

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

Reply Comments of WTA-Advocates for Rural Broadband

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EXECUTIVE SUMMARY

WTA continues to support the Commission's efforts to reform the Lifeline program to increase efficiencies, decrease administrative burdens and costs for providers, and reduce fraud and abuse in the program. As the record reflects, many of the Commission's proposals hold promise but others (such as the proposed 24-hour customer service and mandatory training and certification requirements) likely would only increase burdens and costs for providers and consumers alike while doing little to combat known fraud and abuse in the program.

Accordingly, WTA urges the Commission to strongly consider leveraging existing benefit enrollment mechanisms and eligibility verification systems to the maximum extent possible, using general contributions to the Universal Service Fund to support administration activities similar to the High-Cost, E-rate and Rural Health Care programs. At no point should providers—particularly those with no other option but to participate in the Lifeline program—be required to pay for coordinated enrollment or a national Lifeline eligibility verifier.

WTA again urges the Commission to consider the practical and regulatory realities in the broadband marketplace before imposing minimum service standards for Lifeline service. Any minimum service standards should reflect the “reasonable request” standard applicable to requests for service from rate-of-return local exchange carriers (“RLECs”), and the Commission must reform the high-cost support mechanism before mandating that RLECs provide broadband as a standalone service. The Commission must also evaluate the impact any increase in service amount or establishment of a budget for the Lifeline program would have on the Universal Service Fund and the other critically important universal service programs upon which the Lifeline program relies. The Commission should also refrain from modifying the existing subsidy distribution mechanism that is efficient for consumers and providers alike. Transitioning to distribution via portable benefits as a PIN or voucher would only increase burdens on consumers that currently do nothing to obtain their Lifeline benefit each month and providers that do not have systems in place to process payments via PIN or voucher.

Finally, because enhanced support is critical to assisting low-income consumers on Tribal lands in affording quality broadband services regardless of the population in the surrounding geographic area, the Commission should consult closely with Tribal entities before making substantial changes to the availability of Lifeline support on Tribal lands. At a minimum, however, the Commission should retain enhanced support to facilities-based providers of Lifeline services on Tribal lands.

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Reply Comments of WTA-Advocates for Rural Broadband

WTA-Advocates for Rural Broadband¹ hereby replies to comments filed in response to the Federal Communication Commission’s (“Commission”) Second Further Notice of Proposed Rulemaking (“Second FNPRM”) seeking “a fundamental, comprehensive restructuring of the [Lifeline] program.”² As discussed in further detail below and in comments in the record by WTA and others, the Commission should refrain from adopting additional burdens on providers and consumers that would outweigh potential benefits to the Lifeline program and consumers.

I. Rather Than Create an Entirely New National Verifier From The Ground Up, The Commission Should Leverage Existing Benefit Enrollment and Lifeline Eligibility Verification Systems

Commenters generally agree that the responsibility to verify eligibility and enroll consumers in the Lifeline program should be removed from providers, but it will not be an easy task. Concerns about the establishment of a national Lifeline verifier include the cost,

¹ WTA – Advocates for Rural Broadband is a national trade association representing more than 280 rural telecommunications providers offering voice, broadband and video services in rural America. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities.

² *In re Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42 et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, ¶ 8 (rel. June 22, 2015) (“*Second Lifeline FNPRM*”).

complexity,³ and limitations on third-party access to state program databases imposed either by law or policy due to consumer privacy concerns. For example, some states do not currently provide access to outside parties, or even other state agencies, to any databases that might be used to verify Lifeline program eligibility.⁴ Furthermore, injecting a third-party verifier into the system would “introduce another layer of potential failure and possible deviation from Commission standards, thus possibly increasing instances of either deliberate or inadvertent misuse of funds.”⁵

As WTA and other commenters in the record acknowledge, coordinated enrollment “makes intuitive sense.”⁶ As described by NTCA, “[a] coordinated enrollment approach would decrease the administrative burdens on small businesses and would also reduce the number of sensitive documents that RLECs and other small businesses would be required to retain.”⁷

³ Comments of Michigan Public Service Commission at 6-7 (Aug. 31, 2015) (“Some of the issues that make this task complex include: 1) identifying the correct contact people at the state level for permission to access the data, 2) difficulty obtaining approval to access the sensitive program data, 3) different state qualifying income levels) and 4) states use different names for the Lifeline qualifying programs.”).

⁴ Comments of Missouri Public Service Commission at 5 (Aug. 31, 2015) (“Missouri does not currently provide access to outside parties, or even other state agencies, to any databases that might be used to verify Lifeline program eligibility.”); Comments of Nebraska Public Service Commission at 2 (Aug. 31, 2015) (stating that state agency records likely would not be available to a third-party administrator).

⁵ Comments of NTCA-The Rural Broadband Association at 4 (Aug. 31, 2015).

⁶ Comments of The Benton Foundation and Rural Policy Group at 41 (Aug. 31, 2015) (stating that “[i]f another agency has already carried out checks, relying on such efforts reduces redundancy and cuts administrative costs.”). *See also* Comments of CTIA at 14 (Aug. 31, 2015) (stating that the Commission “should work with Lifeline providers to establish a system that will ensure timely eligibility determinations, efficient coordinated enrollment, and automatic de-enrollment processes” and pointing to Florida and Nebraska as models for coordinated enrollment); Comments of GVNW at 20 (Aug. 31, 2015) (“Coordinated enrollment will generate efficiencies while also protecting the Fund against waste, fraud and abuse.”); Comments of Florida Public Service Commission at 9 (Aug. 31, 2015) (“In addition to having Lifeline coordinated enrollment, there should be a process available for Lifeline coordinated de-enrollment.”); Comments of the Internet Innovation Alliance at 11-12 (Aug. 31, 2015) (“IIA supports relying on state governmental agencies as the neutral entity charged with using a coordinated enrollment process to verify consumer eligibility and administer the enrollment and de-enrollment process.”); Comments of TCA at 3-4 (Aug. 31, 2015) (“Coordinated enrollment offers the efficiencies and effectiveness to the Lifeline program, while minimizing administrative burdens on ETCs and customers.”).

⁷ Comments of NTCA at 7.

Indeed state commenters also see additional value in coordinated enrollment.⁸ Others recommended enhancing the functions of the National Lifeline Accountability Database (“NLAD”) as a hub for enrollment purposes.⁹

Facilitating coordinated enrollment would keep the Commission from “reinventing the wheel” and could further help safeguard the Lifeline program because the entity enrolling consumers in Lifeline-eligible programs will have all information necessary to simultaneously confirm or deny a consumer’s eligibility for both programs. Providers would no longer need to review private consumer documentation beyond that reviewed upon initiating service in the normal course of business. Coordinated enrollment, therefore, would nearly entirely address the Commission’s concerns regarding fraudulent enrollment and preserving consumer privacy. It would also substantially lessen the need for burdensome document retention requirements. Because several states already have implemented third-party databases and/or coordinated enrollment processes on their own, the Commission should work with State and Tribal governments to adopt a Lifeline eligibility verification regime that leverages existing procedures. This could mean supporting an opt-out procedure similar to the existing NLAD opt-out process for those states that already have an effective third-party verification system in place. If the Commission decides to move forward to establish a national verifier, the Commission should

⁸ Comments of State of Illinois at 8 (Aug. 31, 2015) (stating that “Illinois would welcome investigating the combined Lifeline enrollment with other Federal and State programs”); Comments of Michigan PSC at 11 (stating that it would be beneficial for states to try to coordinate with the qualifying Lifeline programs to promote the Lifeline program, but cautioning that states may resist the responsibility without a mandate); Comments of Texas Public Utilities Commission at 5 (Aug. 31, 2015) (stating that “coordinated enrollment at the state level has provided efficiency and program integrity as [state agencies] are able to seamlessly exchange information ... while providing a high degree of program integrity.”);

⁹ Comments of NTCA at 4 (suggesting that the Commission require state agencies to enter eligible consumers into the NLAD and for Lifeline providers to query the NLAD prior to initiating service to verify eligibility and non-duplication); Comments of TracFone at 30 (Aug. 31, 2015); Comments of TCA at 4 (stating that enrollment could be coordinated with the existing NLAD). *See also* Comments of ITTA at 15 (Aug. 31, 2015) (stating that “[i]t may make sense to merge the NLAD into the national verifier database or, alternatively, for both databases to be operated by the same entity in order to maximize efficiencies in program administration.”).

eliminate provider involvement in the enrollment process beyond querying the NLAD upon request by the consumer rather than requiring providers to act as a middle-man to send eligibility documentation to the national verifier.

At no point should the Commission require Lifeline providers to reimburse the Universal Service Fund (“the Fund”) for all or part of the cost of conducting coordinated enrollment or the operations of a national or state-level verifiers. Requiring providers to fund verification would be “at odds with the goal of reducing administrative costs to providers.”¹⁰ Furthermore, charging Lifeline service providers additional fees is “contrary to the cost recovery mechanism in place for every other federal universal service program, and there is no basis for singling out the Lifeline program for separate and unfair treatment.”¹¹ The Commission should avoid placing additional cost burdens on companies that are required by law to offer Lifeline services, particularly for providers such as RLECs that often have less than one percent of their subscribers enrolled in the Lifeline program and have no other choice but to participate.¹² All costs of administering the Lifeline program, including costs related to eligibility verification, should be incorporated into and recovered through the mandated USF contribution factor assessed on all contributors to the Fund much like the costs for administering the E-rate and High Cost portions of the Fund are recovered.

II. Any Minimum Service Standards Should Align With Connect America Fund Requirements, and The Commission Must Adopt All Necessary Rule Changes For Rural Providers To Be Able To Comply

¹⁰ Comments of NTCA at 8.

¹¹ Comments of Sprint at 34 (Aug. 31, 2015).

¹² If the Commission were to require Lifeline providers to reimburse the Fund for all or part of the expense to conduct eligibility verification, “the Commission should allocate this obligation among providers on a pro rata basis.” Comments of ITTA at 17. *See also* Comments of Michigan PUC at 10 (discussing providers paying a fee based on the percentage of its Lifeline customers compared to the total Lifeline customers in the state or country).

Several commenters in the record question whether minimum service standards are necessary.¹³ While WTA takes no position on the wisdom of adopting minimum service standards, if the Commission proceeds to adopt minimum standards such standards must reflect practical and regulatory realities. As Cincinnati Bell's comments point out, many areas across the country are still served primarily on copper facilities that have both distance and speed limitations and until fiber-based services are deployed in these areas, delivering higher speeds will continue to be a challenge.¹⁴ As described by Sprint, "[e]ven where a broadband network with level X speed has been deployed in a given geographic areas, the Commission cannot assume that service at level X is available throughout that entire area, much less throughout the country."¹⁵ Requiring service providers to upgrade or deploy facilities in order to meet minimum service requirements specific to the Lifeline program would result in significant unfunded costs for providers.¹⁶ Particularly for providers in high-cost locations, there is simply no justification for the Commission to create an obligation without providing a reasonable opportunity to recoup the costs of deploying the infrastructure necessary to fulfill that obligation.¹⁷

Accordingly, given the fact that availability of broadband at minimum speeds depends on the existence of infrastructure capable of supporting those speeds and the fact that the High Cost program's primary goal is deployment of infrastructure, it makes sense for the Commission to

¹³ Comments of Cincinnati Bell at 4 (Aug. 31, 2015); Comments of Comcast at 12 (Aug. 31, 2015) (stating that mandatory minimum service levels could undermine consumers' flexibility to choose the level of service that meets their needs); Comments of Information Technology & Innovation Foundation at 5 (Aug. 31, 2015); Comments of NCTA at 2-3 (Aug. 31, 2015); Comments of TracFone at 10.

¹⁴ Comments of Cincinnati Bell at 5. *See also* Comments of National Association of Telecommunications Officers and Advisors and the National League of Cities (NATOA) at 4 (Aug. 26, 2015) (cautioning the Commission to "be mindful not to exclude Lifeline subsidies to those with access only to slower speeds.").

¹⁵ Comments of Sprint at 14-15.

¹⁶ Comments of ITTA at 26.

¹⁷ Comments of Alaska Communications at 11-12 (Aug. 31, 2015).

coordinate minimum standards (if it concludes minimum standards for the Lifeline program are necessary) with those standards adopted in other USF programs.¹⁸ The Commission should likewise retain the reasonable request standard established in the 2011 *USF/ICC Transformation Order* for evaluating requests for service from Lifeline customers to operators of networks not capable of providing broadband at a given minimum speed. Retaining the reasonable request standard as it applies to *all* consumers (including low-income consumers) in rural service areas will give small, rural carriers the flexibility they need in order to continue expanding their networks to support high-speed broadband services for *all* of their customers.¹⁹

Furthermore, commenters agree that the Commission must remain mindful of the fact that existing mechanisms do not provide high-cost support for broadband as a stand-alone service.²⁰ Therefore, WTA joins other commenters in again urging that the Commission adopt reforms in the High Cost program that allow RLECs to receive USF support for data-only connections before mandating that RLECs offer data-only services to Lifeline customers.²¹

¹⁸ Comments of ADTRAN at 8 (Aug. 31, 2015); Comments of Alaska Rural Coalition at 8 (Aug. 31, 2015) (“A more reasonable benchmark would be either the lowest service offering that complies with the high-cost broadband benchmark, or the high-cost broadband benchmark itself. Using a more achievable benchmark in conjunction with the reasonable request standard will allow small, rural carriers the flexibility they require to continue expanding networks.”); Comments of Alexicon at 5 (Aug. 31, 2015); Comments of CWA-AFLCIO at 4 (Aug. 31, 2015); Comments of GVNW at 10 (Aug. 31, 2015);

¹⁹ Comments of Alaska Rural Coalition at 8 (Aug. 31, 2015) (stating that “[u]sing a more achievable benchmark in conjunction with the reasonable request standard will allow small, rural carriers the flexibility they require to continue expanding networks.”).

²⁰ Comments of TCA at 2-3 (“Unfortunately, the FCC has not yet updated its rules in the Universal Service High Cost Program to allow cost recovery for RLECs when customers choose to subscribe to broadband without voice service. Indeed this discrepancy has the perverse effect of causing data-only broadband to be significantly more costly to the customer than a combined offer of voice and broadband services.”); Comments of Gila Rivers at 10 (Aug. 31, 2015) (supporting the proposal to require data-only broadband services only if the Commission takes the steps necessary to ensure that a carrier can continue to receive high-cost support for data-only connections); Comments of GVNW at 5 (noting that “[t]he Commission has updated the other aspects of the universal service programs to support broadband (with the notable exception of the high-cost program’s failure to support broadband-only service provided by ROR carriers.”); Comments of NTCA at 12 (urging the Commission to keep pace in modernizing the high cost program).

²¹ Comments of TCA at 3.

With respect to data cap policies, very few fixed broadband service providers impose or enforce data cap policies on their service plans. However, data cap policies or restrictions imposed (if at all) by rural carriers are most likely linked to striking a balance between the cost of transport with providing service at reasonable prices. Similar to the need to engage interexchange carriers in the telephone world to enable customers to make long distance calls, data transport is an inherent cost of providing broadband Internet access services. Unlike providers in metropolitan areas, small rural service providers often have only one option for middle mile transport to the larger Internet backbone in their rural service areas. In many instances the nearest connection point could be hundreds of miles away.²² Furthermore, small service providers almost always have little power to negotiate favorable pricing. The Commission should not remove the ability for these service providers to develop the most compelling and reasonably priced service offerings they can by prohibiting a practice that has not yet been shown to harm consumers or the marketplace.

III. Commenters Agree That The Commission Must Consider Impact of Increased Expenditures on the Universal Service Fund When Setting Support Amounts and a Lifeline Budget

Nearly all commenters agree that the proposed permanent support amount of \$9.25 is insufficient to cover the total cost of providing fixed broadband services at any speed benchmark. Nor does \$9.25 cover the full cost to the provider and consumers of fixed voice services.²³ Additionally, as the American Cable Association highlights, Lifeline support should

²² This map of broadband infrastructure illustrates the distances some providers, particularly those in rural parts of the west, must send traffic. <http://www.smithsonianmag.com/smart-news/first-detailed-public-map-us-internet-infrastructure-180956701/?no-ist>

²³ See Comments of Alexicon at 3-4 (noting the insufficiency of \$9.25 based on the cost of basic local service increases and cost of broadband); Comments of Missouri PSC at 3 (noting that local rates for some ILECs were less than \$10 in 2012 and are now \$21.22 or higher in 2015); Comments of National Tribal Telecommunications Association (NTTA) at 8 (Aug. 31, 2015) (highlighting that the local rate floor requires that local rates be above a certain level or the high cost support recipient will lose support).

at least cover the administrative costs a provider incurs to participate in the Lifeline program.²⁴

In setting support amounts and a budget for the Lifeline program, the Commission must balance the needs and benefits of its various universal service programs and not allow spending on one program to jeopardize other important policy goals relating to broadband deployment and adoption.²⁵

Simply put, “[m]aking broadband service affordable where it is not available is an impossible task.”²⁶ As several commenters note, “Lifeline is part of a broader fabric of universal service programs, each of which plays a complementary role in making voice and broadband service available to millions of consumers all across the nation, including in rural areas of the nation that would otherwise lack access.”²⁷ Sufficient funding both for deployment of infrastructure *and* assistance affording monthly service costs are required to make voice and broadband services truly available to low-income consumers, particularly in rural America.²⁸ As a result of the interdependence of these programs particularly in meeting consumers’ needs in rural America, the Commission should reject calls from some to repurpose monies from the high-cost program to the Lifeline program. Furthermore, the Commission must ensure that the Fund as a whole does not impose an unreasonable burden on consumers as a result of changes to the Lifeline program.²⁹

²⁴ Comments of American Cable Association at 7, n. 10 (Aug. 31, 2015).

²⁵ See Comments of ITTA at 7 (“The Commission must not lose sight of the fact that broadband must be ‘available’ to low-income consumers for consumers to adopt it, and that in order for broadband to be available, broadband networks that provide service that is sufficiently robust and affordable to meet basic broadband needs must exist.”).

²⁶ Comments of GVNW at 13.

²⁷ Comments of NTCA at 9.

²⁸ Comments of GVNW at 2.

²⁹ Comments of Comcast at 13.

Several commenters in the record also urge the Commission to conduct an expeditious review of the contributions mechanism before expanding another USF program to include broadband, particularly if non-ETCs will be eligible to receive Lifeline support without being required to contribute to the Fund.³⁰ Likewise, WTA agrees that it is past time for the Commission to conduct a comprehensive review and reform the USF contribution mechanism.

IV. Portable Benefits Would Only Increase Burdens on Consumers and Lifeline Providers, and Could Increase Fraud and Abuse in the Program

The *Second FNPRM* makes several proposals intended to decrease burdens on providers and consumers while also reducing fraud and abuse in the Lifeline program. However, whereas distribution of Lifeline support as discounts on consumer bills is efficient for consumers, the proposal to distribute Lifeline subsidies through portable benefits or vouchers could unnecessarily increase costs and burdens on Lifeline providers and consumers³¹ while also opening up the program to increased fraud and abuse.

Nearly all commenters agree that unless the Lifeline subsidy amount is raised substantially, monthly Lifeline support will not cover the whole cost to consumers for fixed broadband services. As a result (and unless the subsidy is raised substantially resulting in substantial increased demand on the Fund and necessitating a substantial increase in

³⁰ Comments of Comptel at 11 (“Expanding the Lifeline program to include broadband underscores the urgent need for the Commission to finally address and adopt USF contribution reform.”); Comments of Free Press at 63 (Aug. 31, 2015) (“The Commission cannot make substantive changes to any universal service program without considering the impact on contributions.”); Comments of ITTA at 10 (“In no even should the Commission contemplate increasing the reimbursement rate until overdue USF contribution reform has been adopted and implemented.”); Comments of Pennsylvania PUC at 17 (“Funding requirements imposed on the federal USF mechanism underlines the need for accountability and urgency for reforming the contribution base of the federal USF mechanism.”); Comments of TracFone at 21 (“Establishing a program budget will not address concerns regarding the funding necessary to operate the program without the Commission also addressing the all-important question of contribution methodology.”).

³¹ See Comments of Navajo Nation Telecommunications Regulatory Commission (NNTRC) at 15 (Aug. 31, 2015) (“Interjecting complexity into the program will only deter eligible and needy persons from participating.”); Comments of Disability Groups at 9 (“Deaf and hard of hearing consumers should have the ease of receiving their benefits automatically via direct reimbursement from the fund to providers.”).

contributions from ratepayers), consumers will inevitably need to make a conscious effort to make payments for service above the Lifeline subsidy. Offering Lifeline benefits via voucher would also likely require that consumers bifurcate their payment resulting in the need to utilize two payment methods to pay one bill (*e.g.*, payment by voucher plus a credit card). This process would be more complicated and inconvenient, particularly for those Lifeline customers not used to receiving a bill or those who currently obtain benefits as discounts on their monthly bills. Requiring payment by voucher would also be particularly burdensome for those consumers obtaining entirely Lifeline service from providers that do not issue monthly bills and therefore expend no effort to payment under the current distribution model.³²

In addition to creating barriers for consumers, adopting a portable benefit model would increase costs on Lifeline providers, particularly small rural fixed broadband providers with very few Lifeline customers. All Lifeline providers would be impacted by either needing to either adopt billing systems altogether or changing their systems to accommodate a Personal Identification Number (“PIN”) or benefit card.³³ Adopting systems to accommodate novel payment methods would be particularly costly for providers that currently have fewer than five percent of their subscribers receiving Lifeline benefits.

V. Commenters Agree That Enhanced Lifeline Support For Tribal Residents Remains Critical For Deployment and Adoption on Tribal Lands

³² Comments of Alaska Rural Coalition at 13 (arguing that “transferring the benefit directly to the consumer will only have the impact of forcing consumers to engage the provider a second time to receive their Lifeline benefits”); Comments of TracFone at 39 (stating that distribution via portable benefits would require subscribers to redeem their vouchers on a monthly basis); Comments of Sprint at 27-28 (discussing that portable benefits are not necessary given existing procedures in place to select or switch to a new service provider; would require the end user to make a conscious effort to remit payment; would sharply increase the risk of bad debt and fraud; would entail the expenditure of additional resources to implement; and would sharply discourage the practice of providing free devices to Lifeline customers).

³³ See Comments of Sprint at 28 (noting the administrative, development, and recurring operational costs that “each and every ETC would have to expend to be able to accept a payment voucher or PIN”).

The record is also unanimous in supporting continued enhanced Lifeline support for residents on Tribal lands because such support remains vital to increasing adoption of advanced telecommunications services.³⁴ As the Navajo Nation Telecommunications Regulatory Commission stated, the increase in voice penetration seen since adoption of enhanced support “is not due to some sort of awakening on the part of Navajos that telephones are important, but rather is directly tied to Enhanced Tribal Lifeline Support.”³⁵ As WTA and others in the record have reiterated, average incomes on tribal lands remain extremely low and poverty and unemployment rates remain high as compared to the general population.³⁶ Add to this that Tribal lands are also significantly more costly to serve than non-Tribal areas, and therefore it is important that the enhanced Tribal Lifeline support element continue in order to help make service affordable for residents on Tribal lands.

Commenters in the record agree that the Commission should limit enhanced Lifeline and Link-Up support only to those Lifeline providers who have facilities.³⁷ As the South Dakota Telecom Association explained, “[n]on-facilities based Lifeline-only service providers do nothing to expand or improve the network facilities need to make services available to subscribers.”³⁸ Limiting enhanced support in this manner as the Commission transitions to Lifeline support for broadband will increase the penetration rates of facilities-based providers and therefore increase revenues necessary to support network deployment and maintenance in

³⁴ See Comments of NTTA at 3 (“The Tribal Lifeline credit is indispensable in providing many Native Americans a chance to connect to the global communications network.”).

³⁵ Comments of NNTRC at 7.

³⁶ Comments of Gila Rivers at 3.

³⁷ Comments of NTTA at 4; Comments of GVNW at 23 (“The Commission should . . . limit enhanced support to those Lifeline providers that are deploying, building or maintaining infrastructure on Tribal lands”).

³⁸ Comments of South Dakota Telecom Association at 5 (Aug. 31, 2015).

high-cost Tribal areas³⁹ rather than continuing to provide excess revenues to providers that simply purchase buckets of minutes from other carriers in place of deploying network facilities. The Commission could use funds saved by limiting enhanced support to facilities-based providers to provide additional support for recipients of Lifeline support for broadband.⁴⁰

The record also demonstrates that there is a continued need for enhanced support on Tribal lands, regardless of the population size of the surrounding geographic area.⁴¹ “Economic circumstances on tribal lands should be the sole criteria the Commission uses in justifying and maintaining the enhanced programs, not density.”⁴² Economic circumstances, in addition to population density, significantly impact where providers deploy broadband. WTA supports comments that “[i]f the Commission insists on further investigating this proposal, it must develop a fuller record that shows Tribal consumers in higher density areas have greater availability and affordability of service.”⁴³ WTA also agrees that the Commission “consult closely with the relevant Tribal entities before making further wholesale changes to the geographic scope of the enhanced Tribal Lifeline and Link-Up programs.”⁴⁴

VI. Establishing a Shot-Clock for ETC Petitions Is Sufficient to Address Concerns About the Current ETC Designation Process and Would Preserve Critical Consumer Protections

³⁹ Comments of GVNW at 24. *See also* Comments of ADTRAN at 15 (“Providing support to service providers with their own facilities will foster the deployment of new and/or better broadband facilities to underserved tribal areas, and thus further enhance the attainment goals the Commission adopted.”).

⁴⁰ *See* Comments of Gila Rivers at 14-15.

⁴¹ *See* Comments of Alaska Rural Coalition at 18 (“[T]he Commission should not reduce the benefits [consumers on tribal lands] receive simply because they live in a more populated area.”); Comments of NNTRC at 12-13 (rejecting the Commission’s proposal to exclude resident in towns greater than 10,000 from receiving enhanced support because such a threshold “appears to be completely arbitrary and devoid of any legal or historical basis”); Comments of Gila Rivers at 15 (“The federal program cited by the Commission as an example actually limits based on population, not density.”).

⁴² Comments of Gila Rivers at 15.

⁴³ Comments of Alaska Rural Coalition at 18.

⁴⁴ Comments of Comptel at 40.

Comments in the record make clear that the primary issue relating to carrier dissatisfaction with the current ETC designation process stems from delays in approvals, particularly at the federal level.⁴⁵ For example, the Public Utility Commission of Pennsylvania noted that it cannot proceed with pending ETC petitions until the Commission reviews and approves associated compliance plans.⁴⁶ Comptel likewise noted that the Wireline Competition Bureau has approved *no* compliance plans since December 2012, and that more than fifty have sat idle at the Bureau for more than two years.⁴⁷ No commenter has provided sufficient justification for eliminating an important regulatory authorization that helps ensure that Lifeline providers are legitimate carriers accountable to the public interest as opposed to fly-by-night organizations subject to little or no regulatory scrutiny.

Unnecessarily eliminating the ETC designation requirement would likely result in harm to consumers, increase fraud and abuse in the Lifeline program, and implicates concerns from state regulators about their abilities to conduct oversight and determine which entities qualify for state-level support.⁴⁸ Whether streamlined or not, the public interest requires at a minimum that an ETC designation process “ensure that the designated carrier has the financial and technical

⁴⁵ See Comments of NNTRC at 11 (stating that “[i]t took the FCC nearly three years to act on the ETC petition of NTUA Wireless, LLC to serve the Navajo Nation, and an ETC petition by Navajo Pillars Telecommunications, Inc. filed in September of 2013, remains pending at the FCC.”).

⁴⁶ See Comments of Pennsylvania PUC at 29.

⁴⁷ Comments of Comptel at 21-22 (encouraging the Commission “to increase competition in the Lifeline marketplace by resuming approvals of compliance plans and erasing the backlog of pending plans immediately, without awaiting the issuance of a final order in this docket.”).

⁴⁸ See Comments of Michigan PSC at 13 (“Since the state is responsible for certifying the ETC designation, it is imperative that the state’s concerns are addressed before a designation is granted.”); Comments of National Association of Regulatory Utility Commissioners (NARUC) at 6 (Aug. 31, 2015) (“There is simply no reason to reduce the number of State regulatory ‘cops’ on the beat or further limit their enforcement/oversight authority.”); Comments of Nebraska PSC at 3-4 (“NPSC has serious concerns about its ability to enforce violations of ETC requirements and consumer protections if the Commission preempts state commission rules by creating a national designation process . . . [and] the potential effect a national designation process would have in limiting our ability to independently determine who should receive state support.”); Comments of Pennsylvania PUC at 31 (“Allowing non-ETCs to receive Lifeline funds not only will undermine legitimate PUC goals under independent state law regarding the preservation and enhancement of the evolving universal service concept and COLR obligations but also can lead to serious instances of fraud and abuse of limited Lifeline support resources.”).

capability to provide quality service and the ability and commitment to comply with all applicable rules and laws.”⁴⁹

Although pursuant to the *USF/ICC Transformation Order* states have no jurisdiction over broadband providers because they are providers of “interstate services,” such providers will be subject to state jurisdiction if the services Lifeline providers must offer includes voice services and/or a bundle of broadband and voice. It would be fundamentally unfair and contrary to Section 254 of the Communications Act for the Commission to permit one class of carriers to offer broadband-only Lifeline service simply in order to avoid obtaining ETC designation in the states that retain state-based ETC designation authority; rather, if some Lifeline providers are required to offer voice services either as a standalone service or as part of a bundle of services, all Lifeline providers should be required to offer voice.

Because no commenters raise substantial justification for eliminating the ETC designation process beyond claiming that the existing system is “burdensome,” establishing a six-month window (as has previously been proposed by the Commission) strikes an appropriate balance between the necessary expediency and federal and state commission resources available for acting on petitions while still allowing opportunities for thorough investigations of ETC applicants.⁵⁰ If the Commission insists on preempting state authority to designate ETCs (which WTA continues to believe is unnecessary, unwise and unlawful), the Commission should

⁴⁹ Comments of Illinois at 9. *See also* Comments of NATOA at 5 (encouraging the Commission to maintain oversight to address waste, fraud and abuse).

⁵⁰ *See* Comments of NNTRC at 12 (“The FCC either needs to institute a shot clock on these proceedings or otherwise commit additional Commission resources to these petitions so that carriers can move forward with the provision of Lifeline service.”); Comments of TracFone at 45 (“The Commission should promulgate rules governing the time within which states must act on ETC applications to provide Lifeline service.”).

strongly consider first referring the matter to the Federal-State Joint Board on Universal Service for consideration and state input.⁵¹

VII. Miscellaneous Issues

a. The Record Does Not Support Adoption of a 24-Hour Customer Service Requirement for Lifeline De-Enrollments, Particularly When a Time Limitation on Process De-Enrollments Would Have the Same Effect

Commenters are nearly unanimous in agreement that mandating Lifeline providers to maintain and publicize a 24-hour customer service number specifically for Lifeline de-enrollments would be unnecessarily burdensome and would only add to the administrative costs of the Lifeline program.⁵² Small companies in particular would be unable to justify the expense of staffing a 24-hour customer service number specifically for de-enrollment requests.⁵³ Not only would providers need to undertake the expense of operating such a service, but they would also need to invest resources in publicizing the customer service line using resources that would be more effectively spent on deploying, upgrading, and maintaining their networks to serve all consumers, including low-income consumers.⁵⁴

WTA agrees that “[s]o long as consumers can reach their provider during regular business hours, that should be sufficient to ensure that subscribers can terminate Lifeline service in a timely manner.”⁵⁵ Furthermore, requiring providers to de-enroll subscribers within five

⁵¹ See Comments of Florida PSC at 12 (stating that issues requiring FCC and state partnership should be referred to the joint board).

⁵² See Comments of Alaska Rural Coalition at 16; Comments of USTelecom at 14 (Aug. 31, 2015); Comments of Windstream at 9 (Aug. 31, 2015);

⁵³ Comments of GVNW at 22. See also Comments of Comptel at 24 (stating that a “new requirement for 24-hour customer service would be particularly burdensome on wireline providers, many of which have a relatively small number of Lifeline subscribers.”); Comments of GCI at 27 (Aug. 31, 2015) (stating that this requirement would be unreasonable when a carrier does not maintain a 24-hour number for its non-Lifeline customers); Comments of Small Carrier Coalition at 4 (citing the example that one Coalition member had zero voluntary de-enrollments in 2014 to support the notion that such a requirement would “impose a significant cost on small carriers while offering almost no benefit to the agency’s stated goal of program compliance.”)

⁵⁴ Comments of Comptel at 23.

⁵⁵ Comments of ITTA at 29.

business days from when all authentication information needed to process such a request is provided is sufficient to ensure that subscribers' wishes are timely honored and that Lifeline funds are not wasted,⁵⁶ particularly with the uniform snapshot date that restricts the customers providers can claim on Forms 497 for reimbursement in a given month. If the Commission were to reject the near unanimous consensus in the record that mandating 24-hour customer service is unwarranted and unreasonable, the Commission should at a minimum adopt an exemption for small service providers, such as the one proposed by the Small Carrier Coalition exempting providers with fewer than 2,500 Lifeline subscribers from the proposed customer service requirement.⁵⁷

b. Commenters Agree That The Cost of Additional Training and Certification Requirements Substantially Outweighs Benefits to Consumers and the Fund, and That Targeted Fraud Prevention Measures Would be More Effective

Likewise, requiring ETCs to obtain signatures of all individuals involved in Lifeline verification and enrollment that they obtained the proposed-yet-unidentified mandatory training is a substantial administrative burden that would do little to protect against bad actors.⁵⁸ Such a requirement goes far beyond the source of most of the alleged abuse in the program by “fly by night Lifeline-only ETCs that give away free cell phones.”⁵⁹ “[E]ven for smaller companies, this requirement would add an administrative hurdle that does not result in any tangible benefit.”⁶⁰

⁵⁶ Comments of ITTA at 29. *See also* Comments of TracFone at 51 (stating that a “customer service number available during normal business hours should be sufficient, provided that the ETC is required to act on the customer’s request to de-enroll within five business days of the request”).

⁵⁷ *See* Comments of Small Carrier Coalition at 3. The Commission should also reject the proposal by Benton Foundation which would require providers to alert Lifeline customers via text 10 days in advance of automatic de-enrollment due to non-usage. *See* Comments of Benton Foundation at 52. Such a requirement would be unnecessarily burdensome for providers, particularly landline providers that would need to develop and implement systems with text capability.

⁵⁸ Comments of Sprint at 33.

⁵⁹ Comments of ITTA at 24.

⁶⁰ Comments of USTelecom at 13. *See also* Comments of GCI at 30 (“Requiring certification of training of all customer-facing personnel, and that the carriers keep all documents, will generate yet more paperwork burden for

Furthermore, the Commission should refrain from requiring mandatory annual training at this time particularly if transitions to third-party verification or coordinated enrollment because the opportunity for providers to engage in fraudulent activity will be dramatically reduced. Rather than increasing administrative burdens on all providers (particularly those with very few Lifeline subscribers), the Commission's concerns can be better addressed by prohibiting certain practices that it knows contribute to fraud and abuse in the program.

The Commission should strongly consider adopting TracFone's proposal to eliminate the practice of handing out phones associated with Lifeline service out of car trunks and from tents near government assistance offices and other public venues.⁶¹ Second, the Commission should also strongly consider adopting TracFone's proposal to limit incentive-based compensation for employees involved in reviewing and approving Lifeline applications.⁶² These proposals would do far more to combat waste, fraud and abuse in the program than mandating costly training and certification requirements by combating practices the Commission knows contribute to Lifeline program fraud and abuse.

VIII. Conclusion

The record shows nearly unanimous support for removing providers as administrators of Lifeline eligibility verification and enrollment, but also reveals significant questions about the viability of creation and implementation of a single national Lifeline eligibility verifier. The record also reflects concerns about well-intended proposals such as portable benefits and a 24-

little benefit."); Comments of Small Carrier Coalition at 4 ("Training a large portion of the staff on Lifeline is unduly burdensome and unjustified when Lifeline-related issues rarely occur with these carriers.").

⁶¹ Comments of TracFone at 7.

⁶² *Id.* at 8. *See also* Comments of GVNW at 27 ("The Commission should no longer permit employees paid on commission to review and approve applicants of the program."); Comments of Florida PSC at 7 ("The primary cause of this abuse appears to be that agents are paid a commission for each prospective Lifeline applicant they sign up. In order to eliminate this abuse, the FPSC believes agents should not be paid on commission for each Lifeline application submitted.").

hour customer service number that will only result in increased costs and burdens on Lifeline providers, particularly small rural carriers. WTA urges the Commission to refrain from adopting rules that would impose additional burdens on providers and consumers that outweigh any potential benefits to the Lifeline program and consumers

Respectfully Submitted,

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