.Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

COMMENTS OF AT&T

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AT&T Services, Inc., on behalf of its subsidiaries and affiliates (collectively, "AT&T"), hereby submits the following comments in response to the Commission's Second Further Notice of Proposed Rulemaking (the "*Notice*") in the above-captioned proceeding on further reforming and modernizing the Lifeline program.[1]

I. INTRODUCTION AND SUMMARY OF AT&T'S PROPOSAL FOR LIFELINE REFORM

In 2012, the Commission took important first steps towards modernizing and improving the Lifeline program.[2] Although such reforms were necessary, they have proven to be

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[1] *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund,* WC Docket Nos. Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 11-42, 09-197, 10-90 (rel. June 22, 2015) (the "*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*"). The *Lifeline Reform Order* improved the integrity of the program through the establishment of a National Lifeline Accountability Database ("NLAD") and additional steps that addressed well documented problems with the program. *See* Notice, ¶ 3.

insufficient to fully achieve the program's goals,[3] and the program today is in need of a fundamental transformation. When the program was created during the Reagan administration, voice service was the critical tool that provided access to emergency services, friends, and family, and job opportunities. Lifeline was implemented as a social safety net to help low income consumers through a difficult time in life by providing them with access to affordable voice. Thirty years later, broadband Internet access service has eclipsed voice service as the critically important tool in everyday life. While voice service still has its place, any effort to bring Lifeline into the 21st century must include broadband Internet access as a covered Lifeline service. In addition, meaningful reform must address the current program's confusing panoply of federal and state requirements, insufficient program controls, and its many inefficiencies – for consumers, for providers, and in terms of overall administration.

The Commission is now simultaneously seeking comment on major program reforms as well as more modest incremental changes to the current rules. However, AT&T agrees with Chairman Wheeler that the Commission should "tak[e] the Lifeline program down to the studs"[4] and Commissioner Clyburn that the Commission "must not wait, remain idle, or play it safe when it comes to this program."[5] Rather than spending limited time and resources on selective fixes for perceived problems with portions of the existing program, the Commission should act boldly to fundamentally restructure Lifeline in a manner that better meets the needs of eligible consumers, service providers, and the consumers whose contributions ultimately support the program.

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[3] *See Lifeline Reform Order* at 6671 ¶ 25.

[4] *Notice*, Statement of Chairman Tom Wheeler, at 1.

[5] *Id.*, Statement of Commissioner Mignon Clyburn at 1.

AT&T has put together a common-sense, comprehensive proposal for a revamped Lifeline program ("New Lifeline") that operates more efficiently and effectively, and reaches its full potential in meeting eligible consumers' 21st century communications needs. Adoption of this New Lifeline proposal would also eliminate the need for many of the incremental policing proposals set forth in the Notice, by redefining roles and instituting checks and balances that better safeguard against waste, fraud, and abuse. New Lifeline includes the following elements:

- **Enhancing competition for Lifeline consumers by empowering eligible consumers to choose from the broadest array of Lifeline-supported services and service providers.** Give Lifeline customers the same choices other consumers enjoy by making the program benefit portable and delivered directly to eligible consumers in the form of a debit card they can use to pay for any fixed or mobile covered Lifeline service that a participating service provider elects to offer.

- **Leveraging efficiencies and expertise of other federal benefits programs.** Remove service providers from Lifeline program administration functions, including enrollment, eligibility verification, and de-enrollment. Utilize existing robust government agency processes by implementing a coordinated Lifeline enrollment and de-enrollment process managed by USAC and the state agencies that already administer specific federal assistance programs.

- **Implementing more robust program controls to minimize incentives for waste, fraud and abuse.** Transform NLAD into a national level database used by USAC to oversee all Lifeline program administration functions, and implement program controls that rely upon actual consumer information in all phases of a consumer's participation in the Lifeline program.

- **Increasing Lifeline provider participation to maximize consumer options.** Streamline and standardize the requirements providers must follow. Make Lifeline participation voluntary for all providers by establishing a Registered Provider qualification process that eliminates the ETC designation requirement, thus reducing overall service providers' administrative burdens and costs.

New Lifeline requires a commitment to simplifying and streamlining the rules for both consumer and service provider participation and recognizing that consumers and the program benefit through an increase in the number and types of services available and providers actively participating in a competitive Lifeline marketplace. The Commission should make good on its promises to overhaul the Lifeline program, and take the bold steps necessary to implement a New Lifeline.

II. THE LIFELINE PROGRAM IS OUTDATED, INEFFICIENT, AND FALLS SHORT OF MEETING THE PROGRAM'S GOALS

A. The Lifeline Program is Inefficient for Consumers

Because it is limited to voice service, the program does not help to put the critical communications tool for the 21st century – broadband Internet access – within reach of eligible consumers. The program under-performs at reaching eligible low-income consumers compared to other federal programs, and applicants are confronted by confusing requirements and limited service options. Consumers relying on program-based eligibility must go through duplicative application processes – first gathering and presenting their personal information to qualify for the federal assistance programs that qualify them for Lifeline, and then again for the Lifeline program itself. Rather than applying to a government agency for benefits, in most states consumers must apply to, and share their highly sensitive personal information[6] with, the agents and/or employees of one of the hundreds of private sector Lifeline service providers.[7] And because participating consumers must be enrolled to receive Lifeline benefits from only one Lifeline service provider at any given time, the current structure of the program makes it difficult for them to switch service providers.

[6] For example, under the Commission's Lifeline rules, this information could include a tax return, divorce decree or child support award. *See* 47 C.F.R. § 54.410(b)(1)(i)(B).

[7] *See* FCC Paperwork Reduction Act Supporting Statement, 3060-0819 (October 2013), available at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201410-3060-011.

B. The Lifeline Program Is Inefficient for Providers

Lifeline providers incur significant and unnecessary costs, burdens, and risks to participate in the program. Only companies designated as eligible telecommunications carriers ("ETCs") under Section 214(e) of the Communications Act of 1934, as amended (the "Act"), may be Lifeline providers.[8] Requiring providers to be designated ETCs can be, in and of itself, a barrier to Lifeline participation due to the many federal and state ETC requirements. In addition, Lifeline providers are in the unique and untenable position of administering a federal benefit program. They are tasked with enrollment, eligibility, recertification and de-enrollment responsibilities, which raise substantial administrative and operational challenges. They also must advance the Lifeline benefit to eligible consumers, which for many providers requires that they be able to specifically identify and track Lifeline customers (and to further identify Non-Tribal vs. Tribal Lifeline customers) in their back-office systems to correctly calculate and apply a Lifeline discount.

After discounting consumers' Lifeline service, providers must file requests for reimbursement with USAC for the discounts provided. Not only is there a time lag between the time providers deliver the Lifeline benefit and when they are reimbursed for it, but the reimbursements do not cover the administrative expenses associated with managing their participation. Those expenses are not insubstantial: The Commission in 2013 estimated that participating ETCs would incur more than $600 million in annual administrative costs to comply

[8] 47 C.F.R. § 54.405(a). At the same time, every provider that becomes an ETC for purposes of participating in a high-cost USF program has no choice but to also participate in the Lifeline program. 47 C.F.R. §54.405(a) (requiring ETCs to make available Lifeline service to qualifying consumers).

with federal Lifeline program requirements.[9] Those costs are understated because they do not include the costs of complying with many differing state-specific requirements. These state-specific requirements prevent providers that operate in more than one state from being able to scale their Lifeline operations, driving further inefficiencies and increased costs. Finally, failure to comply with any of these requirements also exposes providers to enforcement risk, with the possibility of substantial penalties. The significant administrative burdens of being a Lifeline ETC coupled with potential FCC enforcement actions can be a powerful deterrent to participation from a diverse range of providers.[10]

C. The Lifeline Program Is Inefficient from a Program Controls Perspective

Despite the Commission's efforts to improve the integrity of the Lifeline program, the underlying structure of the program is fundamentally flawed and inefficient because it requires private sector companies, rather than government agencies, to perform Lifeline program administration functions. For example, in most states, participating private sector service providers are required to administer consumer Lifeline eligibility determinations. But private sector service providers do not have access to the factual information that would validate a

[9] *See* FCC Paperwork Reduction Act Supporting Statement, 3060-0819 (October 2013), available at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201410-3060-011. The bulk of the estimated cost arises from administering consumer eligibility determinations and annual consumer recertifications.

[10] *See, e.g.,* T-Mobile USA, Inc., Notice of Relinquishment of Lifeline-Only Eligible Telecommunications Carrier Designations, WC Docket No. 09-197 (filed Sept. 12, 2014); Cricket Communications, Inc., Notice of Relinquishment of Eligible Telecommunications Carrier Designations, WC Docket No. 09-197 (filed Oct. 14, 2014); AT&T Mobility, LLC, Notice of Relinquishment of Eligible Telecommunications Carrier Status, WC Docket No. 09-197 (filed Oct. 14, 2014).

consumer's eligibility[11] – nor should they, from a consumer privacy perspective. The program duplicates, rather than leverages, existing government agency processes, including qualifying, enrolling, and de-enrolling consumers for other federal benefits programs, such as SNAP. It also lacks appropriate checks and balances to safeguard against waste, fraud, and abuse, by failing to structurally separate the party responsible for eligibility and enrollment-related functions from the party responsible for service provision and benefit delivery. Even though providers stand to benefit financially in the form of Lifeline reimbursements the more positive eligibility determinations they make, providers are also charged with making those eligibility determinations, and also control the filings necessary to obtain reimbursements for Lifeline discounts.[12]

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[11] The agencies that administer SNAP, on the other hand, have access to the State Data Exchange (SDX) to verify Supplemental Security Income (SSI) benefits; the Beneficiary Data Exchange (BENDEX) to verify Social Security benefits; and an income and eligibility verification system (IEVS) to request wage and benefit information to verify eligibility for SNAP from the State Wage Collection Agency (SWICA), the Social Security Administration (SSA), the IRS, and the agency administering unemployment insurance benefits in the state. *See* 7 C.F.R. §§ 273.2(f)(7), (9), 272.8(a).

[12] In contrast, the SNAP program separates responsibilities for eligibility and enrollment-related functions (that are handled by a state agency) from retailer responsibilities (to accept SNAP benefits as payment for eligible food items). *See* 7 C.F.R. Part 273, Certification of Eligible Households; 7 C.F.R. Part 278, Participation of Retail Food Stores, Wholesale Food Concerns and Insured Financial Institutions. The SNAP program further imposes certain "Internal Controls" requirements on state agencies that administer SNAP, i.e., an organizational structure that "safeguards certification and issuance records from unauthorized creation or tampering", by

> divid[ing] the responsibility for eligibility determinations and [benefit] issuance among certification, data management, and issuance units. The certification unit shall be responsible for the determination of household eligibility and the creating of records and documents to authorize the issuance of [benefits] to eligible households. The data management unit, in response to input from the certification unit, shall create and maintain the household issuance record . . . . The issuance unit shall provider certified households with the authorized [benefits]. In cases where personnel are periodically, or on a part-time basis, shifted from one unit to

III. NEW LIFELINE WILL EMPOWER ELIGIBLE CONSUMERS TO CHOOSE FROM THE BROADEST ARRAY OF SERVICES

In this and the following sections, AT&T describes the components and operation of New Lifeline in greater detail.[13]

A. Lifeline Covered Services Should Include Any Fixed or Mobile Voice or Broadband Internet Access Service

Americans have benefited tremendously from the competitiveness of the communications industry, which has led to unprecedented choice, growth, innovation, and affordability in consumer service offerings. A subset of consumers, however, has been limited in the service plans and providers from which they can choose simply because they receive Lifeline support. Eligible consumers should be empowered to choose whatever available voice and/or broadband services they decide are most cost-effective and best meet their individual needs. In AT&T's experience, based on its former Cricket Wireless Lifeline operations, the vast majority of Lifeline customers chose to subscribe to rate plans that included both voice and data where that option was available. Regulators should not make this choice for consumers by establishing overly prescriptive service standards but should instead encourage participating providers to offer Lifeline customers the choices available to non-Lifeline consumers to the greatest extent possible by allowing the marketplace to independently operate.

To this end, with New Lifeline a provider may elect to offer an eligible consumer the same services at the same prices that it offers to non-Lifeline customers and the consumer would

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> another, supervisory controls should be sufficient to assure that the unauthorized creation or modification of case records is not possible.

47 C.F.R. § 272.4(c). An exception requires written U.S. Dept. of Agriculture approval and must include other safeguards identified in the rule. *See id.*

[13] *See also infra* Sections IV.-V.

be permitted to apply the federal Lifeline benefit to the covered fixed or mobile, broadband and/or voice service, whether offered on a standalone basis or as part of a bundle, that it chooses to purchase. The Lifeline customer would simply apply his or her Lifeline benefit to the charge for the Lifeline covered service, and pay any remaining charge with personal funds.

This approach would ensure that Lifeline customers have access to services that are reasonably comparable to services available to non-Lifeline customers and can reap the benefits of innovation in service offerings that are the hallmark of our consumer driven and highly-competitive communications market. It would also eliminate the need to establish minimum service standards for Lifeline service, since Lifeline customers would have access to the same service offerings that participating providers make available to non-Lifeline consumers. If a participating provider’s services or prices are not attractive to Lifeline consumers, they will switch providers.

If, on the other hand, the Commission mandates particular service levels for specific services in order to participate in the Lifeline program or adopts overly prescriptive requirements for all Lifeline services, it would effectively limit the flexibility of service providers to be responsive to consumer needs and demands for voice and broadband services. This, in turn, would result in limiting the choices available to Lifeline customers and reducing incentives for providers to participate in the Lifeline program, which ultimately would further restrict eligible consumers’ choices.

The only circumstance in which minimum service standards are appropriate is if the Commission gives Lifeline providers the flexibility to offer Lifeline-specific services or service packages and restricts Lifeline consumers to purchasing just these plans. Providers have many differing business plans and strategies, and one goal of New Lifeline is to encourage even broader and more diverse participation in the program. Providing this flexibility could help encourage that diverse participation. In other words, providers should be permitted to limit Lifeline customers to applying their benefits to specific "Lifeline" offerings available only to Lifeline customers. In that case, those Lifeline-specific offerings should be required to satisfy minimum service standards that the Commission establishes to ensure that Lifeline customers have access to reasonably comparable services at reasonably comparable prices. No minimum service standard should apply to providers who allow Lifeline consumers to apply their Lifeline benefit to the same covered service offering available to the general public.

New Lifeline would retain the current "one-per-household" monthly benefit of $9.25 (and any enhanced Tribal benefit the Commission elects to retain) regardless of the covered service or services a consumer purchases from a participating provider. There is no need to continue restricting Lifeline benefits to recurring charges, which unnecessarily complicates Lifeline program administration and oversight. Lifeline customers should have the flexibility to apply their benefits to any recurring or non-recurring charges associated with any Lifeline covered service offered by a participating provider that they determine best meets their personal needs and circumstances.

B. Lifeline Benefits Should be Portable

The ability of consumers to switch providers easily is an essential element of a competitive marketplace and has long been supported by the Commission.[14] Lifeline customers,

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[14] *See, e.g., Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8368 ¶ 30 (1996). The Commission explained that portability "gives customers flexibility in the quality, price, and variety of telecommunications services they can choose to purchase" and "promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes." *Id*. "[C]ompetition should foster lower local telephone prices and, consequently, stimulate demand for telecommunications services and increase economic growth." *Id.*

however, have been effectively denied this right under the current enrollment and reimbursement process, which ties a Lifeline customer to a single provider, necessitating bureaucratic processes should the customer wish to switch providers. In that case, a benefit transfer must be processed in NLAD after the consumer consents to the transfer, requiring that NLAD de-enroll the subscriber from the original carrier, enroll the consumer with the receiving carrier, and notify the carriers in question of the change.[15] Lifeline benefit delays resulting from the transfer process can impose a hardship upon eligible consumers, who by definition have limited financial resources. These processes serve as a barrier to switching, rather than making it easy for consumers to switch Lifeline service providers if they find a better deal.

To eliminate these artificial ties that bind Lifeline customers to their existing providers, the New Lifeline would put the program benefit directly in the hands of eligible consumers. As discussed below, all administrative oversight of the Lifeline program would be shifted to the Universal Service Administrative Company ("USAC"), including management and distribution of Lifeline benefits directly to Lifeline customers through a debit card (the "Lifeline benefit card"). The Lifeline benefit card would leverage existing commercial payment card technologies and systems to limit its use to the purchase of Lifeline covered services from participating providers. Eligible consumers would use personal funds to pay any charges that exceed the Lifeline support amount. This not only makes it simple for eligible consumers to switch from one Lifeline provider to another, but allows the customer to apply the benefit to different providers from month to month.

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[15] *See* USAC, "National Lifeline Accountability Database (NLAD): Benefit Transfers," available at http://www.usac.org/li/tools/nlad/benefit-transfers.aspx.

IV. THE LIFELINE PROGRAM MUST BE ADMINISTERED BY USAC AND DESIGNED TO LEVERAGE EFFICIENCIES AND EXPERTISE OF OTHER FEDERAL BENEFITS PROGRAMS

Today's Lifeline program fails to utilize common-sense structural checks and balances to safeguard against waste, fraud, and abuse, by placing service providers in several significant administrative roles, including verifying and recertifying eligibility, enrolling and de-enrolling consumers from the program, and advancing the benefits to consumers. This structure is also inefficient because it duplicates the benefits administration functions of the federal programs that qualify consumers for Lifeline, which are already managed by the government agencies that administer those programs. Program administration must be completely revamped to eliminate these wasteful duplications and institute structural checks by centralizing administrative functions and duties while leveraging the efficiencies and expertise of other federal benefits programs. This approach would improve and streamline program administration, promote consumer participation, and better protect consumers' dignity and privacy, while helping prevent waste, fraud, and abuse.

A. USAC and Government Agencies Should Administer Lifeline

Fortunately the Lifeline program need not reinvent the wheel. Under New Lifeline, responsibility for the administrative functions of the program would be modified to more closely align it with other federal assistance programs that rely upon government agencies to perform such functions. For example, the Food Nutrition Service ("FNS") of the U.S. Department of Agriculture is responsible for the Supplemental Nutrition Assistance Program ("SNAP") and shares program administration duties with state government agencies. Unlike Lifeline applicants, consumers who wish to participate in SNAP do not go to an authorized SNAP retailer to enroll, and the retailer is not responsible for determining or recertifying a consumer's eligibility, retaining copies of the consumer's personal documents, or calculating and delivering

SNAP benefits. Instead, these functions are handled by the state government agencies charged with SNAP administration.[16] The SNAP retailer sells groceries (distinguishing eligible groceries from ineligible items) and accepts SNAP EBT (electronic benefit transfer) cards as one form of payment for those groceries.[17]

New Lifeline has a common-sense administrative framework that leverages the existing requirements, systems, and processes of the SNAP and FDPIR[18] federal benefit programs. USAC, on behalf of the Commission, would be responsible for overseeing all Lifeline program administration functions and duties, including the following: (1) program enrollment, including verifying initial eligibility; (2) delivery of Lifeline program benefits to qualified consumers; (3) determining ongoing Lifeline program eligibility and de-enrolling consumers that are no longer eligible; (4) de-authorizing Lifeline program benefits; (5) implementing program rules for participating Lifeline providers; (6) implementing any budgetary controls the Commission finds necessary; and (7) ensuring program integrity. USAC also would expand its National Lifeline Accountability Database to operate as the centralized database that enables and supports Lifeline program administration functions and duties.[19] As described further below, this framework

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[16] *See* 7 C.F.R. Part 273, Certification of Eligible Households.

[17] *See* U.S. Dept. of Agriculture, Food & Nutrition Service, SNAP, the Supplemental Nutrition Assistance Program | Training Guide for Retailers (April 2014), available at http://www.fns.usda.gov/sites/default/files/Retailer_Training_Guide.pdf.

[18] FDPIR is an alternative to SNAP for low-income households living on Indian reservations and Native American families residing in approved areas. Consumers cannot participate in SNAP and FDPIR at the same time. See 7 C.F.R. § 253.5(a)(2)(i).

[19] To complement this change, the NLAD could be re-branded as the National Lifeline Administration Database.

would not require USAC itself to perform every administrative function. Rather, state agencies would perform certain administrative functions, just as they do for SNAP today.

B. The Lifeline Enrollment Process Should be Coordinated With Federal Assistance Plan Enrollment

1. Determining Consumer Eligibility

At the outset, Lifeline eligibility under New Lifeline would be based solely upon the customer's qualification for and participation in either SNAP or FDPIR.[20] Streamlining the Lifeline eligibility criteria, at least temporarily, will make the restructuring of the program possible by improving overall efficiency and simplifying program administration while continuing to target individuals and families most in need.[21] Other qualifying federal assistance programs could be added in the future so long as they have sufficient program controls and are consistent with the Lifeline program framework.[22] Connecting Lifeline eligibility to SNAP/FDPIR should not result in a dramatic decline in the number of households choosing to enroll in Lifeline because the coordinated enrollment process described below should improve the current Lifeline program participation rate by automatically informing SNAP/FDIRP applicants of the availability of Lifeline and making the Lifeline enrollment process more

[20] State agencies that administer SNAP may have procedures that allow applicants to apply for SNAP and another program at the same time. *See* 7 C.F.R. § 273.2(b)(3).

[21] For example, approximately 83 percent of SNAP households in FY 2013 had gross income less than or equal to 100 percent of Federal Poverty Guidelines. *See* U.S. Dept. of Agriculture, Food & Nutrition Service, Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2013 (December 2014) (available at http://www.fns.usda.gov/characteristics-supplemental-nutrition-assistance-program-households-fiscal-year-2013).

[22] Initially, however, the federal Lifeline program would eliminate all other program or income-based eligibility criteria, including those that have been added to the federal program at the state level.

efficient. Moreover, there is a substantial overlap between requirements for SNAP eligibility and eligibility for the other programs that currently confer Lifeline eligibility:[23]

- Participation in **TANF (Temporary Assistance for Needy Families)** confers categorical (automatic) eligibility for SNAP.[24]

- **SSI (Supplemental Security Income)** confers categorical eligibility for SNAP in all but one state (California).[25]

- **National School Lunch Program**: Receipt of benefits by any household member from SNAP or FDPIR (or TANF) conveys categorical (automatic) eligibility for free school meals to all children in the household.[26]

- **Medicaid**: States may elect to enroll non-elderly, non-disabled SNAP participants in Medicaid without conducting separate income determination.[27]

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[23] Despite the limited apparent impact, a reasonable transition plan should be developed to prevent the sudden de-enrollment of Lifeline households.

[24] *See* Mathematica Policy Research, Programs Conferring Categorical Eligibility for SNAP: State Policies and the Number and Characteristics of Households Affected, Final Report (February 2014) http://www.mathematica-mpr.com/~/media/publications/PDFs/nutrition/SNAP_categorical_eligibility.pdf; *see also* U.S. Dept. of Agriculture, Food & Nutrition Services, Broad-Based Categorical Eligibility (last updated April 2015) available at   http://www.fns.usda.gov/sites/default/files/snap/BBCE.pdf

[25] Mathematica Policy Research, *supra*, at 7. Even in California, however, SSI may qualify consumers for SNAP. *See* http://www.fns.usda.gov/snap/eligibility#Income

[26] U.S. Dept. of Agriculture, Food & Nutrition Service, Child Nutrition Programs, Eligibility Manual for School Meals | Determining and Verifying Eligibility at 7 (July 2015) available at http://www.fns.usda.gov/sites/default/files/cn/SP40_CACFP18_SFSP20-2015a.pdf.

[27] Dept. of Health & Human Services, Centers for Medicare & Medicaid Services (CMS), Re: Facilitating Medicaid & CHIP Enrollment and Renewal in 2014 (May 17, 2013) available at: http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SHO-13-003.pdf; see also CMS, Express Lane Eligibility for Medicaid and CHIP Coverage http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Outreach-and-Enrollment/Express-Lane-Eligibility.html.

2. The Coordinated Enrollment Process

Low-income consumers would enroll in the Lifeline program through a new coordinated enrollment process.[28] Specifically, the same state agency that manages SNAP/FDPIR would enroll consumers in the Lifeline program.[29] The process would be "coordinated" in the sense that Lifeline enrollment would be a joint effort between the consumer, the state agency, and USAC. Coordinated enrollment would occur at the same time a consumer initially applies for SNAP/FDPIR and is recertified for continued participation in SNAP/FDPIR. Such a coordinated process would help ensure that only qualifying low-income consumers participate, as well as help increase consumer awareness. It should also help to improve Lifeline program participation rates because consumers will be asked if they would like to enroll in Lifeline at the same time they are enrolling or re-certifying for SNAP and FDPIR.

The coordinated enrollment process administered by the state agency responsible for managing SNAP/FDPIR would include the following Lifeline program functions:

- serving as a point of contact for program information;[30]
- preparing the enrollment application;
- authorizing use of the consumer's SNAP/FDPIR information in the application;

[28] In the existing Lifeline program the term "enrollment" has become synonymous with signing up with a service provider because service providers control the eligibility function. In New Lifeline, consumers would "enroll" in Lifeline regardless of whether or not they have established a relationship with a provider. Enrolling in the benefit program is a separate and independent step from signing up with a service provider.

[29] Indian Tribal Organizations ("ITOs") may administer FDPIR in some areas rather than state agencies. The term, state agency, will be used throughout these comments to mean the state agencies that manage SNAP and ITOs that administer FDPIR.

[30] The state agency would serve as a local point of contact, while USAC would serve as a national point of contact for Lifeline program information (e.g., regarding program rules, other benefit information, and contact information for Registered Providers).

- verifying program eligibility;
- approving the consumer's enrollment;
- authorizing the issuance of benefits; and
- notifying a consumer that their enrollment request was either accepted or declined.

When a consumer enrolls in SNAP/FDPIR or is recertified for continued participation, the state agency would initiate the coordinated enrollment process by asking the consumer if they would also like to enroll in the Lifeline program.[31] If a consumer authorizes enrollment, the state agency would use the information provided by the consumer to submit an electronic Lifeline enrollment request to USAC.[32] The Lifeline enrollment request would include the following types of SNAP/FDPIR information:

- applicant's name, address, birth date, social security number, and other contact information (e.g., telephone number, e-mail address);
- other household members' names, birth dates and social security numbers (or last four digits), and other contact information; and
- confirmation of participation in SNAP/FDPIR.

Upon receipt of a Lifeline enrollment request, USAC would finalize the determination of the consumer's Lifeline eligibility by using the Lifeline enrollment request to confirm that the consumer is participating in SNAP/FDPIR and to verify in the NLAD that neither the applicant nor another household member currently receives a Lifeline benefit. Access to the consumer's

[31] Ideally, those states that allow consumers to apply for SNAP/FDPIR benefits online would also provide consumers the opportunity to request Lifeline enrollment online.

[32] Rather than continuing to look for ways to interact with individual state databases, which has proven difficult at best due to privacy concerns, AT&T recommends upgrading the NLAD, which USAC controls, to provide state agencies with access to the NLAD to submit consumer-authorized enrollment information.

SNAP/FDPIR information, including details regarding other household members, will greatly improve Lifeline program controls in light of the verifications that these agencies already must perform[33] and negate the need to rely on consumer self-certifications,[34] while eliminating service provider access to the consumer's sensitive personal information.

When consumers pass USAC's final eligibility check, USAC would authorize their Lifeline enrollment and send them a notice confirming enrollment with the date to expect receipt of a Lifeline debit card, the date Lifeline program benefits will commence, and other information regarding participation. If a consumer fails USAC's final eligibility check (*e.g.*, the NLAD reveals the consumer or another household member already participates in Lifeline), USAC would notify the consumer that their Lifeline enrollment is declined, the reason why, and how to appeal the decision.[35]

The coordinated enrollment process would not include the selection of a service provider. Customers will not need to select their service provider at the time their eligibility is determined given the portability of the Lifeline benefit. Instead, USAC and/or the state agency could provide Lifeline customers with a list of Registered Providers, ideally limited to those

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[33] For example, in most cases, a household applying for SNAP benefits must have a face to face interview with an eligibility worker both at initial certification and at least once every 12 months thereafter. *See* 7 C.F.R. § 273.2(e). And the agency is required to verify the household's income, certain expenses, Social Security numbers for every member of the household, the applicant's identity, household composition, using identified information sources and processes identified in program rules. *See* 7 C.F.R. Part 273, Certification of Eligible Households.

[34] *See supra* note 11 for examples of information sources and government systems that SNAP agencies access to confirm the factual data demonstrating consumers' eligibility.

[35] The NLAD should be upgraded to automate the notification process when Lifeline enrollment is approved or declined.

providers known to serve the home address of the consumer.[36] In addition, USAC would develop a list of newly approved Lifeline consumers who have agreed to allow their contact information to be released to Registered Providers. This list would be accessible daily in the NLAD to Registered Providers who could proactively market their services to those Lifeline enrollees who wish to receive such information.

Leveraging existing SNAP/FDPIR requirements, systems, and processes is more efficient and effective than the status quo. The government agencies involved already administer government benefits for the target population and have a significant local presence in every state,[37] improving program accessibility for eligible consumers. And these agencies have robust processes to confirm eligibility for SNAP and FDPIR,[38] resulting in efficiencies both for consumers and the agencies in question. Utilizing their expertise eliminates Lifeline providers' duplicative and inappropriate role and should improve the Lifeline participation rate.

3. The Coordinated De-Enrollment Process

State agencies already conduct a recurring recertification process that requires participating consumers to demonstrate their continued eligibility in SNAP/FDPIR,[39] and they

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[36] USAC could potentially create a website that enables a Lifeline-eligible consumer to easily determine which Registered Providers offer Lifeline covered services in a particular area.

[37] *See* U.S. Dept of Agriculture, Food & Nutrition Service, SNAP Application & Local Office Locators, http://www.fns.usda.gov/snap/snap-application-and-local-office-locators.

[38] *See* 7 C.F.R. Part 272, Requirements for Participating State Agencies; Part 273, Certification of Eligible Households.

[39] Participating households must report information bearing on their eligibility and be recertified for continuing participation beyond the initial certification period. *See* 7 C.F.R. § 273.12 (change reporting); §§ 273.14 (recertification requirements). Households must also have a face to face

de-enroll ineligible participants or otherwise disqualify them.[40] Lifeline consumers would remain enrolled in the Lifeline program as long as they continue their participation in SNAP/FDPIR, and would only be de-enrolled from Lifeline when they are de-enrolled from SNAP/FDPIR.[41] The state agency would initiate a coordinated de-enrollment process when a consumer is de-enrolled from SNAP/FDPIR by sending USAC an automatic de-enrollment notification via the NLAD.[42] Upon receipt of the automatic de-enrollment notification, USAC would complete the Lifeline de-enrollment by: (1) notifying the Lifeline consumer that they have been de-enrolled from Lifeline because they no longer participate in SNAP/FDPIR;[43] and (2) authorizing the issuing bank for the Lifeline benefit card (described below) to immediately discontinue adding Lifeline benefits to the consumer's Lifeline card and to recover any benefits that remain on the card.

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interview with an eligibility worker is required at least every 12 months following initial certification in most cases. *See* 7 C.F.R. § 273.2.

[40] *See generally* 7 C.F.R. Subpart E, Continuing Participation (SNAP); Subpart F, Disqualification and Claims.

[41] There may be cases where a Lifeline consumer fails to utilize the Lifeline benefits that have been delivered to his Lifeline benefit card. After some consecutive period of non-use, e.g., three months, USAC would give the consumer notice that the card will be de-authorized and the consumer de-enrolled from Lifeline if the benefits are not used by a given date. This would allow USAC to recover unused Lifeline benefits for the USF while giving the consumer a short grace period to begin using the benefits.

[42] A thirty day grace period could be implemented prior to sending USAC an automatic de-enrollment notification. This would give a consumer the opportunity to re-enroll in SNAP/FDPIR if, for example, they were de-enrolled because they were unable to respond to a recertification notice prior to the deadline.

[43] The automatic de-enrollment notification and Lifeline consumer notification would be additional upgrades to the NLAD.

The coordinated de-enrollment process would eliminate the need for the current Lifeline annual recertification process, which in turn should greatly reduce the current level of churn based on consumers' failure to recertify even when they are still eligible. It also would provide better program controls by relying upon the more rigorous SNAP/FDPIR recertification processes rather than the current Lifeline process, which simply requires a consumer to self-certify as to their continued eligibility for the program.

C. Lifeline Benefits Should Be Distributed Directly to Consumers

When USAC authorizes a consumer's enrollment in the Lifeline program, the NLAD would transmit a notice with the consumer's details to the bank responsible for issuing Lifeline debit cards.[44] Upon receipt of USAC's notice, the bank would send a Lifeline debit card to the newly enrolled Lifeline consumer and begin to deposit the monthly Lifeline benefit directly to the card on a monthly basis. The Lifeline benefits on the debit card would be restricted to purchasing Lifeline covered services from Registered Providers, using existing commercial payment card technologies and systems. Lifeline consumers would use the debit card to help pay the charges for the Lifeline covered services, and then pay a remaining balance, if any, through other methods. USAC would manage the relationship with the banking industry for: (1) issuing Lifeline debit cards; (2) depositing Lifeline benefits on the debit cards; (3) negotiating applicable transaction fees, if any; (4) de-authorizing Lifeline debit cards when consumers are de-enrolled from Lifeline; (5) processing payments from the debit cards to the Registered Provider; and (6) any other activities as necessary. To minimize administrative costs and encourage provider participation, the Commission should utilize a single Lifeline benefit card with a single issuing bank and processing network.

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[44] This notification also would be automated as a further expansion of the NLAD.

Using a debit card to deliver government benefits is not a novel concept. The SNAP and TANF programs, among others, already deliver benefits using a debit card.[45] By providing the Lifeline benefit directly to eligible consumers, the Commission would more closely align the program with the nature of the benefit it provides – a reduction in the cost of service for eligible consumers. For example, the benefits of a direct distribution of benefits include the facilitation of a Lifeline funding budget as described below, as well as elimination of the following:

- a provider-managed Lifeline discount on the customer's bill;
- restricting Lifeline consumers to a single participating Lifeline service provider and a single covered service;
- conducting checks for duplicate benefits;
- the 60-day verification process that is required of prepaid ETCs under the Commission's de-enrollment for non-usage rule;[46] and
- the reimbursement process that requires service providers to report and apply to USAC for Lifeline funding.

AT&T recognizes that there is more than one business model in the marketplace for the provision of Lifeline-supported service. For example, not all carriers issue bills to their customers and acceptance of a Lifeline debit card alone might not be their preferred solution. For these providers, an automatic direct payment mechanism that utilizes the Lifeline debit card would eliminate the need for them to issue an actual bill to the Lifeline customer. Instead, the service provider would establish a service renewal date and simply notify the Lifeline customer

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[45] *See* U.S. Dept. of Agriculture, EBT | Electronic Benefits Transfer (EBT) Status Report by State (May 14, 2015) available at http://origin.drupal.fns.usda.gov/sites/default/files/snap/electronic-benefits-transfer-ebt-status-report-state.pdf (identifying, programs for which benefits are delivered via each state's EBT card).

[46] 47 C.F.R. § 54.405(e)(3).

in advance of the date that a charge will be applied to the Lifeline debit card on file unless the customer chooses to discontinue the covered Lifeline service prior to the service renewal date.[47] Other mechanisms might also be appropriate in conjunction with the Lifeline debit card for the various types of offers in the marketplace. AT&T is committed to working with other industry members, the Commission, and USAC to identify the Lifeline payment distribution methods that serve Lifeline consumers as effectively as possible.

D. The Commission Should Establish Uniform Rules and Encourage State Agency Participation Through a Carrot and Stick Approach

The Commission believes the best way to "increase competition and innovation in the Lifeline marketplace" is to "increase the number of service providers offering Lifeline services."[48] New Lifeline is the best way to increase the number of providers willing to offer Lifeline service, to improve program participation rates and establish more robust program controls that will minimize incentives for waste, fraud and abuse. Although there is a central role for the states in New Lifeline, the plan depends on establishing a uniform eligibility criteria, a streamlined process for registering Lifeline providers, a coordinated enrollment/de-enrollment mechanism, and unified national debit card issuance and processing, all of which must be consistent across jurisdictions. Although the Commission does not have jurisdiction to order state agencies to participate in New Lifeline, the Commission nevertheless can achieve the benefits of New Lifeline by using a "carrot and stick" approach to encourage state agencies to participate.

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[47] Providers that issue a bill also may want to serve their Lifeline customers through an automatic direct payment mechanism. Some providers may elect to extend additional promotional discounts to Lifeline customers that utilize the automatic direct payment mechanism.

[48] *Notice* at ¶ 121.

1. The Commission Could Help Defray State Costs to Induce State Agencies to Participate in the Coordinated Enrollment

The Commission could implement a "carrot" approach by offering to defray the costs of state agencies with roles in New Lifeline program administration. The Commission has the authority to provide compensation from the federal universal service fund to state agencies for the Lifeline administration functions they perform, including "eligibility determinations and coordinated enrollment,"[49] on behalf of the Commission and USAC and there are no statutory prohibitions that would preclude state agencies from accepting such reimbursement in this case.

The Commission has previously provided for comparable state reimbursement when it established the National Deaf-Blind Equipment Distribution Program ("NDBEDP") with reimbursement to state equipment distribution programs ("EDPs") for administrative costs up to 15 percent of their total reimbursable NDBEDP costs.[50] The Commission directed the distribution of $10 million annually through state agencies and authorized the use of such funding to cover administrative costs incurred by these state administrators, although the statute does not specifically authorize either of these decisions.[51]

There is no federal legal provision that would prohibit state agencies from accepting compensation from the federal USF for taking on the responsibility for coordinated enrollment (although such legal provisions may vary by state). In fact, some provisions of federal law –

[49] Notice, ¶ 98; *see also id.*, ¶ 101 ("Are there any legal and practical limitations of having the state or federal benefit administrators serve as agents for the Commission with respect to Lifeline?").

[50] *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order, 26 FCC Rcd 5640, 5680 ¶ 92 (2011) ("*NDBEDP Order*").

[51] *NDBEDP Order*, 26 FCC Rcd at 5680 ¶ 92; 47 U.S.C. § 620.

including those pertaining to SNAP – affirmatively contemplate and set forth terms to govern such reimbursement.[52] Nor is there any reason to believe that states would refuse any compensation that they are authorized to receive. Thus, there should be no barrier to the Commission compensating state agencies for the Lifeline program administration functions they perform.

2. The Commission Can Restrict Federal Support to Encourage State Participation in New Lifeline

The Commission also could encourage state agency participation through a "stick" approach by creating financial incentives for states to participate in New Lifeline. The federal government has authority to condition the extension of federal Lifeline funding on a state's adherence to the terms of a federal program[53] – and, as detailed below, courts have upheld such an approach to USF. In this case, the states in which the state agencies that administer SNAP/FDPIR do not agree to perform the New Lifeline administration functions described in the proposal would not be eligible for federal Lifeline support.[54] That is to say, the Commission needs the assistance of these state agencies to implement New Lifeline, and it could appropriately ensure that state-level cooperation by withholding Lifeline support unless the states agree to participate.

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[52] 7 U.S.C. § 2025(a) (states may be reimbursed for 50 percent of their costs of administering the food stamp program).

[53] *See, e.g.*, *South Dakota v. Dole*, 483 U.S. 203, 206-08 (1987) (holding that "Congress may attach conditions on the receipt of federal funds" in order to encourage particular state action, provided among other things that the conditions bear some relationship to the purpose of the federal spending); *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (upholding federal conditions on state receipt of federal funding, noting that "[s]tates are free to refuse federal support.")

[54] Presumably, the Commission would establish a reasonable date certain in the future for state implementation.

Courts have endorsed the Commission's use of federal support as a tool to create incentives for states to adopt consistent state universal service policies. For example, the Tenth Circuit held that "[t]he FCC may not simply assume that the states will act on their own to preserve and advance universal service. It remains obligated to create some inducement – a 'carrot' or a 'stick' for example, or simply a binding cooperative agreement with the states – for the states to assist in implementing the goals of universal service."[55] Similarly, the Fifth Circuit made clear that nothing in the Act prohibits the Commission's conditioning receipt of federal USF support on adherence to certain Commission conditions and states are free to refuse federal support.[56] More recently, the Tenth Circuit reaffirmed that "nothing in the statute limits the FCC's authority to place conditions, such as the broadband requirement, on the use of USF funds."[57]

Even before the 1996 Act, USF included a conditional element. Specifically, Lifeline support was originally provided in the form of a waiver of the federal subscriber line charge ("SLC"). The program required states to make a matching reduction in intrastate rates in order to qualify for the SLC waiver; a state's decision not to participate meant that federal support would not be available.[58] Thus, a conditional stick approach has been endorsed from the days of the original pre-1996 Act program through the 2014 Tenth Circuit decision, and there is no reason why the Commission could not apply that time-tested approach here as well.

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[55] *Qwest Corp. v. FCC*, 258 F.3d 1191, 1204 (10th Cir. 2001).

[56] *Tex. Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393, 444 (5th Cir. 1999).

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

[58] *First Universal Service Order*, 12 FCC Rcd at 8961 ¶ 348.

V. INCREASING VOLUNTARY PARTICIPATION THROUGH A NEW REGISTERED LIFELINE SERVICE PROVIDER FRAMEWORK MAXIMIZES CONSUMER OPTIONS

The Commission should establish a separate category of universal service provider – the Registered Lifeline Service Provider ("Registered Provider") – which should be voluntary and delinked from a provider's ETC status. While this is a core tenet of New Lifeline, the Commission should take this action regardless of whether the rest of the proposal is adopted. Existing eligibility requirements and ongoing obligations associated with being an ETC discourage, and in some cases outright prevent, a wide range of service providers from participating in the Lifeline program. To expand consumer choice for eligible Americans, the Commission must promote voluntary participation in the Lifeline program to include entities that, to date, have been either unwilling or unable to participate. It can accomplish this by separating the Lifeline program from ETC designations and adopting a streamlined registration process for Lifeline participants.

A. The Commission Should Create a New Framework for Registered Lifeline Service Providers

The Commission should streamline and standardize Lifeline procedures for participating providers. Adopting a uniform registration process has the potential to enhance program controls and accountability. The obligations associated with being an ETC provide no inherent safeguards against waste or abuse of the Lifeline program rules and the designation process varies substantially in its rigor from state to state. Modifying the rules to encourage voluntary Lifeline participation by the broadest possible range of providers, including cable broadband providers, fixed wireless broadband providers, over-the-top interconnected VoIP providers, as well as fixed and mobile facilities-based providers that elect to provide voice services, will ensure that eligible consumers finally will have available the broadest possible array of competitive choices that other consumers take for granted.

Under New Lifeline, service providers that voluntarily elect to participate would be required to seek approval to participate as a Registered Provider. To be designated as a Registered Provider, a service provider would need to:

- identify those covered services it elects to offer to Lifeline consumers and demonstrate that any Lifeline-specific plans satisfy minimum service standards established by the FCC;
- demonstrate it is financially and technically capable of providing the Lifeline covered services it offers;
- agree to comply with applicable consumer protection requirements established by the FCC (such as access to emergency services and compliance with accessibility rules for individuals with disabilities);
- allow Lifeline customers to make payments for Lifeline covered services using a Lifeline debit card and to pay any remaining balance using other payment methods;
- limit Lifeline debit card payments to Lifeline covered services regardless of whether these services are sold on a standalone basis or as part of a bundle; and
- submit to Commission audits to ensure compliance with Registered Provider obligations.

B. Participation in the Lifeline Program Must be Voluntary and Delinked from ETC Status

Making participation in the Lifeline program voluntary for all service providers is one of the best ways to attract providers that want to compete for Lifeline consumers' business and offer the types of value-added services desired by these consumers. The proliferation of Lifeline-only ETC status requests is a clear indication of the interest in participating in the program.[59] However, that interest has been largely limited to a subset of prepaid wireless

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[59] The Commission has taken steps to help facilitate the "Lifeline-only" ETC application process, such as by granting blanket forbearance from the requirement that telecommunications carriers

carriers. New Lifeline is designed to expand the level of interest of all communications providers, many of whom may be willing to participate if an ETC designation is not required.

Existing ETCs also should be allowed to make an independent determination as to whether they want to continue to participate in the Lifeline program as a Registered Provider. There is no statutory obstacle to the Commission relieving ETCs of their obligation to participate. The requirement that ETCs participate in Lifeline was imposed by Commission rule and not by section 214(e) of the Communications Act, and thus the ETC relinquishment requirements of section 214(e) also would not apply. Moreover, there are far more Lifeline providers today than when the Commission first chose to tie the ETC designation to mandatory Lifeline participation. Competition for eligible consumers will become even more vibrant under New Lifeline, making it unnecessary to require a company receiving high-cost/CAF funding to offer Lifeline service. Status as a Registered Provider should be completely delinked from high-cost ETC requirements.[60]

In order to ensure that low-income consumers have ubiquitous access to broadband, the pool of Lifeline providers must be expanded beyond traditionally defined ETCs. There are geographic areas of an ETC's service area where it does not offer broadband today and where it may never in the future because it is uneconomic to do so or because a non-ETC (*e.g.*, a cable

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seeking to become Lifeline-only ETCs provide service at least partially over their own facilities, subject to certain conditions. *Lifeline Reform Order*, 27 FCC Rcd at 6813 ¶ 368. However, it remains an unduly complex process that places unnecessary burdens on carriers and regulators alike, and the program remains limited to traditional telecommunications carriers. Lifeline-only ETC designations are therefore not an adequate solution for comprehensive and meaningful Lifeline reform.

[60] *See* Comments of AT&T, WC Docket No. 11-42 (filed Apr. 21, 2011) at 6-9; Reply Comments of AT&T, WC Docket No. 11-42 (filed May 25, 2011) at 5-8; Comments of AT&T, WC Docket No. 11-42 (filed April 2, 2012) at 19-22; Reply Comments of AT&T, WC Docket No. 11-42 (filed May 1, 2012) at 10-14.

company) is already providing broadband service. In that case, the ETC is ineligible to receive CAF II support to deploy broadband in that area that is already served by an unsubsidized provider. At the same time, under the current rules, the non-ETC cable company cannot participate in the Commission's Lifeline program. Thus, if a low-income consumer resides in an area that receives broadband service only from the non-ETC cable company, that consumer would likely never obtain broadband Internet access service as a Lifeline-supported service. The answer provided by New Lifeline is to encourage the provider already serving that area to offer covered Lifeline services by becoming a Registered Provider.

The Commission cannot, in the limited context of this Lifeline proceeding, simply propose to amend Section 54.101 of its rules to include broadband Internet access service as a supported service.[61] The ramifications of mandating that ETCs provide broadband Internet access service throughout their ETC service areas extend far beyond the scope of this proceeding. Making broadband a supported service ignores the beneficial effects of the free market, conflicts with the Commission's CAF rules, and would violate several statutory USF principles, not the least of which providing sufficient support for the provision of the required services.[62]

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[61] Because 47 C.F.R. § 54.201(d)(1) requires common carriers designated as ETCs to offer the services in § 54.101 throughout the service area for which the designation is received, addition of broadband internet access to 54.101 would effectively require ETCs to deploy Internet access throughout their service area without any funding for such expansion.

[62] *See* 47 U.S.C. § 254(e). Sufficient Lifeline funding in this context would not mean simply reimbursing an ETC for discounting a Lifeline consumer's broadband service, but would also mean compensating the provider for deploying or upgrading facilities in order to furnish that Lifeline consumer with service.

AT&T has explained previously that providers like AT&T's price cap carrier affiliates have ETC designations that mirror their vast service territories.[63] For AT&T, most of the population in its affiliates' ETC service areas reside in areas that are ineligible for CAF support. Under the Commission's proposal, these affiliates would be required to offer broadband Internet access in areas where the Commission bars them from receiving any funding designed to enable them to deploy and offer broadband service. Moreover, the Commission did not limit its proposal to eligible low-income consumers, so that ETCs would be required to offer broadband Internet access service to *any* requesting customer. Just last week the Commission forbore from enforcing its requirement that price cap carrier ETCs offer voice telephony service in much of their service territories.[64] If the Commission adopts its proposed rule, these same carriers will have broadband Internet access service ETC obligations in the same geographic areas where they no longer have voice service ETC obligations. Accordingly, the Commission must not adopt its proposal to amend Section 54.101 of its rules to include broadband Internet access service.

To achieve its Lifeline goals, the Commission can and should simply make broadband Internet access service a covered service eligible for Lifeline support under § 54.401. The New Lifeline Registered Provider proposal avoids existing problems with the use of ETC designations in the Lifeline context and creates beneficial incentives for existing broadband providers to serve Lifeline customers.

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[63] *See, e.g.*, AT&T Comments, WC Docket No. 10-90 (filed Aug. 8, 2014).

[64] *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, ¶ 51 (forbearing from the voice service obligation in low-cost census blocks, census blocks served by an unsubsidized competitor, and census blocks where some other provider receives CAF II support).

C. The Commission Has Authority to Create a New Registered Lifeline Service Provider Category

The Commission has ample legal authority to establish a Registered Provider category outside of the current ETC framework. Congress did not mandate that Lifeline service providers be ETCs. In fact, the Commission established its low-income program in 1985,[65] eleven years before the Telecommunications Act 1996 (the "1996 Act") amended Sections 214 and 254 of the Act to create the current ETC framework.[66] Because carriers were eligible to receive, and did in fact receive, Lifeline support before passage of the 1996 Act and the adoption of the ETC designation process, the Act cannot be fairly read to limit Lifeline support only to ETCs. Indeed, in Section 254(j) Congress explicitly gave the Commission the flexibility to permit non-ETCs to participate in its low-income programs, stating that "[n]othing in [Section 254] shall affect the collection, distribution, or administration of the Lifeline Assistance Program."[67]

The Commission has long recognized that an ETC designation is not required to participate in its low-income program. The *First Universal Service Order* stated that, through Section 254(j), Congress granted the Commission the "*permission* to leave the Lifeline program in place, without modification, despite Lifeline's inconsistency with other portions of the 1996 Act."[68] The Commission then concluded that it has "the authority under sections 1, 4(i), 201, 205, and 254 to extend Lifeline to include carriers other than eligible telecommunications

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[65] *MTS and WATS Market Structure et al.*, 50 Fed. Reg. 939 (1985).

[66] *See* 47 U.S.C. §§ 214(e), 254.

[67] *Id.* § 254(j). The legislative history of the 1996 Act clearly shows that Section 254(e) "is not intended to prohibit support mechanisms that directly help individuals afford universal service." Conf. Rept. 104-230, 104th Cong., 2d Sess. at 129 (1996).

[68] *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8954 ¶ 332 (1997) (emphasis in original) ("*First Universal Service Order*").

carriers" but that it "decline[s] to do so at the present time."[69] As the *Notice* explained, the Commission determined at that time that Lifeline support would only be provided to ETCs simply "for administrative convenience and efficiency."[70] Thus, the Commission chose, through its rules, to link participation in its Lifeline program to the ETC designation. It can just as easily break that link by amending its rules to permit, but not require, ETCs to participate in the Lifeline program.

Classifying a service provider as a Registered Provider rather than an ETC would not exempt it from regulatory oversight. Existing ETCs would retain their ETC status for purposes of their high-cost/CAF obligations and support, and would have the opportunity to have the opportunity to apply for Registered Provider status for purposes of the Lifeline program. All Registered Providers would then be subject to the same Lifeline requirements and Commission and USAC jurisdiction and oversight, similar to the way the E-rate program operates today.

VI. THE LIFELINE PROGRAM FRAMEWORK MUST BE ABLE TO SEAMLESSLY ADAPT TO ANY BUDGET STRUCTURE THE COMMISSION MIGHT ADOPT

In the Notice, the Commission seeks comment on a budget for the Lifeline program,[71] and it will be faced with tough policy decisions as it determines whether to establish a budget and the appropriate size of any such budget. Budget structures must be carefully evaluated for their impact on eligible consumers and their overall operational effectiveness at achieving the Commission's goals, including minimizing the contribution burden ultimately borne by

[69] *Id*. at 8971 ¶ 369.

[70] *See* Notice, ¶ 135.

[71] *See* Notice, ¶ 56.

consumers, while allowing the Commission to take account of the unique nature of the Lifeline program.

Of critical importance, however, is getting the right Lifeline framework in place. As explained in these comments, New Lifeline would provide a superior consumer experience, establish more robust program controls and encourage provider participation. These benefits will accrue whether or not the Commission adopts a Lifeline budget. The Lifeline benefit card proposed under New Lifeline will simplify budget implementation regardless of the Lifeline budget structure or the level of the budget that is ultimately adopted. For example, if the Commission elects to implement a Lifeline budget that reduces the level of the Lifeline benefit based on increasing program demand, USAC could simply authorize delivery of the reduced benefit to the Lifeline benefit card. Alternatively, if the Commission adopts a budget structure that caps the number of Lifeline consumers in response to program demand increases, USAC could decline to authorize new consumer enrollment and notify these consumers of their place in line for future enrollment. Neither of these alternatives could be effectively administered under the current structure of the Lifeline program.

VII. THE COMMISSION CANNOT REQUIRE LIFELINE PROVIDERS TO BEAR THE EXPENSES OF NLAD OR THE PROGRAM IN GENERAL

The Commission also seeks comment on various proposals for imposing the costs of NLAD, a national eligibility verifier, or other Lifeline administrative costs solely on Lifeline providers, rather than spreading them equitably across the entire universal service contribution base. These proposals run afoul of 47 USC §254(b)(4), which requires that "[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service." Requiring that a subset of telecommunications providers – those offering Lifeline services – make additional "contributions" to fund NLAD or other Lifeline administrative costs would be inequitable and discriminatory, as they would be bearing a disproportionate share of the costs of a universal service program.

In addition, section 254(e) requires that universal service support for ETCs be sufficient to achieve the purposes of the support. Under the current Lifeline program in which only ETCs provide Lifeline service, these proposals would stand that part of the statute on its head, because they would impose costs on, rather than provide support to, providers of Lifeline service. Under New Lifeline, in which any Registered Provider could provide Lifeline service, the logic is the same – in a public assistance program, the service provider should not have to pay a direct assessment because an eligible consumer uses the supported service.

Finally, imposing a "pay to play" scheme could discourage provider participation in Lifeline, and would require significant data and analysis to implement. The cost of NLAD and other administrative costs of the program should be paid from universal service funds, which are raised via contributions from all service providers.

VIII. THE COMMISSION'S AND STAKEHOLDERS' EFFORTS SHOULD FOCUS ON COMPREHENSIVE LIFELINE REFORM, NOT INCREMENTAL CHANGES

In addition to proposing comprehensive reforms of the type discussed above in these comments, the Notice seeks comment on a number of proposals for more minor or interim reforms. While a few of these proposals would improve the efficiency of the program's administration, many of them actually would increase burdens on providers, customers, or both.

The holistic reform effort will require a great deal of work – particularly with respect to eligibility, coordinated enrollment, and benefit distribution. As a result, the Commission should focus its own efforts, and those of other stakeholders, on completing the major structural changes proposed for New Lifeline. Time and resources expended on other issues will only serve to delay long-term success. Accordingly, the Commission should reject interim proposals that would increase the program's already considerable burdens on providers and consumers, several of which are highlighted below. To the extent the Commission determines to make interim changes, it should focus on those changes that streamline or improve efficiency of existing processes.

A. The Commission Should Adopt Standardized Application and Recertification Forms

Adoption of standardized application and recertification forms is an example of a positive interim step that can help streamline program administration. Standardized forms that provide a safe harbor for Lifeline providers are a step toward removal of Lifeline providers from the eligibility process altogether, and will eliminate one of the items on USAC's audit checklist. Forms will need to be tailored to the requirements of each state to reflect the varying eligibility requirements among the states, and ideally will include an optional section related to Tribal residence and programs that can be omitted to avoid confusion in those states where a provider does not serve any Tribal lands.

B. The Commission Should Not Adopt Interim Changes that Further Complicate the Program

Determining Tribal Residence. The Commission has recognized the difficulty of determining whether a consumer resides on Tribal lands, particularly when dealing with a non-standard residence address.[72] Thus far, Lifeline providers have been allowed to rely upon consumers' self-certification of Tribal residence, and they should continue to be able to do so under the current program. Communications carriers have no special insight into whether a consumer resides on Tribal lands, and requiring them to make such decisions only enmeshes

[72] *Lifeline Reform Order*, 27 FCC Rcd at 6728 ¶ 166.

them more deeply in the qualification process from which they should be removed. When the Commission considers whether it is in the public interest to maintain an enhanced subsidy for residents of Tribal lands, it should do so on the assumption that customers will continue to self-certify. At the very least, if carriers were to be required to verify Tribal residence, the Commission should provide a clear-cut and simple basis for doing so, such as providing a state-by-state listing of zip-codes that would render the subscriber eligible for an enhanced Tribal discount.

Special 24-Hour Disconnect Lines. Requiring Lifeline service providers to staff and maintain dedicated, 24-hour contact numbers solely for the purpose of disconnecting Lifeline service[73] would impose considerable costs on Lifeline providers that cannot be justified. As proposed, the rule apparently would apply even to Lifeline providers who issue monthly bills upon which existing customer service phone numbers are highlighted, and they would be required to establish and staff a separate dedicated number for this sole purpose. Such a rule is likely to create rather than solve problems, and publication of a customer number with such a limited purpose will create customer confusion. Lifeline customers can and should be able to disconnect service via providers' regular customer service lines. Similarly, the Commission should not impose unique customer authentication requirements or processes that must be implemented when talking to a consumer about de-enrollment.[74] To the extent that the anecdotal evidence the Commission has about "some subscribers"[75] having difficulty reaching their providers to terminate service, the Commission should focus its inquiry on those providers,

[73] Notice at ¶ 150.

[74] Notice at ¶ 152.

[75] Notice at ¶ 147.

rather than casting a broad and expensive net over all Lifeline providers. At the very least it should limit this proposal to Lifeline providers who do not issue regular bills or other communications to their customers that readily, and as a normal course of business, highlight how to reach customer service representatives and the hours of operation.

Additional Customer Identification Documentation. The proposal to require providers to collect and retain even more personal information[76] would run counter to the initiatives to reduce the burdens of the program and remove providers from the eligibility verification process. It is unclear that a requirement to acquire more identity information, including photo ID, would advance the Commission's goals. For example, carriers like AT&T do not accept Lifeline applications in person. Instead, Lifeline applicants must mail or fax their completed forms and copies of supporting documentation to a specialized center trained to handle Lifeline program requirements. There is no benefit in having such a carrier review a photo id that it cannot compare to the person providing it.

Additional Officer Training Certifications. Removing providers from the eligibility process moots any need for additional training of employees involved in eligibility determinations.[77] No such rules are required in the interim given that, as the Notice acknowledges, Lifeline providers are responsible for the actions of their employees and agents,[78] and a monthly officer certification is, in any event, administrative overkill.

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[76] Notice at ¶ 118.

[77] Notice at ¶ 213.

[78] Notice at ¶ 210.

IX. CONCLUSION

The Commission and other Lifeline stakeholders should work in a focused way to put into place comprehensive reform for a New Lifeline that better meets the goals of the Lifeline program. The Commission should not divert its own or other stakeholders' resources on interim reforms to the current, flawed system – particularly changes that would increase burdens on service providers or customers.

Respectfully submitted,

/s/

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