

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Lifeline and Link Up Reform and Modernization

Federal-State Joint Board on Universal Service

Lifeline and Link Up

WC Docket No. 11-42

CC Docket No. 96-45

WC Docket No. 03-109

**COMMENTS OF  
THE MASSACHUSETTS DEPARTMENT OF  
TELECOMMUNICATIONS AND CABLE**

Commonwealth of Massachusetts  
Department of Telecommunications and Cable

Geoffrey G. Why, Commissioner

1000 Washington Street, Suite 820  
Boston, MA 02118-6500  
(617) 305-3580

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## I. INTRODUCTION

The Massachusetts Department of Telecommunications and Cable (“MDTC”)<sup>1</sup> respectfully submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) released by the Federal Communications Commission (“FCC”) on March 4, 2011, in the above-captioned proceedings.<sup>2</sup> The FCC initiated the NPRM to re-examine the Lifeline and Link Up program (“Program”) and seek comments on a set of proposals to reform and modernize the Program, building on recommendations of the Federal-State Joint Board on Universal Service (“Joint Board”), the Government Accountability Office, and the National Broadband Plan.<sup>3</sup> Due to an ongoing MDTC investigation into the Lifeline and Link Up programs in Massachusetts, the MDTC is precluded from offering comments on many of the issues raised in the NPRM.<sup>4</sup> Consequently, the MDTC deliberately limits its comments to those expressly offered herein.<sup>5</sup>

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<sup>1</sup> The MDTC is the exclusive state regulator of telecommunications and cable services within the Commonwealth of Massachusetts. G. L. c. 25C, § 1.

<sup>2</sup> *In re Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking, FCC 11-32 (rel. Mar. 4, 2011) (“NPRM”).

<sup>3</sup> *Id.* at ¶¶ 3, 5.

<sup>4</sup> *See Investigation by the Dep’t on its Own Motion into the Lifeline and Link-Up Programs for Mass. Tel. Customers*, D.T.C. 10-3, *Order Opening Investigation*, at 2-3 (rel. Sept. 17, 2010) (opening an investigation to “ensure that the current Lifeline and Link-Up programs for both wireline and wireless customers are as effective and efficient as possible and designed in a manner that increases the Lifeline penetration rate in the Commonwealth” and investigating “the procedures to certify and verify the eligibility of Lifeline subscribers, eligibility criteria, services to which the Lifeline and Link-Up discounts may be applied, outreach requirements, and any other reasonably related issues”) (attached as Appendix A).

<sup>5</sup> The MDTC’s silence on any particular issue presented by the FCC should not be construed as rejection or support of that issue.

## II. DISCUSSION

### A. Performance Goals

The FCC proposes to establish explicit performance goals to “provide a basis for determining whether Lifeline/Link Up is successfully promoting and advancing the availability of quality services at just, reasonable, and affordable rates for low income consumers.”<sup>6</sup> The FCC’s proposed performance goals are as follows: (1) to preserve and advance the availability of voice service for low-income Americans; (2) to ensure that low-income consumers can access supported services at just, reasonable, and affordable rates; and (3) to ensure that the FCC’s universal service policies provide Lifeline and Link Up support that is sufficient but not excessive to achieve the FCC’s goals.<sup>7</sup> The MDTC supports these performance goals, and, consistent with the MDTC’s recommendation to include broadband as a supported service,<sup>8</sup> further supports the adoption of an additional performance goal of advancing the availability of broadband to low-income households.<sup>9</sup> The MDTC agrees with the FCC that clearly established performance goals and measures should enable the FCC to effectively determine whether the Program is achieving its ultimate objectives.<sup>10</sup>

### B. Reporting Requirements

The FCC proposes several reforms that it believes will significantly bolster protections against waste, fraud, and abuse, and improve Program administration. The FCC, for instance,

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<sup>6</sup> NPRM at ¶ 32.

<sup>7</sup> *See id.* at ¶¶ 37-42 (seeking comment on the three goals and their associated performance measures).

<sup>8</sup> *See infra* notes 50-51 and accompanying text.

<sup>9</sup> NPRM at ¶ 43.

<sup>10</sup> *Id.* at ¶ 32; *see also id.* at ¶ 32 n.59 (noting that the Government Performance and Results Act of 1993, Public Law No. 103-62, established statutory requirements for federal agencies to engage in strategic planning and performance measurement).

proposes to codify a rule requiring all eligible telecommunications carriers (“ETCs”) to report partial or pro rata dollars when claiming reimbursement for Lifeline customers who receive service for less than a month.<sup>11</sup> The MDTC agrees that “such a rule would ensure that all ETCs comply with the requirement that support may only be claimed for active subscribers,”<sup>12</sup> and thus supports the FCC’s proposal.<sup>13</sup>

The MDTC also generally supports the FCC’s proposed measures to protect against duplicate claims, including amending its rules to require ETCs to submit unique household-identifying information for every Program-supported household to the Universal Service Administrative Company (“USAC”),<sup>14</sup> and codifying the Wireline Competition Bureau’s approach to resolving duplicate subsidies.<sup>15</sup> The proposed duplicate subsidy rules, based on the Wireline Competition Bureau’s guidance, would require ETCs to take specific steps upon the discovery of duplicate support for a subscriber, including ceasing to claim reimbursement for the subscriber and notifying the subscriber that they must select a single Lifeline provider within 30 days or face de-enrollment from the Program.<sup>16</sup> Additionally, under the proposed rules, the subscriber-selected ETC would be responsible for informing both USAC and the other ETC of the subscriber’s choice, and only then would it be permitted to seek reimbursement for the

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<sup>11</sup> *Id.* at ¶ 67.

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

<sup>13</sup> *See generally* Mass. Dep’t of Telecomms. and Cable Comments, *In re Lifeline and Link Up*, WC Docket No. 03-109 (filed Apr. 9, 2010) (urging the FCC’s Wireline Competition Bureau to confirm that Line 9 of FCC Form 497 requires pro-rata reporting).

<sup>14</sup> *See* NPRM at ¶¶ 56-57 (proposing that ETCs provide information such as customer names, addresses, social security numbers, or birthdates).

<sup>15</sup> *See id.* at ¶ 58.

<sup>16</sup> *See id.*

subscriber going forward.<sup>17</sup> The MDTC believes that these rules, by placing clear responsibilities on ETCs, would help to resolve duplicate support issues in a timely and efficient manner.

As a means of improving Program administration, the FCC proposes to require all states to submit all verification sampling data received from ETCs to USAC.<sup>18</sup> In addition, the FCC asks whether verification results submitted to USAC and the FCC should be shared with all states.<sup>19</sup> The MDTC agrees with the FCC that “a more comprehensive data set would . . . allow the Commission to continue refining its rules and policies to reduce waste, fraud, and abuse in the program.”<sup>20</sup> As such, the MDTC supports requiring all ETCs, in both federal default and non-federal default states, to submit their annual verification results to USAC.<sup>21</sup> Indeed, the MDTC has recently joined the list of non-federal default states that require ETCs in their respective states to submit the results of their annual verification surveys to USAC.<sup>22</sup> The MDTC, moreover, supports the sharing of verification results among all states, as more complete data will assist states in improving their administration of the Program and developing new policies and procedures.

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<sup>17</sup> *See id.*

<sup>18</sup> *Id.* at ¶ 193.

<sup>19</sup> *Id.* at ¶ 194.

<sup>20</sup> *Id.* at ¶ 193.

<sup>21</sup> *See* Mass. Dept. of Telecomms. and Cable Comments, at 3, *In re Federal-State Joint Board on Universal Service Seeks Comment on Lifeline and Link-Up Eligibility, Verification, and Outreach Issues Referred to Joint Board*, CC Docket No. 96-45, WC Docket No. 03-109 (filed July 30, 2010) (“Joint Board Comments”).

<sup>22</sup> *See TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers*, D.T.C. 09-9, *Order*, at Attachment 1, ¶ 3 (rel. June 30, 2010) (“TracFone Order”).

C. One-Per-Residence Rule

The MDTC supports the FCC’s proposal to clarify the single-line-per-residence requirement by formally adopting the one-per-residential-address (“one-per-residence”) rule, which would limit support to a single subscription per U.S. Postal Service address.<sup>23</sup> According to the FCC, the single-line-per-residence requirement is designed to “minimize waste, fraud and abuse; target support where it is needed most; and maximize the number of Americans with access to communications services.”<sup>24</sup> The one-per-residence rule is consistent with these goals. However, the MDTC is concerned that because the one-per-residence rule is address-based, it will unintentionally deny benefits to those individuals who have a substantial need, and who are likely eligible, for Lifeline support. Thus, the MDTC strongly urges the FCC to adopt much needed exceptions to the one-per-residence rule to ensure that otherwise eligible consumers in group-living arrangements (such as shelters)—or other non-traditional housing arrangements—are not denied support.

The need for these exceptions is illustrated by the comments received at the recent public hearing in the MDTC’s investigation into the Lifeline and Link Up programs for Massachusetts customers.<sup>25</sup> Numerous commenters urged the MDTC to issue clarification and guidance on how best to apply the single-line-per-residence requirement so as to not exclude otherwise qualified individuals living in non-traditional housing arrangements.<sup>26</sup> Deborah Filler, senior

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<sup>23</sup> NPRM at ¶ 111.

<sup>24</sup> *Id.* at ¶ 107.

<sup>25</sup> *See Investigation by the Dep’t on its Own Motion into the Lifeline and Link-Up Programs for Mass. Tel. Customers*, D.T.C. 10-3, Request for Comment & Notice of Public Hearing (rel. Sept. 17, 2010) (“Request for Comment”) (seeking comment on possible changes to the existing Lifeline and Link Up programs in Massachusetts to make them more effective and efficient) (attached as Appendix B); Transcript of Nov. 16, 2010 Pub. Hearing & Dep’t Investigation Into Lifeline and Link Up Programs (“TR.”).

<sup>26</sup> *See, e.g.*, TR. at 22:7-27:16 (Comments of Elizabeth Olson, Licensed Independent Clinical Social Worker and Social Service Coordinator) (detailing her experience with a congregate housing site resident who is having

staff attorney in the Cambridge and Somerville Legal Services office of Greater Boston Legal Services, for example, stated:

This rule clearly does not understand or take into consideration the reality of the types of housing settings that huge numbers of low-income people live in. . . . [P]eople who are residing in homeless shelters, domestic violence shelters, substance abuse residential treatment programs, supported housing programs funded by state agencies such as the Department of Mental Health or Department of Developmental Services, congregate housing programs for low-income seniors, veterans' housing programs, rest homes, and other subsidized housing programs designed specifically for low-income people cannot qualify for the SafeLink<sup>[27]</sup> free cell phone service . . . .<sup>28</sup>

Genevieve Preer, a pediatrician at Boston Medical Center and medical director for the Medical-Legal Partnership Boston, similarly stated:

Please consider implementing rules that define household in the commonsense terms that we all understand, rather than the notion that a shelter, a YWCA or a traditional housing program represents one household, and hence only deserves one SafeLink phone for all its occupants. . . . Further, I urge the [M]DTC to take the practical step of allowing households living at a commercial address that is known to be a shelter or other congregate living arrangement to receive SafeLink phones.<sup>29</sup>

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trouble obtaining Lifeline support because he moved into a unit where a previous Lifeline customer lived); *id.* at 34:11-43:16 (Comments of Katie Erker, Advocate at Rosie's Place) (explaining that because of the one-phone-per-household rule, "we have thousands of women who don't qualify for a service the federal government says they do qualify for, and that's the one barrier to many things for these women); *id.* at 43:18-46:12 (Comments of Rebecca Diamond, Public Interest Legal Fellow at Medical-Legal Partnership Boston) ("This vulnerable population is currently adversely impacted by the SafeLink rules when in fact they are most in need of its benefits."); *id.* at 46:14-49:11 (Comments of Susan Norton, Geriatric Social Work for the Council on Aging) (noting the deteriorating health of certain people she has worked with because their inability to obtain a phone due to this rule has hampered their ability to communicate with medical staff, as well as social and family support networks); *id.* at 49:14-52:7 (Comments of Elaine Divelbliss, on behalf of Virgin Mobile) ("We support reasonable changes [to the one-line-per-household rule] that would permit service to be made available to eligible customers in group living situations.").

<sup>27</sup> SafeLink Wireless is a program provided by TracFone Wireless, Inc., a wireless ETC providing service in Massachusetts.

<sup>28</sup> TR. at 16:15-17:19.

<sup>29</sup> *Id.* at 33:18-34:4.

Additionally, Fred Berman, Planner with the Human Services Department in Cambridge, explained:

I also want to mention that homelessness is an extremely traumatic and isolating event, and just the ability to be in touch with family and friends is a really important thing. In the absence of a telephone, these people can't—again, by virtue of being homeless, they're punished in not having an address and therefore can't get SafeLink. . . . I want to offer a suggestion. While changing the rule may be the best thing to do, perhaps the fastest thing that the state could explore would be issuing a waiver whereby certain residential programs or buildings like the YMCA or shelters, can simply affirm that they are providing shelter residence for a person and that that person therefore should be entitled to SafeLink.<sup>30</sup>

Accordingly, the MDTC recommends the adoption of the FCC's proposed exceptions for commercially-zoned buildings,<sup>31</sup> Tribal communities,<sup>32</sup> and group living quarters.<sup>33</sup> The MDTC agrees with the FCC, however, that any exceptions to the one-per-residence rule must be carefully crafted with appropriate safeguards to protect against waste, fraud, and abuse.<sup>34</sup> The MDTC, for example, supports the involvement of administrators of group living facilities with verifying the applicant's address and assisting residents in obtaining Lifeline service.<sup>35</sup>

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<sup>30</sup> *Id.* at 30:3-17.

<sup>31</sup> *See* NRPM at ¶¶ 117-18 (explaining that particularly in urban areas otherwise eligible applicants have been denied Lifeline and Link Up service because they live in facilities that are zoned as commercial rather than residential).

<sup>32</sup> *See id.* at ¶¶ 119-20 (noting that “[o]n some Tribal lands, several households may occupy a single housing unit” and therefore inquiring if the FCC “should adopt a special definition of ‘residence’ on Tribal lands that will ensure that Lifeline and Link Up service is provided to eligible consumers”).

<sup>33</sup> *See id.* at ¶¶ 121-25 (asking whether the FCC should create an exception to the proposed one-per-residence rule for low-income residents of group living quarters, such as residential facilities for seniors or for victims of domestic violence).

<sup>34</sup> *See id.* at ¶ 52 (“In this proceeding, we plan to develop a full record to craft appropriately narrow exceptions to application of [the] proposed [one-per-residence] rule.”); Mass. Dep’t of Telecomms. and Cable Reply Comments, at 5, *In re Lifeline and Link Up*, WC Docket No. 03-109 (filed Dec. 7, 2009) (noting the need to craft exceptions carefully to protect against “double dipping” and other Lifeline abuses).

<sup>35</sup> *See, e.g.*, NRPM at ¶ 123 (seeking comments on an approach in which “the facility would be responsible for applying for Lifeline/Link Up support on behalf of its residents”).

#### D. Eligibility Criteria

The FCC proposes to improve Program administration by amending its rules to require all states to utilize, at a minimum, the Program eligibility criteria currently utilized by federal default states.<sup>36</sup> As an initial matter, because the MDTC’s Lifeline investigation, which includes a review of expanding Massachusetts’ Lifeline eligibility criteria, is still ongoing, our comments with respect to this issue will be limited.<sup>37</sup> The MDTC notes, however, that state commissions that assert jurisdiction over ETCs operating within their states are in the best position to establish eligibility criteria that are likely to meet the unique needs of their constituents and to best ensure that their respective states will be able to support them without incurring significant administrative burdens.<sup>38</sup> In fact, in its investigation, the MDTC is evaluating whether to expand the Lifeline criteria to include income-based eligibility and additional social service programs.<sup>39</sup> The FCC implicitly acknowledged the state’s important role in creating eligibility criteria previously when it adopted the Joint Board’s recommendation to add Temporary Assistance for Needy Families (“TANF”) to the list of federal programs in which enrollment serves as proof of eligibility for Lifeline services.<sup>40</sup> Upon adding TANF to the federal default eligibility criteria, the FCC stated, “We agree with the Joint Board that one benefit of adding TANF is the broad discretion that states are given to establish eligibility standards for each state’s respective TANF

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<sup>36</sup> *Id.* at ¶ 154. The federal default Lifeline and Link Up eligibility criteria, which apply in eight states and two territories, require consumers to either: (1) have a household income at or below 135 percent of the Federal Poverty Guidelines; or (2) participate in at least one of a number of federal assistance programs. *Id.* at ¶ 152.

<sup>37</sup> Request for Comment at 4-5.

<sup>38</sup> *See* NPRM at ¶ 156 (asking whether establishing a federal baseline of eligibility would place burdens on states); Joint Board Comments at 3.

<sup>39</sup> Request for Comment at 4-5.

<sup>40</sup> *In re Lifeline and Link Up*, WC Docket No. 03-109, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 04-87, at ¶ 13 (rel. Apr. 29, 2004) (“2004 Order”); *see also* Joint Board Comments at 3.

program.”<sup>41</sup> The MDTC, therefore, urges the FCC to preserve the states’ vital role and influence in creating and administering Program eligibility criteria.

E. Certification and Verification Requirements

The FCC proposes to adopt core federal certification and verification requirements, applicable in all states, while permitting states to adopt additional complementary measures.<sup>42</sup> The MDTC’s Lifeline investigation includes a review of existing certification and verification procedures in Massachusetts and consequently our comments regarding this issue will be limited. In its investigation into the annual verification audit conducted by TracFone Wireless, Inc., an ETC that provides Lifeline services in Massachusetts, the MDTC found that the existing certification and verification procedures in Massachusetts were insufficient to ensure that only eligible consumers receive Lifeline services and to prevent fraud.<sup>43</sup> The Department, therefore, opened its current Lifeline investigation to, *inter alia*, establish appropriate certification and verification procedures to facilitate effective and efficient administration of the Lifeline program, foster timely enrollment, and ensure that only eligible subscribers receive Lifeline supported services.<sup>44</sup> Accordingly, the MDTC urges the FCC to preserve the states’ crucial role in the administration of the Program and to include in any certification and verification reforms state authority to adopt additional procedures.

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<sup>41</sup> 2004 Order at ¶ 16.

<sup>42</sup> See NPRM at ¶ 150.

<sup>43</sup> See TracFone Order at 15-16.

<sup>44</sup> See *id.*; Request for Comment at 3; see also *supra* note 4 (describing the scope of the investigation).

#### F. Outreach Requirements

The FCC seeks comment on the efficacy of outreach efforts by states and ETCs, and additionally inquires whether outreach is more effective when conducted by state social service agencies.<sup>45</sup> Because outreach requirements are currently under review by the MDTC, we limit our comments to the MDTC's own outreach efforts. The MDTC believes that state outreach efforts are an important tool for promoting public awareness of the Program. For instance, the MDTC coordinates with other state agencies, such as the Massachusetts Department of Transitional Assistance, the Massachusetts Attorney General's Office, and the Massachusetts Office of Consumer Affairs and Business Regulation, to distribute information about Lifeline and Link Up to citizens when they apply for benefits. Further, the MDTC maintains a page on its website to inform consumers about the Lifeline program, as well as provide access to the Lifeline/Link Up applications in both English and Spanish.<sup>46</sup> Finally, the MDTC created a pamphlet about the Lifeline and Link Up programs, which it has distributed to cities and towns throughout the state as well as to all social service agencies serving low-income citizens.

#### G. Extending Lifeline to Broadband

Finally, the FCC invites comment on reforms that it believes will "put Lifeline/Link Up on a more solid footing to achieve Congress's goal of . . . helping low-income households adopt broadband."<sup>47</sup> First, it asks whether it should amend the definition of Lifeline to explicitly allow

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<sup>45</sup> See NPRM at ¶¶ 230, 232.

<sup>46</sup> Link-Up & Lifeline – What Consumers Should Know, [http://www.mass.gov/?pageID=ocamodulechunk&L=4&L0=Home&L1=Government&L2=Our+Agencies+and+Divisions&L3=Department+of+Telecommunications+and+Cable&sid=Eoca&b=terminalcontent&f=dtc\\_telecom\\_lifelinefaq&csid=Eoca](http://www.mass.gov/?pageID=ocamodulechunk&L=4&L0=Home&L1=Government&L2=Our+Agencies+and+Divisions&L3=Department+of+Telecommunications+and+Cable&sid=Eoca&b=terminalcontent&f=dtc_telecom_lifelinefaq&csid=Eoca) (last visited Apr. 13, 2011) (providing essential information about the Lifeline and Link Up programs); Massachusetts Application for Lifeline/Link Up Telephone Service, *available at* [http://www.mass.gov/Eoca/docs/dtc/telecom/forms/Lifeline\\_Application9\\_2010.pdf](http://www.mass.gov/Eoca/docs/dtc/telecom/forms/Lifeline_Application9_2010.pdf); Solicitud para el servicio telefónico de Lifeline/Link Up en Massachusetts, *available at* [http://www.mass.gov/Eoca/docs/dtc/Consumer/spanish\\_lifelineapp9\\_201011.pdf](http://www.mass.gov/Eoca/docs/dtc/Consumer/spanish_lifelineapp9_201011.pdf).

<sup>47</sup> NPRM at ¶ 10.

support for broadband.<sup>48</sup> Then, the FCC asks how best to design a broadband pilot program that will assist it in assessing strategies to increase broadband adoption.<sup>49</sup>

The MDTC fully supports revising the definition of supported services under the Program to include broadband.<sup>50</sup> The MDTC agrees with the FCC that “[a]ccess to broadband is increasingly important for all Americans to actively participate in our economy and our society,” and thus believes that the proposed amendment is necessary to keep pace with the changing communications marketplace.<sup>51</sup> The MDTC does not oppose a pilot program and believes that such efforts can be beneficial for later gauging and updating overall Program requirements. However, the MDTC recommends, as it has previously, that the FCC also consider modifying the Lifeline Program directly.<sup>52</sup> The MDTC believes that “Lifeline and Link-Up assistance should be made available for a variety of services...which could be used for wireless, wireline, or broadband connections, or for a bundled package of services.”<sup>53</sup> In particular, the Program should be designed “to permit consumers to use the subsidy in the most cost-effective method for them, and in a manner which would not lock them into a single technology.”<sup>54</sup> However, if the

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<sup>48</sup> *Id.* at ¶ 275.

<sup>49</sup> *Id.* at ¶¶ 279-302.

<sup>50</sup> *See* 47 C.F.R. § 54.101. However, the MDTC refrains from commenting on how broadband should be defined under the Program (*e.g.*, appropriate speeds, wireline versus wireless, etc.).

<sup>51</sup> NPRM at ¶ 66.

<sup>52</sup> Joint Board Comments at 5; *see also* Mass. Dep’t of Telecomms. and Cable Comments, at 27, *In re High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service Contribution Methodology*, WC Docket No. 06-122, *Numbering Resource Optimization*, CC Docket No. 99-200, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, *IP-Enabled Services*, WC Docket No. 04-35 (filed Nov. 26, 2008).

<sup>53</sup> Joint Board Comments at 5.

<sup>54</sup> *Id.*

FCC ultimately adopts the pilot program approach, then the MDTC urges the FCC to model the program after the MDTC's recommendations. The MDTC does not believe that there should be a separate "broadband-only" approach.

### **III. CONCLUSION**

The MDTC welcomes this opportunity to comment and thanks the FCC for its consideration.

Sincerely,

/s/ Geoffrey G. Why

Geoffrey G. Why, Commissioner  
Massachusetts Dept. of  
Telecommunications and Cable