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 REUNION COMMUNICATIONS, INC.

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April 21, 2011

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COMMENTS OF REUNION COMMUNICATIONS, INC.

Reunion Communications, Inc. ("Reunion Communications"), by and through its attorneys, submits these comments in response to the Federal Communications Commission's ("FCC" or "Commission") March 2, 2011 Notice of Proposed Rulemaking[1] in the above-captioned docket. In its *Lifeline NPRM*, the Commission seeks comment on a variety of issues related to its goal of reforming and modernizing the low-income consumer Lifeline and Link Up support programs. In these comments, which focus exclusively on the Commission's proposed elimination of the reimbursement for Toll Limitation Service ("TLS"),[2] Reunion Communications respectfully submits that TLS reimbursement remains "essential" and that the Commission's proposal to eliminate TLS reimbursement is not tied to an adequate factual basis.

1 *In re: Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link Up*, Notice of Proposed Rulemaking, FCC 11-32 (rel. Mar. 4, 2011) ("Lifeline NPRM").

2 *Id.* ¶¶ 68-70.

Further, the Commission's proposed elimination of TLS reimbursement would produce unintended effects, including a reduction in the number of low-income consumers connected to the network, making participation in Lifeline uneconomic for many competitive eligible telecommunications carriers ("ETCs") and thereby reducing valuable service options for low-income consumers, and causing job losses at small businesses such as these competitive ETCs and their suppliers. A better solution for controlling waste, fraud and abuse with respect to TLS reimbursement is for the Commission to establish a reasonable cap on the reimbursement amount. This well-tailored regulatory solution effectively can address the Commission's concerns regarding waste, fraud and abuse while still serving the Commission's fundamental goal of keeping low-income consumers connected to the network, emergency services and job opportunities.

I. INTRODUCTION AND SUMMARY

Beginning in 1984, the Commission undertook a concerted effort, through the establishment of the Lifeline program, to increase the telephone subscribership rates among low-income consumers.[3] Funds from the Lifeline program are used to reduce the monthly telephone service charges for qualified Lifeline subscribers.[4] In 1996, the Commission reviewed the Lifeline program and required carriers serving Lifeline subscribers to provide TLS in response to

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3 *See* Trends in Telephone Service, September 2010, FCC, Industry Analysis and Technology Division, at 19-2 (rel. Sept. 2010).

4 *See, e.g., In re: Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, FCC 96J-3, ¶ 357 (rel. Nov. 8, 1996) ("USF Recommended Decision"). The Commission's rules define consumers eligible for Lifeline support as those "at or below 135% of the Federal Poverty Guidelines or a consumer must participate in one of the following federal assistance programs: Medicaid; Food Stamps; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families." 47 C.F.R. § 54.409(b). Reunion refers to Lifeline qualified consumers as either "Lifeline subscribers" or "low-income consumers."

the Commission's finding that low-income consumers often lost access to telephone service due to an inability to pay for toll service charges.[5] Finding TLS to be "essential", the Commission permitted these carriers to be reimbursed for certain of the costs associated with providing TLS.[6] Some carriers have developed the network functionality needed to self-provision TLS, while others purchase TLS functionality from wholesale service providers such as Reunion Communications or the incumbent local exchange carriers ("LECs").[7]

Reunion Communications is a provider of wholesale services, such as long distance and TLS, to competitive ETCs and other telecommunications carriers.[8] Founded in 2001 and based outside Chicago, Reunion Communications is a privately held small business with nine employees and a veteran management team with over fifty years of combined experience in the telecommunications sector.[9] Reunion Communications' wholesale TLS product is a "toll control" product which enables competitive ETCs to include a pre-set number of toll minutes in a bundled service offering.[10] This sophisticated solution, which provides pre-call completion voice notification alerting low-income consumers that they have dialed a toll call and of the remaining amount of toll minutes available, provides product differentiation and features valuable to both competitive ETCs and their low-income customers.[11] Reunion

5 *In re: Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 385 (1997) ("First USF Order").

6 *Id.* ¶¶ 385-386. In particular, carriers are eligible for reimbursement of incremental TLS costs, described by the Commission as "costs that carriers otherwise would not incur if they did not provide toll-limitation service to a given customer." *Id.* ¶ 386.

7 *Id.* ¶ 388. *See, also* Declaration of Mark Widbin, ¶ 4.

8 *See*, Declaration of Mark Widbin, ¶ 2.

9 *Id.*

10 *Id.* ¶ 3. Revenues for its toll control TLS product are a significant amount of Reunion Communications' total revenues. *Id.* ¶ 8.

11 *Id.* ¶ 3.

Communications typically prices its wholesale TLS offering at or below incumbent LEC prices for their simple "toll blocking" products.[12]

By providing a compelling TLS alternative that provides tangible benefits and value for low-income consumers, Reunion Communications has helped enable *wireline* competitive ETCs such as Midwestern Telecommunications, Inc. and Image Access, Inc. d/b/a New Phone to introduce an attractive service alternative for the low-income consumer.[13] The value proposition typically offered to low-income consumers by these wireline competitive ETCs includes unlimited in-bound and out-bound local calling for a full month, a pre-set amount of toll minutes (typically 100) with voice notification that enables a low-income consumer to hang-up before using allotted minutes, stationary dialtone at the household, and enhanced customer education and care options, including, for example, Spanish language assistance and outreach to native Americans.[14] Significantly, these options, which tend to run $20-22 per month after Lifeline support, are pre-paid and offer a full month of unlimited local connectivity without the requirement of a deposit.[15] For many low-income consumers, the wireline competitive ETC service offerings are a compelling alternative to competing incumbent LEC and even wireless ETC offerings.[16]

Having invested in a TLS solution that provides differentiated and tangible benefits for low-income consumers and competitive ETCs, Reunion Communications would be harmed significantly and forced to eliminate jobs, if the Commission were to eliminate TLS

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12 *Id.* ¶ 4.

13 *Id.*

14 *Id.* ¶ 6.

15 *Id.*

16 *Id.* A chart illustrating the Lifeline service provider/service offering landscape is appended hereto as Exhibit A.

reimbursement.[17] Other small businesses, such as Reunion Communications' s competitive ETC customers would be harmed in a similar way, as elimination of TLS reimbursement would make the prepaid, wireline competitive ETC business model uneconomic for most if not all of the carriers using the model today.[18] Hundreds of jobs would be lost.[19] More significantly in this context, however, low-income consumers would lose an attractive service option that maximizes their connectivity to the network.[20] Incumbent LEC offerings with high deposits and wireless ETC offerings with low monthly minute allotments and high replenishment costs need not be the only options offered to low-income consumers.[21]

As discussed below, Reunion Communications asserts that the reasons justifying the Commission's initial decision to require the provision of TLS are still valid today. Low-income consumers generally do not have access to ample amounts of "any distance" calling or very low long distance rates, such as are enjoyed by more affluent consumers today. Without TLS reimbursement, low-income consumers generally do not subscribe to TLS – and the failure to limit toll charges and demands for high deposits threaten to drive down subscribership levels.[22] Reunion Communications supports the Commission's efforts to control waste, fraud and abuse, and respectfully submits that establishment of a reasonable TLS reimbursement cap is the best means to accomplish that goal while continuing to serve the goal of maximizing low-income consumers' connectivity to the network.

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17 *See*, Declaration of Mark Widbin ¶ 8.

18 *Id.* ¶ 9.

19 *Id.*

20 *Id.* ¶ 10.

21 *Id.*

22 *Id.* ¶ 11.

II. TLS REIMBURSEMENT REMAINS ESSENTIAL FOR KEEPING LOW INCOME CONSUMERS CONNECTED TO THE NETWORK

TLS reimbursement remains essential for keeping low-income consumers connected to the public switched telephone network, emergency services and job opportunities. In 1997, the Commission found TLS to be "'essential to education, public health or public safety' and 'consistent with the public interest, convenience, and necessity" for low-income consumers in that they maximize the opportunity to those consumers to remain connected to the telecommunications network."[23] The Commission found the availability of TLS to be so important that it adopted the Joint Board's recommendation and mandated that Lifeline service providers offer TLS to subscribers free of charge and authorized reimbursement for carriers' incremental costs of providing that service.[24]

The Commission cited the following factors in support of its conclusions:

> a Joint Board finding that "studies demonstrate that a primary reason subscribers lose access to telecommunications services is the failure to pay long distance bills";

> the role of "toll blocking" and "toll control" assisting low-income consumers in avoiding "involuntary termination of their access to telecommunications services";

> a Joint Board finding that "low-income consumers may not be able to afford voluntary toll-limitation services in a number of jurisdictions"; and

> the success of TLS driving subscribership levels in states such as Pennsylvania.[25]

The Commission's conclusions and the factors supporting them remain sound today. The Joint Board has not reversed any of its prior recommendations.[26] No known studies or data suggest

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23 *First USF Order*, ¶ 385.

24 *Id.* ¶¶ 385-386.

25 *Id.* ¶ 385.

that the loss of access to telecommunications services is no longer caused by the failure to limit and pay toll charges – or related deposits. Further, no known studies or data suggest that TLS reimbursement has not produced the desired result of subscribership maximization.

Indeed, it has been Reunion Communications' experience that TLS is working as intended.[27] TLS allows Lifeline subscribers to control their toll costs in the manner that best meets each subscriber's needs. In particular, TLS provides two options for controlling toll service costs – complete blocking of toll service ("toll blocking") or monetary limits on monthly toll service charges ("toll control").[28] Toll blocking service allows subscribers to block access to all "pay-per-use" calls such as directory assistance, 10-10-XXX "dial-around" long distance services and item such as *66 (repeat dial) and *69 (call return).[29] The costs of these services can be well in excess of $2.00 per minute with many national carriers.[30] In contrast, toll control enables subscribers to access services to which toll charges apply, but subscribers are able to specify a preset dollar amount of toll charges that the subscriber is willing to pay during a billing period.[31] It has been Reunion Communications' experience that subscribers who receive usage-based bills with toll charges exceeding $10.00 tend to discontinue their service.[32] Moreover, once a subscriber's service is discontinued or disconnected, reestablishing service can be particularly difficult if the subscriber relies on support from the Commission's Link Up fund

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26 *In re: Federal-State Joint Board on Universal Service; Lifeline and Link Up*, Recommended Decision, FCC 10J-3 (rel. Nov. 4, 2010) (the Recommended Decision did not address nor reverse the Commission's prior findings regarding TLS).

27 *See* Declaration of Mark Widbin ¶ 7.

28 *See, e.g., Lifeline NPRM*, ¶ 54.

29 *See* Declaration of Mark Widbin ¶ 5.

30 *Id.*

31 *See, e.g., First USF Order*, ¶ 383. *See also*, Declaration of Mark Widbin ¶ 5.

32 *See* Declaration of Mark Widbin ¶ 5.

which subsidizes service installation costs only once at a subscriber's address.[33] In sum, the availability of TLS allows a subscriber to forecast and control his or her monthly telephone service charges, thereby avoiding monthly invoices with unexpectedly high toll service charges and avoiding involuntary termination of access to telecommunications services.

A. <u>The NPRM's Proposal to Eliminate TLS Reimbursement Is Not Tied to an Adequate Factual Basis to Support Reversal of the Commission's Precedent Regarding TLS</u>

The Commission's proposed elimination of TLS reimbursement is not based on a finding that the Commission's prior conclusions regarding TLS reimbursement no longer are valid. Instead, the proposed elimination of TLS reimbursement is based on the supposition that rule "may have outlived its usefulness" and conjecture that low-income consumers no longer pay high rates for toll services and (by implication) that their connectivity no longer is threatened by the failure to limit and pay toll charges.[34] Such supposition and conjecture is not supported by today's marketplace realities faced by low-income consumers.

First, numerous facts indicate that TLS reimbursement has not outlived its usefulness. TLS take-rates are high among Lifeline subscribers.[35] This surely suggests that low-income consumers find TLS to be important. Controlling toll calling remains important but difficult in low-income households which tend to be high-headcount with multiple users.[36] As explained above, TLS provides low-income consumers with effective controls which allow them to avoid involuntary disconnection. Lifeline subscribers with TLS tend to stay connected longer

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33 *See* USAC: Link Up Support at <u>http://www.usac.org/li/low-income/benefits/linkup.aspx</u> (visited Mar. 31, 2011).

34 *See Lifeline NPRM*, ¶¶ 68 and 70.

35 *See* Declaration of Mark Widbin ¶ 13.

36 *Id.*

than those without.[37] Moreover, Lifeline subscribers without TLS often face substantial and unmanageable deposit requirements.[38] Indeed, the Florida Commission already has commented that the Commission should provide guidance regarding reasonable deposit levels, if the TLS reimbursement is eliminated and ETCs no longer are required to offer free TLS to their Lifeline subscribers.[39]

Second, the fact of the matter is that low-income consumers do not enjoy copious "any distance" calling plans or ultra-low long distance rates like those enjoyed by more affluent consumers.[40] Indeed, Lifeline subscribers continue on average to pay relatively high long distance rates.[41] Wireline competitive ETC Lifeline service bundles often include limited long distance calling with 100 minutes being typical and extra minutes being sold in 100 minute bundles for $10 (*i.e.,* 10 cents per minute).[42] A recent survey of AT&T pricing in Illinois revealed the following options: (a) $0.39 per minute; (b) $0.07 per minute with a $5 monthly fee ($0.12 per minute based on 100 minutes of use); or (c) bundles with unlimited toll calling for $45-50 per month (more than double the average Lifeline subscriber's monthly spend).[43]

Wireless ETCs typically provide Lifeline subscribers with very limited usage amounts.[44] These "free" service offerings typically include anywhere from 68 to 250 minutes of

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37 *Id.*

38 Comments of the Florida Public Service Commission at 11, WC Dkt. 11-42 (filed April 6, 2011). *See* Declaration of Mark Widbin ¶ 12.

39 Comments of the Florida Public Service Commission at 3, 11.

40 *See* Declaration of Mark Widbin ¶ 14.

41 *Id.*

42 *Id.*

43 *Id.* ¶ 15.

44 *Id.* ¶ 16.

use a month – or about 2 to 8 minutes a day.[45] TracFone currently offers bundles of 100 additional minutes at $0.20 per minute (for "any distance" calling).[46] Without replenishment at these relatively high rates, a Lifeline subscriber who has burned through his or her monthly allotment of "free" minutes is no longer is able to place or receive ordinary phone calls and instead must wait until the next monthly installment of "free" minutes.[47]

B. A Wide Variance in TLS Reimbursement Rates Is to Be Expected, Though Outliers Should Be Probed

In the *Lifeline NPRM*, the Commission also notes "that there is a great variance in TLS costs claimed by ETCs seeking reimbursement, ranging from $0 to $36 per Lifeline customer per month."[48] Based on this range, the Commission questions whether providing TLS imposes *any* incremental costs on carriers and whether some carriers are inflating their true costs of providing TLS. In response, Reunion Communications respectfully submits that competitive ETCs do incur significant costs in providing TLS. However, the $36 per subscriber per month claim is certainly an outlier and it does at least have the appearance of being inflated.

As noted *supra*, competitive ETCs serving Lifeline subscribers often are not able to self-provision TLS and must purchase this functionality from wholesale service providers such as the incumbent LECs or Reunion Communications.[49] The price paid to these wholesale

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45 *See, e.g.*, dPi Teleconnect, LLC (providing 68 free minutes per month with Lifeline service) at http://www.freelouisianacellphone.com/ and Virgin Mobile USA's Assurance Wireless service (providing 250 free minutes per month with Lifeline service) at http://www.assurancewireless.com/Public/Welcome.aspx; *See also, e.g.*, Declaration of Mark Widbin ¶ 16.

46 *Id.*

47 *Id.*

48 *Lifeline NPRM*, ¶ 70.

49 *See* Declaration of Mark Widbin ¶ 4.

providers is indeed an "incremental cost" of providing TLS.[50] For incumbent LEC-provided "toll blocking" service (toll control is not generally offered), sample prices surveyed in the AT&T Southeast and "MOKAT" region states include monthly recurring rates ranging from $0 in North Carolina to $5.12 per month in South Carolina and non-recurring rates ranging from $0 in several states to $10.62 in Oklahoma.[51] In North Carolina, the non-recurring rate is $7.65.[52]

Reunion Communications generally charges its carrier customers for its "toll control" solution at rates at or below the rates charged by the incumbent LEC in the state or region for its less sophisticated toll blocking service.[53] This pricing policy ensures the Lifeline fund is well served and avoids excessive reimbursement requests.[54] In contrast, a $36 per month per subscriber cost of providing TLS, is difficult to fathom. Of course, the Universal Service Administrative Company ("USAC") or the Commission could investigate the veracity of such claims, and others that appear to be outside of the norm. However, such outliers provide no indication that others are not properly seeking TLS reimbursement based on reasonable and legitimate incremental costs incurred.

III. <u>THE FCC'S PROPOSED ELIMINATION OF THE LIFELINE TLS REIMBURSEMENT MECHANISM WOULD HAVE UNINTENDED EFFECTS ON LOW-INCOME CONSUMERS AND SMALL BUSINESSES, INCLUDING REUNION COMMUNICATIONS AND COMPETITIVE ETCS</u>

The Commission's proposed elimination of TLS reimbursement would have unintended effects on low-income consumers and small businesses, including Reunion Communications and competitive ETCs. Without TLS reimbursement, Lifeline subscribers

50 *See First USF Order*, ¶¶ 385-386.

51 CGM, LLC Study of AT&T Tariffed Rates, April 2011.

52 *Id.*

53 *See* Declaration of Mark Widbin ¶ 4.

54 *Id.*

likely will go without TLS. In the absence of TLS, low-income consumers will be faced with unsustainable deposits and disconnection from the network due to failure to control and pay toll charges. Elimination of TLS reimbursement also will leave low-income consumers with fewer service options, as the pre-paid wireline competitive ETC model would become uneconomic for many competitive ETCs. In its wake, elimination of TLS reimbursement would force low-income consumers to rely more on less desirable and more costly alternatives such as prepaid calling cards and payphones, neither of which offers 24/7 connectivity to the network enjoyed by more affluent consumers.

The Commission's proposed action also would decimate many small business causing the loss of hundreds of jobs. For Reunion Communications, the elimination of TLS reimbursement would result in the loss of over 50 percent of its revenues and a proportional number of jobs. Further, the elimination of TLS reimbursement would force competitive ETCs to raise prices for Lifeline subscribers or to require large deposits to ensure payment of variable toll charges. Neither tact is likely to be successful. As a result, more small businesses will fail and more jobs will be lost – and fewer low-income consumers will remain connected to the network.

A. <u>Fewer Low-Income Consumers Will Have Access to Telecommunications Services</u>

Eliminating reimbursement for carriers providing TLS affirmatively will disserve the Commission's goal of increased access to telecommunications services for low-income consumers. Indeed, low-income consumers who do not get TLS for free typically will not purchase it.[55] This is because they either do not realize the benefits TLS offers or because they cannot afford it. The Joint Board and the Commission previously have recognized cost as a

[55] *Id.* ¶ 8.

gating factor and Reunion Communications' experience bears this out. Demand for TLS is virtually non-existent where it is not included free-of-charge in a bundled service offering.[56]

In the absence of TLS, low-income consumers will be faced with deposits they can neither afford nor maintain.[57] This problem already has been brought to the Commission's attention in comments filed in response to the FCC's *Lifeline NPRM* by the Florida Public Service Commission.[58] In its comments, the Florida Commission explained that, under Florida law, eligible telecommunications carriers are permitted to charge service deposits if a Lifeline subscriber does not choose to receive TLS.[59] The Florida Commission noted that some carriers require deposits of $500 and described these requirements as "excessive and unaffordable for a typical Lifeline customer". Yet, with no TLS in place and with Lifeline subscribers typically unable to demonstrate creditworthiness, ETCs have little choice other than to resort to deposits.[60] Indeed, Reunion Communications' experience is that Lifeline subscribers typically abandon service when toll charges exceed $10 per month.[61] Without TLS, it is hardly inconceivable that a Lifeline subscriber could incur toll charges of several hundred dollars in a single month.[62] This is especially true given the increasing difficulty of discerning when "local toll" calls are being placed.[63] Number portability and telephone number assignment practices of many carriers make it hard to discern when a call is going to be rated local toll.[64] With this backdrop, the Florida

56 *Id.* ¶ 11.

57 *Id.* ¶ 12.

58 Comments of the Florida Public Service Commission at 11.

59 *Id.*

60 *See* Declaration of Mark Widbin ¶ 12.

61 *Id.* ¶ 5.

62 *Id.* ¶ 12.

63 *Id.*

64 *Id.*

Commission has suggested that the FCC consider how much carriers will be able to charge for deposits if TLS is eliminated.[65] Reunion Communications asserts that the potential for obstacles to service, like unaffordable service deposits, can be avoided if the Commission simply chooses to set a reasonable cap for TLS reimbursement rather than eliminate it.

The Commission's own precedent shows that without TLS, low-income consumers will face disconnection from the network due to failure to control and pay toll charges.[66] Elimination of TLS reimbursement also will leave low-income consumers with fewer service options, because, as explained more fully below, the pre-paid wireline competitive ETC model would become uneconomic for many competitive ETCs. In its wake, elimination of TLS reimbursement would force low-income consumers to rely more on less desirable and more costly alternatives. Without subscription-based telephone service, low-income consumers will be forced to rely on higher cost, lower value options such as prepaid calling cards and payphones. As the Commission is well aware, some prepaid calling card options marketed to low-income consumers have been the source of a significant number of consumer complaints regarding high rates and hidden fees. Some prepaid card issuers also have been the subject of Federal Trade Commission enforcement for deceptive practices. Moreover, prepaid calling cards do not provide low-income consumers with the ability to receive calls. Payphones suffer from similar cost and value shortcomings, but their biggest shortcoming may be that they are increasingly difficult to find.[67] Critically, neither of these higher cost/lower value alternatives offers 24/7 connectivity to the network enjoyed by more affluent consumers.

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65 Comments of the Florida Public Service Commission at 3, 11.

66 *First USF Order*, ¶ 385.

67 *See, e.g.*, FCC, Industry Analysis and Technology Division, *Trends in Telephone Service* at 7-11, Table 7.6 (WCB Sept. 2010) (Identifying over 2 million payphones in service in 1997 but slightly more than one-half million in service in 2009).

B. <u>The Competitive Market for Lifeline Services Would Be Undermined by Elimination of TLS Support</u>

The elimination of TLS reimbursement would decimate many small business causing the loss of hundreds of jobs.[68] Alongside the Commission's proposed elimination of TLS reimbursement, logically is a proposed rule change to eliminate the requirement that TLS be offered for free.[69] As explained above, low-income customers generally will not pay for TLS.[70] For Reunion Communications, the elimination of TLS reimbursement would result in the loss of over 50 percent of its revenues and a proportional number of jobs.[71] Wireline competitive ETCs also would be faced with dramatic revenue and job losses.[72]

Even more alarming, however, is the impact the Commission's proposed elimination of TLS reimbursement would have on the competitive ETC landscape. Wireline competitive ETCs cannot simply absorb TLS costs. As demonstrated above, these costs can be in excess of $5 per month, while non-recurring rates can exceed $10.[73] Thus, the elimination of TLS reimbursement would force competitive ETCs to raise prices for Lifeline subscribers or to require large deposits to ensure payment of variable toll charges. Because price increases would move wireline competitive ETC Lifeline service offerings higher than the $20-22 "sweet spot" for Lifeline customers, price increases are almost certain to fail. Moreover, introducing a deposit requirement for a prepaid service also is likely to be rejected by low-income consumers who often cannot afford cash outlays of the size that would be required. As a result, wireline

68 *See* Declaration of Mark Widbin ¶ 9.

69 Lifeline NPRM, Appendix A, (proposed revision to rule 403(c)).

70 *See* Declaration of Mark Widbin ¶ 8.

71 *Id.*

72 *Id.* ¶ 9.

73 CGM, LLC Study of AT&T Tariffed Rates, April 2011.

competitive ETCs will fail and hundreds more jobs will be lost at these small businesses. The loss of wireline competitive ETCs would be detrimental to low-income consumers as these smaller carriers often offer options, education and support programs not offered by ILECs.[74] If service providers leave the market there is no guarantee that providers will fill the void if the new providers also face these increased TLS charges.[75] The result will be fewer competitive service options for many low-income consumers who lack the finances or creditworthiness necessary to receive service elsewhere.

IV. A REIMBURSEMENT CAP IS A BETTER SOLUTION FOR CONTROLLING "WASTE, FRAUD AND ABUSE" IN LIFELINE TLS REIMBURSEMENT

Reunion Communications supports the Commission's efforts to control waste, fraud and abuse, and respectfully submits that establishment of a reasonable TLS reimbursement cap is the best means to accomplish that goal while continuing to serve the goal of maximizing low-income consumers' connectivity to the network.

If the Commission's concern is that some carriers are abusing the TLS cost reimbursement program, as evidenced by carrier claims for reimbursement of $36.00, Reunion Communications respectfully submits that the Commission should address those specific carriers through audits and enforcement action rather than by taking generally applicable action which effectively would penalize all carriers claiming an ETC reimbursement. However, if the Commission believes it prudent to adopt a generally applicable prophylactic measure in response to perceived abuses, Reunion Communications respectfully submits that imposing a cap on TLS reimbursement would prevent the "waste, fraud and abuse" associated with "bad actors". The

7474 *See* Declaration of Mark Widbin ¶ 9.

75 *Id.*

establishment of a cap, instead of the elimination of TLS reimbursements, also will preserve the ability of honest carriers to continue providing TLS to Lifeline subscribers.

Finally, establishing a cap will allow the Commission to better estimate TLS reimbursement costs since the Commission will be able to identify, with certainty, the amount of funds necessary to reimburse carriers for each additional wireline Lifeline subscriber. Reunion Communications suggests that a cap of $5.50 for non-recurring charges and $3.50 for monthly recurring charges. These amounts which are generally reflective of rates set in state commission approved incumbent LEC tariffs should adequately compensate most Lifeline providers for the incremental costs of providing TLS. The Commission could prevent carriers from simply "moving up" to the capped amount by requiring cost support for increases in the amounts of reimbursement requests.

V. CONCLUSION

For the foregoing reasons, Reunion Communications opposes the elimination of TLS reimbursement and respectfully submits that adoption of a reasonable cap for TLS reimbursement is the best way to control waste, fraud and abuse while maximizing the opportunities for low-income consumers to stay connected to the network, emergency services and employment opportunities.

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EXHIBIT A

Exhibit A

Lifeline Service Provider Service Offering Landscape

Wireline Competitive ETC	Wireline Incumbent ETC	Wireless Competitive ETC
30 day lease of line	30 day lease of line	
		Pre-set number of included minutes (typically from 68-250 included minutes)
Unlimited inbound calling	Unlimited inbound calling	
		Inbound call minutes charged against monthly allotment
Unlimited local	Unlimited local	
		Metered local usage (all in-bound and out-bound calls count against allotted air time)
TLS (typically "toll control")	TLS (typically "toll blocking")	
		Metered long distance usage (all in-bound and out-bound calls count against allotted air time)
Stationary dialtone	Stationary dialtone	
		Mobile
Pre-paid		Pre-paid (additional minutes sold in pre-paid blocks)
	Deposits	
Enhanced customer care and education (some providers)		Enhanced customer care and education (some providers)

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DECLARATION OF MARK WIDBIN

1. My name is Mark Widbin and I am the President of Reunion Communications, Inc. ("Reunion"). My business address is 106 W. Calendar Avenue #190, LaGrange, IL 60525. My job responsibilities include managing all matters that affect Reunion before federal and state regulatory agencies and legislative bodies.
2. Reunion is a provider of wholesale services, such as long distance and Toll Limitation Service ("TLS"), to competitive Eligible Telecommunications Carriers ("ETC") and other telecommunications carriers. Founded in 2001 and based outside Chicago, Reunion Communications is a privately held small business with nine employees and a veteran management team with over fifty years of combined experience in the telecommunications sector. The purpose of this declaration is to support Reunion's comments, filed in the above-captioned dockets on April 21, 2011, in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking seeking comment on a variety of issues related to the Commission's Lifeline program, including a proposal to eliminate Lifeline reimbursement for TLS.

Reunion's Toll Limitation Service

3. Reunion's wholesale TLS product is a "toll control" product which enables competitive ETCs to include a pre-set number of toll minutes in a bundled service offering. This sophisticated solution, which provides pre-call completion voice notification alerting low-income consumers that they have dialed a toll call and of the remaining amount of toll minutes available, provides product differentiation and features valuable to both competitive ETCs and their low-income customers.
4. It is my understanding that the Commission presently requires ETCs to offer TLS free-of-charge to Lifeline subscribers. While some ETCs have the network functionality necessary to self-provision TLS, other ETCs purchase such services from wholesale service companies such as Reunion. Reunion provides services to wireline ETCs such as Midwestern Telecommunications, Inc. and Image Access, Inc. d/b/a New Phone. Reunion typically prices its wholesale "toll control" TLS offering at, or below, the rates charged by incumbent LECs in the state or region for their simple "toll blocking" service. This pricing policy ensures the Lifeline fund is well served and avoids excessive reimbursement requests.
5. TLS provides two options for controlling toll service costs – complete blocking of toll service ("toll blocking") or monetary limits on monthly toll service charges ("toll control"). Toll blocking service allows subscribers to block access to all "pay-per-use" calls such as directory assistance, 10-10-XXX "dial-around" long distance services and items such as *66 (repeat dial) and *69 (call return). The costs of these pay-per-use and other services can be well in excess of $2.00 per minute with many national carriers. Toll control enables subscribers to access services to which toll charges apply, but permits subscribers to specify a preset dollar amount of toll charges that the subscriber is able to pay during a billing period. Based on discussions with its various CLEC clients, it is Reunion's understanding that subscribers who receive usage-based bills with toll charges exceeding $10.00 tend to discontinue their service.
6. Reunion's TLS allows wireline competitive ETCs to offer to their low-income subscribers a variety of services including unlimited in-bound and out-bound local calling for a full month, a pre-set amount of toll minutes (typically 100) with voice notification that enables a low-income consumer to hang-up before using allotted minutes, stationary dialtone at

the household, and enhanced customer education and care options, including, for example, Spanish language assistance and outreach to Native Americans. The service options, which generally cost \$20-\$22 per month after Lifeline support, are paid on a pre-paid basis and provide a full month of unlimited local connectivity with no deposit requirement. These services offered by wireline competitive ETCs provide low-income consumers with a compelling alternative to services from competing incumbent LECs and even from wireless ETCs.

7. It has been Reunion's experience that TLS is working as intended. TLS allows Lifeline subscribers to control their toll costs in the manner that best meets each subscriber's needs. Reunion's toll control solution enables competitive ETCs to enable low-income subscribers to access services to which toll charges apply, and permits subscribers to select a preset dollar amount of toll charges that the subscriber is able to pay during a billing period.

The Adverse Impacts of the Commission's Proposed Elimination of TLS Reimbursement

8. Reunion has invested in a TLS solution that provides differentiated and tangible benefits for low-income consumers and competitive ETCs. Revenues for our toll control TLS product are a significant amount of Reunion's total revenues. The elimination of TLS reimbursement and/or the elimination of the requirement that ETCs provide TLS free of charge to low-income consumers will have a devastating impact on Reunion. Because low-income consumers typically will not pay for TLS, the elimination of the requirement that TLS be provided free of charge – and the corresponding proposed elimination of TLS reimbursement – will lead to a drastic reduction in the level of TLS carriers will purchase from Reunion. Reunion anticipates its losses at over 50 percent of its revenues and a proportional number of jobs.

9. Other small businesses, such as Reunion's competitive ETC customers would also be harmed as elimination of TLS reimbursement would make the pre-paid, wireline competitive ETC business model uneconomic for most if not all of the carriers using the model today. Wireline ETCs can neither effectively absorb nor pass-through the costs of TLS and as a result, they would be forced to either abandon the pre-paid/no deposit model or raise their prices. Neither tact likely would be successful. The end result would be the

loss of hundreds of jobs across the wireline competitive ETC sector. Further, the loss of these wireline competitive ETCs would be detrimental to low-income consumers as these smaller carriers often offer options, education and support programs not offered by incumbent LECs. Moreover, if service providers leave the market there is no guarantee that providers will fill the void if the new providers also face these increased TLS charges. The result will be fewer competitive service options for many low-income consumers who lack the finances or creditworthiness necessary to receive service elsewhere.

10. If TLS reimbursement were eliminated, low-income consumers would lose the wireline competitive ETCs' attractive service options which help maximize low-income consumers' connectivity to the network. Incumbent LEC offerings with high deposits and wireless ETC offerings with low monthly minute allotments and high replenishment costs should not be the only options offered to low-income consumers.
11. Without TLS reimbursement, low-income consumers usually do not subscribe to TLS – and the failure to limit toll charges and demands for high deposits threaten to drive down subscribership levels. In fact, our experience is that demand for TLS is virtually nonexistent where the service is not included free-of-charge in a bundled service offering.
12. Without TLS, low-income consumers will be faced with deposits that they often are unable to afford or maintain. Lifeline subscribers typically are unable to demonstrate creditworthiness and without TLS in place, ETCs have little choice other than to resort to deposits. Without TLS, it is hardly inconceivable that a Lifeline subscriber could incur toll charges of several hundred dollars in a single month. This is especially true given the increasing difficulty of discerning when toll calls are being placed. Number portability and telephone number assignment practices of many carriers make it hard to discern when a call is going to be rated toll.

TLS Remains a Useful Service Option for Low-Income Consumers

13. TLS usage rates are high among Lifeline subscribers and this is not surprising since controlling toll calling remains important but difficult in low-income households which tend to be high-headcount with multiple users. Accordingly, Lifeline subscribers with TLS tend to stay connected longer than those without. Moreover, Lifeline subscribers without TLS often face substantial and unmanageable deposit requirements.

14. Further, low-income consumers generally do not enjoy copious "any distance" calling plans or ultra-low long distance rates like those enjoyed by more affluent consumers. In reality, Lifeline subscribers continue, on average, to pay relatively high long distance rates. Wireline competitive ETC Lifeline service bundles often include limited long distance calling with 100 minutes being typical and extra minutes being sold in 100 minute bundles for $10 (*i.e.*, 10 cents per minute).
15. A recent survey of AT&T pricing in Illinois revealed the following long distance service options: (a) $0.39 per minute; (b) $0.07 per minute with a $5 monthly fee ($0.12 per minute based on 100 minutes of use); or (c) bundles with unlimited toll calling for $45-50 per month. This last bundle is more than double the average Lifeline subscriber's monthly spend.
16. Wireless ETCs also typically provide Lifeline subscribers with very limited usage amounts. Their "free" service offerings usually include anywhere from 68 to 250 minutes of use a month – or about only 2 to 8 minutes a day. TracFone currently offers bundles of 100 additional minutes at $0.20 per minute for "any distance" calling. Lifeline customers that have used up their monthly allotment of "free" minutes and are unable to replenish at these relatively high rates are no longer connected to the network and must wait until the next monthly installment of "free" minutes.

I assert under penalty of perjury that the foregoing is true and correct to the best of my information and belief. This concludes my declaration.

Reunion Communications, Inc.

By: Mark Widbin

Mark Widbin
President

Executed on April 21, 2011