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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 23, 2016, I spoke with Trent Harkrader of the Wireline Competition Bureau regarding the above-captioned proceeding. On March 24, 2016, I spoke with Stephanie Weiner, Senior Wireline Legal Advisor to Chairman Wheeler, and with Trent Harkrader of the Wireline Competition Bureau. I explained that the Commission should not impose a broadband Lifeline obligation on incumbent LEC recipients of frozen support, for two primary reasons.

First, the frozen support program for incumbent LECs is an interim program that is due to be eliminated very soon, after the Commission conducts the Connect America Fund Phase II (CAF II) competitive bidding process scheduled for 2016.¹ Frozen support recipients should not be required to implement new processes and incur the costs of billing system changes in order to implement a temporary obligation that could end once the Commission conducts the competitive bidding process. Instead, the Commission should initiate the broadband Lifeline obligation when it has identified the permanent recipients of CAF II support through the competitive bidding process.

Second, in contrast to CAF II support, frozen support is not dedicated to the deployment of facilities meeting the wireline broadband Lifeline service standards described by the *Fact Sheet*.² Frozen support recipients are required only to certify that frozen support was used “to build and operate broadband-capable networks.”³ In contrast to CAF II recipients, frozen

¹ *Connect America Fund*, Report and Order, 29 FCC Rcd 15644, ¶ 12 (2014).

² *Chairman Wheeler and Commissioner Clyburn Propose Rules to Modernize Lifeline Program to Provide Affordable Broadband for Low-Income Americans*, released March 8, 2016 (*Fact Sheet*).

³ 47 CFR § 54.313(c)(4).

support recipients are not required to meet the Lifeline speed standard contemplated by the *Fact Sheet* (10 megabits per second downstream / 1 megabit per second upstream). In addition, frozen support recipients are not required to use frozen support for the deployment of new facilities.⁴ Given that frozen support is not dedicated to the deployment of facilities meeting the wireline broadband Lifeline service standards, there is no basis for linking a broadband Lifeline obligation to the receipt of frozen support.

For the foregoing reasons, the Commission should not impose a broadband Lifeline obligation on recipients of frozen support. If the Commission does impose such an obligation, which it should not, it should make clear that the obligation is limited to a subset of the carrier's service area. Under the Commission's rules, carriers may use frozen support only in "areas substantially unserved by an unsubsidized competitor."⁵ Thus, any broadband Lifeline obligation linked to frozen support would apply, at most, in those "areas substantially unserved by an unsubsidized competitor." But carriers do not necessarily use frozen support in all such areas; in some cases, they can make their frozen support certification by using frozen support in only some of the eligible areas.

Rather than require carriers to identify the specific areas in which frozen support is being used, the Commission could permit carriers to associate any broadband Lifeline obligation with CAF II-eligible census blocks, i.e., the same areas that will be subject to a broadband Lifeline obligation after the competitive bidding process, to the extent that the carrier is offering broadband service that meets the minimum Lifeline service standard. Given that frozen support will be replaced soon by CAF II competitive bidding support, implementation issues created by the transition would be somewhat mitigated if the broadband Lifeline obligation applied in CAF II-eligible census blocks for both frozen support and competitive bidding support.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules. Please contact me if you have any questions.

Sincerely,



cc: Trent Harkarder
Stephanie Weiner

⁴ The Commission has said that carriers are not required to use frozen support for new capital investment, and may instead use frozen high cost support to "maintain and operate existing networks" and "cover operating expenditures for networks constructed prior to [2011]." *Connect America Fund*, Order, 28 FCC Rcd 14887, ¶ 10 (2013).

⁵ 47 CFR § 54.313(c)(4).