TELSCAPE

January 7, 2010

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Proposed Pilot Program for Lifeline and Link Up Support of Broadband Services, WC Docket No. 03-109

Dear Chairman Genachowski:

This letter is submitted on behalf of Telscape Communications, Inc. to urge the Commission to implement the proposal, made in November 2008 in the *Further Notice of Proposed Rulemaking* portion of the *ISP Remand Order*,[1] for a Pilot Program to support broadband services with universal service fund monies. As has been recognized by numerous commentators before the Commission, and in speeches by Commissioners themselves, the universal extension of broadband in the U.S. is of critical importance for many reasons. However, numerous complicating factors present obstacles to the early implementation of federal support for universal broadband deployment. For the reasons described more fully below, Telscape urges the Commission to act promptly to initiate the Pilot Program proposed in the *Further Notice* of November 2008 without waiting for the completion of the deliberations on a more permanent approach. This interim action will allow early assistance to more than 2 million Lifeline eligible consumers, could raise the broadband subscription rate among that group to over 50 percent, will enhance the collection of data concerning appropriate levels of support and adoption rates, and will set the groundwork for important decisions on a permanent support mechanism. Importantly, all this can be accomplished immediately, without the need for further comments or proceedings.

Telscape Communications, Inc. is a competitive local exchange carrier located in Southern California and has been providing quality service at competitive rates for the last 10 years. Currently Telscape serves nearly 70,000 residential wireline telephone customers in Southern California, of which 95 percent are Spanish speaking and 80 percent are Lifeline eligible. Telscape is the largest facilities based, residential competitive carrier serving the Hispanic, Spanish speaking market in Southern California. Telscape serves its customers primarily by means of its own facilities combined with local loops leased from ILECs (the

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[1] *In re: High-Cost Universal Service Support*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262, Appendix A ¶ 64 (Nov. 5, 2008) ("Further Notice").

"UNE-L" approach) and, in some cases, by means of resale. Telscape participates in the Lifeline program in California and regularly contributes to Lifeline discussions at the California Public Utilities Commission. California is not a default Federal Lifeline - Link-Up state but instead administers its own California Lifeline state program that complies with all Federal Lifeline and Link-Up certification and validation procedures.

Telscape also offers broadband services to its customers. However, principally because more than 80 percent of them are Lifeline eligible, the "take rate" for broadband services among these customers is very low. Currently, a basic voice service for California customers is priced at $13.50 per month but California Lifeline customers only pay $6.11. Of the basic amount, the state pays for nearly 55%. California does not provide support for broadband services and, given the difficulty with state finances, is unlikely to start such support in the near future. Thus, while Telscape provides broadband bundled with voice service for a very reasonable additional $10.00 per month, even this additional amount is beyond the financial reach of most customers. Telscape's experience is consistent with the Commission's statement that only about 25 percent of households with annual incomes under $20,000 have broadband services.[2] If the U.S. is to continue to increase the penetration level of broadband for lower income consumers, universal service support is necessary.

In both the draft proposals attached to the November 2008 *Further Notice*, the Commission proposed a Pilot Program to support broadband deployment through expansion of the Lifeline and Link Up programs. Specifically, the Commission suggested dedicating $300 million per year, for each of three years, to support of Lifeline and Link Up for broadband.[3] These funds would come from the Universal Service Fund. The proposed support amounts were 50 percent of connection costs up to $100 for Link Up (including a device) and a doubling of current Lifeline support of monthly charges up to $10 per month for ongoing service charges.[4] All other eligibility criteria for Lifeline and Link Up would remain essentially the same, both for service providers and for consumers. Telscape submits that this proposal should be adopted immediately without major modifications. Further revisions to the plan could be subsequently considered in the proceeding for permanent reform.

Assuming that the proposed numbers were maintained, and that each consumer was supported to the maximum proposed amount, this Pilot Program would enable 1,363,636 Lifeline broadband customers in the first year alone ($100 connection fee + (12 x $10 monthly fee) = $220 per consumer per year; $300,000,000 divided by $220 = 1,363,636 consumers). Further, assuming that those consumers continued to receive monthly support in the second year, they would receive $163,636,320 in monthly support and the remaining $136 million would allow another 619,835 consumers to be added in the second year; these same assumptions would see another 281,743 consumers added in the third year. In total, almost 2.3 million broadband users

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2 *Further Notice*, Appendix A, ¶ 74.

3 *Id.*

4 *Id.*

could be added through the Pilot Program expansion of Lifeline and Link-up as proposed. This represents about 33 percent of the 7 million low income consumers cited by the *Further Notice*; when added to the existing 25 percent subscription rate, the result is an increase in broadband penetration to over 50 percent for the group as a whole.

That this could be accomplished starting immediately, without the need for further deliberations or rulings on the many thorny issues which bedevil a final resolution of universal service reform, is a godsend. The Commission should act quickly to help the 2.3 million Americans who could obtain the benefits of broadband now, without the need to wait for the various complex proceedings to wind their way to a conclusion.

As a matter of administrative law, the November 2008 *Further Notice* described the proposal for the Pilot Program in detail, and public comments have been received.[5] As a matter of public interest, there is nearly unanimous agreement that universal service support should be extended to broadband services. Indeed, within the last month the Commission received a Report on the National Broadband Plan process which highlighted the "Affordability Gap" and the need for USF support for low income broadband adoption.[6] This record provides a sufficient legal basis for immediate action.

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[5] Public Notice: Comment Dates Established for Comprehensive Intercarrier Compensation and Universal Service Fund Reform Further Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 99-200, 96-98, 01-92, 99-68, WC Docket Nos. 05-337, 03-109, 06-122, 04-36, DA 08-2486 (WCB rel. Nov. 12, 2008). *See, also In re: High-Cost Universal Service Support*, 23 FCC Rcd 17323 (rel. Dec. 2, 2008) (extending the time for Reply Comments).

[6] News: Options for a National Broadband Plan, Task Force Provides Framework for Final Phase in Development of Plan (Dec. 16, 2009) (including attachment of presentation: "National Broadband Plan Policy Framework").

And while the Commission has also issued a recent Public Notice seeking additional comments on issues related to universal service support for broadband,[7] the number and complexity of the Lifeline/Link Up questions posed there suggests a lengthy follow-on process will be required to reach a permanent solution to the various issues. Low income American consumers need not be forced to wait for a final determination on all such issues. The Pilot Program will bring much needed early assistance on an interim basis and is fully ripe for immediate adoption. Telscape submits that the law allows immediate adoption of the proposed Pilot Program and the public interest demands it.

Respectfully submitted,

Philip Siegel
Telscape Communications, Inc.

cc: Commissioner Meredith Attwell Baker
Commission Mignon Clyburn
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Sharon Gillett, Chief, Wireline Competition Bureau, FCC
Jennifer McKee, Acting Chief, Telecommunications
Access Policy Division, Wireline Competition Bureau, FCC
Blair Levin, Executive Director, Omnibus Broadband Initiative
Carol Mattey, Senior Policy Advisor, Omnibus Broadband Initiative

[7] Public Notice: Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan, Pleading Cycle Established, NBP Notice # 19, GN Docket Nos. 09-47, 09-51, 09-137, DA 09-2419 (Rel. Nov. 13, 2009).