

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”), pursuant to the Public Notice release on July 1, 2019 (DA 19-617), hereby respectfully submits its comments in support of the Joint Petition filed on June 27, 2019, in the above-captioned proceedings.¹ In particular, the Commission should grant Joint Petitioners’ request to waive the rule that will lead to an almost five-fold increase in the Lifeline mobile broadband monthly data usage allowance. Temporarily maintaining the data usage allowance at 2 GB per month will help ensure that critical Lifeline broadband service remains affordable to low income Americans, without unreasonably compromising their ability to engage in essential activities that rely on access to mobile broadband.

¹ See Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, filed by CTIA; National Consumer Law Center; National Hispanic Media Coalition; OCA-Asian Pacific American Advocates; and United Church of Christ, OC Inc. (collectively, “Joint Petitioners”).

1. Background and Introduction

In their filing, Joint Petitioners have requested a waiver of the rules governing the Lifeline minimum service standards (MSS) scheduled to go into effect on Dec. 1, 2019:

- Section 54.408(b)(2)(ii)(D), which mandates the use of a formula to calculate minimum mobile broadband data usage allowances beginning December 1, 2019. According to the Commission, use of this formula will increase the minimum mobile broadband data usage allowance from the current 2 GB per month to 8.75 GB per month (slightly lower than the 9.5 GB estimated by Joint Petitioners);² and
- Section 54.403(a)(2), which mandates a phase-down in the amount of Lifeline support for voice service to \$7.25 per month beginning December 1, 2019 and \$5.25 per month beginning on December 1, 2020.

Joint Petitioners have requested that these rules be waived pending review of the State of the Lifeline Marketplace Report that the Bureau has been directed to complete by June 30, 2021. Joint Petitioners, noting that “the marketplace for mobile wireless services and Lifeline services has continued to evolve in ways the Commission could not predict in 2016”³ when it adopted the rules at issue here, have explained that implementation of these rules will “restrict eligible low-income consumers’ access to, and undermine the affordability of, Lifeline broadband and voice service offerings....”⁴

Sprint supports Joint Petitioners’ request for waiver because the formula used to set the data usage allowance generates unanticipated and unsustainable results. More than quadrupling the minimum Lifeline broadband data usage allowance in a single step poses a serious threat to affordable Lifeline service. A plan that provides 8.75 GB of mobile broadband data per month free of charge to the end user, with no change in the

² See Public Notice released on July 25, 2019 (DA 19-704) stating that the mobile broadband minimum service allotment as computed by the rules would be 8.75 GB per month beginning December 1, 2019; compare to Joint Petition, p. 4.

³ Joint Petition, p. 2.

⁴ *Id.*

\$9.25 federal Lifeline subsidy, is inconsistent with comparable non-Lifeline offers, and would be economically problematic (likely infeasible) for service providers. An end user charge may well be required to recover the costs of providing such a rich data offer, and Sprint is deeply concerned that even a seemingly modest end user charge will make basic Lifeline service unaffordable, forcing low income Americans who desperately need this service off the Lifeline program. In order to fulfill two core imperatives – promoting affordable universal service, and bridging the digital divide⁵ – the Commission should grant the relief requested here, and waive the rules governing the December 1, 2019, Lifeline minimum service standards pending completion and review of the Bureau’s State of the Lifeline Marketplace report.

2. Free Lifeline Service at the Formula-Based MSS Is Inconsistent with Comparable Non-Lifeline Service Offers and Likely Economically Infeasible

When the Commission adopted Lifeline broadband minimum service standards in 2016, it mandated specific minimum broadband data allotments for the first three years, and switched to a formula to calculate data allotments for December 1, 2019 forward.⁶ This approach was intended to “gradually” phase in minimum data service standards, recognizing “the inherent uncertainty in the future Lifeline marketplace” and the

⁵ In one of his first speeches as Chairman, Chairman Pai stated that “One of the most significant things that I’ve seen during my time here is that there is a digital divide in this country—between those who can use...cutting-edge communications services and those who do not. I believe one of our core priorities going forward should be to close that divide...” See Remarks of Ajit Pai, Jan. 24, 2017, <https://docs.fcc.gov/public/attachments/DOC-343184A1.pdf>.

⁶ Section 54.408(b)(2)(ii) specifies data MSS of 500 MB per month for the period December 1, 2016 – November 30, 2017; 1 GB per month for December 1, 2017 – November 30, 2018; and 2 GB per month for December 1, 2018 – November 30, 2019.

difficulty of forecasting reasonable usage allowance levels 3+ years into the future.⁷

There is no suggestion in the *2016 Lifeline Reform Order* that the Commission expected - much less was sanctioning -- the dramatic increase that will occur, absent a waiver of the MSS rule, in broadband data MSS on December 1, 2019, as a result of application of the formula. To the contrary, the Commission intended a more measured MSS transition, and even anticipated that adjustments to its original MSS mechanism might be warranted, as evidenced by its directive to the Bureau that it analyze the “State of the Lifeline Marketplace.” The Bureau was to analyze “...the affordability of both voice and broadband services,” and to recommend whether “the transition set out in this Order should be completed.”⁸ The Commission reserved the flexibility to “act otherwise’ (*i.e.*, to deviate from the codified mobile broadband updating mechanism) depending upon the information and recommendations included in the State of the Lifeline Marketplace report.⁹

The Commission’s recognition of the need for flexibility in the implementation of MSS has proven to be well-founded. Rather than waiting until release of the Bureau report, the Commission should immediately waive the MSS rules that establish the December 1, 2019, data allowances. As the Joint Petitioners stated (pp. 4-5), the wireless broadband and Lifeline marketplace have changed faster and more significantly than could have been foreseen when the MSS rules were adopted over 3 years ago. The widespread popularity of large (*e.g.*, 10 GB per month) and unlimited wireless broadband

⁷ *Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund, Third Report and Order, Further Report and Order, and Order on Reconsideration*, 31 FCC Rcd 3962, paras. 6, 66 and 93 (2016) (“*2016 Lifeline Reform Order*”).

⁸ *Id.*, para. 66.

⁹ *Id.*, para. 93.

data plans – all of which have a monthly recurring charge -- has increased average broadband usage levels for non-Lifeline customers over the past few years. The Commission could not have foreseen that these large/unlimited data plans would have such a dramatic impact on the MSS formula. A leap in the MSS data requirements from 2 GB to 8.75 GB per month cannot be considered “gradual,” and is inconsistent with the Commission’s desire to phase in MSS data usage allowance standards.

While the Lifeline MSS formula captures high average usage among non-Lifeline broadband subscribers, it does not consider the price tag associated with those non-Lifeline plans, and thus does not accurately reflect prevailing market conditions or economic realities. Establishing Lifeline minimum usage standards in a pricing vacuum is ill-advised and runs afoul of the universal service affordability imperative.

The existing wireless Lifeline pricing model, which offers basic service free of charge to the end user, already provides a greater value than comparable non-Lifeline offers. A Lifeline offer of 8.75 GB of data with no end user charge would be vastly better than any comparable plan offered in the competitive market today, and is likely to be economically infeasible. Sprint’s review of current non-Lifeline data service offers found no plans roughly comparable to a 8.75 GB per month Lifeline package that are available at a rate of \$9.25 per month (the current federal Lifeline support amount).

As seen in Table 1 below, data plans which provide 5-10 GB data per month retail for \$40 - \$50; unlimited plans are available for \$50 - \$85. Even plans that approximate the current Lifeline offer (1-3 GB of data per month) are offered at a rate considerably higher than \$9.25. These monthly charges are assessed and paid by non-Lifeline subscribers even though the non-Lifeline market is not subject to many of the regulatory

risks and requirements applicable to Lifeline service.¹⁰ Given the fierce level of competition in the retail wireless market, there should be no debate over the reasonableness of the charges assessed by the service providers for their non-Lifeline plans.

Table 1
Prepaid Wireless Broadband Plans

	<5GB	5-10GB	10+ GB	Unlimited
Boost			\$50 (hotspot)	\$50/\$60*
MetroPCS			\$40	\$50/\$60**
Cricket	\$30/2GB	\$40/5GB		\$55/\$60***
AT&T****	\$35/1GB	\$50/8GB	\$40/16GB	\$65/\$85
Verizon*****	\$40/3GB		\$45/15GB	\$70

*\$50 plan standard resolution/\$60 plan HD

**\$60 plan has more hotspot data and Amazon Prime

***\$55 plan throttles speed at 3MPS, \$60 plan unlimited LTE

****Prices without autopay; \$85 plan includes 10 GB domestic hotspot usage

*****Prices without autopay

Plans reflect retail offers on service provider websites.

Sprint also compared the revenue per megabyte received for several of its broadband data packages to the revenue per megabyte for a 8.75 GB Lifeline offer. As can be seen in Table 2 below, the revenue per MB for the basic Lifeline plan (assuming no end user charge, a \$9.25 Lifeline subsidy, and ignoring the fact that Assurance Wireless Lifeline customers receive unlimited texts and a bundle of voice minutes in

¹⁰ For example, the Lifeline market, unlike the non-Lifeline market, experiences high churn rates due to reverification failure, recertification failure, and de-enrollment for non-usage; must comply with mandated increases in MSS; is subject to intense audit review from eligibility determination to receipt of subsidy; and incurs high order processing costs, particularly given the current lack of APIs in the NV system.

addition to their data allotment) is a fraction -- by orders of magnitude -- of the amount earned from the sale of these other data packages.

Table 2
Revenue per MB of Data

	Revenue	Data in MBs	\$/MB
Lifeline	\$9.25	8750	\$.0011
AW addl data pack	\$1.00	100	\$.0100
	\$3.00	500	\$.0060
	\$5.00	1000	\$.0050
	\$10.00	2000	\$.0050
	\$20.00	4000	\$.0050
	\$30.00	5000	\$.0060
	\$30.00	12000	\$.0025*
Boost Mobile	\$35.00	3000	\$.0117**
Virgin Mobile	\$35.00	5000	\$.0070***
	\$45.00	10000	\$.0045***

* Promotional offer

** Includes talk and text

*** Data allotment is 4G; unlimited at 2G after cap is reached

Information based on retail offers on service provider websites

These market offers suggest that it is extremely unlikely that a Lifeline data package with a minimum 8.75 GB monthly data allowance can be offered free of charge to the end user. While unacceptably low margins on Lifeline service can be mitigated by assessing an end user fee, Sprint is deeply concerned that even a seemingly modest fee will prove to be unaffordable for Lifeline customers, who have little or no discretionary income, and who frequently are unbanked. It was for these very reasons that the Commission rejected proposals to impose a monthly service fee for Lifeline service in 2012, concluding that a minimum consumer charge for Lifeline services “could impose a significant burden on some classes of Lifeline consumers” and could “discourage

consumers from enrolling in the program and could result in current Lifeline subscribers leaving the program.”¹¹

The Commission continued to emphasize the importance of affordability in the *2016 Lifeline Reform Order*. The Commission unambiguously asserted that “[a]ffordability must remain a central touchstone within the Lifeline program”; that “[t]he minimum standards we establish will also account for the need for Lifeline service offerings to be affordable”; and that its minimum service standards “are rooted in the statutory directive to ensure that quality services are available at ‘just, reasonable, and affordable rates’....”¹² If the Commission truly intends to keep wireless Lifeline service affordable, it must act promptly¹³ to avoid a dramatic and sudden increase in the data usage allowance that is economically unsustainable under the current Lifeline pricing model.

3. Temporarily Waiving the MSS Rules Will Not Compromise the Goal of Ensuring that Lifeline Customers Have Access to Services Used by Other Americans

The Communications Act sets forth the universal service principle that consumers should have access to the services that “a substantial majority” of residential customers

¹¹ *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training, Report and Order and Further Notice of Proposed Rulemaking*, 27 FCC Rcd 6656, paras. 266-267 (2012).

¹² *2016 Lifeline Reform Order*, paras. 57, 69 (footnote omitted), and 71.

¹³ Prompt action by the Commission on the waiver request is essential. Any change in the Lifeline minimum service standards requires several months’ lead time to implement (pricing and other financial analyses must be performed; print, text, IVR, and on-line materials must be drafted, approved and posted; CARE representatives must be trained about any revised offer; customer accounts must be updated; any requisite regulatory notifications and/or tariff filings must be prepared and submitted; etc.). If the Commission proceeds with a revised MSS that necessitates assessment of an end user charge, the implementation process is even more complicated as Assurance Wireless currently does not have a billing system for Lifeline service.

have already subscribed to.”¹⁴ Maintaining the Lifeline data usage allowance at 2 GB per month pending review of the Bureau’s State of the Lifeline Marketplace report does not compromise this principle in any way.

Lifeline customers will continue to have access to broadband data service at speeds of 3G (the codified standard) or better. Sprint does not route its traffic to a different network or use different facilities depending upon whether it is Lifeline or non-Lifeline traffic; thus, grant of the Joint Petitioners’ waiver request will have no impact on the speed or the quality of the broadband service being provided to our Lifeline subscribers.

The Act does not require that Lifeline offers be the same as non-Lifeline offers – indeed, if that were the case, there would be no free Lifeline service – and providing 2 GB of (free) data to Lifeline subscribers in no way relegates them to “second class citizen” status. It is true that 2 GB of data will not enable Lifeline customers to stream an unlimited number of videos at will. However, 2 GB of data per month should be sufficient to enable customers to perform essential activities that rely on access to mobile broadband.¹⁵

Lifeline customers who need or want more than 2 GB of broadband data per month do have reasonable options. The vast majority of Sprint’s Lifeline customers now has a smartphone, all of which are WiFi-enabled. Those Lifeline customers who can access the Internet via a WiFi network can use such access freely, without decrementing their Lifeline monthly data allotment (*i.e.*, WiFi usage does not count towards the Lifeline data allowance). Sprint’s Lifeline customers also have the option of purchasing

¹⁴ 47 U.S.C. Section 254(c)(1)(B).

additional bundles (from 100 MB to 12 GB of data), via a top up card (readily available at numerous retail outlets). Accordingly, Lifeline customers are being provided free access to basic service, while being given the option of purchasing additional capacity as needed.

* * * * *

The Commission should grant Joint Petitioners' request for waiver of the rules governing minimum service standards scheduled to go into effect on December 1, 2019. Waiver of these rules will ensure that Lifeline service remains affordable, that MSS standards are phased in on a gradual and manageable basis, without compromising the statutory principle that Lifeline consumers have access to the same services that "a substantial majority" of residential customers purchase.

Respectfully submitted,

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¹⁵ See, e.g., "Estimated Smart Phone Data Usage," describing what a user can do with 2GB of data, https://whatsag.com/estimated-data-usage/data_usage.php.