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Public Service Commission

August 31, 2015

VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Comments of the Florida Public Service Commission in WC Docket No. 11-42, Lifeline and Link Up Reform Modernization, WC Docket No. 09-197, Telecommunication Carriers Eligible for Universal Service Support, and WC Docket No. 10-90, Connect America Fund.

Dear Ms. Dortch:

On June 18, 2015, the Federal Communications Commission (FCC) adopted a Second Further Notice of Proposed Rulemaking in which the FCC sought comment and reply comment on proposals to modernize the Lifeline program. On August 5, 2015, the FCC released Order DA 15-885, changing the original comment date of August 17, 2015, to August 31, 2015.

Forwarded herewith are comments of the Florida Public Service Commission in the above dockets in response to Order FCC 15-71. Bob Casey at 850-413-6974 is the primary staff contact on these comments.

Sincerely,

/ s /

Keino Young
Attorney Supervisor

cc: James Bradford Ramsay, NARUC

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

COMMENTS OF

THE FLORIDA PUBLIC SERVICE COMMISSION

CHAIRMAN ART GRAHAM

COMMISSIONER LISA POLAK EDGAR

COMMISSIONER RONALD A. BRISÉ

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August 31, 2015

INTRODUCTION AND SUMMARY

On June 22, 2015, the Federal Communications Commission (FCC) released a Second Further Notice of Proposed Rulemaking (FNPRM), Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order (FCC 15-71) regarding Lifeline which seeks to rebuild the current framework of the Lifeline program and continue its efforts to modernize the Lifeline program to utilize advanced networks. Among other issues, the FCC is seeking comment on whether to set a budget for the Lifeline program, whether to limit the number of programs through which consumers qualify for Lifeline, whether the eligible telecommunications carrier (ETC) designation process should be streamlined by having only the FCC designate companies as ETCs instead of states and the FCC, how best to ensure that the FCC has sufficient checks and safeguards to address potential waste, fraud and abuse, how the FCC may best facilitate coordinated enrollment with other Federal benefit programs such as the United States Department of Agriculture and its state agency counterparts, whether and to what extent to include state database consumer privacy protections in any opt-out standard it adopts, whether the non-usage period of Lifeline subscribers should be changed from 60-days to 30 days, and whether the $9.25 interim reimbursement rate should be made permanent.

The Florida Public Service Commission (FPSC) encourages the FCC to consider the following:

1. A budget or cap for Lifeline would help curb the excessive growth of the low-income program as broadband is introduced into it. If necessary, the budget could be tied to the growth or decrease in federal Supplemental Nutrition Assistance Program (SNAP) program participants.

2. The Florida Public Service Commission (FPSC) would support limiting the number of qualifying Lifeline programs to SNAP, Medicaid, and Temporary Assistance for Needy Families (TANF).
3. The FPSC believes that before any preemption of authority of states to designate ETCs takes place, the FCC should refer the matter to the Federal-State Universal Service Joint Board for consideration and input.
4. The FPSC believes agents should not be paid on commission for each Lifeline application submitted. Until such time as the FCC decides whether a third party should conduct Lifeline eligibility, ETCs, rather than their agents or representatives, should review and approve consumer documentation of eligibility before the ETC activates Lifeline service or seeks reimbursement from the Fund. In addition, any agents or third-parties acting on behalf of ETCs should receive training before taking part in the enrollment process and again every twelve months thereafter in order to ensure that every person involved in enrolling and verifying consumers for Lifeline has been adequately educated about the program and its requirements. To assist in the Federal-State partnership goal of eliminating fraud, waste, and abuse in the universal service fund (USF) low-income program, the FPSC also suggests that the FCC include language in future ETC designation orders that if a state has a state Lifeline program, the ETC must follow it.
5. If an agency administers Lifeline eligible programs such as SNAP and Medicaid and participates in Lifeline coordinated enrollment, there should also be a process whereby Lifeline participants who are determined to be no longer eligible for these programs are automatically de-enrolled.

6. The FPSC believes that a "yes" or "no" response indicating whether the person is currently participating in SNAP, Medicaid, or TANF is appropriate for queries into state eligibility databases.
7. The FPSC supports changing the 60-day non-usage requirement to 30 days in order to eliminate any unnecessary reimbursement from the USF Fund.
8. The FPSC believes that any new Lifeline broadband rules implemented as a result of the FCC's FNPRM, should be reassessed after a period of one year to determine if the $9.25 reimbursement rate is sufficient. The FPSC also believes that an end-user charge would be a barrier to enrollment, and should not be imposed if broadband is added to Lifeline.
9. Ideally, the FCC should refer all the Lifeline issues to the Universal Service Joint Board that jointly involve the FCC and states, before implementation. However, if it is determined that this procedure might delay the process beyond the timeframe of the FCC, then only the issues that require the FCC and state partnership should be referred to the Joint Board. The FCC should also refer those issues to the Universal Service Joint Board after new rules have been in effect for one year in order to assess the outcome of the new rules and enable some of them to be tweaked, if necessary.

1. SETTING A BUDGET FOR THE LIFELINE PROGRAM

As stated in FCC 15-71, the purpose of a budget is to ensure that all goals are met as the Lifeline program transitions to broadband, including minimizing the contribution burden on consumers, while allowing the FCC to take into account the unique nature and goals of the Lifeline program. In prior comments before the FCC, the FPSC noted that if broadband for Lifeline is adopted, an

overall universal service fund (USF) cap should be instituted.[1] Managing the total size of the USF, and eliminating fraud and waste, is important to protect the consumers who pay for these programs through bill surcharges. Florida is a net donor state to the Federal universal service fund, and the FPSC is extremely concerned about the disparity between what Florida customers pay into the federal USF versus what that USF disburses to Florida. In 2013, for all federal USF programs–including Lifeline, Floridians paid-in $539 million but only received back $256 million–leaving Florida as a net contributor of $283 million. Since all other federal USF programs have a budget or cap, a budget or cap on Lifeline dollars would help curb the excessive growth of the low-income program as broadband is introduced into it. If necessary, the budget or cap could be tied to the growth or decrease in federal SNAP program participants. For example, if participants in the SNAP program increase by three percent, the Lifeline budget would be allowed to increase by three percent. Conversely, if participants in the SNAP program decrease by three percent, the Lifeline budget would decrease by three percent.

2. LIMITING THE NUMBER OF QUALIFYING PROGRAMS USED FOR LIFELINE SUPPORT

The federal Lifeline program presently uses eleven programs to qualify potential applicants for the Lifeline program.[2] Florida essentially mirrors the federal program criteria for Lifeline eligibility. The Florida Lifeline Electronic Coordinated Enrollment Process uses three of these programs to qualify Lifeline applicants: SNAP, Medicaid, and TANF. This process is a

[1] Reply comments of the Florida Public Service Commission, December 2, 2008, in CC Docket Nos. 96-45, 96-98, 99-68, 99-200, 01-92 and WC Docket Nos. 03-109, 04-36, 05-337, and 06-122.

[2] Medicaid; Supplemental Nutrition Assistance Program (Food Stamps or SNAP); Supplemental Security Income (SSI); Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program (LIHEAP); Temporary Assistance to Needy Families (TANF); National School Lunch Program's Free Lunch Program; Bureau of Indian Affairs General Assistance; Tribally-Administered Temporary Assistance for Needy Families (TTANF); Food Distribution Program on Indian Reservations (FDPIR); Head Start (if income eligibility criteria are met).

streamlined, efficient, and verifiable Lifeline Electronic Coordinated Enrollment process which eliminates the possibility of fraud, waste, and abuse.

Only Lifeline applicants who have been verified as currently participating in SNAP, Medicaid, or TANF are approved through the Florida Lifeline Electronic Coordinated Enrollment process.[3] The Florida Department of Children and Families (DCF), the administrator of these three programs, uses LexisNexis Risk Solutions to authenticate the identity of people applying online for public assistance. The LexisNexis technology helps the DCF confirm the identification of applicants before processing their benefit applications. By verifying and authenticating the identity of the applicant before processing their application, DCF knows whether the person seeking benefits is truly the individual applying for them.

The FPSC would support limiting the number of qualifying Lifeline programs to SNAP, Medicaid, and TANF, the three major qualifying programs in Florida.[4] Participation in these programs can be confirmed in real-time using the Florida Department of Children and Families on-line computer portal. Since most Lifeline-qualifying programs use income as a measurement, Lifeline participants currently using other qualifying programs besides SNAP, Medicaid, and TANF could use income criteria to enroll in Lifeline in the future.

3. FEDERAL-STATE ROLE IN CREATING A NEW ETC DESIGNATION PROCESS

The FCC FNPRM seeks comment on pros and cons of creating a national designation of eligible telecommunications carriers versus a state-by-state approach, or a combination thereof where states with individual Lifeline programs could supplement any federal Lifeline designation with

[3] Applicants wishing to qualify for Lifeline using Supplemental Security Income, Federal Public Housing Assistance, Low-Income Home Energy Assistance Program, National School Lunch Free Lunch Program, or Bureau of Indian Affairs Programs can complete a hard-copy Lifeline application available on the FPSC Web site, and submit it to their telephone provider along with verification that they are currently participating in one of these programs.

[4] The FCC would determine to what extent tribal program assistance would apply.

additional conditions. State commissions have primary responsibility for designating ETCs under section 214 of the Telecommunications Act of 1996,[5] while that responsibility shifts to the FCC for carriers "providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission."[6] The FPSC believes that before any preemption of authority of states to designate ETCs takes place, the FCC should refer the matter to the Federal-State Universal Service Joint Board for consideration and state input.

4. WASTE, FRAUD, AND ABUSE

The FCC seeks comment on how best to ensure that the FCC has sufficient checks and safeguards to address potential waste, fraud and abuse. Recently, the FPSC has uncovered abuse of the Lifeline enrollment process by agents hired by wireless ETCs that are enrolling unqualified consumers in the Lifeline program. The FPSC has become aware that some wireless ETC agents in Florida have informed prospective Lifeline applicants that they are Lifeline-qualified if they are a veteran, a fire fighter, a law enforcement officer, a state employee, or just a resident of Florida. The primary cause of this abuse appears to be that agents are paid a commission for each prospective Lifeline applicant they sign up. In order to eliminate this abuse, the FPSC believes agents should not be paid on commission for each Lifeline application submitted. Until such time as the FCC decides whether a third party should conduct Lifeline eligibility, ETCs, rather than their agents or representatives, should review and approve consumers' documentation of eligibility, before the ETC activates Lifeline service or seeks reimbursement from the Fund. In addition, any agents or third-parties acting on behalf of ETCs should receive training before taking part in the enrollment process and again every twelve

[5] 47 U.S.C. § 214(e)(2).

[6] 47 U.S.C. § 214(e)(6).

months thereafter in order to ensure that every person involved in enrolling and verifying consumers for Lifeline has been adequately educated about the program and its requirements. There should be a no-tolerance policy for any agent that signs up a consumer that is not eligible.

The ability of some states to audit and investigate waste, fraud, and abuse by wireless ETCs is sometimes hampered because of current state limitations on oversight over wireless carriers.[7] For others, the ability to effectively oversee any broadband internet access Lifeline providers might be hampered by other state laws targeting IP-based services.[8] To assist in the Federal-State partnership goal of eliminating fraud, waste, and abuse in the USF low-income program, the FPSC suggests that the FCC include language in future ETC designation orders that if a state has a state Lifeline program, the ETC must follow it. In a letter to the FCC, the FPSC requested that future FCC orders approving ETCs in Florida specifically address State Lifeline programs.[9] The FPSC requested that the verbiage "The ETC must follow the State Lifeline policies in the applicable state(s) where ETC status is approved" be included in one of the ordering paragraphs of future FCC ETC designation orders. The FCC has included similar language in past ETC designation orders,[10] but has not done so in wireless ETC designation orders released since 2004.

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[7] State Commissions generally designate carrier participation in the Lifeline program for wireline carriers. That is not always the case for wireless providers. Ten states and the District of Columbia do NOT grant ETC status for wireless carriers because they lack the jurisdiction under State statute, i.e., Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, Texas, the Commonwealth of Virginia, Florida and the District of Columbia. In these jurisdictions a crucial line of defense against abuse – State oversight - is non-existent or at least more limited.

[8] Several States continue to designate wireless ETCs despite not having specific authority over them. It is anticipated that this will also be the case if the program is expanded to cover broadband. Additionally, many States with limited regulatory authority often work informally to resolve consumer complaints.

[9] November 30, 2005 letter from then FPSC Chairman Lisa Edgar
http://apps.fcc.gov/ecfs/document/view?id=6518184992

[10] In the Matter of NPCR, Inc. d/b/a Nextel Partners, CC Docket 96-45, DA 04-2667, issued August 25, 2004, footnote 30; In the Matter of ALLTEL Communications, Inc., CC Docket 96-45, DA 04-3046, issued September 24, 2004, footnote 29; In the Matter of Sprint Corporation, CC Docket 96-45, DA 04-3617, issued November 18, 2004, footnote 27.

5. LIFELINE COORDINATED DE-ENROLLMENT

The FCC seeks comment on how it may best facilitate coordinated enrollment with other Federal benefit programs such as the United States Department of Agriculture and its agency counterparts. The FPSC believes that in addition to having Lifeline coordinated enrollment, there should be a process available for Lifeline coordinated de-enrollment. If an agency administers Lifeline eligible programs such as SNAP and Medicaid, and participates in Lifeline coordinated enrollment, there should also be a process whereby Lifeline participants who are determined to be no longer eligible for these programs are automatically de-enrolled.

6. STATE DATABASE CONSUMER PRIVACY PROTECTIONS

The FCC seeks comment on whether and to what extent to include state database consumer privacy protections in any opt-out standard it adopts. Florida's Electronic Lifeline Coordinated Enrollment Process is designed to enable an ETC to enter the name, date of birth, and last four digits of the person's social security number in a computer portal for real-time verification. The computer response will be a "yes" or "no" indicating whether the person is currently participating in SNAP, Medicaid, or TANF. It does not specify which program the person participates in to protect consumer's private information. Florida law requires that personal identifying information of a Lifeline participant must be held confidentially.[11] Any officer or employee of a telecommunications carrier or of the FPSC, who intentionally discloses information in violation of this section, may be held criminally liable. The statute does allow an officer or employee of a telecommunications carrier to disclose personal identifying information of a Lifeline participant to an agency or a governmental entity for purposes directly connected with implementing service for, or verifying eligibility of, a participant in a Lifeline Assistance

[11] See Section 364.107, Florida Statutes.

Plan or auditing a Lifeline Assistance Plan.[12] The FPSC believes that a "yes" or "no" response indicating whether the person is currently participating in Medicaid, SNAP, or TANF is appropriate for queries into state eligibility databases.

7. CONVERTING THE NON-USAGE INTERVAL FROM 60 DAYS TO 30 DAYS

On November 13, 2009, the FPSC submitted comments encouraging the FCC to implement a 60-day inactivity check of Lifeline customers to ensure the USF Fund is only reimbursing prepaid wireless ETCs for active customers.[13] The FPSC, which had already initiated a 60-day non-usage policy, provided an example of the savings to the federal USF.[14]

Prepaid wireless ETCs which do not use monthly billing are required to contact any Lifeline customer with no phone activity during a sixty-day period to determine whether the consumer is still an active Lifeline customer. If no response was received, the phone is deactivated and the ETC ceases including that customer when requesting reimbursement from the Universal Service Administrative Company. The FCC subsequently imposed the 60-day non-usage requirement on all prepaid wireless ETCs in the Lifeline Reform Order[15] in 2012.

In the 2012 Lifeline Reform Order, the FCC amended 47 C.F.R. §54.405 to provide that, where the carrier has a reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria the ETC must send notification of impending termination in writing separate from the subscriber's monthly bill. The FCC changed the timeframe from 60 days to 30 days for ETCs to allow subscribers to demonstrate continued eligibility after receiving the impending

[12] Section 364.107, Florida Statutes, Public records exemption; Lifeline Assistance Plan participants.
[13] In the Matter of Lifeline and Link Up, WC Docket No. 03-109, Joint Comments of the Florida Public Service Commission and the Florida Office of Public Counsel, filed November 13, 2009.
[14] During a six-month period in 2009 for one Florida provider, the 60-day non-usage policy saved the universal service fund $8,582,760 which equates to an annual savings of over $17 million.
[15] In the Matter of Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, Released February 6, 2012.

termination letter. The FPSC believes that change would be similar to changing the 60-day non-usage requirement to 30 days, and supports the change in the non-usage requirement to 30 days to eliminate any unnecessary reimbursement from the USF Fund.

8. LIFELINE $9.25 SUPPORT AMOUNT

The FCC implemented a $9.25 interim reimbursement rate in the 2012 Lifeline Reform Order. In FCC 15-71, the FCC tentatively concludes that it should set the $9.25 rate as a permanent support amount, and asked for comment on its tentative conclusion. The FPSC believes that the $9.25 reimbursement rate may or may not be adequate to include broadband for Lifeline, but the $9.25 rate should be used initially. The FPSC believes that any new Lifeline broadband rules implemented as a result of the FCC's FNPRM, should be reassessed after a period of one year to determine if the $9.25 reimbursement rate is sufficient.

The FCC also seeks comment on whether an end-user charge would be necessary if broadband is included with Lifeline. In its Lifeline Reform Order, the FCC declined to adopt a rule requiring ETCs to impose a minimum consumer charge on subscribers for Lifeline services. The FCC noted that such a charge could be burdensome for those low-income consumers who lack the ability to make such payments electronically or in person, potentially undermining the program's goal of serving low-income consumers in need. The FCC also found that a minimum charge could potentially discourage consumers from enrolling in the program and could result in current Lifeline subscribers leaving the program. In an FCC staff report, the Commission acknowledged that cost was a major barrier to adoption in the broadband pilot program.[16] The same findings in the Order and the Broadband Pilot Program Staff Report would still hold true after adding

[16] Wireline Competition Bureau Low-Income Broadband Pilot Program Staff Report, WC Docket No. 11-42, DA 15-624, May 22, 2015.

broadband. Therefore, the FPSC believes that an end-user charge would be a barrier to enrollment, and should not be imposed if broadband is added to Lifeline.

9. REFERRAL OF LIFELINE ISSUES TO THE FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE

There are over two hundred issues which the FCC is asking for comments on in the Lifeline Second FNPRM. Many of the issues involve the Federal-State partnership regarding Lifeline. Issues cover items such as the possible change of ETC designation authority from states to a national designator, and costs involved in the eligibility process and who should pay for them. In Section 254 of the Act, Congress established the Federal-State Joint Board on Universal Service to implement the universal service mandates of the Act as well as policies related to the designation of ETCs under Section 214(e). Ideally, the FCC should refer all the Lifeline issues included in the Lifeline Second FNPRM to the Universal Service Joint Board before implementation. However, if it is determined that this procedure might delay the process beyond the timeframe of the FCC, then the issues that require the FCC and state partnership should still be referred to the Joint Board. The FCC should also refer those issues to the Universal Service Joint Board after new rules have been in effect for one year in order to assess the outcome of the new rules and enable some of them to be tweaked, if necessary.

CONCLUSION

The FPSC continues to be proactive regarding the Lifeline program to ensure that low-income Florida consumers have the ability to obtain and retain affordable telephone service. The FPSC continues to strive for accountability in the universal service program and safeguard the federal universal service fund from fraud, waste, and abuse. The FPSC encourages the FCC to consider

the proposed recommendations noted in these comments, and appreciates the opportunity to comment.

Respectfully submitted,
/ s /
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DATED: August 31, 2015