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

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FCC Mail Room

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link Up	)	WC Docket No. <u>03-109</u>
	)	

**RECOMMENDED DECISION**

**Adopted: November 3, 2010**

**Released: November 4, 2010**

By the Federal-State Joint Board: Commissioner Baker and Senior Assistant Attorney General ffitich issuing separate statements; Commissioners Clyburn, Copps, and Board Member Burke approving in part, concurring in part, and issuing separate statements; Chairmen Baum and Cawley and Commissioner Landis concurring in part, dissenting in part, and issuing separate statements.

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**I. INTRODUCTION**

1. In its May 4, 2010 *Referral Order*, the Commission asked the Federal-State Joint Board

on Universal Service (Joint Board) to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs, which currently provide discounts on telephone service for low-income customers.<sup>1</sup> This Recommended Decision addresses these issues and, in addition, recommends that the Commission take into consideration the issues of broadband, overall fund size, and prepaid wireless Lifeline service as it moves forward with universal service reform.

2. In this Recommended Decision, the Joint Board recommends that: (1) the Commission encourage automatic enrollment as a best practice for all states; (2) the Commission adopt uniform minimum verification procedures and sampling criteria that would apply to all eligible telecommunications carriers (ETCs) in all states; (3) states be allowed to utilize different and/or additional verification procedures so long as these procedures are at least as effective in detecting waste, fraud, and abuse as the uniform minimum required procedures; (4) all ETCs in all states be required to submit the data results of their verification sampling to the Commission, the states, and the Universal Service Administrative Company (USAC) and that the results be publicly available; (5) the Commission adopt mandatory outreach requirements for all ETCs that receive low-income support; and (6) the Commission maintain advisory guidelines for states with respect to performing low-income outreach.

3. Additionally, in this Recommended Decision, the Joint Board recommends that the Commission seek further comment on numerous universal service low-income program issues, including whether the current eligibility requirement of household income at or below 135 percent of the federal poverty guidelines (FPG) should be raised to 150 percent for the existing Lifeline and Link Up programs; the potential impact, costs, and benefits of minimum uniform eligibility requirements; and the costs and benefits of database certification and verification of low-income consumers' eligibility.

4. Finally, the Joint Board responds to other issues raised by the *2010 Referral Order*, including the request that the Joint Board "consider how the potential expansion of the low-income program to broadband would affect any of its recommendations."<sup>2</sup> While the Joint Board has found it difficult to consider whether any of the instant recommendations should be modified prior to the appropriate consideration of the broadband services that might be included in an extension of the low-income program, it reiterates the importance of broadband service to consumers. Indeed, consistent with the Joint Board's *2007 Recommended Decision* that universal service funding is appropriate for broadband network deployment, the National Broadband Plan's recommendation that the Commission reform the Universal Service Fund to support the provision of both voice and broadband communications, and section 254(b)(3) of the Communications Act of 1934, as amended (the Act), the Joint Board recommends that the Commission adopt an additional principle for universal service pursuant to section 254(b)(7) of the Act – that universal service support should be directed where possible to networks that provide both broadband and voice services. In particular, the Joint Board supports deployment and maintenance of broadband services in areas that are now unserved or underserved, although it remains important to continue support for existing voice networks. Further, the Joint Board acknowledges that the extension of universal service support to broadband raises a number of issues which the Joint Board highlights for the Commission to consider as it undertakes broader universal service reform. The Joint Board also raises additional issues for consideration that were raised in the record, including the need for close review of prepaid wireless service offerings and fund size.

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<sup>1</sup> *Federal-State Joint Board On Universal Service; Lifeline and Link-Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, 25 FCC Rcd 5079 (2010) (*2010 Referral Order*).

<sup>2</sup> *2010 Referral Order*, 25 FCC Rcd at 5088, para. 24.

## II. CONSUMER ELIGIBILITY

### A. Background

5. Currently, Lifeline and Link Up eligibility is based upon participation in means-tested programs and, in some states, upon income. In states that mandate Lifeline and Link Up support, the consumer must meet eligibility criteria established by the state, consistent with sections 54.409 and 54.415 of the Commission's rules.<sup>3</sup> The current rules allow states with their own Lifeline and Link Up programs flexibility in establishing their own income-based eligibility criteria, though some of these states instead use the federal default eligibility criteria.<sup>4</sup> Federal default criteria apply to eligibility for federal Lifeline and Link Up support in states that do not mandate state Lifeline support.<sup>5</sup> The federal default eligibility criteria require consumers to certify that they participate in at least one of the following federal assistance programs: Medicaid; Food Stamps; Supplemental Security Income (SSI); Federal Public Housing Assistance; Low-Income Home Energy Assistance Program (LIHEAP); National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families (TANF).<sup>6</sup>

6. In the *2004 Lifeline and Link Up Order*, the Commission adopted, upon the recommendation of the Joint Board, an additional eligibility criterion based on income level.<sup>7</sup> This criterion is mandatory for federal default states, but optional for other states. Specifically, the Commission adopted the income-based standard of 135 percent of the FPG.<sup>8</sup> The Commission adopted this standard for two main reasons: (1) Commission staff analysis projected that an income-based criterion would result in approximately 1.17 million to 1.29 million new Lifeline/Link Up subscribers of which roughly one in five would be new subscribers to telephone service; and (2) existing low-income subscribers would more easily be able to maintain their service.<sup>9</sup>

7. In the *2010 Referral Order*, the Commission asked the Joint Board "to undertake a thorough review of the existing consumer eligibility requirements, as well as the certification and documentation requirements imposed on ETCs."<sup>10</sup> The Commission requested that the Joint Board "consider whether any changes should be made to the existing eligibility criteria in the Commission's rules."<sup>11</sup> Specifically, the Commission requested that the Joint Board examine "whether customers qualifying for low-income support based on income should be eligible to receive support if their income is at or below a percentage of the federal poverty guidelines different than the current 135 percent threshold."<sup>12</sup> Finally, the Commission asked the Joint Board to "consider whether certain classes of

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<sup>3</sup> 47 C.F.R. §§ 54.409, 54.415.

<sup>4</sup> 47 C.F.R. § 54.409.

<sup>5</sup> 47 C.F.R. § 54.409(b).

<sup>6</sup> *Id.* Low-income consumers living on Tribal lands may qualify by participation in one of several additional assistance programs: Bureau of Indian Affairs general assistance; Tribally-administered TANF; or Head Start (only those meeting its income-qualifying standards). See 47 C.F.R. § 54.409(c).

<sup>7</sup> See *Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, 19 FCC Rcd 8302, 8308-09, para. 10 (2004) (*2004 Lifeline and Link Up Order*).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *2010 Referral Order*, 25 FCC Rcd at 5081, para. 6.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

individuals, such as residents of homeless shelters, should be automatically eligible for participation in the low-income programs.”<sup>13</sup>

## B. Discussion

8. *Eligibility requirements.* The Joint Board deliberated on the alternative income-based eligibility criterion and whether the Commission should adopt uniform minimum eligibility standards applicable to all states, including both income and program-based eligibility criteria. The Joint Board recommends that the Commission seek comment to identify and quantify the potential impact, costs, and benefits of minimum uniform eligibility requirements and where such burdens and benefits will occur. The Joint Board supports the concept of minimum uniform eligibility requirements, but acknowledges that there are potential difficulties in terms of cost and administration that must be explored before the Joint Board can conclude that such requirements should be adopted.<sup>14</sup> The Joint Board’s support presumes that states would be able to set eligibility criteria in addition to the minimum requirements. The Joint Board recommends that the Commission adopt minimum uniform eligibility requirements only if the impacts on the states are not unreasonable.

9. Requiring all states to include participation in qualifying federal programs as eligibility criteria could simplify ETC certification of consumer eligibility. Further, a federal baseline of eligibility criteria may increase program participation. The Joint Board recognizes Qwest’s objections to uniformity of eligibility criteria – that states and providers need the flexibility of state rules<sup>15</sup> – but the Joint Board’s recommendation would allow states to maintain and add eligibility standards beyond the minimum uniform requirements tailored specifically to each state’s unique situation. Additionally, allowing states to maintain and add eligibility standards beyond the minimum uniform requirements will prevent existing eligible Lifeline customers from losing Lifeline support.

10. *Income eligibility.* The Joint Board recommends that the Commission seek comment to determine whether the current eligibility requirement of household income at or below 135 percent of the federal poverty guidelines should be raised to 150 percent for the existing Lifeline and Link Up programs in states that include an eligibility option based only on household income. Comments filed in this proceeding, as explained below, suggest that 135 percent of the FPG may be too low a standard and that 150 percent may be more appropriate. Expansion of eligibility would also allow more of those in economic need of Lifeline and Link Up support to access these important services without unduly impacting the overall sustainability of the Universal Service Fund. This recommendation to seek comment on raising the income eligibility to 150 percent of the FPG does not apply to broadband Lifeline and Link Up support should broadband be included as a supported service. This is a separate issue discussed later in this recommendation. The Joint Board cannot, at this time, conclude that this eligibility requirement should apply if the Commission ultimately expands universal service and the Lifeline and Link Up programs to encompass broadband.

11. Many commenters favor raising the income eligibility criteria for end-user customers qualifying for low-income support to a level higher than the current 135 percent threshold of the FPG. NASUCA reiterates its long-standing support for moving the income eligibility standard to 150 percent of

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<sup>13</sup> *Id.*

<sup>14</sup> *See, e.g.,* Consumers Groups Comments at 10. Additionally, not all states include all programs for eligibility that are currently required under federal default rules. Modifications to state program eligibility requirements will cost money, take time to implement, and may require changes to state laws. Only about half of the states currently have an income-based eligibility option for low-income consumers not participating in qualifying programs.

<sup>15</sup> Qwest Reply Comments at 2.

the federal poverty guidelines.<sup>16</sup> Benton agrees and notes that other federal low-income support programs, such as LIHEAP, already have a 150 percent threshold.<sup>17</sup> The Consumer Groups express the same sentiment, arguing that the FPG formula has been criticized as a dated and inaccurate measurement of poverty, and that alternative studies have suggested income levels for economic “self-sufficiency” at 161 percent of the poverty level.<sup>18</sup> The Consumer Groups note further that, during the past two fiscal years, the U.S. Congress has increased the maximum income eligibility for LIHEAP from the higher of 150 percent of FPG or 60 percent of state median income to 75 percent of state median income.<sup>19</sup> Increasing the income eligibility criteria to 150 percent of the FPG, as suggested by many commenters, could help to increase the subscriber rate among low-income consumers, which is a long-standing goal of universal service. Conversely, Verizon and USTelecom argue against expansion of program eligibility. According to Verizon, “there is no demonstrable need” to do so, while USTelecom argues that such expansion is “unnecessary.”<sup>20</sup> According to US Telecom, there is no evidence that expansion of the federal eligibility rules will materially change the Lifeline take rates among low-income consumers, and low-income consumers already exhibit strong telephone subscribership rates. Relying on the FCC’s May 2010 Telephone Penetration by Income by State report, USTelecom asserts that the national telephone subscribership rate among low-income consumers in households with an annual income of less than \$20,000 amounted to 90.4 percent as of March 2009.<sup>21</sup>

12. *Serving the homeless community.* The Joint Board recommends that the Commission seek comment on how to increase participation in the low-income programs among homeless shelter residents (and possibly other segments of the low-income community) while maintaining a commitment to prevent waste, fraud, and abuse. The Commission should seek comment not only on when and how eligibility should be awarded to residents of homeless shelters, but also on when and how eligibility may be withdrawn should the consumer no longer be homeless. Additionally, the Joint Board recommends that the Commission seek comment on the feasibility of making Lifeline funding available to agencies or non-profit organizations that are able to provide communications services to homeless populations. Public comment will assist the Commission in determining how to serve these traditionally underserved individuals. The Joint Board recognizes that social welfare agencies and non-profit organizations do not qualify as ETCs eligible for low-income support, and therefore recommends that the Commission only seek comment on this issue if the Commission believes it could have the legal authority to extend universal service low-income support to non-ETCs.

13. The underlying rationale behind these recommendations is that members of certain communities, such as residents of homeless shelters, are frequently underserved due to high mobility and

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<sup>16</sup> Consumer Advisory Committee Reply Comments at 9; NASUCA Comments at 7; NASUCA Reply Comments at 11.

<sup>17</sup> Benton Comments at 5-6.

<sup>18</sup> Consumer Groups Comments at 7-8.

<sup>19</sup> *Id.* at 8-9.

<sup>20</sup> USTelecom Comments at 5; Verizon Reply Comments at 5.

<sup>21</sup> The Joint Board recognizes the importance of making Lifeline support available to low-income households in need. In addition, based on experiences in some states, only a small portion of customers participate in the Lifeline program based on income eligibility. Therefore, even though a 150 percent of the FPG threshold may potentially increase the disbursement of Lifeline support, the increase is unlikely to be substantial solely based on the income eligibility.

have difficulties in documenting and certifying eligibility.<sup>22</sup> Certain groups commenting on the *2010 Referral Order* recognize this: Benton, the Consumer Advisory Committee, and Consumer Groups assert that low-income support should be extended to group housing, though not necessarily automatically.<sup>23</sup> The Florida PSC also supports the expansion of low-income programs to group living facilities.<sup>24</sup>

14. Many of those filing comments with regard to the homeless shelter issue address the inherent difficulties of serving and verifying such highly mobile populations.<sup>25</sup> The Joint Board shares such reservations and, therefore, recommends that, as the Commission moves forward with any plans to make certain classes of individuals automatically eligible for participation in the low-income programs, it keep in mind its commitment to prevent fraud, waste, and abuse.

### III. AUTOMATIC ENROLLMENT

#### A. Background

15. Some states employ “automatic enrollment” whereby an “electronic interface between a state agency and the carrier . . . allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program.”<sup>26</sup> Several states have reported that automatic enrollment is an efficient and effective means of increasing participation in the Lifeline and Link Up programs.<sup>27</sup> In 2004, the Commission agreed with the Joint Board’s recommendation and declined to require all states to adopt automatic enrollment, instead encouraging all states to adopt such an approach.<sup>28</sup> In so doing, the Commission agreed with the Joint Board’s concern that automatic enrollment could impose significant administrative, technological, and financial burdens on states and ETCs.<sup>29</sup>

16. In the *2010 Referral Order*, the Commission asked the Joint Board to revisit the issue of whether the Commission should require automatic enrollment in all states in order to participate in the federal low-income program.<sup>30</sup> Further, the Commission asked that, should the Joint Board recommend such an approach, how the resulting administrative, technological, and financial challenges could be

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<sup>22</sup> Benton Comments at 6; Consumer Advisory Committee Reply Comments at 9-10; Ohio Commission Comments at 7.

<sup>23</sup> Benton Comments at 6; Consumer Advisory Committee Reply Comments at 9; Consumer Groups Comments at 12-14; Consumer Groups Reply Comments at 5.

<sup>24</sup> FL PSC Comments at 4.

<sup>25</sup> Ohio Commission Comments at 7; Smith Bagley Comments at 4; Smith Bagley Reply Comments at 8; Tracfone Comments at 4-5.

<sup>26</sup> See *Federal-State Joint Board on Universal Service Recommended Decision*, 18 FCC Rcd 6589, 6608, para. 38 (2003) (*2003 Recommended Decision*); see also LIFELINE ACROSS AMERICA WORKING GROUP, REPORT OF THE FCC/NARUC/NASUCA WORKING GROUP ON LIFELINE AND LINK-UP: “LIFELINE ACROSS AMERICA” 6 (2007), <http://www.lifeline.gov/LLLUReport.pdf> (WORKING GROUP REPORT). In its Report, the Working Group cited Iowa, New Mexico, New Jersey, New York, North Dakota, and Washington as states utilizing automatic enrollment in some fashion. WORKING GROUP REPORT at 6, 10.

<sup>27</sup> See *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8318, para. 25; see also WORKING GROUP REPORT at 9-10.

<sup>28</sup> See *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8318, para. 25.

<sup>29</sup> *Id.*; see also *2003 Recommended Decision*, 18 FCC Rcd at 6608, para. 40.

<sup>30</sup> See *2010 Referral Order*, 25 FCC Rcd at 5085, para. 9.

addressed.<sup>31</sup>

17. Commenters support a wide range of views regarding automatic enrollment. For example, AT&T is strongly opposed to implementing an automatic enrollment mechanism.<sup>32</sup> In AT&T's view, the costs of implementing mandatory automatic enrollment could significantly increase the size of the low-income fund.<sup>33</sup> The Nebraska PSC also takes the position that automatic enrollment is cost prohibitive.<sup>34</sup> The California PUC supports a federal mandate for automatic enrollment conditioned on federal payment for the costs of electronic communications systems, provided that the systems are designed to ensure privacy and security of customer information.<sup>35</sup> The Florida PSC supports the use of automatic enrollment processes for Lifeline.<sup>36</sup> However, many commenters state that the Commission should not impose a mandatory automatic enrollment requirement for Lifeline on the states.<sup>37</sup>

## B. Discussion

18. The Joint Board recommends that automatic enrollment should be encouraged as a best practice by the states, but believes that there are issues that must be more fully understood prior to imposing mandatory requirements on all states. Specifically, as explained below, the Joint Board recommends that the Commission further develop the record with regard to the administrative, technological, and funding issues of automatic enrollment.

19. *Administrative issues.* Several commenters note that, should the Commission decide to mandate automatic enrollment, there may be compliance difficulties if such a mandate included increased costs to state social service agencies.<sup>38</sup> Many commenters suggest that there are likely to be significant up-front costs associated with the development of software interfaces between state and federal agencies and Lifeline providers. Others note, however, that some agencies have been able to implement automatic enrollment programs.<sup>39</sup> For instance, Florida required passage of a new state law requiring agencies and providers to cooperate in the establishment of electronic database transfer capabilities coupled with the need to protect consumer privacy.<sup>40</sup> Any changes in state laws necessary to effectuate automatic enrollment may impede the ability of the Commission to mandate nationwide automatic enrollment. Other commenters highlighted areas for particular attention, including ensuring that automatic enrollment does not direct consumers to some but not all of the Lifeline providers in a state;<sup>41</sup> the need for prompt

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<sup>31</sup> *Id.*

<sup>32</sup> AT&T Comments at 7-8.

<sup>33</sup> *Id.* at 8.

<sup>34</sup> Nebraska PSC Comments at 3-4.

<sup>35</sup> CPUC Comments at 13-14.

<sup>36</sup> FL PSC Comments at 2, 5-6.

<sup>37</sup> *Id.* at 2-5. Several other commenters support automatic enrollment without a Commission mandate. *See, e.g.* CG Comments at 15; CVM Comments at 3, GCI Reply Comments at 8; NASUCA Comments at 7; PIC Reply Comments at 6; PRWI Comments at 9-11; Qwest Reply Comments at 3; Smith Bagley Comments at 10; Smith Bagley Reply Comments at 14; TracFone Comments at 5; YourTel Comments at 1-3.

<sup>38</sup> Consumer Advisory Committee Reply Comments at 11; NASUCA Reply Comments at 8; PaPUC Comments at 5.

<sup>39</sup> FL PSC Comments at 4-5.

<sup>40</sup> *Id.* at 5-6.

<sup>41</sup> TracFone Comments at 7.

notification of eligibility to carriers;<sup>42</sup> and that an automatic enrollment program should not prevent eligible consumers from qualifying under the income criteria instead.<sup>43</sup> The Joint Board recommends that the Commission seek further comment on these issues:

20. *Technological issues.* The Missouri and Pennsylvania commissions point out that adoption of automatic enrollment procedures may have significant administrative, technological, and financial burdens, especially in view of the current realities of state and federal government budget deficits and fiscal constraints.<sup>44</sup> In view of the fact that automatic enrollment has already been implemented by some states, this past experience may assist other states in developing automatic enrollment processes. Nevertheless, each state may face unique technological circumstances and financial burdens that may make it impractical or unduly burdensome to implement automatic enrollment. For example, the ability of a state to implement automatic enrollment may depend upon the nature and capabilities of the state's existing data processing equipment, software, and data communication networks, as well as the need to invest in new systems to make automatic enrollment possible. The Joint Board recommends that the Commission seek further comment on these issues.

21. *Funding issues.* Numerous commenters point out the costs of interconnecting agency databases with carrier databases while simultaneously protecting consumer privacy.<sup>45</sup> AT&T's opposition to automatic enrollment is based on its conclusion that the increased costs associated with automatic enrollment would increase the size of the fund by several billion dollars, excluding broadband.<sup>46</sup> AT&T's scenario appears to include the costs of automatic enrollment systems, plus the impact of significant expansion of funding should participation in the Lifeline program increase dramatically as a result of automatic enrollment. Both NASUCA and the Florida PSC suggest that Lifeline participation increases significantly with implementation of automatic enrollment.<sup>47</sup> While fund size is a legitimate concern, the Joint Board notes that increased Lifeline participation is a significant program goal. The Joint Board also recommends that the Commission seek further comment on issues associated with funding of automatic enrollment.

22. *Other issues.* The overwhelming majority of commenters support continuation of the Commission's policy of encouraging states to develop automatic enrollment procedures but not requiring states to do so.<sup>48</sup> Many commenters suggest caveats that should be considered by the states in order to protect privacy, such as treating all ETCs in a like manner; allowing for continued eligibility through income criteria; and not allowing default selections that favor incumbents.<sup>49</sup> The need for cooperation between state and federal agencies is pointed out by a number of states engaged in the process of

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<sup>42</sup> *Id.* at 6.

<sup>43</sup> PRWI Comments at 10, Smith Bagley Reply Comments at 14. MoPSC points out the need to attempt to avoid reluctance on the part of federal agencies to allow any parties direct access to their data bases. MoPSC Comments at 5.

<sup>44</sup> MoPSC Comments at; PaPUC Comments at 5.

<sup>45</sup> Consumer Groups Comments at 15; CPUC at 13-14; FL PSC Comments at 4-5; PaPUC Comments at 5, PaPUC Reply Comments at 5-6.

<sup>46</sup> AT&T Reply Comments at 12.

<sup>47</sup> FL PSC Comments at 4-5; NASUCA Comments at 7.

<sup>48</sup> FL PSC Comments at 4-5; PRWI at 9-11, PRWI Reply Comments at 14; Smith Bagley at ii, 13.

<sup>49</sup> CPUC at 13-14; PRWI Comments at 11, PRWI Reply Comments at 15; Smith Bagley Comments at iii and at 9-10; Smith Bagley Reply Comments at 14.

implementing various state automatic enrollment programs.<sup>50</sup> Several states provided information on best practices and advice on automatic enrollment.<sup>51</sup> The Joint Board recommends that this information be considered by those states that are proceeding to develop electronic interfaces to assist in administration of the Lifeline program.

#### IV. VERIFICATION

##### A. Background

23. Verification rules help to ensure the integrity of the low-income programs by determining whether participants remain eligible under program rules.<sup>52</sup> The Commission's rules governing ongoing verification of consumers' continued eligibility for low-income support are bifurcated in a manner similar to the rules associated with initial eligibility and certification. Following the Joint Board's *2003 Recommended Decision*, in 2004, the Commission adopted changes to the initial verification rules, including requiring all states to verify continued eligibility, encouraging states to develop an on-line verification process, adopting federal default criteria for annually verifying program-eligibility including requiring 60 days notice of cancellation to consumers that do not return their verification form, and adopting federal default criteria for verifying income-eligibility.<sup>53</sup> Accordingly, the Commission's current verification rules require ETCs in states that have their own Lifeline programs to comply with state verification procedures.<sup>54</sup> ETCs in federal default states are required to implement procedures to verify annually the continued eligibility of a statistically valid random sample of their Lifeline consumers and provide results of that sample to USAC.<sup>55</sup> As a result, consumers qualifying for Lifeline benefits in federal default states may be required to verify with their ETC, on an annual basis, their continued eligibility to receive Lifeline support.<sup>56</sup> However, consumers in states that have their own Lifeline programs and verification procedures may or may not be subject to the same requirements, and those states may or may not provide the results of their verification samples to USAC.

24. A few states face even more complicated verification procedures due to the limitation of their jurisdiction over certain carriers. For example, some states have a state Lifeline program but

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<sup>50</sup> MoPSC Comments at 5.

<sup>51</sup> See, e.g., CPUC Comments; FL PSC Comments.

<sup>52</sup> See, e.g., USAC, SECOND QUARTER APPENDICES - 2010, available at <http://usac.org/about/governance/fcc-filings/2010/quarter-2.aspx> (2010).

<sup>53</sup> See *2004 Lifeline and Link-Up Order*, 19 FCC Rcd at 8302, 8322-24, paras. 33-36; see also *2003 Recommended Decision*, 18 FCC Rcd at 6605-6611, paras. 31-46.

<sup>54</sup> See 47 C.F.R. § 54.410(c)(1). As explained above, the Commission recently concluded that when a state Commission mandates Lifeline support, but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default criteria for certification and verification purposes. See *Lifeline and Link-Up, Order and Declaratory Ruling*, WC Docket No. 03-109, 25 FCC Rcd 1641, 1641, 1645, paras. 1, 9 (Feb. 2, 2010) (*Lifeline Declaratory Ruling*).

<sup>55</sup> See 47 C.F.R. § 54.410(c)(2).

<sup>56</sup> See 47 C.F.R. § 54.410(c). For example, as a condition of designating TracFone Wireless as an ETC eligible to receive Lifeline support, the Commission requires TracFone's subscribers to self-certify at the time of service activation and annually thereafter that they are the head of household and that they receive Lifeline-supported service only from TracFone. See *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15098-99, para. 6 (2005) (*TracFone Forbearance Order*); see also *TracFone ETC Designation Order*, 23 FCC Rcd at 6214-15, para. 21.

exclude the contribution from and participation of wireless ETCs. The Commission clarified in a recent order that when a state commission mandates Lifeline support, but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default criteria for certification and verification purposes.<sup>57</sup> In these states (e.g., Washington), wireline ETCs follow state Lifeline verification procedures while wireless ETCs follow the federal default procedures.

25. Based on the recent growth in federal low-income support and expansion of participating carriers, the Commission referred a number of issues regarding verification to the Joint Board.<sup>58</sup> Specifically, in order to reevaluate whether the Commission is taking all appropriate steps to ensure program integrity, the Commission asked the Joint Board to consider whether verification procedures should be more consistent across the states and whether any changes should be made to the existing verification procedures in the Commission's rules.<sup>59</sup>

## **B. Discussion**

26. The Joint Board recommends that the Commission adopt uniform minimum verification procedures and sampling criteria that would apply to all ETCs in all states. These uniform procedures would serve as a "floor" of minimum requirements upon which the states could impose stricter standards. Additionally, as part of the minimum verification procedures, the Joint Board recommends that all ETCs in all states be required to submit the data results of their verification sampling to USAC, the Commission, and their respective state(s), and that the results for each ETC be publicly available.<sup>60</sup> The Joint Board agrees with commenters that a uniform floor of minimum verification requirements across states could help improve low-income service and utilization across the states by reducing confusion, streamlining administration, and allowing consumers and ETCs to be treated more equally across states.<sup>61</sup> Today, eight states and two territories are required to follow the federal default verification rules and procedures,<sup>62</sup> while 42 states employ their own verification procedures.

27. Uniformity of verification requirements would help provide better instruction to both carriers and consumers seeking to utilize the Lifeline program by more clearly identifying what information and what steps are required to participate, would help improve consistency in data collection, and would further the goal of maintaining technological neutrality.<sup>63</sup> Further, the Joint Board agrees that requiring all ETCs across all states to submit their verification sampling data to USAC, the Commission, and their state would provide a more complete data set and allow for more accurate nation-wide program analysis. Gathering the same minimal data from all states would provide a more complete picture of how the Lifeline program is utilized and help identify verification issues on a regional and national basis. This

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<sup>57</sup> See *Lifeline Declaratory Ruling*, 25 FCC Rcd at 1645, para.9.

<sup>58</sup> See *2010 Referral Order*, 25 FCC Rcd at 5088-89, paras. 25-30.

<sup>59</sup> See *id.* at 5088-89, paras. 27-28.

<sup>60</sup> The Joint Board received little, if any, comment directly on this issue. However, the DC Public Service Commission stated that audit results should be made available to state commissions, and the Joint Board agrees. See DC PSC Comments at 5-6.

<sup>61</sup> See AT&T at 7; Consumer Groups Comments at 22; Leap Comments at 2, 6-7 (stating carriers are equally confused by varying procedures across states); NASUCA Comments at 5-6; PRWI at 9; Smith Bagley Reply Comments at 9, 11-12; Sprint Comments at 2; TracFone Reply Comments at 1; YourTel Comments at 1-3.

<sup>62</sup> See USAC Low Income at <http://www.usac.org/li/low-income/eligibility/federal-criteria.aspx>.

<sup>63</sup> See Leap Comments at 2, 6-7; TracFone Reply Comments at 4; Verizon Reply Comments at 1-2.

more complete data set would also better inform the Commission on how best to prevent waste, fraud, and abuse. Moreover, making the data available to the public could help inform all parties, including those paying to support the program, about whether the support funds are being used for the intended purposes.

28. The Joint Board agrees that, while adopting uniform reporting and a set of uniform procedures and sampling criteria has definite advantages, those procedures should not be so constrained as to prohibit the use of mechanisms by individual states that would be more effective in reducing waste, fraud, and abuse. Individual states may have state-specific concerns or program requirements that necessitate targeted or different solutions that may not be applicable to all states. Accordingly, the Joint Board recommends that states be allowed to utilize different and/or additional verification procedures so long as these procedures are at least as effective in detecting waste, fraud, and abuse as the uniform minimum required procedures.<sup>64</sup> These procedures may include the use of real-time verification mechanisms or databases.

29. The Joint Board also recommends that the Commission seek further comment on what should comprise the uniform minimum verification procedures, including required minimum sample size, sampling methodology, sampling criteria, and regularity of verification. The Commission should also seek further comment on what would be the costs for state and third party verification, and whether the verification sampling results and data should be made public and available to all states. The Joint Board agrees that the increase in the number of Lifeline subscribers and the addition of new wireless technologies have created new challenges for effectively completing verification sampling under the current rules.<sup>65</sup>

30. Therefore, in developing uniform minimum verification procedures, the Joint Board recommends that the Commission first reconsider both the required sampling size, and whether the previous statistically valid random sampling equation is still relevant.<sup>66</sup> A uniform minimum method of conducting the “statistically valid random sample” would help ensure accuracy, improve consistency among the sampling data, and assist in analyzing regional and national verification issues.<sup>67</sup> Some commenters have suggested that verification should be conducted for 100 percent of Lifeline recipients to further the goal of eliminating waste, fraud, and abuse in the program.<sup>68</sup> However, others argue that the cost of conducting such a thorough review outweighs the benefits.<sup>69</sup> The Joint Board’s proposal would

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<sup>64</sup> See Consumer Groups Comments at 22; CPUC Comments at 3, 21; MDTC Comments at 2; *see also 2003 Recommended Decision*, 18 FCC Rcd at 6609, para. 41 (recognizing the unique state interests that may arise).

<sup>65</sup> See Nexus Comments at 6-7; Ohio Comments Commission at 13-14.

<sup>66</sup> See *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8365, Appendix J-1. The size of a statistically valid random sample varies based on a number of factors, including the number of Lifeline subscribers (N) and the previously estimated proportion of Lifeline subscribers “inappropriately taking” Lifeline service (P). ETCs use the results of samples taken from previous years to determine the estimated proportion. In all instances, the estimated proportion, P, should never be less than .01 and never more than .06. For ETCs with large numbers of Lifeline subscribers (400,000 or more), a statistically valid random sample size is calculated as:  $\text{Sample Size} = 2.706 * P * (1 - P) / .000625$ . *Id.* For ETCs with less than 400,000 subscribers this formula can yield a sample size that is larger than necessary, and so a table of sample sizes is provided. *Id.* at 8366, Appendix J-2 and J-3. All ETCs must provide the estimated proportion for their sample size to USAC. *Id.*

<sup>67</sup> See Consumer Groups Comments at 22.

<sup>68</sup> See, e.g., Nebraska PSC Comments at 6; Ohio Commission Comments at 13 (stating that at least one carrier in that state verifies every customer).

<sup>69</sup> See NASUCA Reply Comments at 14; TracFone Comments at 9.

allow states to continue to verify 100 percent of their Lifeline customers' eligibility or to adopt such uniform minimum verification procedures. Minimum standards for determining sampling would be required for other states.

31. For purposes of determining the minimum, acceptable verification requirements, the Joint Board recommends that the Commission gather further data regarding the typical margin of error and confidence levels in verifying Lifeline subscribers and what are acceptable. The Commission should determine what minimum confidence levels and what maximum levels of sampling error and non-responsiveness, if any, are acceptable. Although the Joint Board received some comments on verification procedures in California, Florida, and Ohio, the record does not provide a sufficiently representative sample to advise on state best practices or to determine what method should be adopted as a minimum standard.<sup>70</sup> Accordingly, the Commission should gather further information on the best practice methodology for conducting random sampling.<sup>71</sup> A few states have reported that they conduct random sampling.<sup>72</sup> The Commission should reach out to those states for more information on their processes. The Commission should then consider whether to revise the statistically valid random sample equation and adopt a precise method of random sampling that can be uniform across all ETCs in all states.

32. Second, the Joint Board recommends that the Commission should also gather further information on whether the uniform minimum procedures should require ETCs to conduct verification directly with the consumer, or whether the state or the qualifying program administrator should conduct the verification. The Commission should also seek further comment on whether, alternatively, verification should be conducted by a neutral third-party. The Commission should specifically seek comment on the costs associated with implementing state or third-party verification procedures. Some commenters point out that verification by ETCs directly with the consumer may present challenges including lack of reliability in consumer responses and hesitancy of consumers to provide information to ETCs.<sup>73</sup> Additionally, some commenters argue that federal or state agencies administering the qualifying program may be able to provide more reliable and more accurate information for verifying program or income eligibility than consumers.<sup>74</sup> Certain states have reported that they periodically require submission of verification documents from their Lifeline recipients.<sup>75</sup> The Commission should seek out further information from these states on their processes and the reliability of their processes. Further, some commenters argue that ETCs should not be responsible for conducting verification.<sup>76</sup> For example,

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<sup>70</sup> See AT&T Comments at 16 (providing some information on Florida's verification process for pre-paid wireless providers); Consumer Groups Comments at 25-26; CPUC Comments at 21 (providing some data on California's verification process); FL PSC Comments at 9-10; Ohio Commission Comments at 13.

<sup>71</sup> See Nexus Reply Comments at 7-8 (suggesting various methods for conducting sampling).

<sup>72</sup> Alaska, Arizona, Florida, Maryland, Mississippi, Missouri, New Mexico, North Carolina, Ohio, Virginia, and West Virginia have reported that they conduct random audits of Lifeline recipients. See E-mail from states to Federal-State Joint Board (Aug. 18, 2010, 18:04 EST) (providing various state data on Lifeline eligibility, verification, and outreach procedures and practices) ("State Data").

<sup>73</sup> See TracFone Reply Comments at 6.

<sup>74</sup> See, e.g., CVM Comments at 3; Verizon Reply Comments at 1-2.

<sup>75</sup> Arizona, Florida, Idaho, Kentucky, Mississippi, Missouri, New Mexico, North Carolina, Ohio, Vermont, Virginia, and Wyoming have reported that they require periodic submission of documentation from Lifeline recipients to provide their continued eligibility. See State Data.

<sup>76</sup> See AT&T Reply Comments at 9-11, 14-16; Nebraska PSC Comments at 6; PRWI Comments at 11; Qwest Reply Comments at 6; TracFone Comments at 8-9; USTelecom Comments at 7.

CTIA and AT&T support a centralized system managed by a neutral third party.<sup>77</sup> The Joint Board, in the *2003 Recommended Decision*, noted that on-line verification is being utilized by some states already.<sup>78</sup> However, while the Joint Board received some additional comments regarding a few state verification procedures, the Joint Board recommends that the Commission seek further cost information for implementing each option before evaluating which procedure should be adopted as the uniform minimum standard.<sup>79</sup>

33. Third, the Joint Board recommends that the Commission seek further comment on whether verification should be conducted uniformly on an annual basis or at some other interval by all ETCs in all states. For example, the comments identify that, in certain instances, Florida requires verification every 60 days;<sup>80</sup> California requires annual verification;<sup>81</sup> and Ohio conducts verification at different intervals depending on the type of provider.<sup>82</sup> However, the overall record does not contain enough information to determine whether annual verification, or some other regular interval, would be most effective at furthering the goal of guarding against waste, fraud, and abuse without becoming overly burdensome. Therefore, the Commission should seek further comment on the benefits of varying methods, the costs, and the overall best practices for how often verification should be conducted before adopting a uniform minimum standard.

34. Lastly, the Joint Board recommends that the Commission seek further comment on what consumer information should be uniformly verified and collected. In addition to verifying continued eligibility, the Commission should inquire whether it is useful and feasible for the uniform minimum verification sampling procedures to require information regarding initial enrollment eligibility, the consumer's selected service (i.e., wireline or wireless), and whether a consumer is receiving Lifeline support for only one line per household. The Joint Board agrees with commenters who are concerned about strengthening the program and preventing waste, fraud, and abuse.<sup>83</sup> Likewise, the Joint Board agrees with commenters that suggest it is important to verify whether Lifeline recipients are receiving support in compliance with the Commission's one Lifeline-supported line per household rule.<sup>84</sup> The current federal default rules require that subscribers qualifying for Lifeline based on income eligibility self-certify regarding the number of individuals in their household.<sup>85</sup> The usefulness of this information is

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<sup>77</sup> See CTIA Reply Comments at 2-6; see also generally AT&T Comments (outlining a possible framework for a national database); DC PSC Comments at 5-6 (supporting a third party audit program).

<sup>78</sup> See *2003 Recommended Decision*, 18 FCC Rcd at 6609, 6627, para. 42, Appendix E (identifying Illinois, Minnesota, and Tennessee as states already having implemented on-line verification procedures). Florida, Kentucky, Washington, Wisconsin and Wyoming have also recently reported they have adopted on-line verification procedures in their states. See State Data.

<sup>79</sup> See *supra* note 72 (identifying some of the verification procedures for CA, FL, and OH).

<sup>80</sup> See AT&T Comments at 16 (identifying Florida's procedures); FL PSC Comments at 9-10 (stating that for a six-month period in 2009, their procedures have saved the USF over \$8.5 million); see also NASUCA Comments at 14 (supporting 60 days for certain carriers).

<sup>81</sup> See CPUC Comments at 21.

<sup>82</sup> Ohio Commission Comments at 13.

<sup>83</sup> See, e.g., Consumer Groups Comments at 27; DC PSC Comments at 5; NASUCA Reply Comments at 10; Nexus Reply Comments at 2-4.

<sup>84</sup> See DC PSC Comments at 5-6; Nexus Reply Comments at 4; Qwest Comments at 3-4.

<sup>85</sup> See 47 C.F.R. § 54.4410(c)(2).

limited, however, both because it is provided only by ETCs in federal default states and because it is unclear whether that support is received for only one line per household. The Joint Board received information from only a few non-federal default states regarding the information collected through their verification procedures. Much of the information collected appears to be limited in scope. For example, California requires only verification of continued eligibility.<sup>86</sup> As such, the Joint Board recommends that the Commission seek further comment on whether the uniform minimum verification standards should require ETCs to request information regarding initial eligibility, the service selected, and more specific household information regarding how many lines are received per household. The Commission should also seek further comment on whether there are better or different eligibility criteria that should be verified during the process.

## V. DATABASE

### A. Background

35. Given the widespread transition from paper-based environments to those effectively managed with electronic systems, in its *Referral Order*, the Commission asked the Joint Board to review online mechanisms that would allow carriers to automate their interactions with states and the federal government to certify a customer's initial and ongoing eligibility for program discounts.<sup>87</sup> The National Broadband Plan suggests that the Commission should consider a centralized database for online certification and verification, based on numerous such proposals in the record.<sup>88</sup> The Commission asked the Joint Board to address how any national or state databases might streamline certification and verification of low-income consumers' eligibility for the Lifeline and Link Up programs.<sup>89</sup> The Commission further asked the Joint Board to review alternatives to a database, and to recommend mechanisms that are reasonably practical, efficient, accurate, secure, and respectful of customer privacy.<sup>90</sup>

### B. Discussion

36. The Joint Board recommends that the Commission seek further comment and information necessary to determine whether the Commission should adopt a national database, potentially requiring interaction with state and/or regional databases and resources. The Joint Board recommends that the Commission seek further comment as to specifically what information would be contained in the database and the feasibility of collecting this information. The Joint Board also recommends that the Commission develop the record regarding the feasibility and potential advantages and/or disadvantages of regional and/or state databases as opposed to, or in addition to, a national database. In particular, the Joint Board recognizes that, while creating centralized databases of some kind (whether at the national, regional, and/or state level) may lead to certain advantages, significant questions exist regarding this approach. Therefore, as detailed more fully below, the Joint Board recommends that the Commission seek comment

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<sup>86</sup> See CPUC Comments at 21.

<sup>87</sup> *2010 Referral Order*, 25 FCC Rcd at 5086, para. 20.

<sup>88</sup> See National Broadband Plan at 173; see also Nebraska Public Service Commission Comments in re NBP PN #19 at 9 (suggesting "the Commission should work with states to develop an accurate system that could be administered either at a central location or as a cooperative arrangement between states and the Universal Service Administrative Company for eligibility and verification of low-income participants"); NASUCA Comments in re NBP PN #19 at 35 (suggesting that "a universal database could be created to trap 'double-dippers'" who seek to obtain Lifeline-supported service from two different providers).

<sup>89</sup> *2010 Referral Order*, 25 FCC Rcd at 5086, para. 20.

<sup>90</sup> *Id.*

on several key factors, including potential costs of building and maintaining a database, funding sources, administration, and security and privacy issues. Further, the Joint Board recommends that the Commission seek further comment as to what information should be contained in the database and the feasibility of collecting the information.

37. In response to the Joint Board's inquiry on these issues, a number of parties supported establishment of a centralized database for certification and verification of Lifeline consumers' eligibility.<sup>91</sup> The ETC industry, in general, supports such a database, while others point out significant implementation issues with such an approach. The record in this proceeding does not include the level of operational details or associated tangible cost estimates necessary to implement a national database at this time.

38. *National database.* Commenters assert many advantages of a centralized database of eligible Lifeline customers.<sup>92</sup> First, a national database could eliminate fraudulent and duplicate claims for Lifeline support because carriers no longer would rely solely on applicants' self-certification that they participate in one of the public assistance programs.<sup>93</sup> These commenters believe that a database could provide accurate and up-to-date information on customers' eligibility, and would also contain information on the applicant's current Lifeline enrollment status, thereby ensuring only one Lifeline-supported line per household.<sup>94</sup>

39. Second, consumers could benefit through improved operational efficiency from the establishment of centralized electronic mechanisms for use in certifying and verifying Lifeline eligibility.<sup>95</sup> A national database system could potentially enable a real-time verification process to speed up the enrollment. In theory, the database would receive updates on changes in consumers' eligibility from appropriate social service agencies so that a customer's eligibility for Lifeline could be monitored in a timely manner, though it is less clear how the database would be updated to reflect changes in income eligibility.<sup>96</sup>

40. Third, a centralized administrator could greatly reduce carriers' administrative burden.<sup>97</sup> In federal default states, carriers would no longer need to conduct the annual survey on randomly selected samples of customers.<sup>98</sup> In some non-federal default states, state Lifeline programs have various mechanisms to verify customers' eligibility on an ongoing basis, such as random surveys, collecting eligibility documentation from customers, and audits.<sup>99</sup> Carriers in these states could be relieved from such obligations (to the extent that those carriers' state obligations were fulfilled through the centralized

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<sup>91</sup> See Consumer Advisory Committee Reply Comments at 15.

<sup>92</sup> See, e.g., AT&T Comments, Florida PSC Comments, Ohio Commission Comments, Qwest Comments, Sprint Comments, TracFone Comments.

<sup>93</sup> AT&T Comments at 14; FL PSC Comments at 3; Leap Comments at 6; Sprint Reply Comments at 5.

<sup>94</sup> PRWI Comments at 10.

<sup>95</sup> Smith Bagley Reply Comments at iii.

<sup>96</sup> AT&T Reply Comments at 3-4; Nebraska PSC Comments at 6.

<sup>97</sup> CPUC Comments at 17; Smith Bagley Reply Comments at 10

<sup>98</sup> AT&T Comments at 5; Qwest Reply Comments at 6.

<sup>99</sup> For example, the Missouri Public Service Commission conducts periodic, random audits to independently verify Lifeline customers' eligibility. Missouri also requires all Lifeline customers to provide documentation of participation in the applicable programs. Missouri Code of State Regulations, 4 CSF 240-31.050(3).

database). And, fourth, some commenters state that a dedicated administrator could also ensure privacy better than individual telecommunications service providers.<sup>100</sup>

41. On the other hand, as some commenters point out, implementing a national database may pose significant administrative, technological, and financial challenges.<sup>101</sup> Any material administrative burden associated with determining eligibility may not be eliminated, but may instead be shifted under the database approach. Specifically, the burden would shift to the organizations that collect and provide the input data and maintain the database.<sup>102</sup> Significant questions remain as to which entities would be responsible for this function, whether those entities have the capability and willingness to perform the duties, and whether the Commission has the legal authority to require compliance. Further, data interoperability, privacy, and security should also be taken into serious consideration when constructing the electronic database.<sup>103</sup> The Joint Board shares these concerns and, therefore, recommends that the Commission seek comment or otherwise pursue these critical areas in advance of concluding that a national database should be implemented.

42. *Administration of a national database.* In general, comments from carriers show that they do not want the responsibility of ensuring Lifeline applicants' eligibility.<sup>104</sup> Some argue that such tasks are outside of their core competencies.<sup>105</sup> Carriers do not always have access to information ensuring applicants' eligibility or whether the applicants already receive Lifeline benefits from another company. Additionally, some carriers do not feel comfortable collecting applicants' sensitive income documentation.<sup>106</sup>

43. Some commenters state that the optimum strategy would require the Commission to establish, and USAC to administer, a national customer eligibility and verification database.<sup>107</sup> For example, AT&T asserts that assigning government administrators the responsibility for determining eligibility for support would provide greater consistency in consumer eligibility determinations as the number of Lifeline providers increases.<sup>108</sup> According to some commenters, these government entities may be in the best position to safeguard a consumer's highly sensitive information, such as household income.<sup>109</sup>

44. Other commenters, however, caution that a shift to a nationwide administrator sharing data with state-qualifying agencies would be a mammoth undertaking.<sup>110</sup> Commenters further assert that it is not clear whether a national database would achieve better results than state-wide administration of

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<sup>100</sup> See, e.g., AT&T Reply Comments at 10-11; TracFone Comments at 7.

<sup>101</sup> MoPSC Comments at 5.

<sup>102</sup> PaPUC Reply Comments at 6-7.

<sup>103</sup> *Id.*; see also Sprint Reply Comments at 5.

<sup>104</sup> See, e.g., AT&T Comments; TracFone Comments.

<sup>105</sup> CTIA Reply Comments at 2-6; Qwest Reply Comments at 9.

<sup>106</sup> AT&T Reply Comments at 10-11.

<sup>107</sup> AT&T Comments at 11; USTelecom Comments at 5.

<sup>108</sup> AT&T Reply Comments at 11.

<sup>109</sup> *Id.* at 10-11.

<sup>110</sup> Consumer Groups Comments at 19.

Lifeline consumer eligibility.<sup>111</sup> For example, the Florida PSC considers impractical AT&T's proposal regarding the use of USAC-issued Personal Identification Numbers (PINs) for Lifeline applicants, and asserts that the issuance of PINs would be an additional burden for state agencies that deal with customer Lifeline eligibility.<sup>112</sup> Sprint states that AT&T's PIN system might reduce duplicate claims, but notes that some ETCs might not have the technical ability to interface with a centralized database.<sup>113</sup> In addition, a nationwide database would need to accommodate the differences in state Lifeline practices, which include varying Lifeline eligibility criteria and verification mechanisms.<sup>114</sup>

45. Some commenters argue that states are in a better position to administer the Lifeline program and maintain the database.<sup>115</sup> These commenters assert that state agencies work more closely with low-income consumers and may be able to respond to their needs more effectively. Commenters also stated that states should have the flexibility to administer their state Lifeline programs based on their unique needs and resources. In addition, commenters argue that, if states are in charge of supplying state-specific information in the national database, each state would be empowered to continue to determine the best method of determining eligibility.<sup>116</sup>

46. Qwest proposes that, because state agencies determine consumer eligibility, those same agencies should monitor or periodically review to determine if a customer is no longer eligible.<sup>117</sup> When the state agency determines a consumer is not eligible because he or she no longer qualifies for the underlying programs, the state agency could notify the appropriate service provider, or if there is a national database, provide that information to the database to notify the provider.<sup>118</sup> Further, Qwest argues, if state agencies monitor continued eligibility, it could eliminate or minimize the need for sample verifications and could potentially reduce the number of consumers that are legitimately eligible but are removed for not responding to verification requests.<sup>119</sup> Given the complexity of the issues surrounding the administration of a national database, the Joint Board recommends that the Commission seek further comment on how a national database should be administered.

47. *Funding a national database.* Despite strong general support in the comments for the creation of a national database, there is little consensus on how to fund a database.<sup>120</sup> Whereas almost all carriers embrace the idea of a national database, there was no consensus on a funding mechanism.<sup>121</sup>

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<sup>111</sup> *Id.*

<sup>112</sup> FL PSC Comments at 6-7.

<sup>113</sup> Sprint Reply Comments at 4.

<sup>114</sup> AT&T Comments at 3.

<sup>115</sup> Qwest Reply Comments at 6.

<sup>116</sup> Nebraska PSC Comments at 6.

<sup>117</sup> Qwest Reply Comments at 6.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> See Consumer Groups Comments at 18 (disagreeing about the workability of such a plan).

<sup>121</sup> See, e.g., AT&T Comments at 4 (advocating for state agencies to take responsibility for its proposed database); TracFone Reply Comments at 6 (stating that state and federal agencies are best placed to manage a national database); Verizon Reply Comments at 1 (suggesting that a national administrator would be the most effective method to proceed with a centralized database).

Some think that USAC should be the national administrator of a database, implying that the Universal Service Fund should provide the necessary resources.<sup>122</sup> Some argue that state and federal governments should not charge ETCs unreasonable fees to cover the database costs.<sup>123</sup> On the other hand, while only a few states commented on the database proposal, those that did voiced serious concern about the possible state costs of such an undertaking.<sup>124</sup>

48. Regardless of which entity would administer a centralized national database of eligible Lifeline customers, the database would need input from various parties on a frequent basis. The federal default criteria for program-based Lifeline eligibility include nine federal assistance programs.<sup>125</sup> Therefore, administrators of these programs would need to provide data on program participants to the Lifeline database. These administrators include, among others, the Social Security Administration, the U.S. Department of Housing and Urban Development, the U.S. Department of Education, state social service agencies, and local school districts. In addition, all Lifeline providers and state Lifeline program administrators would need to update data for customers already enrolled in Lifeline. This would involve a significant coordination of resources.

49. Other related costs for the states would include set-up, continuous operation and updating of the appropriate databases, as well as establishing the appropriate telecommunications and information links and electronic data interfaces (EDIs) with the national database. Additional issues would include whether existing state databases would need to be converted in order to be compatible with the national database and at what cost, and whether the national database would have the inherent capability to perform seamless data protocol conversions while interacting with the state databases. The existing proposals have not addressed how the related non-recurring and recurring costs would be allocated among the individual states, the national/federal level, and the ETC industry.<sup>126</sup>

50. Given the necessary involvement of ETCs and state and local government agencies, the Joint Board recommends that the Commission seek further comment on the cost of providing data input services, and whether funding would be necessary for the service. The Joint Board recommends that the Commission also seek comment to estimate the cost of operating a national database, including both an IT backbone and ongoing administrative costs.

51. *State privacy and security laws.* Various commenters support a centralized database as long as it contains sufficient safeguards to protect consumer privacy and avoids any inadvertent disqualification of eligible consumers or anticompetitive effects.<sup>127</sup> A number of commenters emphasized the importance of ensuring data security if a national database is implemented because the database would contain a series of critical personal information such as name, address, social security number, and

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<sup>122</sup> AT&T Comments at 9-10; AT&T Reply Comments at 3-4.

<sup>123</sup> TracFone Reply Comments at 4.

<sup>124</sup> The PaPUC is particularly concerned by recent industry proposals that effectively shift various costs for eligibility, verification, and outreach to the states while the carriers obtain the benefit of resources obtained for the low-income programs. The PaPUC is opposed to a solution in which the states exclusively bear the burden of automatic enrollment and verification while the carriers secure the benefit of cash for delivering low-income supported services, including any potential broadband component. PaPUC Reply Comments at 6.

<sup>125</sup> 47 C.F.R. § 54.409.

<sup>126</sup> PaPUC Reply Comments at 6-7.

<sup>127</sup> Smith Bagley Reply Comments at 15.

participation in a public assistance program.<sup>128</sup> However, the record is currently incomplete with regard to the issue or solutions to address the data privacy and security concerns. For example, states may have different laws governing privacy of proprietary customer data. Some Lifeline providers explicitly require the applicant to authorize the service provider or appropriate social service agencies to verify the applicant's eligibility.<sup>129</sup> However, it is not clear whether customers' authorization on the application form is sufficient for qualifying assistance program administrators to release the information to a Lifeline provider in all states.

52. AT&T argues that adopting a national PIN database could solve customers' concerns on privacy and security.<sup>130</sup> For example, customers could avoid having to share sensitive customer information related to their participation in various government programs with private communications service providers.<sup>131</sup> Providers would no longer need to share customer information with each other to resolve questions over which company should properly claim particular Lifeline subscribers, if a USAC audit finds that certain subscribers were receiving Lifeline support from multiple companies.<sup>132</sup> Some commenters, however, are skeptical about the proposed PIN database.<sup>133</sup> Commenters expressed concern about maintaining the confidentiality of personal identifying information of the applicants and how Lifeline applicants using self-certification would obtain PINs.<sup>134</sup>

53. The Joint Board recommends that the Commission seek further comment to better understand the differences in state privacy and security laws concerning Lifeline eligibility data. If the Commission decides to adopt a national database, further comment should be solicited to explore how to construct an IT platform that could ensure data security while enabling convenient access for all Lifeline providers across the country. If the Commission decides to facilitate a national database, the Commission should provide guidance on how to ensure privacy and security of electronic records. In sum, the Joint Board recommends that the various concerns described above should be addressed before the Commission moves forward with implementation of a national database to certify and verify Lifeline consumers' eligibility.

54. *State databases.* The Joint Board also recommends that the Commission develop the record regarding the feasibility and potential advantages and/or disadvantages of regional and/or state databases as opposed to, or in addition to, a national database. The Joint Board recommends that the Commission seek comment on several key factors that parallel the critical issues outlined above for a

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<sup>128</sup> NASUCA Reply Comments at 9; Nebraska PSC at 6; Smith Bagley Reply Comments at 15.

<sup>129</sup> For example, in Missouri, Lifeline applicants are required to sign an authorization allowing the appropriate federal, state, or local agency to confirm the household's participation in qualifying programs. See Missouri Code of State Regulations, 4 CSF 240-31.050(3). In Wisconsin, Lifeline applicants have to provide signed authorization for ETCs to access state databases on their behalf. See Wisconsin Response to Government Accountability Office Survey on Lifeline. AT&T's wireless Lifeline and Linkup programs require all applicants to consent to the release of the information on the application form. See <http://www.wireless.att.com/learn/articles-resources/community-support/lifeline-link-up.jsp#Washington>. Sprint Nextel Corporation also requires Lifeline applicants to authorize the company to access any records to verify the applicants' eligibility. See [http://shop.sprint.com/en/services/calling/universal\\_lifeline\\_program.shtml](http://shop.sprint.com/en/services/calling/universal_lifeline_program.shtml).

<sup>130</sup> AT&T Comments at 7.

<sup>131</sup> *Id.* at 10-11.

<sup>132</sup> *Id.* at 13.

<sup>133</sup> FL PSC Comments at 6-7.

<sup>134</sup> *Id.*

national database. Specifically, administration, funding, privacy, and security are issues that the Joint Board believes need to be explored in advance of the Commission taking further action.

55. Currently, a few states have implemented variations of centralized state databases. Potential models were provided by California, Florida, Maryland, and Ohio.<sup>135</sup> Mandating each state to establish and administer a state database faces limitations in state resources and legal hurdles. Currently, not all states have an automatic enrollment program or an electronic database query system. Even among states utilizing automatic enrollment or an electronic database, some do not provide the service to wireless ETCs either because they do not have jurisdiction over wireless carriers or because the state laws exclude wireless carriers from participating in state Lifeline programs.<sup>136</sup> If the Commission were to require each state to maintain a Lifeline database, the mandate would present challenges for those states that do not already have a state Lifeline program or do not include all types of carriers in their state program. In some states, legislative approval or rulemaking at the state level may be necessary before these states could implement federal mandates. The resources needed to coordinate data input from different agencies and to maintain a state-wide electronic database are significant.

## VI. OUTREACH

### A. Background

56. Section 214(e)(1)(B) of the Act requires all ETCs to advertise the availability of services supported by universal service funds and the charges for such services “using media of general distribution.”<sup>137</sup> In the *Universal Service First Report and Order*, the Commission clarified that “eligible telecommunications carriers will be required to advertise the availability of, and charges for, Lifeline pursuant to their obligations under section 214(e)(1).”<sup>138</sup> Recognizing the critical importance of effectively publicizing the Lifeline and Link Up programs to low-income consumers and the resulting effect on the telephone penetration rate, the Commission took several opportunities over the years to highlight the importance of outreach. For example, in the June 2000 *Tribal Order*, the Commission amended sections 54.405 and 54.411 of the rules to require that ETCs publicize the availability of Lifeline and Link Up “in a manner reasonably designed to reach those likely to qualify for the service.”<sup>139</sup> The Commission chose not to prescribe specific, uniform methods for ETCs to follow in publicizing their low-income programs; rather, the Commission gave carriers the discretion to determine how best to reach

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<sup>135</sup> See CPUC Comment; FL PSC Comments; MD PSC Comments; Ohio Commission Comments (providing specific information about the states’ programs).

<sup>136</sup> For example, Alaska, Virginia and Washington states have state Lifeline programs, but they exclude wireless ETCs from state verification and certification rules. *Lifeline and Link-Up Petitions for Declaratory Ruling and Requests for Waiver by US Cellular Corporation, et al.* WC Docket No. 03-109, Order and Declaratory Ruling, 25 FCC Rcd 1641, 1644, para. 6 (2010).

<sup>137</sup> 47 U.S.C. § 214(e)(1)(B).

<sup>138</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8993, para. 407.

<sup>139</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas; Western Wireless Corporation, Crow Reservation in Montana, Smith Bagley, Inc., Cheyenne River Sioux Tribe Telephone Authority, Western Wireless Corporation, Wyoming Cellco Partnership d/b/a Atlantic Mobile, Inc. Petitions for Designation as an Eligible Telecommunications Carrier and for Related Waivers to Provide Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12250, para. 78 (2000) (*Tribal Order*).

qualifying low-income subscribers within their respective service areas.<sup>140</sup>

57. In the *2004 Lifeline and Link Up Order*, the Commission implemented more detailed guidelines to assist states and carriers in performing outreach to potential Lifeline and Link Up customers.<sup>141</sup> Based on the recommendation of the Joint Board,<sup>142</sup> the Commission adopted the following outreach guidelines: (1) states and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service; (2) states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within a carrier's service area; and (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs.<sup>143</sup> The Commission emphasized the importance of outreach programs, noting that effective outreach programs had been shown to improve Lifeline and Link Up participation in several instances.<sup>144</sup> Additionally, the Commission sought comment on whether to prescribe rules to govern advertisement of the Lifeline and Link Up programs.<sup>145</sup>

58. In July 2005, the Lifeline Across America initiative was created as a nationwide effort to increase consumer awareness of the federal and state Lifeline and Link Up programs.<sup>146</sup> As part of this initiative, staff from the Commission, NARUC, and NASUCA formed a working group to further outreach efforts and increase Lifeline and Link Up subscribership.<sup>147</sup> In 2006, the working group helped to enact joint resolutions concerning Lifeline and Link Up carrier outreach and best practices at the NARUC and NASUCA annual conventions.<sup>148</sup> Additionally, in 2007, the working group published a report detailing its observations and recommendations as to best practices for Lifeline and Link Up outreach.<sup>149</sup> More recently, the National Broadband Plan suggested that the Commission should encourage state social service agencies to take a more active role in consumer outreach and provide such

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<sup>140</sup> *Id.* at 12250, para. 79. The Commission did require that ETCs “identify communities with the lowest subscribership levels within its service territories and make appropriate efforts to reach qualifying individuals within those communities.” *Id.*

<sup>141</sup> *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8326, para. 45.

<sup>142</sup> *2003 Recommended Decision*, 18 FCC Rcd at 6612, para. 51.

<sup>143</sup> *2004 Lifeline and Link Up Order*, 19 FCC at 8326-28, paras. 45-48.

<sup>144</sup> *Id.* at 8325, para. 42. An August 2000 report by the Telecommunications Industries Analysis Project demonstrated that “the Lifeline/Link-Up take rate almost tripled from 13.1% to 39.6% when states implemented outreach initiatives designed to increase telephone penetration and participation.” *Id.* In Maine, for example, successful and aggressive outreach helped the telephone penetration rate among low-income households to increase from 90.5% in March 1997 to 96.5% in March 2002. *Id.*

<sup>145</sup> *Id.* at 8333, para. 58.

<sup>146</sup> WORKING GROUP REPORT at 1.

<sup>147</sup> *Id.*

<sup>148</sup> Lifeline Across America, About Us, <http://www.lifeline.gov/aboutus.html> (last visited May 3, 2010); see CA-1 Resolution on Furthering Lifeline Participation Through Outreach, NARUC (Nov. 15, 2006), available at [http://www.naruc.org/Resolutions/cal\\_res\\_furthering\\_lifeline\\_participation\\_through\\_outreach.pdf](http://www.naruc.org/Resolutions/cal_res_furthering_lifeline_participation_through_outreach.pdf); Resolution 2006-01: Increasing Participation in Lifeline and Link-Up Telephone Assistance Programs Through Additional and More Effective Public Outreach, NASUCA (Nov. 2006), available at [http://www.nasuca.org/archive/Resolutions/NASUCA\\_Lifeline-Resolution\\_2006-01.doc](http://www.nasuca.org/archive/Resolutions/NASUCA_Lifeline-Resolution_2006-01.doc).

<sup>149</sup> See generally WORKING GROUP REPORT.

agencies with educational materials that could be used in such efforts.<sup>150</sup>

## B. Discussion

59. *Outreach requirements for ETCs.* When it last considered this issue in 2003, the Joint Board found that effective outreach initiatives have the potential to greatly improve Lifeline and Link Up participation rates.<sup>151</sup> Although the Commission issued detailed outreach guidelines in April 2004, Lifeline participation rates have not significantly improved in subsequent years. In 2009, the nationwide Lifeline participation rate was 36 percent and, in some states, less than 10 percent of eligible consumers participated in the program.<sup>152</sup> Such statistics raise concerns that ETCs are not using effective low-income outreach methods, or that, in some instances, ETCs are neglecting low-income outreach altogether.<sup>153</sup> In the absence of enforceable rules, however, the Commission cannot ensure that ETCs are making adequate efforts to reach eligible low-income consumers.

60. The Joint Board therefore recommends that the Commission adopt mandatory outreach requirements for all ETCs that receive low-income support from the Universal Service Fund. These requirements would constitute a minimum floor for outreach requirements that must be undertaken by ETCs in both federal default and non-default states. If desired, states could supplement the federal requirements with additional outreach rules designed to better target their respective populations.<sup>154</sup> However, it is imperative that a baseline level of Lifeline and Link Up information be available to low-income consumers in all states.

61. Commenters such as TracFone and Verizon / Verizon Wireless suggest that mandatory outreach rules would make the Lifeline and Link Up programs more expensive and disincentivize carriers from serving low-income consumers.<sup>155</sup> The Joint Board is not persuaded, however, that this is the case. ETCs will necessarily advertise their products in the normal course of business.<sup>156</sup> In fact, advertising is a

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<sup>150</sup> See National Broadband Plan at 172-173.

<sup>151</sup> 2003 *Recommended Decision*, 18 FCC Rcd at 6611, para. 48.

<sup>152</sup> See USAC, Lifeline Program Participation Data, <http://usac.org/li/about/participation-rate-information.aspx> (last visited Oct. 25, 2010).

<sup>153</sup> Several commenters assert that the existing outreach guidelines are insufficient to reach eligible low-income consumers. See, e.g., NHMC Comments at 2 (noting that “the current outreach initiatives have not been entirely successful in reaching their target recipients”); Consumer Groups Comments at 28-29 (“The fact that program participation rates range anywhere from 10 percent to 50 percent for the vast majority of states, means that outreach efforts have not been successful to date.”).

<sup>154</sup> See Consumer Groups Comments at 29-30; NASUCA Reply Comments at 16 (proposing that “the Commission . . . establish minimum requirements for outreach, which a carrier would be free to exceed”).

<sup>155</sup> See TracFone Comments at 11 (noting that “[i]ncreased outreach requirements, restrictions on offerings, and the other burdens contemplated throughout these proceedings, risk discouraging provider participation in Lifeline”); Verizon and Verizon Wireless comments at 11-12; cf. AT&T Comments at 17 (stating that “[w]hile it might be reasonable to ask Lifeline providers to post on their web sites Commission-supplied information about Lifeline discounts and to ensure that their customer service representatives are knowledgeable about these discounts, we do not believe the Commission should continue to rely on or require providers to advertise”); Smith Bagley Reply Comments at 20-21 (asserting that to the extent that ETCs are not meeting their outreach obligations, better enforcement, not more onerous requirements, is the solution).

<sup>156</sup> See Nebraska Public Service Commission Comments at 7 (“Carriers are in the best position to advertise as they already utilize advertisement in the normal course of business.”).

requirement of obtaining and maintaining ETC status.<sup>157</sup> As such, it is not apparent that it would substantially burden ETCs to include Lifeline and Link Up service offerings in the scope of their existing marketing efforts. Further, by expanding its advertising base to new consumers, an ETC can take advantage of marketing economies of scale, resulting in a lower cost per customer served.<sup>158</sup>

62. As noted by several commenters, ETCs may employ a wide range of marketing methods to reach consumers.<sup>159</sup> While the Joint Board believes that mandatory outreach requirements are necessary, the requirements ultimately adopted by the Commission should provide ETCs with the flexibility to market their service offerings to eligible consumers in accordance with their respective business models. The Joint Board therefore recommends that the Commission seek comment on whether carriers, when seeking ETC designation, should be required to submit a marketing plan to the state or the Commission that outlines outreach efforts the carrier will use to reach eligible low-income consumers.<sup>160</sup> The Commission should also seek comment on how ETCs that have already been designated by states or the Commission could comply with any potential marketing plan requirement.

63. Additionally, the Joint Board recommends that the Commission seek comment on the issues to be addressed by a carrier's marketing plan. Responses to this question may draw on current carrier best practices. For example, the Commission should request comment on whether carriers seeking designation as low-income ETCs should address the following items:

- Publication on Internet home page: The carrier will have Lifeline and Link Up information clearly visible on its Internet home page, along with other available service offerings.
- Multiple outreach methods: The carrier will use multiple forms of outreach to reach eligible consumers. This could include (but would not be limited to) any combination of print media, broadcast media, Internet advertising, and marketing materials distributed at community centers and other community-based organizations.
- Outreach frequency: The carrier will perform outreach at a set frequency, in order to maximize the opportunities for eligible consumers to view and process the carrier's advertisements.
- Providing outreach materials to community institutions: The carrier will provide outreach materials to appropriate community institutions and educate those institutions, as needed, on the carrier's Lifeline and Link Up programs.
- Advertising in multiple languages: If the carrier serves a locality where a second language is predominant, the carrier must provide Lifeline and Link Up advertisements in that language,

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<sup>157</sup> See 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2).

<sup>158</sup> See Economies of Scale, Reference for Business, Encyclopedia of Business, 2<sup>nd</sup> Edition, <http://www.referenceforbusiness.com/encyclopedia/Eco-Ent/Economies-of-Scale.html> (last visited Oct. 13, 2010).

<sup>159</sup> See, e.g., Sprint Nextel Reply Comments at 10 (detailing the carrier's various outreach strategies); YourTel comments at 4 (describing a "pull strategy," where a carrier's marketing efforts "pull" consumers to the product).

<sup>160</sup> See 47 U.S.C. § 214(e)(2), (e)(6) (delegates to state commissions the primary responsibility for performing ETC designations; however, the Commission, upon request, can designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.").

in addition to English.<sup>161</sup>

- Clear and plain language: The carrier will use clear and plain language in its Lifeline and Link Up advertising.<sup>162</sup>
- Annual certification: The carrier will file a notice once per year with the Commission stating what it has done in terms of Lifeline and Link Up outreach.
- Cooperative production and exposure: The extent to which literature and other advertising tools can be produced, used, and placed jointly by multiple ETCs.

64. The record also provides support for the role that community-based outreach can play in educating consumers about the Lifeline and Link Up programs. Nexus Communications, for example, “engages in extensive outreach efforts, including deploying mobile information centers directly to neighborhoods with high concentrations of qualifying consumers.”<sup>163</sup> Similarly, the National Hispanic Media Coalition believes it would be beneficial to require that ETCs “collaborate with state social service agencies, community organizations and churches that operate in target communities.”<sup>164</sup> At this juncture, the Joint Board recognizes that it may be beneficial to engage such entities in outreach efforts, but the Joint Board believes that more data is needed before it can recommend that the Commission mandate specific community-based outreach methods. For example, the Commission may wish to inquire about carrier best practices in this area. Accordingly, the Joint Board recommends that the Commission seek comment on additional community-based outreach methods that ETCs and states can use to reach eligible low-income consumers.

65. *Outreach requirements for states.* In the *2004 Lifeline and Link Up Order*, the Commission determined that it was not necessary to prescribe specific outreach requirements for states at that time.<sup>165</sup> The Joint Board believes that this position remains sound today and recommends that the Commission maintain advisory guidelines for states with respect to performing low-income outreach.

66. This is the case for several reasons. First, unlike carriers, states do not receive low-income support from the Universal Service Fund.<sup>166</sup> The Act requires that ETCs publicize their Lifeline and Link Up service offerings to eligible consumers; however, no such obligation exists for states.<sup>167</sup> Second, as noted by several commenters, states are well-positioned to supplement outreach efforts by ETCs.<sup>168</sup> State agencies often possess data, such as demographic information, that they can provide to

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<sup>161</sup> Consumer Advisory Committee Reply Comments at 12-13.

<sup>162</sup> When seeking comment on this issue, the Joint Board recommends that the Commission specify that any “clear and plain language” requirement would not override state consumer protection laws, such as state Truth in Advertising requirements.

<sup>163</sup> Nexus Communications Comments at 4-5.

<sup>164</sup> NHMC Comments at 3.

<sup>165</sup> *Lifeline and Link Up Order*, 19 FCC Rcd at 8326, para. 44.

<sup>166</sup> See Benton Foundation et. al Comments at 8-9; NASUCA Reply Comments at 16.

<sup>167</sup> See 47 U.S.C. § 214(e)(1)(B); *Universal Service First Report and Order*, 12 FCC Rcd at 8993, para. 407; see also NASUCA Reply Comments at 16-17.

<sup>168</sup> See, e.g., NASUCA Reply Comments at 16 (noting that outreach should be a shared effort between carriers and states); Nebraska Public Service Commission Comments at 7 (“[C]oordination between state regulatory

(continued....)

ETCs as needed to best direct outreach efforts to unserved and underserved populations. Similarly, states can share information with one another, in order to gain a better understanding of best practices for conducting low-income outreach.<sup>169</sup> Additionally, state agencies may have relationships with local community organizations, such as homeless shelters or social service agencies, and can leverage those relationships to provide information on local ETCs' Lifeline and Link Up service offerings. Third, it is important to note that, unlike ETCs, states do not always have access to funds with which they can conduct low-income outreach.<sup>170</sup> The Joint Board recognizes that budgetary resources differ from state to state and that funding for marketing expenses may not be available in all instances. By maintaining advisory guidelines for states with respect to Lifeline and Link Up outreach, the Commission will ensure that states continue to supplement ETC outreach efforts in an economical way.

67. Based on the record, the Joint Board recommends that the Commission tailor the existing outreach guidelines to better clarify the role of states in performing low-income outreach. As noted above, the Joint Board recommends that these revised guidelines apply only to states, not to ETCs. Specifically, the Joint Board suggests that the Commission modify the existing outreach guidelines to contain the recommendations contained in the following paragraphs.

68. *Assisting ETCs in reaching unserved households.* The Joint Board recommends that states should assist ETCs in formulating methods to reach households that do not currently have telephone and/or broadband service. The Joint Board contemplates that states could aid ETCs in two primary ways, which the Commission may wish to include as part of any guideline it ultimately adopts. First, as several commenters suggest, states can identify appropriate community institutions to participate in public-private partnerships, and they can assist ETCs in coordinating with those institutions to maximize outreach opportunities.<sup>171</sup> Building on this notion, states can also assist ETC outreach efforts by identifying unserved and underserved populations for whom outreach would be beneficial.<sup>172</sup> Qwest, for example, states that as a percentage of its per-state customer base, the ETC's highest penetration of Lifeline enrollment is in the state of New Mexico.<sup>173</sup> In New Mexico, customers enrolling in LIHEAP may ask the New Mexico Human Services Department to share their eligibility information with the applicable local phone company(ies) for the purpose of being automatically enrolled in the Lifeline program.<sup>174</sup> The Joint Board foresees that such partnerships, if facilitated by the states, will help to

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commissions and state social service agencies to include information on Lifeline and Link Up programs along with information on other assistance programs is invaluable.”); Florida Public Service Commission Comments at 3 (suggesting that the Commission should “encourage state public service commissions to work with their designated social service agencies to . . . distribute Link Up and Lifeline educational materials”).

<sup>169</sup> Several states undertake their own outreach efforts, in addition to the outreach activities performed by carriers in those states. Alaska, for example, publicizes its Lifeline and Link Up programs through print advertising (i.e., a leaflet) and interaction with local community groups. *See* State Data. Florida conducts extensive Lifeline and Link Up outreach efforts, including the use of print advertisement, press releases, and outreach partnerships with federal and state agencies, local community groups, and non-profit organizations. *Id.*

<sup>170</sup> Iowa, for example, spent \$250 on Lifeline and Link Up outreach efforts in fiscal year 2009. At the opposite end of the scale, Wisconsin spent \$90,000 on outreach in fiscal year 2009. *See id.*

<sup>171</sup> *See, e.g.*, Consumer Advisory Committee Reply Comments at 12-13; Media Action Grassroots Network Comments at 15.

<sup>172</sup> United States Telecom Association Comments at 7.

<sup>173</sup> Qwest Communications Reply Comments at 3.

<sup>174</sup> *Id.*

increase awareness of and enrollment in the Lifeline and Link Up programs.

69. *Assisting ETCs in designing outreach materials.* Commenters assert that states can assist ETCs in designing outreach materials to reach unserved and underserved populations.<sup>175</sup> The Joint Board agrees, and recommends that the Commission adopt a guideline encouraging states to do as such. The Joint Board further recommends that the Commission identify specific ways in which states could assist with the creation of ETC outreach materials. For example, as the Nebraska Public Service Commission suggests, states can review ETC outreach materials to ensure that they are accurate, complete, and understandable.<sup>176</sup> This could include the use of clear and plain language, or even standardized language, to ensure that advertisements describe the Lifeline and Link Up programs in a simple, yet accurate, way. States can also assist carriers in identifying localities where it would be appropriate to advertise in a second language.<sup>177</sup>

70. *Monitoring of ETC outreach efforts.* State review of ETC outreach efforts can help ensure that eligible consumers are reached in an effective and timely manner.<sup>178</sup> For instance, states may choose to have ETCs file a report that details the outreach efforts undertaken by the ETC in a set fiscal period. Alternatively, states could ask ETCs to file a certification describing the outreach efforts that the carrier intends to undertake on a going-forward basis. The Joint Board wants to ensure, however, that states maintain the flexibility to determine how best to review the outreach efforts of ETCs in their jurisdiction. Accordingly, the Joint Board recommends that the Commission adopt a guideline encouraging states to review the outreach efforts of ETCs in their geographic area to ensure that the promotion of Lifeline and Link Up service offerings is both effective and timely.

## VII. OTHER ISSUES

### A. Background

71. Throughout the *Referral Order*, the Commission requests recommendations from the Joint Board “to consider how the potential expansion of the low-income program to broadband would affect any of its recommendations.” The expansion of universal service to include broadband raises a number of overarching issues that impact future Lifeline funding for not only broadband services, but also existing voice and mobility services. Concerns have been raised that the referral fails to adequately deal with these issues.

72. The Joint Board reinforces those portions of the Joint Board’s *2007 Recommended Decision* dealing with the redefinition of supported services to include broadband and mobility services.<sup>179</sup> The *2007 Recommended Decision* includes the necessary legal underpinnings to justify

<sup>175</sup> See, e.g., Qwest Communications Reply Comments at 8 (“[T]he Commission should modify the existing requirement to ensure that providers and states have the necessary flexibility to learn from past outreach efforts and work together to design and implement more cost-effective outreach solutions.”).

<sup>176</sup> Nebraska Public Service Commission Comments at 7.

<sup>177</sup> See, e.g., California Public Utilities Commission Comments at 23 (noting that the CPUC advertises its Lifeline and Link Up programs in a variety of languages); Massachusetts Department of Telecommunications and Cable Reply Comments at 4 (MDTC states that it provides program application materials in multiple languages).

<sup>178</sup> See, e.g., Consumer Groups Reply Comments at 16 (stating that “at a minimum the states must have process and procedures to closely monitor the ETCs to ensure that they are conducting effective and sufficient outreach”).

<sup>179</sup> See *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477 (2007 Recommended Decision). The Commission put the *Recommended Decision* out for public comment on January 29, 2008. *High Cost Universal Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, (continued....)