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

In the Matter of	)	
	)	
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
	)	

COMMENTS
of the
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

I. INTRODUCTION & STATEMENT OF INTEREST

The National Telecommunications Cooperative Association ("NTCA") hereby submits these comments in the above captioned proceeding and its accompanying Regulatory Flexibility Analysis ("RFA").[1] NTCA is a national association representing more than 570 rural telecommunications providers. While NTCA's members are all rural incumbent local exchange carriers, most provide their rural communities with a broad array of telecommunications services, including mobile wireless service. NTCA's members are all small businesses as that term is defined by the Small Business Administration ("SBA"),[2] and as Eligible Telecommunications Carriers ("ETCs"), they

[1] *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* (rel. March 4, 20110) ("NPRM")

[2] Under the SBA's definitions, wired and wireless telecommunications companies are small if they have 1,500 or fewer employees. 13 C.F.R. Sec. 121.201, NAICS codes 517110, 517210.

have a vested interest in the sustainability and effective operation of the Lifeline and Link Up programs.

NTCA supports the Commission's goal of preventing waste, fraud and abuse in the Lifeline and Link Up programs as the growth in these programs has spiraled beyond most, if not all, expectations. NTCA cautions the Federal Communications Commission (the "Commission"), however, that some of its proposals may be prove to be unnecessarily costly for small telecommunications providers and do little to address fundamental concerns about unchecked growth in these programs.

II. IT IS APPROPRIATE FOR THE COMMISSION TO ADOPT REASONABLE MEASURES TO CONSTRAIN GROWTH IN THE LIFELINE AND LINK UP PROGRAMS

The Lifeline and Link Up programs are valuable tools that help ensure that consumers in all regions of the country have access to affordable telephone service. NTCA's members, as ETCs, participate in the program, receiving reimbursement for discounts offered to eligible consumers.

In more recent years, the program has changed from being a limited resource for low income consumers, to one that is an unintended source of revenues for some ETCs, particularly in the wireless space. As the Commission notes, the program provided $1.3 billion in support in 2010, compared to an inflation-adjusted $221 million in support in 1997.[3] While the service has enabled a number of low income consumers to obtain wireless service, it has also led to significant growth in the fund.[4] Rather than providing a true "lifeline" of communication for low income consumers who would otherwise go

[3] NPRM, ¶ 27.
[4] NPRM ¶ 27

without service, the program has been taken far beyond its initial purpose and is being used to provide consumers with multiple sources of communication. According to the Commission, pre-paid wireless ETCs now account for one-third of all Lifeline reimbursements,[5] and there is evidence that multiple ETCs are seeking reimbursement for Lifeline service provided to the same residence and/or the same individual.[6]

The Lifeline and Link Up programs are worthwhile governmental support mechanisms. But given the overall universal service funding constraints, it is appropriate for the Commission to examine them with an eye toward improving efficiency and effectiveness and curbing any waste, fraud or abuse. The Lifeline/Link Up program should be accountable and fiscally responsible, with support disbursed only to those who need it.

To this end, NTCA generally supports a "one-per-residence" requirement and a clarification on "one-per-adult." The program was designed to offer a critical line of communications for low income customers – and not to enable every individual in a household to have multiple lines of communications. At the same time, the Commission needs to balance the costs and burdens of compliance with such requirements. The expectation as to efforts to comply with such limitations should be reasonable and not impose additional or excessive administrative costs on small companies. The Commission's response to evidence to waste, fraud and abuse must be proportional to the

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[5] *See* USAC 2Q 2011 Filing, Appendices at LI04 (Quarterly Low Income Disbursement Amounts by Company (4Q2010). www.usac.org

[6] The NPRM notes that the Commission's 2010 Telephone Trends Report indicates nearly 60% of households have both a landline and wireless telephone. *See*, NPRM note 86.

anticipated risk of noncompliance in smaller companies and the effect of such noncompliance on the overall size of the problem.

III. THE COMMISSION'S PROPOSALS TO ADDRESS DUPLICATIVE CLAIMS ARE UNWORKABLE FOR SMALL COMPANIES

NTCA supports reasonable measures to ensure that subscribers do not receive duplicative support. However, the Commission's proposed remedy to address existing duplicative claims is unnecessarily burdensome and unworkable. As proposed, the compliance burden rests solely on the shoulders of the ETCs. The Commission proposes that the ETCs notify the subscriber who is receiving duplicative support that it must select one provider or face de-enrollment. The ETCs must chase down the consumer and the consumer will receive at least two confusing notifications. Once the subscriber chooses a provider, that provider must notify USAC and the other ETC that it is the chosen one. There is nothing to prevent the consumer from telling each ETC that it is chosen, as the notifications are unlikely to occur simultaneously. As NTCA and several other trade associations and carriers explained more fully in a letter dated February 15, the process will confuse consumers and be ineffective at resolving duplicative claims.[7]

NTCA continues to support the alternative duplicate resolution process suggested in that February correspondence to the Commission.[8] This process properly puts USAC, the party with the most complete information, in the role of administrator. It is more efficient, less confusing and maintains the confidentiality of sensitive consumer

[7] *See,* Letter from United States Telecom Association, CTIA, Independent Telephone and Telecommunications Alliance, National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Rural Cellular Association, AT&T. Western Telecommunications Alliance, CenturyLink, Qwest, Tracfone Wireless, Inc, Windstream Communications, Inc and Verizon to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (February 15, 2011).
[8] *Id.*, NPRM ¶ 59.

information. Any increase in the administrative costs for USAC would be more than offset by the savings to the Universal Service Fund realized by managing out and minimizing, if not eliminating, duplicative support.

IV. THE PROPOSED AUDIT & VERIFICATION PROCEDURES ARE BURDENSOME AND EXPENSIVE

NTCA understands and applauds the Commission's desire to ensure that the Lifeline/Link Up programs are not being abused. However, compliance with the audit and verification proposals would be unnecessarily expensive, hitting hardest the smallest companies who can least afford to comply with the unfunded mandates. Requiring annual internal audits and minimum threshold verification responses, absent any evidence of necessity, would be expensive, time consuming, and tax the already limited financial and personal resources of small companies.

Absent evidence of abuse, the Commission should not require small ETCs to engage independent firms to assess compliance with the Lifeline/Link Up requirements. The proposal imposes an unnecessary expense on providers. Small ETCs would have to pay for the audits, remove employees from normal responsibilities to assist with audits and pay for audit reports to be filed with the FCC, USAC and the states.[9] Any internal audit requirement should be limited to only those providers, of class of providers, for

[9] Particularly at a time when the Commission is proposing to eliminate the recovery of corporate operations expenses from high-cost universal service support, it is unclear whether smaller providers who rely on such support will be able to bear such additional compliance costs. *See, Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *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 and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011).

which waste, fraud or abuse is a recurring issue. The benefit of a uniform independent audit requirement is far outweighed by the burden it would impose on small companies with limited resources.

Similarly, the Commission proposed sample-and-census approach to verifying on-going eligibility hurts small providers the most. Under the proposal, each ETC would be required to obtain verification information from a flat number of at least 300 Lifeline participants annually, no matter how small the company. Requiring a uniform number of respondents from all ETCs could require NTCA's members to survey ALL of their Lifeline customers each year –a disproportionately expensive endeavor. Further, smaller companies with a small pool of potential respondents are less likely to hit the required threshold, requiring the wasting of additional resources as they track down recipients. In fact, this proposal is worse than the current disproportionate mechanism. Under the current mechanism, the company with 400,000 Lifeline subscribers samples 0.06% of its subscribers, the company with 10,000 subscribers samples 2.38%, and the company with 500 subscribers samples 32.80%. Clearly, the burden is disproportionally placed on the smaller company, who can least afford the cost and effort required. Under the Commission's proposed modification--requiring carriers to verify 300 Lifeline subscribers--the burden on the company with the smallest number of Lineline subscribers would nearly double, requiring them to survey 60% of recipients. The other two carrier's burdens would remain largely unchanged. The only way to ensure that the burden of surveying is evenly dispersed among carriers of different sizes is to create a reasonable verification of a <u>percentage</u> of customers, imposed upon carriers of all sizes. This helps to ensure that the burden on the provider is proportionate to its size and ability to absorb the associated cost.

To the extent the Commission adopts reporting, audit or verification requirements that increase the small company cost of administering the Lifeline and Link Up programs, small companies should be able to fully recover their costs from the universal service fund. This would enable small companies to comply, while minimally impacting the anticipated savings realized from the implementation of the NPRM 's proposals.

V. CONCLUSION

NTCA supports the Commission's efforts in the NPRM. Growth in the Lifeline and Link Up programs has spiraled beyond most, if not all, expectations. However, NTCA cautions the Commission that some of its proposals may be prove to be unnecessarily costly for small telecommunications providers. The Commission must balance its need to control the size of the program against the financial and personnel constraints of small companies. The Commission must endeavor to minimize the administrative burden of compliance on small companies.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WC Docket No. 11-42, CC Docket No. 96-45, and WC 03-109, FCC 11-32, was served on this 21st day of April 2011 by electronic mail to the following persons:

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