

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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 UNITED STATES TELECOM ASSOCIATION**

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Executive Summary

The Commission's Low-Income NPRM properly focuses on two main goals – reforming the current system to better target support and developing a new system to encourage adoption of broadband service by low-income consumers. USTelecom has therefore outlined several key recommendations regarding the Commission's proposals that can best achieve these important goals.

Consistent with other federal programs that help low-income individuals or families afford what are considered life's necessities, Lifeline service should similarly be funded from general revenues. The Commission should petition Congress to provide general revenues to fund low-income programs, whether those programs are Lifeline or Link Up and whether those programs apply to voice or to voice and broadband service. Assessing communications providers' customers for the funding of low-income discount plans is counterproductive as it effectively raises the price of service, discouraging adoption and/or usage of communications services.

The Commission should also standardize enrollment and shift the burden of enrollment, verification and outreach to government. Government, not providers, should be responsible for administering the eligibility process, including periodic verification, as well as outreach to potential program recipients. Government administration of eligibility would safeguard consumers' privacy and minimize burdens on participating providers.

USTelecom supports adoption of a core set of federal eligibility, certification and verification requirements that would apply in all states. This would help consumers and providers of Lifeline services, since it would promote efficiency and consistency at the state level. USTelecom also supports several of the Commission's more granular proposals relating to determination of eligibility and verifications, including continuation of self-certification of residence on tribal lands, adoption of a uniform federal rule to serve as a minimum threshold for verification sampling, and uniformity at the state level for collection and submission of verification data. In addition, if states wish to adopt additional measures that complement the federal standards they should be free to do so, but should provide the requisite funding for both the expense of determination and the cost of the additional low-income subscribers due to implementation of those measures.

There is no need for the Commission to expand Lifeline eligibility to 150% of the Federal Poverty Guidelines, since it would neither materially change Lifeline take rates among eligible consumers nor necessarily ensure that low-income consumers have access to "telecommunications and information services." The many choices consumers have for voice and broadband service, serves as the most effective constrain on rates and provides a great variety of service packages for all consumers. Finally, given the Commission's concerns about growth in the Lifeline fund and its overall size it would be counterproductive for it to expand eligibility for Lifeline support, particularly given the absence of any record evidence supporting such a change.

The government is ideally suited and the most appropriate entity to conduct outreach efforts. This approach would be competitively neutral for providers and help ameliorate consumer confusion, since eligible consumers would be provided a consistent message about the services to which their low-income discount could apply.

With respect to reforms to eliminate waste, fraud and abuse, the Commission rightfully has evidenced a heightened level of concern about duplicate claims for Lifeline assistance. It must be noted that this problem is in no way due to the malfeasance or nonfeasance of Lifeline service providers as there is currently no effective way for such providers to detect or prevent duplicate Lifeline service, and there are several immediate and permanent measures the Commission can take to address this issue.

In terms of immediate measures, the Commission should defer granting any more prepaid wireless providers' requests for forbearance from the facilities requirement of the Act and states should not grant ETC requests for Lifeline-only service until reforms, including a national database, are implemented to address the duplicate account issue. The Commission should also promulgate a one-line per household rule, and adopt the Interim Lifeline Duplicate Resolution Process recently submitted to the Commission by USTelecom and others.

Permanent measures should include establishment of a national database for Lifeline eligibility and verification that would use a personally identifiable number that would supply information as to whether a consumer has been deemed eligible, and whether the consumer is already receiving a Lifeline discount. The Commission should refrain from requiring ETCs to provide personally identifiable information. Finally, Lifeline service providers should not be penalized for providing service to duplicate Lifeline accounts when there is no way for them to identify such accounts.

The Commission should not adopt a rule stipulating that all ETCs must report partial or pro rata dollars when claiming reimbursement for Lifeline customers who receive service for less than a month. Such a rule would add needless burdens and complexity without a concomitant increase in accuracy.

USTelecom believes that if the Commission eliminates support for Toll Limitation Service it should eliminate the requirement for its provision as well; otherwise, it is establishing an unfunded universal service mandate. If however, the Commission retains the requirement, it should allow for reimbursement for costs attributable to its provision and adopt measures to ensure that providers do not inflate their true costs.

USTelecom also agrees with the Commission's proposal to define the "customary charge for commencing telecommunications service" as the ordinary initiation charge that an ETC routinely imposes on all customers within a state, as well as its proposal to amend its rules to prevent ETCs from obtaining Lifeline support for any customer who has failed to utilize the service for 60 consecutive days. The latter should be imposed only on providers that do not charge a monthly fee for service. The Commission, however, should not impose minimum consumer charges.

The Commission should also clarify its consumer eligibility rules by adopting its proposal for a one-per-residential address requirement. Providing Lifeline service to each residence effectively fulfills the goal of ensuring that low-income consumers have basic service, which connects them to the rest of society. Given the potential limits on the size of the low-income portion of the Universal Service Fund, the possible expansion of low-income funding to broadband, and the initiation of the Connect America Fund, it would be irresponsible to significantly increase the size of the Lifeline fund size in exchange for a marginal increase in connectivity and it would be inconsistent with the Commission's statutory obligation to ensure that support is sufficient but not excessive.

While constraining the amount of low-income funding may be necessary and advisable, particularly if the Commission caps the size of the overall Universal Service Fund, there are too many unknowns right now to establish the appropriate level for such a constraint at this time. The Commission's pilot programs should yield information not only as to the optimal ways to increase broadband adoption, but on the appropriate amount of funding required if and when such programs are expanded to nationwide coverage.

Finally, the Commission should modernize its Low-Income program to align with changes in technology and marketplace dynamics. If and when the Commission modifies the current low-income programs, it should ensure that the administrative issues plaguing the current voice program do not extend to any new program. Carrying forward practices developed for a monopoly voice world would be highly problematic.

USTelecom supports developing test projects to provide an academically rigorous evaluation of concepts that effectively increase broadband adoption by low-income households. The Commission should adopt its proposal to structure the pilot program as a joint effort among the Commission, one or more broadband providers, and/or one or more non-profit institutions or independent researchers with experience in program design and evaluation.

Finally, USTelecom supports the Commission's sensible approach of reforming the current voice system to provide a stable low-income platform while testing the effectiveness of approaches to raising the level of broadband adoption among the low-income population.

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**COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

I. INTRODUCTION

The United States Telecom Association (“USTelecom”) respectfully submits these comments in response to the Notice of Proposed Rulemaking addressing Lifeline and Link Up Reform and Modernization¹ (“Low-Income NPRM”). The Low-Income NPRM properly focuses on two main goals – reforming the current system to better target support and developing a new system to encourage adoption of broadband service by low-income consumers. A key element of effectively and efficiently accomplishing both goals is adoption of an administrative structure that relies on government entities for enrollment, verification, and outreach, instead of placing burdens on providers of low-income service.

USTelecom supports the adoption of much needed reforms to the low-income program. The current voice Lifeline program operates under antiquated rules and

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up*, (WC Docket 11-42, CC Docket 96-45, WC Docket No. 03-109), released March 4, 2011.

requirements that discourage consumers and providers from participating, and are unnecessarily costly and cumbersome for carriers and USAC to audit and administer. The current program, which was designed for monopoly-era local exchange voice service, has turned into a Rube Goldberg contraption in a world that has a myriad of providers offering services over different delivery platforms using their own facilities or resale. Using this rickety structure to support a program designed to encourage low-income consumers to adopt broadband is a recipe for disaster. In the Low-Income NPRM, the Commission has taken the sensible approach of reforming the current voice system to provide a stable low-income platform while testing the effectiveness of approaches to raising the level of broadband adoption among the low-income population.

II. LIFELINE SERVICE SHOULD BE FUNDED FROM GENERAL REVENUES

The Commission should petition Congress to provide general revenues to fund low-income programs, whether those programs are Lifeline or Link Up and whether those programs apply to voice or to voice and broadband service. Other federal programs that help low-income individuals or families afford what are considered life's necessities – for example, food and heat – are funded through general revenues and administered by executive branch agencies or departments, not through industry-specific assessments administered by independent regulatory agencies. If public policymakers decide that communications services are equivalently valuable, they should back up that decision with the appropriate general revenue funding. The fact that the communications industry labors under legacy price regulation for voice service is no reason to assess voice providers' customers instead of all taxpayers to support voice and broadband service discounts for low-income customers.

Assessing communications providers' customers for the funding of low-income discount plans is counterproductive as it effectively raises the price of service, discouraging adoption and/or usage of communications services. In the broadband context, it is particularly harmful in that broadband adoption rates significantly trail those of voice service and the Commission has identified the price of service as a significant reason for that.² Even an exemption from paying into the Universal Service Fund for low-income subscribers still discourages those ineligible for such discounts from adopting advanced communications services. The conundrum of how to provide adequate financing for service to low-income consumers while maintaining a reasonable fund size, which the Commission has proposed to resolve by capping the Lifeline portion of the fund, would be better addressed by Congress measuring support for communications services against other budget priorities. The Commission should not have to make the Hobson's choice between providing adequate funding within a reasonable total fund size for programs encouraging adoption and availability.

While the Commission notes the importance of digital literacy and consumer devices to increasing broadband adoption among low-income households, it acknowledges that it has not funded equipment in the past, and literacy efforts have not been necessary in the context of voice services.³ Legislation providing general revenues to encourage and facilitate adoption of communications services could address these elements on a more complete and integrated basis. Such legislation could also provide incentives for coordination with state and local programs, as well as relevant efforts engaged in by non-governmental organizations. True reform of the low-income

² See Low-Income NPRM at para. 11.

³ *Id.* at paras. 268 and 282.

programs for communications services should include a more progressive funding source, general revenues.

III. THE COMMISSION SHOULD STANDARDIZE ENROLLMENT AND SHIFT THE BURDEN OF ENROLLMENT, VERIFICATION AND OUTREACH TO GOVERNMENT

Changes to the administration of the low-income programs are necessary, appropriate and overdue. The current voice Lifeline program is costly and cumbersome for carriers and the Universal Service Administrative Company (“USAC”) to administer and audit. Changes should be made to the current voice program to optimize its administrative efficiency and effectiveness and such changes should be incorporated into pilot programs addressing broadband adoption among low-income consumers. Necessary improvements include relieving 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 customer confusion.

Government, not providers, should be responsible for administering the eligibility process, including periodic verification, as well as outreach to potential program recipients. Government administration of eligibility would safeguard consumers’ privacy and minimize burdens on participating providers. The elimination of this particular obligation on communications providers – and ensuring that all, rather than just some, states fully reimburse carriers for state Lifeline discounts (as recommended below) may also incent additional providers to begin participating in the Lifeline program, thereby increasing consumer choice.

Low-income support for communications services is a public benefit passed through to consumers by communications providers. Determination of eligibility for a public benefit is clearly a government function, and should not be delegated to the private sector. The designation of service providers as administrators of the eligibility determination for low-income support programs is a relic of the monopoly-era telephone environment. In today's communications services market, there are many wireline and wireless providers from which consumers can choose to obtain service, both voice and broadband. The consistency and efficiency of the eligibility and verification processes can be greatly improved by assigning those functions to a government administrator, working with a centralized database.

To make the low-income support eligibility determination, household income information must be scrutinized. As the Commission becomes more mindful of the need to protect consumers' personal information and share it only when necessary, prudence counsels vesting the eligibility determination in government that already has this information, rather than placing this obligation on what may be an expanding number of communications providers.

A. Eligibility, Certification and Verification Requirements Should be Standardized

USTelecom supports adoption of a core set of federal eligibility, certification and verification requirements that would apply in all states. This would help consumers and providers of Lifeline services. If a consumer was eligible in one state, presumably he or she would continue to be eligible after moving to another state, eliminating consumer confusion. Moreover, whoever administers the Lifeline program whether it continues to be providers or shifts to governmental entities, uniformity would promote the

development and implementation of systems that could be used by the administrative entity and which would promote efficiency and consistency.

Requiring all consumers in all states to present documentation of program eligibility should only be imposed if determination of eligibility and verification is shifted to a government entity. While requiring documentation when enrolling would certainly help address the problem of fraud, waste and abuse of scarce program resources, it would also add substantially to the burdens placed on the providers of Lifeline service, currently tasked with determining eligibility. Moreover, privacy concerns and burdens on consumers would be reduced by government administration of the determination of program eligibility since government entities already possess much of the required documentation.

However, USTelecom supports the Commission's proposed continuation of self-certification of residence on tribal lands.⁴ This policy should continue when the eligibility and verification processes are administered by a government entity. The Commission notes that "The current rules do not require the ETC to establish further verification processes or controls to ascertain that the customer is a Tribal member or lives on Tribal lands before providing enhanced Lifeline support." As USTelecom has contended in the context of USAC Lifeline audits, with regard to a service provider's obligation under the current provider-centric Lifeline eligibility and verification structure, to ascertain whether a customer lives on a reservation, the service provider has properly

⁴ *Id.* at para. 141.

fulfilled this obligation by obtaining a signed certification from the customer.⁵ Any audit findings inconsistent with this view should be voided.

USTelecom supports amending section 54.410 of the Commission's rules to adopt a uniform federal rule to serve as a minimum threshold for verification sampling. The sample size should be the minimum necessary to support a statistically accurate result. We also support de-enrolling from the program consumers who decline to respond to verification attempts, but reiterate that such verification should be performed by a government entity, not by Lifeline service providers.

Finally, we agree with the Joint Board that procedures for the collection and submission of verification data be uniform across states. These procedures should apply in all states regardless of any variances in state eligibility criteria.

In all instances, government, not providers, should be determining eligibility and verification. The role of the provider should be merely to pass through the subsidy to the subscriber determined to be entitled to it by the government.

B. Coordination with State Lifeline Measures

If states wish to adopt additional measures that complement the federal standards they should be free to do so, but should provide the requisite funding for both the expense of determination and the cost of the additional low-income subscribers due to implementation of those measures. States providing Tier 2 support should not receive federal matching funds (Tier 3 support) if they do not reimburse carriers for state Lifeline

⁵ See *Comments of the United States Telecom Association, In the Matter of Qwest Request for Review of a Decision of the Universal Service Administrative Company* (WC Docket No. 03-109), June 16, 2008.

discounts. This practice in some states creates a disincentive for carriers to promote Lifeline service.⁶

C. The Income Eligibility Criterion of 135 Percent or Below of the Federal Poverty Guidelines Should Not be Raised

It is important to keep in mind that the goal of the Lifeline program is not to maximize eligibility for USF subsidies and that increased Lifeline expenditures are not a measure of the program's success. The Act directs that "consumers in all regions of the Nation, including low income consumers... should have access to telecommunications and information services."⁷ There appears to be no new evidence on the record that expanding Lifeline eligibility to 150% of the Federal Poverty Guidelines ("FPG") would materially change Lifeline take rates among eligible consumers or more broadly ensure that low-income consumers have access to "telecommunications and information services."⁸ Moreover, even if a change to the income Lifeline eligibility criterion was to result in an increase in Lifeline penetration, this change would not necessarily yield a corresponding increase in telephone penetration rates. And it is the national telephone penetration rate – not maximum program eligibility or participation – that Lifeline is designed to further.

Consumers, including low-income consumers, today have many choices for voice and broadband service. Competition is robust, with multiple wireless, VoIP and other

⁶ States engaging in this practice include, but are not limited to, Florida, Georgia, Ohio and New Mexico.

⁷ 47 U.S.C. Sec. 254(b)(3).

⁸ In paragraph 57 of its *Lifeline and Link-Up, Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 8302, paragraphs 2, 7-18 (2004), the Commission considered this question and predicted that such an expansion of eligibility could cost about \$200 million and would have only a "minimal impact" on national telephone subscriber penetration rates. Presumably the cost would be significantly higher today given the expansion of the Lifeline fund since that time.

competitive providers operating in most areas. Such competition serves as the most effective constrain on rates and provides a great variety of service packages for all consumers. Consumers above 135% of the FPG level should be able to find a package that meets their needs and is affordable without a federal Lifeline subsidy.

The Commission has expressed concern about growth in the Lifeline fund and about its overall size, going so far as to proposing a cap on the fund.⁹ With a possible expansion to broadband being proposed by the Commission, anticipated constraints on the overall size of the universal service fund, and concerns about the proportion of that fund addressing low-income consumers, it would be counterproductive for the Commission to expand eligibility for Lifeline support, particularly given the absence of any record evidence that such an increase would increase telecom service penetration.

D. Government is the Best Entity to Perform Consumer Outreach

Similar to the eligibility administration function, consistent government outreach is best and most appropriate. This approach would be competitively neutral for providers and help ameliorate consumer confusion. Potential eligible consumers would be provided a consistent message about the services to which their low-income discount could apply. Government, which has household income information, is well positioned to know which consumers are most likely to qualify for the service and therefore can best ensure that the design and implementation of outreach maximizes consumer awareness. The National Broadband Plan recognized the role of states in outreach: “State social service agencies should take a more active role in consumer outreach and in qualifying

⁹ See Low-Income NPRM at para. 145.

end-users. Agencies should make Lifeline and Link-Up applications routinely available and should discuss Lifeline and Link-Up when they discuss other assistance programs.”¹⁰

Outreach by government obviates the need to impose marketing guidelines on Lifeline providers. It is beyond intrusive for the Commission to be “imposing guidelines” on companies about which products and services to market and the amount of marketing that should be done.

Any outstanding audit findings by USAC that the publicizing of the availability of Lifeline service must include a list of the supported services under Rule 54.101(a) should be rejected.¹¹ Advertising the list of supported services under Rule 54.405(b) requires that the advertising be done “in a manner reasonably designed to reach those likely to qualify for the service.” Including the list of supported services may in fact contradict that obligation because of its lengthy and complex verbiage.

IV. REFORMS TO ELIMINATE WASTE, FRAUD, AND ABUSE

The Commission rightfully has evidenced a heightened level of concern about duplicate claims for Lifeline assistance.¹² It must be noted that this problem is in no way due to the malfeasance or nonfeasance of Lifeline service providers as there is currently no effective way for such providers to detect or prevent duplicate Lifeline service.

A. Immediate Measures to Address Duplicate Lifeline Accounts

The Commission should adopt changes to its Lifeline practices on an interim basis while the proceeding on duplicate Lifeline accounts is pending. First, until sufficient

¹⁰ See *National Broadband Plan*, pages 172 and 173.

¹¹ See, e.g., *Request for Review by AT&T, Inc. of the Decision of the Universal Service Administrator*, WC Docket No. 03-109, (filed on August 14, 2009).

¹² See e.g., Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau to Richard A. Belden, Chief Operating Officer, Universal Service Administrative Company, dated January 21, 2011 (DA 11-110).

protections against Lifeline account duplication are in place, the Commission should not grant any more prepaid wireless providers' requests for forbearance from the facilities requirement of the Act.¹³ It is difficult to see how granting such requests which exacerbate the Lifeline account duplication issue meets the public interest test in Section 10(a)(3) of the Act.¹⁴

Second, during the interim period prior to implementation of reforms including a national database, the Commission and states should defer any decisions on requests for Lifeline-only designation. Granting such requests will just make the account duplication problem worse until systemic solutions have been implemented.

Third, the Commission should immediately promulgate a binding one line per household rule, pursuant to the Petition for Reconsideration and Request for Stay of the industry associations ("Industry PFR") responding to the Wireline Competition Bureau's January 21, 2011 letter to USAC.¹⁵

Finally, along with a moratorium on granting forbearance requests, the Commission could adopt the Interim Lifeline Duplicate Resolution Process ("Interim Process") suggested by the industry in an *ex parte* letter filed by a diverse group of providers of Lifeline service and associations representing both wireline and wireless companies on April 15, 2011.¹⁶ The Interim Process is a refinement of the suggestions

¹³ The facilities requirement is contained in 47 U.S.C. Sec. 214(e)(1)(A).

¹⁴ 47 U.S.C. Sec. 10 (a)(3).

¹⁵ See Petition for Reconsideration of the Wireline Competition Bureau's January 21, 2011 Letter to the Universal Service Administrative Company filed by USTelecom, CTIA, NTCA, OPASTCO, RCA, ITTA and WTA, CC Docket No. 96-45, WC Docket No. 03-109 (February 22, 2011) (Industry PFR).

¹⁶ See *ex parte* letter from AT&T, CenturyLink, Cox Communications, Inc., CTIA – The Wireless Association®, General Communication, Inc., Nexus Communications, Inc., Sprint Nextel Corp., Tracfone Wireless, Inc., USTelecom, and Verizon Communications,

made by the industry in a letter filed with the Commission on February 15.¹⁷ Such an interim process would provide a mechanism for starting to address duplicate Lifeline accounts prior to the Commission adopting final rules pursuant to the Low-Income NPRM. Because it is an interim process, it should be implemented on a state-by-state basis, prioritizing states where the highest occurrence of Lifeline duplication is known or anticipated. Per the industry letter, the process should be administered by USAC, be administratively simple, and permit consumer choice. All necessary waivers of certain FCC rules as well as preemption of similar state requirements should be included in an FCC order to permit immediate implementation.¹⁸

Pursuant to the Industry PFR,¹⁹ the Commission should reconsider the decision set forth in the letter dated January 21, 2011, from the Chief of the Wireline Competition Bureau to the Chief Operating Officer of USAC (the “January 21 Letter”), in which the Wireline Competition Bureau issued directives to USAC and eligible telecommunications carriers (“ETCs”) regarding duplicate Lifeline claims. While USTelecom believes that it is important for the Commission to prevent waste, fraud and abuse in universal service, in doing so the Commission must follow the requirements of the Administrative Procedures Act, the Paperwork Reduction Act, and the Regulatory Flexibility Act, which the Commission did not do in this instance. While adopting the procedures laid out in the January 21 Letter through a

Inc., to Marlene Dortch, Secretary, Federal Communications Commission, (CC Docket No. 96-45 and WC Docket No. 03-109) (April 15, 2011).

¹⁷ 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) (*ETC Duplicate Letter*).

¹⁸ For example, 47 C.F.R. Sec. 54.405 (c) and (d).

¹⁹ See Industry PFR.

formal rulemaking process²⁰ will cure the legal issues related to the letter, it will not address the extraordinary burdens placed on Lifeline service providers nor will it address the ineffectiveness of the proposal. Instead, the Commission should adopt on an interim basis, the Interim Process suggested by the industry.²¹

B. Permanent Measures to Address Duplicate Lifeline Claims

USTelecom supports the Commission's proposal to establish a national database for Lifeline eligibility and verification. Such a database should be established as soon as possible. As noted by Verizon, a national database is the only effective method for protecting the program against waste, fraud, and abuse.

USTelecom endorses AT&T's proposal for a national PIN (Personal Identification Number) database that would supply information as to whether a consumer has been deemed eligible, and whether the consumer is already receiving a Lifeline discount. AT&T's proposal would have numerous benefits including improving the protection of consumer privacy, and prevention of waste, fraud and abuse. A national PIN Database would be created, potentially by USAC or a third-party contractor, which would contain only PINs with empty data fields which would then be populated by states, with minimal identifying consumer information. States would assign PINs to eligible consumers and populate the PIN-record with specified consumer information. When a PIN is assigned it would be noted as such, preventing the consumer from activating a duplicate Lifeline account. When a consumer selects a Lifeline provider, the consumer would provide the assigned PIN and specific identifying information and the service provider would determine whether the PIN is activated and that the consumer's identifying information matches with the PIN record. If the PIN does not show activation of a Lifeline account and the consumer's identifying

²⁰ See *Low-Income NPRM* at para. 58.

²¹ See Interim Process.

information is a match, the service provider would complete the Lifeline account transaction. If not, the service provider could not establish a Lifeline discount on the consumer's account. USAC would reimburse Lifeline service providers based on the number of PIN records populated by each provider.

Ideally the database should be part of a federally funded Lifeline program administered and funded through an executive branch agency or department. However, if this is not accomplished, the database should be funded through the universal service fund contribution mechanism. Charging providers for database dips could discourage participation in the Lifeline program, thereby unnecessarily inhibiting competition and consumer choice.

The Commission should not require ETCs to provide such information as customer names, addresses, Social Security numbers, birthdates, or other unique household-identifying information to USAC on their Forms 497.²² A requirement for voice providers to disclose personally identifiable information about their customers runs counter to federal privacy statutes such as the Electronic Communications Privacy Act and section 222 of the Communications Act.²³ In contrast, having government officials direct these processes would eliminate the privacy concerns.

Moreover, Lifeline service providers should not be penalized for providing service to duplicate Lifeline accounts when there is no way for them to identify such accounts. When such accounts have been identified and the appropriate process has been completed for the duplication to be eliminated, either via consumer choice or random assignment, only then should compensation for providers for that consumer be ended. Ideally, consistent with the discussion above, such an identification process will be performed by a government entity

²² See *Low-Income NPRM*, para. 57.

²³ *Id.*

that would inform the Lifeline service provider as to when the Lifeline discount should be terminated.

C. Pro Rata Reporting Requirements

The Commission should not adopt a rule stipulating that all ETCs must report partial or pro rata dollars when claiming reimbursement for Lifeline customers who receive service for less than a month. Such a rule would add needless burdens and complexity without a concomitant increase in accuracy.

Moreover, the Commission should promptly resolve the numerous challenges to adverse USAC audit findings based on carriers not electing to file on a pro rata basis. The fact that the Commission has found that it needs to establish a rule²⁴ supports USTelecom's view that the plain meaning and history of the Form 497 do not support the interpretation and finding of the auditors.²⁵

Any increased accuracy of Lifeline subscriber counts is vastly outweighed by the enormous regulatory burden of partial month reporting. It is for this reason that voice providers have opted not to file on a pro rata basis even when they are gaining more Lifeline subscribers than they are losing – and thereby would be eligible for more Lifeline support if filing on a pro rata basis. For example, actual data cited by Qwest in support of its petition for review of an adverse USAC audit finding on this issue demonstrates that the amount of reimbursements that it has received from USAC are less than the federal Lifeline support Qwest has actually provided to its Lifeline customers.²⁶

²⁴ *Id.* at para. 67.

²⁵ *See* Comments of the United States Telecom Association, In the Matter of Request for Review by AT&T Inc. of a Decision of the Universal Service Administrative Company Concerning Audit Finding Related to the Low-Income Program, (WC Docket No. 03-109), July 6, 2009.

²⁶ *See* Qwest Petition, page 4, (April 25, 2008).

Indeed, to create an obligation to report partial-month subscription data would be extraordinarily burdensome for carriers. Many carriers use their billing systems to obtain the number of subscribers receiving the Lifeline discount at the end of each month.²⁷ To separately track Lifeline subscribers beginning and ending service during a month would require extracting this information from a carrier’s billing system on a daily basis – or even more frequently. This is extremely burdensome and unnecessary. This requirement is tantamount to regulation for the sake of regulation and would be contrary to the President’s Executive Order No. 13,563 of January 18, 2011, that a policy standard works best when it is based on “a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify)” and when they “impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.” In other instances involving universal service mechanisms, such as ‘safe harbors’ for CMRS and VoIP contributions to USF, the Commission has adopted rules and guidelines that seek to minimize the administrative burdens of its regulatees. The Commission should similarly recognize here that the value in reducing administrative burdens outweighs the value of the benefits of increased precision in reporting.

D. Elimination of Support for Toll Limitation Service

If the Commission eliminates support for Toll Limitation Service (“TLS”) it should eliminate the requirement for its provision as well, otherwise it is establishing an unfunded universal service mandate. The Commission argues that because of the decline in long-distance calling rates, the rule providing for TLS support may have outlived its usefulness.²⁸ USTelecom agrees that the decline in long-distance calling rates, the increase in bundled flat-

²⁷ See AT&T Petition at page 11, (August. 14, 2009).

²⁸ See *Low-Income NPRM* at para. 70.

rate plans, and the prospect for the complete elimination of the distinction between local and long distance calling due to the access reform proposals put forward by the Commission in the USF and Intercarrier Compensation NPRM²⁹ will eliminate the need for TLS. If however, the Commission retains the requirement, it should allow for reimbursement for costs attributable to its provision and adopt measures to ensure that providers do not inflate their true costs.

E. Charges Eligible for Link Up

USTelecom agrees with the Commission's proposal to define the "customary charge for commencing telecommunications service" as the ordinary initiation charge that an ETC routinely imposes on all customers within a state.³⁰ Further, we agree that whenever activation charges are waived, reduced or eliminated for any reason other than compliance with a state Commission mandate, there should be no Link Up reimbursement. Lack of reimbursement due to a state Commission rule turns that state Commission action into an unfunded mandate.

F. Customer Usage of Lifeline-Supported Service

USTelecom agrees that to ensure that Lifeline support is used for the benefit of low-income subscribers that are actually using the supporting services, the Commission should amend its rules to prevent ETCs from obtaining Lifeline support for any customer

²⁹ 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) (USF/ICC Transformation NPRM).

³⁰ See *Low-Income NPRM*, para. 73.

who has failed to utilize the service for 60 consecutive days.³¹ However, this limitation should be imposed only on providers that do not charge a monthly fee for service.

Providers of Lifeline service that is billed on a flat rate basis may not monitor usage and thus may not be able to determine whether there has been usage, but if the Lifeline customer continues paying a monthly fee for service, that customer has determined that there is value in the availability of the Lifeline service. When there is no monthly fee, which is the case in some Lifeline plans, particularly of prepaid wireless providers, it is impossible to determine whether there is any service at all, so it is wasteful to subsidize potentially non-existent availability.

G. The Commission Should Not Impose Minimum Consumer Charges

While the Commission's objective to discourage unnecessary Lifeline accounts and the associated subsidies is laudable, the Commission's proposed methods, including the use of price regulation of Lifeline service,³² are problematic. As the Commission notes, collecting a nominal amount such as \$1 per month, or even bimonthly, may not be cost effective for carriers to bill.³³ When a suitable system for detecting and addressing duplicate Lifeline accounts is in place, and an effective system for determining and verifying eligibility for Lifeline discounts is implemented, a free service should actually serve to fulfill the Commission's goal of increasing penetration among low-income consumers.

³¹ *Id.* at para. 82.

³² *See Low-Income NPRM*, para. 86.

³³ *Id.* at para. 89.

V. THE COMMISSION SHOULD CLARIFY CONSUMER ELIGIBILITY RULES

USTelecom supports Commission adoption of a one-per-residential address requirement in section 54.408 of its rules. As noted in the Request for Stay³⁴ filed by USTelecom and other associations, “[t]he January 21 Letter erroneously states that the Commission has adopted a rule limiting Lifeline support to only one, potentially among multiple, independently qualified individuals in a household (See January 21 Letter at 1.). In fact, no such rule has ever been adopted with respect to the post-1996 Act low income support program.”

There is nothing in the record so far that providing support to each adult rather than to each residential address would measurably enhance the universality of communications service among the low-income population, while the Commission is correct that providing support to each low-income adult rather than to each residential address could significantly increase the size of the program.³⁵ Providing Lifeline service to each residence effectively fulfills the goal of ensuring that low-income consumers have basic service, which connects them to the rest of society. Given the potential limits on the size of the low-income portion of the Universal Service Fund, the possible expansion of low-income funding to broadband, and the initiation of the Connect America Fund, it would be irresponsible to significantly increase the size of the Lifeline fund size in exchange for a marginal increase in connectivity and it would be inconsistent with the Commission’s statutory obligation to ensure that support is sufficient but not excessive.

³⁴ See page 8, *Request for Stay of the Wireline Competition Bureau’s January 21, 2011 Letter to the Universal Service Administrative Company*, submitted by USTelecom CTIA, NTCA, OPASTCO, WTA, RCA and ITTA, February 22, 2011.

³⁵ See *Low-Income NPRM* at para. 110.

To develop a useful determination of “household” or “head of household” in its Lifeline rules or orders, the Commission should review how other federal assistance programs that qualify consumers for Lifeline service, such as the Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families define these terms. A reasonable definition of a household might be those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship.

VI. ALTHOUGH LIMITING FUNDING FOR LOW-INCOME SUPPORT MAY BE ADVISABLE, THE COMMISSION HAS INSUFFICIENT INFORMATION TO DETERMINE THE APPROPRIATE LEVEL OF SUCH A CONSTRAINT AT THIS TIME

Balancing the various priorities within the Universal Service Fund is a difficult but necessary task. As the Commission notes, the size of the low-income program has grown significantly in recent years, from a roughly inflation-adjusted \$667 million in 2000 to \$1.3 billion in 2010.³⁶ The rural health care and schools and libraries support mechanisms are capped, and two of the individual high-cost mechanisms are constrained in size as well.³⁷ None of these program areas have grown as fast as the Lifeline program in the past few years, primarily due to the emergence of prepaid wireless.³⁸ This has resulted in low-income funding taking up an increasing proportion of overall universal service funding.

Constraining the amount of low-income funding may be necessary and advisable, particularly if the Commission caps the size of the overall USF, but there are too many

³⁶ See *Low-Income NPRM* at para.143.

³⁷ The High Cost Loop Fund is subject to a cap, and Interstate Access Support is constrained via a target mechanism.

³⁸ See *Low-Income NPRM* at para. 143.

unknowns right now to establish the appropriate level for such a constraint at this time. The number of duplicate Lifeline accounts is unknown and the impact on the size of the low-income program of Commission policies addressing this and other issues in the Lifeline program have not been established. Moreover, by exploring the use of pilot programs, the Commission is just beginning the process of determining the proper structure for a low-income program encompassing broadband service. The results of those pilots should yield information not only as to the optimal ways to increase broadband adoption, but on the appropriate amount of funding required if and when such programs are expanded to nationwide coverage.

Finally, as proposed earlier in these comments, the Commission should seek to fund low-income programs from general revenues, not through assessment on communications providers and their customers. As with other social welfare programs, Congress is the appropriate entity to decide the proper amount of support for low-income individuals to use to purchase particular goods or services.

VII. THE COMMISSION SHOULD MODERNIZE THE LOW-INCOME PROGRAM TO ALIGN WITH CHANGES IN TECHNOLOGY AND MARKET DYNAMICS

The Commission properly examines whether basic local voice service is the proper definition of a Lifeline service offering given changes in technology and the telecommunications marketplace since the Commission created the current Lifeline program in 1997. The current low-income programs are designed for a monopoly POTS world that no longer exists. They do not reflect the needs of today's low-income consumers and how they use communications.

If and when the Commission modifies the current low-income programs, it should ensure that the administrative issues plaguing the current voice program do not extend to

any new program. Carrying forward practices developed for a monopoly voice world would be highly problematic. The best way to resolve many of these issues is to transfer the eligibility, verification and outreach responsibilities now placed on Lifeline service providers to government.

USTelecom supports developing test projects to provide an academically rigorous evaluation of concepts that effectively increase broadband adoption by low-income households. It is important that an adoption strategy be right from the start, efficient, effective, implementable and auditable, which is difficult or impossible without proper design from the outset. The Commission is wise to adopt the recommendation of the National Broadband Plan to facilitate pilot programs to test different program design elements.³⁹ While the structure and rules governing pilot project may differ in important ways from rules that the Commission may ultimately adopt to expand Lifeline to support broadband,⁴⁰ the rules and structure of the pilots should attempt to meet as closely as possible the goals set forth above.

A pilot program should be designed to take into account the fact that support to low-income consumers to encourage broadband adoption could include many entities including broadband service providers, hardware retailers or manufacturers and those who assist with digital literacy. Because of the number and diversity of entities involved, it is extraordinarily important that a pilot program establish efficient and consistent procedures. For example, it should use uniform nationwide criteria for customer eligibility and utilize a national database for verification.

³⁹ See *National Broadband Plan* at 173 and *Low-Income NPRM* at para. 279.

⁴⁰ See *Low-Income NPRM* at para. 286.

The goal of a test project should be to gather actionable information about the effects of different programs designed to increase the adoption of broadband by low-income households. All tested options must be scalable. An efficient program design will have three components – research; program design and implementation; and evaluation. The research component will include an understanding of the current distribution of any existing subsidies for broadband adoption among low-income households, which will help with program design and site selection. That will lead to an analysis of the targeted populations to identify the pilot communities. Such identification should take into account income thresholds, access to broadband services, and access to digital literacy and/or technical support that can affect program enrollment.

All providers of voice and broadband service should be eligible to participate in a program that would provide Lifeline discounts on a competitively neutral basis. Participation should not be tied to existing section 214 requirements, ETC designations, or high-cost program requirements. The Commission has already somewhat moved down this path by forbearing from the requirement in the current voice program that providers be at least partially facilities-based.⁴¹ Each provider of eligible voice and broadband services, including resellers, would be obligated to provide the Lifeline discounts to qualifying households only in areas where the provider offers the services.

Low-income consumers should be able to choose among providers offering any terrestrial broadband service, at any service or usage level tier that meets the FCC's standards for broadband services eligible for support. In particular, USTelecom

⁴¹ *Id.* at para. 304.

recommends that the Commission only apply Lifeline discounts to broadband service capable of delivering advertised speeds of at least 3 Mbps downstream.

Each provider of eligible voice and broadband services, including resellers, would be obligated to provide the Lifeline discounts to qualifying households only in areas where the provider offers the eligible broadband services. Satellite broadband should be eligible where satellite is the only broadband service available. Competition and customer choice would be maximized by allowing the customer to select among any qualifying broadband service.

As with USTelecom's recommendation for the appropriate structure for a voice service discount, the broadband service discount should be a flat dollar amount per billing period. USTelecom has recommended testing discount amounts of \$10 to \$15 per month off of the broadband service provider's market price for a qualifying service of at least 3 Mbps downstream. The Commission should also test the concept of discount elimination – the phasing out of the discount after some period of time. After having broadband service for a period of time, low-income consumers may reevaluate the value proposition of having such service and make the decision to retain it even without a Lifeline discount. If discount elimination can be implemented for all or a portion of Lifeline broadband recipients, it will help conserve funds without negatively impacting the program's goal of increasing the broadband adoption rate among low-income households.

The Commission should adopt its proposal to structuring the pilot program as a joint effort among the Commission, one or more broadband providers, and/or one or more non-profit institutions or independent researchers with experience in program

design and evaluation.⁴² If possible, the pilot should also include a hardware element, either in conjunction with hardware manufacturers or retailers, per the Commission's proposal.⁴³

Although the Commission historically has provided support for services and not equipment, it could explore a matching or tiering approach and provide extra support to a state for provision of broadband service where a government entity, NTIA or a state, provides support for purchase of an end user device. This could be done by the government through a voucher system similar to that used for digital television converter boxes. The voucher could be used at any retail outlet for a standard computing device with appropriate functionality offered by hardware manufacturers. Because the equipment purchase would be a one-time expense, the matching should be for a limited period of time – for example, \$2.50 from the Lifeline fund matching \$2.50 from the government for a period of two years.

A digital literacy/technical support component of the pilot program should be considered. Any such component should be designed and implemented by the Commission to adhere to a standard format, regardless of the broadband provider or computing device. And it must be able to be implemented in both high-density areas where low-income consumers may have nearby access to facilities like a community center or library and in low-density rural areas where such access may be extraordinarily inconvenient or impossible.

The Commission should adopt its proposal that a variety of factors be tested but that not each project funded through the pilot program test every variable of interest to

⁴² *Id.* at para. 281.

⁴³ *Id.* at para. 283.

the Commission.⁴⁴ The pilot program need not be overly expensive to develop accurate and useful information. Only a relatively small sample size is required to develop statistically valid results.

USTelecom reiterates its proposal that the test period be between 18 and 24 months. This would be sufficient to produce meaningful data that would permit the Commission to thoughtfully design a permanent program in an expedited manner.

VIII. CONCLUSION

In the Low-Income NPRM, the Commission comprehensively reviews its Lifeline and Link Up programs and works to achieve two main goals – reforming the current system to better target support and developing a new system to encourage adoption of broadband service by low-income consumers. It should adopt USTelecom’s recommendations regarding the Commission’s proposals to best address these important goals.

The Commission should devote greater attention to examining the proper role of government in the Lifeline program. Consistent with other federal programs that help low-income individuals or families afford what are considered life’s necessities, Lifeline service should similarly be funded from general revenues. Similarly, it is appropriate for government to administer the determination of eligibility, continued verification, and outreach for the low-income programs.

⁴⁴ *Id.* at para 285.

Respectfully submitted,

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