

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

**COMMENTS OF THE BENTON FOUNDATION AND
RURAL BROADBAND POLICY GROUP**

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SUMMARY

The Federal Communications Commission proposes to modernize the Lifeline program to include robust broadband service. The Benton Foundation strongly supports the proposal. The Lifeline program was created to ensure that all members of society have access to telephone services that are “crucial to full participation in our society and economy which are increasingly dependent upon the rapid exchange of information.” Broadband is just as important in today’s society as telephone services were 30 years ago. By making broadband more affordable for low-income consumers, the Commission will facilitate better connections to their communities, and the world.

Benton focuses on the potential benefits of broadband for low-income households that have: a) schoolchildren, b) unemployed or underemployed persons, c) persons with impairments and disabilities, and d) persons affected by illnesses. Beyond the four subgroups, scholars have shown that as more members of society gain access to broadband, the economy at-large reaps benefits as well. With the inclusion of broadband comes the need for modernization throughout the Lifeline program, and Benton offers several recommendations to ensure that the program operates effectively and efficiently.

The Commission has ample legal authority to transition the Lifeline program to include broadband.

The Commission must establish minimum service standards for Lifeline voice, text messaging and broadband services. The Commission should determine minimum service standards with two

main goals: 1) to ensure Lifeline recipients receive services that facilitate meaningful, functional use, and 2) to afford adaptability for the different needs of Lifeline-eligible populations in different geographical areas and markets. In setting the standards, the Commission should examine what levels of services are available to a “substantial majority of residential customers.” The Commission should then determine what service level is feasible in various Lifeline-eligible communities, including tribal lands, rural areas, and urban, underserved areas. The Commission should set flexible minimum service standards that are adapted towards the different needs of Lifeline-eligible populations in different geographical areas and markets. Finally, in determining minimum service standards, the Commission should be mindful of opportunities to encourage competition and consumer choice for both voice and broadband service wherever possible.

When setting minimum service standards for broadband, the Commission must discourage providers from rolling out wired or wireless services that include data caps due to their pernicious effects on low-income households. Data caps often come with hidden financial costs that confuse consumers and potentially bump up their bills in unforeseen ways. Moreover, research has shown that there is often no technical necessity for data caps. The practice is more about maximizing profit than managing congestion, even on over mobile services.

The minimum service standards the Commission adopts in this proceeding will need updating in years to come. Lifeline standards should be an evolving level of telecommunications service met by every provider participating in the program. When updating standards and addressing compliance, the Commission should ensure that 1) Lifeline participants are receiving a service

that facilitates meaningful use of broadband, and 2) Lifeline providers are being held accountable for the subsidies they receive.

The current Lifeline subsidy of \$9.25 per month should be reconsidered as the Commission annually assesses the quality of Lifeline offerings and updates the minimum service standards.

The Commission should also adjust the subsidy level for inflation annually to reflect changes in the cost of living.

The Commission should *not* adopt the current size of the Lifeline program as a budget. The population eligible for the program will fluctuate with the health of the economy and the numbers of citizens living in poverty. Lifeline is a means-tested program in which all Lifeline-eligible households are equally deserving of Lifeline subsidies. The Commission should avoid having to determine which low-income households stake a greater claim to assistance.

The Commission should establish a national Lifeline eligibility verifier to enhance the integrity of the eligibility process, encourage new provider participation and facilitate evaluation of the program. The Commission should review state systems for verifying eligibility and adopt clear standards that state systems would have to meet in order to opt-out of a national verifier.

California's Lifeline program has already moved to a third-party verification and management system and the process offers insights for federal policymakers to consider. The California system has reduced the potential for fraud and abuse and improved prospects for more diverse provider participation by taking the costly administrative burden of the verification process

(obtaining, retaining and verifying personal data) off of the provider, allowing smaller providers and other new entrants to participate in the California system.

The Commission should coordinate with federal agencies and their state counterparts to educate consumers about, and simultaneously allow consumers to enroll themselves in, the Lifeline program. Pre-existing programs should be utilized as much as possible so that eligible consumers are educated about, and can easily enroll in, Lifeline. The Commission should leverage existing technologies, databases, and fraud prevention mechanisms for other federal benefit programs wherever possible, including the Veterans Affairs Supportive Housing (VASH) program to assist vulnerable veterans. The Commission should not eliminate income as an eligibility qualification or limit the number of eligible federal assistance programs under the Lifeline program.

The Commission should allow non-traditional providers -- such as small and community-based broadband providers, WISPs, and anchor institutions like schools, libraries -- to participate in Lifeline to increase competition and innovation in the market. Opening up the Lifeline market to non-traditional providers will meet the Commission's goal of "increasing competition and innovation in the Lifeline market" and boosting consumer choice through "encouraging competition with most robust service offerings in the Lifeline market." The Commission has legal authority to create a non-ETC process for provider eligibility.

As recommended in the National Broadband Plan, the Commission should consider free or very low-cost wireless broadband as a means to address the affordability barrier to adoption.

The Commission should amend its rules to count the sending of text messages as usage for the purpose of demonstrating usage sufficient to avoid de-enrollment from Lifeline service. Texting has become a widely adopted communication tool and is the primary means by which many people with disabilities communicate. It is reasonable to allow Lifeline recipients who wish to remain connected on that subscription to send a text message to signal usage and their intention to stay enrolled. The Commission should adopt procedures – including via text messaging -- to allow subscribers to terminate Lifeline service in a quick and efficient manner. And Commission should encourage Lifeline providers to participate in Wireless Emergency Alerts (WEA).

I. BACKGROUND

The Benton Foundation (“Benton”) and the Rural Broadband Policy Group respectfully submits these comments in response to the Federal Communications Commission’s (“Commission”) Notice of Proposed Rulemaking regarding changes to the Lifeline program.

Benton works to ensure that media and telecommunications serve the public interest and enhance our democracy.¹ Benton pursues this mission by: 1) seeking policy solutions that support the values of access, diversity and equity; 2) demonstrating the value of media and telecommunications for improving the quality of life for all; and 3) providing information resources to policymakers and advocates to inform communications policy debates. Benton is a member of the Commission’s Consumer Advisory Committee (CAC) and chairs the CAC Universal Service Working Group. Benton has long advocated for universal, affordable telecommunications access for all citizens.

¹ Benton Foundation, <http://www.benton.org>.

The Rural Broadband Policy Group² is a growing national coalition of rural broadband advocates that emerged from the National Rural Assembly. The group's goals are 1) to articulate national broadband policies that provide opportunities for rural communities to participate fully in the nation's democracy, economy, culture, and society, and 2) to spark national collaboration among rural broadband advocates.³

II. INTRODUCTION

Benton supports the Commission's efforts to modernize the Lifeline program and include robust standalone and bundled broadband service. Lifeline provides critical support to our most vulnerable citizens by reducing the barrier of the cost. By modernizing Lifeline to include a robust, broadband service, the Commission will help include low-income families in a modern, connected world by narrowing the digital divide and closing the Homework Gap. Lack of affordable, high-speed broadband in households severely reduces the quality of life of all members in the family.

In our comments below, Benton focuses on the potential benefits of broadband for low-income households that have: a) schoolchildren, b) unemployed or underemployed persons, c) persons with impairments and disabilities, and d) persons affected by illnesses. Beyond the four subgroups, scholars have shown that as more members of society gain access to broadband, the economy at-large reaps benefits as well. Benton highlights some of these studies.

² The Rural Broadband Policy Group membership: Access Humboldt, Akakū Maui Community Media, Appalshop, California Center for Rural Policy, Center for Rural Strategies, Main Street Project, Media Literacy Project, Mountain Area Information Network

³ <http://ruralassembly.org/broadband-about>

A. Robust broadband through Lifeline will bridge the Homework Gap.

The Homework Gap is huge. According to analysis by the Pew Research Center, there are nearly 5 million households with school-aged children that lack access to robust broadband.

Low-income households, especially black and Hispanic ones, make up a disproportionate share of that 5 million.⁴ Specifically, low-income homes with school-aged children are four times more likely to be without broadband than their middle- or upper-income counterparts.⁵

At the high school level, nearly 100% of students say they are required to access the Internet to complete homework outside of school, but 50% reported that they have been unable to complete an assignment because they did not have access to the Internet or a computer.⁶ Forty-two percent say they received a lower grade on an assignment because of the lack of Internet access.⁷

While modernization and expansion of E-rate has supported schools and districts committed to enhancing education with technology, teachers in low-income communities say that their students' lack of access to online resources at home presents a major challenge to integrating technology into their teaching.⁸ Without broadband access, a student cannot complete basic

⁴ John B. Horrigan, *The numbers behind the broadband 'Homework Gap'*, Pew Research Center (April 20, 2015), <https://www.pewresearch.org/fact-tank/2015/04/20/the-numbers-behind-the-broadband-homework-gap/>.

⁵ Ibid.

⁶ Ibid.

⁷ Hispanic Heritage Foundation and Family Online Safety Institute, *Taking the Pulse of the High School Student Experience in America* (April 28, 2015), available at <http://www.hispanicheritage.org/hispanic-heritage-foundation-mycollegeoptions-family-online-safety-institute-and-other-partners-announce-findings-of-new-study-titled-taking-the-pulse-of-the-high-school-student-experience/>.

⁸ Kristen Purchell et al., *How Teachers Are Using Technology at Home and in Their Classrooms*, Pew Research Center (February 28, 2013),

assignments, conduct simple research, or apply for scholarships.⁹ Bringing broadband access to homes with school-aged children will allow teachers to better communicate with parents and students outside of the classroom about due dates, upcoming events, grades, or important classroom information via email and teacher websites.

Having broadband at home is a necessity for students to take full advantage of the educational tools that the Internet provides. Recognizing this, the Commission enhanced investment in infrastructure to schools and libraries and the Administration is encouraging public/private partnership to bring devices and applications into schools. However, once the school bell rings and the library closes, low-income students are faced with a “broadband desert” at home. Even the most motivated students are then forced to halt their learning process and wait until institutions open back up in the morning.

A Lifeline program offering a robust broadband option will ensure all students have a pathway to home connectivity.

B. Robust broadband through Lifeline will aid job-seekers.

Access to affordable, robust broadband can serve as a pathway out of poverty for Lifeline recipients. Many members in Lifeline-eligible households are unemployed or underemployed. For low-income Americans seeking employment or better employment, online education can be a first step to success. Access to affordable and reliable broadband allows job seekers to obtain access to job retraining resources, research potential careers, and apply for open positions. In

<http://www.pewinternet.org/2013/02/28/how-teachers-are-using-technology-at-home-and-in-their-classrooms/>.

⁹ Ibid.

addition, many massive open online courses (MOOCs) teach useful, employable skills through educational online courses, usually through video or interactive graphical user interfaces. Many of the MOOCs are free or offer very affordable subscriptions.

A Lifeline program equipped with a robust broadband offering provides a pathway to retraining and higher education options so unemployed and underemployed job-seekers may prepare themselves -- and apply -- for their next position.

C. Robust broadband through Lifeline will allow people with disabilities to benefit from assistive technologies.

Including broadband in the Lifeline program will greatly benefit low-income people with disabilities. The Pew Research Center reports that “27% of American adults live with a disability that interferes with activities of daily living.”¹⁰ Disabled adults are more likely to live in low-income households (46%) and have lower levels of education (61% have a high school education or less).¹¹ Only 41% of adults with disabilities have broadband at home, and this can cause major roadblocks to educational opportunities, healthcare research, and community building.¹²

An affordable Lifeline broadband offering will help low-income Americans benefit from assistive technologies for communications. Individuals who are deaf or hard of hearing rely on video relay service (VRS). VRS callers cannot get in touch with a VRS communications

¹⁰ Susannah Fox, *Americans Living with Disability and Their Technology Profile*, Pew Research Center (January 21, 2011), <http://www.pewinternet.org/2011/01/21/americans-living-with-disability-and-their-technology-profile/>.

¹¹ Id.

¹² Id.

assistant, a qualified sign language interpreter, without a video camera device and a broadband Internet connection.

Including a robust broadband option in the Lifeline program will also benefit children with special needs and verbal communication issues. Augmentative and alternative communication (AAC) applications provide options for supplementing or replacing speech with other techniques. Applications such as “Speak for Yourself” and “Augie AAC” allow speech therapists to connect with children who have developmental and speech issues via video conferencing to hold mobile sessions over the Internet.¹³ These AAC applications have the power to efficiently provide more resources and therapy hours to children in a comfortable home environment. Lifeline with a robust broadband option would be the key to ensuring that these benefits will be available to low-income families with special needs.

D. Robust broadband through Lifeline facilitates access to telehealth.

Access to robust broadband is a necessity for good health for many, leading to better healthcare outcomes and helping to reduce healthcare costs. Robust broadband facilitates telehealth -- using telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health, and health administration. The Commission recognizes the growing potential of telehealth applications.¹⁴ Telehealth applications can minimize hospital admissions for patients with chronic conditions and reduces hospital bed days.

¹³ Four Ways Technology can Help Disabled People, Reason Digital (March 14, 2013), <http://reasondigital.com/advice-and-training/four-ways-technology-can-help-disabled-people/>

¹⁴ NPRM at 16, para. 27.

¹⁵ A 2015 report from information and analytics firm IHS found that doctors' virtual consults with patients will likely double by 2020.¹⁶ While the average trip to the doctor costs \$136-176, plus time away from work, virtual consultations cost just \$40-50 -- a huge savings. Lower costs and greater convenience encourage patients to see a doctor sooner, which can often lead to better healthcare outcomes as well.¹⁷ Video streaming capability is an increasingly integral functional piece of telehealth applications. Virtual consults are only achievable with robust, high-speed broadband. By expanding Lifeline service to include broadband and ensuring high definition (HD) video streaming needs can be met, low-income households may potentially join the rest of America in accessing fast, affordable, virtual healthcare.

As the above four subsections reinforce, there is a strong and cogent case for providing robust, high-speed broadband to low-income households through the Lifeline program. The highlighted needs regarding broadband use show no signs of diminishing. Robust broadband through Lifeline will 1) help close the Homework Gap, 2) enable the unemployed and underemployed to gain employable skills via digital learning, 3) allow people with disabilities to tap into the full potential of innovative assistive technologies, and 4) allow patients to lower their healthcare costs and obtain better healthcare outcomes with telehealth and telemedicine applications.

¹⁵ Ibid.

¹⁶ Benjamin Niu & Roegen Roashan. *Telehealth & Remote Patient Monitoring Report - 2015*, IHS Technology, July 31, 2015, available at <https://technology.ihs.com/491699/telehealth-remote-patient-monitoring-report-2015>.

¹⁷ Daniel Castro et al., *Unlocking the Potential of Physician-to-Patient Telehealth Services*, The Information Technology and Innovation Foundation, May 2014, at 4, available at <http://www2.itif.org/2014-unlocking-potential-physician-patient-telehealth.pdf>.

E. Increased access to broadband benefits the economy at-large.

Increased access to broadband is beneficial to the overall economy and everyone in the country. This especially the case for businesses. They gain access to new customers even as they give those customers access to cheaper goods and services available online. The economic benefits of increased broadband use are well-documented in academia. A 2012 paper by Fardahi et al. finds a strong positive relationship between growth rate of real Gross Domestic Product (GDP) per capita and information and communication technology (ICT) use index (as measured by the number of internet users, fixed broadband internet subscribers and the number of mobile subscription per 100 inhabitants).¹⁸ A 2011 paper by Thompson et al. finds that mobile broadband has a direct positive impact in GDP. In particular, low-income communities derive significantly more benefit from mobile broadband than high-income samples, since mobile broadband is “a significant driver of growth via a reduction of inefficiency.” Their findings “lend support to modest programs for mobile broadband expansion for the lower-income areas.”¹⁹ A 2011 paper by Greenstein et al. studied the economic value that broadband Internet has created in the U.S. in 2006. By calibrating against historical adoption and incorporating counterfactuals, the authors find that broadband accounted for \$28 billion of the \$39 billion of U.S. GDP in 2006.²⁰

¹⁸ Maryam Farhadi et al., *Information and Communication Technology Use and Economic Growth*, PLoS ONE 7(11): e48903 (2012).

¹⁹ Herbert G. Thompson Jr., Christopher Garbacz. *Economic Impacts of Mobile versus Fixed Broadband*. 35 Telecommunications Policy 999 (2011).

²⁰ Shane Greenstein & Ryan C. McDevitt. 35 Telecommunications Policy 617-632 (2011). (“Depending on the estimate, households generated \$20–\$22 billion of broadband revenue and approximately \$8.3–\$10.6 billion was additional revenue created between 1999 and 2006. Consumer surplus accounted for \$4.8–\$6.7 billion of this amount, which is not measured in GDP.”)

III. THE COMMISSION SHOULD ESTABLISH MINIMUM SERVICE STANDARDS FOR LIFELINE SERVICES.

The Commission proposes establishing minimum standards for voice and broadband to ensure maximum value for each dollar of universal service funds and so that consumers receive a robust useful service.²¹ Benton supports the proposal. The Commission should determine minimum service standards with two main goals: 1) to ensure Lifeline recipients receive broadband services that facilitate meaningful, functional use, and 2) to afford adaptability for the different needs of Lifeline-eligible populations in different geographical areas and markets.

Without minimum service standards, providers receiving Lifeline subsidies are subject to less accountability. Setting minimum service standards will ensure that Lifeline providers do not offer services that fail to meet Lifeline participants' telecommunications needs. By setting minimum service standards, the Commission will ensure funds go as far as possible in fulfilling the intended purpose of extending critical telecommunications services to low-income Americans.

The Commission should examine what levels of services are available to a "substantial majority of residential customers."²² The Commission should then determine what service level is feasible in various Lifeline-eligible communities, including tribal lands, rural areas, and urban, underserved areas. The Commission should set flexible minimum service standards that are adapted towards the different needs of Lifeline-eligible populations in different geographical

²¹ NPRM at 11-28, paras. 17-62.

²² 47 U.S.C. § 254(c)(1)(A)-(D).

areas and markets. Finally, in determining minimum service standards, the Commission should be mindful of opportunities to encourage competition and consumer choice for both voice and broadband service wherever possible.

A. The Commission should establish minimum service standards for voice services that are comparable to what a majority of residential subscribers enjoy.

The Commission should go beyond what is typically found today in Lifeline voice offerings at no cost to recipients in determining minimum service standards for voice. The Commission states that the standard Lifeline market offering of 250 minutes²³ is two-to-three times lower than the estimated national averages of monthly minutes usage, which ranges between 650-750 minutes.²⁴ Voice calls remain an integral part of daily communications for consumers, but especially so for low-income consumers. As of January 2014, 90% of American adults had a cell phone.²⁵ Pew found in 2010 that the average adult cell phone owner makes and receives around 5 voice calls a day.²⁶ Benton recommends that for Lifeline providers of voice-only products, at a minimum, expand to offer the average wireless minutes of use within the next year, and from there move towards offering unlimited minutes.

The Commission should set minimum service levels that ideally result in Lifeline consumers having meaningful choice for various levels of voice, text messaging, and broadband, should

²³ NPRM at 10, para 16.

²⁴ NPRM at 21-22, para 40.

²⁵ Cell Phone and Smartphone Ownership Demographics, Pew Research Center, <http://www.pewinternet.org/data-trend/mobile/cell-phone-and-smartphone-ownership-demographics/>.

²⁶ Amanda Lenhart, *Cell Phones and American Adults*, Pew Research Center (September 2, 2010), <http://www.pewinternet.org/2010/09/02/cell-phones-and-american-adults/>.

they opt for a bundled service through Lifeline as some households may have a greater need for voice than broadband, or vice versa.

B. The Commission should create a flexible standard that can be revisited to encourage competition and enhance consumer choice in a variety of Lifeline markets.

As the NPRM points out, minutes and service plans for Lifeline customers have largely been stagnant.²⁷ Benton agrees with the Commission's assessment that this is reflective of lack of sufficient competition in the market. While minimum service standards do not directly create competition, if they are set at the appropriate level and allow for flexibility (in tribal, rural, and urban markets), they may be conducive to innovation by providers. With a uniform and inflexible federal standard, providers that can feasibly offer more than the minimum in certain Lifeline markets may gravitate towards providing less rigorous services. The Commission should use the establishment of minimum service standards as an opportunity to offer guidance on what reasonable Lifeline services should resemble (depending on the conditions of different markets) without starting a race to the baseline.

In California, minimum service standards are one of many factors that contributed to a healthy, competitive market where providers innovate to give Lifeline customers meaningful choice. The California Public Utilities Commission (CPUC) developed minimum standards in wired and wireless voice service to provide consumers with a valuable service and to encourage robust competition and choice among the four Lifeline providers in the California market.²⁸ The

²⁷ NPRM at 10-11, 21-22, paras. 16, 39, 42.

²⁸ Sean McLaughlin, *The California Lifeline Reform Case Study - Overview*, Benton Foundation Digital Beat Blog (August 3, 2015), <https://www.benton.org/blog/california-lifeline-reform-case-study-overview>.

Commission should examine the California Lifeline program to better understand how minimum service standards may be crafted to maximize competitiveness of the market. The Commission should also examine California’s Lifeline voice programs that include mobile data.

Wherever possible, the Commission should encourage variation and flexibility in offerings that cater to the different needs of Lifeline-eligible customers. The Commission should also periodically review and, if necessary, update these minimum standards in response to developments in markets, new applications, and levels of competitiveness.

C. The Commission should establish standards for fixed and mobile broadband services to ensure low-income houses are provided with affordable and “reasonably comparable” levels of service.

The following section goes through the legal standards the Commission may rely upon to set minimum service standards. It then explores how a minimum speed threshold for Lifeline broadband services may differ from the Commission’s current definition of high-speed broadband. It then examines what broadband offerings are currently available to low-income communities via alternative programs.

i. Section 254 gives the Commission sound legal footing to establish standards for fixed and mobile broadband services

Section 254 of the Communications Act of 1934²⁹ gives the Commission sound legal footing to establish standards for fixed and mobile broadband services. Section 254 mandates that the Commission base policies for the preservation and advancement of universal service on seven principles including “Quality services should be available at just, reasonable, and affordable

²⁹ 47 U.S.C. § 254

rates.”³⁰ Congress mandates that low-income consumers and those in rural, insular, and high cost areas should have “access to telecommunications and information services, including interexchange services and advanced telecommunications and information services that are **reasonably comparable to those services provided in urban areas.** [emphasis added]”³¹ In defining supported services, the Commission is directed by Congress to consider the extent to which such services “are essential to education, public health, or public safety”; “have, through the operation of market choices by customers, been subscribed to by a **substantial majority of residential customers** [emphasis added]”; and are “consistent with the public interest, convenience, and necessity.”³² Bolstered by evidence, the Commission sequentially addresses how broadband is essential to education, public health, and public safety in the NPRM.³³ Benton commends the Commission’s extensive analysis and careful adherence to statutory directives.

ii. The Commission should review various data sources to determine the average speeds subscribed to by a substantial majority of residential customers in the U.S.

Guided by the above legal standards, the Commission should rely on available data sources to determine the average speeds subscribed to by a substantial majority of residential customers in the U.S. For example, according to the latest “State of the Internet” report from content delivery network Akamai Technologies, the average download speed in the U.S. in the first quarter of

³⁰ Id. §254(b)(1).

³¹ Id. §254(b)(3).

³² Id. §254(c)(1)(A)-(D).

³³ NPRM paras. 18-26 (under “Education” and “Participation in Lifeline by eligible households with school children”), paras. 27-28 (under “Health Care” and “Individuals with Disabilities”), and para. 29 (under “Public Safety”).

2015 was 11.9 Mbps for fixed and 4 Mbps for mobile.³⁴ The Commission should review all relevant data from the *National Broadband Map* and *Measuring Broadband America* reports. In particular, the Commission’s *Measuring Broadband America* report from 2014 offers useful guidance on what factors affect speeds required for optimal web browsing, voice over Internet Protocol (VoIP), and streaming video.³⁵ For example, the 2014 report contains useful information for determining the minimal speeds required to support daily broadband usage of multi-user households:

“Web browsing: In specific tests designed to mimic basic web browsing — accessing a series of web pages, but not streaming video or using video chat sites or applications — the total time needed to load a page decreased with higher speeds. However, the performance increase diminishes beyond about 10 Mbps, as latency and other factors begin to dominate. For these high speed tiers, consumers are unlikely to experience much if any improvement in basic web browsing from increased speed—i.e., moving from a 10 Mbps broadband offering to a 25 Mbps offering. To be sure, this is from the perspective of a single user employing a web browser. Higher speeds may provide significant advantages in a multi-user household, or where a consumer is using a specific application that may be able to benefit from a higher speed tier.”

“Streaming Video: [...] Standard definition video is currently commonly transmitted at speeds from 1 Mbps to 2 Mbps. High quality video can demand faster speeds, with full HD (1080p) demanding 5 Mbps or more for a single stream. Consumers should

³⁴ For example, Akamai’s research found that six states had average fixed download speeds above the 15 Mbps threshold, with no states (measuring by state averages) reaching the FCC’s newly defined 25 down/ 3 up broadband service. See *State of the Internet Q1 2015 Report*, Volume 8, Number 1, Akamai, at 17 and 42,

<https://www.akamai.com/us/en/our-thinking/state-of-the-internet-report/>.

³⁵ FCC’s Office of Engineering and Technology and Consumer and Governmental Affairs Bureau, *Measuring Broadband America: State of U.S. Broadband* (2014), at 17, available at <https://data.fcc.gov/download/measuring-broadband-america/2014/2014-Fixed-Measuring-Broadband-America-Report.pdf>.

understand the requirements of the streaming video they want to use and ensure that their chosen broadband service tier will meet those requirements, including when multiple members of a household simultaneously want to watch streaming video on separate devices.”

Specifically for mobile broadband speeds, the Commission should also refer to data on mobile broadband coverage and availability, subscribership, and speeds through its Form 477 Local Competition and Broadband Data collection, and data collected for its annual Mobile Wireless Competition Reports.

Finally, the Commission may also want to reference its own minimum standard set for rural broadband under the Connect America Fund. In late 2014 the Commission stated that, “to further the statutory goal of ensuring that consumers in rural parts of the country have access to advanced telecommunications and information services that are reasonably comparable to those services available in urban areas,” the Commission increased the minimum target for rural broadband speed under the Connect America Fund to 10 Mbps/1 Mbps from its previous requirement of 4 Mbps/1 Mbps speeds set in 2011.³⁶

iii. Current Offerings Suggest that the Current Lifeline Subsidy Could Provide Low or No Cost Broadband for Lifeline Participants

For the Commission’s reference, Table 1 in the Appendix shows some of the nation’s most affordable broadband offerings currently, many of which are offered in association with

³⁶ FCC increases rural broadband speeds under Connect America Fund (December 11, 2014), https://apps.fcc.gov/edocs_public/attachmatch/DOC-330989A1.pdf.

EveryoneOn.³⁷ Benton highlights the following two pieces of information in Table 1 that are crucial for the Commission to consider in its Lifeline proceeding:

- Table 1 strongly shows the feasibility of offering relatively-robust mobile broadband services at rates comparable to the existing Lifeline subsidy level. There are various means-tested programs, such as Comcast’s “Internet Essentials,” that offer broadband at \$9.95 per month. There are innovative programs like FreedomPop that offer wireless broadband at even lower prices without income qualifications. Current offerings targeted at low-income households suggest that the current Lifeline subsidy of \$9.25 could provide low or no cost broadband for Lifeline participants.
- Currently, low-income customers who subscribe to broadband via existing means-tested programs often can only access maximum speeds that are below 4 Mbps, which is the speed required for HD video-streaming according to the Commission.³⁸ This may prevent them from accessing crucial educational and telehealth resources as outlined earlier.

D. The Commission should establish minimum service standards for broadband services that is governed by functional use.

Benton encourages the Commission to consider the functional uses of broadband as part of the rubric in setting minimum service standards. It would be a substantial misstep if the Commission’s minimum standards failed to facilitate connections to robust educational, cultural, health, career, civic and public safety applications. Benton encourages the Commission to consider the functional uses of broadband and the technical requirements (broadband speeds,

³⁷ EveryoneOn is a national nonprofit working to eliminate the digital divide by making high-speed, low-cost Internet service and computers, and free digital literacy courses accessible to all unconnected Americans. See EveryoneOn, <http://everyoneon.org/>.

³⁸ See *infra*, FCC Broadband Speed Guide.

data caps, and equipment) necessary to facilitate the robust use of those applications. In defining supported Universal Service Fund (USF) services, the Commission is directed by Congress to consider the extent to which such services “are essential to education, public health, or public safety”; “have, through the operation of market choices by customers, been subscribed to by a **substantial majority of residential customers** [emphasis added]”; and are “consistent with the public interest, convenience, and necessity.”³⁹ Benton believes that the incorporation of a functional use metric will ensure that the Commission’s minimum standards consistently meet the goals of the Telecommunications Act.

Table 2 in the Appendix shows functional data usage estimates for one smartphone (3G/4G-enabled) according to “data calculators” of the four major wireless providers.

i. On Speeds: The Commission should ensure minimum service standards for broadband support current applications and are adjustable to support future applications

To facilitate Lifeline subscribers’ use of educational and healthcare services, the Commission should ensure that the neediest recipients receive broadband service which meets the bandwidth requirements of video streaming. As explained in the introduction, streaming and other bandwidth-intensive functions allow low-income households to:

- Complete homework and access interactive digital learning tools;
- Access job training videos and MOOCs;
- Use cost-saving telehealth applications like virtual consultations;

³⁹ Id. §254(c)(1)(A)-(D).

- Access innovative assistive technologies like VRS and AAC applications for persons with disabilities.

Lifeline broadband speed thresholds should be easily adjusted to meet any future needs required by educational and telehealth applications. Khan Academy, a nonprofit with the mission of providing a free education for anyone, anywhere, suggests “~1.5 Mbps bandwidth *per device* playing standard-definition videos.”⁴⁰ The Commission’s Broadband Speed Guide sets the minimum download speeds for “HD-quality streaming movie or university lecture” and “HD video conference and telelearning” at 4 Mbps.⁴¹ However, while download speeds of 4 Mbps might be sufficient to stream one Khan Academy lesson now, it may not “be enough to support the interactive applications of the future.”⁴² It is also important to note that in a Lifeline family there may be multiple students vying for access to educational resources during the same after-school and after-work hours. The Commission’s approach to minimum broadband standards should ensure all members of the household will have consistent and robust access to online resources.

⁴⁰ Khan Academy, Technology set-up and maintenance (for organizational use), <https://khanacademy.zendesk.com/hc/en-us/articles/204795670-Technology-set-up-and-maintenance-for-organizational-use-> (last accessed August 11, 2015).

⁴¹ Federal Communications Commission, Broadband Speed Guide, <https://www.fcc.gov/guides/broadband-speed-guide> (last accessed August 11, 2015) (“FCC Broadband Speed Guide”).

⁴² Danielle Kehl & Benjamin Lennett, *A Failing Grade for Broadband*, Slate (April 17, 2013).

ii. On Data Caps: When setting minimum service standards for broadband, the Commission should discourage providers from rolling out wired or wireless services that include data caps due to their pernicious effects on low-income households.

The Commission requests comment on how to address data caps (or usage-based pricing).⁴³

Wherever possible, and especially for wireline broadband, minimum service standards should enable functional use without data caps or usage-based constraints.

As the Commission develops minimum standards, it must ensure that Lifeline users have options that meet their needs without falling into the trap of overages or other added fees. Data caps often come with hidden financial costs that confuse consumers and potentially bump up their bills in unforeseen ways. A 2015 report⁴⁴ from the Open Technology Institute at the New America Foundation (“OTI”) details “the ways in which restrictive caps and the climate of scarcity that they promote can chill online behavior in damaging ways.” OTI, using the 2014 average monthly bandwidth consumption for a North American household of 54 GB, finds that a household signed up for Time Warner Cable’s “Essentials Internet” subscription for low-income families would end up spending almost \$52 a month, including \$25 in overage fees.⁴⁵

⁴³ NPRM at 22, para. 43.

⁴⁴ Danielle Kehl & Patrick Lucey, *Artificial Scarcity: How Data Caps Harm Consumers and Innovation*, New America and Open Technology Institute, available at https://static.newamerica.org/attachments/3556-artificial-scarcity/DataCaps_Layout_Final.a7ef6b9029da4dd29324757e5710b903.pdf.

⁴⁵ Id. at 2.

More importantly, data caps often come with pernicious non-monetary costs as well. A 2012 academic study finds that data caps force home users to juggle three uncertainties regarding their bandwidth usage -- “invisible balances, mysterious processes, and multiple users” -- that often lead to confusion and emotional strain in the household.⁴⁶ These pressures caused by data caps have a disproportionate impact on low-income households, where tight budgets force households to most acutely feel the financial strain of broadband.

Usage-based pricing may force households to make difficult and unnecessary budgeting tradeoffs, especially among low-income households. Data caps in Lifeline offerings would force low-income households to ration what is likely an already-limited broadband offering. With one Lifeline service per household,⁴⁷ any caps on data usage in either a wireline or wireless broadband offering will necessarily compel members in the household to ration their usage. This is a difficult task that undermines the usefulness of broadband. Multiple family members within qualifying households rely on whatever is offered through the sole subscription to meet their collective communications needs, including accessing health and emergency services, seeking employment, staying connected with employers and fulfilling school requirements. This spreads the subsidy very thin and undercuts the intended purpose of the Lifeline program. Rationing

⁴⁶ Marshini Chetty et al., “*You’re Capped!*” *Understanding the Effects of Bandwidth Caps on Broadband Use in the Home*, Proceedings of the SIGCHI Conference on Human Factors in Computing Systems, ACM 3021 (2012).

⁴⁷ “Household” is defined as any individual or group of individuals who live together at the same address as one economic unit. An “economic unit” is defined as “all adult individuals contributing to and sharing in the income and expenses of a household.” See *Lifeline: Affordable Telephone Service for Income-Eligible Subscribers*, FCC Guide (April 8, 2014), <https://www.fcc.gov/guides/lifeline-and-link-affordable-telephone-service-income-eligible-consumers>.

between family members is especially difficult with mobile data. Wireless services are often unclear about how data is consumed, particularly as a user downloads applications. Applications use data non-transparently and even the most careful user can suddenly find oneself struggling with an approaching cap on data.

Research has shown that there is often no technical necessity for data caps. The practice is “more about maximizing profit than managing congestion, even on the mobile side,” as the authors of the OTI report note.⁴⁸ Individuals on an unlimited data plan effectively pay less per gigabyte than those on plans with a cap -- about \$1.68 versus \$3.02 respectively, or nearly an 80% difference. The higher payoff acts as an incentive for providers to implement usage-based pricing.⁴⁹ However, as the OTI report explains, data caps, “especially on wireline networks, are hardly a necessity, and instead appear to be primarily motivated by a desire to further increase revenues from existing subscribers and protect legacy services from competing Internet services. There is little technical rationale for data caps, especially since congestion occurs in moments of peak demand, while data caps discourage usage at all times, even during off hours, when the network has plenty of capacity.”⁵⁰ Executives of Internet Service Providers have publicly acknowledged this to be true. For example, Comcast's Vice President of Internet services recently attributed their 300GB data cap to “business policy” rather than technical necessity.⁵¹

⁴⁸ See Kehl and Lucey, *supra* at 7.

⁴⁹ Brian Fung, *Here's How Data Caps Really Affect Your Internet Use, According to Data*, Wash. Post. (July 14, 2015), <https://www.washingtonpost.com/blogs/the-switch/wp/2015/07/14/heres-how-data-caps-really-affect-your-internet-use-according-to-data/>.

⁵⁰ *Ibid.*

⁵¹ Jon Brodtkin, *Comcast VP: 300GB data cap is “business policy,” not technical necessity*, Ars Technica (August 15, 2015),

Caps on data would constrain the relevant uses that Lifeline strives to provide to vulnerable populations. Low-income households should not be forced into broadband service that puts them at risk of high fees they cannot afford to pay. Especially since Lifeline is a means-tested program, the Commission should ensure that these most vulnerable households participating in the Lifeline program do not bear the brunt of profit-driven motives. The Commission should discourage providers from rolling out wired or wireless services that include data caps, as there is no technical necessity for such a cap on data. Any plan that wishes to implement a cap on data must be closely scrutinized. Should a Lifeline service come with data caps, users must be informed in clear language and at helpful intervals what the terms of the cap are, when they are approaching a cap, and what will happen if they go over their allotted amount of data.

E. The Commission should design minimum standards that address the advantages and disadvantages of wireline and wireless broadband.

The Commission should design minimum service standards and support levels, while considering the resulting advantages and disadvantages of wireline and wireless broadband service offerings. The Commission should consider the capacity, price, coverage, quality of service, supported devices, and other relevant metrics when determining minimum service standards for wireline and wireless broadband.

Fixed broadband has the following benefits relative to mobile. It:

- Is, on average, more reliable than mobile;

<http://arstechnica.com/business/2015/08/comcast-vp-300gb-data-cap-is-business-policy-not-technical-necessity/>.

- Generally has much lower latency than mobile;
- May support more functional uses for Lifeline users, since fixed broadband generally supports higher upload and download speeds in most areas, especially urban ones;
- Has monthly fixed broadband download usage limits that tend to be higher than mobile data caps; and
- Comes with better customer support.

On the other hand, availability of robust fixed broadband is limited across the country and may not be available for some Lifeline recipients. There may also be limited differentiated offerings depending on the geographical area and market. Equipment costs (modem and wireless router), installation, and set-up fees tend to be higher than adopting mobile broadband.

Mobile broadband has the following relative benefits:

- It allows for portable broadband use whereas fixed is constrained to home use, a plus for Lifeline participants in transitional housing situations.
- In rural areas where a fixed line is hard to reach, mobile may be the optimal choice.
- The marginal cost of adopting broadband for a first-time user is the SIM card and compatible device instead of costs associated with equipment and installation for fixed broadband.
- Terms of data plans, such as length of commitment, may be more flexible than fixed offerings.

However, 4G coverage can be patchy and less reliable than fixed broadband. Speeds are slower and functional uses are limited by small screens and less-powerful mobile operating systems. Families will be faced with set-up costs and fees if they need to add devices to serve all their members on one plan. Also, while wireless hotspots have the option to connect multiple devices, this feature results in less robust broadband than the same number of devices on fixed broadband.

i. The Commission should consider current usage patterns of qualifying users who will likely subscribe to broadband through Lifeline.

The Pew Research Center found in 2015 that 7% of Americans are “smartphone-dependent.” 10% of Americans own a smartphone but do not have broadband at home, and 15% own a smartphone but say they have a limited number of options for going online other than their cell phone. The overlapping 7% -- the “smartphone-dependent” population -- have limited options for online access and no broadband service at home. They use smartphones for navigating numerous important life activities, from researching a health condition to accessing educational resources. Lower-income and “smartphone-dependent” users are especially likely to turn to their phones for navigating job and employment resources.⁵² Those with relatively low-income and educational attainment levels, younger adults, and non-whites are especially likely to be “smartphone-dependent.”

Lifeline modernization efforts should be far-sighted and acknowledge the growing availability of mobile broadband. However, it is critical that the Commission utilize the development of

⁵² Aaron Smith, *U.S. Smartphone Use in 2015*, Pew Research Center (April 1, 2015), <http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/>.

minimum standards to ensure low-income Americans reap the real benefits of access if they choose to direct their limited Lifeline funds for a mobile broadband service.

ii. The Commission ought to examine existing innovative programs that offer discounted wireless services via smartphone plans or mobile hotspot programs.

The Commission should examine the New York Public Library’s HotSpot Lending Program designed for patrons without home Internet. It lends out hotspots for free, 6 months at a time.⁵³ Mobile Beacon⁵⁴ and Mobile Citizen⁵⁵ are nonprofits that provide affordable unlimited 4G mobile broadband at \$10/month to households with an average annual income of under \$35,000 and various qualifying schools, libraries, nonprofits, and community organizations.⁵⁶ At \$5/month, FreedomPop offers unlimited use of 10 million mobile hotspots across the country without income qualifications.⁵⁷ While such programs are not operated by direct-to-consumer wireless providers, nor may these entities have the incentive structure to seek eligible telecommunications carrier (ETC) designation from the Commission and their state utility regulators, these examples irrefutably demonstrate both the demand for affordable wireless

⁵³ MyNYPL Library HotSpot Program, <http://hotspot.nypl.org/> (last accessed August 10, 2015).

⁵⁴ Mobile Beacon, <http://www.mobilebeacon.org/who-we-are/company-overview/> (“Mobile Beacon was created by a 501(c)(3) nonprofit organization and the second largest national Educational Broadband Service (EBS) provider in the United States.”) (last accessed August 29, 2015).

⁵⁵ Mobile Citizen, <http://mobilecitizen.org/> (last accessed August 29, 2015) and Voqal, <http://voqal.org/> (last accessed August 29, 2015). (“Voqal’s nationwide Mobile Citizen is the first 4G service provider in the U.S. to offer affordable mobile Internet exclusively to education and nonprofit organizations.”)

⁵⁶ Mobile Beacon, <http://www.mobilebeacon.org/resources/faqs> (last accessed August 9, 2015).

⁵⁷ FreedomPop Nationwide WiFi, <https://www.freedompop.com/nationwide-wifi> (last accessed August 10, 2015).

offerings and the feasibility of offering relatively-robust mobile broadband services at rates comparable to the existing Lifeline subsidy level.

F. Lifeline standards should be an evolving level of telecommunications service met by every provider participating in the program.

The Commission requests comments on the related issues of updating standards (how to establish a mechanism to ensure that minimum service standards stay relevant over time) and ensuring compliance (how to ensure such minimum service levels are met and maintained).⁵⁸

Lifeline should support an “evolving level” of telecommunications service. As explained, the bandwidth requirements for streaming and teleconferencing to meet educational and telehealth needs are evolving. The Wireline Competition Bureau (WCB) should be responsible for establishing and regularly updating a mechanism to monitor where ideal minimum service levels should be set. This mechanism should be tied to objective, reliably-updated data. To regularly update standards and assess whether services provided meet the needs of the subscribers, the Commission should compare Lifeline providers’ official advertised offerings to the services Lifeline participants actually receive.

Minimum service standards are only meaningful if they are being met. Benton sees two main objectives to the Commission’s efforts in updating standards and ensuring compliance: a) to ensure that Lifeline participants are receiving a service that facilitates meaningful use of broadband, and b) to ensure that Lifeline providers are being held accountable for the subsidies they receive.

⁵⁸ NPRM at 25, para 48-51.

While consumer complaints over speed or data caps may serve as proxies, the onus should not be on consumers to prove they are receiving adequate service. To that end, Benton supports the Commission's proposal to require Lifeline providers to provide metrics on their own broadband performance. As the Commission suggests, such compliance efforts could be made part of an annual certification process of Lifeline providers, part of an application to become a Lifeline provider, or part of a review and auditing process.⁵⁹ Lifeline providers should have to provide data on what they are offering (including information on price, advertised speeds, any fees associated with installation and equipment set-up, length of offerings and any incremental changes in price, any caps to data, if throttling is imposed, any other relevant rules that may restrict use, etc) and some element of proof that they are delivering what they are selling. The data should be accessible publicly, which allows for transparency and serves as a point of reference for customers who wish to dispute the performance metrics.

G. The Commission should revisit the Lifeline subsidy amount on a regular basis.

The current Lifeline subsidy of \$9.25 per month should be reconsidered as the Commission annually assesses the quality of Lifeline offerings and updates the minimum service standards. The Commission should also adjust the subsidy level for inflation annually to reflect changes in the cost of living. As costs and offerings change, the Commission must also retain the ability to reset the subsidy amount so that the program continues to provide substantial support to low-income subscribers. Benton strongly disagrees with setting a permanent subsidy amount.

⁵⁹ NPRM at 24, para. 51.

H. The Commission should not adopt the current size of the Lifeline program as a budget.

The Commission seeks input on the proposals to constrain the overall size of the fund allocated to the Lifeline program. The Commission notes that “[t]oday, not every eligible household participates in the Lifeline program. Thus, if we were to adopt the current size of the Lifeline program as a budget, it could foreclose some eligible households from participating in the program. Ultimately the size of the Lifeline program is limited by the number of households living in poverty and, as we do better as a society to bring households out of poverty, the program should naturally reduce in size.”⁶⁰ Benton echoes the Commission’s sentiments and advocates against adopting a cap for the Lifeline program.

Lifeline is a “month-to-month program.”⁶¹ As Benton cautioned in 2011, if a cap were imposed, the Commission may suddenly find itself cutting off support for income-eligible individuals.⁶² Additionally, a cap may lead to a situation where only the first individuals to apply during a funding year would receive service before the cap was met, forcing the Commission and providers to turn away income-eligible consumers. Such a system could lead to individuals who are eligible cycling on and off the program as it hits the cap.⁶³ This would lead to a lack of predictability for recipients and introduce extra administrative hassle for carriers and administrators.

⁶⁰ NPRM at 26-27, para. 57.

⁶¹ NPRM at 27, para. 58.

⁶² Comments of the Benton Foundation, WC Dkt. Nos. 11-42, 03-109, CC Dkt. No. 96-45, filed Apr. 21, 2011.

⁶³ Id.

Lifeline is a means-tested program in which all Lifeline-eligible households are equally deserving of Lifeline subsidies. The Commission should avoid having to determine which low-income households stake a greater claim to assistance. The Cellular Telecommunications Industry Association (CTIA) echoed these concerns at a hearing of the Senate Subcommittee on Communications, Technology, Innovation, and the Internet in June 2015:

“While CTIA appreciates the interest some have expressed in limiting the size of the Lifeline program through a cap or budget on the total amounts that USAC may distribute, CTIA believes that capping the Lifeline program may be counterproductive to encouraging low-income consumers to adopt essential communications services. A cap or budget on the Lifeline program will inherently exclude – or reduce the benefits for – an undetermined number of the eligible low-income consumers. As argued by CTIA, because the Lifeline program provides support only to means-tested recipients and serves a purpose more akin to other low-income government programs that aren’t subject to caps or budgets, it is reasonable for the Commission to distinguish this program from other federal Universal Service Fund (USF) programs that are appropriately subject to a cap.”⁶⁴

In addition, since Lifeline is a means tested program, the population eligible for the program will fluctuate with the health of the economy and the numbers of citizens living in poverty. Therefore the current flexible program structure is well suited for the variable population eligible for the Lifeline program.

I. The Commission has ample legal authority to expand Lifeline to include broadband service.

The Commission has asked whether it should expand Lifeline to include broadband service by amending Sections 54.101, 54.400 and 54.402 of its rules. It also seeks comment on its authority

⁶⁴*Lifeline: Improving Accountability and Effectiveness: Hearing Before the Subcomm. on Communications, Technology, Innovation and the Internet of the S. Comm. on Commerce, Science, and Transportation*, 114th Cong. (2015) (statement of Scott Bergmann, Vice President of Regulatory Affairs, CTIA).

to take such action. Benton supports such amendments and shows here that the Commission has several statutory tools, each of which is sufficient to allow it to promulgate this requirement.

i. Section 254(c).

The Commission can redefine “universal service” to include broadband internet access and then use that as a basis to expand Lifeline coverage to broadband. While the Commission has declined to do this in the past,⁶⁵ it clearly has the legal and factual basis to do so.

Universal service, including Lifeline, is defined in Section 254(c) as

an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board in recommending, and the Commission in establishing, the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services —

- (A) are essential to education, public health, or public safety;
- (B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
- (C) are being deployed in public telecommunications networks by telecommunications carriers; and
- (D) are consistent with the public interest, convenience, and necessity.

There can be no doubt that changing technology and the emergence of service broadband networks has created a need for broadband access. Thus the Commission can and should recognize that circumstances have “evolved” to the point where it can define broadband as an element of universal service and thus that broadband should be made available to Lifeline participants. The criteria set forth in Section 254(c) fully justify such a finding. As discussed in these comments, broadband access has, indeed, become “essential to education, public health

⁶⁵ *Connect America Fund*, 26 FCCRcd 17663, 17687 (2011).

[and] public safety;...” The Commission’s data, including the findings in the *2015 Broadband Progress Report*,⁶⁶ conclusively establish that “a substantial majority of residential customers” have chosen to obtain broadband access. The data also show that almost the entire country has at least one broadband provider. All these circumstances lead to a determination that Lifeline funds should be available for broadband services.

ii. Section 254(e).

Even if the Commission does not wish to redefine universal service to include broadband, it has full power to expand Lifeline to include broadband under Section 254(e), which specifies that ETCs “shall use that [universal service] support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” This is, the Tenth Circuit has held, “an implicit grant of authority to the FCC to flesh out precisely what ‘facilities’ and ‘services’ USF funds should be used for.”⁶⁷ As the Commission said in inaugurating its pilot program for Lifeline broadband service,

Congress made clear in section 254 that the deployment of, and access to, information services – including “advanced” information services – are important components of a robust and successful federal universal service program. Also, the statute is clear that universal service support should include addressing low-income needs. Using a discrete, time-limited broadband pilot program to determine whether the low-income program can successfully be used to increase broadband adoption among low-income consumers is therefore consistent with the purposes of section 254.⁶⁸

The only thing that is different here is that the Commission would be extending the pilot program under the same authority.

⁶⁶ 30 FCCRcd 1375, 1380 (2015).

⁶⁷ *In re FCC 11-161*, 753 F.3d 1015, 1046 (10th Cir. 2014).

⁶⁸ *Lifeline and Link Up Reform and Modernization*, 27 FCCRcd 6656, 6798 (2012)(footnotes omitted).

It bears emphasis that the Commission’s power under Section 254 is not dependent upon the Commission’s recent reclassification of broadband internet access as a Title II “telecommunications service.”⁶⁹ Even if broadband were not a “telecommunications service,” it is clear that the Commission can define an information service as an element of universal service notwithstanding Section 254(c)’s reference to an “evolving level of telecommunications services....” In upholding the Commission’s requirement that carriers receiving USF Connect America Fund support must make broadband available to consumers upon request, the Tenth Circuit said,

nothing in the language of subsection [Section 254](c)(1) serves as an express or implicit limitation on the FCC's authority to determine what a USF recipient may or must do with those funds. More specifically, nothing in subsection (c)(1) expressly or implicitly deprives the FCC of authority to direct that a USF recipient, which necessarily provides some form of “universal service” and has been deemed by a state commission or the FCC to be an eligible telecommunications carrier under 47 U.S.C. § 214(e), use some of its USF funds to provide services or build facilities related to services that fall outside of the FCC's current definition of “universal service.” In other words, nothing in the statute limits the FCC's authority to place conditions, such as the broadband requirement, on the use of USF funds.⁷⁰

iii. Section 706(b).

Section 706(b) of the Telecommunications Act of 1996 provides an independent additional basis upon which the Commission can extend Lifeline coverage to broadband. Section 706(a) directs the Commission to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.” Under Section 706(b), when the Commission determines that “advanced telecommunications capability” is not “being deployed to all

⁶⁹ *Protecting and Promoting the Open Internet*, 30 FCCRcd 5601 (2015).

⁷⁰ *In re FCC 11-161*, 753 F.3d at 1046.

Americans in a reasonable and timely fashion...,” it should “take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.” Broadband access falls within the definition of “advanced telecommunications capability.”⁷¹ Having repeatedly determined that deployment is not proceeding in a reasonable and timely manner, most recently in the *2015 Broadband Progress Report*,⁷² the Commission can and should help address this shortcoming by extending broadband coverage to Lifeline.

The Commission has already concluded that extending broadband service to Lifeline recipients furthers the goals of Section 706. It has said that

Providing support to carriers to subsidize low-income consumers’ purchase of broadband services helps achieve section 706’s objectives. The Commission has recognized that a key barrier to infrastructure investment is “lack of affordability of broadband Internet access services.” Providing federal support for low-income consumers’ purchase of broadband services will expand the base of consumers able to purchase broadband services. The additional revenue generated by these new consumers in areas where broadband is already available will provide additional resources for deployment projects where broadband networks are not yet available. Effective support for broadband services to low-income consumers thus “removes barriers to infrastructure investment” as section 706(b) directs us to do, and the pilot program we establish here is an important first step to designing such support.⁷³

⁷¹ See *Inquiry Concerning the Deployment of Advanced Telecomms. Capability to All Americans in a Reasonable and Timely Fashion*, 14 FCCRcd 2398, 2400 (1998).

⁷² *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 30 FCCRcd 1375, 1380 (2015).

⁷³ *Lifeline and Link Up Reform and Modernization*, supra, 27 FCCRcd 6656 at 6799 (footnotes omitted).

iv. Sections 1, 4(i), 201 and 205.

The Commission also has authority predating the 1996 Telecommunications Act which can support extending Lifeline to broadband. Lifeline service was originally established pursuant to Sections 1, 4(i), 201 and 205 of the Communications Act. When Congress enacted the 1996 Act, it expressly allowed the Lifeline program to continue “despite Lifeline’s inconsistency with other portions of the 1996 Act.”⁷⁴ Indeed, when the Commission adjusted Lifeline in 1997, it made clear that it was doing so based on its preexisting authority, as well as Section 254.⁷⁵ Any lingering questions about the Commission’s authority to employ Sections 201 and 205 for extending Lifeline to broadband have been resolved by the Commission’s March, 2015 reclassification.

V. THE COMMISSION SHOULD DEVELOP A ROBUST THIRD-PARTY ELIGIBILITY VERIFIER

A. The Commission should establish a national Lifeline eligibility verifier to enhance the integrity of the eligibility process, encourage new provider participation and facilitate evaluation of the program

Benton supports the Commission’s proposal to “establish a national Lifeline eligibility verifier (national verifier) to make eligibility determinations and perform other functions related to the Lifeline program.”⁷⁶

The Commission should review state systems for verifying eligibility and adopt clear standards that state systems would have to meet in order to opt-out of a national verifier. States meeting

⁷⁴ *Federal-State Joint Board on Universal Service*, 12 FCCRcd 8776, 8953 (1997).

⁷⁵ *Id.*, 12 FCCRcd at 8961 (“We emphasize...that...we are acting under our general authority in sections 1, 4(i), 201 and 205 of the Act, as well as our authority under 254.”)

⁷⁶ NPRM at 29, para. 64.

those standards should be allowed to “opt out” of a national verifier in those cases where the state has developed a process to examine eligibility and/or a state eligibility database and the state wishes to continue to perform the eligibility screening function on its own.

California’s Lifeline program has already moved to a third-party verification and management system and the process offers insights for federal policymakers to consider. The California system has reduced the potential for fraud and abuse and improved prospects for more diverse provider participation by taking the costly administrative burden of the verification process (obtaining, retaining and verifying personal data) off of the provider, allowing smaller providers and other new entrants to participate in the California system. In addition to enhanced choice, the third party process ensures that Lifeline user information is maintained by one entity by one set of strict standards that can be reinforced and updated by the CPUC. In the absence of the centralizing nature of the third-party verify a state would be left with individual providers running their own verification process with differing protocols. This patchwork system is difficult to oversee from both the state and federal level and is confusing for consumers concerned about the handle of their personal data. The creation of a national verifier will also facilitate better evaluation of the program, providing a centralized body for data gathering on consumer satisfaction, churn, offerings, and prices.

The national eligibility verifier should fulfill the following functions:

- Quickly verify Lifeline participants (on both tribal and non-tribal lands) based on either participation in qualifying programs or based on income eligibility;

- Provide a simple “yes” or “no” response back for participation in all of the current qualifying programs;
- Allow user-friendly interfacing with consumers to answer questions about the Lifeline application process and program requirements;
- Interact with existing verification infrastructure (e.g. the National Lifeline Accountability Database and state databases);
- Operate a dispute resolution process that consumers may utilize should they believe that they have been wrongly denied Lifeline eligibility;
- Establish clear data privacy and security protections against unauthorized misappropriation, breach, or disclosure of sensitive information about household income or enrollment in federal assistance programs;

Upon the establishment and implementation of a national verifier, Lifeline providers will no longer be expected to formally verify subscriber eligibility for Lifeline purposes. The Commission should define a transition path. It should provide guidance on the transfer of all retained Lifeline consumer eligibility documents from providers to the national verifier. Finally, the national eligibility verifier should consider the special qualifying programs that simplify the verification process for tribal lands and be nimble enough to set aside tribal Lifeline recipients with the appropriate enhanced level of subsidy.

B. The Commission should coordinate with federal agencies and their state counterparts to educate consumers about, and simultaneously allow consumers to enroll themselves in, the Lifeline program.

Benton fully supports the Commission’s proposal to “[coordinate] with federal agencies and their state counterparts to educate consumers about, or simultaneously allow consumers to enroll themselves in, the Lifeline program.”⁷⁷ Pre-existing programs should be utilized as much as possible so that eligible consumers are educated about, and can easily enroll in, Lifeline.

The Commission should work with the income-tested, federal programs that qualify an individual for Lifeline services. The Commission should leverage existing technologies, databases, and fraud prevention mechanisms for other federal benefit programs wherever possible. Coordinated enrollment makes intuitive sense. If another agency has already carried out checks, relying on such efforts reduces redundancy and cuts administrative costs. In particular, Benton encourages the Commission to continue exploring coordinated enrollment of Lifeline with the Supplemental Nutrition Assistance Program (SNAP), as outlined in the NPRM.⁷⁸

C. Households eligible for the Veterans Pension benefit should qualify for Lifeline support.

The Lifeline program has strong potential to assist the Nation’s low-income veterans. First, the Commission should coordinate its outreach and enrollment efforts with the Veterans Affairs Supportive Housing (VASH) program to assist vulnerable veterans. Second, the Commission should allow veterans qualifying for the Veterans Pension benefit to qualify for Lifeline support.

⁷⁷ NPRM at 36, para. 92.

⁷⁸ NPRM at 38-39, paras. 97-101.

The Commission seeks comment on “whether veterans and their families eligible for the Veterans Pension benefit should qualify those individuals for Lifeline support.”⁷⁹ In order to qualify for Lifeline services, an individual must be currently enrolled in one of the approved programs, or have an income at or below 135% of the poverty line.⁸⁰ The 135% federal guideline⁸¹ is higher than the Veterans Pension program income eligibility threshold,⁸² indicating that anyone eligible for the Veterans Pension program is automatically eligible for Lifeline. The Commission should therefore work with the Veterans Pension program to educate enrollees about the Lifeline program and simultaneously enroll eligible consumers for both the pension program and the Lifeline program.

i. Telecommunications is a crucial tool to connect vulnerable veterans with assistance.

As of 2014, over 900,000 veterans live in households that receive food stamps, and 3.5 million received disability benefits.⁸³ The Veterans Crisis Hotline, launched in 2007 as a resource for veterans in times of distress, has answered more than 1.6 million calls and conducted almost 210,000 chats online.⁸⁴ These conversations have saved the lives of over 45,000 veterans so far, and the numbers continue to grow.⁸⁵ The Crisis Line is successful because veterans do not have

⁷⁹ NPRM at 44, para. 115.

⁸⁰ NPRM at 37, para. 94.

⁸¹ Universal Service Administrative Company, *2015 Federal Poverty Guidelines--135%*, http://www.usac.org/res/documents/li/pdf/handouts/Income_Requirements.pdf.

⁸² U.S. Department of Veterans Affairs, *Veterans pension Rate Table*, http://www.benefits.va.gov/PENSION/current_rates_veteran_pen.asp.

⁸³ Bill Quigley, *Millions of Soldiers and Veterans in Trouble*, Common Dreams (July 7, 2014), <http://www.commondreams.org/views/2014/07/07/millions-soldiers-and-veterans-trouble>.

⁸⁴ Veterans Crisis Line, *About the Veterans Crisis Line*, <http://www.veteranscrisisline.net/About/AboutVeteransCrisisLine.aspx>.

⁸⁵ *Ibid.*

to wait to access communication tools, make an appointment, or provide too much personal information. Lifeline's voice service is a key resource that ensures low-income veterans have access to critical programs like the Veterans Crisis Hotline.

Lifeline-enabled broadband access would connect low-income veterans to online VA services, facilitating crucial tasks like applying for benefits, checking the status of benefits, making medical appointments and ordering medication. The ability to access these services online can mean fewer trips to VA facilities for veterans, saving time and money.

Between 2000 and 2011, almost one million veterans were diagnosed with at least one psychological disorder, and almost half were diagnosed with multiple disorders. Vets Prevail provides online intervention services and has yielded positive results in treatment for PTSD and depression.⁸⁶ It offers avenues for coping with the transition to civilian life, fostering social connections, and accessing medical services. Beyond Vets Prevail, there is a vast online support network available for mental health, social, and therapeutic needs that Lifeline can similarly enable veterans to access.

Veterans also need broadband access in order to use telehealth services. Telehealth services served over 690,000 veterans in 2014 -- approximately 12% of all veterans enrolled for VA health care and accounts for over 2 million telehealth visits.⁸⁷ Most programs require a veteran to

⁸⁶ Stevan E. Hobfoll et al., *Project Veterans' Empowerment Over Stress Trial: Does Vets Prevail Empower Veterans And Improve Their Lives?*, Prevail Health Solutions (November 22, 2013), available at https://www.vetsprevail.org/resources/VP_Report_FINAL_22_Nov_13.pdf.

⁸⁷ U.S. Department of Veterans Affairs, *VA Telehealth Services Served Over 690,000 Veterans in Fiscal Year 2014* (October 10, 2014), <http://www.va.gov/opa/pressrel/pressrelease.cfm?id=2646>.

provide contact information, such as an email address, so staff can follow up, further demonstrating the need for consistent access via home broadband or mobile broadband services. If a veteran does not have access to phone or email, he or she can not use the programs created to meet his or her needs to the full extent.⁸⁸

If the Commission facilitates eligibility efforts between the Lifeline program and the Veterans programs, the benefits to low-income veterans and the programs designed to serve their needs would be significant.

ii. Access to broadband allows veterans to meet educational needs.

The eArmyU program allows veterans to work towards academic credit while they are in active duty through online courses that carry forward into civilian life.⁸⁹ However, there is no guarantee that low-income veterans will have access to robust broadband when they return home. This gap in access could stall veterans in the course of their studies and potentially prevent timely graduation.

D. The Commission should not eliminate income as an eligibility qualification or limit the number of eligible federal assistance programs under the Lifeline program.

The Commission seeks comments on whether to “continue to allow low-income consumers to qualify for Lifeline support based on household income and/or eligibility criteria established by a

⁸⁸ U.S. Department of Veterans Affairs, *Homeless Veterans*, <http://www1.va.gov/HOMELESS/NationalCallCenter.asp>.

⁸⁹ See, e.g., Tom Halligan, *The Student Soldier*, 78(1) *Community College Journal* 22 (2007) and Corey Bradford Rumann, *Student veterans returning to a community college: Understanding their transitions*, Graduate Theses and Dissertations. Paper 11583 (2010).

state.”⁹⁰ The Commission cites that “less than four percent of Lifeline subscribers subscribe to the service by relying on income level.”⁹¹ Benton advocates against discontinuing the use of income as qualification for Lifeline support.

Low enrollment under a particular mechanism is hardly a good justification to terminate the mechanism altogether. The Lifeline program was instituted to help low-income Americans. All low-income Americans who meet the bar of having an income at or below 135% of the poverty line should be able to receive benefits. Should the Commission eliminate income as qualification for Lifeline support, it must be fully cognizant of how many low-income Americans it is stripping support from, and the substantial devastating effects those households will come to bear.

Benton supports allowing consumers to enroll in Lifeline through multiple means of eligibility, including income criteria. Including both income and income-tested program participation as means of qualification allows greater flexibility for consumers. The Commission should not disfavor those who are income-eligible but, for whatever reason, not enrolled in other federal assistance programs. The Commission should look to the successes of SNAP and the low-income Home Energy Assistance Program (LIHEAP), which both allow individuals to qualify through income-eligibility and qualifying program enrollment.

⁹⁰ NPRM at 44, para. 114.

⁹¹ *Ibid.*

V. INCREASING COMPETITION FOR LIFELINE CONSUMERS

A. The Commission should allow non-traditional providers to participate in Lifeline to increase competition and innovation in the market.

The Commission requests comments on the merits of “creating a process to participate in Lifeline that is entirely separate from the ETC designation process required to receive high cost universal services support”⁹² and their potential legal authority to do so.⁹³

The Commission should modernize the Lifeline program to allow participation by non-traditional providers -- such as small and community-based broadband providers, WISPs, and anchor institutions like schools, libraries -- to facilitate increased competition. Opening up the Lifeline market to non-traditional providers will meet the Commission’s goal of “increasing competition and innovation in the Lifeline market”⁹⁴ and boosting consumer choice through “encouraging competition with most robust service offerings in the Lifeline market.”⁹⁵

B. The Commission has legal authority to create a non-ETC process for provider eligibility.

First, the Commission has discretion to use its power under the Communications Act to allow at least some ETCs to participate in Lifeline. In 1997, the Commission incorporated the pre-existing Lifeline program into the new universal service regime authorized by the 1996 Act.

⁹² NPRM at 49, para. 132.

⁹³ Ibid.

⁹⁴ NPRM at 45, para. 121.

⁹⁵ Ibid.

At that time, it decided to harmonize Lifeline with its other universal service mechanisms by limiting Lifeline participation to ETCs. However, it specifically recognized that this decision was not statutorily mandated and stated that “We believe that we have the authority under sections 1, 4(i), 201, 205, and 254 to extend Lifeline to include carriers other than eligible telecommunications carriers.”⁹⁶ Thus, the Commission could exercise that authority to change the 1997 decision. This would apparently require the Commission to determine that broadband only providers that do not currently qualify as ETCs should now be so denominated pursuant to Section 214(e).⁹⁷

Second, the Commission could use its forbearance authority to enable schools and libraries to qualify as ETCs for the limited purpose of participating in Lifeline. Section 214(e)(1) ordinarily requires an ETC to provide universal service “either using its own facilities or a combination of its own facilities and resale of another carrier’s services,” the Commission has interpreted this to mean that “a carrier that services customers by reselling wholesale service may not receive universal service support for those customers it serves through resale alone.”⁹⁸ However, the Commission has facilitated Lifeline service by repeatedly forbearing from this requirement for carriers seeking to participate in the Lifeline program without using their own facilities to

⁹⁶ *Federal-State Joint Board on Universal Service, supra*, 12 FCCRcd at 8971.

⁹⁷ To the extent that such broadband only providers might then have to contribute to the USF might prove counterproductive, so the Commission may wish to consider forbearing in this regard pursuant to Section 10 of the Telecommunications Act.

⁹⁸ 1997 Universal Service Order, *supra*, 12 FCCRcd at 8873.

provide service,⁹⁹ and in 2012, granted blanket forbearance for “all carriers that are, or seek to become, Lifeline-only ETCs.”¹⁰⁰

The same mechanism can be applied to allow schools and libraries to become ETCs. The only additional consideration is that the Commission must take into account the requirement that, under Section 153(51) to be a “telecommunications carrier,” a provider must offer “telecommunications service,” which is defined in Section 153(53) as being the offering of telecommunications for a fee directly to the public, . . .” The Commission could determine that when schools and libraries charge a fee for Internet access or a library card, even if that fee were nominal, this would be sufficient to meet this test.

C. The Commission should consider free or very low-cost wireless broadband as a means to address the affordability barrier to adoption.

The Commission seeks comment on how best to utilize unlicensed bands, such as television white space or licensed bands, such as EBS, for the purpose of providing broadband service to low-income consumers.¹⁰¹ As recommended in the National Broadband Plan,¹⁰² the federal government should explore the potential of mobile broadband access as a gateway to inclusion. The Commission should encourage the deployment of free or very low-cost wireless broadband as a means to address the affordability barrier to adoption. The Commission should develop rules for one or more spectrum bands requiring licensees to provide a free or very low-cost broadband service tier.

⁹⁹ *Lifeline and Link Up Reform and Modernization, supra*, 27 FCCRcd at 6813-14 (citing cases).

¹⁰⁰ *Id.*, 27 FCCRcd at 6813.

¹⁰¹ NPRM at 48-49, para. 129.

¹⁰² Federal Communications Commission, *Connecting America: The National Broadband Plan*, March 1, 2010, at 168.

VI. MODERNIZING AND ENHANCING THE PROGRAM

The Commission seeks comment on three specific proposals as part of its continuing efforts to modernize the Lifeline program, concerning: treating the sending of text messages as usage (for the purpose of demonstrating usage sufficient to avoid de-enrollment),¹⁰³ subscriber de-enrollment procedures,¹⁰⁴ and encouraging Lifeline providers to participate in Wireless Emergency Alerts (WEA).¹⁰⁵

A. The Commission should amend its rules to count the sending of text messages as usage for the purpose of demonstrating usage sufficient to avoid de-enrollment from Lifeline service.

Benton supports the Commission's proposal to treat the sending of text messages as usage for the purpose of demonstrating usage sufficient to avoid de-enrollment from Lifeline service. The Commission currently requires subscribers of prepaid Lifeline services to use the service at least once every 60 days.¹⁰⁶ Texting has become a widely adopted communication tool and is the primary means by which many people with disabilities communicate. It is reasonable to allow Lifeline recipients who wish to remain connected on that subscription to send a text message to signal usage and their intention to stay enrolled. However, the receipt of text messages should not qualify as usage, as the subscriber cannot control whether others send texts. The receipt of text messages does not serve as an accurate gauge of whether the subscriber intends to remain on Lifeline service.

¹⁰³ NPRM at 52-53, paras. 143-146.

¹⁰⁴ NPRM at 53-54, paras. 147-153.

¹⁰⁵ NPRM at 54-55, paras. 154-155.

¹⁰⁶ 47 C.F.R. §407(c)(2).

The Commission had previously ruled that text messages do not constitute a supported service under Lifeline.¹⁰⁷ As the Commission moves to include broadband in the Lifeline program, it should be aware of the widespread use of text messaging services (some of which are over broadband) by wireless consumers for their basic communications needs. Text messaging would allow low-income households to participate in many beneficial services. One in five teachers in the U.S. uses “Remind,” a free texting service that allows teachers to send mass messages to parents and students about upcoming deadlines, school cancellations and emergencies.¹⁰⁸ Remind was being used in over 20,000 schools across the nation, and over 60 million text messages were sent out per month as of August 2013.¹⁰⁹ The Crisis Text Line was launched in August of 2013 and has since processed over 7.5 million texts from individuals in distress -- about 20,000 queries a day.¹¹⁰¹¹¹ The Veterans Crisis Line also introduced text messaging to their provided services in 2011 and have since responded to over 32,000 texts -- a number that is growing daily.¹¹² For those in dangerous situations, text is essential to get support in a confidential, quick, and silent manner. Text messaging can be particularly important for the disabled community, especially those who are deaf, hard of hearing, or have difficulty with speech, to reach family, friends and emergency services. Recognizing many of these needs, the Commission voted in

¹⁰⁷ Lifeline Reform Order, 27 FCC Rcd at 6770, n. 709.

¹⁰⁸ Remind, *About*, <https://www.remind.com/about>.

¹⁰⁹ Ibid.

¹¹⁰ Ina Fried, *Carriers Waive Charges for Crisis Text Line*, Recode (July 7, 2015), <http://recode.net/2015/07/07/carriers-waive-charges-for-crisis-text-line/>.

¹¹¹ Individuals can text in about anything from abuse, to coming out, to dealing with suicidal feelings and talk to a trained volunteer who will help them through the situation. Crisis Text Line, *About Us*, <http://www.crisistextline.org/who-we-are/>.

¹¹² Veterans Crisis Line, *About the Veterans Crisis Line*, <http://www.veteranscrisisline.net/About/AboutVeteransCrisisLine.aspx>.

August 2014 to require U.S. mobile carriers and many text-messaging applications to support text-to-911.¹¹³ Lifeline recipients, like all Americans, rely on text messaging as a crucial means of modern day communication.

The Commission will need to clarify the distinctions over what constitutes usage of supported service for the purposes of Lifeline. Text messaging, voice, and email may all occur over the medium of broadband Internet access service. In other words, through providing Lifeline support for broadband services, the Commission will functionally be supporting text messaging as well. The inclusion of broadband Internet access service in the Lifeline program will necessitate a review and update of the definitions of supported services under Lifeline.

B. The Commission should adopt procedures to allow subscribers to terminate Lifeline service in a quick and efficient manner.

Benton supports the Commission’s proposal to make readily available a 24-hour customer service number allowing subscribers to de-enroll from Lifeline services, for any reason, and codify the obligation that Lifeline providers must implement the subscriber’s decision within two business days of the request.¹¹⁴ In addition to a 24-hour customer service line for de-enrollment, the Commission should consider allowing users to use text messaging to de-enroll. For example, on the day service begins, a text message can be sent to a user’s phone outlining the terms of service in plain language along with the following notification, “If you wish to terminate service at any time, for any reason, please respond ‘TERMINATE’ to this number.”

¹¹³ *Second Report and Order* 79 Fed. Reg. at 55367.

¹¹⁴ NPRM at 54, para. 150.

Text messages could be used to ease the process of service discontinuation by alerting consumers as they near the current 60 day or proposed 30 day limit of non-usage before automatic de-enrollment as well.¹¹⁵ While providers are required to alert consumers to the non-usage period at the naissance of service, consumers are likely to forget or lose track of how long they have been inactive.¹¹⁶ Consumers who have not used text or voice services should receive a text message alerting them at least 10 days before they are automatically de-enrolled. At that point, consumers can either use the service, thereby keeping themselves in the Lifeline program, text “TERMINATE” to the de-enrollment number, call the proposed 24 hour customer service de-enrollment number, or be automatically de-enrolled after 10 days of non-usage.¹¹⁷ Consumers may not be likely to call in to de-enroll from the service, especially if there is a long wait time on the line. Text de-enrollment would facilitate an easy and effective means of de-enrollment, thus saving the third party verifier time, manpower, and resources.

C. The Commission should encourage Lifeline providers to participate in Wireless Emergency Alerts (WEA).

Text messaging is increasingly being used by emergency services in order to alert the community to imminent danger. Emergency services now allow individuals to sign up for emergency alert messages about natural disasters and the resources available after disaster has struck.¹¹⁸ Without text messaging, individuals may be left in the dark without information on what to do or where to go in an emergency. In an emergency situation, text messaging is not only beneficial to the

¹¹⁵ NPRM at 67, para. 198.

¹¹⁶ NPRM at 53, para. 148.

¹¹⁷ NPRM at 54, para. 150.

¹¹⁸ Federal Emergency Management Agency, *Text Messages*, <https://www.fema.gov/text-messages>.

individual but to the whole community. When a child goes missing, the police are able to rapidly disseminate information about suspects and a description of the missing child through America's Missing: Broadcast Emergency Response Plan (AMBER Alert) via mass text messages sent to an entire community.¹¹⁹ AMBER alerts have led to the rescue and safe return of 767 children as of April 2015; a feat that could not have been accomplished without the widespread use of text messaging throughout a community.¹²⁰ It is for the benefit of all that more individuals have access to text messaging services.

Currently, participation in WEA by wireless carriers is widespread but voluntary. The Commission already requires all wireless carriers that do not participate in WEA to notify customers. WEA play a crucial role in our nation's public warning system, alerting citizens of often life-threatening situations. Low-income Americans must be included in the WEA infrastructure. The Commission should review existing data on Lifeline providers engaged in WEA and maximize the number of Lifeline providers participating in WEA.

VII. CONCLUSION

We appreciate the opportunity to file comments on this important NPRM and look forward to reviewing the other comments filed in this proceeding.

Respectfully Submitted,

Filed by:

_____/s/_____
Amina Fazlullah,

¹¹⁹ National Center for Missing and Exploited Children, *AMBER and Wireless Emergency Alerts*, <http://www.missingkids.com/Amber/WEA>.

¹²⁰ National Center for Missing and Exploited Children, *AMBER Alert Success Stories*, <http://www.missingkids.com/amber/success>.

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APPENDIX

Table 1: Broadband Offerings Available to Low-Income Communities

	Minimum speed (download)	Fixed data cap (per month)	Mobile data cap (per month)	Price	Qualify by
Comcast (Internet Essentials)	<u>Year</u> <u>Speed</u> 2011-12: 1.5 Mbps 2012-13: 3 Mbps 2013-15: 5 Mbps 2015-present: 10 Mbps	300 GB	N/A	\$9.95/ month	NSLP
Cox	5 Mbps	100 GB	N/A	\$9.95/ month	NSLP, SNAP, TANF
CenturyLink (Internet Basics)	1.5 Mbps 3-7 Mbps 12 Mbps	150GB 250GB 250GB	N/A	<u>First year</u> <u>Afterwards</u> \$9.95 → \$14.95/ month \$14.95 → \$19.95/month \$19.95 → \$24.95/month	135% of poverty line, Section 8, NSLP, LIHEAP, SNAP, TANF, SSI, Medicaid
MediaCom	1.5 Mbps	150GB	N/A	\$9.95/ month	NSLP (inc. reduced)
Bright House Network	1 Mbps	None	N/A	\$9.95/ month	NSLP (inc. reduced)
VTX	1 Mbps	Unknown	N/A	\$14.95/ month	NSLP
SuddenLink	1 Mbps	150GB	N/A	\$9.95/ month	NSLP
Time Warner Cable	2 Mbps	Unknown	N/A	\$14.99/ month	Not means-tested
Eagle Communications	5 Mbps	Unknown	N/A	\$9.95/ month	NSLP (inc. reduced)

	Minimum speed (download)	Fixed data cap (per month)	Mobile data cap (per month)	Price	Qualify by
Mobile Beacon	4G [3-6 Mbps (WiMax) → 6-8 Mbps (Sprint's LTE)]	N/A	Unlimited	\$10/ month	Average income <35, nonprofit, schools, libraries
Mobile Citizen	4G [3-6 Mbps (WiMax) → 6-8 Mbps (Sprint's LTE)]	N/A	Unlimited	\$10/ month	Average income <35k, nonprofits, schools, libraries
Jump Wireless	4G (also transitioning to Sprint LTE)	N/A	Unlimited	\$15.75 /month	Not means-tested
Sprint ConnectED program	Sprint 4G	N/A	3 GB/ student	Free	As part of ConnectED
FreeWheel	Varies (on Cablevision's hotspots)	N/A	Unlimited	\$9.95/month	Not means-tested
FreedomPop	Varies (on an aggregation of 10 million hotspots around the U.S., mostly on LTE/ 4G WiMax)	N/A	Unlimited	\$5/ month	Not means-tested

Sources for Table 1:

- See Internet Essentials for Comcast, <https://www.internetessentials.com/about> (last accessed August 12, 2015). Comcast announced plans to open Internet Essentials to low-income senior citizens in the greater San Francisco Bay Area in August 2015. See *Comcast Extends Internet Essentials, Its High-Speed Internet Adoption Program, To Low-Income Senior Citizens In San Francisco*, Comcast (August 19, 2015).

- See *Cox Communications Closes Digital Divide with Connect2Compete Broadband Adoption Program*, PR Newswire (August 19, 2014) and *Cox Communications Increases Speeds on Connect2Compete Program*, PR Newswire (October 7, 2013).
- See CenturyLink Internet Basics, <http://www.centurylink.com/home/internetbasics/> (last accessed August 12, 2015).
- See Mediacom EveryoneOn, <https://mediacomc2c.com/> (last accessed August 12, 2015).
- See Bright House Network Connect2Compete FAQ, http://brighthouse.com/static/documents/Frequently_Asked_Questions_for_Connect_2_Compete.pdf (last accessed August 12, 2015).
- See EveryoneOn Eligibility: VTX, <http://everyoneon.org/eligibility/> (last accessed August 12, 2015).
- See *Time Warner Cable Announces Internet Speed Upgrades*, Time Warner Cable (October 23, 2013) and Time Warner Cable Internet, <https://purchase.timewarnercable.com/core/twcInternet> (last accessed August 12, 2015).
- See Eagle Communications Connect2Compete, <http://www.eaglecom.net/connect-2-compete/> (last accessed August 12, 2015).
- See Mobile Beacon, <http://www.mobilebeacon.org/resources/faqs> (last accessed August 9, 2015).
- See Mobile Citizen, <http://mobilecitizen.org/> (last accessed August 9, 2015).
- See Jump Wireless Services and Products, <http://jumpwireless.org/services-products/> (last accessed August 12, 2015).
- See Sprint ConnectED Program Overview, https://ecenter.custhelp.com/app/answers/detail-fullpage-ConnectED/a_id/1989 (“Sprint has committed to provide free wireless data service for up to 50,000 low-income students over the next four years [...] Sprint will not provide free devices [but] will help schools identify equipment compatible with Sprint's network [and] provide the option for the school to purchase Sprint devices”) (last updated March 23, 2015).
- FreeWheel offers unlimited data at \$9.95/ month for residential Optimum Online customers and \$29.95/ month for everyone else. The device costs extra. See *How much does Freewheel cost?*, <https://freewheel.custhelp.com> (last accessed August 27, 2015).
- Prior to FreedomPop’s announcement in January 2015 to offer \$5/month unlimited WiFi, FreedomPop offered a free but limited service (200 minutes of calls, 500 texts, 500MB data/month) as well as an “Unlimited Everything” plan for \$20/ month providing unlimited talk, text and data. After 1GB of data had been used for the month, LTE speeds would be limited to 3G speeds. See *FreedomPop Expands To High-End LTE Phones With Samsung Smartphones And New, Unlimited Everything Plan For \$20*, PR Newswire, May 22, 2014 and *FreedomPop Turns On Unlimited Wi-Fi Across The US For \$5/Month*, Ingrid Lunden, TechCrunch, January 21, 2015.

**Table 2: Data Usage Estimates for 1 Smartphone (3G/4G)
According to Data Calculators of Major Wireless Providers¹²¹**

				
Text-only emails	10 KB/email	20 KB/email	20 KB/email	50 KB/email
Email with attachments		300 KB/email	249 KB/email	
Web surfing	400 KB/ page	15 MB/hour	1.45 MB/page	500 KB/page
Social media post with photo		350 KB/ea	819.2 KB/ea	800 KB/ea
Download songs/apps	3 MB/ high res photo	4 MB/ item	5 MB/item	5 MB/item
Streaming audio	1 MB/min	500 KB/min	1 MB/min	900 KB/min
Streaming video	4G Video Streaming = 5.8 MB/min 3G Video Streaming General = 4.2 MB/min NFL Mobile = 2.1 MB/min	Standard: 4MB/min HD: 15MB/min	8 MB/min	5.8 MB/ min
Estimates for other devices:	Higher for 4G tablet (e.g. 17 MB/min for HD video streaming & 7 MB/min for 4G VoIP with video)	Same for tablet; slightly higher estimates for mobile hotspot (social media post & email)	Same for tablet and mobile hotspot. (Smartphone adds 40MB/month compared to basic phone.)	Same for mobile broadband card, hotspot, laptop or tablet

¹²¹ See AT&T Data Calculator, <https://www.att.com/att/datacalculator/> (last accessed August 10, 2015), T-Mobile Data Calculator, <http://www.t-mobile.com/Tools/MBCalculator.aspx> and <http://www.t-mobile.com/Tools/PrepaidCalculator.aspx> (last accessed August 10, 2015), Verizon Data Calculator, <https://www.verizonwireless.com/b2c/splash/dataShareCalculator.jsp> (last accessed August 10, 2015), Sprint Data Calculator, <http://www.sprint.com/landings/datacalculator/index.html#!/> (last accessed August 10, 2015).