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 Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90

REPLY OF CENTURYLINK

CenturyLink, Inc. ("CenturyLink")[1] submits this reply with respect to several of the petitions for reconsideration and the oppositions or other responses thereto in accord with the Commission's public notice of June 30, 2016.[2]

I. INTRODUCTION AND SUMMARY

In the *Lifeline Third Report and Order*[3] the Commission has taken important steps to improve administration of the Lifeline program and in adding support for broadband service as a component of the program. At the same time, CenturyLink views that there are certain aspects of the Commission's adopted reforms that it should reconsider or clarify. CenturyLink supports all of the reconsideration and clarifications requests made by USTelecom. CenturyLink also joins those who have urged the Commission to make the following changes to its recently adopted reforms: delay rolling recertification until the National Verifier is in place; permit a

[1] This filing is made on behalf of CenturyLink, Inc. and its subsidiary entities that are incumbent local exchange carriers.

[2] FCC Public Notice, Petitions for Reconsideration of Action in Lifeline Rulemaking Proceeding, WC Docket Nos. 11-42, 09-197 & 10-90, Report No. 3046 (rel. Jun. 30, 2016).

[3] *Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, *et al*., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016), *appeals pending sub nom. National Association of Regulatory Utility Commissioners v. FCC*, Nos. 16-1170, *et al*. (D.C. Cir. June 3, 2016) (*Lifeline Third Report and Order* or *Order*).

Lifeline discount on any fixed broadband speed offering; and reconsider mandating a 12-month port freeze on Lifeline-supported broadband internet access service. The Commission should also clarify the application of its forbearance for fixed broadband service from the minimum broadband standards and clarify that Lifeline service providers that use state databases to determine initial and continued customer eligibility for Lifeline service should be held harmless if the database information is incorrect. Finally, CenturyLink agrees with others that the Commission should decline to consider the backup power issues suggested by one petitioner.

II. THE COMMISSION SHOULD RECONSIDER SEVERAL OF THE REFORMS IT ADOPTED IN THE ORDER.

As a member of the United States Telecom Association (US Telecom), CenturyLink fully supports the petition for reconsideration filed by that association.[4] In this reply CenturyLink will not revisit all of the issues raised in that petition, other than to note its support, but will address certain issues that have garnered both support and opposition in the initial responses to the eight petitions for reconsideration that have been filed in this proceeding. In particular, CenturyLink agrees that the Commission should

- delay rolling recertification until the National Verifier is in place;
- permit a Lifeline discount on any fixed broadband speed offering;
- reconsider mandating a 12-month port freeze on Lifeline-supported broadband internet access service;
- clarify application of the forbearance from minimum broadband service standards for fixed broadband service;

[4] United States Telecom Association Petition for Reconsideration and Clarification (filed June 23, 2016) (*USTelecom Petition*).

- decline to mandate specific back-up power support obligations on providers of Lifeline-supported broadband service; and
- clarify that providers are to be held harmless for errors in state databases.

A. The Commission Should Delay Rolling Recertification Until The National Verifier Is In Place.

In the *Order*, under the mantle of efficient program administration, the Commission modified the current annual recertification process from a calendar-year cycle to a cycle based on the annual anniversary of each Lifeline customer's service initiation date, i.e. a rolling recertification process.[5] Petitioners and respondents addressing this issue overwhelmingly agree that any rolling recertification process should be delayed until the National Verifier is in place.[6] Even those who advocated for rolling recertification recognize and agree that implementing rolling recertification prior to installation of the National Verifier will not result in more efficient program administration but will increase burdens on Lifeline service providers in performing annual recertifications.[7] For CenturyLink, moving to a rolling recertification for a period of time prior to having a National Verifier perform recertifications will require

---

[5] *Order*, 31 FCC Rcd at 4115-17 ¶¶ 416-421.

[6] *USTelecom Petition* at 2-4; General Communication, Inc. Petition for Reconsideration and/or Clarification (filed Jun. 23, 2016) at 4-9 (*GCI Petition*); Petition for Reconsideration/Clarification of NTCA – The Rural Broadband Association and WTA – Advocates for Rural Broadband (filed Jun. 23, 2016) at 12-16 (*NTCA/WTA Petition*); GVNW Consulting Inc. Opposition to Petitions for Reconsideration (filed Jul. 29, 2016) at 3-4 (*GVNW Opposition*); Joint Lifeline ETC Respondents' Opposition to Petitions for Reconsideration (filed Jul. 29, 2016) at 15-16 (*Joint Lifeline ETC Respondents' Opposition*); Comments of the National Cable & Telecommunications Association (filed Jul. 29, 2016) at 4-5 (*NCTA Comments*); Comments of Sprint Corporation (filed Jul. 29, 2016) at 8-9 (*Sprint Comments*). *C.f.* Consolidated Opposition of the Greenlining Institute, et al. (filed Jul. 29, 2016) at 4-5 (supporting Commission's rolling recertification rules, but not specifically addressing proposals to delay rolling recertification until National Verifier is in place.)

[7] *Joint Lifeline ETC Respondents' Opposition* at 15-17.

CenturyLink to completely overhaul its established processes for performing annual recertification for its Lifeline customers in all thirty-seven states in which it provides service.[8] For all of the reasons stated in the many petitions and responses urging reconsideration of this issue, the Commission should reconsider its change to the current annual recertification process and delay implementation of any mandated rolling recertification until after the National Verifier is in place.

B. The Commission Should Permit a Lifeline Discount on Any Fixed Broadband Service Offering.

In the *Order* the Commission established 10 Mbps downstream and 1 Mbps upstream (10/1) as the minimum speed for a fixed broadband service eligible for a Lifeline discount.[9] It also established an exception to this minimum speed for fixed broadband service such that where a fixed broadband service provider does not have10/1 service but has at least 4/1 service available, the fixed broadband provider can offer a Lifeline discount on the "highest performing generally available" broadband service.[10] The Commission should reconsider the structure of this exception.

CenturyLink agrees with NTCA and WTA that the requirement that there must be at least 4/1 service available to offer a Lifeline discount will necessarily preclude an offering of a Lifeline discount on broadband service where at least 4/1 service is not available which is most typically rural areas.[11] The Commission should reconsider limiting the exception to areas with at

---

[8] This is true even where CenturyLink has opted to have USAC perform its annual recertification, since there will need to be changes made to USAC's processes for performing recertifications including its interactions with service providers.

[9] *Order*, 31 FCC Rcd at 3993 ¶ 86.

[10] *Order*, 31 FCC Rcd at 4001-02 ¶¶ 107-113.

[11] *NTCA/WTA Petition at* 2-6.

least 4/1 service, and instead permit the Lifeline discount to be applied to any fixed broadband service available. Low-income consumers should not be denied a discount on fixed broadband service simply because a higher speed service is not available to them.

Further, if the Commission retains the exception with the 4/1 minimum speed, then as USTelecom has petitioned, the Commission should revisit the requirement that the Lifeline discount must be applied in these areas only to the "highest performing generally available" broadband service.[12] As Sacred Wind notes in agreement, this requirement is rife with complexities that would arise in administering the "ongoing marketing, accounting, and regulatory reporting obligations associated with the incremental offerings."[13] For CenturyLink, available broadband service speeds may vary from one location to the next within a neighborhood depending on their distance from certain network facilities and will also vary at locations over time as CenturyLink continually works to upgrade and extend its network to enable faster broadband speeds throughout the country. Against this backdrop, effectively implementing the "highest performing generally available" exception will be challenging, if not impossible.

Additionally, the "highest performing generally available" exception again begs the question of why it is in the public interest to require low-income customers to purchase a higher-speed broadband service to obtain a Lifeline discount on that service. It seems either unnecessarily paternalistic or just unfair to impose this requirement. If the Commission retains the exception, the Commission should permit low-income consumers to apply the Lifeline discount to any available incremental fixed broadband service speed between 4/1 and 10/1.

---

[12] *USTelecom Petition* at 15-16.

[13] Comments of Sacred Wind Communications, Inc. on Petitions for Reconsideration (filed Jul. 29, 2016) at 6-9.

Additionally, CenturyLink agrees that the Commission should clarify that the available speed is to be determined on a location by location basis.

C. The Commission Should Reconsider Mandating A 12-Month Port Freeze on Lifeline-Supported Broadband Service.

In the Order the Commission instituted a 12-month port freeze on low-income customers purchasing Lifeline-supported broadband service.[14] CenturyLink agrees with those advocating that the Commission reconsider this requirement.[15] This requirement is not consumer-friendly and only serves to harm low-income consumers who may wish to change broadband providers in less than a year's time for any number of perfectly valid reasons including simply dissatisfaction with the service purchased or with the price of the service purchased. Those who advocate in favor of the 12-month port freeze assert that it is necessary to "stabilize the subscriber-carrier relationship" and thus encourage broadband providers to participate in the program.[16] First, any stabilizing of the subscriber-carrier relationship is only guaranteed if the port freeze requires the customer to stay with the broadband provider which it does not and cannot do. Second, the other likely scenario if the low-income customer does not choose to remain with the broadband provider is that they have no broadband service for the reminder of the year that the port freeze is in place. This is fundamentally antithetical to the purpose of having a program to provide broadband service to low-income customers. The Commission should re-evaluate the need for a 12-month port freeze on Lifeline-supported broadband service.

---

[14] *Order*, 31 FCC Rcd at 4105-08 ¶¶ 385–394.

[15] *USTelecom Petition* at 4-7; *NTCA/WTA Petition* at 16-18; *GVNW Opposition* at 7-9.

[16] *Joint Lifeline ETC Respondents' Opposition* at 7.

D. The Commission Should Clarify the Application of the Forbearance from the Minimum Broadband Service Standards for Fixed Broadband Service.

In the Order the Commission forbears from "requiring existing ETCs that are not Lifeline-only to offer Lifeline-supported BIAS in areas where they do not commercially offer such service or do not receive high-cost support."[17] The Commission further explains that "[a]s a result of this forbearance, ETCs that are not Lifeline-only will only be required to offer Lifeline BIAS in those areas where the ETC commercially offers qualifying BIAS pursuant to the ETC's obligations under the high-cost rules."[18] But then the Commission further mandates that "ETCs that seek to avail themselves of this forbearance must file a notification with the FCC that they are availing themselves of this relief and to identify those areas by Census block where they intend to avail themselves of this forbearance relief."[19] This last statement needs clarification.

The Commission should clarify that the ETC does not need to provide notice of the high-cost census blocks where it does not yet have commercially available 10/1 BIAS. Nor does the ETC need to provide notice in any other census block where it does not currently have 10/1 service commercially available. It need only provide notice of the non-high-cost-support census blocks where it has 10/1 BIAS commercially available but does not intend to offer Lifeline-supported BIAS. If the Commission intends an alternative interpretation that would require ETCs to provide notice of every census block where it does not have 10/1 broadband service and does not intend to offer Lifeline support for broadband service, that will be a much more cumbersome notice to provide. And, this will be further complicated if this includes providing notice of where an ETC does or does not intend to use the fixed broadband minimum speed

---

[17] *Order*, 31 FCC Rcd at 4074 ¶ 311.

[18] *Order*, 31 FCC Rcd at 4075 ¶ 312.

[19] *Order*, 31 FCC Rcd at 4075 ¶ 312.

exception. The Commission should clarify exactly what notice is required of ETCs with respect to the broadband forbearance.

Additionally the Commission should clarify that the forbearance notice is a one-time notice and there is no ongoing obligation to provide additional notice as circumstances change. And, as USTelecom has advocated, the Commission should clarify that a non-Lifeline-only ETC that avails itself of this forbearance may subsequently seek to be a Lifeline Broadband Provider in the areas subject to the forbearance.

E. The Commission Should Decline To Consider The Unsupported Suggestions Regarding Backup Power.

In its Petition for Reconsideration the National Association of State Utility Consumer Advocates (NASUCA), suggested that the Commission consider payment for backup power as part of providing Lifeline support for broadband service to low-income customers.[20] CenturyLink agrees with USTelecom and GVNW that it is not necessary for the Commission to address the backup power payment suggestions. As USTelecom notes, the Commission has carefully considered the issue of backup power with respect to continuity of 911 communications and has determined that consumers may choose whether to purchase back up power.[21] And, as GVNW notes, funding backup power for low-income customers will create a drain on the now-capped Lifeline budget and requiring providers to offer extended payment plans is not justified.[22] Finally, even if the Commission were to consider this issue, it would be unwise to do so in this reconsideration context where the Commission did not raise the issue of backup power in the

[20] Opposition to Petitions for Reconsideration (filed Jul 29, 2016 by NASUCA) at 5.

[21] United States Telecom Association Opposition to Petitions for Clarification and Reconsideration (filed Jul. 29, 2016) at 7-8.

[22] *GVNW Opposition* at 10.

notice of proposed rulemaking or propose any rules regarding it.[23] In turn parties have not had notice of this issue in this proceeding or an opportunity to provide considered input on it. Any further consideration of this issue should be in a further rulemaking to afford full participation and discussion of the issue.[24]

F. The Commission Should Clarify That Providers Are To Be Held Harmless For Errors In State Databases.

In its comments Sprint urged the Commission to clarify that Lifeline service providers using state databases to determine initial or continued eligibility of Lifeline customers should be held harmless if the information in a state database is incorrect.[25] CenturyLink agrees with this clarification, especially to the extent that the Commission is encouraging or requiring Lifeline service providers to use state databases for these purposes. As Sprint notes, this would be in accord with how the Commission addresses errors that are beyond the service provider's control.

III. CONCLUSION

The Commission has taken significant steps to improve administration of the Lifeline program and make broadband internet access service more affordable for low-income customers. But, some tweaks to those adopted reforms are warranted to better effectuate the Commission's

---

[23] *See, e.g., United Church Bd. For World Ministries v. SEC*, 617 F. Supp. 837, 840 (D.D.C. 1985) (invalidating a rule change promulgated by a federal agency and stating that "[f]ailure to make known agency views at the time of publication of notice circumvents the purpose of the APA notice requirement" and that proposed rules cannot be "'tested' when the public is unaware of both the proposed revision and the theory under which the agency makes its proposal.")

[24] *See Abington Mem. Hosp. v. Heckler*, 576 F. Supp. 1081, 1084-85 (E.D. Pa. 1983), *aff'd*, 750 F.2d 242 (3rd Cir. 1984), *cert. denied*, 474 U.S. 863 (1985) (stating that "[t]he general test of the adequacy of a Notice of Proposed Rulemaking (NPRM) is whether it 'fairly apprise[d] interested parties of all significant subjects and issues involved,' allowing the public to 'effectively participate in the rulemaking process[,]'" quoting *American Iron and Steel Institute v. EPA*, 568 F.2d 284, 291 (3rd Cir. 1977)).

[25] *Sprint Comments* at 10-11.

goals for the program. The Commission should promptly modify its reforms as requested by USTelecom and others as supported by CenturyLink in this Reply.

Respectfully submitted,

CENTURYLINK

By: */s/ Tiffany West Smink*

John E. Benedict
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
202-429-3114
John.E.Benedict@CenturyLink.com

Tiffany West Smink
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
303-992-2506
Tiffany.Smink@CenturyLink.com

Its Attorney

August 8, 2016

CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused the foregoing **REPLY OF CENTURYLINK** to be served via first-class U.S. Mail, postage prepaid, on the attached parties.

/s/ Ross Dino

August 8, 2016

Matthew B. Gerst
Thomas C. Power
Scott K. Bergmann
CTIA
1400 16th Street, NW
Washington, DC 20036

Kevin G. Rupy
United States Telecom Association
Suite 400
607 14th Street, NW
Washington, DC 20005

John J. Heitmann
Joshua T. Guyan
Jameson J. Dempsey
Kelley Drye & Warren LLP
Counsel for American Broadband, *et al.*
3050 K Street, NW, Suite 400
Washington, DC 20007-5108

Colin W. Scott
David E. Screven
Kathryn G. Sophy
Bohdan R. Pankiw
Pennsylvania PUC
POB 3265
Harrisburg, PA 17105-3265

Michael R. Romano
Brian J. Ford
NTCA
4121 Wilson Boulevard, Suite 1000
Arlington, VA 22203

Derrick B. Owens
Patricia Cave
WTA
Suite 406
400 7th Street, NW
Washington, DC 20004

John T. Nakahata
Julie A. Veach
Traci Biswese
Harris, Wiltshire & Grannis LLP
Counsel for General Communications
1919 M Street, NW, 8th Floor
Washington, DC 20036-3537

Mitchell F. Brecher
Debra McGuire Mercer
Greenberg Traurig, LLP
Counsel for TracFone Wireless
2101 L Street, NW, Suite 1000
Washington, DC 20037

David Springe
NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910

David C. Bergmann
NASUCA
3293 Noreen Drive
Columbus, OH 43221

Steven Renderos
Center for Media Justice
436 14th Street, Suite 500
Oakland, CA 94612

Tina Pidgeon
Chris Nierman
General Communications
1900 L Street, NW, Suite 700
Washington, DC 20036

Tracy W. Rosenberg
Media Alliance
1904 Franklin Street, # 818
Oakland, CA 94612

Paul Goodman
Greenlining Institute
1918 University Avenue, 2nd Floor
Berkeley, CA 94704

Melissa W. Kasnitz
Center for Accessible Technology
3075 Adeline Street, Suite 220
Berkeley, CA 94703

Martin L. Stern
Rebecca Jacobs
Womble Carlyle Sandridge & Rice, LLP
Counsel for Sacred Wind Communications
1200 19th Street, NW
Washington, DC 20036

John Badal
Brian Tagaban
Sacred Wind Communications
5901 Wyoming NE, Suite J, Box 266
Albuquerque, NM 87110

Jeffry H. Smih
David B. Cohen
GVNW Consulting
Suite 200
8050 SW Warm Springs Street
Tualatin, OR 97062

John T. Nakahata
Traci Biswese
Harris, Wiltshire & Grannis LLP
Counsel for Q Link Wireless LLC
1919 M Street, NW, 8th Floor
Washington, DC 20036-3537

Steven F. Morris
Jennifer K. McKee
NCTA
25 Massachusetts Avenue, NW, Suite 100
Washington, DC 20001-1431

Charles W. McKee
Norina T. Moy
Sprint Corporation
900 17th Street, NW, Suite 700
Washington, DC 20001