

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
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)	
Lifeline and Link-Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	

REPLY COMMENTS OF FREE PRESS

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I. Introduction and Summary

More than 200 commenters responded to the Commission's request for comment in its *Second Further Notice of Proposed Rulemaking* ("2015 Lifeline NPRM") in the Lifeline modernization proceeding. Nearly all agree that the time has come for the Commission to make the current Lifeline benefit available for broadband telecommunications services. This sentiment is shared by incumbent local exchange carriers, competitive local exchange carriers, small rural telephone companies, large and small cable multiple system operators, national facilities-based wireless carriers, wireless resellers, software companies, elected representatives, state public utility commissions, academics, unions, advocates for the deaf and hard of hearing, utility consumer advocates, digital rights advocates, religious groups, senior citizen advocates, low-income consumer advocates, Tribal leaders, social justice organizations, and civil rights groups.

The record also reflects growing consensus on other issues raised in the *2015 Lifeline NPRM*. Many commenters recognize that allowing Lifeline customers to apply the benefit to any telecommunications service, whether that particular service is sold as a stand-alone product or in a bundle with other products, will greatly enhance user utility, competition, and program effectiveness. The record reflects strong support for maintaining Lifeline benefits for voice service, regardless of other changes to the program. Many parties also recognize the substantial benefits, both for program accountability and user utility, from moving eligibility determinations away from carriers. A number of commenters recognize the inherent problems in capping the size of the Lifeline program, even as they recognize the fundamental importance of ensuring that valuable ratepayer dollars are not spent inefficiently. And while there is some disagreement on the mechanics of making the Lifeline subsidy a portable and direct benefit, there is substantial support for this concept, which would enhance market competition and user freedom alike.

Free Press reiterates its support for the foregoing positions and joins this consensus view. We urge the Commission to move swiftly to expand the Lifeline subsidy to broadband so that low-income consumers can participate fully in the telecommunications service marketplace.

II. There is Widespread Consensus That the Commission Should Extend The Lifeline Benefit to Broadband Telecommunications Services

In the *2015 Lifeline NPRM*, the Commission “propose[d] to modernize the Lifeline program to extract the most value for consumers and the USF” in part by extending the program to broadband telecommunications services.¹ The record reflects nearly universal support for this decision. As we noted in our initial comments, “Free Press fully supports the Commission’s proposal to improve and modernize Lifeline.”²

Most other commenters share this position.³ This includes state utility commissions such as the Public Utility Commission of Texas,⁴ the Pennsylvania PUC⁵ and the New York State

¹ *In the Matter of 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, 30 FCC Rcd 7818, 7826 ¶ 10 (2015) (“*2015 Lifeline NPRM*”).

² Comments of Free Press at 2.

³ Unless otherwise indicated, all quotations from comments filed in this proceeding omit internal references and citations. All cited comments were filed in the above-captioned dockets on or about August 31, 2015, the due date for initial comments on the *2015 Lifeline NPRM*.

⁴ Comments of the Public Utility Commission of Texas at 8 (“The PUCT recognizes that the FCC is taking actions to modernize the Lifeline program and to further strengthen controls to minimize fraud, waste and abuse. The LIDA [Low-Income Discount Administrator] system is designed to achieve these same goals, and the design is flexible to support program evolution and changing regulatory objectives. In the current proceeding . . . the FCC has identified support for broadband services as a priority for the future of the Lifeline program. The LIDA process could be modified to provide eligible consumers with a choice of electing Lifeline support for either telecommunications or broadband service. The integration of new providers, such as cable and wireless broadband companies, could be successfully implemented into the LIDA system.”).

⁵ Comments of the Pennsylvania Public Utility Commission at 18 (“Pa. PUC asserts that expanding Lifeline to include broadband as a supported service helps assure universal access to advanced services.”).

Public Service Commission.⁶ It also includes technology industry leaders such as Microsoft⁷ and Qualcomm;⁸ wireless carriers, both facilities-based⁹ and non-facilities based;¹⁰ as well as the trade association of the national wireless carriers.¹¹ It includes incumbent local exchange carriers such as AT&T,¹² Cincinnati Bell¹³ and Frontier Communications,¹⁴ as well as the trade

⁶ Comments of the New York State Public Service Commission at 2 (“The NYPSC supports the universal service goal and agrees that the list of essential services funded under the federal Universal Service Fund (USF) should be expanded to include broadband. However, this expansion of supported services must be done in a fiscally responsible way that balances the needs of the low income consumers, the States’ consumers that fund the program via surcharges, and the economic viability of service providers.”).

⁷ Comments of Microsoft at 1 (“The Commission should reform the Lifeline program to support [wired] and wireless broadband service because it will provide increasingly important tools and benefits across a range of beneficiaries.”).

⁸ Comments of Qualcomm at 1 (“Qualcomm wholeheartedly agrees with the FCC that the Program needs to reflect the realities of the 21st Century communications marketplace and should be upgraded as soon as possible to support mobile broadband connectivity to enable low-income students to keep pace with classmates who engage in 24/7 learning using the latest mobile broadband enabled devices and to provide low-income individuals’ access to telemedicine and online job application portals that many large U.S. employers exclusively rely upon.”).

⁹ *See, e.g.*, Comments of Sprint at 13 (“Sprint agrees that the Lifeline USF should support broadband service.”); Comments of AT&T at 2 (“[A]ny effort to bring Lifeline into the 21st century must include broadband Internet access as a covered Lifeline service.”).

¹⁰ Comments of TracFone at i (“TracFone shares the Commission’s vision in leveraging Universal Service Fund (‘USF’) resources to narrow our nation’s digital divide, specifically by expanding Lifeline support to cover fixed and mobile broadband Internet access services.”).

¹¹ Comments of CTIA at 10 (“[M]obile wireless broadband will be integral to the success of an expanded Lifeline program.”).

¹² *See* Comments of AT&T at 2.

¹³ Comments of Cincinnati Bell at 4 (“CBT believes the Commission should refrain from setting a minimum speed but should instead make any service eligible that qualifies as ‘broadband’ as described in the Commission’s Rules.”).

¹⁴ Comments of Frontier Communications at 5 (“Including broadband Internet access service in the Lifeline program will ensure that, rather than depending on ad hoc local or service provider programs with different requirements and characteristics, all low-income Americans will have access to online services under a single federal program with simple, uniform requirements and benefits. Providing support for consumers to purchase the broadband services (and/or voice) that meet their needs will help close the broadband gap between low-income consumers and all other Americans.”).

association for the nation’s small rural carriers.¹⁵ The largest trade association for competitive carriers agrees as well that Lifeline should expand to broadband.¹⁶ Cable companies, which are increasingly America’s primary provider of telecommunications services but have yet to participate in Lifeline in any significant way, also agree that the program should be extended to broadband. This sentiment is shared by cable multiple system operators (MSOs) large¹⁷ and small.¹⁸ And the Commission’s proposal drew widespread support from a diverse set of non-corporate entities, including the Communications Workers of America;¹⁹ low-income consumer advocates;²⁰ utility consumer advocates;²¹ general consumer, digital and media rights

¹⁵ Comments of NTCA at 2 (“NTCA also supports a targeted, coordinated modernization of both the Lifeline and High Cost programs, specifically with respect to giving consumers the choice of voice or broadband service, together or on a standalone basis.”).

¹⁶ Comments of COMPTTEL at 4 (“Lifeline is exactly tailored to address this [opportunity gap] – but only if it is modernized to support broadband.”).

¹⁷ *See, e.g.*, Comments of Cox Communications at 2 (“Cox supports extending Lifeline support to broadband to help address the affordability barrier.”); Comments of Charter at 2 (“Charter supports the Commission’s proposal to include broadband in the Lifeline program, as it is consistent with the evolution of Lifeline as a dynamic program and with the central purposes of Lifeline – to provide increased opportunities and to improve economic stability.”); Comments of NCTA at 2 (“[T]he Commission should allow eligible low-income consumers to use their Lifeline discounts on any voice or broadband service or bundle of voice or broadband services offered by any participating service provider, . . .”).

¹⁸ Comments of the American Cable Association at 2 (“Because critical communications connectivity now includes broadband[] as well as voice[] service, it is reasonable for the Commission to seek to expand the program so that broadband is a supported service.”).

¹⁹ Comments of The Communications Workers of America at 1 (“CWA has long advocated for the expansion of the Lifeline program to support broadband service to assist low-income households in overcoming the economic barriers to purchasing this critical communications service.”).

²⁰ Comments of Low-Income Consumer Groups at 2 (“The Commission’s Notice of Proposed Rulemaking (‘NPRM’) to modernize the Lifeline program to include broadband Internet service is a long-awaited development for low-income consumer advocates.”).

²¹ Comments of NASUCA at 23 (“NASUCA supports the Commission’s effort to modernize Lifeline without raising the current \$9.25/subsidy as an incremental approach to expanding the Lifeline program to include broadband service.”).

advocates;²² social justice and civil rights groups focused on telecommunications and media policy;²³ advocates for the deaf and hard of hearing;²⁴ Tribal leaders;²⁵ and even from Georgetown academic economists with industry ties who are not known for their advocacy on behalf of low-income consumers.²⁶

This consensus, while not unprecedented, is impressive in its scope. While various stakeholders differ in how exactly they would have the Commission modernize the program,

²² See, e.g., Comments of Consumers Union at 1; Comments of New America's Open Technology Institute at iii ("By modernizing the 30-year-old Lifeline program to support standalone broadband, the Commission can bring the longstanding goal of universal access into the modern communications age."); Comments of Public Knowledge at 4 ("Therefore, providing an evolving level of services that includes 'advances in telecommunications and information technologies and services' requires the Commission to extend Lifeline support to retail broadband Internet access service."); Comments of Common Cause at 1 ("Modernizing Lifeline to support broadband connectivity would deliver dramatic economic, social, and civic benefits."); Comments of Benton Foundation and Rural Policy Group at 1 ("The Federal Communications Commission proposes to modernize the Lifeline program to include robust broadband service. The Benton Foundation strongly supports the proposal.").

²³ See, e.g., Comments of The Greenlining Institute, Center For Media Justice, Media Action Grassroots Network (MAG-NET) *et al.* at 4 ("Modifying the Lifeline program to support a low-income broadband option is consistent with equity, telecommunications policy, and the purposes of the Lifeline program."); Comments of National Hispanic Media Coalition at 1 ("NHMC is pleased that the Commission appears to be moving forward with a number of NHMC's previous proposals, namely taking steps to fully include broadband service in the program.").

²⁴ Comments of National Association of the Deaf *et al.* at 4 ("Broadband should be a required offering of Lifeline providers because it is essential to participation in modern society.").

²⁵ Comments of National Congress of American Indians at 1 ("NCAI is pleased that the FCC has taken a proactive approach to modernize the Lifeline program to support broadband services for low-income individuals.").

²⁶ Comments of John Mayo, Olga Ukhaneva and Scott Wallsten at 5 ("Eligible recipients should have the option of spending their subsidies with as many providers as possible, not with just a select group. Providing eligible consumers with a voucher that can be used to purchase service from any broadband provider has several advantages. For example, this reform would enhance consumer surplus by allowing recipients to choose the type of broadband connectivity with the highest value to them. Also, by increasing the number of people shopping among providers and plans such a program could increase competition.").

there is widespread agreement on extending the current \$9.25 monthly subsidy to broadband, with the possibility for future changes as warranted.

The record indicates no serious objection to this expansion, only concerns about how it might increase the size of the program and the overall ratepayer contribution burden. These concerns are appropriate. Yet as we documented in our initial comments, allowing eligible recipients to use the existing \$9.25 per household monthly subsidy for any telecommunications service, including broadband, would not materially increase the overall size of the Lifeline program – which actually has shrunk in recent years.²⁷ Thus, nothing precludes this policy change even if other matters in the *2015 Lifeline NPRM* require further discussion.

III. Many Commenters Agree That Lifeline Beneficiaries Should Be Permitted To Apply The Subsidy to Any Telecommunications Service, Whether Sold As A Stand-alone Service or In A Bundle With Other Services.

In our initial comments, we emphasized that the “best way for the Commission to make Lifeline more responsive to the market and to individual consumer preferences is by enabling low-income Americans to fully participate in the marketplace.” We reasoned that the Commission could accomplish this by “making the Lifeline subsidy fully portable, so that a qualifying household can use that subsidy for the telecommunications services that best maximize the household’s utility function and fits the family’s needs.” We noted that “[a]llowing Lifeline participants to use the \$9.25 monthly subsidy in this way will increase program effectiveness, enhance user utility, and produce a greater return on the USF investment.”²⁸

In the *2012 Lifeline Reform Order*, the Commission took steps on this path towards full portability. It amended its rules to permit “ETCs in all states to allow qualifying low-income

²⁷ Comments of Free Press at 62-63 (“[W]e estimate that a portable \$9.25 subsidy that can be used for retail broadband would induce approximately 1.2 million new broadband subscribers, adding just \$134 million annually to the size of the Lifeline fund.”).

²⁸ *Id.* at 3.

consumers to apply Lifeline discounts to all residential service plans that provide voice telephony service, including bundled service packages combining voice and broadband, or packages containing optional calling features.”²⁹ While a good first step, this still permits ETCs to choose not to offer broadband as a supported service even as part of a bundled offering. A *fully portable* subsidy would enable consumers to choose the service or service bundle towards which their Lifeline subsidy would apply, whether or not the carrier in question had taken such affirmative steps to offer any bundles with broadband options to Lifeline recipients.

Many commenters support making the Lifeline subsidy portable, though opinions vary on whether or not it could be applied to *any* telecommunications service offered by any provider, or instead only to services offered by an ETC or (even more restrictively) only those services designated by that ETC as Lifeline-eligible. For example, AT&T recommends that the Commission “[g]ive Lifeline customers the same choices other consumers enjoy by making the program benefit portable and delivered directly to eligible consumers in the form of a debit card they can use to pay for any fixed or mobile covered Lifeline service that a participating service provider elects to offer.”³⁰ Frontier is less constrained in its recommendation that Commission consider “distributing Lifeline benefits directly to the consumer, enabling the consumer to spend a portable benefit on any voice or broadband service that meets [that consumer’s] needs.”³¹

Cable MSOs tend to come down on the side of allowing the subsidy to be fully portable, empowering users and not carriers to make decisions about which services best suit an individual’s needs. Cox states that “[t]he Commission should recognize the value in establishing

²⁹ See *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6703 ¶ 315 (2012) (“*2012 Lifeline Reform Order*”).

³⁰ Comments of AT&T at 3.

³¹ Comments of Frontier Communications at 2-3.

rules that take advantage of the competitive broadband marketplace by allowing providers to offer, and low-income consumers to benefit and choose from, the variety of service offerings purchased by all other consumers while applying their support from the program to help make those choices affordable.”³² NCTA suggests that “the Commission should allow eligible low-income consumers to use their Lifeline discounts on any voice or broadband service or bundle of voice or broadband services offered by any participating service provider[.]”³³ ACA say it “believes the Commission should operate the program as other government benefit programs are operating and provide Lifeline benefits directly to consumers rather than passing them through to service providers. This would enable consumers participating in the program to use their support to purchase the service that best meets their needs from the provider of their choice.”³⁴ The Georgetown economists also support for a policy that would allow Lifeline consumers to use the subsidy for any telecom service, regardless of carrier or whether the service plan was a Lifeline-specific plan.³⁵

Many commenters are less explicit, generally expressing support for an easy-to-use subsidy that could be applied to whichever service or bundle of services best suits the individual’s needs, without speaking directly to the question of whether the service had to be designated as Lifeline-eligible by the carrier. The New York State Public Service Commission states that “consumers should be allowed to use their Lifeline subsidies to subsidize whatever service or services meet their needs,” rightly noting that “[c]onsumers’ needs are varied and

³² Comments of Cox Communications at 3. Cox concluded that “[c]onsumers should thus be allowed to apply their subsidy to whatever combination of voice and broadband is desired.” *Id.* at 3 n.6.

³³ Comments of NCTA at 2.

³⁴ Comments of American Cable Association at 9. ACA also stated that “Lifeline customers should be able to subscribe to any broadband service offered.” *Id.* at 8.

³⁵ Comments of John Mayo, Olga Ukhaneva and Scott Wallsten at 5.

allowing the subsidy to be applied to either a standalone offering or to more robust offerings would allow consumers to exercise their choice and preferences, while keeping the program affordable and economically viable for providers.”³⁶ COMPTTEL endorses a “modernized Lifeline program that allows customers to choose, based on their own understanding of their individual and household’s needs, whether to use the \$9.25 subsidy to purchase a voice-only service, a broadband-only service, or a bundled voice/broadband service.”³⁷ NASUCA argues that “Lifeline customers should have the option to choose to which broadband service they wish to apply the discount, and whether the service is prepaid or provided for a monthly rate.”³⁸ Low-Income Consumer Groups also advocated that “[c]onsumers should be able to choose between voice-only, broadband or bundles.”³⁹ This sentiment was shared broadly by numerous non-profit consumer and civil rights advocates.⁴⁰

Free Press believes that the Commission should strive first and foremost to ensure that low-income consumers can participate fully in the marketplace, with the freedom to choose which services are best for their needs. For many people, this may well be a “free” service tier established by various ETCs as a service package they offer only to Lifeline recipients. But for

³⁶ Comments of the New York State Public Service Commission at 4-5.

³⁷ Comments of COMPTTEL at 5-6.

³⁸ Comments of NASUCA at 3.

³⁹ Comments of Low-Income Consumer Groups at 2.

⁴⁰ *See, e.g.*, Comments of The Greenlining Institute, Center For Media Justice, Media Action Grassroots Network (MAG-NET) *et al.* at 32-33 (“Joint Commenters fully support consumer choice and, as discussed above, believe that a Lifeline customer should be able to apply the Lifeline discount to any service that meets the requirements of the program.”); Comments of New America’s Open Technology Institute at 3 (“Bundled packages should remain an option for Lifeline customers”); Comments of Public Knowledge at iii (“Beneficiaries should be permitted to apply the Lifeline subsidy to the service that best meets their needs—whether that means broadband or voice service, fixed or mobile, standalone or bundled.”); Comments of Benton Foundation and Rural Broadband Policy Group at 6 (supporting “efforts to modernize the Lifeline program and include robust standalone and bundled broadband service”).

other program participants, it could be a bundle not specifically designated for or restricted to Lifeline recipients, or even a telecommunications service offered by a carrier that is not presently designated as a Lifeline-eligible service. To avoid creating another digital divide between those who do adopt broadband using Lifeline and all other broadband subscribers, the Commission should make the Lifeline subsidy fully portable so that Lifeline recipients have the same kinds of choices and service offerings available to them as other subscribers do. As we discuss below, the best method to accomplish this would entail giving Lifeline subscribers a direct benefit that they could spend as if it were cash earmarked for their telecommunications needs.

IV. Commenters Universally Recognize the Continued Importance of Voice-Only Lifeline Service

While there is no doubt that broadband and SMS are rapidly replacing voice as the primary communications technology, voice remains a critical mode of communication for tens of millions of Americans. The responses to the *2015 Lifeline NPRM* universally reflect this reality, and there is no question that low-income individuals should retain access to voice-only Lifeline services.

There is some disagreement among commenters as to how exactly the Commission should ensure this continued access to voice-only Lifeline services. For example, the Pennsylvania Public Utilities Commission argues that “Lifeline provider[s] receiving federal universal service fund [] support must offer to eligible low-income consumers a stand-alone voice-only Lifeline service.”⁴¹ Many other commenters simply expressed a desire to see the

⁴¹ Comments of Pennsylvania Public Utilities Commission at 3.

continued availability of voice services, offered in a similar manner as those currently available (*i.e.*, via a discount on either LEC fixed-line local service or on free mobile wireless voice).⁴²

Free Press understands the rationale for advocating that Lifeline carriers be required to offer a voice-only service. However, we respectfully suggest that while the Lifeline program should continue to support voice, carriers should *not* be required to offer a voice-only service in order to establish their eligibility for Lifeline funds. As we noted in our initial comments, some few carriers may be broadband-only providers. A requirement that all ETCs offer voice would exclude such broadband providers from the program – restricting Lifeline’s effectiveness, competitiveness, and reach as a result.⁴³ There is ample evidence to suggest that when Lifeline expands to broadband, numerous wireless carriers and LECs will continue to offer voice-only service, because it is a highly demanded product.

⁴² See, *e.g.*, Comments of National Hispanic Media Coalition at 11 (“[V]oice service will continue to be incredibly important for Lifeline constituents”); Comments of Benton Foundation and Rural Policy Group at 14 (“Voice calls remain an integral part of daily communications for consumers, but especially so for low-income consumers.”); Comments of Public Knowledge at 26 (“[S]tandalone voice services receiving Lifeline support that are marketed specifically to Lifeline customers should be required to provide service quality and value comparable to services marketed to the general public”); Comments of Consumers Union at 2 (“As the Commission moves forward with its reform efforts, it should ensure that consumers retain an adequate voice communications option.”); Comments of Low-Income Consumer Groups at 1 (“[I]t is important to note that access to voice service is essential for reaching emergency service, and it also remains an important means of staying connected to friends, family, work, healthcare, schools and services.”); Comments of NASUCA at 10 (“Voice service (whether wireline or wireless) remains essential for effective communication with, for example, first responders and relatives in times of emergency, and discussions with medical professionals, caregivers, employers, schools, businesses and government agencies”); Comments of COMPTTEL at 5 (“[F]or many subscribers – particularly the elderly – voice-only service will continue to be essential for the foreseeable future.”).

⁴³ Comments of Free Press at 50 n.52 (“In the *2015 Lifeline NPRM*, the Commission asked if it should repeat this scheme by conditioning receipt of Lifeline funds for voice on the offering of broadband. See *2015 Lifeline NPRM* ¶ 62. We do not see any reason to do so and in fact see several reasons not to. There is continuing need for voice-only Lifeline, meaning that carriers should be able to offer voice alone as a supported service. [But] not all broadband access providers offer POTS.”).

V. There is Broad Support Among Commenters for a Third-Party Eligibility Verifier

The vast majority of commenters agree that the Commission should transfer responsibility for verifying individuals' eligibility from the carriers to a neutral third-party verifier. The tepid opposition to this change comes, not surprisingly, from the wireless carriers that currently receive most of the Lifeline program's dollars.⁴⁴ There are also parties such as state PUCs that support the move to a third-party verifier, but want to retain the option for each state to designate a verifier in lieu of a national verifier.⁴⁵

Using a third-party to verify eligibility has benefits beyond reducing program fraud by providers, which the Commission has encountered in the wireless-Lifeline era.⁴⁶ That is often

⁴⁴ See, e.g., Comments of Joint Commenters (Blue Jay Wireless *et al.*) at 25-28; Comments of TracFone at 23-30.

⁴⁵ See, e.g., Comments of the New York State Public Service Commission at 5 ("The NYPSC applauds the gains in efficiencies and waste reduction the FCC has already achieved and concurs with additional reforms such as a third-party verification system for determining eligibility for Lifeline benefits. Any such federal system should not preclude states from continuing their own third-party verification systems."); Comments of Pennsylvania Public Utilities Commission at 20-21 ("Pa. PUC is not opposed to the Commission removing the responsibility of conducting eligibility determinations for Lifeline subscribers from the Lifeline providers and proposing to establish a third-party national Lifeline eligibility verifier (national verifier) to do such verifications. . . . Additionally, the states should have the ability to 'opt out' of any national verification process in those cases where the state has developed a process to examine subscribers' eligibility and/or a state eligibility database that meets any federal minimum requirements established by the Commission to verify Lifeline eligibility and where the state wishes to continue to perform the eligibility screening function on its own.").

⁴⁶ See, e.g., Letter to Mr. Wes Yui Chew from Jeffrey J. Gee, Chief, Investigations and Hearings Division Enforcement Bureau, DA 15-1075 (rel. Sept. 25, 2015) (describing a three year disbarment from participating in Lifeline for the CEO of Icon Telecom, who was convicted of money laundering in connection with a scheme that defrauded the Lifeline program by falsifying signatures of enrollees to inflate the company's draw from the fund); see also Department of Justice, U.S. Attorney's Office, Western District of Oklahoma, "Icon Telecom And Its Owner Plead Guilty And Agree To Forfeit More Than \$27 Million In Connection With Federal Wireless Telephone Subsidy Program," June 12, 2014.

cited as the primary motivation for this policy change.⁴⁷ As we noted in our initial comments, however, a third-party verification system also can “better facilitate the use of a portable subsidy that works in practice as a voucher.” That is because “[i]ncreasing the ability of a participant to move to a different carrier and/or different plan without having to go through a potentially burdensome and delayed verification process would likely increase overall program efficiency and effectiveness, as it would make the market more responsive to competitive triggers and increase user surplus.”⁴⁸ However the Commission proceeds on this topic, the record makes clear that moving to a third-party verifier will improve the health of the program and also promote competition for Lifeline subsidies in the market. The Commission should discount the arguments from carriers opposed to this change, who appear to be motivated by the desire to maintain a close relationship with subscribers so as to prevent churn by raising switching costs.

VI. Most Commenters Recognize the Inherent Problems With A Lifeline Budget or Cap

In our initial comments we noted that budgets are important tools to ensure that ratepayer dollars are not squandered. For one thing, there are more low-income consumers paying *into* the USF than there are receiving Lifeline benefits.⁴⁹ That’s why it is critical that the Commission operate all of its USF programs at maximal efficiency.

However, maintaining the current monthly support amount at \$9.25 strikes an appropriate balance by increasing broadband affordability without increasing the contribution burden that

⁴⁷ See *2015 Lifeline NPRM* ¶ 63 (“By removing that decision from the Lifeline provider, we remove one potential source of waste, fraud, and abuse from the program while also creating more efficiencies overall in the program administration.”).

⁴⁸ Comments of Free Press at 63 n.81.

⁴⁹ *Id.* at 61 n.78 (“As shown in Figure 30 above, there are 25 million qualifying Lifeline households with incomes below 135 percent of the poverty level, yet only 13.4 million participating Lifeline subscribers, some of whom likely have incomes above this level. And many of the poor, non-Lifeline homes subscribe to telephone and other telecommunications services. Thus, more low-income homes pay into the USF than receive USF subsidies.”).

falls regressively on consumers. Carriers receiving this \$9.25 support amount per month currently offer Lifeline subscribers as many as 500 monthly voice minutes and unlimited texts.⁵⁰ The current Low-Income broadband offerings made by cable companies (*e.g.*, Internet Essentials, Connect2Compete) for \$10 per month, and AT&T's merger-related commitment to offer broadband for as little as \$5 per month, are proof that wireline carriers can profitably meet the needs of low-income consumers if reimbursed with a Lifeline subsidy amount that stays for now at the current level.⁵¹

⁵⁰ *See, e.g.*, Comments of Sprint at 7 (“In July 2014, Assurance Wireless began providing unlimited texting to all of its Lifeline customers and doubled the quantity of voice minutes to new customers to 500 free voice minutes for the first four months of service (250 minutes per month thereafter). In August 2015, the offer to new Assurance Wireless customers was further improved: new subscribers could take advantage of the existing promotional offer (500 free voice minutes plus unlimited texts for 4 months), and thereafter receive 350 voice minutes plus unlimited texts. In July 2015, Assurance Wireless sharply decreased the cost of its optional data plans: Lifeline customers can now get 100 MB of data for \$2 per month (down from \$5), 500 MB for \$5 (down from \$10), or 1 GB for \$10 (down from \$20).”).

⁵¹ We strongly disagree with the unsupported notion that an expansion to broadband must entail an increase in the support amount. *See, e.g.*, Comments of TracFone at 21 (“If the scope of services to be supported by the USF is to be expanded to include broadband, then it follows that the level of support needed will grow.”). Basic broadband services can be found in the market for nearly the same monthly price as POTS, and the still-profitable efforts of Comcast, Cox and others to offer low-income programs shows that broadband can be offered for a price near the level of the current Lifeline subsidy. The notion that the support level *must* increase to support broadband is only true if one accepts the premise that the current market prices for all broadband tiers represent the prices one would see in a *competitive* market. That is not the case. Indeed, the paucity of non-Lifeline mobile voice services available in the market at the \$9.25 monthly rate shows that the Lifeline program itself can induce quality services at lower prices, something that should be expected if Lifeline is extended to broadband. *See* Comments of COMPTTEL at 6-7 (“While a higher level of support may eventually be needed for broadband, at least initially the \$9.25 amount is appropriate for that offering as well. Several providers currently offer broadband to low-income individuals for around \$10 per month, suggesting that \$9.25 may be a sufficient subsidy to Lifeline providers offering broadband-only services in the program, subject to early Commission review. [. . .] It is important that the Commission continue to strike a fair balance between meeting the obligations of providing critical services for low-income consumers, with the impact that has on the overall goal of connecting all Americans, and the contributions consumers and businesses make into the Fund.”).

Moreover, if the subsidy level is fixed (even temporarily, until a subsequent review), this negates any need for an overall Lifeline program cap or budget – which, as numerous commenters noted, would be unworkable in a program designed to support all eligible consumers rather than networks.⁵² The Commission can and should revisit its Lifeline policies on a continual basis, to ensure the program is meeting its goals as well as maximizing efficiency – a task that will be necessary as the program is expanded to all telecommunications services. But at

⁵² See, e.g., Comments of Pennsylvania Public Utilities Commission at 17 (“Pa. PUC notes that in the USF/ICC Transformation Order, the Commission established a defined budget for the high-cost component of the universal service fund. However, as the Commission itself acknowledges, adopting a budget for the Lifeline program raises a number of implementation issues that are not present for carriers receiving high-cost support. The Commission would have to determine that there is reliable data available that indicates that the yearly budget for a particular year is sufficient to cover all qualifying low income households that seek voice and/or broadband services.”); Comments of Sprint at 22-23 (“Sprint believes that capping the Lifeline program at this time is contrary to the public interest. . . . While Sprint certainly agrees that fiscal prudence in the federal universal service programs is critical, the Commission should carefully weigh the merits of curtailing support to the most economically vulnerable Americans while continuing to give billions of dollars to some of the most profitable corporations in the country.”); Comments of COMPTTEL at 28-32 (“To the extent that a budget is intended to control costs, COMPTTEL believes that the Commission already has taken significant strides in bringing the cost of the program under control through its earlier reform actions. . . . In sum, there is neither a compelling need for a fixed budget for the Lifeline program at this time, nor a rationale for imposing one (in light of the cost savings and efficiencies wrought by the Lifeline Reform Order), nor a practical means to do so.”); Comments of CWA at 6 (“CWA strongly opposes capping the Lifeline budget. Capping the program could depress participation, prevent eligible customers from benefiting from the program, and would counteract the Commission’s goal of promoting modern services for low-income families.”); Comments of Low-Income Consumer Groups at 4 (“A budget for Lifeline is premature and risks rationing access to essential broadband and voice service.”); Comments of New America’s Open Technology Institute at 16 (“Rather than constrain the program’s budget, the Commission should focus on its success in cutting program costs.”); Comments of Public Knowledge at 32 (“[A]rtificially limiting Lifeline program funding is premature.”); Comments of Common Cause at 15 (“A budget would unnecessarily exclude eligible subscribers beyond an arbitrary cutoff point.”); Comments of Benton Foundation and Rural Broadband Policy Group at 32 (“Benton echoes the Commission’s sentiments and advocates against adopting a cap for the Lifeline program.”); Comments of National Hispanic Media Coalition at 17 (“NHMC rejects calls to cap Lifeline and advocates strongly against a strict budget that could potentially exclude millions of eligible families from the Lifeline subsidy.”).

present, maintaining the subsidy amount at \$9.25 per eligible household provides a “natural” cap on the program, dictated by the number of eligible households rather than by an arbitrary limit.⁵³

VII. A Direct Benefit to Lifeline Participants Will Not Add Program Complexity or Increase Fraud, and is A Necessary Mechanism to Promote Competition and Subscriber Freedom

As discussed above, Free Press believes that outside of a direct cash benefit, the best way to enable low-income consumers to make the choices that best serve their needs is with a direct Lifeline benefit. That would maximize user freedom, give participants the ability to choose any service rather than just those set aside for Lifeline recipients, and encourage competition.

Many commenters support this position. Among the few that oppose a direct Lifeline benefit (such as a PIN or voucher) are Tracfone and Sprint,⁵⁴ the two largest recipients of Lifeline subsidies. Tracfone calls the idea of a direct benefit “cumbersome, difficult to implement [and] costly.”⁵⁵ This is frankly a hollow and transparently self-serving critique that does not adequately refute the Commission’s policy rationale, nor negate the benefits of portability we listed above. Tracfone’s self-interest is fully on display when it states that “[u]nder a voucher system, providers would have little incentive to expend resources to advertise the availability of their Lifeline services using media of general distribution. Why would a provider incur that investment if all it could achieve for its efforts (and expenditures) would be to persuade qualified households to enroll in a program which would provide it with a coupon (or other media) which could just as easily be used to obtain service from any of that provider’s competitors as from the provider itself?”⁵⁶

⁵³ Comments of Free Press at 62.

⁵⁴ *See, e.g.*, Comments of Sprint at 27.

⁵⁵ Comments of TracFone at 36.

⁵⁶ *Id.* at 36-37.

Asking why a provider would advertise its services is a strange question to ask, since the answer is obvious: to attract business! If the market were truly as competitive as Tracfone says it is when Tracfone opposes minimum standards,⁵⁷ then its supposed concern here would be badly misplaced. Basic microeconomic theory and the existing market experience suggests that under a direct benefit system, Lifeline providers would increase the quality of their offerings and work even harder to attract business. They would not just simply give up, as Tracfone suggests. Far from reducing competition for Lifeline dollars, a direct benefit would increase competition.⁵⁸ Tracfone ties itself in a rhetorical knot, as its opposition here is built on the premise that existing (and increasing) participation of carriers in the Lifeline program is dependent on a *lack* of efficient market competition – something Tracfone strongly disputes in other parts of its filing.

Tracfone is also wrong to suggest that the sole purpose of the direct benefit would be to reduce waste, fraud and abuse. The third-party verification system primarily serves that purpose by reducing carriers' incentives and ability to commit fraud. The direct benefit is a method to increase choice, user freedom, and marketplace competition, one that operationally requires the existence of a third-party verifier.⁵⁹

⁵⁷ See *id.* 11.

⁵⁸ See, e.g., Comments of Frontier Communications at 8 (“Similarly, distributing Lifeline benefits directly to consumers, which they could use to purchase services from any provider, would relieve providers of the administrative obligations accompanying distribution of funds to providers. Portable Lifeline benefits also would facilitate greater consumer choice by increasing the number and types of service offerings available. Consumers would be free to try different services and service packages, as well as different technology platforms, that are more compatible with their budgets and needs. A portable benefit also would make participation in the Lifeline program more attractive for service providers, thereby increasing consumer choice and stimulating competition.”).

⁵⁹ See 2015 Lifeline NPRM ¶ 105 (“The Commission, in the Lifeline Reform Order, also considered, but ultimately declined to adopt, AT&T’s proposal to transfer Lifeline benefits directly to the consumer by assigning subscribers with a unique identifier or Personal Information Number (PIN) that could be ‘deactivated’ once a consumer is no longer eligible for Lifeline. In declining to adopt AT&T’s proposal, the Commission reasoned that ‘AT&T’s

For these reasons, Tracfone’s opposition to making the subsidy a direct benefit is transparently self-serving and anti-consumer, and maintaining anything like the current system would be laughable in other benefits programs. People who wish to participate in SNAP do not have to qualify through Safeway, rendering them unable to shop at Giant or Publix. Tracfone is also wrong that monthly redemption of the direct benefit would be overly burdensome for subscribers. For Lifeline subscribers staying with their existing carrier, the process would be automatic if they so chose, operating in a similar manner to how numerous service providers send a bill to a customer’s bank which then auto-pays that bill. There is simply no reason a customer would have to “journey to a store.”⁶⁰

Furthermore, there is no reason this has to be an either/or decision. A consumer who qualifies through the National Lifeline Accountability Database (NLAD) could choose to sign up for service through the carrier, similar to the status quo, or she could opt for a voucher and go out into the marketplace. This is the primary utility of a voucher. Consumers who wish to purchase non-Lifeline plans at a discount could do so, even if the provider doesn’t offer a Lifeline-specific plan. This marketplace freedom would be especially valuable if the Commission agrees with AT&T⁶¹ and Tracfone⁶² that ETCs should be able to opt out of offering Lifeline service. A voucher would mean that a customer could still take her business to a carrier that has opted out in order to purchase a non-Lifeline service plan, which would ensure that certain carriers’ opting out does not drastically reduce competition in any ETC’s designated service area.

proposal assumes that a third-party at the state level (e.g., state PUC) would issue and manage PIN numbers and there is no guarantee that states would be willing or economically able to take on such an administrative function in the absence of explicit federal support.”).

⁶⁰ Comments of TracFone at 40.

⁶¹ Comments of AT&T at 28.

⁶² Comments of TracFone at 47.

Tracfone does ultimately recognize that full portability would be enabled by vouchers, and it agrees that portability is pro-consumer.⁶³ Yet it still wants the Commission to deny low-income consumers the means to make the subsidy fully portable in the least-restrictive manner, and instead implement a cumbersome system that will have the effect of increasing switching barriers and reducing competition. We urge the Commission to recognize that Lifeline will be most effective if low-income consumers can fully participate in the market, and that a fully portable direct benefit is necessary for that to occur.⁶⁴

VIII. In An Unregulated, Non-Monopoly Market, Setting Minimum Service Standards And Determining the Appropriate Subsidy Level Will Always Be A Difficult Task, So Maximizing User Utility and Program Efficiency Should Be the Commission's Guiding Principles When Deciding This Issue

In our initial comments we noted that

If the Commission expands the use of the \$9.25 monthly Lifeline subsidy to all telecommunications carriers and telecommunications services (including broadband), the key question becomes what if any minimum standards to require from such carriers before they can receive this subsidy. This is difficult to answer because the amount of the \$9.25 subsidy is completely unmoored from its historical purpose: sparing low-income consumers from the impact of the SLC, a

⁶³ *Id.* at 40 (“There is one benefit to a voucher system - portability. A voucher system would enable consumers to change their chosen provider each month simply by taking the voucher for redemption at a location of their chosen provider. TracFone agrees that consumer choice should be a priority and that Lifeline benefits should be easily portable from one provider to another.”).

⁶⁴ Based on this analysis, we must respectfully disagree with the Low-Income Consumer Commenters’ opposition to providing Lifeline consumers with a direct benefit. Their opposition is based on a concern that such a system would “create[] undue complexity in the program and is not necessary to ensure consumers can chose their service and provider and shop around for a better service.” Comments of Low-Income Consumer Groups at 14. This position echoes the above-discussed objections offered by TracFone and other existing Lifeline providers. However, we do not find these general arguments about “complexity” persuasive, and they certainly cannot overcome the clear benefits from ease of use and basic dignity that such a portable direct benefit would provide. The program should enable low-income consumers to participate fully in the marketplace, just like non-supported consumers do. Giving low-income consumers the freedom to move about in the marketplace and pay with ease would make this a reality; requiring participants to go through a separate process to sign up for service with a new carrier would add no less complexity than a voucher, and would maintain a higher level of stigma associated with participating in a subsidy program.

charge levied on end-users by rate-regulated ILECs in order to recoup most of the non-traffic-sensitive costs of the interstate portion of the local loop. There is absolutely no rate regulation in the retail wireless voice market or in the wired and mobile broadband markets (and it barely exists in local landline service anymore either, outside of the few remaining rural rate of return carriers). Thus there is no tethering of the \$9.25 subsidy to a discount on a rate that itself must be “just and reasonable” in the first place. In other words, because the Commission does not regulate rates – even for wireless voice that always has been and today remains a Title II telecom service – it has no method to prevent a large portion of the Lifeline subsidy from becoming excess profit in an uncompetitive marketplace.⁶⁵

We then used the example of the voice marketplace, illustrating how the current \$9.25 subsidy for 250 voice minutes results in a potential gross margin of 45 percent (based on the 2-cent per minute wholesale price cited by the Commission, and assuming 100 percent utilization).⁶⁶ We noted that while this margin appeared high, the wholesale prices indicated that there was not much additional room for (some) carriers to increase the level of monthly minutes and still remain profitable. We therefore concluded that in the absence of much better information and much more direct regulation, setting minimum standards could be extremely difficult. Doing so also could necessitate an increase in overall program disbursements, in order to increase service levels even if many users might find no additional utility in the “better” service package. We suggested that if the primary goal of Lifeline were to replicate the different choices that would be available to users in a truly competitive market, a reverse auction could be an appropriate tool for determining either the maximum level of service that any provider might make available for \$9.25, or the minimum amount of money that would be required to offer service at a pre-determined level. However, we did acknowledge that a reverse auction would

⁶⁵ Comments of Free Press at 57.

⁶⁶ Of course not all participants use all of their free monthly minutes. Thus the gross margin for carriers offering 250 monthly minutes is likely higher than 45 percent, assuming the 2-cent per minute wholesale figure is accurate.

pose difficult administrative questions, such as how often to conduct the reverse auction, and at what geographic level.

The comments offered in response to the *2015 Lifeline NPRM*'s questions on how to set minimum service levels illustrate these difficulties. Numerous carriers note that they've already moved beyond 250 monthly minutes, with many now offering 350 monthly minutes and unlimited texting. These carriers assert that that these increases, which have come periodically since 2008, reflect adequate market competition; but the truth of these claims is hard to measure. Without access to the underlying data, it is impossible to know whether or not an individual carrier is earning excessive profit,⁶⁷ or whether the calls by some commenters for large increases in service levels is feasible.⁶⁸

⁶⁷ And it does not help matters that carriers are inherently hostile to the question of how much profit they earn from the subsidy. Indeed, TracFone in its comments sounds downright indignant that one state wanted to see such data, because it feels apparently that if it offers some level of "free" service its margins are not relevant. *See* Comments of TracFone at 45, n.60 ("In one state TracFone was subject to extensive discovery on its costs of providing a service which was free to qualifying residents of that state. In short, TracFone was being asked to cost justify a free service."). Sprint also does not want the FCC to have any information about possible excessive profits, and instead just simply trust that the market is operating at maximal efficiency. *See* Comments of Sprint at 12 ("However, it should not mandate minimum service levels or attempt to evaluate service providers' cost structures or pricing decisions. Instead, the Commission should allow market forces to determine the range of service options that carriers will make available to Lifeline customers at the specified level(s) of support.").

⁶⁸ *See, e.g.*, Comments of NASUCA at 5. NASUCA suggests that the Commission set the minimum service level for voice at 750 minutes, citing the Commission's data that this is the average usage level. As discussed in our initial comments, it is important to note that averages do not represent medians, and in this context are skewed well above most consumers' usage levels. We also note that at the \$0.02 per minute figure cited by the Commission for wholesale voice, if 750 minutes was the service level and reached 100 percent utilization, it would carry a gross cost (before the other operational and general costs as well as before the allocated costs of unlimited texting) of \$15 per month. This would represent a 62 percent increase in the subsidy level, all to support for an amount of service that most recipients do not currently require (because the average is skewed above the median by high-usage customers). Yet in the same paragraph, NASUCA advocates at least in the short term for the maintenance of the \$9.25 subsidy, an amount that would be insufficient based on the Commission's data. Now to be clear, if the minimum service level were set at 750 minutes, it is highly likely that a portion of the users

Many commenters advocated for the greatest flexibility for the end user, arguing that setting the “wrong” minimum standard could result in fewer carriers offering zero-cost services. We are sympathetic to these arguments. We also note that in the absence of any relationship between the subsidy and any carriers’ true underlying costs, setting the minimum standard too high could result in wasteful expenditures that jeopardize the sustainability of the program. This of course would not be a worthwhile tradeoff if the new “minimum” standard far exceeded what many Lifeline customers would find most useful.

This task of setting minimum Lifeline standards is not similar to funding the construction of a monopoly network in a rural area. Lifeline involves subsidizing consumers’ purchases in a marketplace that, while not adequately competitive in the least, does offer options. It is also one in which there are several carriers whose business model focuses on capturing low-income consumers participating in Lifeline. By contrast, the High-Cost Fund primarily supports the construction of monopoly networks that will not be rebuilt for decades.

Given all these factors, we reiterate our proposal that a reverse auction may be the best way to tackle the problem of setting a minimum service standard if that is deemed necessary. In reality, setting such a standard may not be necessary immediately, particularly for broadband.⁶⁹ Regardless of what the Commission does, we agree with commenters (such as the Pennsylvania Public Utility Commission) who suggest that the FCC should directly address this issue by

would not utilize this amount, thus lowering the gap the actual number of minutes that can be offered profitably for \$9.25 per month. But this illustrates the inherent tension the Commission will continue to face when trying to determine the “right” subsidy amount and service levels in an unregulated market.

⁶⁹ See, e.g., Comments of the National Hispanic Media Coalition at 12.

constantly monitoring and collecting data about underlying costs and the impact of competition on the offerings of participating ETCs.⁷⁰

IX. Conclusion

While there are some disagreements in the record, there is far more consensus. The Commission has no reason to delay expansion of the current Lifeline subsidy to broadband telecommunications services. We urge the Commission to move swiftly to expand the Lifeline subsidy so that low-income consumers can fully participate in the telecommunications service marketplace.

Respectfully Submitted,

_____/s/_____

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⁷⁰ Comments of Pennsylvania Public Utilities Commission at 9 (“Pa. PUC recommends that the Commission first collect objective and measurable data from Lifeline providers and conduct an analysis of: (1) whether there has been a reduction in the overall costs of providing voice telephony; and (2) whether they are passing on any such reductions in their overall costs to provide quality voice service to their low income Lifeline end-users. After such a review, the Commission will be able to make a better determination of whether voice Lifeline providers are or are not passing on the decline in their costs to their low-income Lifeline consumers in the form of quality and innovative voice services, and will be better able to fashion a remedy if Lifeline providers are not doing so.”).