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June 6, 2018

By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **National Lifeline Association Notice of Oral *Ex Parte* Presentation,
WC Docket Nos. 17-287, 11-42 and 09-197**

Dear Ms. Dortch:

On June 4, 2018, John Heitmann and Jameson Dempsey of Kelley Drye & Warren LLP, attorneys for the National Lifeline Association (NaLA), met with Kris Monteith, Trent Harkrader, and Christian Hoefly of the Wireline Competition Bureau (the Bureau) and Ryan Palmer and Jodie Griffin of the Bureau's Telecommunications Access Policy Division to discuss the recent and proposed changes to the Lifeline program in the above-referenced proceedings.¹ The discussions were consistent with the comments and reply comments filed by NaLA on February 21, 2018 and March 23, 2018,² the *ex parte* letters filed on May 4, 2018 following NaLA's meeting with staff from the Bureau³ and on May 24, 2018 following NaLA's meetings

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

² See Comments of the National Lifeline Association, WC Docket No. 17-287 et al. (filed Feb. 21, 2018); Reply Comments of the National Lifeline Association, WC Docket No. 17-287 et al. (filed Mar. 23, 2018).

³ See National Lifeline Association Notice of *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 (May 4, 2018).

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with the Commissioners' Wireline Advisors,⁴ and the enclosed summary of NaLA's positions on key issues presently before the Commission pertaining to the Lifeline program.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



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Counsel to the National Lifeline Association

cc: Kris Monteith
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Ryan Palmer
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⁴ See National Lifeline Association Notice of *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 (May 24, 2018).

NaLA Champions Regulatory Reform While Promoting Industry Self-Regulation and Best Practices.

Since 2012, NaLA and its member companies have been strong proponents of industry self-regulation, best practices and regulatory reforms designed to preserve the integrity of the Lifeline program by protecting it from waste, fraud and abuse while promoting affordable access to essential communications services.

- NaLA's agent certification program is the latest example of how NaLA and its member companies develop and implement self-regulatory best practices to preserve the integrity of the Lifeline program
- NaLA members have supported converting industry best practices into actual regulatory requirements in cases where the practice would benefit the Lifeline program

The Proposed Ban on Wireless Resellers Must Be Rejected.

Wireless resellers play a central role in the Lifeline program by driving adoption, competition and service-level innovation. The record contains nearly unanimous opposition to the proposed wireless reseller ban, including comments from CTIA, US Telecom, Verizon, Sprint, NARUC and several states individually, NASUCA, Citizens Against Government Waste, Veterans and Seniors organizations.

- Eliminating wireless resellers would:
 - **Harm consumers** by forcing more than 7 million or roughly 70% of all Lifeline subscribers to find a new Lifeline service provider and leaving some with no wireless or wireline service options
 - Fail to bolster **program integrity** or guard against **waste, fraud and abuse** (adopting **conduct-based standards** and **agent registration** would properly focus on bad actors rather than on business models)
 - NOT bridge the **digital divide** by spurring additional **facilities deployment** or more affordable services
 - Upend the **states' role** in designating ETCs, as well as the reliance interests of wireless resellers who have willingly sought such designations and landline providers who have been relieved of the obligation to provide Lifeline based on the presence of and consumers' preference for the mobile voice and broadband services offered by wireless resellers

The FCC Should Maintain Facilities Forbearance.

The FCC should not depart from a decade worth of precedents in which it has concluded that **Section 10** requires forbearance from the facilities requirement for Lifeline ETCs.

- The facilities definition proposed in the NPRM is arbitrary and capricious and otherwise unlawful; it also disregards the statutory language acknowledging resale

The Subsidy Pass-Through Proposal Is Functionally a Reseller Ban that Must Be Rejected.

The proposal to require wireless resellers to pass-through to their underlying carrier the full amount of the \$9.25 subsidy would **eliminate wireless resellers** from the program, as there would be no revenue left to support the product and services.

- After the full amount of the discount is applied to the services and reimbursed, the FCC should not regulate beyond that transaction

The FCC Should Support Affordability and Consumer Choice by Correcting Past Missteps.

The FCC should freeze or roll-back the **minimum service standards** and **voice support** phase-out that threaten to deny consumers access to affordable choices that best meet their needs.

- Freezing or eliminating automatically escalating Lifeline minimum service standards will allow consumers to choose among options of voice and data, including bundles, that strike the best balance between affordability and access for each consumer
- Support for voice services should be restored everywhere – not just in rural America

- Any minimum service standards retained should allow for a **unit-based approach** that empowers consumers with the flexibility to choose and use services in a manner that meets each consumer's voice and data needs

A Maximum Discount Requirement Would Be Administratively Unworkable.

The maximum discount or a minimum charge proposal should be rejected because there will always be those who cannot consistently afford to pay.

- The benefits of developing a process to properly assess ability to pay and a system to impose and collect monthly payment requirements would fail to outweigh the costs of providing \$111 in annual benefits

NaLA Supports a Budget for the Lifeline Program.

The Lifeline program could benefit from a self-enforcing budget mechanism that operates on an annual basis with prospective impact only.

- NaLA supports the bi-partisan **\$2.25B budget** proposal endorsed by NARUC

The National Verifier Must Incorporate an API to Reduce Costs and Eliminate Waste, Fraud and Abuse.

The National Verifier is the consensus solution to confirm an applicant's eligibility and address remaining concerns regarding waste, fraud and abuse in the Lifeline program. The FCC should fully implement the National Verifier prior to considering additional requirements to provide proof of eligibility upon recertification, other than in cases where the consumer identifies a change in his or her qualifying eligibility program.

- The decision not to develop and implement an API for the National Verifier is wasteful and unnecessarily burdensome for consumers, USAC and ETCs. Without an API:
 - USAC will need to screen 100% of all applicants instead of taking advantage of ETC screening tools thereby increasing costs to the program
 - Consumers will be forced to enter personal information twice creating a barrier to participation as well as posing data integrity issues, which will further increase costs by forcing manual USAC review of exceptions and higher call center volumes
 - ETCs will be unable to efficiently offer online enrollment, making it more difficult and costly to enroll eligible subscribers, especially in rural areas

What the Right Outcome Looks Like.

Since the Reagan Administration, the Lifeline program has played an important role in keeping the truly needy in our society connected to essential communications. Today, these services include voice and broadband Internet access – and for most this means mobile, wireless service. Upcoming Commission action on Lifeline should:

- restore the role of wireless resellers in Tribal Lifeline – and preserve the important market-based role these ETCs play in the broader Lifeline program
- solidify the National Verifier as an essential safeguard against waste, fraud and abuse by requiring implementation of a service provider API
- adopt conduct based standards to target bad actors and operators needing improvement rather than entire business models
- revise FCC rules which sunset support for voice services (in all areas, not just in rural areas) and mandate unduly large service minimums so that consumers can choose for themselves the services that best fit their needs
- preserve the state role in designating ETCs (where states accept that role), with state and FCC decisions subject to reasonable shot-clocks designed to ensure that consumers get the benefits of competition
- require agent registration
- adopt the bipartisan NARUC proposal to cap the program at approximately \$2.25B