezes found in Section 54.411.

Respectfully submitted,



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¹⁴ See, e.g., *FCC v. Florida Power Corp.*, 480 U.S. 245, 253 (1987); *Bell Atlantic Telephone Companies v. FCC*, 24 F.3d 1441, 1445-1447 (D.C. Cir. 1994).

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2018, the foregoing was served via first-class mail, postage prepaid, on the following:

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/s/ Remington Pool
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