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December 21, 2015

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby – TW-A325
Washington, D.C. 20554

**Re: Ex Parte – Lifeline and Link-Up Reform and Modernization
WC Docket No. 11-42**

Dear Ms. Dortch:

On December 17, 2015, Hank Hultquist, Mary Henze, David Hostetter, Beth Fujimoto, Linda Hood, and the undersigned of AT&T Services, Inc. met with Trent Harkrader, Garnet Hanly, Charles Eberle, and Jodie Griffin of the Wireline Competition Bureau, Jon Wilkins of the Office of Managing Director, Jonathan Chambers of Office of Strategic Planning, and Gigi Sohn of Office of the Chairman to discuss the Second Further Notice of Proposed Rulemaking (FNPRM) in the above referenced docket.

The purpose of the meeting was to discuss proposals for modernizing the Lifeline program. AT&T has long advocated for Lifeline reform that is designed to provide consumers greater autonomy and remove service providers from all program administrative duties. During this meeting AT&T focused on issues related to the legal authority to no longer require Lifeline providers to be ETCs and on discussion of the discounting and reimbursement process.

To put our reform proposals in perspective AT&T explained that the source of much debate over Lifeline reform is a disagreement over whether the program should be conceived of as a “service” or as a “benefit.” Those who conceive of Lifeline as a discreet service argue that it is appropriate for service providers to be responsible for administrative functions associated with the service, such as consumer outreach, authorization and delivery of the Lifeline benefit to the consumer, and interaction with customers about the service rules and eligibility requirements.¹

AT&T firmly believes that the Lifeline program is best conceived of primarily as a “benefit”, like other low-income assistance benefits. This benefit should be provided directly to the consumer by the governmental entity operating the program. Participants in the SNAP program are not limited to shopping at the single grocery store that is willing to put discounts on certain products. They can take their benefit card to virtually any participating grocery store or to a different participating store every week. Lifeline consumers, by contrast, are tied by the program’s current structure to a single

¹ See Letter from Mitchell F. Brecher on behalf of Tracfone Wireless, Inc. to Marlene Dortch, FCC Secretary, WC Docket No. 11-42 (December 7, 2015)

provider; the provider essentially controls the benefit not the consumer. Structuring Lifeline as a real benefit program does not prevent a Lifeline provider from providing service to a Lifeline customer – in fact, it would make it much easier and more efficient to provide service to Lifeline eligible customers which would attract more diverse providers to the market.

While taking providers out of the eligibility process is a critical first step in this restructuring, AT&T and other commenters have also urged the Commission to convert the Lifeline benefit from a discount delivered by providers to a portable direct benefit to Lifeline consumers. Commenters who oppose a direct benefit system argue that it would be complicated and costly compared to today's process. But the current discount pass-through and reimbursement process limits customer choice, creates inefficiencies for providers and USAC, and exposes the program to potential error and fraud.

Tracfone, for example, argues that consumers can readily change service providers today and provides a screen shot of the NLAD benefit transfer process.² But as the instructions make clear it is the provider who is in control of the process: “contact a different company that offers Lifeline and ask them to transfer your Lifeline benefit to them.” While many consumers transfer providers successfully others experience confusion and delay. AT&T sees these problems when it is contacted by consumers wanting to know why their Lifeline benefit is no longer reflected on their AT&T bill. A review of our records indicates that we removed the discount as the result of a benefit transfer request from another carrier through NLAD. Unfortunately, the bewildered consumer is not aware they approved such a transfer and has no idea to which carrier their benefit is now being paid. The NLAD process masks any information about the receiving carrier from the losing carrier so we have no way to assist our customer. While carriers submitting transfer requests must provide “verbal or written” consent from the consumer, it is obvious from the frequency with which we hear from consumers that this safeguard is inadequate to prevent the equivalent of slamming. Unfortunately even if the FCC takes providers out of the role of verifying Lifeline eligibility, which they should do, as long as the delivery of the Lifeline benefit continues to pass-through service providers instead of being delivered directly to consumers, there will be a need for a similar transfer process with a concomitant loss of customer choice.

Passing the Lifeline benefit through service providers not only constrains customer choice, it also creates inefficiencies that cost both providers and USAC unnecessary time and effort. More importantly the current process is fraught with systemic vulnerabilities that expose the program to unacceptable levels of error and potential fraud. It is the opportunity for providers to readily receive payment that creates the incentive to game eligibility and enrollment. Much of the benefit pass-through and reimbursement process is behind the scenes and unfamiliar to many parties but it is just as ripe for overhaul as the eligibility process.

Lifeline providers generally deliver the benefit to consumers either as a discount or credit off of their monthly charge or in the form of a bucket of service minutes provided at no charge to the consumer. AT&T delivers Lifeline benefits via a discount displayed on the consumer's monthly bill; the consumer is responsible for paying the balance of the bill each month. The information and processes required to achieve this

² *Id.* at p.6.

discounting is unique to Lifeline consumers and has no other business purpose. As a result much of it is performed through manual methods³. A consumer's Lifeline status and data must be tracked in customer account records, billing, and financial systems. In addition to compliance with Federal Lifeline rules these systems must also manage multiple different state Lifeline and rate requirements that together create a complex web of almost 80 special codes and indicators solely for Lifeline customers. Once discounts are successfully implemented, however, the job is not done. Approximately 40% of AT&T customers fail the annual recertification process which means all the steps needed to establish the discounting process must be reversed. And almost half of these have to be reinstated several months later when a consumer notices that her discount has been removed and reapplies. This level of activity on a customer account increases costs and risks for both the provider and the program since human error is almost unavoidable. While newer entrants no doubt have more up-to-date billing and tracking systems, requiring and in fact relying on, thousands of Lifeline providers⁴ to accurately maintain systems to deliver a government benefit to consumers is highly inefficient and very difficult for the governmental entity to monitor and control.

Regardless of how a provider delivers the benefit to a consumer, they all seek reimbursement from USAC by submitting a Form 497. This simple form asks a provider to indicate the number of lines/customers to which it provided a Lifeline discount. USAC then sends the provider payment equal to \$9.25 x [indicated number].⁵ While a provider must be on record at USAC to receive a payment, USAC does not know whether the numbers provided on the Form 497 are accurate, almost accurate, or entirely fictitious. USAC pays service providers based on these forms, and whether or not an eligible consumer is ultimately on the receiving end of that payment or benefit can only be verified through audits conducted over a year later at considerable expense to the program.

The Lifeline discount pass-through and reimbursement process, in other words, appears to have few if any governmental controls other than after the fact auditing of a sample of provider participants. It has no apparent structural control points, no way to confirm or deny information it is provided, but instead relies almost entirely on service providers to deliver the benefit and to accurately seek reimbursement. Other than relying on service providers to follow the rules, there is little assurance that Lifeline consumers are receiving the benefit they deserve. This is why AT&T so strongly encourages the Commission to provide the Lifeline benefit directly to consumers. We acknowledge that doing so may create new challenges. However, we believe that a thoughtfully designed direct benefit system can address concerns and that the advantages are worth the effort. Lifeline customers deserve to have more control over how they use *their* Lifeline benefit, just as they are in control of how they use benefits from other government assistance programs.

³ Other providers may rely less on manual processes but AT&T's Lifeline customers are a small fraction of our entire customer base and thus it can be uneconomic to modify large systems to automate for the unique program requirements.

⁴ Currently all ETCs must participate in Lifeline and there are more than 2,100 ETCs according to USAC's 2014 annual report.

⁵ The Office of Management and Budget estimates that it takes each Lifeline provider just 2.5 hours/month to complete the Form 497. Based on AT&T's experience this is a gross underestimate. The multiple validation and cross checking steps AT&T takes before approving a Form 497 for submission can take up to 120 hours/month.

We also discussed several legal issues associated with the Commission's proposed rules and AT&T's Lifeline proposals. AT&T explained that the Commission's proposal in the FNPRM to add broadband internet access as a supported service in 47 CFR § 54.101 would have the unintended consequence of requiring ETCs to deploy broadband internet access service throughout their ETC service areas without any funding attached to such deployment. The parties also discussed the Commission's legal authority to allow non-ETCs to participate in the Lifeline program. Both 47 U.S.C. § 254(j) and 254(e) itself support the expansion of the Lifeline program to non-ETC registered Lifeline providers. Finally, although not necessary in light of the provisions of 47 U.S.C. §254, the Commission could, in the alternative, forbear from requiring that Lifeline participating carriers become ETCs and the three elements for Section 10 forbearance are clearly met in this case.

In accordance with section 1.1206(b) (2) of the Commission's rules, this letter is being filed electronically with your office. Please feel free to contact me if you have any questions.

Sincerely,

/s/ Anisa Latif

Cc: Trent Harkrader
Garnet Hanly
Charles Eberle
Jodie Griffin
Jonathan Wilkens
Gigi Sohn
John Chambers