November 17, 2016

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

RE: *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;

Dear Ms. Dortch:

Please include the following comments in the above referenced dockets. If there are any questions, please call me on 301-738-0020.

Respectfully submitted,

Via ECFS 11/17/16

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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

COMMENTS OF GVNW CONSULTING, INC.
ON PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION FOR TEMPORARY WAIVER, PETITION OF PUBLIC UTILITY COMMISSION OF OREGON FOR TEMPORARY WAIVER, PUBLIC SERVICE COMMISSION OF WISCONSIN'S PETITION FOR WAIVER, AND LETTER OF THE STATE OF VERMONT DEPARTMENT OF PUBLIC SERVICE

GVNW Consulting, Inc. ("GVNW")[1] respectfully submits these comments in support of the Letter and Petitions for Waiver ("*Waiver Petitions*") submitted on November 3, 2016, by the State of Vermont Department of Public Service,[2] November 3, 2016, by the Public Service Commission of Wisconsin,[3] November 8, 2016, by the Public Utility Commission of Oregon,[4]

[1]GVNW Consulting, Inc. is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

[2] *See* Letter of Daniel C. Burke, Telecommunications Special Counsel, State of Vermont Department of Public Service, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 *("Vermont Letter")*.

[3] *See* Public Service Commission of Wisconsin's Petition for Waiver, 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, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) *("Wisconsin Petition")*.

[4] *See* Petition of the Public Utility Commission of Oregon for Temporary Waiver, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers

October 28, 2016, and by the California Public Utilities Commission[5] October 24, 2016, in the above captioned proceeding.[6] In the Letter and Waiver Petitions, the states variously request temporary waivers of the revised federal Lifeline eligibility rules, §§ 54.400(f) and (j) and 54.409, and the federal Lifeline benefit portability rules, § 54.411. These rules are scheduled to go into effect December 2, 2016.

I. Temporary Waivers Should be Granted to Allow States to Conform Their Eligibility Criteria with the New Federal Criteria

GVNW has received many inquiries from clients confused about and dismayed by the difference between eligibility requirements for state and federal Lifeline benefits. While GVNW supports a unified set of eligibility rules, rapid implementation of this policy is problematic in states where the current state eligibility standards differ from the new federal standards. As noted by in USTelecom's Petition for Reconsideration of the Lifeline Order,[7] supported by GVNW,[8] it is unlikely that most or all affected states will be able to conform their rules or

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Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) *("Oregon Petition")*.

[5] *See* Petition of the California Public Utilities Commission for Temporary Waiver, 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, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) *("California Petition")*.

[6] *See* 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, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016 ("*Lifeline Modernization Order*").

[7] *See* United States Telecom Association Petition for Reconsideration and Clarification, 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, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), *("USTelecom Petition")* filed June 23, 2016, at p. 2.

[8] *See* GVNW Opposition to Petitions for Reconsideration, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal

amend their statutes to conform to the Federal eligibility programs prior to the effective date of the new federal rules. During the interim period, in states with eligibility criteria different from the federal rules (which they may have originally been designed to mimic), Lifeline providers will have to separately determine state and federal eligibility and separately apply Lifeline discounts if a subscriber is eligible for one or both. This is a recipe for confusion which could lead to innocent misapplication of the state or federal discounts. Further, it adds burdens with respect to billing now that the state and federal discounts will have to be disaggregated so that they can be separately applied. Consistency between state and federal Lifeline eligibility criteria will allow both providers and relevant state agencies and administrators to continue to manage a single population of Lifeline subscribers.

The states of California, Wisconsin and Vermont have confirmed, through their requests for temporary waiver of the new eligibility requirements, that the concerns expressed by the USTelecom Petition and by GVNW in its supporting comments, were real and substantial. The requests for temporary waivers of the new eligibility requirements by the four states should be promptly approved.

California Petition – As noted in its Petition, California has the largest Lifeline subscriber base in the nation with over 2 million subscribers that receive federal and state subsidies.[9] The chances for fraud, waste and abuse, along with additional unnecessary expense and customer confusion, are multiplied if the CPUC, Administrator and service providers are not afforded the opportunity to plan, implement and test the necessary changes to accommodate the new federal eligibility criteria before such changes are rolled out.

Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed June 29, 2016, at p. 5.

[9] *See California Petition* at 2.

The *California Petition* lays out the challenges the state faces:

> To implement the federal eligibility changes and any requisite modification to our rules, the Administrator will need to revise the California Lifeline inbound and outbound mail processes, redesign application and renewal forms, update customer tracking system, change web and phone enrollment systems, revise training manuals and update websites. The Administrator will also need to revise its direct application process, change carrier information exchange process, modify the interactive voice response system, and perform user acceptance testing. The California Lifeline providers will also need to make IT and other operational changes on their end and align their process with the Administrator's.[10]

Given the size of the Lifeline program in California and the challenges it faces to conform its processes to the new federal rules, the time period requested in the California Petition appears more than reasonable. GVNW supports prompt grant of California's waiver request as helping the state, providers and customers adjust to the new federal eligibility rules. Granting the request for waiver in the *California Petition* is clearly in the public interest and satisfies the Commission's standards for grant of a waiver.

Wisconsin Petition – The Public Service Commission of Wisconsin requests a limited-time waiver of the revised rules 54.400(j) and 54.409(a), and applicable sections of the Lifeline Order, to permit Lifeline providers in Wisconsin to continue enrolling low-income Wisconsin consumers in the federal Lifeline program based on current federal and state-specific program and income eligibility criteria. The *Wisconsin Petition* requests the waiver to expire at the earlier of 24 months from its grant or 60 days after the PSCW notifies the FCC and all Eligible Telecommunications Carriers (ETCs) in the state that it has realigned its eligibility criteria with the federal criteria and provided for state-only Lifeline qualification and benefits.

Wisconsin is one of the states in which the state eligibility criteria for the state discount are now different than the new federal criteria. This is certainly not due to a lack of attention from

[10] *See California Petition* at 3.

the state. As recently as February 1, 2016, Wisconsin harmonized its Lifeline regulations with the federal rules then existing.[11] Realignment is needed again, and Wisconsin, presumably based on its recent experience, states that "Misalignment between state and federal eligibility criteria creates a significant implementation issue for Lifeline providers and will lead to customer confusion.[12] That recent experience took 18 months after updating cooperative agreements with the relevant state agencies.[13]

In its petition, Wisconsin explained the operation of its electronic Lifeline verification system and the many changes that will be necessary to conform it to the new federal eligibility rules to avoid burdening providers and confusing customers.[14] Wisconsin should not be penalized for having an automated state system that was designed to provide quick decisions on eligibility but now would require extensive information technology system work with state agencies and the subsequent changes in procedures by Lifeline providers to account for the state's IT changes. GVNW supports prompt grant of Wisconsin's waiver request as helping the state, providers and customers adjust to the new federal eligibility rules. The request for waiver in the *Wisconsin Petition* is clearly in the public interest and satisfies the Commission's standards for grant of a waiver.

Vermont Letter – The Vermont Department of Public Service requests that the Commission grant a waiver of only the changed eligibility requirements for any of those sections of the Lifeline Order that prohibit Lifeline providers from continuing to enroll consumers in the federal Lifeline program based on state-specific program and state specific income eligibility criteria.[15] As with the other states requesting waivers, Vermont points out that implementation of the

[11] *See Wisconsin Petition* at 2.
[12] *See Wisconsin Petition* at 3.
[13] *Id* at 4.
[14] *Id* at 3.
[15] *See Vermont Letter* at 1.

streamlined federal eligibility without similar changes at the state level will set up a two-tiered eligibility criteria with three subsets of eligible subscribers (state, federal, or both), creating confusion, additional administrative burden and the potential for duplication of benefits.[16]

Vermont has the additional problem that its eligibility verification processes are determined by statute, and the legislature next convenes in January of 2017. A waiver will allow Vermont's Department of Public Service to inform the legislature, have the statute changed and develop and implement an orderly process to implement the new federal rules. Vermont requests that the waiver sunset no earlier than October 31, 2107. GVNW supports prompt grant of Vermont's request as helping the state, providers and customers adjust to the new federal eligibility rules. Granting the waiver requested in the *Vermont Letter* is clearly in the public interest and satisfies the Commission's standards for grant of a waiver.

II. The Commission Should Grant State Waiver Requests for Delay of Implementation of the New Benefit Portability Rules

The *California Petition* and *Oregon Petition* request waiver of the implementation date of the new benefit portability rules.[17] GVNW supports both petitions. However, this does not mean that GVNW supports the new portability rules.

There is no evidence in the record for the Commission's belief that permitting a Lifeline provider to hold on to a BIAS customer for a full year will encourage the provider to compete for Lifeline customers by giving it a greater ability to recover customer acquisition costs. It is just as likely that customers will be enticed into signing up for less affordable service through the offering of free or low cost service for the initial month(s) and then, because of the port freeze, find themselves locked into an uneconomic contract for the remaining months of the year-long freeze. It is a strange economic proposition that the Commission contends that competition will

[16] *Id* at 2.
[17] *See California Petition* at 4 and *Oregon Petition* at 2.

be enhanced by limiting consumer choice. Lifeline customers should have the same ability to find a better deal, either with a higher level of service or lower price, as customers not eligible to access the Lifeline discount.

The *USTelecom Petition* also cogently explains the administrative burdens imposed by the port freeze "Limiting a provider's ability to make changes to a rate plan for all customers on that rate plan imposes additional administration requirements and complexity by, for example, expecting a carrier to roll out changes based on the service anniversary dates of its existing subscribers. This is particularly problematic for companies who do not offer specific Lifeline products but rather allow customers to apply the Lifeline discount to any qualifying product the company offers."[18] This situation is particularly common among small RLECs – they generally do not offer specific Lifeline products. USTelecom further points out that providers are not able to administer the port freeze.[19] If a Lifeline customer drops service before the year freeze for BIAS and then attempts to sign up with a new Lifeline BIAS provider, neither the initial provider nor the new provider has any knowledge of the customer's interaction with the other provider. And customers not understanding the seemingly nonsensical year-long BIAS port freeze could find themselves without access to affordable service if they drop service within that year and then find out they must wait several months to be eligible again for the Lifeline discount.

Regardless of the merits or lack thereof of the new port freeze rules, their implementation is problematic for at least two states, California and Oregon. Each state requests a waiver of the rules in order to have time to adjust processes to implement the new rules.

California Petition – As noted in the California Petition,

> Implementing these rules will also require significant changes to the Administrator's enrollment process and the California Lifeline Database. The California Lifeline

[18] *See USTelecom Petition* at p. 5.
[19] *Id*.

> Program's inbound and outbound mailing processes, forms and letters, customer service capabilities, customer tracking system, enrollment methods, data exchange processes, and websites will need to be modified. The California Lifeline Program's identity check and matching logic process will also need to be changed as well as process documents and training manuals.[20]

California also must implement a new law which requires the CPUC to adopt state-specific portability rules by January 17, 2017. The CPUC is in the process of adopting these new rules and exploring the possibility of leveraging the National Lifeline Accountability Database with the Universal Service Administrative Company which it hopes will resolve any issues and aid in implementing the benefit portability rules.[21] The *California Petition* requests a delay in implementation of the new benefit portability rules until October 31, 2017. GVNW supports prompt grant of California's waiver request as helping the state, providers and customers adjust to the new federal portability rules. Granting the request for waiver in the *California Petition* is clearly in the public interest and satisfies the Commission's standards for grant of a waiver.

Oregon Petition – The *Oregon Petition* requests a temporary waiver of the effective date for the benefit portability regulation until June 1, 2017. As stated in the Petition, "Implementation of the new benefit port freeze regulation requires significant modifications to the OPUC's Lifeline database and operations."[22] The petition goes on to state that "the OPUC must contemplate all other potential scenarios, write code in accordance with applicable rules, conditions, and exceptions, and test database program logic prior to deployment."[23] Given these logistical hurdles, it is reasonable to grant the brief delay requested by Oregon. GVNW supports prompt grant of Oregon's waiver request as helping the state, providers and customers adjust to

[20] *See California Petition* at 5.
[21] *Id* at 5-6.
[22] *See Oregon Petition* at 2.
[23] *Id* at 3.

the new federal benefit portability rules. Granting the request for waiver in the *Oregon Petition* is clearly in the public interest and satisfies the Commission's standards for grant of a waiver.

III. Conclusion

Grant of the petitions of California, Oregon, Wisconsin and Vermont for temporary waiver of either or both of the new federal Lifeline eligibility rules and/or the new benefit portability rules meets the "good cause" standard which grants the Commission discretion to waive application of its rules in situations where strict compliance would not be in the public interest. Not allowing states and providers sufficient time to hone processes to implement these new Commission rules invites waste, fraud and abuse. The brief delay in implementation of the new Commission policy requested in these temporary waivers is vastly outweighed by the potential for implementation problems adversely affecting states, providers, consumers, and the integrity of the Low-Income Fund. The requests for temporary waiver, and any similar ones subsequently filed by states, should be promptly granted.

Respectfully submitted,

/s/ David B. Cohen

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