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March 24, 2016

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Lifeline Connects Coalition Written Ex Parte Presentation; WC Docket Nos. 11-42, 09-197, 10-90**

Dear Ms. Dortch:

In response to questions raised by the Federal Communications Commission (Commission) in the Lifeline Second Further Notice of Proposed Rulemaking in the above-reference dockets<sup>1</sup> regarding annual recertification of Lifeline subscribers, the Lifeline Connects Coalition (Coalition)<sup>2</sup> hereby proposes extending the recertification notice period in section 54.405(e)(4) of the Commission's rules from 30 to 60 days. Extending the recertification notice period is consistent with established Commission goals because it will result in fewer de-enrollments of Lifeline subscribers that are still eligible for the program. The Coalition briefly discussed this issue in its meetings last week, and included it in its presentation, but provides more detail regarding the reasoning behind this proposal herein. However, the issues of primary importance to the Coalition remain those highlighted in its recent filings related to the proposed minimum service standards, a streamlined and focused real-time national verifier and streamlining regulations and increasing

<sup>1</sup> See *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, FCC 15-71 (rel. June 22, 2015) (Second FNPRM).

<sup>2</sup> The members of the Lifeline Connects Coalition are i-wireless LLC, Telrite Corporation, Blue Jay Wireless, LLC and American Broadband & Telecommunications Company.

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regulatory certainty, including extending the automatic benefit transfer limit from 60 days to 12 months.<sup>3</sup>

### **The Coalition Proposes Extension of the Recertification Notice Period From 30 to 60 Days**

Section 54.405(e)(4) of the Commission's rules states,

an eligible telecommunications carrier must de-enroll a Lifeline subscriber who does not respond to the carrier's attempts to obtain re-certification of the subscriber's continued eligibility as required by § 54.410(f)...Prior to de-enrolling a subscriber under this paragraph, the eligible telecommunications carrier must notify the subscriber in writing separate from the subscriber's monthly bill, if one is provided using clear, easily understood language, that failure to respond to the re-certification request within 30 days of the date of the request will trigger de-enrollment. If the subscriber does not respond to the carrier's notice of impending de-enrollment, the carrier must de-enroll the subscriber from Lifeline within five business days after expiration of the subscriber's time to respond to the re-certification efforts.

The Coalition proposes to extend the 30 day notice period in this rule to 60 days to give eligible subscribers adequate time to respond to the notice and certify, and in some states and circumstances provide documentation to demonstrate, their continued eligibility.

### **The Commission Seeks Comment on Recertification Practices in the Second FNPRM**

In the Second FNPRM, the Commission seeks comment on several aspects of the recertification process. The Commission seeks comment on requiring subscribers to initial all requirements in section 54.410(d)(3) of the Commission's rules, which would impact recertification forms.<sup>4</sup> As discussed further below, subscribers already have difficulty returning fully completed and valid recertification forms. Requiring subscribers to adequately initial at least nine different requirements in the recertification form would result in more incomplete forms, which the ETC must address by sending additional forms and receiving them back. That process cannot be done within 30 days.

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<sup>3</sup> See Notice of Lifeline Connects Coalition Oral *Ex Parte* Presentation, WC Docket Nos. 11-42, 09-197, 10-90 (filed Mar. 21, 2016) (addressing the Coalition's proposal on minimum service standards); Notice of Lifeline Connects Coalition Oral *Ex Parte* Presentation, WC Docket Nos. 11-42, 09-197, 10-90 (filed Mar. 17, 2016) (addressing minimum service standards, the national verifier, the FCC Form 497 snapshot rule and the 12-month automatic benefit transfer limit); Notice of Lifeline Connects Coalition Oral *Ex Parte* Presentation, WC Docket Nos. 11-42, 09-197, 10-90 (filed Dec. 7, 2015) (addressing in detail the 12-month automatic benefit transfer limit).

<sup>4</sup> See Second FNPRM ¶ 16.

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The Commission also notes that the Government Accountability Office's most recent report on Lifeline highlighted the difficulty for subscribers in understanding and responding to recertification attempts, and asks whether there are mechanisms by which the Commission can increase consistency and uniformity in its certification and recertification practices.<sup>5</sup> In its comments on the Second FNPRM, the Coalition supported simplifying and streamlining the certification and recertification forms with industry input.<sup>6</sup> However, giving subscribers more time to understand, complete, return and potentially correct recertification forms will also promote consistency and uniformity in the recertification response process.

### **One of the Commission's Goals in Annual Recertification is Avoid De-Enrolling Eligible Subscribers for Failure to Respond**

The Commission established the requirement to recertify all Lifeline subscribers in the 2012 Lifeline Reform Order.<sup>7</sup> One of the Commission's clear goals was to avoid imposing unnecessary burdens on subscribers that would result in de-enrolling eligible Lifeline subscribers due to failure to respond to recertification efforts. The Commission found that "elimination of the requirement that consumers annually provide supporting eligibility documentation will enable consumers to more easily respond to verification surveys, thereby reducing the number of Lifeline subscribers de-enrolled for failure to respond to carrier verification efforts."<sup>8</sup> As discussed below, the Commission can avoid de-enrolling thousands of eligible Lifeline subscribers each year by extending the notice period from 30 days to 60 days.

### **The 30-Day Notification Period for Recertification is Too Short for Lifeline Subscribers**

The Commission should conduct a cost-benefit analysis to consider the appropriate notice period for recertification, which weighs in favor of a 60-day period. Although there is no discernable reason to restrict the recertification notice period to 30 days, there are several good and practical reasons consistent with Commission goals for the Lifeline program to extend the notice period to 60 days.

The Commission established the 30-day period for recertification notices in the 2012 Lifeline Reform Order without any discussion of the appropriate number of days for subscribers to respond, or any reasoning behind the chosen 30 days. Likewise, the Lifeline Notice of Proposed

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<sup>5</sup> See *id.* ¶¶ 205-206.

<sup>6</sup> See Comments of the Lifeline Joint Commenters, WC Docket Nos. 11-42, 09-197, 10-90 at 93-94 (filed Aug. 31, 2015). The Joint Commenters include the Lifeline Connects Coalition members.

<sup>7</sup> See *Lifeline and Link-Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, FCC 12-11, ¶ 139 (rel. Feb. 6, 2012) (2012 Lifeline Reform Order).

<sup>8</sup> *Id.* ¶ 139.

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Rulemaking that proposed requiring ETCs to de-enroll subscribers for failure to respond to the recertification notice was silent on the appropriate notice period, even though the proposed rule provided 30 days. To be sure, the purpose of requiring de-enrollment for failure to recertify eligibility is to reduce waste, fraud and abuse by removing ineligible subscribers from the program.<sup>9</sup> However, there is no impact on waste, fraud or abuse from allowing eligible subscribers 60 days rather than 30 days to respond to the notice.

On the other hand, extending the notice period from 30 days to 60 days would advance the Commission's goal of avoiding de-enrolling eligible subscribers for failure to respond. One member of the Coalition estimates that it would likely see a five to ten percent reduction in de-enrollments of eligible subscribers if the notice period were extended to 60 days, which would mean several thousand eligible subscribers would retain their Lifeline discounted service.<sup>10</sup>

The 30-day period can be difficult for all manners of recertification, including online, in person and by phone (Interactive Voice Response or IVR), however, recertification attempts that involve mailing documents back and forth with subscribers cause the most difficulty. Many forms sent by mail go to the wrong address because of frequent moves by Lifeline subscribers or they are intentionally or mistakenly discarded. In those circumstances, there is not enough time to re-send the form and get a response. Many subscribers send back incomplete or invalid forms that can be corrected, but not within the 30-day timeframe. One Coalition member reports that as many as 70 percent of the recertification forms that are returned are invalid due to missing information or subscriber misunderstanding. Many or most of those subscribers are still eligible for Lifeline, but 30 days is not enough time to get the form corrected and returned.

In addition, although the Commission in 2012 rightly decided against burdening Lifeline subscribers and ETCs with collecting documentation of eligibility for recertification, an increasing number of states are imposing such requirements.<sup>11</sup> Because Lifeline subscribers often lack access

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<sup>9</sup> *See id.* ¶ 141.

<sup>10</sup> When ETCs retain customers for longer periods of time on average, they are able to provide improved handsets and service offerings. That is also true with respect to the Coalition's proposal to extend the automatic benefit transfer limit from 60 days to 12 months. Extending that limit will better allow wireless Lifeline providers to make available the types of devices (e.g., Wi-Fi-enabled and potentially hotspot capable mobile devices) that will benefit Lifeline customers and the program, but that the program does not support. Of course, consumers would retain the ability to switch Lifeline service providers at any time by de-enrolling with their current provider and then enrolling with another.

<sup>11</sup> Puerto Rico requires proof of eligibility for recertification in circumstances where a subscriber is not found in the eligibility database. *See* Rule 14.7(e) of Regulation 8093. Oklahoma and Missouri also recently announced requirements for proof of eligibility for recertification. *See* OAC 165:55-23-12(b) and 4 CSR 240-31.120(2)(C).

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to fax machines, scanners and email, most documentation of eligibility must be mailed to ETCs, even if the subscriber recertifies by IVR. Any process involving the mail makes the 30-day period unworkable in many instances.

Finally, the Coalition members and likely most other wireless ETCs conduct Lifeline recertification education campaigns, which was encouraged by the Commission in the 2012 Lifeline Reform Order.<sup>12</sup> These campaigns include activities such as including information about recertification in enrollment materials, offering recertification opportunities to subscribers that call customer service and sending periodic information or notices about the recertification requirement to subscribers via mail, email and text message. These educational messages often inform subscribers that they must recertify their eligibility annually and that they can lose their Lifeline service if they fail to recertify, but cannot include a deadline for recertification without triggering the 30-day de-enrollment requirement. Such recertification “soft notices” are not as successful as the 30-day “hard notice” at getting Lifeline subscribers to respond and recertify, but they are a valuable educational tool used by Lifeline ETCs to promote successful recertification by eligible subscribers. Tools such as the soft notices are what allow many wireless ETCs to recertify 90 percent or more of their subscribers. Unfortunately, recent USAC audit findings have determined that many recertification soft notices trigger the 30-day de-enrollment requirement even though the messages do not include a deadline for response as required by the rule. If upheld, USAC’s misinterpretation of the Commission’s rules could eliminate the valuable recertification soft notices and hinder the Commission’s stated goals of having ETCs educate subscribers regarding the recertification requirements and not de-enrolling eligible subscribers for failure to understand and respond to recertification efforts.

The Commission’s goal should remain for the Lifeline program to recertify as many eligible Lifeline subscribers as possible and not de-enroll eligible subscribers because they cannot understand and accurately complete and return the necessary paperwork within the arbitrary deadline. Therefore, the Commission should extend the recertification notice period from 30 to 60 days to give subscribers and ETCs time to effectively manage the recertification process together.

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<sup>12</sup> See 2012 Lifeline Reform Order ¶ 145 (“ETCs and states may also choose to notify subscribers about the re-certification requirements in their Lifeline outreach materials. By taking these actions, ETCs and states will ensure that consumers are aware of the importance of responding to re-certification efforts, and that they are not inadvertently disconnected due to a lack of understanding of program rules.”).

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Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



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