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**REDACTED – FOR PUBLIC INSPECTION**

March 18, 2016

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Federal Communications Commission
Office of the Secretary

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**VIA HAND DELIVERY AND ECFS**

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, DC 20554

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

Dear Ms. Dortch:

Q LINK WIRELESS LLC ("Q Link") requests that, pursuant to Sections 0.457 and 0.459 of the Commission's rules,[1] the Commission withhold from public inspection and accord confidential treatment to information submitted as part of an ex parte in the above-captioned proceeding. The ex parte contains sensitive commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").[2]

Exemption 4 of FOIA provides that the public disclosure requirement of the statute "does not apply to matters that are … (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential."[3] Because Q Link is voluntarily providing commercial information "of a kind that would not customarily be released to the public" as part of its ex parte, this information is "confidential" under Exemption 4 of FOIA.[4]

In support of this request and pursuant to Section 0.459(b) of the Commission's rules, Q Link hereby states as follows:

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1 47 C.F.R. §§ 0.457 & 0.459.

2 5 U.S.C. § 552(b)(4).

3 5 U.S.C. § 552(b)(4).

4 *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

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## 1. IDENTIFICATION OF THE SPECIFIC INFORMATION FOR WHICH CONFIDENTIAL TREATMENT IS SOUGHT[5]

Q Link seeks confidential treatment with respect to the information marked as "Confidential" in the attached ex parte letter. This information reflects cost information and information with respect to the market response to certain Q Link products that Q Link keeps confidential.

## 2. DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE SUBMISSION[6]

Q Link met with Commission Staff on March 16 and 17, 2016 regarding the above-captioned proceeding. The information was presented in order to enable the Commission to evaluate potential impacts of its proposed rules.

## 3. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION IS COMMERCIAL OR FINANCIAL, OR CONTAINS A TRADE SECRET OR IS PRIVILEGED[7]

The portions of the ex parte for which confidential treatment is sought contain cost and product subscription information that is commercial, financial and a trade secret. If Q Link's competitors knew this information they could target Q Link and its products competitively.

## 4. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION CONCERNS A SERVICE THAT IS SUBJECT TO COMPETITION[8]

The information relates to Q Link's provision of wireless telecommunications, and the market for such services is highly competitive.

## 5. EXPLANATION OF HOW DISCLOSURE OF THE INFORMATION COULD RESULT IN SUBSTANTIAL COMPETITIVE HARM[9]

Disclosure of this sensitive and closely-guarded information, not normally disclosed to the public, could enable a competitor to learn about Q Link's underlying costs and the consumer

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5 47 C.F.R. § 0.459(b)(1).

6 47 C.F.R. § 0.459(b)(2).

7 47 C.F.R. § 0.459(b)(3).

8 47 C.F.R. § 0.459(b)(4).

9 47 C.F.R. § 0.459(b)(5).

response to its products. If Q Link's competitors knew this information they could target Q Link and its products competitively, to Q Link's business detriment.

**6. IDENTIFICATION OF ANY MEASURES TAKEN BY THE SUBMITTING PARTY TO PREVENT UNAUTHORIZED DISCLOSURE[10]**

Q Link does not distribute the information for which confidential treatment is sought.

**7. IDENTIFICATION OF WHETHER THE INFORMATION IS AVAILABLE TO THE PUBLIC AND THE EXTENT OF ANY PREVIOUS DISCLOSURE OF THE INFORMATION TO THIRD PARTIES[11]**

The information in the ex parte for which confidential treatment is sought has not previously been publicly disclosed and is not publicly available.

Respectfully submitted,

John T. Nakahata
*Counsel to Q LINK WIRELESS LLC*

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10 47 C.F.R. § 0.459(b)(6).

11 47 C.F.R. § 0.459(b)(7).

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March 18, 2016

**Ex Parte**

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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

Dear Ms. Dortch,

On March 16, 2016, Issa Asad and Rafa Carvajal of Q LINK WIRELESS LLC ("Q Link") and I met telephonically with Amy Bender, Legal Advisor to Commissioner Michael O'Rielly. Separately, we met with Travis Litman, Legal Advisor to Commissioner Jessica Rosenworcel. In addition, we met separately with Gigi Sohn and Stephanie Weiner of the Office of the Chairman. Chuck Campbell of CGM joined the meetings with Travis Litman and Gigi Sohn and Stephanie Weiner. On March 17, 2016 we met with Rebekah Goodheart, Legal Advisor to Commissioner Mignon Clyburn. We met separately with Trent Harkrader, Ryan Palmer, Jay Schwarz, Charles Eberle and Jodie Griffin of the Wireline Competition Bureau.

Q Link expressed its strong support for moving Lifeline into the twenty-first century by moving Lifeline into offering data/broadband service, including standalone broadband. A low-income household for whom a data connection is more important than voice should have that choice. Q Link opposed reducing support for voice service but proposed that consumers should have flexibility to choose between data or voice and have both available to them at all times through their data-capable handsets. Q Link supports offering Wi-Fi enabled devices and has been doing so for more than two years; this allows Lifeline consumers to take advantage of free or publicly available no-cost Wi-Fi.

Q Link also, however, warned that if the Fact Sheet proposal were adopted, the basic underlying costs for wireless airtime would require Lifeline providers to institute minimum monthly charges by December 1, 2016 – when the Fact Sheet proposal would set a minimum standard for standalone voice of unlimited minutes of use. This is simply driven by the economics and the numbers. The likely result would be the "Greatest Contraction" in low-income telephone service in the history of Lifeline, as all evidence and all of Q Link's experience shows that low-income consumers cannot regularly afford to make such payments, and thus will drop service. Moreover, carriers will have to decide well before December 1, 2016, whether they will continue to offer mobile wireless Lifeline services and, if not, to discontinue

service to millions of low-income Lifeline-dependent consumers. Lifeline service discontinuances – which, for mobile service, do not require FCC consent under Section 214 – could begin well ahead of December 1, 2016. Q Link stated that the lowest retail price it could find prepaid unlimited voice non-Lifeline service is $25 – far more than $9.25 Lifeline support. The Fact Sheet proposal does not reflect this very significant price difference. This Fact Sheet Proposal also violates the FCC's long-ago adopted principle of competitive and technological neutrality.

## I. Background on Q Link

Q Link is the fifth largest Lifeline provider in the country, serving approximately 700,000 low-income households. It provides Lifeline service in 28 states; it has had an application for ETC designation for another 10 states pending before the FCC since 2012 and also has an application pending in California. Q Link has an industry-high customer retention rate and an industry-low churn rate. It has developed a rigorous, automated customer sign-up and provisioning process to validate the identity and address of each customer that signs up, including multiple checks against USPS, Melissa, Lexis/Nexis, CGM and NLAD databases. Q Link has a compliance staff that conducts a review of each Lifeline application received. Q Link only ships handsets to a customer's verified residential address, it does not use street agents to sign up customers, and all customers are signed up directly through Q Link without the utilization of any third-party agents. Q Link is proud of the fact that it has been through an audit and 14 PQA reviews without a finding of a duplicate Lifeline household.

Q Link regularly offers its Lifeline customers no-charge service with 500 included voice minutes for the first 4 months and 350 minutes per month thereafter, plus unlimited texting. Q Link also frequently provides additional courtesy minutes to those Lifeline consumers who run out of minutes during the month. Q Link also today has an unlimited voice minutes Lifeline prepaid wireless offering for $30 per month, and an unlimited voice and data plan for $49.95. Q Link also provides its Lifeline customers with the ability to purchase 130 additional minutes for $10 or to purchase 1 GB of data for $10.

## II. Mandating Unlimited Voice Minutes for Voice Only Plans Would Require Co-Payments for All Lifeline Households by December 1, 2016.

It is simply economically impossible to provide unlimited mobile voice service for only $9.25 per month. According to the FCC's Mobile Competition Report, average voice usage has been approximately 700 minutes per month over the past six years, with some years over 750

minutes.[1] Q Link's underlying airtime cost is ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** per minute.[2] Assuming that a Lifeline consumer with an unlimited usage plan would be no different than the average consumer, at 700 minutes, average monthly wholesale airtime costs alone, without any costs of sales, handsets or overhead, is ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL****, well over the $9.25 Lifeline support amount. A copayment would be necessary in order to have a viable Lifeline voice service that Lifeline households could use to reach 911, call for employment or for medical care, or to reach friends and relatives.

Wholesale price compression will not make an unlimited minutes Lifeline plan economically viable. Even if wholesale costs per minute drop by a third, that would leave little margin to recover all other costs and would still have airtime costs above the voice-only support that would be available after December 1, 2017 under the Fact Sheet proposal. There is no basis on which to assume such dramatic price changes: E911-capable voice service is not a free app today and is unlikely to become one within the next few years, even if the low-income service ecosystem were VoLTE-capable – which it is not, both because VoLTE is not ubiquitous and because few inexpensive handsets (even refurbished handsets) are LTE-capable at this time.

It is highly unlikely that a substantial majority of Lifeline customers would be able to regularly retain telephone service if copayments become necessary. Eighty-seven percent of Q Link's customers are wireless-only. Seventy-two percent of Q Link's customers are unbanked. When Q Link accepted checks as payment for purchasing additional minutes or data, it had a 30% returned check rate – so high it had to discontinue accepting checks – even though the checks were for small amounts ($5 to $20). When customers lose phones, Q Link charges a $25 replacement fee – which nearly half of those customers spread over 2 to 3 months. Q Link regularly has customers that purchase multiple $10-for-130 minutes cards, rather than a $30 unlimited additional monthly minutes card, simply because they lack the $30 to purchase all at once. Only ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** of Q Link Lifeline customers purchase additional minutes when they run out of minutes, even though ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** run out of minutes before the end of the month. Q Link's alternative unlimited minutes plan has a take rate of less than ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL****. There is no reason to

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1 *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Eighteenth Report, DA-15-1487, 30 FCC Rcd. 14,515, 14,608-09 ¶ 148 (Wireless Telecomms. Bur. 2015).

2 In addition, the wholesale cost of a sms/text message is ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** per message.

believe that most low-income households will be able to continue to afford prepaid mobile service – the cheapest service option – if they must make even small copayments every month.

## III. A 500 MB Minimum Standalone Data Service Is Also Economically Infeasible Without a Co-Payment.

Similarly, a standalone 500 MB data service is not economically viable. The vast majority of devices used by and that Q Link distributes to Lifeline subscribers are 3G, not LTE, even though Q Link no longer distributes feature phones except by special customer request. Q Link's wholesale data costs are ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** for 3G and ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** for LTE. This leaves no or virtually no margin to recover costs in addition to wholesale data costs without a copayment. Under the Fact Sheet proposal, it becomes even more infeasible at the end of 2017, when the minimum required data would be 1 GB per month. Again, there is no reason to assume such dramatic wholesale price compression within the next 18 months. The predictable result of the Fact Sheet proposal will be fewer, rather than more, affordable mobile data options available to low-income households.

It is also important to note that Q Link customers today have the option of purchasing data at $10 for 1 GB. Q Link can also provide low-end Android tablets or Hotspots to consumers in lieu of a smartphone.

## IV. A Better, More Flexible Approach to Bring Lifeline Into the 21st Century, Improve and Respect Low-Income Consumer Choice, and Transition Away From Standalone Voice Service

Q Link supports the Fact Sheet proposal's objectives, but the specific means chosen to reach those objectives would have disastrous consequences, likely leading to many Lifeline households dropping basic phone service and undermining efforts to close the "homework gap." Q Link outlines here what it believes would be a better approach:

- Establish immediately a minimum service requirement to offer a standalone voice service of at least 400 minutes per month and a standalone data service of at least 300 MB per month, both with unlimited text.[3] These are economically feasible and can be done now.

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[3] If the Commission believes it cannot include a requirement to offer unlimited text, it could use this as the minimum service standard if unlimited text is offered, and set a higher minimum service standard if unlimited text is not offered. In that situation, when a provider

- For bundles of voice and data with unlimited text, allow the provider to create options that exchange 4 minutes of voice for 3 MB of data, and vice versa. This will allow consumers flexibility to choose to allocate Lifeline-supported service between voice and data as they need it. They can still purchase supplementary voice or data increments for small additional amounts at competitive rates, which allows them to control their additional spending, while ensuring that they continue to have access to 911 when they need it, and can reach potential employers, health care providers, schools, and friends or relatives.

- Set now conditions that would trigger a sunset of standalone voice service. At a minimum, such conditions should include all of the following:

  - Widespread deployment of LTE
  - Availability of inexpensive ($30 to $50 per handset) LTE handsets for distribution to Lifeline consumers. The availability of low-priced handsets generally trails the rest of the market by several years.
  - More than de minimis commercial availability of an over-the-top E911-capable VoIP application with no charge and no intrusive or unduly burdensome advertising or other impediments to using the service.

  These conditions would begin sunset of support for standalone voice once E911-capable voice really does become a free app that rides over data. Until then, eliminating support for standalone voice simply requires a Lifeline household to take some data even when they do not need it in order to preserve their E911 access.

- Conduct an annual or biennial review of Lifeline offerings and wholesale pricing to see whether market competition is continuing to improve the no-charge offerings of minutes and data provided to Lifeline consumers, and to reflect any further wholesale price compression. Lifeline providers will continue to seek better wholesale rates, and when they get them, they will be under marketplace pressure – as is the case now – to improve what they offer and provide to consumers. The Commission can then use these results to update minimum standards as price compression occurs, if it finds the market is not itself delivering improved packages to Lifeline consumers.

This approach is simple, rational, and anchored in both the underlying costs and the realities of the network and handset ecosystem. It does not gamble Lifeline households'

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uses the minimum standards without unlimited text, bundling should permit trade off with text, but at a ratio well above one text for one voice minute.

basic E911-capable phone service on market developments that have not occurred and may not occur on the schedule envisioned by the Fact Sheet. This approach will also help ensure maximum provider participation, a competitive market place where consumers now have more choices of products and services of Lifeline essential services for both voice and data/broadband.

* * *

Please do not hesitate to contact me if you have any questions regarding this matter.

Sincerely,

John T. Nakahata
*Counsel to Q LINK WIRELESS LLC*

cc: Amy Bender
Rebekah Goodheart
Travis Litman
Gigi Sohn
Stephanie Weiner
Trent Harkrader
Ryan Palmer
Jay Schwarz
Charles Eberle
Jodie Griffin