

JUDSON H. HILL, ESQ.

November 16, 2019

BY ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Sage Telecom Communications, LLC and Telscape Communications, Inc. d/b/a TruConnect Notice of Oral Ex Parte Presentation; WC Docket No.17-287, 11-42, 09-197 and 10-90.

Dear Ms. Dortch:

On November 14, 2019, I, counsel to Telscape Communications, Inc. d/b/a TruConnect and Sage Telecom Communications, LLC (collectively TruConnect) and Matthew Johnson, Co-CEO for TruConnect met with Commissioner Brendan Carr and Joseph Calascione his Legal Advisor on Wireline, and thereafter we met with Travis Litman, Chief of Staff and Senior Legal Advisor Wireline to Commissioner Rosenworcel. We discussed the pending Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study filed by CTIA, the National Consumer Law Center, National Hispanic Media Coalition, OCA – The Asian Pacific American Advocates and the United Church of Christ, OC, Inc.¹

We acknowledged the Commission was very close to issuing an opinion on the minimum service standards new mandate. During the meetings we emphasized that the record before the Commission clearly demonstrates the substantial and broad support to grant the Joint Petition, literally no public opposition, to suspending the announced increase in the mobile broadband minimum service standards as well as support to keep full Lifeline funding for the standalone voice and voice centric bundles, until after the Commission completes and submits their scheduled findings of the impact of changes in data levels, access to and affordability of Lifeline services for low-income consumers in their forthcoming *State of the Lifeline Marketplace Report* due June 2021. In fact, we noted that the Joint Petition is supported by the National Association of Regulatory Utility Commissioners (“NARUC”) and reminded that several veterans’ groups filed comments supporting the Joint Petition because the Lifeline program provides low income veterans needed contact with both veterans’ services and healthcare providers which are so important to offer critical assistance, counseling and help lower the number of veteran suicides. In essence, mandating a 437 percent increase in the monthly data mandate comes with a cost, both personal and financial, that customers cannot afford nor ETCs can absorb.

Before minimum standards for data was ever mandated, we emphasized that market competition, that is free market principles, incented Lifeline ETCs to provide mobile broadband to compete for customers. Minimum standard mandates and government over-regulation is not needed to ensure Lifeline subscribers have good access to voice and broadband nor is it the proper role of the

¹ See Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming State of Lifeline Marketplace Report, WC Docket No. 11-42 et al. (filed June 27, 2019) (“Joint Petition”).

government. We also shared that the success of broadband adoption, especially in rural America, partially depends on the Lifeline program continuing to exist. That is, without an affordable device plus telecommunications infrastructure, people remain displaced from the benefits connectivity provides.

We further reinforced how critical telecommunications connectivity is to America's economic development and job creation, not to mention the importance of being able to call a healthcare provider for care or calling emergency first responders for help. The access to communications service and devices is equally important to low-income Americans; many elderly and lower income veterans, who need a true lifeline.

The Commission's rural broadband and the telehealth pilot could very well be jeopardized by the projected severe decline in Lifeline participation caused by minimum service standards that force Lifeline program participants to purchase large and expensive broadband packages or drop off the program.

We specifically addressed the planned minimum service standard monthly mandated increase to 8.75GB² of data on 1 December 2019 comes with a projected \$30 per month additional price tag subscribers cannot afford.³ Consequently, Lifeline will be unaffordable for most subscribers and not financially sustainable for Lifeline ETCs. The program will then collapse. That alone comes with a high cost. Lifeline's demise will rapidly be felt by taxpayers through higher unemployment rates and even higher uncompensated hospital emergency room visits.

We noted that the Tracfone Wireless, Inc. recently proposed 3GB per month alternative to the minimum data scheduled increase to 8.75GB was not supported by most ETCs, moreover, it was the current position of only one ETC. We shared that at 3GB, the Lifeline program may likely survive in only a few states, like California, and eligible tribal lands. Such a lopsided regulatory decision is contrary to public policy when past FCC orders acknowledge that the program service offerings should consider affordability for eligible consumers in all states. In fact, the Lifeline Link Up Reform and Modernization order, WC Docket Nos. 11-42, 09-197, 10-90, Third Report and Order, Further Report and Order and Order on Reconsideration, FCC 16-38, par. 71 (2016) stated "The minimum standards we establish will account for the need for Lifeline service offerings to be affordable." They also noted that "The minimum standards that we establish strike a balance between the demands of affordability and it is necessary to establish minimum service levels that are both affordable and reasonably comparable". The December 2019 minimum service mandate does not consider the demands of affordability nor does it strike that balance. The *State of Lifeline Marketplace Report* will provide important data to make future informed calculations and comply with the referenced 2016 Order when a bureaucratic formula calculation does and cannot.

We then shared support for an alternative proposal advanced by Q Link Wireless, LLC and the national Lifeline Association if the pending Joint Petition is being ignored or denied. This alternative is supported by most ETCs is to create an acceptable choice for the ETC to either provide 3GB per month of data, or a bundled 2GB of data plus 1000 voice minutes per month to comply with the planned

² See Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount, DA 19-704 (July 25, 2019).

new data mandate.⁴ We emphasized that this was only a compromise to the harm resulting from the Commission's failure to pause the minimum service standards increase December 1st. It is logical to grant the pending Joint Petition to provide sufficient time to conduct the planned *State of Lifeline Marketplace Report*, and thereafter make an informed decision. Moreover, the FCC should eliminate or recalculate the archaic 2016 Lifeline Modernization's minimum service standards formula to reflect reality and reflect the intent of the program.

We remind regardless of the FCC action in the next few days or weeks, mid-2020 the *2016 Lifeline Modernization Order* requires the FCC to once again re-calculate the minimum service standard formula and announce the reset of 2021 minimum service standard mandate to roll-out December 1, 2020.

We emphasized that in the best interest of Americans who are eligible for and rely on Lifeline, for taxpayers, for the Commission resources and for good public policy reasons, the FCC should soon announce a pause in the 2021 minimum service standard until after the *State of Lifeline Marketplace Report* is published and reviewed to determine what changes benefit the program's customers and reflect the program's original intent.

For the reasons stated, we renewed TruConnect's request to immediately pause the implementation of minimum service standards by granting the Joint Petition or substantially reducing the planned new minimum standards mandate.

Pursuant to section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



Judson H. Hill, Esq.

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cc: Commissioner Brendan Carr,
Joseph Calascione, Legal Advisor on Wireline to Commissioner Carr
Travis Litman, Chief of Staff and Senior Legal Advisor to Commissioner Rosenworcel

³ 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.

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See National Lifeline Association Notice of *Ex Parte* Presentations, WC Docket Nos. 17-287, 11-42, 09-197 and 10-90 (filed October 30, 2019 and November 15, 2019)