

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	CC Docket No. 96-45
APCC Petitions Regarding Universal	)	WC Docket No. 03-109
Service and Payphone Issues	)	

**COMMENTS OF  
THE UNITED STATES TELECOM ASSOCIATION**

**I. INTRODUCTION**

The Wireline Competition Bureau seeks comment on two petitions filed by the American Public Communications Council (“APCC”).<sup>1</sup> The petition for interim relief seeks “immediate” action by the Commission to allow eligible telecommunications carriers (ETCs) to receive Lifeline support from the Universal Service Fund (USF) for the payphone line service they currently provide. APCC proposes that payphone line service be eligible for Lifeline support at \$10 per month per line for all publicly available phones. Further, the APCC petition for rulemaking requests that the Commission create a new Lifeline Tier 5 “Payphone Service” level and to amend sections 54.400, 54.403, 54.407, and 54.410 of the Commission’s rules to make payphone lines permanently eligible for Lifeline support. There is no basis for these requests. The Commission should deny the petitions.

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<sup>1</sup> See FCC Public Notice released December 16, 2010 seeking comment on American Public Communications Council Emergency Petition for Interim Relief to Prevent the Disappearance of Payphones, CC Docket No. 96-45 (filed Dec. 6, 2010) (Petition for Interim Relief); American Public Communications Council Petition for Rulemaking to Provide Lifeline Support to Payphone Line Service, CC Docket No. 96-4 (filed December 6, 2010) (Petition for Rulemaking).

## **II. THE COMMISSION SHOULD ADDRESS APCC'S PETITIONS AS PART OF A LARGER LIFELINE REFORM PROCEEDING**

Changes to the low-income programs are necessary, appropriate and overdue.

There are many outstanding issues that call for a comprehensive review of the Lifeline program. As noted by AT&T in its comments on NBP Public Notice #19,<sup>2</sup> “[t]he current voice Lifeline program suffers under antiquated rules and requirements that discourage consumers and providers from participating, and are costly and cumbersome for carriers and USAC to administer and audit.”<sup>3</sup> USTelecom encourages the Commission to initiate a comprehensive proceeding examining its low-income programs. There is no compelling need to take up the questions raised by APCC in the context of universal service prior to the consideration of comprehensive Lifeline reform.

## **III. THE COMMISSION SHOULD MODERNIZE THE LIFELINE PROGRAM TO SUIT THE NEEDS OF TODAY'S LOW-INCOME CONSUMERS**

There is an urgent need for the Commission to modernize the low-income programs, including Lifeline, to suit the needs of today's low-income consumers. In order to ensure the relevance and effectiveness of the Lifeline program, the Commission must reform it to relieve participating providers of functions better suited for government, such as performing outreach, determining initial eligibility and verifying continued eligibility. Improvement should also include standardization in a variety of areas to simplify administration and avoid consumer confusion. Changes to the Lifeline program should be made expeditiously. These administrative improvements should then be applied to a low-income support mechanism for broadband services, if and when the

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<sup>2</sup> See *NBP Public Notice #19, Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, GN Docket Nos. 09-47, 09-51, 09-137, Public Notice, 24 FCC Rcd 13757 (OSP 2009) (*NBP PN #19*).

<sup>3</sup> See comments of AT&T at page 24 in *NBP PN #19*.

Commission creates such a mechanism. The information gained by the Commission through experience with modified administration of the voice program as well as pilot programs to test the most efficient and effective approaches to broadband adoption would well serve the Commission in its creation of a low-income mechanism for broadband.

**IV. IF THE FCC DETERMINES THAT SECTION 276 REQUIRES COMMISSION ACTION, THE COMMISSION SHOULD CONFRONT THAT NEED DIRECTLY**

Even if the Commission finds that Section 276 requires agency action (and we do not necessarily agree that it does), that finding would not mean that reforming the Lifeline program element of universal service funding is an appropriate mechanism to solve that problem. For that matter, APCC's petitions, while requesting Lifeline funding for payphones, seem to confuse the concepts of high-cost and low-income universal service funding.

On the one hand, the petitions seemingly request funds for payphones that collect less revenue than their costs, which is a concept more akin to high-cost funding than Lifeline. But APCC does not establish that these unprofitable payphones exist in any significant number. Indeed, given payphones are not regulated, and there is no "payphone of last resort" requirement on payphone providers, payphone operators presumably only choose to continue operating those payphones that yield positive net revenues, thereby obviating the need for high-cost type support.

On the other hand, if the petitions are seeking Lifeline-type support, APCC does not provide any data as to the percentage of payphones that serve as the primary point of telecommunications access for a significant number of low-income consumers, nor does APCC suggest a methodology for determining the identity of such payphones so that the

support could be properly targeted. Furthermore, APCC does not suggest how any support provided would be passed through to low-income consumers.

Given the finite resources of the Universal Service Fund, supporting all payphone lines in order to reach some low-income consumers is contrary to good public policy that would militate in favor of better, more precise, targeting of universal service support. Section 276(b)(2) provides for the Commission to determine the need for what it characterizes as “public interest telephones” and if the Commission makes such determination, for the public interest payphones to be supported fairly and equitably.<sup>4</sup> If APCC feels that the Commission has not properly implemented Section 276(b)(2), it should offer regulatory remedies pursuant to that section of the Act, and not conflate those issues with the broader universal service mandates found in Section 254 of the Act.

## **V. CONCLUSION**

The Commission should address Lifeline issues in the context of a comprehensive Lifeline proceeding. There is no compelling need to take up the questions raised by APCC in the context of universal service prior to the initiation of that proceeding.

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<sup>4</sup> See 47 U.S.C. Section 276(b)(2)

Instead, the Commission should promptly turn to the execution of the most pressing National Broadband Plan action agenda items relating to universal service and intercarrier compensation, particularly development of the Connect America Fund and reform of intercarrier compensation, including items addressing phantom traffic, traffic pumping and terminating of VoIP traffic that can and should be adopted in the near term.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION



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