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

In the Matter of	)	
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	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197

REPLY COMMENTS OF Q LINK WIRELESS, LLC

Q Link hereby submits these reply comments in response to the petitions filed by TracFone Wireless, Inc. ("TracFone") and NTCA – The Rural Broadband Association ("NTCA") to promote market-driven Lifeline plans, and to the comments to those petitions filed by the National Lifeline Association ("NaLA").[1] As explained below, Q Link agrees that competition and consumer preferences, and not regulatory mandates, should shape the plans made available to eligible low-income consumers as part of the Lifeline program. Q Link therefore supports Commission action to either set aside Lifeline minimum service standards, or to clarify that eligible telecommunications carriers ("ETCs") can satisfy those standards by offering "units" plans that put consumers in control of determining their voice and broadband usage needs. In addition, if the Commission retains minimum service standards, it should not

[1] *See* Renewed Motion for Declaratory Ruling or for Waiver for the Purpose of Conducting a Market Test of Consumer Demand for Lifeline Service Offerings, WC Docket Nos. 11-42, 09- 197, and 17-287 (filed July 25, 2018) ("TracFone Petition"); Petition for Temporary Waiver of NTCA – The Rural Broadband Association, WC Docket Nos. 11-42, 09- 197, 10-90 (filed July 23, 2018).

allow the December 1, 2019 scheduled changes to take effect until "units" packages are permitted.

Robust competition among ETCs—and not minimum service standards—have been responsible for driving improvements in Lifeline service for low-income consumers. Even before the Commission established minimum service standards, "most ETCs including the largest such companies serving the most subscribers had already increased their no cost-to-consumer voice offerings in response to consumer demand and competition," as NaLA explains.[2]

Those same trends have continued following the Commission's adoption of the rule. For example, to attract and retain eligible low-income consumers, Q Link currently offers a no-cost Lifeline plan that provides 1,000 minutes per month (plus 1 GB of data per month and unlimited texting), and has done so for most of this year. Yet the Commission's minimum service standards do not require 1,000-minute Lifeline plans until December 2018.[3] Q Link customers needed more minutes and so Q Link responded in kind—demonstrating that competition can and will hold ETCs accountable to consumers, promote efficient operations, and ensure that Lifeline plans keep pace with increasing needs for connectivity in the digital age.

Q Link nevertheless understands that the Commission may wish to retain a minimum standard of some kind as a program safeguard. If so, however, the Commission should not do so in a way that actually disserves low-income consumers by restricting their ability to select a combination of voice and data usage that works best for them. Unfortunately, that is precisely the effect of the Commission's current regime due to an unreasonable legal interpretation

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[2] Comments of the National Lifeline Association at 3-4, WC Docket Nos. 17-287, 11-42, 09-197, and 10-90 (filed Aug. 30, 2018) ("NaLA Comments").

[3] *See* 47 C.F.R. § 54.408.

adopted by the Wireline Competition Bureau in a public notice released in 2016.[4] In that public notice, the Bureau determined that ETCs may not comply with minimum service standards by offering "units" plans that provide consumers with an allotment of units that meets voice and data minimums, but also provides consumers with the flexibility to trade voice for broadband usage, and vice versa.[5]

As Q Link explained previously,[6] the Bureau's decision is inconsistent with the 2016 *Lifeline Modernization Order*[7] and the text of the Commission's rule governing minimum service standards.[8] The rule requires an ETC to "provide" service meeting minimum service standards, and the Commission interpreted "provide" to mean "make available" in the Lifeline context in the *Lifeline Modernization Order*.[9] A "units" plan that provides an allotment of units

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4 *Wireline Competition Bureau Provides Guidance Regarding Designation as a Lifeline Broadband Provider and Lifeline Broadband Minimum Service Standards*, Public Notice, DA 16-1118, WC Docket Nos. 11-42 and 09-197, at ¶ 15 (Wireline Comp. Bur. Rel. Sept. 30, 2016).

5 *Id.* (providing that "'substitution' or 'decremented' bundled offerings do not fulfill the requirements of the Lifeline minimum service standards if they restrict a customer's access to the supported service for which the provider is claiming Lifeline reimbursement below the minimum service standard applicable to that supported service as a result of the customer's usage of some other service included in the bundled offering").

6 *See* Q Link Wireless LLC's Petition for Reconsideration, WC Docket Nos. 11-42, 09-197, and 10-90 (filed Oct. 28, 2016); Letter from John T. Nakahata, Counsel to Q Link, WC Docket No. 11-42, (filed September 26, 2017); Corrected Comments of Q Link Wireless, LLC at 43-44, WC Docket Nos. 17-287, 11-42, and 09-197 (filed Feb. 28, 2018).

7 *See Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd. 3962 (2016) ("*Lifeline Modernization Order*").

8 47 C.F.R. § 54.408(a)(1), (b)(2).

9 *See Lifeline Modernization Order* at ¶ 263, n.710 ("We conclude that interpreting 'providing' in this context to mean that the carrier is making available telephone exchange service and exchange access, whether or not it currently has customers, fits within that range of possible definitions that the Commission has cited previously in informing its interpretation of similar language.").

sufficient to satisfy either the voice or broadband minimum standard, but allows the consumer to freely substitute voice and data as he or she sees fit, plainly "makes" the full allotment "available" for both voice and data and thus complies fully with the Commission's rule.

Clarifying that ETCs can meet minimum service standards through "units" packages would benefit consumers substantially. Based on their individual circumstances, consumers may need more minutes of use than they do data in any given month, or vice versa. As NaLA explains, in one month, "a Lifeline subscriber may decide that she wants to use all of the allotted units for data because she is searching for a job or her child needs to tether the smartphone to a laptop or tablet to complete a homework assignment."[10] Yet the very next month, "[t]hat same subscriber may decide . . . that she wants to use some of the allotted units for voice service one month when she is participating in job interviews over the phone or needs to discuss treatment options with her child's doctor or nurse."[11]

To meet these needs without "units" packages, some consumers resort to purchasing additional consumption in months where the relevant voice or data allotment proves insufficient. Because Lifeline subscribers are highly cash-constrained, however, others simply forego desired consumption that an ETC would be more than willing to accommodate in the absence of the Bureau's 2016 public notice. Both of these outcomes are incredibly inefficient, and completely unjustifiable if the Commission's goal is to make Lifeline more consumer-friendly. Thus, instead of placing consumers in a position where they are "forced to purchase voice and

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[10] NaLA Comments at 9 n.29.

[11] *Id.*

broadband plans" that they may not be able to afford,[12] the Commission should allow consumers to benefit from "the flexibility to use . . . units based on their [individual] needs."[13]

Importantly, if the Commission decides to retain minimum service standards, it should suspend the changes to those standards currently scheduled for December 1, 2019 until ETCs are allowed to comply using "units" packages. The formula-based mechanisms scheduled to take effect on that date could place increased pressure on consumers to pay out-of-pocket for usage that they would not need with the flexibility of a "units" plan.

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12 *Id.* at 6.

13 TracFone Petition at 6.

CONCLUSION

Q Link understands that any subsidy program will have rules of the road to protect consumers and ensure that support amounts are well spent. But when applying and interpreting those rules, the Commission should not lose sight of the fact that Lifeline, at its core, is a market-driven program that thrives on ETC competition. Q Link therefore supports calls for the Commission to re-evaluate the continued need for minimum service standards in light of robust marketplace competition. If the Commission retains minimum service standards, it should reduce the unnecessary market distortions that have resulted from the Wireline Competition Bureau's misinterpretation of those standards by allowing ETCs to comply through the use of pro-consumer "units" packages. At a minimum, the Commission should pause the December 2019 changes to Lifeline minimum standards until "units" plans are allowed.

Respectfully submitted,

John T. Nakahata
V. Shiva Goel
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street NW, The Eighth Floor
Washington, DC 20036
(202) 730-1320
jnakahata@hwglaw.com

Counsel for Q Link Wireless, LLC

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