

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Lifeline and Link Up Reform and Modernization) WC Docket No. 11-42
Telecommunications Carriers Eligible for) WC Docket No. 09-197
Universal Service Support)
Connect America Fund) WC Docket No. 10-90
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To: The Commission

COMMENTS OF COX COMMUNICATIONS, INC.

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Cox Communications, Inc. (“Cox”) hereby responds to the Commission’s Second Further Notice of Proposed Rulemaking in the above-captioned dockets.¹ Cox agrees that Lifeline providers should be removed from the eligibility verification process and urges the Commission to reform the eligible telecommunications carrier (“ETC”) process for Lifeline.

I. INTRODUCTION AND SUMMARY

In the 2012 *Lifeline Reform Order*, the Commission took important steps to improve Lifeline administration and accountability and to enhance the overall integrity of the program.² As a result, the Commission has made significant progress in reducing waste, fraud and abuse and reining in the overall size of the program.³ Cox commends the Commission’s recent efforts,

¹ *Lifeline and Link Up Reform and Modernization*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, WC Docket No. 11-42 *et al.*, FCC 15-71 (rel. June 22, 2015) (“*Notice*”).

² *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (“*Lifeline Reform Order*”).

³ *Notice* at ¶ 3.

but as the Commission itself recognizes, additional steps are needed to achieve the Lifeline program's goals of ensuring the availability of voice and broadband service for low-income Americans while "minimizing the contribution burden on consumers and businesses."⁴

Accordingly, Cox welcomes the opportunity to provide further input into the Lifeline reform and modernization process and does so based on its lengthy experience as the largest cable telephony operator participating in the Lifeline program, with approximately 52,000 Lifeline customers in 14 states.

Cox consistently has been a proponent for eliminating waste, fraud, and abuse and increasing efficiency in the Lifeline program and has directly supported the Commission's efforts in these areas. As just one example, Cox advocated for the creation of the National Lifeline Accountability Database ("NLAD") and has spent substantial time and effort to support its successful implementation. Furthermore, Cox has devoted significant resources to increasing broadband adoption in its markets and has supported the Commission's efforts to promote adoption. Specifically, by offering discounted service through the Connect2Compete program, Cox is helping reduce the number of Americans without access to the Internet.⁵ From our direct engagement with local communities, we have learned that affordability (along with other factors such as relevance, digital literacy training, and access to computers) is one barrier to adoption, and Cox supports extending Lifeline support to broadband to help address the affordability barrier. By leveraging and building upon the existing Lifeline infrastructure (*e.g.* NLAD) and lessons learned through the implementation of the *Lifeline Reform Order*, the Commission is well positioned to modernize the program.

⁴ *Lifeline Reform Order* at 6671 ¶ 25.

⁵ See Letter from L. Charles Keller, counsel to Cox Enterprises, to Marlene Dortch, FCC, WC Docket No. 11-42 (filed May 18, 2015) (describing participation in Connect2Compete).

The *Notice* seeks comment on several critical issues that, if properly addressed, have the potential to further streamline and simplify the program in ways that will encourage increased provider participation and competition for Lifeline customers, and increase program efficiency. Most importantly, the Commission should aggressively pursue its proposal to remove Lifeline providers from the eligibility determination process by establishing a national eligibility verifier as soon as possible. In so doing, the Commission should engage all stakeholders in a process that would identify the best and most cost-effective means to leverage the national eligibility verification system. Separately, the Commission should facilitate increased service provider participation by grandfathering in existing ETCs and streamlining, or eliminating, the ETC designation process for Lifeline. Taken together, these two reforms will be most effective in further reducing waste, fraud, and abuse, promoting competition and encouraging greater provider participation.

Cox also cautions the Commission to proceed carefully as it considers whether to impose minimum service levels on Lifeline providers. The Commission recognizes that many non-ETCs (*e.g.* some cable companies) have elected not to participate in the past. Service providers are more likely to participate if they are not forced to provide a defined Lifeline-specific product. The Commission should recognize the value in establishing rules that take advantage of the competitive broadband marketplace by allowing providers to offer, and low-income consumers to benefit and choose from, the variety of service offerings purchased by all other consumers while applying their support from the program to help make those choices affordable.⁶ As long as the consumer's chosen offer meets any narrowly defined minimum service requirements which may be established, it should be eligible for reimbursement.

⁶ Consumers should thus be allowed to apply their subsidy to whatever combination of voice and broadband is desired.

Finally, the Commission should not adopt any new rules that add unnecessary burdens to current or prospective Lifeline providers without clear justification and benefits (*e.g.* requiring Lifeline service providers to maintain dedicated, 24-hour contact numbers solely for the purpose of disconnecting Lifeline service; requiring additional officer training certifications; or requiring providers to track addresses of devices used to enroll customers).

II. THE COMMISSION SHOULD ADOPT A NATIONAL LIFELINE ELIGIBILITY VERIFIER

In the *Notice*, the Commission recognizes the importance of shifting the responsibility of conducting Lifeline eligibility determinations from service providers to a neutral third party and proposes adopting a national eligibility verifier.⁷ Cox has long supported a national approach to eligibility verification.⁸ A national verifier will substantially reduce reimbursements for ineligible customers, further reducing waste, fraud and abuse in the program. Additionally, removing Lifeline providers from the eligibility determination process will ensure a clear and consistent experience for consumers and also will reduce the significant administrative burdens on providers, which in turn will encourage greater provider participation and more robust competition for consumers.

A. Expediting Adoption of a National Verifier.

Given the importance of implementing a national eligibility verifier, Cox encourages the Commission to consider bifurcating this issue from the Commission's consideration of other issues in this proceeding and placing it on an accelerated track. There are numerous other complex issues that must be considered and resolved, including the appropriate support amount, whether (and if so at what level) a budget should be adopted and how it could be implemented,

⁷ *Notice* at ¶¶ 64-91.

⁸ *See, e.g.*, Comments of Cox Communications, Inc., WC Docket No. 11-42, at 3-6 (filed Apr. 21, 2011).

and whether minimum service levels should be established.⁹ Indeed, the Commission itself recognized the “breadth and complexity” of the *Notice* in extending the comment deadlines.¹⁰ The Commission has also suggested that even if there is agreement on the need for a national verifier, “such a system will not be implemented in the near term.”¹¹ Thus, there may be some advantage to the Commission issuing an order as soon as practicable adopting a national eligibility verifier and delegating authority to the Wireline Competition Bureau to quickly begin work, in conjunction with USAC and others as appropriate, on finalizing the requirements and selecting a third party to implement the system. A definitive Commission pronouncement that a national verifier will be implemented will enable all stakeholders to focus their resources on the best means of leveraging both existing Lifeline infrastructure and other assistance programs.¹²

B. Implementation Issues.

Although there are various ways a national verifier could be established, leveraging and expanding the functions of the existing NLAD appears to be a logical starting point. Ideally, the Commission would extend the NLAD role to encompass eligibility, establishing a single, national eligibility and accountability database. Using the NLAD to determine eligibility has many advantages. A fully implemented and expanded NLAD would be more efficient, allowing

⁹ To be sure, a Commission decision to adopt a national verifier can help inform these proposals. For instance, Cox supports the creation and use of universal forms to certify consumers’ initial and ongoing eligibility for Lifeline benefits. *See Notice* at ¶ 203. Utilizing such forms would be a logical outgrowth of a national eligibility verification framework.

¹⁰ *Lifeline and Link Up Reform and Modernization*, Order, WC Docket No. 11-42 *et al.*, DA 15-885, at 2 (rel. Aug. 5, 2015).

¹¹ *Notice* at ¶ 64, n.165.

¹² Adoption of a national verifier would also appear to render several of the Commission’s proposals moot. For instance, the Commission proposes to require consumers to furnish underlying eligibility documentation to providers that includes subscriber identification information or a photograph, such as a government-issued photo ID. *See id.* at ¶¶ 118-120. It would make little sense to impose another layer of burdensome verification requirements on providers as the transition to a national verifier is underway.

for swift verification of identity *and* eligibility from a single, consistent set of data sources. Leveraging the NLAD also would enhance consumer privacy, as it would be the centralized repository of all program information.¹³

A number of states have proactively established eligibility databases or other means to verify Lifeline eligibility. Cox generally supports structuring the eligibility process in a way that leverages existing state databases and ensures that the presence of a national verifier does not suppress state incentives to develop additional tools.¹⁴ Nevertheless, if state eligibility verification processes remain in place, it is important that providers have the ability to coordinate their efforts through a centralized, national point of contact. States can play an important role in the eligibility verification process, but providers should be able to perform the eligibility check in one central location.

To minimize unnecessary burdens, the Commission should leverage existing data and resources wherever possible. In this respect, Cox agrees that there is considerable merit to the Commission's proposal to coordinate its enrollment efforts with administrators for the Supplemental Nutritional Assistance Program ("SNAP").¹⁵ Given timing considerations and other factors, as a practical matter any coordinated enrollment program most likely must occur in conjunction with (not in lieu of) a national verifier.¹⁶ Additionally, any program must engage all applicable providers and state agencies to ensure that consumers are informed and providers can compete fairly. Use of a coordinated enrollment process could also facilitate moving towards a

¹³ Leveraging the NLAD to calculate Lifeline providers' monthly disbursements is another proposal that appears to have merit.

¹⁴ *See id.* at ¶ 75.

¹⁵ *See id.* at ¶ 100. Coordinated enrollment with other federal assistance programs may have merit as well.

¹⁶ *See id.* at ¶ 92 (seeking comment on whether coordinated enrollment should be an alternative, or supplement to, the Commission's inquiry on a national verifier).

portable benefit in which consumers would be provided a monthly benefit to use for the service of their choice. This proposal is worthy of the Commission's further exploration.

The national verifier would be the appropriate entity to take on additional roles as well, such as interfacing directly with consumers and managing the recertification process. Without careful stewardship by the Commission, however, ambiguities regarding the roles and responsibilities of the national verifier, the NLAD, USAC, the states, other federal agencies, and providers could burden and delay the reform process.

Cox does not support the Commission's suggestion that the costs of the national verifier should be borne by Lifeline providers.¹⁷ Cox recognizes that efforts to eliminate waste, fraud, and abuse in the Lifeline program will necessarily impose some costs on program participants, but, as with other administrative costs incurred in operating each of the universal service programs, any such costs should be funded through the general Universal Service Fund ("Fund"). Lifeline support is a pass-through to consumers, so assessing any costs other than providers' own internal administrative costs, which can be substantial, is likely to discourage participation in the program. The Commission should not adopt a provider-funded model, and instead should pay the costs of creating, implementing and using the national verifier from the Fund. The Commission already has determined that the NLAD will be paid for out of the Fund,¹⁸ and it is logical to extend this principle to the eligibility verification system.

¹⁷ *Id.* at ¶ 88.

¹⁸ *See Lifeline Reform Order*, 27 FCC Rcd at 6756, ¶ 225.

III. THE COMMISSION CAN INCREASE COMPETITION FOR LIFELINE CUSTOMERS BY STREAMLINING THE LIFELINE ETC DESIGNATION PROCESS

The Commission seeks comment on ways to increase competition and innovation in the Lifeline marketplace.¹⁹ Cox is committed to working with the Commission and the states in bringing the promise of broadband to low-income customers and agrees with the Commission that additional competition is the best way to do so efficiently.

Cox has had extensive experience as an ETC in providing Lifeline services and deploying its services to high-cost areas. Cox currently has ETC certifications in 14 states and also participates in several state programs such as the California Lifeline program. Based on its experience, and with the goal of promoting the success of the Lifeline program, Cox strongly urges the Commission to simplify the ETC designation process and grandfather existing ETCs into any new process. Such changes will ensure existing providers continue to participate in Lifeline while new qualified Lifeline providers enter the market to bring additional benefits to low-income consumers.

Cox agrees with the Commission's suggestion that it could create a new Lifeline approval process entirely separate from the ETC designation process.²⁰ Consumers will benefit if the Commission does away entirely with the requirement for full-fledged ETC status for provider participation in Lifeline. Obtaining ETC status requires securing approvals from multiple states whose requirements often vary, which creates a significant barrier to market entry. For these reasons, the Commission believes that many cable companies and wireless providers are unwilling to become Lifeline ETCs and some have relinquished their designations altogether.²¹

¹⁹ *Notice* at ¶¶ 121-141.

²⁰ *Notice* at ¶¶ 132 *et seq.*

²¹ *Id.* at ¶ 123.

Additionally, in granting forbearance from certain requirements to Lifeline-only providers, the Commission has repeatedly recognized that burdensome ETC requirements are not justified for Lifeline-only providers and are not necessary to achieve the statutory goal of providing low-income consumers with access to telecommunications services.²² Unlike other Fund programs, “Lifeline support . . . is distributed on a per-subscriber basis and is directly reflected in the price that the eligible subscriber pays.”²³ These characteristics remove the need for additional regulatory oversight of the use of support. For example, the fact that the subsidy is per-customer means that cream skimming concerns are not relevant to Lifeline, as the Commission itself has concluded.²⁴ Full-scale ETC designation requirements are therefore unnecessary for Lifeline, and the Commission should, at a minimum, scale them back.

To maximize the incentives for additional competition benefitting consumers, the Commission should revisit its 1997 decision not to provide Lifeline support to non-ETCs and create a national Lifeline Provider designation that would remove the existing regulatory barriers

²² See, e.g., *Telecommunications Carriers Eligible for Universal Service Support; NTCH, Inc. Petition for Forbearance from 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b); Cricket Communications, Inc. Petition for Forbearance*, Order, 26 FCC Rcd 13723 (2011) (granting petitions for forbearance of the rural service area conformance requirement in order to remove unnecessary barriers to carriers participating in the Lifeline program) (“*Cricket Order*”); *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, Order, 20 FCC Rcd 15095 (2005) (granting forbearance from the “own facilities” ETC requirement for a Lifeline-only provider); *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, 24 FCC Rcd 3381 (2009) (same); *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, 25 FCC Rcd 8784 (2010) (same); *Telecommunications Carriers Eligible for Universal Service Support; Conexions Petition for Forbearance*, Order, 25 FCC Rcd 13866 (2010) (same).

²³ *Cricket Order*, 26 FCC Rcd at 13278 ¶ 10.

²⁴ See Notice at ¶ 136.

to participation created by the current ETC designation process.²⁵ The Commission has ample authority to reconsider this decision as the Commission itself acknowledged in the *Universal Service First Order*.²⁶ Although any new designation process must include reasonable safeguards to ensure the integrity of new providers, the Commission should be mindful of the need to keep the transition as simple as possible for existing ETCs. In fact, there is no compelling policy reason why existing ETCs should not be grandfathered in as nationally designated providers of Lifeline broadband service. Existing ETCs should not have to go through a new process in order to receive support for broadband.²⁷ The decision to participate in Lifeline programs should also continue to be voluntary.

Alternatively, if the Commission elects to maintain an ETC designation requirement, the process should be substantially streamlined in order to remove barriers to participation in the Lifeline program. Cox has long advocated for a standardized and streamlined ETC designation process. Uniform, national requirements for obtaining Lifeline ETC status will make it easier for carriers to qualify as ETCs, both because they will better know what they have to do before they apply, and because fewer resources will need to be devoted to the application process. The more providers that qualify as ETCs, the more competition there will be among Lifeline service providers, resulting in more choice, better prices and more innovation for low-income customers.

²⁵ The Commission's 1997 decision was made in the context of Lifeline support flowing to the Lifeline provider. Non-ETC participation in Lifeline broadband should also be permitted in a portable benefit scenario.

²⁶ See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8954 ¶ 332 (1997) (subsequent history omitted) (*First Universal Service Order*).

²⁷ Similarly, existing ETCs should not have to go through a new process to participate in CAF Phase II competitive bidding.

IV. CONCLUSION

Cox supports the Commission's efforts to modernize the Lifeline program and urges the Commission to take action consistent with the above comments.

Respectfully submitted,

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