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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

**SUPPLEMENTAL COMMENTS UPDATING
PETITION FOR RECONSIDERATION AND CLARIFICATION**

The United States Catholic Conference, Benton Foundation, Center for Media Education, Consumer Action, Edgemont Neighborhood Coalition, Migrant Legal Action Program and Washington Legal Clinic for the Homeless ("U.S. Catholic Conference, *et al.*" or "Petitioners"), through undersigned counsel, hereby submit the following supplemental comments updating their Petition for Reconsideration and Clarification ("Petition"), filed July 17, 1997,¹ in response to the Commission's Public Notice requesting that parties refresh the record concerning Petitions for Reconsideration filed in the above-referenced proceeding.²

¹The original Petition for Reconsideration and Clarification was filed on behalf of the United States Catholic Conference, Benton Foundation, Center for Media Education, Consumer Action, Edgemont Neighborhood Coalition, Heartland Alliance for Human Needs and Human Rights, Interstate Migrant Education Council, Migrant Legal Action Program, National Association of Migrant Educators, National Coalition for the Homeless, Washington Legal Clinic for the Homeless and Marsha Zashin, Education Consultant to Cleveland Public Schools and Project Act. Since the time the Petition was filed on July 17, 1997, a number of these organizations have merged with other advocacy groups or have changed their organizational focus. Accordingly, these Supplemental Comments reflect only the names of the current Petitioners.

²*See Parties Asked to Refresh the Record Regarding Reconsideration of Rules Adopted in the 1997 Universal Service First Report and Order, Public Notice, DA 01-1647 (released July 11, 2001).*

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In its original Petition, U.S. Catholic Conference, *et al.* requested reconsideration of four rules promulgated in the Commission's Universal Service *First Report and Order*.³ In order to fully refresh the record, U.S. Catholic Conference, *et al.* have listed the relief requested in the Petition, along with the relief currently sought, in the numbered sections below.

I. Expansion of the Lifeline Eligibility Standard

In its Petition, U.S. Catholic Conference, *et al.* requested that the Commission modify its default Lifeline eligibility rules to allow participation in the Lifeline program based on eligibility for the low-income assistance plans listed in the rule, rather than actual participation in the programs.⁴ Petitioners still believe that this eligibility adjustment is necessary and justified. However, in light of the massive changes in eligibility that have occurred as a result of welfare reform, U.S. Catholic Conference, *et al.* believe that the Commission should also adjust the default rules to provide for income-based eligibility as well.

Since U.S. Catholic Conference, *et al.* filed its Petition in 1997, several states, including Texas and Vermont, have shifted to income-based eligibility to ensure that all low-income residents have access to affordable telephone service.⁵ In Vermont, Commission data indicates

³See *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776 (1997) (hereinafter "*First Report and Order*").

⁴See Petition at 1-3.

⁵See 16 TEX. ADMIN. CODE § 26.412(b) (West Supp. 2001) (stating that each "eligible telecommunications carrier shall provide Lifeline Service and Link Up Service" to customers "with an income at or below 125% of the federal poverty guidelines" or those enrolled in certain low-income assistance programs); VT. STAT. ANN. TIT. 30, § 218(c)(3) (2000) (authorizing state Lifeline eligibility for those whose "modified adjusted gross income" was "less than 150 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1 of the preceding taxable year").

that there was a marked increase in telephone penetration rates in households with annual incomes of less than \$9,999 from 1998, when income-based eligibility was implemented, to 2000.⁶

Income-based guidelines can also help ensure that poor families moving off of low-income assistance programs or reaching time limits for certain welfare programs continue to receive Lifeline telephone service.⁷ Furthermore, the use of income-based guidelines may also help attract those households who qualify for welfare programs, and by extension Lifeline and Link Up, but refuse to participate in traditional welfare programs due to the stigma often associated with those programs.⁸ Accordingly, U.S. Catholic Conference, *et al.* strongly recommend that the Commission adopt default guidelines that allow those households that are at or below one hundred fifty percent of the poverty line, or eligible for low-income assistance programs, to participate in the Lifeline program.

⁶See Telephone Penetration By Income By State (Data Through 2000), Industry Analysis Division, Common Carrier Bureau (rel. July 2000), at 21 (showing that telephone penetration among Vermont households making less than \$9,999 a year increased from 85.8% in March 1998 to 92.9% in March 2000).

⁷See, e.g., Joel Ferber and Theresa Steed, *The Impact of Welfare Reform on Access to Medicaid: Curing Systemic Violations of Medicaid De-Linking Requirements*, 45 ST. LOUIS U. L.J. 145, 157, n. 45 (noting that in the four-year period from January 1996 to December 1999, adult Medicaid enrollment dropped by 50% in Georgia, 46% in Texas and 42% in Ohio). Accordingly, for many households, the loss of Medicaid benefits in a state where Lifeline is tied to enrollment in Medicaid or a similar low-income assistance program could lead to the loss of Lifeline benefits as well.

⁸See Rosa DeLauro, *Helping American Parents Raise Healthy Kids: Congress' Efforts to Solve the Problem of Uninsured Children*, 2 QUINNIPIAC HEALTH L.J. 63, 64 (noting that many parents refuse to sign their children up for Medicaid benefits due to the perceived stigma of a traditional welfare program).

As part of its Petition, U.S. Catholic Conference, *et al.* also requested that the Commission require states to use the Commission's default Lifeline eligibility standard as the minimum eligibility standard for all states. In the interest of insuring that all Americans have access to a minimum nationwide Lifeline benefit, Petitioners still strongly support this proposal.

U.S. Catholic Conference, *et al.* note that the Commission recently requested that the Federal-State Joint Board examine current Lifeline eligibility rules. To the extent that many of the same eligibility issues may be addressed in both proceedings, U.S. Catholic Conference, *et al.* suggest that the Commission clarify this issue by consolidating Lifeline eligibility issues in one proceeding.

II. Deposits for Lifeline Customers Without Toll Blocking

The Commission's current rules permit carriers that do not offer toll blocking to require Lifeline customers to pay a deposit prior to receiving service. Furthermore, the rules do not clarify whether states, through their Lifeline programs, may prohibit this practice. In the Petition, U.S. Catholic Conference, *et al.* noted that this practice often has the effect of deterring low-income households from taking advantage of the Lifeline program. Petitioners again strongly recommend that the Commission modify this rule to prohibit carriers from imposing any deposit requirement or, in the alternative, at least clarify that states have the right to prohibit carriers from imposing such requirements as a condition of participating in the Lifeline program.

III. Prohibition On Collecting the PICC From Lifeline Subscribers That Have Not Selected a Primary Interexchange Carrier

In its Petition, U.S. Catholic Conference, *et al.* urged the Commission to prohibit local exchange carrier collection of the presubscribed interexchange carrier charge ("PICC") from Lifeline subscribers who have not selected a primary interexchange carrier.⁹ In the Commission's *Fourth Report and Order*, the Commission adopted a rule that allowed carriers to recover the PICC for Lifeline customers that do not have a presubscribed interexchange carrier from the universal service fund.¹⁰ If a carrier collected the PICC, it was prohibited from recovering that fee from the end user.¹¹

This rule was then dropped in the *Eleventh Report and Order*, which implemented the Coalition for Affordable Local and Long Distance Service ("CALLS") proposal to eliminate PICC for residential end-users.¹² Accordingly, to the extent that the Commission's rules no longer provide for assessment of the PICC on residential lines, U.S. Catholic Conference, *et al.* withdraw this issue from the Petition in light of the rule changes made in conjunction with the CALLS Order.

⁹See Petition at 4-6.

¹⁰*Federal-State Joint Board on Universal Service; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5393, ¶ 122 (1997) (hereinafter "*Fourth Report and Order*").

¹¹See *id.* at 5394, ¶ 125.

¹²See *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long-Distance Users, Federal State Joint Board on Universal Service*, Eleventh Report and Order, 15 FCC Rcd 12,962, 13,136 (2000) (hereinafter "*Eleventh Report and Order*").

IV. Advertising of Services Supported By the Universal Service Fund

The Telecommunications Act of 1996 and the *First Report and Order* required carriers to publicize the availability of Lifeline services through "media of general distribution."¹³

Specifically, the *First Report and Order* stated that this requirement "is not satisfied by placing advertisements in business publications alone, but instead compels carriers to advertise in publications targeted to the general residential market."¹⁴ U.S. Catholic Conference, *et al.* requested that the Commission modify this requirement by clarifying that "media of general distribution" includes broadcast media, in addition to just written publications.¹⁵

Since U.S. Catholic Conference, *et al.* filed its Petition, the Commission has again addressed the issue of advertising in the *Tribal Order*, and promulgated a rule designed to increase awareness of the availability of Lifeline service.¹⁶ In the *Tribal Order* the Commission did note, however, that its general rule requiring outreach for Lifeline services may not spur significant action by carriers, and stated that "we may address in a Further Notice of Proposed Rulemaking more specific methods by which eligible telecommunications carriers must publicize the availability of Lifeline and Link Up services."¹⁷

¹³See 47 U.S.C. §214(e)(1); *First Report and Order* at 8860, ¶ 148.

¹⁴See *id.*

¹⁵See Petition at 7.

¹⁶See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, 15 FCC Rcd 12208 (2000) (hereinafter "*Tribal Order*").

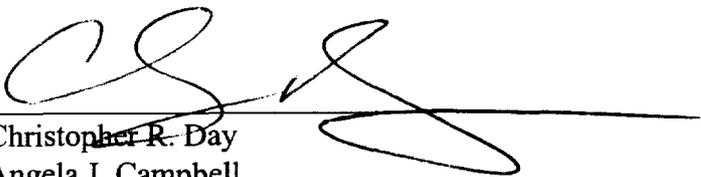
¹⁷See *id.* at 12250, ¶ 80.

While U.S. Catholic Conference, *et al.* commend the Commission's effort in the *Tribal Order* to address advertising and outreach issues, additional clarification and specificity is needed in this area. While the rule requires eligible carriers to provide outreach, it does not provide any guidelines or specific requirements for carrier compliance. Accordingly, it does not provide clarification of U.S. Catholic Conference, *et al.*'s request that specific forms of outreach, including written materials and broadcast advertising, be included in federal Lifeline regulations. Accordingly, U.S. Catholic Conference, *et al.* reiterate their request for clarification of the Lifeline outreach and advertising requirements to ensure that carriers are adequately informing both customers and potential customers of the availability of both Lifeline and Link Up services.

CONCLUSION

U.S. Catholic Conference, *et al.* respectfully renew three of the four requests in its original Petition for Reconsideration. First, U.S. Catholic Conference, *et al.* urge the Commission to modify its Lifeline rules to allow enrollment based on household income and eligibility for low-income assistance programs. Second, the Commission should modify its rules to prohibit carriers from requiring deposits for Lifeline service where toll blocking is not available or, at the very least, clarify that state commission have the right to prohibit deposits. Finally, U.S. Catholic Conference, *et al.* urge the Commission to further clarify its advertising and outreach requirements to ensure that all carriers pursue broad-based Lifeline notification and outreach efforts.

Respectfully submitted,



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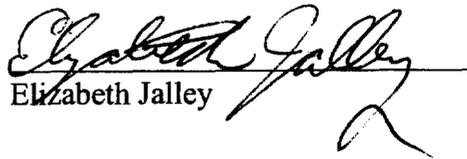
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Dated: August 6, 2001

CERTIFICATE OF SERVICE

I, Elizabeth Jalley, hereby certify that I have this 6th day of August, 2001, mailed by First Class mail, postage prepaid, a copy of the "Supplemental Comments of U.S. Catholic Conference, et al. Updating Petition for Reconsideration and Clarification" to the following:

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