

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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

**COMMENTS OF ALASKA COMMUNICATIONS**

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## EXECUTIVE SUMMARY

Alaska Communications (“ACS”) commends the Commission for its willingness to modernize the Lifeline program. It is critical that the Commission bring this program into alignment with the other transformative changes to universal service wrought by the Commission since 2011, notably in the high-cost support program. The Commission should promote as much choice as possible, both for service providers and for low-income consumers.

ACS does not object to making qualifying broadband Internet access service (“BIAS”) eligible for the Lifeline discount *where it is offered in supported census blocks*. However, high-cost support is targeted to deployment and operation of voice and BIAS in specific census blocks and specific customer locations selected by the Commission; others are deemed “ineligible.” Because universal service no longer supports entire networks in high-cost study areas, Lifeline broadband service cannot be a universal obligation, but should apply only in census blocks eligible for high-cost support, and where broadband *has been deployed and is offered at 10/1 Mbps*. Moreover, the FCC should permit carriers to relinquish ETC designation upon reasonable notice in census blocks where they do not receive high-cost support.

Low-income customers should be allotted a portable Lifeline benefit they can use on any qualifying telecommunications service, or service bundle, that they choose from any carrier that offers that service or bundle in the customer’s location.

ACS also supports transferring low-income customer eligibility determination and recertification duties to a single, national administrator. This will eliminate duplication of effort and help prevent waste, fraud and abuse in the program. In addition, the Commission should modernize its rules regarding carrier assessment of customer creditworthiness and payment for

service, to permit carriers to require advance deposits, using the same criteria applicable to non-Lifeline customers, in cases where the price of the Lifeline-supported voice or broadband service does not include separate “toll” charges.

The changes ACS recommends to the various aspects of the low-income universal service program should be adopted in concert. Together, these changes will support access to a competitive array of telecommunications services for low-income consumers without unduly burdening individual carriers or discouraging investment in our national infrastructure.

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**COMMENTS OF ALASKA COMMUNICATIONS**

Alaska Communications (“ACS”)<sup>1</sup> hereby submits these comments in response to the Commission’s Second Further Notice of Proposed Rulemaking seeking comment on expanding Lifeline coverage to include broadband Internet access service (“BIAS”), transferring eligibility certification duties to a third party, permitting eligible telecommunications carriers (“ETCs”) to exit the Lifeline market, and other aspects of the universal service program supporting access to telecommunications services for low-income consumers.<sup>2</sup>

**INTRODUCTION & BACKGROUND:  
SUPPORTING SERVICES TO LOW-INCOME CONSUMERS IN ALASKA**

ACS provides local exchange service and participates in the Lifeline and Link-Up program for low-income consumers in the state of Alaska. Among all the states in the nation, Alaska has the highest percentage of residents receiving welfare assistance; at 6.6 percent of the

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<sup>1</sup> In these comments, “Alaska Communications” signifies the incumbent local exchange carrier (“ILEC”) subsidiaries of Alaska Communications Systems Group, Inc., which include ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC.

<sup>2</sup> *Lifeline and Link-Up Reform and Modernization; Telecommunications Carriers Eligible For Universal Service Support; Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. June 22, 2015) (the “FNPRM”).

state's population, the Alaska *per capita* rate is *more than two times* the national average of 2.9 percent.<sup>3</sup> Thousands more residents receive food stamps.<sup>4</sup> Approximately 4.2 percent of ACS's local exchange customers receive support from the Lifeline and Link-Up program. All benefit from enhanced Tribal support because all of Alaska is tribal land for this purpose.<sup>5</sup>

When Lifeline obligations first were mandated thirty years ago as part of the obligation of every ETC, the incumbent local exchange carriers ("ILECs") held a monopoly on local exchange service in their study areas for all practical purposes. (Competition from commercial mobile radio service ("CMRS") providers and competitive local exchange carriers ("CLECs") began taking root in the mid-1990s.) The purpose of low-income support differed from that of high-cost support, but they formed an effective partnership. ETCs were deemed eligible for and received cost-based support sufficient to ensure that they could expand, maintain, operate, and upgrade the *entire* local exchange network in high-cost areas and offer essential telecommunications services at affordable rates throughout the service area, including to low-income customers. A modest amount of additional support was offered to help Lifeline and Link-Up customers afford basic voice service offered over the network. The ILEC deployed service upon reasonable request to connect any customer, anywhere within the study area, to the public switched network, with low-income consumers having access to the same services as all other consumers. These basic arrangements formed the "social contract" of ETC regulation prior

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<sup>3</sup> *Public Assistance Receipt: 2000 to 2012*, U.S. Census Bureau (rel. Sept. 2014), found at: <http://www.census.gov/content/dam/Census/library/publications/2014/acs/acsbr13-13.pdf>

<sup>4</sup> See Hopkins, Kyle, *Alaska Has Highest Rate of Welfare Recipients in the U.S.*, *Census Bureau Says*, ALASKA DISPATCH NEWS, Sept. 3, 2014.

<sup>5</sup> 47 C.F.R. § 54.403(a)(2).

to 1996. Even then, Lifeline was structured as a supplement to help defray the cost of service to low-income individuals, not to supplant the function of the high-cost program in helping to ensure affordable rates in areas where network deployment and operating costs are high.

Almost twenty years into the revolution wrought by the Telecommunications Act of 1996, ACS has no voice monopoly in any major community, and ACS serves only a *minority* of broadband customers in the state. Robust competition from CMRS carriers and CLECs, most of which are competitive ETCs (“CETCs”), has eaten into ACS’s market share in every category, while ACS continues to labor under a plethora of ILEC obligations not applicable to its competitors. High-cost support for the “public” switched voice network has been declining but under the current rules ACS must continue to offer ubiquitous voice service, and broadband service obligations have been added to the ILEC’s responsibilities.<sup>6</sup> ACS now is expected to use high-cost support for the construction and operation of networks supporting broadband service meeting or exceeding the Commission’s standards, only in locations specified by the Commission as “unserved,” with many previously supported locations now deemed “ineligible” for support.<sup>7</sup>

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<sup>6</sup> Voice and broadband services have become increasingly expensive for the ILEC to offer as the customer base shrinks in a competitive environment, yet high-cost support is not growing – indeed, at the end of CAF Phase II, the Commission expects to auction it off to the lowest bidder.

<sup>7</sup> See 47 C.F.R. §54.313(c)(4)(frozen support), 54.313(e)(CAF Phase II support). Still, under current state and federal law, ACS is required to maintain the voice network and basic local exchange and exchange access services: As “carrier of last resort” in many locations, ACS is required to continue to furnish voice services at regulated, “reasonable” and “affordable” rates, terms and conditions, to any customer outside Anchorage, upon reasonable request.

Given the Commission's changed expectations concerning the use of high-cost support, it is appropriate and necessary to reconsider the nature of ETC status. In areas where ACS is not eligible for support, it cannot be held to "eligible" telecommunications carrier obligations. Nor should ACS be expected to deploy broadband anywhere a customer requests it. That is not the purpose of Lifeline support. Rather, ETCs should be expected to deploy broadband only where it is economically viable. And Lifeline support should give a low-income consumer the ability to purchase an eligible service *where it is offered*.

The Communications Act establishes the goal that all Americans should have access to reasonably comparable telecommunications services at affordable rates.<sup>8</sup> ACS does not doubt that broadband has become as necessary a part of our national infrastructure as voice service has been for decades. But none of these services is without cost. It is not reasonable to expect one ETC to provide voice *and* broadband services to all customers where a significant number of locations are ineligible for high-cost support for the deployment, maintenance, operation, and upgrade of the network. This is particularly problematic when competitors are permitted to pick and choose the most profitable customers and the lowest-cost areas to serve.

In competitive markets such as Alaska, *every* customer should be permitted to purchase voice or broadband service (or both) from any competitor that offers the desired service to that customer's location. If a low-income customer qualifies for the Lifeline subsidy, he or she should be permitted to apply that credit to any *available* service. But *no* ETC should be required to *deploy* BIAS merely because it is requested by a low-income customer who qualifies for Lifeline support. That is neither the purpose of Lifeline support nor an adequate incentive for

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<sup>8</sup> 47 U.S.C. §254(b)(3).

broadband deployment to unserved locations. The Commission should reframe Lifeline support for the new, highly competitive broadband environment the Commission’s other policies now promote.

### DISCUSSION OF THE FNPRM

The FNPRM states that the Commission is ready to fundamentally and comprehensively restructure the low-income program.<sup>9</sup> In some areas, the FNPRM demonstrates that the Commission is willing to reimagine and reinvent the low-income program for the broadband age. For example, the Commission states its intention to “rebuild” the program’s framework,<sup>10</sup> and “modernize all components,”<sup>11</sup> not only by including broadband among the covered services (at least for families with school-age children),<sup>12</sup> but also by creating a single, third-party eligibility verifier for the nation<sup>13</sup> and allowing customers to directly control their Lifeline benefits and make choices in the marketplace.<sup>14</sup> Most significantly, the Commission demonstrates a willingness to relieve ETCs of their Lifeline obligations in areas where other Lifeline providers offer supported services.<sup>15</sup> These are worthy goals. None of the proposed innovations can be realized, however, without ETCs being willing and able participants – indeed, the program itself will only undermine other Commission policies and goals, such as access to universal broadband

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<sup>9</sup> FNPRM ¶8.

<sup>10</sup> *Id.*, ¶9.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*, ¶¶ 9-10, 34.

<sup>13</sup> *Id.*, ¶¶10, 64.

<sup>14</sup> FNPRM ¶¶10, 106.

<sup>15</sup> *Id.*, ¶¶10, 125.

capability and advanced telecommunications services, unless the Commission defines a reasonable set of obligations for ETCs, and removes burdensome legacy regulation.

**I. ELIGIBILITY DETERMINATION AND RE-CERTIFICATION SHOULD BE TRANSFERRED TO A SINGLE, NATIONAL ADMINISTRATOR**

ACS supports the Commission's proposal to remove from ETCs the responsibilities of determining Lifeline eligibility, and periodically re-verifying that eligibility.<sup>16</sup> ACS supported the establishment of a single, third-party eligibility verifier for the nation back in 2012.<sup>17</sup> As ACS noted then, these duties impose substantial burdens on carriers, requiring interaction with numerous agencies with differing privacy policies, requiring the creation of secure databases to store consumers' sensitive personal information. The costs, risks and other burdens associated with these duties have only grown for all ETCs as the Commission has required annual re-certification of Lifeline customers.

ACS supports the proposal in the FNPRM to create a national administrator to verify the eligibility of all Lifeline subscribers and maintain a national database of low-income customers who qualify for and receive Lifeline services. Such a step will reduce the costs and risks to ETCs of conducting these tasks and maintaining confidential customers information. It also will reduce duplicative efforts among federal and state agencies, and reduce the opportunity for waste, fraud and abuse by potential users (in particular by reducing the likelihood of duplicative subscriptions). It thus will create much-needed cost savings for individual ETCs and for the

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<sup>16</sup> FNPRM ¶¶10, 64.

<sup>17</sup> Comments of Alaska Communications Systems Group, Inc., WC Docket No. 11-42 *et al.* (filed April 2, 2012) ("ACS 2012 Comments"), at 2.

program as a whole.<sup>18</sup> Not only should the national administrator review prospective Lifeline subscribers' eligibility claims, and determine eligibility in advance, as the Commission proposes,<sup>19</sup> but also this entity should assume any requirements imposed by the Commission that subscribers be re-certified periodically to ensure they remain qualified for Lifeline benefits. In recent years ACS and other carriers have repeatedly documented the difficulties of tracking Lifeline customers and obtaining updated information as their circumstances evolve. An efficient solution would be for consumers to directly interact with the national verifier, which would be a single point of contact for their documentation and eligibility.<sup>20</sup> In turn, any potential service provider would have a single reference point, not only easing the burden on providers but also speeding the process of verifying eligibility if the subscriber changes locations or carriers.

## **II. CUSTOMERS SHOULD BE PERMITTED GREATER CHOICE WITH THEIR LIFELINE BENEFITS**

ACS supports the Commission's proposal to provide eligible Lifeline customers a portable benefit they could use with any ETC providing any qualifying telecommunications service – voice, broadband, or a combination – available at that customer's location. Lifeline customers should be permitted to take advantage of the competitive market that already exists for such services.<sup>21</sup> This change would logically and efficiently correlate to creating a national verifier. Once having qualified for the Lifeline program, the customer could apply the benefit to

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<sup>18</sup> FNPRM ¶63.

<sup>19</sup> FNPRM ¶65.

<sup>20</sup> See FNPRM ¶66.

<sup>21</sup> FNPRM ¶¶63, 104 *et seq.* In Alaska, two or three ETCs offer Lifeline service in most areas. However, as discussed below, this right only extends to services that are available – it should not give Lifeline (or any) customers the right to demand the extension of a service not offered by a particular carrier to a particular location. See *infra*, Section III.

any ETC that offers a qualifying telecommunications service or bundle of services in that customer's location, without having to re-qualify due to a change in carrier.

Consumers should receive a voucher for a defined benefit amount sufficient to help low-income consumers afford qualifying services. The Commission recognizes the benefits of broadband to consumers, as well as the benefits to the nation if *all* consumers subscribe to broadband. If the Commission determines that broadband capability at 10 Mbps downstream, 1Mbps upstream is a qualifying service, \$9.25 per month<sup>22</sup> will not be a sufficient Lifeline benefit. The Commission cites no basis for its \$9.25 proposal other than that \$9.25 was the amount chosen on an interim basis.<sup>23</sup> The Commission now proposes to include among the qualifying services broadband capability, which typically sells for several times the price of voice service, without any increase in the Lifeline benefit. The proposal defies logic. Retail rates typically run to \$100 per month for 10/1 Mbps service in high-cost areas such as Alaska. Low-income customers are not likely to find \$9.25 sufficient for BIAS, especially not in Tribal areas. ACS believes that \$50 per month would be necessary to provide low-income consumers in Tribal areas the incentive to subscribe to broadband.

ACS opposes the reduction of support for low-income residents of Tribal Lands, as proposed in the FNPRM.<sup>24</sup> As the Commission is aware, the entire state of Alaska is considered

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<sup>22</sup> FNPRM ¶52.

<sup>23</sup> *Id.*

<sup>24</sup> Although the Commission recognizes that enhanced Tribal support has been beneficial, FNPRM ¶162, the FNPRM asks about the appropriate amount of support, whether to exclude more densely populated areas such as Anchorage from enhanced support, and whether to deny support where residency on Tribal lands cannot be readily verified. *See* FNPRM ¶¶163-171. Thus, it is not clear whether contemplated changes to enhanced Tribal support will reduce the benefits of the program.

Tribal lands, and the percentage of the state's population comprised of Alaska natives is high. Poverty is particularly acute among Alaska natives. Although Anchorage is more densely populated than the rest of the state, its native population also is substantial, and the demand for a robust Lifeline program remains strong in Anchorage as well as the rest of the state. ACS believes that cutting enhanced Tribal support in Anchorage, or underfunding the program, would harm the state's most vulnerable residents and disserve the goals of the Communications Act. If the Commission does reduce Tribal benefits, the Commission should lower its expectations regarding the services that will be available.

Lifeline customers should have the same options as all other customers. However, Lifeline customers should not be given rights that other consumers do not have. As explained below, they should not be able to demand that broadband (or any service) be deployed upon request. Rather, they should have access to, and the right to spend their Lifeline benefit toward, any qualifying service *that is offered at their location*. If ETCs offer Lifeline service willingly, not due to regulatory compulsion, and low-income consumers easily can use the Lifeline benefit toward the best service for their needs in the marketplace, consumers will be all the more likely to make discerning choices among providers, and the services offered likely will be all the more competitive. Portability is a natural outgrowth of these other changes, and will help maximize the public benefit of the program.

### **III. EXPANDING LIFELINE COVERAGE TO INCLUDE BROADBAND MEANS ONLY THAT SERVICE MAY BE PURCHASED WHERE IT IS AVAILABLE**

Although the Commission's original expectation may have been that any Lifeline customer could gain access to any telecommunications service available to neighboring customers, and that expectation no doubt made sense when the Lifeline program was first

implemented, today such an expectation no longer is realistic. Whereas an ILEC formerly was automatically deemed an ETC for its entire study area, and support was calculated on a study area-wide basis, today support is being targeted to specific census blocks identified by the FCC (and further limited to a specified number of locations within those census blocks, rather than 100 percent). High-cost support in Alaska is declining under the CAF. It will not be adequate to support broadband availability throughout the entire ILEC service territory. In many locations where high-cost support is not available, a great many customers will remain unserved for the foreseeable future.<sup>25</sup> In the new regime, “eligible” telecommunications carriers will be “eligible” for support only in selective locations – not throughout their service areas. It therefore would be unreasonable for the Commission to require that ETCs be prepared to deliver broadband service upon request by a Lifeline customer regardless of the customer’s location.

ACS already faces its greatest ever financial, engineering, and operational challenges in implementing the Commission’s Connect America Fund (“CAF”) reforms and broadband deployment goals in high-cost areas. A material portion of ACS’s service territory no longer is eligible for high-cost support. ACS may not be able to justify deploying the same services throughout its study areas, and many customers may be unable to gain access to the more advanced services available to their neighbors.<sup>26</sup>

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<sup>25</sup> For example, because the Commission deems an entire census block to be “served” if even a single customer location has access to broadband, many other customer locations in that census block will be unserved yet ineligible for CAF Phase II high-cost support.

<sup>26</sup> Although the FCC concluded that some census blocks are “served,” this really means that at least *one* customer in those census blocks has access to broadband. ACS has well documented that, as a result of the Commission’s CAF Phase II policies, in Alaska’s very large and diverse census blocks, many locations can expect to be stranded without access to high-cost support and without access to broadband for the foreseeable future.

The Commission therefore should clarify that low-income consumers who qualify for Lifeline benefits may use those benefits toward any qualifying BIAS or voice service *where it is offered*, in census blocks eligible for high-cost support. In unsupported locations, and in locations where an ETC has not yet deployed a particular service such as broadband meeting the Commission's 10/1 Mbps standards, the ETC should be under no obligation to offer that service to a customer, whether or not a Lifeline beneficiary. To rule otherwise would be to confuse the purpose of Lifeline support, which is intended to help consumers defray the costs of available telecommunications services, with the purpose of high-cost support. Moreover, nothing in such obligations creates any independent incentive for ETCs to deploy new services. In short, there is no rational basis for requiring broadband deployment to low-income consumers in locations that are ineligible for high-cost support.

In an environment where subsidies are not available to deploy broadband to 100 percent of locations, the U.S. Constitution prohibits the Commission from requiring that every ETC deploy broadband regardless of the customer's location or the cost of deployment. Such a requirement would constitute a "taking" without just compensation within the meaning of the Fifth Amendment. Raising end-users' rates is not an option. Any broadband supported by CAF must be offered at rates that are affordable by the Commission's standards, which means either that they are priced at or below a benchmark established by the Commission, or that prices are reasonably comparable to non-promotional rates for service in urban areas in the same state.<sup>27</sup>

There is no justification for the Commission to create an obligation to serve high-cost locations

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<sup>27</sup> 47 C.F.R. §54.309.

without providing a reasonable opportunity for ETCs to recoup the costs of fulfilling that obligation.

Because universal service no longer supports entire networks in high-cost study areas, Lifeline broadband service cannot be a universal obligation, but should only apply where broadband *has been deployed and is offered at 10/1 Mbps* (or whatever the Commission's evolving BIAS standards mandate) in census blocks that are eligible for high-cost support. If broadband is not available to a location where a low-income customer wants service, and the Commission desires that the service be made available to that customer, the Commission may need to expand its targeted high-cost program to cover that location. But the Lifeline subsidy by itself will not be a sufficient incentive nor an appropriate rationale to mandate on-demand deployment.

#### **IV. THE COMMISSION SHOULD UPDATE ITS LIFELINE RULES TO REFLECT CURRENT USAGE OF TELECOMMUNICATIONS SERVICES BY LIFELINE CUSTOMERS**

In serving Lifeline customers, ETCs should be permitted to follow the same policies that apply to other customers for assessing customer credit-worthiness, requiring advance deposits, and mitigating instances of non-payment for service. The Commission currently forbids carriers from collecting advance deposits from Lifeline customers for service plans that “[d]o not charge subscribers additional fees for toll calls.”<sup>28</sup> The prohibition on deposits effectively applies to *all* broadband services as well as the majority of voice plans in use today. The rule was adopted as a companion to the Commission's decision to prohibit local exchange carriers from disconnecting Lifeline subscribers' *local* service if they failed to pay *toll* charges, based on the Commission's

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<sup>28</sup> 47 C.F.R. § 54.401(c)(1).

finding that deposits “primarily serve to guard against uncollectible toll charges.”<sup>29</sup> The Commission’s central interest at that time was ensuring against disconnection of local switched voice telephone service. That purpose no longer is valid. Drafted before the evolution to flat-rated, distance-insensitive calling and broadband offerings, the rule no longer makes sense.

Today, Lifeline customers are primarily purchasing non-toll services. As noted above, the cost of even the basic services can be substantial, \$100.00 or more per month. Going forward, federal support will cover a far smaller portion of a customer’s monthly bill than it did for basic voice service. The rules therefore must be updated. To participate in the Lifeline program, service providers must be permitted to employ reasonable measures to mitigate the risks that come with serving customers with poor credit histories and limited income. Carriers should be permitted to enforce their normal policies and practices for assessing customer credit-worthiness, requiring advance deposits, and mitigating instances of non-payment for service, whether serving a Lifeline beneficiary or any other customer.

**V. CARRIERS SHOULD BE PERMITTED TO RELINQUISH ETC OBLIGATIONS IN AREAS NOT SUPPORTED BY THE HIGH-COST PROGRAM**

ETCs such as ACS no longer enjoy cost-based support for their networks nor the status of the sole provider of fixed local service in a particular area, as they did in 1985. The Commission has indicated that it will allocate universal service funding only for targeted high-cost locations in specific census blocks. Many census blocks are ineligible for high-cost support. The Commission has concluded that the CAF should support no more than one ETC per market to deploy and operate broadband, and high-cost support will be eliminated where a census block

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<sup>29</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, 12 FCC Rcd 8776 (1997), at ¶ 28 (subsequent history omitted).

already is “served” (even if the reality is that only part of the census block actually has access to the service).

In light of these developments, the Commission should relax the requirements for relinquishment of ETC designation.<sup>30</sup> Specifically, in census blocks not “eligible” for high-cost support, the Commission should permit ETCs to relinquish their designation upon notice, without the need for state approval, and without any requirement of FCC approval under Section 214(a). As the Further NPRM acknowledges, this change would help to equalize treatment of CMRS and wireline-based ETCs under federal law, and eliminate unnecessary cost and uncertainty associated with a state process that may take up to a year to complete.<sup>31</sup>

This change would relieve an unnecessary burden that falls not only on ILECs but also on CETCs. As a wireless CETC, an ACS affiliate that completely discontinued its CMRS offering earlier this year, exiting the mobile telecommunications service market in its entirety, must seek permission from the Regulatory Commission of Alaska (“RCA”) before it may relinquish its ETC designation. The RCA may conduct a formal adjudication of the matter.<sup>32</sup> This type of process is grossly inefficient and burdensome to small carriers such as ACS. An unsupported ETC should be permitted to relinquish its designation automatically, upon reasonable (*e.g.*, 30 days’) notice, without need for state or federal approval.

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<sup>30</sup> The current rule requires states to permit relinquishment of ETC status “in any area served by more than one ETC” provided the state requires the remaining ETC(s) “to ensure that all customers served by the relinquishing carrier will continue to be served...” 47 C.F.R. §54.205.

<sup>31</sup> FNPRM ¶¶190-194.

<sup>32</sup> See 47 U.S.C. § 214(e)(4); 47 C.F.R. §54.205.

The Commission should clarify that there is no independent obligation to serve Lifeline customers in areas not eligible for and receiving federal high-cost support. This proposal is consistent with the Commission's requirement that CAF Phase II recipients submit bids on E-Rate projects in census blocks *where they are receiving CAF Phase II support* to offer the qualifying broadband capability – the Commission does not mandate that CAF recipients offer broadband to schools and libraries where there is no broadband support.<sup>33</sup>

Service providers receiving CAF to offer voice and broadband services in high-cost areas therefore should be free to elect whether to participate in the Lifeline program in locations that are not eligible for CAF. Permitting ETCs to choose whether to deploy broadband to Lifeline customers in unsupported locations will ensure that the market identifies the most efficient solution. If the Commission's Lifeline program is structured so as to give customers portability, and the Commission establishes support at adequate levels so that voice and broadband services are affordable, the market will ensure that customers are served.

Notice to customers is all that should be required, whether a Lifeline provider is transferring its customer base to another ETC, or discontinuing its Lifeline offering because an area is not supported. It should be sufficient that the ETC give 30 days' notice to customers (with a copy to the Commission and the state), giving them an opportunity to request service from an alternative provider should they so choose. This procedure has been used seamlessly for years, as an alternative to obtaining affirmative customer consent under the "anti-slamming" rules, in the context of the transfer of a customer base from one telecommunications carrier to

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<sup>33</sup> *Modernizing the E-Rate Program for Schools and Libraries; Connect America Fund, Second Report & Order and Order on Reconsideration, FCC 14-189, ¶¶60-64 (rel. Dec. 19, 2014).* Moreover, where a CAF recipient does bid on E-Rate projects, the Commission permits the assessment of special construction charges. *Id.*, ¶64.

another.<sup>34</sup> According to the Commission's own analysis, customers will not be harmed by relieving ETC obligations in unsupported areas because the market will stimulate the provision of service in such locations without any high-cost subsidy as an incentive.<sup>35</sup>

### CONCLUSION

For the foregoing reasons, reform of the low-income program is urgently needed. ACS asks that the Commission be mindful of developments in the telecommunications marketplace, and of the dramatic changes wrought in the high-cost support program in recent years. The Commission should establish a single national verifier of Lifeline eligibility, and permit service providers to follow the same policies that apply to other customers for assessing Lifeline customer credit-worthiness, requiring deposits, and mitigating instances of non-payment for services. The Commission should permit consumers to choose the Lifeline ETC and services they want in supported areas where those services are offered, and permit the relinquishment of ETC designation in areas not eligible for high-cost support, upon reasonable notice to the public. The reforms proposed herein will reduce regulatory burdens, increase efficiency, and stimulate telecommunications investment.

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<sup>34</sup> 47 C.F.R. §64.1120(e).

<sup>35</sup> *USF-ICC Transformation Order*, 26 FCC Rcd 17663, ¶24 (2011)(in future, high-cost support will be provided only in locations where a federal subsidy is necessary to ensure broadband availability).

Respectfully submitted,



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