Before the

Federal Communications Commission

Washington, D.C. 20554

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

Reply comments of the Greenlining Institute

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March 23, 2017

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# INTRODUCTION

The Greenlining Institute is committed to ensuring that all members of society are connected to modern, advanced communications networks. The Lifeline program plays an important role in bridging the digital divide by lowering a major barrier to access, namely the cost of connectivity. Lifeline allows millions of people of color, people with disabilities, seniors, veterans, and low-income households to communicate with their loved ones, access emergency services, and access educational and economic opportunities. Within that context, the Greenlining Institute supports the opening comments from numerous consumer advocates, carriers and other interested parties and strongly opposes the Commission’s proposals because they would undermine the Lifeline program, reduce enrollment, remove customer choice and competition, increase customer confusion, and further widen the digital divide.

# Discussion

The average Lifeline subscriber earns only $14,000 a year. Implementation of the proposed co-pays,[[1]](#footnote-1) budget caps,[[2]](#footnote-2) removal of facilities-based providers[[3]](#footnote-3) or a benefit limit[[4]](#footnote-4) would mean these economically struggling Americans could lose access to Lifeline and all the socioeconomic benefits that affordable communication services provide. As of 2017, USAC reports that there are only 1,339,293 Lifeline subscribers out of 38.9 million eligible households. Lifeline already fails to reach nearly 70% of the households that could benefit from the program. As discussed further below, the proposed changes to the Lifeline program would be a death blow to Lifeline’s already low participation rates – harming efforts to close the digital divide and ensure universal service.

* 1. Focusing Lifeline Support on Facilities-Based Broadband Service is Unjustified and Will Cause Irreparable Harm to Communities of Color.

Greenlining echoes concerns raised by Low-Income Consumer Advocates (LICA), Free Press and other parties that the Commission’s proposal to focus Lifeline support on facilities-based broadband providers (FBPs) is misguided and harmful. Focusing Lifeline support on facilities-based broadband services and “elimination of non-facilities-based providers will leave large portions of the country without consumer choice in Lifeline providers and could result in no Lifeline coverage for some parts of the country.”[[5]](#footnote-5) This proposal will cause irreparable harm to the program and low-income households, particularly households of color. Approximately 70% of current Lifeline participants will need to find a new provider if the Commission adopts this proposal. However, for many of those potentially affected, they may not be able to even find a facilities-based provider (FBP) willing to offer Lifeline service. This is because most large FBP’s have no interest in serving the low-income segment. Only one national facilities-based wireless carrier (Sprint’s Assurance Wireless) offers Lifeline in the majority of states.[[6]](#footnote-6) At least one commission has already indicated that a facilities-based limitation would result in large portions of the state losing access to all Lifeline service.[[7]](#footnote-7) Customers eligible for Lifeline but lacking access to a FBP offering Lifeline could find wireless or wired service unaffordable without the Lifeline discount. Therefore, this proposal would stand in direct opposition to the Telecommunication Act’s Universal Service principles, namely the requirement to make services available at affordable rates.

In addition to the coverage and affordability gaps that would arise from limiting resellers from providing Lifeline service, the Commission’s proposal would harm program participation and outreach among people of color. The Commission previously acknowledged that resellers are often better at targeting specific market segments that FBPs may ignore.[[8]](#footnote-8) Consumer Action is correct when it notes that resellers engage in in-language outreach and education programs, boosting Lifeline access in communities underserved or ignored by FBPs.[[9]](#footnote-9) As Free Press states, “if this Commission earnestly wishes to design a Lifeline program aimed at reducing the broadband adoption gap roughly within the confines of the current law and current market structure, the main thing it should aim to encourage is more resale by facilities-based owners – to MVNOs, WISPS, and other resellers.”[[10]](#footnote-10) This is because without resale, there are no incentives to cater to differentiated segments of the market and communities of color suffer as a result.[[11]](#footnote-11)

While the Commission’s goal of promoting investment in Broadband-Capable networks is admirable, excluding resellers from the Lifeline program is the wrong method to achieve that goal.[[12]](#footnote-12) There is nothing in the record to suggest that providers would use Lifeline revenues to increase broadband deployment and in any case, the harm to low-income families is not sufficient to justify the hypothetical benefits under the proposal. We echo Free Press’s comments nothing that “there is no reason at all for Chairman Pai to believe the ridiculous notion that LECs subject to less competition for the total pool of Lifeline funds, which currently amounts to just $1.5 billion and approximately $1 billion of that going to resellers, would move the needle on deployment.”[[13]](#footnote-13) Not only is this proposal ineffective, it contradicts the purpose of the Lifeline program. As LICA notes, “the proposal to remove Lifeline’s focus on low-income people and to focus only on infrastructure deployment would ignore the Communications Act.”[[14]](#footnote-14) There are existing programs like the Connect America Fund that have a more direct impact on facilities investment. The record is proceeding lacks meaningful data on (1) the connection between Lifeline reimbursements and facilities investment, (2) the number of eligible households that could lose access to the Lifeline discount, and (3) the impact of removing competitive resellers on the quality of Lifeline service plans offered (including the amount of minutes, texting and data). Currently, the record does not support limiting Lifeline to FBPs especially in face of the enormous impact this could have on affordable access to communication services.

* 1. Eliminating the Lifeline Program’s Equipment Requirement Will Widen the Digital Divide.

The Notice also proposes eliminating Lifeline’s equipment requirement.[[15]](#footnote-15) This requirement requires Lifeline providers to provide devices that have Wi-Fi and hotspot capabilities while prohibiting tethering charges. Nearly 30% of adults with incomes below $30,000 a year do not own a smartphone.[[16]](#footnote-16) As LICA notes, these requirements stretch the value of the program and help close the digital divide.[[17]](#footnote-17) Furthermore, a growing number of low-income families rely solely on a smartphone for Internet access. Removing the equipment requirement will eliminate this type of access for many families, widening the digital divide. The equipment requirement ensures that participating low-income families have some way of connecting to the Internet and provides the tools to build digital literacy among the communities that need it the most. Therefore, the Commission should maintain the equipment requirement.

* 1. Adopting a Self-Enforcing Budget is Unjustified, and Will Harm Lifeline Enrollment and Increase Customer Confusion.

Adopting a self-enforcing budgetwould cap or reduce Lifeline disbursements upon hitting a certain budgetary amount. The various proposals would see the Lifeline program adjust benefit amounts upon nearing the budget limit, or alternatively would reduce future Lifeline spending once the Lifeline program reaches predetermined spending amount.[[18]](#footnote-18) Greenlining strongly opposes a cap on the budget. As many commenters noted, there are stronger mechanisms to protect program integrity – namely the National Lifeline Accountability Database and the National Verifier.[[19]](#footnote-19) Commenters have further noted that the self-adjusting cap proposal is unjustified and could arbitrarily deny service to eligible families while increasing administrative costs and complexity.[[20]](#footnote-20) The Lifeline program is designed to ensure affordability but if the program is capped, low-income Americans could be denied one of the most basic but valuable tools for economic advancement – an Internet connection. A self-enforcing budget would also introduce significant customer confusion and administrative difficulties as carriers and subscribers could see bills increase or fluctuate unexpectedly if the program reaches the budget cap. This would reduce both consumer and carrier participation in the program, a problem that would be exacerbated if Lifeline resellers are prohibited from providing affordable service to low-income Americans.

We believe the *2016 Lifeline Order* created a process that would ensure efficient use of Lifeline funds by requiring a report that would provide recommendations on how to best manage the fund should disbursements reach 90% of the budget. In contrast, the current proposal does not allow sufficient time for consideration of the best way to manage any growth in Lifeline disbursements and merely takes the simple route of cutting disbursements automatically.

* 1. Prioritization Lifeline Benefits is an Attack on Communities of Color

Greenlining strongly opposes any prioritization of Lifeline disbursements.[[21]](#footnote-21) The proposal would prioritize (1) rural Tribal lands, (2) rural areas and (3) urban areas, in that order, for funding once the budget cap is reached.[[22]](#footnote-22) As Free Press colorfully, but correctly, notes – this prioritization proposal is “a giant middle finger to the urban poor – who are more likely to be people of color and Democrats.”[[23]](#footnote-23) Low-income households in all three of those areas need affordable access to communication services. As LICA notes, “the true test of whether Lifeline service achieves the goals of universal service is whether a low-income Lifeline household is able to maintain service each month and throughout the year, while not having to forego other basic necessities.”[[24]](#footnote-24) Giving urban areas the lowest priority would disproportionately affect people of color who are predominately clustered in urban areas.

* 1. Creating Maximum Discount Levels and Benefit Limits is Unwarranted and Contrary to Public Policy.

The Notice of Inquiry seeks comment on whether end users should be required to pay for Lifeline service and whether to limit the amount of time a household may participate in the program. Greenlining stands with other consumer advocates that this proposal is unwarranted, cruel and contrary to public policy.[[25]](#footnote-25) LICA hits the nail on the head when stating that “the very question demonstrates a lack of appreciation for the importance of Lifeline to low-income households, as it implies there are Lifeline households who do not need the benefit.”[[26]](#footnote-26) Moreover, there is no limit on how long a low-income family that can no longer participate in the program has to contribute to after they are denied access to Lifeline benefits.

Both proposals will sharply decrease participation in the Lifeline program and are not justified considering the program’s purpose of ensuring affordable access. For some of the program participants that need Lifeline the most--temporarily unemployed adults, immigrants, homeless veterans, domestic violence victims, seniors on a fixed income or struggling families--a “co-pay” requirement would mean losing access to connectivity.[[27]](#footnote-27) A large proportion of the population that Lifeline is intended to benefit don’t have access to a bank account or the funds that are required to make a monthly payment. In a letter to the Commission regarding Lifeline broadband programs, Sprint noted that an end-user co-pay would have a significant impact on the participation rates of Lifeline’s most vulnerable customers.[[28]](#footnote-28) Sprint indicated that an average Lifeline subscriber making $14,000 a year is severely cash-constrained and would not be able to afford an out of pocket payment. When California adjusted its LifeLine program to remove any out of pocket payments, participation increased dramatically. This is consistent with Greenlining’s perspective that a Lifeline co-pay would increase affordability barriers and harm program participation. This proposal would contradict Section 254(b) of the Communications Act that directs the Commission to base its policies on ensuring just, reasonable, and affordable rates. The point of the program is to provide communications tools to low-income families so that they can realize economic opportunity. As LICA notes, the idea of a co-pay as a way to increase the “value” of the Lifeline program to consumers is absurd and overlooks the how valuable connectivity is to modern existence.[[29]](#footnote-29)

* 1. The Commission should Explore a Reverse-Preemption Process for Designating Lifeline ETC’s for Lifeline Broadband Providers (LBPs).

The Commission should balance the goals of increasing LBP participation through a simplified federal Eligible Telecommunications Carrier (ETC) designation process and allowing state commissions to designate LBPs.[[30]](#footnote-30) As various groups have commented, the Commission’s decision to eliminate the National LBP designation is counterproductive because it does not infringe upon states’ rights and instead reduces competition while undermining creative proposals to offer broadband to low-income populations.[[31]](#footnote-31) Providers note that the state-by-state designation process is a barrier for program participation, however state commissions may be able to better ensure affordability and service quality. The Commission should explore implementing a reverse-preemption process for LBP designation. States that wish to implement their own ETC process can do so, while other states can choose to rely on the Commission’s process.

## The Commission Should Value and Respect States’ Role in Administering the Federal Lifeline Program

The California Public Utilities Commission (CPUC) commented asking the Commission to reverse course on the elimination of state-specific eligibility criteria.[[32]](#footnote-32) Greenlining supports this proposal. The California LifeLine program works in conjunction with the federal Lifeline program to provide high quality connectivity to low-income households such that the plans available to these families are comparable to those available in the retail market. This is the outcome that the Lifeline program should strive for. Allowing California and other States to adapt Lifeline eligibility requirements to meet state-specific needs will help close the digital divide. For example, California-specific eligibility requirements make sense considering the higher cost of living in the state. Allowing the California to broaden eligibility criteria to reach a wider proportion of low-income families would ensure that the Lifeline program reaches households that are struggling to afford connectivity in California’s high cost environment.

1. Conclusion

Low-income communities already face significant barriers to economic opportunity and Internet connectivity is one of the best tools to surmount those barriers. The Lifeline program offers one of the only ways for these communities to get affordable access to voice and Internet services and these proposals will threaten that access for millions of the most vulnerable Americans. The Greenlining Institute strongly urges the Commission to rethink its current proposals, which will gut one of the most successful public purpose programs in existence. Far from bridging the digital divide for low-income customers, the proposed actions would only widen the gap.

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1. *See Lifeline and Link Up Reform and Modernization* et. al*,* WC Docket No. 11-42, Fourth Report And Order, Order On Reconsideration, Memorandum Opinion And Order, Notice Of Proposed Rulemaking, And Notice Of Inquiry (*Notice)*, FCC 17-155 at para. 112 (rel. December 1, 2017). [↑](#footnote-ref-1)
2. *Id.* at paras. 104-110. [↑](#footnote-ref-2)
3. *Id.* at para. 63. [↑](#footnote-ref-3)
4. *Id.* at para. 130. [↑](#footnote-ref-4)
5. LICA Opening Comments at p. 6; Free Press Opening Comments at pp. 20-28. [↑](#footnote-ref-5)
6. Sprint’s Assurance wireless Lifeline program offers service in over forty states (<http://www.assurancewireless.com/public/Welcome.aspx)>; T-Mobile’s Lifeline program covers only nine states (<https://www.t-mobile.com/offers/lifeline-program)>; Verizon’s Lifeline program has limited availability in only 4 states (<https://www.verizonwireless.com/support/lifeline-link-up-faqs/)>; AT&T’s Lifeline program has limited availability in fourteen states (<https://www.att.com/esupport/article.html#!/wireless/KM1008768)>. [↑](#footnote-ref-6)
7. Missouri Public Service Commission Opening Comments at p. 6. [↑](#footnote-ref-7)
8. *See* *Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services, FCC 17-126, 2017 WL 4348640, ¶ 15 (rel. Sept. 27, 2017) (“*2017 Mobile Competition Report*”). [↑](#footnote-ref-8)
9. Consumer Action Opening Comments at p. 2. [↑](#footnote-ref-9)
10. Free Press Opening Comments at p. 43. [↑](#footnote-ref-10)
11. *Id.* at p. 44. [↑](#footnote-ref-11)
12. Benton Foundation Opening Comments at pp. 3-4. [↑](#footnote-ref-12)
13. Free Press Opening Comments at p. 46. [↑](#footnote-ref-13)
14. LICA Opening Comments at p. 5. [↑](#footnote-ref-14)
15. *Notice* at para. 81. [↑](#footnote-ref-15)
16. Monica Anderson, Pew Research Center, Digital Divide Persists Even as Lower Income Americans Make Gains in Tech Adoption (2017), http://www.pewresearch.org/fact- tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/ (last visited Mar. 18, 2018). [↑](#footnote-ref-16)
17. LICA Opening Comments at pp. 16, 20. [↑](#footnote-ref-17)
18. *Notice* at paras. 104-110. [↑](#footnote-ref-18)
19. LICA Opening Comments at p. 13. [↑](#footnote-ref-19)
20. LICA Opening Comments at p. 13; Free Press Opening Comments at pp. 49, 52; Consumer Action Opening Comments at p. 2. [↑](#footnote-ref-20)
21. *Notice* at para. 108. [↑](#footnote-ref-21)
22. *Id.* [↑](#footnote-ref-22)
23. Free Press Opening Comments at p. 55. [↑](#footnote-ref-23)
24. LICA Opening Comments at p. 8. [↑](#footnote-ref-24)
25. Free Press Opening Comments at p. 61. [↑](#footnote-ref-25)
26. LICA Opening Comments at p. 14. [↑](#footnote-ref-26)
27. Consumer Action Opening Comments at p. 2-3. [↑](#footnote-ref-27)
28. Letter from Norina T. Moy, Director of Government Affairs for Sprint to Marlene Dortch, Secretary, FCC, WC Docket No. 11-42 (filed March 1, 2016) <https://ecfsapi.fcc.gov/file/60001526777.pdf>. [↑](#footnote-ref-28)
29. LICA Opening Comments at p. 15. [↑](#footnote-ref-29)
30. *Notice* at para. 55. [↑](#footnote-ref-30)
31. LICA Opening Comments at p. 18; Free Press Opening Comments at pp. 13-16. [↑](#footnote-ref-31)
32. CPUC Opening Comments at p. 4. [↑](#footnote-ref-32)