Before the
Federal Communications Commission
Washington, D.C. 20554

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
	)	

COMMENTS OF SAGE TELECOM COMMUNICATIONS, LLC D/B/A TRUCONNECT IN SUPPORT OF JOINT PETITION TO PAUSE IMPLEMENTATION OF DECEMBER 2019 LIFELINE MINIMUM SERVICE STANDARDS

Sage Telecom Communications, LLC d/b/a TruConnect ("TruConnect"), by counsel, pursuant to the Federal Communications Commission's ("FCC" or the "Commission") Public Notice released July 1, 2019,[1] hereby submits these comments in support of the Joint Petition to pause the implementation of scheduled updates to the Lifeline minimum service standards and support amounts,[2] namely, to pause the December 1, 2019 changes that would result in "(1) an unanticipated five-fold increase in the minimum required broadband data usage allowance, and (2) the phase-down in support for voice services, which are still relied upon by upwards of 40 percent of current Lifeline subscribers.[3] The record, as discussed further herein, already demonstrates substantial support for the Joint Petition's proposal, even before it was filed. The National

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1 *See* Wireline Competition Bureau Seeks Comment on Petition To Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, DA 19-617 (July 1, 2019).

2 *See* Joint Petition To Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket No. 11-42 et al. (filed June 27, 2019) ("Joint Petition").

3 Joint Petition ¶ 1.

Association of Regulatory Utility Commissioners ("NARUC") adopted a resolution just this week in support of the Joint Petition, urging the FCC to "freeze the broadband minimum service standards for Lifeline at the December 2018 levels – 2 GB per month/household at $9.25 – until the FCC concludes its 2021 Lifeline Study and determines an appropriate standard based on usage data available at that time," and "maintain the full $9.25 in Lifeline support for voice services at the December 1, 2018 service levels."[4] TruConnect hereby makes similar appeals to the Commission. The success of the FCC's rural broadband and telemedicine initiatives will be jeopardized if lower income Americans lose access their access to mobile connectivity, and therefore access to better jobs, healthcare, education and first responders.

I. ANY FURTHER INCREASES TO MINIMUM SERVICE STANDARDS WOULD BE DETRIMENTAL TO MOST LIFELINE CUSTOMERS

Minimum service standards for voice and broadband were established in the 2016 Lifeline Modernization Order[5] without taking into account the long-term impact which mandated data allowances would have on the program's affordability to consumers and ETCs. The Lifeline Modernization Order annually increased minimum service standards with a data standards formula applied commencing December 1, 2019. This December, the requirement for voice minutes will remain at 1,000—but voice-only support will decrease from $9.25 to $7.25—and the requirement for mobile broadband service will increase from 2 gigabytes ("GB") to 8.75 GB.[6] This jump is

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[4] *See* Resolutions Passed By The Board of Directors At The 2019 Summer Policy Summit Of The National Association of Regulatory Utility Commissioners (July 24, 2019), specifically TC-1 "*Resolution on the Lifeline National Verifier Launch and Minimum Service Standards*" ("NARUC Resolution") ¶¶ 27-28.

[5] *See* Lifeline and Link Up Reform and Modernization, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) ("Lifeline Modernization Order"), section III.B.

[6] *See* Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount, DA 19-704 (July 25, 2019).

absurd. The December 1, 2019 minimum service standard increase, particularly for broadband services, will make it impossible for ETCs to offer Lifeline at an affordable price to low-income households. Obviously, the increased cost for ETCs to offer 8.75 GB will skyrocket, even after applying the Lifeline support. It may be the Commission's intent to force ETCs to require some payment from subscribers. Today, some subscribers choose to pay for more data; however, to mandate ETCs to now give every subscriber almost 5 times more data is not possible at $9.25 per month. As discussed in the Joint Petition, "This is a significantly different result than the gradual ascent [from initial data levels] that the Commission expected when it adopted the formula [to determine minimum standards for mobile broadband data usage beginning December 1, 2019]…It would be, instead, a flash jump that the Commission did not anticipate or intend."[7] Increasing the mobile data allotment from 2 GB to 8.75 GB will undoubtedly cause a *substantial* increase in monthly rates, resulting in plans that are unaffordable to many low-income consumers. The neediest of low-income Americans – many Lifeline consumers – will then lose access to better jobs, healthcare and first responders, and the Commission's telemedicine and rural broadband initiatives will suffer.

According to the National Lifeline Association ("NaLA"), and as echoed in the NARUC Resolution, "Today, 10 GB plans typically retail for $40 or more. Therefore, if left unchanged, the December 2019 minimum service standards will effectively impose a $30 per month price increase on Lifeline subscribers, which they cannot afford."[8] Based upon TruConnect's own experience, when the Company has offered higher-benefit discounted plan options (such as unlimited minute

7 *See* Joint Petition ¶ 6.

8 *See* National Lifeline Association Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, and 09-197 (dated April 4, 2019) (NaLA Ex Parte) ¶ 9; see also NARUC Resolution ¶ 17.

plans with more than 2GB data) as an alternative to plans with no net monthly fee, almost ninety-nine percent (99 %) of customers have still elected the no-cost plan. Of those customers, less than one percent (1 %) purchased additional airtime (minutes/text/data), and there was no substantial change in customer behavior even after data increased from 1 GB to 2 GB on December 1, 2018; therefore, approximately ninety-nine percent (99 %) of customers either have not needed or could not afford more benefits. This type of data should be evaluated and considered rather than forcing the Lifeline program to accommodate *only* plans "that a 'substantial majority' of American consumers subscribe to," based upon "70 percent of the calculated average mobile data usage per household."[9]

Lifeline consumers should have the ability to manage their monthly Lifeline benefit based on their own particular needs. Indeed, many Lifeline users *cannot afford* the average household usage that takes into account Americans with much higher disposable income; *that is exactly why these low-income customers need Lifeline*. The Lifeline program was created to ensure that "Quality services should be available at just, reasonable, and affordable rates."[10] Therefore, in its effort to give Lifeline customers the same types or levels of services available in the general marketplace, the FCC has the joint responsibility to also account for the *affordability* of such services. If minimum service standards increase as projected, it will push many customers out of the Lifeline program because they can no longer afford it. This directly conflicts with Lifeline's goal of making telecommunication and broadband services affordable to all low-income homes. Moreover, a premature mandate to elevate the data allowance (currently provided at no net cost) higher than the private marketplace average level without first evaluating results of the

[9] Lifeline Modernization Order ¶ 94.
[10] 47 U.S.C. § 254(b).

Commission's anticipated June 2021 "State of the Lifeline Marketplace Report" is contrary to the Commission's stated objectives. The State of the Lifeline Marketplace Report is intended to "…consider the prevalence of subscriptions to various service offerings in the Lifeline program, the affordability of both voice and broadband services, the pace since adoption of [the Lifeline Modernization] Order at which voice and data usage has changed, and the associated net benefits of continuing to support voice service as a standalone option."[11] This will provide the Commission with concrete data with which to evaluate the future of minimum service standards, data which the Commission knew would be necessary prior to 2021, but did not anticipate would be—and now arguably is—vital prior to enacting the December 2019 changes.

Ultimately, TruConnect agrees with NaLA in its comments to the Commission[12] that the best solution for minimum service standards is to eliminate them altogether. Consumer choice rather than regulation should dictate service offerings to the customer. Consumers know much better than the Commission, or any government entity, which services they most need and can afford. And, the market is already established at the December 2018 minimum service standards; given that customers are used to these levels of service and carriers are competing to obtain customers at these service levels, the minimum standards would remain in force even if 47 C.F.R. § 54.408 were repealed—that is the nature of the marketplace. As noted in the Joint Petition, upon grant of the Joint Petition "the Commission would maintain eligible low-income consumers' ability to choose from Lifeline service plans that meet the current minimum standards of 2 GB per month of mobile wireless broadband data and 1,000 minutes of use per month of mobile voice

[11] Lifeline Modernization Order ¶ 66.

[12] *See* National Lifeline Association Comments on Petitions of TracFone and NTCA Regarding the Lifeline Minimum Service Standards WC Docket Nos. 17-287, 11-42, 09-197, and 10-90 (dated August 30, 2018) (NaLA Comments).

services." There is no risk or harm to consumers or the Commission in granting the Joint Petition, whereas the alternative is very risky indeed. Moreover, as previously stated, the success of the Commission's rural broadband and telemedicine initiatives will be impacted without affordable mobile communications to lower income Americans who often suffer from poorer healthcare and limited telecommunications connectivity.

II. THE COMMISSION SHOULD REVERSE THE PLANNED PHASE-DOWN OF SUPPORT FOR VOICE-ONLY LIFELINE PLANS

TruConnect shares the Missouri Public Service Commission's ("Missouri Commission") concerns[13] regarding the Commissions efforts to remove voice service from the Lifeline program. TruConnect agrees with the Missouri Commission that such efforts, if allowed to take effect, would very likely result in ETCs ceasing to offer voice service at all, and the idea of ETCs offering Lifeline service with no voice service is troubling. The NaLA Comments rightly point out that voice service remains an essential component of the Lifeline program, as there is a real need for voice service, particularly for access to emergency services.[14] According to the Joint Petition, upwards of forty percent (40 %) of current Lifeline subscribers rely upon voice-only services.[15] NARUC similarly points out that "according to USAC's 2018 Annual Report, approximately 53% of Lifeline disbursements go to support either a voice-only or bundled voice services (bundles of voice and broadband that meet the voice minimum service standard) for low-income consumers. Consequently, if the FCC eliminates Lifeline voice support, it will significantly and negatively impact low-income households making it more difficult for them to stay connected using the

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13 Comments of the Missouri Public Service Commission; WC Dockets 17-287, 11-42, 09-197, filed August 28, 2018 (Missouri Comments).

14 *See* NaLA Comments, p. 6.

15 Joint Petition ¶ 1.

essential communications services that best suit their needs and circumstances."[16]

The Joint Petition notes that the record already reflects substantial support for eliminating the phase-down of voice support.[17] NARUC, in addition to numerous Lifeline stakeholders and organizations, has specified that the FCC should maintain support for voice services.[18] NARUC rightly points out that "Others have made valid policy arguments for retention of voice services, pointing out, among other things, that if support for stand-alone voice service is removed, Lifeline customers will have to buy broadband bundles, which even with a $9.25 discount, might well be unaffordable. Plus, maintaining voice-only Lifeline service promotes consumer choice. Certainly, some consumers simply want a phone – not broadband service."[19] NARUC reinforced this sentiment in its recent Resolution, stating "NARUC, the National Association of State Utility Consumer Advocates ("NASUCA"), the AARP (formerly known as the American Association of Retired Persons), the National Association for the Advancement of Colored People ("NAACP"), the Leadership Conference on Human Rights ("LCHR"), and many others have filed comments at the FCC advocating for full voice support in the Lifeline program" and noting that "on June 20, [2019] NASUCA passed *Resolution 2019-02, Urging the FCC to Preserve Lifeline Support for Voice Service and to Stay and Study the Scheduled Changes in Lifeline Minimum Services,"* and finally resolving that "NARUC urges the FCC to maintain the full $9.25 in Lifeline support for voice services at the December 1, 2018 service levels. Moreover, the FCC should not phase-down or eliminate support for voice services as it has proposed for 2019 to 2021. Many consumers,

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16 *See* NARUC Resolution ¶ 19.

17 *See* Joint Petition note 20; *see also* NaLA Ex Parte note 11.

18 *See* NARUC's Notice of Oral Ex Parte, WC Docket Nos. 17-287, 11-42, and 09-197 (dated July 3, 2019) (NARUC Ex Parte) page 2.

19 *See id.*

including seniors and families with children, rely on voice services to contact first responders in time of emergency, reach social service agencies, access healthcare, and keep connected to other essential services.*"*[20]

III. THE COMMISSION SHOULD ENFORCE THE PAUSE REQUESTED BY THE JOINT PETITION NOT ONLY UNTIL ITS ASSESSMENT OF THE LIFELINE MARKETPLACE, BUT ALSO UNTIL CONSIDERATION OF ALL RELEVANT ISSUES AFFECTING THE SUCCESS OF THE LIFELINE PROGRAM

The FCC should not allow further changes in minimum service standards until taking time to evaluate not only the State of the Lifeline Marketplace Report, but also Lifeline as a whole, particularly the success (or lack thereof) of other 2016 Lifeline Modernization initiatives. TruConnect agrees with NaLA when it stated that, "Simply put, the government should not be telling consumers which speeds and how many minutes or how much data they are required to purchase regardless of whether they can afford it. The minimum service standards were a classic example of regulatory overreach when they were adopted, and this Commission should act now to avert further consumer harms that will result from the next tier of implementation."[21]

The NARUC Resolution highlights the fact that "the Lifeline Modernization Order mandated implementation of mobile broadband minimum service standards including a minimum data allowance *but also* created a 12-month port freeze to encourage subscribers to stay with a Lifeline provider to help offset the expense of the data and speed mandates, to increase program stability and to help root out waste, fraud and abuse. However, in 2017, the FCC issued an Order on Reconsideration, 32 FCC Rcd 10475 (2017), eliminating the 12-month port freeze without changing the mandated data allowance standards."[22] Despite adequate exceptions to the freeze

[20] *See* NARUC Resolution ¶¶ 20, 24 and 27, respectively.

[21] *See* National Lifeline Association Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, and 09-197 (dated Nov. 9, 2018) ¶ 8.

[22] NARUC Resolution ¶ 15 (*emphasis added*).

that allowed for customer protections, the FCC eliminated the benefit port freeze without allowing time to see the benefits that were expected, i.e. that the freeze would give providers "stronger incentive to vigorously compete for eligible customers through better broadband service offerings and outreach" and result in greater up-front investments from providers.[23] It wasn't just a lack of time that dampened results of a freeze, but the fact that the minimum service standards were implemented simultaneously, and thus the FCC had already mandated greater up-front investments from providers, resulting in such investments being seen as compliance rather than innovation. At the same time, the regulatory environment also posed uncertainty (which always hinders innovation), with the impending National Verifier launch and, in 2017, the FCC's attempt to remove resellers from the Lifeline program altogether.[24] If the Commission intends to allow future increases in minimum service standards, it should at the very least consider such policies in light of a port freeze, even if the freeze is shorter than 12 months (but still long enough to incent innovation).

In addition, there has been an outcry from Lifeline stakeholders for the FCC to delay (and reverse, in some cases) hard launch of the National Lifeline Eligibility Verifier ("National Verifier") in any state until the current deficiencies are resolved.[25] According to NARUC, "the

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23 Lifeline Modernization Order ¶ 389.

24 *See Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemking, and Notice of Inquiry*, WC Docket Nos. 17-287, 11-42, 09-197 (released Dec. 1, 2017)("FCC 17-155"); however, the D.C. Circuit of the United States Court of Appeals issued an Order on August 10, 2018 (USCA Case #18-1026, Document #1744949) grating stay of the portions of FCC 17-155 relating to elimination of resellers.

25 *See i.e.* NaLA Ex Parte; NARUC Ex Parte; NARUC Resolution; Notices of Ex Parte filed in WC Docket Nos. 17-287 and 11-42 by TracFone (April 12, 2019), California Public Utilities Commission (February 19, 2019), Sprint (March 18, 2019); Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier to Optimize the Automated and Manual Eligibility Verification

structural deficiencies include the National Verifier's often limited or non-existent access to state databases such as the Supplemental Nutrition Assistance Program ("SNAP") and Supplemental Security Income ("SSI") and federal/state Medicaid databases needed to electronically confirm subscriber eligibility, and the failure to include an application program interface ("API") between providers and the National Verifier program which would enable providers in real-time to efficiently communicate with the National Verifier program and assist a prospective or existing subscriber in verifying eligibility and maintaining enrollment or getting newly enrolled."[26] The NARUC Resolution also notes that "available data indicates that many potentially and apparently eligible Lifeline subscribers have not been re-verified and some have been de-enrolled from the program, and new enrollments have dropped substantially in states where the National Verifier has been hard launched."[27] In TruConnect's own experience, Company enrollments in National Verifier states are down approximately eighty percent (80 %) overall. In more than forty percent (40 %) of states, enrollments have fallen over ninety percent (90 %) since the National Verifier's hard launch.

Processes, WC Docket Nos. 11-42, 09-197 (Sept. 12, 2018) and corresponding comments; and Petition of Q Link Wireless, LLC for Limited Waiver to Permit Alternative Transmission of Lifeline Eligibility Information and Customer Certifications to the National Verifier, WC Docket Nos. 17-287, 11-42, 09-197 (filed Nov. 1, 2018) and corresponding comments.

26 *See* NARUC Resolution ¶ 8; *see also* ¶ 11 noting previous resolutions urging the FCC to deal with these issues, and ¶ 25 which "requests that the FCC and USAC work quickly and collaboratively with service providers and other stakeholders to fix the National Verifier before use of it is required in any state by (a) implementing service provider APIs, and (b) securing access to federal/state SNAP and Medicaid databases, to ensure that the National Verifier achieves its stated goals and works as intended so that eligible low-income consumers can reasonably and efficiently retain or sign up for Lifeline without undue burdens or delays."

27 *See* NARUC Resolution ¶ 9.

Finally, if the FCC allows the minimum service standards increase to 8.75 GB per month, many low-income Americans will lose all access to telecommunications and broadband connectivity provided through Lifeline, jeopardizing the FCC's rural broadband and telemedicine initiatives.

In summary, Lifeline is a government safety net program designed to assist eligible Americans to access critical emergency services, healthcare outside the hospital emergency room setting, and a job. With this program eligible participants may, among other things, one day find a higher paying job and stay healthier; without it they are more likely to remain on many government assistance programs. Therefore, staying any increase in minimum service standards and maintaining current voice support until after the June 2021 Lifeline Marketplace Report is completed is consistent with the Commission's prior Orders and stated objectives.

IV. CONCLUSION

TruConnect strongly believes that the Commission should eliminate the minimum service standard requirements from the Lifeline program and reverse any planned phase-down for support of voice-only Lifeline plans. If the Commission is not prepared to do so at this time, then considering the Commission's ongoing initiatives and stated objectives, including those aimed at promoting rural broadband and telehealth, and pursuant to the Joint Petition, the Commission should at a minimum: (i) postpone any future increase in minimum service standards and (ii) maintain current levels of Lifeline support for voice services, pending review of these issues in the State of the Lifeline Marketplace Report. As expressed in the Joint Petition, "Pausing implementation of these changes will allow the Commission to make an informed decision regarding all of the relevant issues – *including affordability, access and consumer choice* – while

maintaining eligible low-income consumers' ability to choose the mobile wireless broadband data and voice services that best meet their needs.[28]

Respectfully submitted,

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28 Joint Petition ¶ 3.