



N A R U C
National Association of Regulatory Utility Commissioners

April 24, 2009

Chairman Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Robert M. McDowell
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: In the Matter of Lifeline/Link-Up Support for Broadband Internet Access, CC Docket No. 96-45; WC Docket Nos. 05-337, 04-36, and 03-109; and WT Docket Nos. 07-195 and 04-356.

Chairman Copps, Commissioner Adelstein and Commissioner McDowell,

At our most recent meeting in Washington, D.C., the National Association of Regulatory Utility Commissioners (NARUC) passed a resolution that “strongly encourages” the FCC to declare broadband Internet Access service as service eligible for the universal support programs. The availability and affordability of broadband Internet access services to low income consumers is critical to the provision of public education, public health, public safety and other services by the States. NARUC’s resolution, attached as appendix to this letter, specifically requests the FCC:

- *Immediately* create a three-year federal Lifeline and Link-Up Pilot Program for broadband Internet access services and enabling access devices;¹
- Ensure the Pilot Program is open to all broadband Internet access service providers (BIASP);
- Specify carriers will not automatically designated as ETCs for other universal service support programs if they participate in this program;
- Require any BIASP which receives universal service support for other FCC broadband programs within a State to participate in the Pilot Program within that State;
- Require all BIASP are eligible to participate in any FCC broadband program, including the Pilot Program to make equitable contributions to support such programs;

¹ Compare, the program discussed *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Lifeline and LinkUp; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services*; WC Docket No. 05-337; CC Docket No. 96-45; WC Docket No. 03-109; WC Docket No. 06-122 CC Docket No. 99-200; CC Docket No. 96-98; CC Docket No. 01-92; CC Docket No. 99-68; WC Docket No. 04-36; “Order on Remand and Report and Order and Further Notice of Proposed Rulemaking,” FCC 08- 262 (rel. Nov. 5, 2008).

- Direct the Federal-State Joint Board on Universal Service to evaluate the program during implementation;
- Formerly refer to the Joint Board the questions about continuing the pilot program and its potential configuration as a national program; *and finally*,
- Modify the proposed Pilot Program to allow States to administer the eligibility and verification procedures for low income participants.

The Commission's Lifeline and Link Up programs have made local telephone service widely available at an affordable rate. In an era defined by broadband access to the Internet, those same Commission mechanisms should now be applied to bring broadband services to low-income Americans. Targeted low-income support programs have been shown to be highly effective and economically efficient means of increasing low-income subscribership.²

NARUC supports the immediate creation of a pilot program and immediate referral of related issues concerning the program and its possible transition into a national program to the Federal State Joint Board on Universal Service.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with the FCC Secretary's Office. If there are questions about NARUC's position, please do not hesitate to contact the undersigned at 202.898.2207 or jramsay@naruc.org.

Respectfully Submitted,

James Bradford Ramsay
NARUC General Counsel

² See G. Rosston and B. Wimmer, *The "State" of Universal Service*, 12 INFORMATION ECONOMICS AND POLICY 261, 264-65 (2000) (citing other studies reaching the same conclusion). Both petitions currently before the Commission on this subject cite to data from the Pew Internet & American Life Project showing that broadband take rates vary widely by income, with only 25 percent of Americans with incomes below \$20,000 subscribing to broadband – substantially below the average of 55 percent and well below the 85 percent of households with incomes above \$100,000 that subscribe to broadband. Notice at A-32 ¶¶ 68-69, C-31 ¶¶ 64-65, citing CCIA Petition at 2; TracFone petition at 2.

***Resolution on Lifeline and Link-Up Program Support
for Broadband Internet Access Services and Devices***

WHEREAS, In 1997, pursuant to Section 254 of the Telecommunications Act of 1996 (the “Act”), the Federal Communications Commission (FCC) adopted rules that defined the services which are to be financially supported by federal universal service support mechanisms as those that are commonly referred to as voice communications services and has not revised this definition since that date; *and*

WHEREAS, Pursuant to section 254(b) of the Act, the FCC is directed to base policies for the advancement of universal service on the principle that access to advanced telecommunications and information services should be available at just, reasonable, comparable, and affordable rates in all regions of the Nation; *and*

WHEREAS, Pursuant to section 254(c) of the Act, universal service is an evolving level of telecommunications service and the definition of supported services shall take into account “the extent to which such telecommunications services –

- (A) are essential to education, public health, or public safety;
- (B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
- (C) are being deployed in public telecommunications networks by telecommunications carriers; and
- (D) are consistent with the public interest, convenience and necessity;” *and*

WHEREAS, The Federal-State Joint Board on Universal Service in its *Recommended Decision* (FCC 07J-4), released on November 20, 2007, concluded that broadband Internet access service satisfies the criteria in section 254(c) of the Act and recommended to the FCC that it “revise the current definition of supported services to include broadband Internet service;” *and*

WHEREAS, Since 1985, the FCC, pursuant to its general authority under sections 1, 4(i), 201, and 205 of the Act, and in cooperation with the State commissions and local exchange carriers, has administered the Lifeline program which was designed to increase the affordability and subscribership of local telephone service to low income consumers by providing discounts on the rates for local telephone service; *and*

WHEREAS, In 1987, the FCC approved the implementation of the Link Up America program which was designed to cover the initial connection charges for local telephone service for low income consumers; *and*

WHEREAS, The *Universal Service Monitoring Report*, prepared by the Federal and State Staff for the Federal-State Joint Board on Universal Service, released in December 2008, reported that from 1985 through March 2007 the subscribership for local telephone service among low income consumers has increased from a national rate of 80 percent to 88.4 percent; *and*

WHEREAS, The costs to administer and financially support the federal Lifeline and Link-Up programs are covered by FCC-mandated Universal Service Fund assessments to all telecommunications service providers, including wireline local and long distance telecommunications companies, wireless telecommunications companies, paging service companies and interconnected Voice over Internet Protocol (VoIP) service providers, based on interstate and international revenues; *and*

WHEREAS, The July 2008 report, *Home Broadband Adoption 2008*, by the Pew Internet and American Life Project (Pew/Internet), reported that 85 percent of U.S. households with incomes in excess of \$100,000 subscribed to broadband Internet access services; however, only 25 percent of U.S. households with incomes at or below \$20,000 subscribed to broadband services which was a decreased penetration rate for such households from 28 percent in March 2007; *and*

WHEREAS, Pew/Internet reported that a plurality of dial-up users cited the price of broadband Internet access services as the reason why they did not subscribe to broadband Internet access service; *and*

WHEREAS, On November 5, 2008, the FCC released an *Order on Remand and Report and Order and Further Notice of Proposed Rulemaking* (FCC 08-262), in which it sought comments on the Chairman's Draft Proposal (Appendix A) and an Alternative Proposal (Appendix C) both of which contained a proposal to establish a Broadband Lifeline/Link Up Pilot Program (Pilot Program) "to examine how the Lifeline and Link Up universal service support mechanism can be used to enhance how the Lifeline and Link Up universal service support mechanism can be used to enhance access to broadband Internet access services for low-income Americans;" *and*

WHEREAS, The Appendix A and C Proposals planned to "make available \$300 million each year for the next three years to enable Eligible Telecommunications Carriers (ETCs) to support broadband Internet access service and the necessary access devices . . . if the ETC provides Lifeline service to an eligible household;" *and*

WHEREAS, The FCC, in Appendix A and C, concurred with the Joint Board's recommendation to add broadband Internet access service to the list of universal service supported services, but "for the limited purpose of the Pilot Program;" *and*

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) expressed its support in past resolutions for the expanded access and availability of affordable broadband Internet technologies in low-income communities across the United States; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 2009 Winter Committee Meetings in Washington, D.C., recognizes the critical role that the FCC and State Lifeline and Link-Up programs have played in expanding subscribership of local telephone service to low income consumers; *and be it further*

RESOLVED, That NARUC believes that the availability and affordability of broadband Internet access services to low income consumers is critical to the provision of public education, public health, public safety and other services by the States; *and be it further*

RESOLVED, That NARUC strongly encourages the FCC to declare broadband Internet access service as a service eligible for the universal service support mechanisms for the Lifeline and Link-Up programs; *and be it further*

RESOLVED, That NARUC supports the establishment of a three-year federal Lifeline and Link-Up Pilot Program for broadband Internet access services and enabling access devices; *and be it further*

RESOLVED, That NARUC asks the FCC to ensure that:

(1) the Pilot Program will be open to all broadband Internet access service providers, irrespective of whether they are an ETC for the existing Lifeline and Link-Up programs, and that they will not be automatically designated as ETCs for other universal service support programs;

(2) any broadband Internet access service provider which receives universal service support for other FCC broadband programs within a State will also be required to participate in the Pilot Program within that State; and

(3) all broadband Internet access service providers which are eligible to participate in any FCC broadband program, including the Pilot Program, be required to make equitable financial contributions to support such programs; *and be it further*

RESOLVED, That NARUC asks the FCC to direct the Federal-State Joint Board on Universal Service to conduct an evaluation of the Pilot Program during its implementation and to make recommendations regarding its continuation and configuration as a national program; *and be it further*

RESOLVED, That because of the States' significant experience in administering Lifeline and Link-Up programs for local telephone service the FCC should modify its proposed Pilot Program to allow States to administer the eligibility and verification procedures for low income participants in the Pilot Program.

Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors February 18, 2009