

March 30, 2020

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW Washington, D.C. 20554

Re: ***In the Matter of Federal-State Joint Board on Universal Service Lifeline and Link Up Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42; Bridging the Digital Divide for Low-Income Consumers, WC Docket No. 17-287; Telecommunications Carriers Eligible to Receive Universal Service Support, WC Docket No. 09-197; Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6; Petition of Network Communications International Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) from 47 U.S.C. § 254(d) and 47 C.F.R. § 54.706(a), WC Docket No. 19-232; Emergency Request for Waiver by Securus Technologies, LLC, WC Docket No. 19-232.***

Dear Ms. Dortch,

On March 26, 2020, Amina Fazlullah of Common Sense Media, Sarah Morris and Amir Nasr of New America's Open Technology Institute, Olivia Wein of the National Consumer Law Center, and Cheryl Leanza of United Church of Christ, OC Inc. (collectively, "public interest advocates")<sup>1</sup> spoke by phone with Commissioner Geoffrey Starks, Chief of Staff and Senior Legal Advisor for Wireless and International William Davenport, Special Advisor Alisa Valentin, Legal Advisor for Wireline and Public Safety Austin Bonner, and Legal Advisor for Media and Consumer Protection Diane Holland about the above-captioned proceedings.

The public interest advocates highlighted the importance of the Lifeline program and the security it provides qualifying individuals, particularly during the COVID-19 pandemic. The Commission should heed the advice of more than 250 organizations that have called for the Commission to act to protect low-income Americans during the COVID-19 pandemic and support Lifeline subscribers receiving unlimited voice minutes and texts, prohibit disconnections of Lifeline recipients, and establish an emergency Lifeline broadband benefit.<sup>2</sup> Lifeline customers cannot live in fear of running out of minutes and texts during a public health crisis where they and their households need their Lifeline connection to speak with doctors and other health care professionals, teachers, employers, and family and friends to communicate. Further, the security of unlimited minutes and texts would enable Lifeline subscribers to use their service for

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<sup>1</sup> Matt Wood of Free Press also participated in the telephone call, and will file a separate *ex parte* notification on the presentation he made to Commissioner Starks and others on March 26.

<sup>2</sup> Emergency Request for Increased Lifeline Support During the COVID-19 Crisis, Docket Nos. 11-42, 09-197, 96-45, 17-287 (March 23, 2020), <https://mediajustice.org/wp-content/uploads/2020/03/Final-3-23-20-Lifeline-Emergency-Request-FCC-252-signers-updated.pdf>.

telehealth to avoid venturing out to health clinics and other locations, thereby endangering further spreading the virus.<sup>3</sup> The Commission should act, as it did in the aftermath of Hurricane Katrina, to assist the millions of Americans currently on Lifeline (and the millions who could soon need Lifeline following the record-breaking unemployment benefit claims filed last week)<sup>4</sup> through “unique and devastating circumstances.”<sup>5</sup> Further, the public interest advocates urged the Commission to seek solutions to improving outreach and participation in Lifeline during the COVID-19 crisis to assist those who do *not* already have a subscription through the program but might need one. The 2018 Lifeline participation rate of 25% suggests the Commission could be doing much better to extend this critical assistance to millions of Americans.<sup>6</sup>

The public interest advocates also urged the Commission to act to address the homework gap amid the COVID-19 pandemic as schools close across the country—across almost every state<sup>7</sup>—through support of both the Lifeline program and the E-Rate program.<sup>8</sup> An estimated 12 million students lack home broadband access, leaving them at a distinct disadvantage during traditional schooling for their research and homework.<sup>9</sup> Statistics show that the homework gap

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<sup>3</sup> *Id.* at 1 (“For example, just this week a community health care professional was alarmed to see many low-income patients coming in-person to the clinic because they could not afford to use voice minutes to call ahead. And public housing authority workers reported elderly Lifeline tenants rationing their Lifeline minutes to their detriment.”).

<sup>4</sup> Heather Long and Alyssa Fowers, “A record 3.3 million Americans filed for unemployment benefits as the coronavirus slams economy,” *The Washington Post* (March 26, 2020), <https://www.washingtonpost.com/business/2020/03/26/unemployment-claims-coronavirus-3-million/>.

<sup>5</sup> In the Matter of Federal-State Joint Board on Universal Service et al., 20 FCC Rcd 16883, Docket Nos. 96-45, 02- 6, 02-60, 03-109, FCC 05-178 (2005) ¶ 13 (“... Under the unique and devastating circumstances caused by the hurricane and its aftermath... provision of this support, including a free wireless handset, is consistent with the purpose of section 254 because it is reasonably necessary to ensure that low income consumers have immediate access to telecommunications services.”) (“Katrina USF Order”).

<sup>6</sup> Universal Service Administrative Company, Program Data, Lifeline Participation, available at <https://www.usac.org/lifeline/learn/program-data/>. The participation rate is estimated to have dropped even further since 2018 to 18% in 2019. *See* Comments of Free Press, WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197 (Jan. 27, 2020) at 11.

<sup>7</sup> Map: Coronavirus and School Closures, Education Week, <https://www.edweek.org/ew/section/multimedia/map-coronavirus-and-school-closures.html> (last visited on March 28, 2020).

<sup>8</sup> Common Sense Media Emergency Request for Increased Support During the COVID-19 Crisis, Docket Nos. 11-42, 09-197, 96-45, 17-287 (March 24, 2020), <https://ecfsapi.fcc.gov/file/10324600214544/Coronavirus%20Letter%20to%20FCC%20re%20connectivity%20and%20homework%20gap.pdf>; Common Sense Media Press Release, “Statement on Funding to Address Homework Gap in New Coronavirus Relief Package” (March 23, 2020), <https://www.common sense media.org/about-us/news/press-releases/james-p-steyer-ceo-founder-of-common-sense-releases-statement-on>.

<sup>9</sup> “America’s Digital Divide,” U.S. Congress Joint Economic Committee (Sep. 2017), <https://www.jec.senate.gov/public/cache/files/ff7b3d0b-bc00-4498-9f9d-3e56ef95088f/the-digital-divide-.pdf>.

disproportionately harms historically marginalized communities.<sup>10</sup> During the COVID-19 pandemic, a lack of internet access at home leaves students with either no way to access lessons that have migrated online or leaves them with alternative remote learning methods such as take-home packets that fail to mirror the classroom environment in the same way online lessons do. The Commission can and should ensure that it is leveraging the E-Rate program to provide broadband access to students and teachers who do not have it at home during the crisis, when for millions their homes have become their classroom indefinitely. The Commission should use the E-Rate program to support school and library efforts to extend connectivity to the homes of students and teachers “for educational purposes,” as the 1996 Telecommunications Act suggests. The Commission could do this by supporting schools and libraries lending out hotspots to families and teachers that need it, as a first step while the Commission also works to ensure all U.S. households have access to higher-quality wired broadband that can fully support distance learning, telework and telehealth. The Commission has the authority to do this, and certainly should be using it to support remote educational services needed for all students during the COVID-19 pandemic.<sup>11</sup>

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<sup>10</sup> Monica Anderson and Andrew Perrin, “Nearly one-in-five teens can’t always finish their homework because of the digital divide,” Pew Research Center (Oct. 26, 2018), <http://www.pewresearch.org/facttank/2018/10/26/nearly-one-in-five-teens-cant-always-finish-their-homework-because-of-the-digitaldivide/>; “Student Access to Digital Learning Resources Outside of the Classroom,” U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics (Apr. 2018), <https://nces.ed.gov/pubs2017/2017098.pdf>; Amina Fazlullah and Stephanie Ong, “The Homework Gap: Teacher Perspectives on Closing the Digital Divide,” Common Sense Media (Sep. 2019), [https://www.common Sense Media.org/sites/default/files/uploads/kids\\_action/homework-gap-report-2019.pdf](https://www.common Sense Media.org/sites/default/files/uploads/kids_action/homework-gap-report-2019.pdf).

<sup>11</sup> 47 U.S.C. § 254; Sixth Report and Order, CC Docket No. 02-6, GN Docket No. 09-51 (Rel. Sep. 28, 2010), ¶ 43 (“We recognize the benefits of enabling innovation in learning outside the boundaries of the school building and the traditional school day, as well as of enabling libraries to innovate with new models of delivering service to library patrons. We note the potential for meaningful gains in student achievement that new devices and applications may deliver. We also see significant utility in devices that allow remote access to the Internet for library patrons.”) and ¶ 46 (“As part of this first phase, we may decide to fund off-campus wireless telecommunications and Internet access for some small number of select programs for funding year 2011, if we find proposals that we believe adequately meet the factors we discuss below... We authorize up to \$10 million for funding year 2011 to support innovative and interactive off-premise wireless device connectivity for schools and libraries.”); Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 02-6 (Rel. April 30, 2003), ¶ 19 (“Under this standard, reasonable requests for any supported service – over any technology platform – to be used by any school or library staff while in a library, classroom, or on school or library property, shall be eligible for discounts. Moreover, we conclude that in certain limited instances, the use of telecommunications services offsite would also be integral, immediate, and proximate to the education of students or the provision of library services to library patrons, and thus, would be considered to be an educational purpose. By adopting this standard, we provide to schools and libraries and the state and local authorities that govern them a more definitive interpretation of educational purposes, in order to assist them in pursuing their programmatic objectives.”).

The public interest advocates also urged the Commission to take action to alleviate the burdens of incarcerated peoples and their families during the COVID-19 pandemic, particularly as 15 states have suspended all visitation.<sup>12</sup> Incarcerated Americans and their families should not be forced to pay exorbitant fees to keep in touch when visitation is suspended or restricted across the country, particularly during a public health crisis when people are worried about one another and hearing about their family members' health. With that in mind, the public interest advocates urged the Commission to 1) Suggest that phone companies providing inmate calling services offer free phone and video calls without fees to incarcerated and detained people immediately for the next 60 days; 2) Seek commitments from prison phone companies to the Keep Americans Connected Pledge; and 3) Reject Securus' emergency request to stop paying into the Universal Service Fund.<sup>13</sup>

Respectfully submitted,

/s/ Amir Nasr

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<sup>12</sup> "Coronavirus Tracker: How Justice Systems Are Responding in Each State," The Marshall Project, <https://www.themarshallproject.org/2020/03/17/tracking-prisons-response-to-coronavirus> (last visited on March 30, 2020).

<sup>13</sup> Petition to Demand Prison Phone Justice in COVID-19 Relief Efforts, MediaJustice, <https://p2a.co/ZohCHhB>.