

**Before the
Federal Communications Commission
Washington, DC 20554**

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

REPLY COMMENTS OF PUBLIC KNOWLEDGE AND APPALSHOP

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EXECUTIVE SUMMARY

Public Knowledge and Appalshop support the Federal Communications Commission's proposal to modernize the Lifeline program to support broadband Internet access service. Further, the record in this proceeding demonstrates near universal support for the Commission's plan to update Lifeline.

Commenters and the Commission recognize that broadband has become an essential service. Americans increasingly rely on broadband for education, employment, health care, news and information, and basic communications. However, for many low-income Americans, broadband is unaffordable. As a result, many households forego basic necessities to subscribe to broadband, while others miss out on the benefits and opportunities that accompany Internet access. Updating the Lifeline program will make broadband more affordable, helping those without access get online, and helping others stay online.

In modernizing Lifeline, the Commission should ensure that subscribers are free to choose the service that best meets their needs. The record overwhelmingly supports allowing consumers to choose between broadband or voice service, whether fixed or mobile, standalone or bundled.

Additionally, the updated Lifeline program should increase consumer choice and make services more affordable to promote adoption by Lifeline-eligible households. The Commission's reforms should also encourage competition amongst providers, leverage innovative new services and business models to serve consumers, protect the integrity of the Lifeline program, and safeguard consumer information and privacy. There is ample support in the record for the Commission to move quickly to modernize Lifeline and adopt the recommendations contained herein.

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Public Knowledge and Appalshop file these Reply Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) June 18, 2015 *Lifeline Modernization Second Further Notice of Proposed Rulemaking* (“*Lifeline Modernization FNPRM*”).¹ The record overwhelmingly supports the Commission’s proposal to modernize the Lifeline program to improve broadband availability for and increase adoption by low-income households.

I. THERE IS BROAD CONSENSUS IN THE RECORD THAT THE COMMISSION SHOULD MODERNIZE LIFELINE.

A. The Commission Should Modernize Lifeline to Support Broadband.

There is near unanimous consensus in the record that Lifeline should be modernized to support broadband service.² The Lifeline program was created in 1985 when landline telephone service was the essential communications medium.³ Much like telephone service a generation ago, broadband is the essential communications medium of the digital economy.⁴ The expansion of Lifeline to include broadband is consistent with the fundamental principle of universal service.

¹ 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, Memorandum Opinion and Order*, 30 FCC Rcd. 7818 (2015) (“Lifeline Modernization FNPRM”).

² See, e.g., Comments of Ralph Everett, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015) (“Ralph Everett Comments”); Comments of Sprint Corporation, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015) (“Sprint Comments”); Comments of Common Sense Kids Action, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015) (“Common Sense Comments”); Comments of Common Cause, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015) (“Common Cause Comments”); Comments of Microsoft Corporation, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015) (“Microsoft Comments”); Comments of Benton Foundation and Rural Broadband Policy Group, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015) (“Benton Foundation Comments”); Comments of Legislative Black Caucus of Maryland, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 4, 2015) (“Legislative Black Caucus of Maryland Comments”); North Las Vegas Mayor Pro Tem Pamela Goynes-Brown, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 13, 2015) (“North Las Vegas Mayor Pro Tem Comments”); Ex Parte Letter from Houston Independent School District and San Diego Unified School District, WC Docket Nos. 11-42, 09-197, 10-90 (July 30, 2015) (“Houston and San Diego School Districts Letter”); Comments of Charter Communications, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015) (“Charter Comments”).

³ See MTS and WATS Market Structure, and Amendment of Parts 67 & 69 of the Commission’s Rules and Establishment of a Joint Board, CC Docket Nos. 78-72, 80-286, FCC 84-637, *Report and Order*, 50 Fed. Reg. 939 (Jan. 8, 1985).

⁴ Ralph Everett Comments at 2.

As noted by a wide range of Commenters, access to a broadband connection is critical for students to take advantage of the educational resources online and to complete coursework.⁵ Broadband is especially important for students from low-income families and those in rural areas. The Benton Foundation explains that modernizing the Lifeline program to include broadband will help close the homework gap and ultimately benefit the economy at-large.⁶ Research shows that if at-risk students gain ready access to appropriate technology and tools and use them in thoughtful ways, they can make substantial gains in learning and technological readiness.⁷ Thus, the Commission should offer broadband through Lifeline to ensure students have the tools necessary to effectively complete their education.

Commenters also note that access to broadband is necessary to be competitive in the job market.⁸ For example, The National Consumer Law Center and representatives of low-income consumer groups state that broadband is how Americans apply for jobs, get news, and find consumer information.⁹ And local elected officials from across the U.S. emphasize the critical

⁵ See, e.g., Sprint Comments at 1; Common Sense Comments at 4-8; Common Cause Comments at 1-3; Microsoft Comments at 6-8; Benton Foundation Comments at 7-8; Legislative Black Caucus of Maryland Comments at 1 (“access to telecommunication services allows underprivileged households to be competitive in the job market and education”); North Las Vegas Mayor Pro Tem Comments at 1; Houston and San Diego School Districts Letter at 1 (“Students who can access internet outside of school are more successful in their learning endeavors”).

⁶ Benton Foundation Comments at 8-9, 12.

⁷ RALPH B. EVERETT, GEORGETOWN UNIVERSITY CENTER FOR BUSINESS AND PUBLIC POLICY, *THE DIGITAL ECONOMY AND CLOSING THE OPPORTUNITY GAP*, at 3 (June 2015), available at http://www.gcbpp.org/files/EPV/EPV_Everett_OpportunityGap62015.pdf; See also ANTON TROIANOVSKI, *The Web-Deprived Study at McDonald’s*, WALL ST. J. (Jan. 28, 2013), available at <http://www.wsj.com/articles/SB10001424127887324731304578189794161056954>.

⁸ See, e.g., Comments of St. Petersburg, Florida, City Council Vice-Chair Amy Foster, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 5, 2015); Legislative Black Caucus of Maryland Comments at 1; North Las Vegas Mayor Pro Tem Comments at 1; Comments of the Denver School Board, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 12, 2015); Comments of City of Riviera Beach, Florida, Mayor Thomas Masters, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 5, 2015) (“Riviera Beach, Florida Comments”); Comments of Baltimore City Councilwoman Mary Pat Clarke, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 18, 2015) (“Baltimore City Councilwoman Mary Pat Clarke Comments”).

⁹ See Comments of National Consumer Law Center, et. al., WC Docket Nos. 11-42, 09-197, 10-90, at 2 (Aug. 31, 2015) (“NCLC Comments”).

importance of broadband access for individuals to be competitive in the job market.¹⁰ As the record reflects, Lifeline should be modernized to support broadband because Internet access has become essential in the United States. Low-income families need access to affordable broadband service to improve educational attainment and to find and keep the type of employment that will allow them to no longer need programs like Lifeline.

B. The Record Supports Customer Flexibility to Apply the Lifeline Subsidy to the Voice or Broadband Service That Best Meets Their Needs.

Lifeline customers should have the flexibility to choose between stand alone voice, broadband, mobile or fixed, or a bundled service based on their needs. There is universal support in the record for providing Lifeline subscribers with service options.¹¹ For example, Common Cause urges the Commission to “enable qualifying households to access communications in the way that best meets their economic, social, educational, and civic needs.”¹² Commenters recognize the need for consumer choice and suggest that the Commission remain consistent with the *2012 Lifeline Reform Order*, by permitting Lifeline customers to apply the broadband Lifeline subsidy toward the cost of bundled services.¹³ As the Commission has recognized, these increasingly common bundled service packages, which include voice and broadband services,

¹⁰ See, e.g., Riviera Beach, Florida Comments at 1; Comments of Maryland Delegate Joseline Pena-Melnyk, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 25, 2015); Maryland Legislative Black Caucus Comments at 1;

¹¹ See, e.g., NCLC Comments at 2-4; Comments of National Cable & Telecommunications Association, WC Docket Nos. 11-42, 09-197, 10-90, at 2-3 (Aug. 31, 2015); Ralph Everett Comments at 3; Charter Comments at 2-4; Comments of National Digital Inclusion Alliance, WC Docket Nos. 11-42, 09-197, 10-90, at 11 (Aug. 31, 2015) (“NDIA Comments”); Comments of EveryoneOn, WC Docket Nos. 11-42, 09-197, 10-90, at 3-4 (Aug. 31, 2015); Common Cause Comments at 4; Comments of Internet Innovation Alliance, WC Docket Nos. 11-42, 09-197, 10-90, at 9 (Aug. 31, 2015) (“IIA Comments”); Comments of COMPTTEL, WC Docket Nos. 11-42, 09-197, 10-90, at 5-6 (Aug. 31, 2015) (“COMPTTEL Comments”); Comments of Comcast Corporation, WC Docket Nos. 11-42, 09-197, 10-90, at 12-13 (Aug. 31, 2015) (“Comcast Comments”); Comments of AT&T Services, Inc., WC Docket Nos. 11-42, 09-197, 10-90, at 9 (Aug. 31, 2015) (“AT&T Comments”).

¹² Common Cause Comments at 4.

¹³ See Lifeline and Link Up Reform and Modernization et al., WC Docket Nos. 11-42 et al., CC Docket No. 96-45, *Report and Order and Further Notice of Proposed Rulemaking*, 27 FCC Rcd. 6656, 6790-93 ¶¶ 310-320 (2012) (“2012 Lifeline Reform Order”).

can lower costs and allow customers to customize the service package to best meet their needs.¹⁴ For example, AT&T explains that applying Lifeline subsidies to bundled services will result in Lifeline subscribers reaping “the benefits of innovation in service offerings that are the hallmark of our consumer driven and highly-competitive communications market.”¹⁵ According to Free Press, allowing Lifeline customers to choose a service that best suits their needs will increase program effectiveness, enhance user utility, and produce greater return on Universal Service Fund investment.¹⁶

C. The Record Supports the Continuation of a Stand Alone Voice Option for Lifeline Subscribers.

The record also contains strong support for retaining Lifeline support for stand alone telephone service.¹⁷ The record reflects an understanding that voice continues to be essential to daily living for many reasons, including public safety and healthcare.¹⁸ Voice service also “remains an important means of staying connected to friends, family, work, healthcare, schools and services.”¹⁹ As noted on the record by Multicultural Media, Telecom and Internet Council and others, the Commission should ensure that Lifeline continues to support voice service for

¹⁴ *Id.* at 6790 ¶ 310.

¹⁵ AT&T Comments at 9.

¹⁶ Comments of Free Press, WC Docket Nos. 11-42, 09-197, 10-90, at 40 (Aug. 31, 2015) (“Free Press Comments”).

¹⁷ *See, e.g.*, NCLC Comments at 2, 4; Comments of National Association of Telecommunications Officers and Advisors and the National League of Cities, WC Docket Nos. 11-42, 09-197, 10-90, at 3 (Aug. 31, 2015) (“NATOA Comments”); Comments of Communications Workers of America, American Federation of Labor-Congress of Industrial Organizations, WC Docket Nos. 11-42, 09-197, 10-90, at 4-5 (Aug. 31, 2015) (“CWA/AFL-CIO Comments”); Comments of Leadership Conference on Civil and Human Rights, WC Docket Nos. 11-42, 09-197, 10-90, at 3 (Aug. 31, 2015) (“Leadership Conference Comments”); Comments of Multicultural Media, Telecom and Internet Council, et. al, WC Docket Nos. 11-42, 09-197, 10-90, at 6 (Aug. 31, 2015) (“MMTC Comments”); Comments of Greenlining Institute, Center for Media Justice, Media Action Grassroots Network, et. al., WC Docket Nos. 11-42, 09-197, 10-90, at 3, 9-10 (Aug. 31, 2015) (“Greenlining Institute, CMJ, and MAG-Net Comments”); Comments of TracFone, WC Docket Nos. 11-42, 09-197, 10-90, at 22 (Aug. 31, 2015) (“TracFone Comments”); Comments of National Association of State Utility Consumer Advocates, WC Docket Nos. 11-42, 09-197, 10-90, at 1-2 (Aug. 31, 2015) (“NASUCA Comments”).

¹⁸ *See* NASUCA Comments at 10, 15-16; NATOA Comments at 3; NCLC Comments at 2.

¹⁹ NCLC Comments at 2.

consumers who prefer voice service, in addition to modernizing the program to include broadband.²⁰

As recently as 2012, the Commission reiterated its commitment through the Lifeline program of ensuring the availability of voice service for low-income Americans, concluding, “voice service remains a prerequisite for full participation in our economy and society.”²¹ This remains true, thus the Commission should keep this commitment and continue to offer Lifeline support for both fixed and mobile voice service.

D. The Commission Has the Requisite Legal Authority to Modernize Lifeline to Support Broadband Services.

As the Commission correctly asserted in its *2012 Lifeline Reform Order*, it has authority under sections 254 and 706 of the Communications Act to “provide support for modern networks capable of providing both voice and broadband.”²² The record overwhelmingly supports the Commission’s conclusion that it has the necessary legal authority to modernize Lifeline to support broadband Internet access service.²³

Several Commenters concur with the Commission’s analysis that section 254 provides it with the requisite authority to modernize the Lifeline program. The Communications Workers of America, American Federation of Labor-Congress of Industrial Organizations (“CWA, AFL-CIO”), National Association of Regulatory Commissioners, and the California Emerging Technology Fund point out that section 254(c) of the Telecommunications Act of 1996 defines universal service as “an evolving level of communications service,” and that transforming

²⁰ MMTC Comments at 6.

²¹ See 2012 Lifeline Reform Order at 6671 ¶ 27, 6665-66 ¶ 17.

²² 2012 Lifeline Reform Order at 6664 ¶ 17.

²³ See, e.g., Comments of ADTRAN, Inc., WC Docket Nos. 11-42, 09-197, 10-90, at 4-6 (Aug. 31, 2015) (“ADTRAN Comments”); Comments of National Hispanic Media Coalition (“NHMC Comments”) at 18-19; NASUCA Comments at 18.

Lifeline to include support for broadband is consistent with section 254(c)(1)(A)-(D).²⁴

Other commenters cite the Commission's section 706 authority as a basis for updating Lifeline to support broadband. The Benton Foundation argues that the Commission can update Lifeline, noting that sections 254(c) and 254(e), along with section 706(b) and sections 1, 4(i), 201 and 205 of the Communications Act provide the FCC with ample legal authority.²⁵ And comments by Telscape Communications/Sage Communications and TechFreedom also explain that section 706 provides the Commission with the necessary authority to update the Lifeline program.²⁶

Lastly, recent Commission actions appear to have strengthened the Commission's authority. Free Press and TechFreedom agree that the Commission's reclassification of broadband Internet Access as a "telecommunications service" in the 2015 *Open Internet Order* provides the Commission with even clearer legal authority to update Lifeline.²⁷

II. THE RECORD SUPPORTS PROPOSALS THAT WILL INCREASE CONSUMER CHOICE AND PROMOTE BROADBAND ADOPTION BY LIFELINE-ELIGIBLE HOUSEHOLDS.

A. The Commission Should Refrain from Setting Minimum Standards at This Time.

The Commission should refrain from establishing minimum service standards for Lifeline-supported services if those same services are available to the general public. However, the Commission should impose minimum standards on services made available only to Lifeline

²⁴ Comments of the California Emerging Technology Fund, WC Docket Nos. 11-42, 09-197, 10-90, at 15, 30 (Aug. 31, 2015) ("CETF Comments"); CWA/AFL-CIO Comments at 3-4; Comments of National Association of Regulatory Utility Commissioners, WC Docket Nos. 11-42, 09-197, 10-90, at 10 (Aug. 31, 2015).

²⁵ See Benton Foundation Comments at 33-38.

²⁶ Comments of TechFreedom, WC Docket Nos. 11-42, 09-197, 10-90, at 6 (Aug. 31, 2015) ("TechFreedom Comments"); Comments of Telscape Communications, Inc. and Sage Communications, LLC, WC Docket Nos. 11-42, 09-197, 10-90, at 4-5 (Aug. 31, 2015) ("Telscape/Sage Comments").

²⁷ Free Press Comments at 49-51; TechFreedom Comments at 6.

subscribers; such services should not be substandard. AT&T, the National Consumer Law Center, and Members of the Rural Broadband Policy Group support this approach.²⁸

Available broadband speeds vary greatly across the U.S. Those living in rural and Tribal areas are less likely to have access to high-speed broadband services than individuals in urban and more densely populated communities. Irrespective of their opinion on the necessity of minimum standards, there is consensus amongst commenters that setting inflexible minimum speeds for Lifeline-supported broadband service could foreclose Lifeline support for entire communities, even where Internet access service is available at lower speeds, if services meeting the minimum speed benchmark are unavailable.²⁹ The Commission must avoid such a result.

The Commission should refrain from adopting minimum service standards; however, the Commission must also ensure that Lifeline subscribers are not left with subpar service offerings. To improve the quality of services available to Lifeline subscribers, the Commission should empower consumer choice, encourage a diversity of Lifeline-supported services, and promote competition amongst providers for Lifeline customers. Many commenters agree that setting minimum service standards for Lifeline-supported services would be counterproductive, likely reducing provider participation; competition will incentivize providers to offer more robust service offerings.³⁰ To allow consumers to seamlessly switch from one service offering and

²⁸ See AT&T Comments at 10; NCLC Comments at 3, 6; Comments of Members of the Rural Broadband Policy Group, WC Docket Nos. 11-42, 09-197, 10-90, at 18 (Aug. 31, 2015) (“Rural Broadband Policy Group Comments”).

²⁹ See Comments of Alaska Rural Coalition, WC Docket Nos. 11-42, 09-197, 10-90, at 7-8 (Aug. 31, 2015); Comments of Cincinnati Bell Telephone Company, WC Docket Nos. 11-42, 09-197, 10-90, at 3-6, 8 (Aug. 31, 2015) (“Cincinnati Bell Comments”); Comments of Commnet Wireless, LLC, and Choice Communications, LLC, WC Docket Nos. 11-42, 09-197, 10-90, at 4 (Aug. 31, 2015) (“Commnet/Choice Comments”); Rural Broadband Policy Group Comments at 17-18; NASUCA Comments at 4-5; NCLC Comments at 5; Sprint Comments at 14-15; Comments of Windstream Services, LLC, WC Docket Nos. 11-42, 09-197, 10-90, at 4-5 (Aug. 31, 2015) (“Windstream Comments”).

³⁰ See AT&T Comments at 9; Commnet/Choice Comments at 4; Comcast Comments at 13; Comments of Cox Communications, Inc., WC Docket Nos. 11-42, 09-197, 10-90, at 3 (Aug. 31, 2015) (“Cox Comments”); Comments of Frontier Communications, WC Docket Nos. 11-42, 09-197, 10-90, at 9-10 (Aug. 31, 2015); NCLC Comments at

provider to another and further facilitate competition, the Commission should prohibit service providers from requiring Lifeline subscribers to commit to long-term contracts.³¹

Additionally, it has been suggested that prices for Lifeline services are too low and that the Commission should create minimum service standards that would effectively raise prices.³² The Commission should not impose minimum service standards for the purpose of raising the prices of Lifeline-supported services and indirectly requiring a customer contribution toward the cost of service.³³ As TechFreedom explains, establishing minimum service standards will make broadband services more expensive for Lifeline subscribers.³⁴ The record demonstrates substantial concern that the proposed \$9.25 per month subsidy for Lifeline-supported broadband is already too low to make broadband subscriptions attainable for Lifeline-eligible households.³⁵ Thus, setting minimum standards it anticipates will cause prices to rise is counter-productive to the Commission's goal of increasing broadband availability, affordability, and adoption by low-income households.

The Commission should refrain from adopting minimum service standards at this time; however, the Commission should collect information regarding service speeds and quality of the

5; Comments of New York Public Service Commission, WC Docket Nos. 11-42, 09-197, 10-90, at 7 (Aug. 31, 2015); Sprint Comments at 11-12; TechFreedom Comments at 9; Windstream Comments at 4-5.

³¹ See NASUCA Comments at 7-8.

³² See Letter from Joe Manchin, United States Senator from West Virginia, and Deb Fischer, United States Senator from Nebraska to Tom Wheeler, Chairman, Federal Communications Commission (June 9, 2015), *available at* http://www.manchin.senate.gov/public/index.cfm/files/serve?File_id=d453d638-2b81-4a0a-9451-8a8e2fc2ae8a&SK=1E637BC27749A28D4486AFFE2176243C.

³³ See Letters from Tom Wheeler, Chairman, Federal Communications Commission to Joe Manchin, United States Senator from West Virginia and Deb Fischer, United States Senator from Nebraska, at 2 (July 23, 2015), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-334889A3.pdf (“The *FNPRM* proposed the establishment of minimum service standards for fixed and mobile voice and broadband service. It also proposed maintaining the current per-subscriber subsidy of \$9.25 per month. Requiring minimum service standards could result in the cost of the Lifeline service exceeding the current subsidy, thereby requiring subscribers to make a financial contribution towards the service they receive.”)

³⁴ TechFreedom Comments at 9.

³⁵ See Cincinnati Bell Comments at 3, 7-8; CWA/AFL-CIO Comments at 5; NDIA Comments at 11; Greenlining Institute, CMJ, and MAG-Net Comments at 24-25; Comments of New America's Open Technology Institute, WC Docket Nos. 11-42, 09-197, 10-90, at 17 (Aug. 31, 2015) (“OTI Comments”); Sprint Comments at 19.

Lifeline-supported broadband services that providers offer. The Commission should use this information to determine whether competition and consumer choice are effective in making high quality service available to and affordable for Lifeline subscribers, with the option to impose minimum service standards if service quality is subpar. The Commission’s analysis should focus on whether the services made available to Lifeline subscribers allow consumers to fully utilize the functionality and applications that make broadband the critical communications platform of the 21st Century. There is strong support in the record for a functionality-based approach to setting minimum service standards should the Commission determine they are necessary.³⁶ Additionally, any mechanism used to determine minimum service standards should be regularly updated to keep pace with technological advances, so that service offerings do not stagnate.³⁷

B. The Subsidy Amount Should Reflect the Cost of Modern Telecommunications Services.

The record proposes many approaches to the appropriate subsidy for a modernized Lifeline program. Some commenters suggested adjusting the subsidy based on whether the subscriber purchased a stand-alone service or bundled voice and broadband.³⁸ Consumer Action suggested the Commission set up a separate broadband subsidy program, noting that the current subsidy amount of \$9.25 per month is only a fraction of broadband cost.³⁹ There is also support

³⁶ See, e.g., ADTRAN Comments at 6-7; CETF Comments at 16; Common Cause Comments at 15; COMPTTEL Comments at 11-12; CWA/AFL-CIO Comments at 4; Leadership Conference Comments at 2; Rural Broadband Policy Group Comments at 16; MMTC Comments at 9-10; NCLC Comments at 5; NHMC Comments at 13-16; Comments of Pennsylvania Public Utility Commission, WC Docket Nos. 11-42, 09-197, 10-90, at 11 (Aug. 31, 2015).

³⁷ See CETF Comments at 16; Comments of Michigan Public Service Commission, WC Docket Nos. 11-42, 09-197, 10-90, at 4 (Aug. 31, 2015); NCLC Comments at 5.

³⁸ Commnet/Choice Comments at 4, 6-7 (supporting a \$9.25 per month subsidy for broadband or voice and a \$15 bundled subsidy for households that want both voice and broadband); NCLC Comments at 3, 8.

³⁹ Comments of Consumer Action, WC Docket Nos. 11-42, 09-197, 10-90, at 2-4 (Aug. 31, 2015) (“Consumer Action Comments”).

in the record for providing an additional subsidy of \$15 per month for broadband services on top of the current subsidy.⁴⁰

Although there are varied opinions regarding the appropriate amount of the subsidy and the manner it should be administered, the record demonstrates substantial agreement that the current level of \$9.25 per month will not cover modern broadband costs.⁴¹ Therefore, the Commission should set the proper subsidy level to reflect the current cost of modern broadband service. The Commission will fail to meet its mandate to ensure low-income families have “access to advanced telecommunications and information services” if the Lifeline broadband subsidy is set at a level that does not meaningfully help put broadband access within reach for those the program is designed to help.

Regardless of the subsidy level the Commission establishes for broadband support, the Commission should collect data to review whether the subsidy level is sufficient to make broadband affordable for low-income subscribers.⁴² Comcast appropriately concludes that closing the digital divide is dependent on expanding digital literacy and relevance, the cost of computing equipment, and the cost of broadband service.⁴³ In determining an appropriate subsidy level, the Commission should analyze the price points at which broadband becomes affordable, and thus, available to low-income households; the number of households likely to

⁴⁰ Comments of New York State Senator Kevin Parker, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 21, 2015).

⁴¹ *See e.g.* Cincinnati Bell Comments at 3, 7-8 (commenting that \$9.25 per month will not cover entire cost for any speed of fixed broadband service); Comments of Cambridge, Massachusetts City Councilmember Leland Cheung, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 31, 2015) (“benefit must increase because the amount is not enough to make a dent in the cost of both phone and internet service.”); Baltimore City Councilwoman Mary Pat Clarke Comments at 1; Comments of Maryland Delegate Maggie McIntosh, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 18, 2015); Comments of Maryland Senator Delores Kelley, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 21, 2015); Comments of Michigan State Representative Stephanie Chang, WC Docket Nos. 11-42, 09-197, 10-90, at 1 (Aug. 31, 2015).

⁴² MMTC Comments at 10 (stating that the FCC needs to gather more information on whether \$9.25 per month is sufficient to support broadband adoption).

⁴³ Comcast Comments at 6.

subscribe at various subsidy levels; and other factors that will make broadband affordable for low-income households.

C. The Record Supports Leveraging Community Organizations to Promote Awareness of Lifeline and the Benefits of Broadband.

The Commission should heed calls in the record to work with community organizations to promote awareness of Lifeline and the benefits of broadband service. As has been reported, lack of interest, relevance, and digital literacy are often cited as reasons for non-adoption.⁴⁴ In addition to updating Lifeline to improve affordability, the Commission should also work with community groups to address these other barriers to adoption.

D. Text Messaging Should Count as Usage.

The Commission's current rules do not count sending and receiving text messages as usage for purposes of the 60-day non-usage rule. This rule both ignores the common ways many consumers communicate using their wireless devices, and harms those Lifeline subscribers who are deaf, hard of hearing, or have speech impairments that make voice communication over their mobile phones difficult or impossible. Therefore, the Commission should amend its rules to account for text messaging as usage for purposes of the 60-day non-usage rule. Doing so will ensure that Lifeline's essential service remains available for low-income individuals that need it.

The Commission's exclusion of text messaging from the 60-day non-usage rule ignores a prevalent means through which wireless consumers, including Lifeline subscribers, use their mobile phones. For many, text messaging is a preferred method of communication.⁴⁵ In addition, text messaging is fast becoming a key means by which consumers receive valuable social

⁴⁴ See e.g., FEDERAL COMMUNICATIONS COMMISSION, OMNIBUS BROADBAND INITIATIVE, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN 168-69 (2010); JOHN B. HARRIGAN, FEDERAL COMMUNICATIONS COMMISSION, BROADBAND ADOPTION AND USE IN AMERICA 5 (2010).

⁴⁵ See COMPTTEL Comments at 27; Benton Foundation Comments at 49; TracFone Comments at 48.

services, alerts, reminders, and by which they access emergency services.⁴⁶ Where the Commission’s 60-day non-usage rule is intended to establish that a Lifeline subscriber has a “continued desire to receive Lifeline benefits,” sending and receiving text messages evidences just such a continued desire.⁴⁷

Further, the Commission’s current non-usage rules harm those Lifeline subscribers whose disabilities make voice communication over their phones difficult or impossible.⁴⁸ As TracFone’s comments note, for Lifeline subscribers who are “deaf, hard of hearing, or have difficulty with speech. . . texting is the only means of communication using mobile phones without use of special equipment.”⁴⁹ For these subscribers, text messaging may be the only meaningful way in which they are able to use the Lifeline service, and it may provide their only means of accessing some social and emergency services.⁵⁰ Indeed, the Benton Foundation’s comments make clear that the Commission already recognized this when it ruled, in 2014, to require mobile carriers to support text-to-911 emergency services.⁵¹ Therefore, text messaging should be sufficient to demonstrate continued use of Lifeline, and these subscribers should not lose access to critical services solely because they failed to make a voice call within the 60-day period.

⁴⁶ See Benton Foundation Comments at 50-51 (describing “Remind”, a mass text messaging program through which teachers throughout the U.S. communicate with parents and students, the Crisis Text Line, Veterans Crisis Line, and Text-to-911); Comments of AmeriHealth Caritas, WC Docket Nos. 11-42, 09-197, 10-90, at 2 (Aug. 31, 2015) (stating that text messaging is “often the only means for [AmeriHealth] to communicate with [their members] about doctor’s appointments, prescription refills, etc.”)

⁴⁷ Comments of the Lifeline Joint Commenters, WC Docket Nos. 11-42, 09-197, 10-90, at 64-65 (Aug. 31, 2015) (“Lifeline Joint Commentors”).

⁴⁸ See *id.* at 66-68 (describing how the current non-usage rules impermissibly discriminates against Lifeline users with disabilities).

⁴⁹ TracFone Comments at 48.

⁵⁰ See Benton Foundation Comments at 50.

⁵¹ *Id.* at 50-51.

III. COMMENTERS AGREE ANY MODERNIZATION OF THE LIFELINE PROGRAM SHOULD PROMOTE COMPETITION AND INNOVATION.

A. Streamlining the ETC Designation Process to Incentivize Broader Participation By Carriers Will Create More Competition, Which Will Lead to Better Service For Lifeline Participants.

Many commenters express concern that the delays inherent in the ETC designation process have limited participation by carriers, thereby decreasing competition.⁵² The Commission has found that the current lack of competition in the Lifeline voice market has led to the quantity of voice minutes offered by ETCs remaining stagnant.⁵³ This is an opportunity to end that trend in addition to expanding broadband. The National Association of Telecommunication Officers notes the connection between streamlining the ETC designation process, increasing competition, and improving services.⁵⁴ It is imperative that all types of service providers play by the same rules so that Lifeline consumers receive the full benefits of competition that service providers can offer.⁵⁵

B. The Commission Should Leverage Unlicensed Spectrum to Serve Lifeline Subscribers and Encourage Innovation by Non-Traditional Providers.

Technological progress made in utilizing unlicensed spectrum makes it possible to use unlicensed frequencies to offer broadband Internet access services. In light of this development, the Commission's modernization of the Lifeline program should offer Lifeline support to innovative users of unlicensed spectrum serving eligible households.

Commenters weighing in on how the Commission should leverage unlicensed spectrum for the purpose of providing broadband service to low-income consumers support updating the

⁵² See, e.g., NATOA Comments at 5; Sprint Comments at 53; MMTC Comments at 6, 15-16; Comments of American Cable Association, WC Docket Nos. 11-42, 09-197, 10-90, at 5-6 (Aug. 31, 2015); Cox Comments at 3, 8-10; COMPTTEL Comments at 18-20; Telscape/Sage Comments at 13-14; CWA/AFL-CIO Comments at 43.

⁵³ Lifeline Modernization FNPRM at 7827-28 ¶ 16.

⁵⁴ NATOA Comments at 5.

⁵⁵ IIA Comments at 3, 19-21.

Lifeline program to include providers that use unlicensed spectrum to offer broadband Internet access service. Microsoft correctly explains that unlicensed spectrum can be used to expand the availability and affordability of broadband service to individuals or communities where broadband service may otherwise be unavailable or unaffordable.⁵⁶ And New America's Open Technology Institute advocates for allowing networks that rely on unlicensed spectrum to be eligible to provide Lifeline-supported services.⁵⁷ Additionally, several commenters advocate for the FCC to explore new and innovative ways to provide broadband for low-income households, including offering support for providers deploying Wi-Fi hotspots, making free public Wi-Fi service available, and allowing WISPS to receive Lifeline support.⁵⁸

The record also includes support for modernizing the Lifeline program to support services offered by non-traditional broadband providers, including community broadband networks and community anchor institutions.⁵⁹ Permitting new and innovative providers to offer Lifeline supported services will increase competition for Lifeline subscribers, increasing consumer choice, lowering the prices, and improving the services available to low-income consumers.

⁵⁶ Microsoft Comments at 10-11.

⁵⁷ See OTI Comments at 15-16

⁵⁸ See Benton Foundation Comments at 46; CETF Comments at 44, NDIA Comments at Appendix A, Ralph Everett Comments at 3.

⁵⁹ See Benton Foundation Comments at 46, NDIA Comments at 13-18; OTI Comments at 13-14;

IV. CONSUMER PROTECTION FOR LIFELINE SUBSCRIBERS MUST BE SUFFICIENT AND SUBSCRIBERS MUST BE TREATED WITH DIGNITY.

A. Establishing a National Verifier to Make Subscriber Eligibility Determinations for the Lifeline Program is Key to Protecting the Integrity of the Lifeline Program.

The record supports the establishment of a national eligibility verifier to make subscriber eligibility determinations for the Lifeline program.⁶⁰ Commenters agree with Commissioner Clyburn that doing so is key to protecting the integrity of the Lifeline program.⁶¹ Greenlining Institute, Center for Media Justice, and Media Action Grassroots Network explain that using a third-party administrator will protect the program's integrity.⁶² Moreover, moving to a single verifier will ensure eligible households receive their Lifeline benefit.⁶³ California has had substantial success using a third party verifier.⁶⁴

There are many benefits of a centralized verifier, including removal of the carrier's conflict of interest, limited sharing of sensitive personal information customer service agents of private companies, and more uniform application of eligibility determination procedures and processes.⁶⁵ Centralizing eligibility decisions will also lower administrative costs and burdens for

⁶⁰ See, e.g., ADTRAN Comments at 14; Comments of Connected Nation, WC Docket Nos. 11-42, 09-197, 10-90, at 15-17 (Aug. 31, 2015); Comments of ITTA, WC Docket Nos. 11-42, 09-197, 10-90, at 2-3, 13-17 (Aug. 31, 2015); COMPTTEL Comments at 12-15 (Supporting transferring responsibility for eligibility determination to a neutral third-party, so long as consumers can present applications and proof of eligibility and be verified in real time during a single transaction); Comments of Alaska Communications, WC Docket Nos. 11-42, 09-197, 10-90, at 6-7 (Aug. 31, 2015); Greenlining Institute, CMJ, and MAG-Net Comments at 4, 34-35.

⁶¹ Remarks of Commissioner Mignon Clyburn, Reforming Lifeline for the Broadband Era, Remarks at the American Enterprise Institute (Nov. 12, 2014), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-330453A1.pdf (last accessed Aug. 27, 2015); Greenlining Institute, CMJ, and MAG-Net Comments at 34-35; Benton Foundation Comments at 3, 38-40.

⁶² Greenlining Institute, CMJ, and MAG-Net Comments at 4;

⁶³ *Id.*

⁶⁴ *Id.* at 34; Comments of San Francisco Mayor Edwin Lee, WC Docket Nos. 11-42, 09-197, 10-90, at 2 (Aug. 31, 2015) (commenting that the California Lifeline Program “has successfully produced many of the improvements that the Commission is now considering, including the creation of independent verification and a firm definition of eligible services.”)

⁶⁵ NCLC Comments at 10.

carriers to participate in Lifeline.⁶⁶ And the resulting uptick in competition for Lifeline customers will lead to an improvement in the quality and quantity of services available to subscribers and lower costs, further allowing the universal service fund to extract more value for each dollar spent on Lifeline. Therefore, by establishing a third-party verifier the Commission will reach its goals of protecting the integrity of the program by reducing fraud waste and abuse and increase competition.

B. The National Lifeline Eligibility Verifier Must Adequately Secure Lifeline Subscriber Information and Ensure Subscribers are Treated with Dignity.

The record calls for the Commission to address consumer privacy, security, and dignity in the overhaul and continued operation of the Lifeline program.⁶⁷ Regardless of the specific details of any eligibility verification system the Commission adopts, privacy concerns must be given substantial consideration. As noted by the Low-Income Consumer Groups, it would be “more efficient to focus on the privacy protections and data handling and storage practices of a centralized entity than to track the practices of hundreds of carriers.”⁶⁸ Furthermore, “[m]oving the enrollment and re-certification of eligibility functions away from private companies to a single agent of the Commission is both more appropriate for the administration of a low-income program and is more protective of consumer privacy.”⁶⁹ As the Benton Foundation makes clear, the national eligibility verifier should be required to “establish clear data privacy and security protections against unauthorized misappropriation, breach, or disclosure of sensitive information about household income or enrollment in federal assistance programs.”⁷⁰ Adequate protections

⁶⁶ See Charter Comments at 4.

⁶⁷ See, e.g., NCLC Comments at 10; Rural Broadband Policy Group Comments at 19-20; Consumer Action Comments at 4.

⁶⁸ NCLC Comments at 10.

⁶⁹ *Id.*

⁷⁰ Benton Foundation Comments at 40.

for customer information, and respect for the importance of consumer privacy, are crucial elements contributing to the success of Lifeline reforms.

No matter the precise mechanics of the verification process, however, the importance of fundamental dignity must not be overlooked. The record reflects the importance of protecting human dignity as a critical factor in the adoption, growth, and success of the Lifeline program.⁷¹ In discussing the potential advantages of a third-party eligibility verifier, members of the Rural Broadband Policy Group wrote that the confidentiality and privacy provided by third party processing could help “subscribers feel more comfortable disclosing personal information about their financial status, with dignity and free from judgment.”⁷² The American Library Association astutely urges the Commission “[t]hroughout the modernization process . . . to consider the dignity of consumers - from how consumers are introduced to the program; to the ease of applying and sustaining benefits while eligible; to whether privacy concerns are adequately addressed; to whether they are given increased selection and the agency to choose the provider that works best for their needs.”⁷³ It is key to the success and growth of the Lifeline program, that subscribers feel confident and secure in sharing necessary eligibility information. The use of third-party verification, coupled with reforms to expand the means by which individuals may enroll in Lifeline, are necessary to the continued success of the Lifeline program.

V. CONCLUSION.

The Commission should move quickly to adopt its proposal to modernize Lifeline to support broadband Internet access service. The record overwhelmingly supports updating

⁷¹ See, e.g., Rural Broadband Policy Group Comments at 19-20; Comments of the American Library Association, WC Docket Nos. 11-42, 09-197, 10-90, at 5 (Aug. 31, 2015) (“ALA Comments”).

⁷² Rural Broadband Policy Group Comments at 19-20.

⁷³ ALA Comments at 5.

Lifeline. By modernizing Lifeline, the Commission can fulfill its mandate to make advanced telecommunications services more available, affordable, and accessible to all Americans.

Respectfully submitted,

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