

**Before the
Federal Communications Commission
Washington, D.C. 20005**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90

**GVNW CONSULTING INC.
OPPOSITION TO PETITIONS FOR RECONSIDERATION**

GVNW Consulting, Inc.¹ (“GVNW”) respectfully submits this Opposition to Petitions for Reconsideration submitted in the above-captioned proceeding.² GVNW recognizes that an effective universal service regime must include both voice and broadband, and must ensure that reasonable comparable services are both available and affordable. The high-cost portion of the universal service fund for rate-of-return carriers must be adequate to ensure both availability and affordability of service in the challenging high-cost rural areas served by small rate-of-return local exchange carriers. The low-income portion of the fund must be efficiently targeted and carefully administered to promote affordability and engender confidence in the program. It

¹GVNW Consulting, Inc. is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

²Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (“*Third Report and Order*” or “*Order*”).

should encourage participation by providers by relieving them of administrative burdens to the greatest extent possible.

The Commission's *Order* made numerous significant reforms to the Lifeline program. It defined the minimum standards for supported services, simplified eligibility criteria, phased out support for voice service, and particularly with the establishment of the National Verifier, began the process of lifting many administrative burdens from Lifeline providers to the benefit of both Lifeline providers and consumers. However, along with the unwise decision to phase out of support for voice service, several policies and procedures adopted in the Order unnecessarily add new burdens, create implementation issues, and do not take into account special circumstances that make compliance with certain requirements impossible. Those policies and procedures are the subject of many of the petitions filed seeking reconsideration or clarification of Order and will be addressed in this Opposition.

I. Support for Voice Service Should Not Be Phased Out

GVNW agrees with several petitioners that the Commission should reconsider the December 1, 2019, phase out of support for standalone voice service.³ The petition jointly filed

³See Petition for Reconsideration of TracFone Wireless, Inc., Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed June 23, 2016, at pp. 2-6; Petition for Reconsideration/Clarification of NTCA--The Rural Broadband Association and WTA--Advocates for Rural Broadband, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed June 23, 2016, at pp. 6-10 ("NTCA/WTA Petition"); Petition for Reconsideration of NASUCA, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed June 23, 2016, ("NASUCA Petition") at pp. 3-4.

by NTCA and WTA⁴ makes several cogent arguments as to why the phase out is unwise. First, and most important, it is counter to the Commission's goal of increasing the affordability of communications connectivity. The NTCA/WTA Petition sensibly points out that broadband even when bundled with voice may be unaffordable for many low income consumers.⁵ In that situation, the inability to apply the Lifeline discount to a standalone voice service could leave some low income consumers with no affordable options for any communications connectivity. That potential lack of access creates concerns about public safety.

Second, NTCA and WTA note that a lack of support for standalone voice service particularly impacts low income customers of rural ILECs because of certain regulatory strictures under which the carriers operate.⁶ To recover their costs, they must charge a subscriber line charge (SLC) and most are at the residential cap of \$6.50 (more than the phased down Lifeline discount of \$5.25). They must also meet the rate requirements of the local rate floor or lose high-cost universal service support. Finally, it is unclear that the high-cost support allocated to rate-of-return carriers will in all cases result in reasonably comparable rates. So unlike other carriers that have rate flexibility, RLECs must charge certain rates that can result in consumers finding their rates unaffordable. Not permitting application of the Lifeline voice discount to voice services merely exacerbates this problem.

II. Rolling Recertification Imposes Unnecessary Burdens for Small Providers

GVNW agrees with NTCA/WTA, GCI and USTelecom that the Commission should reconsider the mandatory "rolling recertification" requirement which mandates that annual Lifeline consumer recertification of eligibility be accomplished on the anniversary of the

⁴See NTCA/WTA Petition at pp. 6-10.

⁵*Id* at pp. 7-8.

⁶*Id* at pp. 8-9.

consumer's service initiation date, not on a uniform annual date for all Lifeline consumers of that provider.⁷ NTCA/WTA, GCI and USTelecom address the issue of lack of notice in this proposal in the NPRM.⁸ GVNW agrees with the petitioners that that the Commission did not adhere to the Administrative Procedures Act in its adoption of this policy, but will focus its comments on the unnecessary increased burdens imposed on small providers.

Because of the small number of employees of many small RLECs, it is significantly more burdensome to go through the recertification and de-enrollment process twelve times per year instead of just once. Rolling recertification also requires providers to determine the initial enrollment date of the Lifeline subscriber. The Lifeline subscriber may have begun Lifeline service many years ago, before recordation of the service initiation date was relevant, so companies may not even know the date. While it may be more efficient for larger providers and for the NLAD to operate based on rolling recertification, that is certainly not true for small providers. The problem could be easily remedied by allowing carrier optionality to comply with this requirement, or creating an exemption for small providers. Any such optionality or exemption would of course only be required until the National Verifier assumes the responsibility for recertification.

⁷See NTCA/WTA Petition at p. 12, United States Telecom Association Petition for Reconsideration and Clarification, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed June 23, 2016, ("USTelecom Petition") at p. 2, Petition for Reconsideration and/or Clarification of General Communication, Inc., Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed June 23, 2016, ("GCI Petition") at p. 5-8.

⁸See NTCA/WTA Petition at p. 12, GCI Petition at p. 9 and USTelecom Petition at p. 2.

III. Changes in the Federal Eligibility Criteria Should Be Delayed

GVNW has received many inquiries from clients confused about and dismayed by the difference between eligibility requirements for state and federal Lifeline benefits. As noted by USTelecom, it is unlikely that most or all affected states will be able to conform their rules or amend their statutes to conform to the Federal eligibility programs prior to the effective date of the new federal rules. During the interim period, in states with eligibility criteria different from the federal rules (which they may have originally been designed to mimic), Lifeline providers will have to separately determine state and federal eligibility and separately apply Lifeline discounts if a subscriber is eligible for one or both. This is a recipe for confusion which could lead to innocent misapplication of the state or federal discounts. Further, it adds burdens with respect to billing now that the state and federal discounts will have to be disaggregated so that they can be separately applied.

USTelecom makes the very sensible suggestion that states be provided a reasonable amount of time (until December 21, 2017, or twelve months after OMB approval of the Order, whichever is later)⁹ to conform their Lifeline eligibility criteria to the federal criteria. GVNW encourages the Commission to reconsider the timing of the implementation of the revised eligibility criteria according per USTelecom's recommendation. As noted by USTelecom, consistency between state and federal Lifeline eligibility criteria will allow both providers and relevant state agencies and administrators to continue to manage a single population of Lifeline subscribers.¹⁰

⁹See USTelecom Petition at p. 6.

¹⁰*Id* at p. 9.

IV. Providers Should Not Be Required to Retain Eligibility Documentation After Implementation of the National Verifier

One of the significant burdens of provider determination of Lifeline subscriber eligibility is the requirement to obtain sensitive subscriber information and retain the associated documentation. USTelecom properly notes that the Commission's recognition that providers should not be involved in the process of determining eligibility and recertification of potential Lifeline subscribers and the implementation of the National Verifier should obviate the need for retention of eligibility and recertification documentation by Lifeline providers.¹¹

Once the National Verifier has recertified a Lifeline subscriber's continued eligibility, there is no reason for continued retention of sensitive information by providers beyond a reasonable time (for example, three years) to audit the provider's determination of eligibility or recertification when it had that responsibility. After that time, providers should be able to protect the privacy of Lifeline subscribers by safely discarding information relating to determining the eligibility and recertification of such subscribers.

V. Monthly Usage Minimum Requirements Should Only Be Modified for Those Using Satellite Backhaul

It is certainly reasonable that the Commission establish minimum usage requirements for Lifeline-supported broadband services to ensure that the Lifeline discount is applied to services adequate to serve the intended purpose of making broadband connectivity more affordable. However, there is a very limited circumstance where that minimum usage requirement should be waived.

GVNW supports the request of NTCA/WTA to reconsider the application of the 150Gb monthly usage minimum for rural Lifeline providers using satellite backhaul as part of their

¹¹See USTelecom Petition at p. 11.

delivery of BIAS to rural consumers.¹² As NTCA/WTA note, there are areas of the country such as but not exclusively Alaska where terrestrial backhaul facilities are just not currently available, necessitating the use of more expensive satellite infrastructure. As noted by NTCA/WTA, satellite backhaul facilities are more expensive on a per megabit basis than terrestrial facilities. Applying the 150Gb/month minimum usage requirement “would result in significantly higher than average end-user rates that would be simply unaffordable for any low-income consumer in those areas.”¹³ Insistence on the 150Gb monthly usage minimum in this particular instance would be contrary to the intent of the Order promoting broadband affordability.

GVNW supports the recommendation of NTCA/WTA that for providers certifying as to the lack of access to a terrestrial backhaul alternative, “the Lifeline provider should be able to offer a Lifeline-discounted BIAS service with a usage allowance commensurate with usage allowances generally available to their overall customer base.”¹⁴ This very limited exception fulfills the goal of the Order in promoting affordable broadband connectivity.

VI. The Commission Should Reconsider the “Port Freeze”

Both NTCA/WTA and USTelecom provide compelling arguments for the Commission to reconsider the “port freeze.” First, both petitioners note that, as with “rolling recertification,” the port freeze requirements imposed in the *Order* suffer from a lack of sufficient notice to comply with the Administrative Procedures Act.¹⁵ GVNW agrees with the petitioners’ procedural argument as well as their substantive concerns.

¹²See NTCA/WTA Petition at p. 11.

¹³*Id.*

¹⁴*Id.*

¹⁵*Id.* at pp. 12-15 and USTelecom Petition at 2.

The Commission apparently believes that permitting a Lifeline provider to hold on to a BIAS customer for a full year will encourage the provider to compete for Lifeline customers by giving it a greater ability to recover customer acquisition costs. There is no evidence in the record for this proposition. It is just as likely that customers will be enticed into signing up for less affordable service through the offering of free or low cost service for the initial month(s) and then, because of the port freeze, find themselves locked into an uneconomic contract for the remaining months of the year-long freeze. It is a strange economic proposition that the Commission contends that competition will be enhanced by limiting consumer choice. Lifeline customers should have the same ability to find a better deal, either with a higher level of service or lower price, as customers not eligible to access the Lifeline discount.

USTelecom also cogently explains the administrative burdens imposed by the port freeze “Limiting a provider’s ability to make changes to a rate plan for all customers on that rate plan imposes additional administration requirements and complexity by, for example, expecting a carrier to roll out changes based on the service anniversary dates of its existing subscribers. This is particularly problematic for companies who do not offer specific Lifeline products but rather allow customers to apply the Lifeline discount to any qualifying product the company offers.”¹⁶ This situation is particularly common among small RLECs – they generally do not offer specific Lifeline products. USTelecom further points out that providers are not able to administer the port freeze.¹⁷ If a Lifeline customer drops service before the year freeze for BIAS and then attempts to sign up with a new Lifeline BIAS provider, neither the initial provider nor the new provider has any knowledge of the customer’s interaction with the other provider. And

¹⁶See USTelecom Petition at p. 5.

¹⁷*Id.*

customers not understanding the seemingly nonsensical year-long BIAS port freeze could find themselves without access to affordable service if they drop service within that year and then find out they must wait several months to be eligible again for the Lifeline discount.

VII. The Commission Should Reconsider the Minimum Speed Standard for Eligible Broadband Service

GVNW supports the request of NTCA/WTA to reconsider the adoption of a minimum speed standard for Lifeline-supported BIAS.¹⁸ It is a mistake to think that the market for Lifeline BIAS is large enough in rural high-cost census blocks to drive investment to extend and improve service. To the contrary, that is probably ninety-ninth on a list of one-hundred considerations for making costly investments in infrastructure to service low-density areas. The key to rural telecom infrastructure improvement in areas served by small RLECs is adequate funding for high-cost support, not marginal revenue from the relatively few Lifeline customers still subscribing to wireline service.

Instead of encouraging providers to extend and improve broadband infrastructure, the minimum speed requirement will punish some low income consumers, either because they reside in an area without 4/1 Mbps service (particularly 1 Mbps uploads) or because they wish to purchase more affordable 4/1 Mbps service in an area where 10/1 Mbps service is available. While GVNW agrees that rural areas need and deserve comparable service, until that goal is adequately funded and achieved, rural consumers should be able to decide their own value proposition and purchase affordable service using their Lifeline discount for whatever speed broadband service is available.

¹⁸See NTCA/WTA Petition at pp. 2-6.

VIII. The Commission Should Reject NASUCA’s Suggestion to Subsidize Back-Up Power

GVNW opposes the suggestions made by NASUCA that the Commission “should at the very least require Lifeline ETCs to offer extended payment plans to customers for the back-up power option. Better yet, back-up power could be provided at no additional cost to the Lifeline customer.”¹⁹ First, many customers do not see the need for back-up power since they have wireless battery-powered options in the case of wireline outages. Second, funding back-up power would create a large, unnecessary and continuing drain on the Lifeline portion of the Universal Service Fund. Finally, requiring wireline Lifeline ETCs to offer extended payment plans for back-up power is unnecessary price regulation not authorized by the Communications Act.

¹⁹See NASUCA Petition at p. 5.

IX. Conclusion

Along with the unwise decision to phase out of support for voice service, several policies and procedures adopted in the *Order* unnecessarily add new burdens, create implementation issues, and do not take into account special circumstances that make compliance with certain requirements by some rural ILECs impossible. Several parties have petitioned the Commission to reconsider and clarify certain aspects of its *Order*. The Commission should do so along the lines suggested by this Opposition.

Respectfully submitted,

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