

**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

REPLY COMMENTS OF AT&T

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TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. DISCUSSION 2

A. THE OVERWHELMING MAJORITY OF COMMENTERS AGREE THAT THE COMMISSION SHOULD MOVE QUICKLY TO IMPLEMENT A NATIONAL DATABASE TO ENABLE LIFELINE PROVIDERS TO VALIDATE A CONSUMER’S ELIGIBILITY TO PARTICIPATE IN THE COMMISSION’S LOW-INCOME PROGRAM. 2

B. COMMENTERS AGREE THAT THE COMMISSION’S PROPOSED SOLUTIONS TO STOP INDIVIDUALS FROM RECEIVING DUPLICATIVE LIFELINE SUPPORT AND INELIGIBLE CONSUMERS FROM RECEIVING LIFELINE SUPPORT AT ALL ARE UNWORKABLE AND SHOULD BE REJECTED IN FAVOR OF AN INDUSTRY-PROPOSED SOLUTION TO BE IMPLEMENTED ON AN INTERIM BASIS. 9

1. THERE IS CONSENSUS IN THE RECORD THAT THE COMMISSION’S PROPOSAL TO IDENTIFY DUPLICATIVE LIFELINE BENEFITS IS FLAWED AND SHOULD BE REJECTED.... 10

2. THERE IS NEAR UNANIMITY AMONG THE COMMENTERS THAT THE COMMISSION’S PROPOSAL TO STOP INDIVIDUALS FROM RECEIVING DUPLICATIVE LIFELINE SUPPORT, AFTER ITS PROPOSED FCC FORM 497 PROCESS IDENTIFIES SUCH INDIVIDUALS, IS ILL-CONCEIVED AND MUST BE REJECTED..... 11

3. THE COMMISSION’S PROPOSAL TO ENSURE CONSUMER ELIGIBILITY IS UNNECESSARILY BURDENSOME TO CONSUMERS AND ETCs. 15

D. THE RECORD DOES NOT SUPPORT SEVERAL COMMISSION PROPOSALS THAT WOULD REQUIRE LIFELINE PROVIDERS TO MODIFY OR, IN SOME CASES, CREATE BILLING SYSTEMS, ONE OF WHICH WOULD BE RELEVANT FOR ONLY A BRIEF PERIOD OF TIME.. 18

E. THE COMMISSION’S PROPOSED “ONE PER RESIDENCE RULE” IS CONTRARY TO SOUND PUBLIC POLICY AND WOULD BE DIFFICULT FOR ETCs TO IMPLEMENT. 25

F. OTHER COMMISSION PROPOSED “IMMEDIATE REFORMS” COULD BE ADOPTED WITH CERTAIN MODIFICATIONS. 27

III. CONCLUSION 29

I. INTRODUCTION

AT&T explained in its opening comments that if the Commission adopts our proposed national Lifeline consumer database, many of its proposed “immediate reforms” will be unnecessary. The record overwhelmingly supports the creation of a national database; thus, the only issue is whether it makes sense for the Commission to adopt proposals that will be effective for a relatively brief period of time before the database is operational. Based on the comments, for many of the Commission’s proposed reforms that are the subject of the May 10 reply comments, the answer is a resounding “no.” These include proposals to require eligible telecommunications carriers (ETCs) to: obtain additional customer-specific information, such as social security numbers and birthdates;¹ review customer provided documentation, including documents for obscure state-specific programs, to determine whether a customer is eligible for Lifeline;² and alter or, in some cases, create, billing systems to report partial month Lifeline subscribers,³ track a postpaid customer’s usage,⁴ and assess a minimum monthly charge on Lifeline customers.⁵ A number of proposals, however, will remain relevant post-implementation of a national database. Several of those proposals, with modifications suggested by AT&T and

¹ See *NPRM* at ¶ 56 (proposing that ETCs provide this information with their FCC Form 497 line count filings to USAC).

² *Id.* at ¶ 170 (proposing to eliminate consumer self-certifications of eligibility and, instead, require consumers to present documentation of participation in a qualifying program).

³ *Id.* at ¶ 67 (proposing to require ETCs to seek partial month reimbursement for customers who received Lifeline service for less than a month).

⁴ *Id.* at ¶ 82 (proposing to prohibit ETCs from being reimbursed for Lifeline customers who have failed to use their service for 60 consecutive days).

⁵ *Id.* at ¶¶ 86-92 (seeking comment on whether to require Lifeline providers to assess and collect a minimum monthly charge and/or a minimum non-recurring charge).

others, are reasonable and should be adopted. Others – the Commission’s proposed one-per-residence rule, in particular – warrant additional discussion.

II. DISCUSSION

A. THE OVERWHELMING MAJORITY OF COMMENTERS AGREE THAT THE COMMISSION SHOULD MOVE QUICKLY TO IMPLEMENT A NATIONAL DATABASE TO ENABLE LIFELINE PROVIDERS TO VALIDATE A CONSUMER’S ELIGIBILITY TO PARTICIPATE IN THE COMMISSION’S LOW-INCOME PROGRAM.

There is near universal agreement among commenters that the most effective means for the Commission and states to ensure that only eligible consumers participate in the Lifeline program and each receives only one Lifeline benefit is to establish a nationwide database of eligible Lifeline consumers.⁶ We agree with Verizon that “[m]eaningful change in administration of the Lifeline program cannot occur absent streamlined enrollment, certification, and verification procedures on a *national* level” and “a database designed to centralize [these functions] is imperative.”⁷ As CenturyLink states, “A well-designed and well-run database should (1) help to streamline enrollment by simplifying eligibility verification, (2) help to reduce, if not eliminate, the need for annual verifications processes, and (3) be the most effective mechanism to address the problems of duplicative Lifeline claims.”⁸ We also agree with CTIA

⁶ See, e.g., Budget Prepay, *et al.* Comments at 13; CenturyLink Comments at 20-21 (“It seems increasingly inevitable that to sufficiently protect the integrity of the Lifeline program, a database of Lifeline subscribers should be created.”); COMPTTEL Comments at 21-22 (“such a database could substantially reduce burdens on consumers, ETCs, states and USAC and could help identify and eliminate program violations”); Connecticut Commission Comments at 6; Consumer Cellular Comments at 20; Cox Comments at 3-5; Cricket Comments at 7; CTIA Comments at 4-7; Florida Commission Comments at 24; GCI Comments at 27-28; Minority Media and Telecom Council Comments at 6-7; Michigan Commission Comments at 3; NCTA Comments at 3; Nebraska Commission Comments at 5; New Jersey Division of Rate Counsel Comments at 22; New York Commission Comments at 11; Nexus Comments at 22-24; Ohio Commission Comments at 20; Sprint Comments at 3; TCA Comments at 3; TracFone Comments at 16; USTelecom Comments at 13; Verizon Comments at 5-6; YourTel Comments at 13-14.

⁷ Verizon Comments at 5 (emphasis in original).

⁸ CenturyLink Comments at 21.

when it states that a national database would “assign program functions to parties who are best able to perform them, allow carriers to focus on their areas of competency, and better protect consumer privacy.”⁹

A small number of commenters did not embrace the database proposal, however, and others expressed concerns. The opposition to and concerns about a database can be grouped into the following categories: states would never allow ETCs or a database administrator direct access to a state social service agency’s database;¹⁰ states cannot afford to participate;¹¹ the database will be costly and thus could divert universal service support away from beneficiaries;¹² and consumers’ privacy would be at risk.¹³ None of these concerns have merit because most of them are based on assumptions about a “national database” that are not true for the type of database that AT&T has proposed.

First, in no case would a carrier or the national database administrator ever access a state social services agency’s database containing highly-sensitive consumer-specific information. That simply is not how the flow of information would work under our database proposal.

⁹ CTIA Comments at 5.

¹⁰ Michigan Commission Comments at 9; Missouri Commission Comments at 17.

¹¹ Florida Commission Comments at 24; Indiana Commission Comments at 11; Michigan Commission Comments at 9; Missouri Commission Comments at 18. Bucking the trend, the Oregon Commission suggests that state-specific solutions may be more effective to verify consumer eligibility than a national database. Oregon Commission Comments at 3. It strikes us, and probably most other commenters, as profoundly *inefficient* to require every state and territory to establish its own Lifeline consumer eligibility database. *See, e.g.*, Emerios Comments at 8 (estimating that the cost of a national database is “only 30 percent more than the creation of a system for a single state with a large number of Lifeline/Link Up benefit recipients. The creation of individual systems for all 50 states will likely be 15-20 times more expensive than the creation of a single national system.”).

¹² Cincinnati Bell Comments at 9; Open Access Connections Comments at 4.

¹³ Missouri Commission Comments at 18.

Instead, after determining that a consumer is eligible for a qualifying state or federal program *and* if that consumer indicates that he/she would like to participate in Lifeline, the entity or entities designated by the state would provide to the national database administrator, via a secure communications method, a minimal amount of information about that consumer to indicate that the consumer is eligible for Lifeline support. Lifeline providers would access the *national* database to validate whether a consumer is Lifeline eligible; they would never have access to a state's database.

Second, while implementation costs will vary across states, we believe many, if not most, states would *not* have to incur significant additional costs to fulfill their role under AT&T's proposed process. One of the goals of our proposal is to increase efficiency and accuracy by taking advantage of what states do today. States are already engaged in qualifying their low-income residents for the state-specific and federal assistance programs that underlie Lifeline eligibility. It makes sense, therefore, for states to simultaneously ask those consumers if they are interested in participating in Lifeline and, if the answer is yes, communicate that fact to the database administrator.¹⁴ There can be no question that this process would be more efficient – particularly for consumers – than requiring consumers to make an eligibility showing once to a state agency and again to a Lifeline provider. This duplication of effort also introduces the opportunity for error and/or fraud.

We recognize that there will be some cost to the states associated with our proposed database; however, we believe that Lifeline – perhaps more than any other universal service

¹⁴ Additionally, if the state determines that a consumer is no longer eligible for the qualifying program, it would notify the database administrator of that fact. *See* Nebraska Commission Comments at 6 (“States connected to the national database could also de-enroll subscribers in ‘real time’ when the subscriber is no longer eligible for the Lifeline program.”).

program – is truly a joint federal/state partnership and if states want their low-income residents to participate fully in this essential program, they should readily accept this responsibility. This seems particularly true for those states that maintain their own Lifeline eligibility criteria. In response to the suggestion made by several state commissions, we do not believe that there is any legal prohibition to the Commission providing some amount of funding to the states to defray, in part, their administrative costs. This funding would be accounted for like USAC’s administrative costs – that is, it would be recovered by federal universal service contributions.

Third, of course there will be a price tag associated with implementing a national database. But, as CenturyLink aptly observes, a database “would prove cost effective by generating savings for the low income program fund greater than the cost of developing and maintaining the database.”¹⁵ As the Nebraska Commission concluded, “there will be some cost involved to develop a national Lifeline database[,] [h]owever, the benefits of having a national ‘real time’ database which reduces the likelihood of fraud and abuse will far outweigh the costs.”¹⁶ Moreover, as we suggested in our comments, the Commission could use some of the savings it obtains via the interim duplicate resolution process, discussed below in Section II.B.2, to defray the cost of implementing the database. Given the potentially high number of consumers obtaining duplicative support under today’s rules, the savings could be substantial.

Finally, the database, as proposed by AT&T and others, would not threaten consumers’ privacy because it would maintain the barest minimum of consumer-specific data necessary for the database administrator to validate that a requesting consumer is eligible for Lifeline and is

¹⁵ CenturyLink Comments at 21.

¹⁶ Nebraska Commission Comments at 5. *See also* Consumer Cellular Comments at 6 (“The quick development of such a database will pay for itself in consumer benefits to low income Americans and the elimination of undue burdens on ETCs.”).

not already receiving Lifeline-supported service from a provider.¹⁷ It would not, for example, contain information about why the consumer is eligible for Lifeline (e.g., explaining in which qualifying program the consumer participates) or income information about that consumer's household. And, as we noted above, under our database approach, state social service agencies would not share information directly with ETCs.¹⁸ Instead, the designated state entity or entities would provide minimal consumer information to the national database administrator when it determines that a consumer is eligible for a qualifying program and the consumer indicated that he/she would like to participate in Lifeline.¹⁹ ETCs would obtain access to some version of that information via the database to determine whether a consumer requesting Lifeline service was eligible to participate in the program and whether that consumer was already receiving Lifeline-supported service from another provider. Under AT&T's proposal, ETCs thus would have access to far less information about their Lifeline subscribers than they do today.²⁰

Several commenters have different opinions about what consumer-identifying information would best protect a consumer's privacy. Some recommended name, address,

¹⁷ See, e.g., Nebraska Commission Comments at 5 ("In developing such a database, customer privacy should be given special attention. The database should contain no customer-specific information beyond name and address and the carrier serving the customer."). To be clear, we do not believe that the identity of a Lifeline customer's provider should be visible to other providers.

¹⁸ See Cincinnati Bell Comments at 10 (explaining how several Ohio state agencies used to provide participating consumers' names, addresses, and social security numbers directly to Cincinnati Bell but at least one agency subsequently stopped due to privacy concerns). We share those privacy concerns and believe it would be inappropriate for an ETC to have such direct access to a state social service agency's records. See also Missouri Commission Comments at 17 (government agencies of qualifying programs are reluctant for outside parties to gain access to their databases).

¹⁹ See AT&T Comments at 12-13 (describing the states' database role).

²⁰ Under today's rules, ETCs are required to review highly-sensitive consumer documents containing income information (e.g., documentation detailing child support payments and divorce decrees). Under AT&T's proposal, since consumers no longer have to send such sensitive documents through the mail, and the Commission no longer has to worry about the document retention (and disposal) practices of over 2000 ETCs, AT&T's proposal significantly enhances consumer privacy expectations.

birthdates, and, possibly the consumer's social security number.²¹ Others contended that addresses, complete social security numbers, and birthdates should not be used and recommended, instead, that the consumer's driver's license or some other state-issued photo identification, along with the last four digits of the consumer's social security number are more appropriate.²² Given the divergent views in the record, this issue is one that could more productively be addressed by a national Lifeline database working group comprised of state representatives, consumer groups, industry, and database experts. AT&T supports the establishment of such a working group since there are likely to be a number of implementation issues similar to this (e.g., data transfer methodologies and formats, update schedules, security, consumer communications) that are best addressed at this level.

Several commenters support a national database but have varying views about how such a database should function. For example, Cricket agrees that a national database has "obvious benefits," and suggests that "the database could be populated by ETCs . . . using a standardized set of data points for each applicant (e.g., name, address, social security number, basis for eligibility, etc.)."²³ GCI, similarly, suggests that a national database would be populated with ETC-supplied subscriber-specific identifying information.²⁴ If Cricket and GCI are suggesting that ETCs should continue to have the responsibility for determining whether a consumer is eligible for Lifeline and therefore should have the role of inputting that information in the national database then, we respectfully, but strongly disagree. This simply is an inappropriate

²¹ See, e.g., Cricket Comments at 23.

²² See, e.g., GCI Comments at 23.

²³ Cricket Comments at 7.

²⁴ GCI Comments at 22-23.

role for for-profit entities that have a financial incentive to conclude that a consumer is indeed eligible for Lifeline-supported service. Based on the current record, no consumer or public interest group has suggested that consumers are better served by having Lifeline providers continue to make eligibility determinations. We can think of no other public assistance program where the for-profit party decides whether a consumer can participate in that program. On the other hand, if Cricket and GCI are simply suggesting that ETCs will need to be involved in the initial population of the database with the existing base of Lifeline subscribers, then we agree.

We also disagree with commenters that suggest that the costs of implementing the database should be borne by ETCs via a database dip charge or some other subscriber or transactional charge.²⁵ The entire cost of the national database should be funded by universal service funds, which are raised via contributions by all providers of telecommunications services.²⁶ Imposing an assessment directly on Lifeline providers would discourage participation and may encourage unwilling provider participants to appeal any such assessment. Moreover, in any public assistance program, which Lifeline is, the service provider (communications provider, electric company, landlord, grocery store) should not have to pay a direct assessment if an eligible consumer uses its supported service. By analogy, grocery stores are not assessed a fee

²⁵ CGM Comments 2 (access to consumer eligibility data should be “paid for by the ETC on a per validation basis at the state level”); Cox Comments at 6; TracFone Comments at 17 (the database “should be funded by assessments on all ETCs who have customers enrolled in Lifeline-supported services”).

²⁶ *See* CenturyLink Comments at 21 (“The database should be funded either through government funds appropriated for that purpose or through some other general funding mechanism. It should not be funded through fees on ETCs for database usage. The Commission should want to encourage, not discourage, use of the database.”). *See also* USTelecom Comments at 2 (recommending that the Commission petition Congress to provide general revenues to fund low-income programs, noting that this is how other federal programs that assist low-income individuals are funded) & 14 (if the program is not funded by an executive branch agency or department, the database should be funded through the universal service fund contribution mechanism). AT&T supports USTelecom’s recommendation that the Commission ask Congress to fund the low-income program via the general treasury.

each time they accept food stamps. Here, too, the Commission should reject any “pay to play” type assessment on ETCs.

B. COMMENTERS AGREE THAT THE COMMISSION’S PROPOSED SOLUTIONS TO STOP INDIVIDUALS FROM RECEIVING DUPLICATIVE LIFELINE SUPPORT AND INELIGIBLE CONSUMERS FROM RECEIVING LIFELINE SUPPORT AT ALL ARE UNWORKABLE AND SHOULD BE REJECTED IN FAVOR OF AN INDUSTRY-PROPOSED SOLUTION TO BE IMPLEMENTED ON AN INTERIM BASIS.

The Commission proposed several measures designed to identify and address the separate problems of a single individual obtaining Lifeline-supported service from multiple providers and an ineligible consumer receiving Lifeline-supported service. There is no disagreement in the record that such individuals are inappropriately receiving Lifeline benefits, and their actions (intentional or not) have contributed to the increase in the size of the low-income fund, currently \$1.3 billion/year and growing.²⁷ While a national database, as envisioned by AT&T, would help to prevent both ineligible consumers from receiving Lifeline-supported service at all and eligible customers from receiving more than one Lifeline-supported service, the Commission suggested different tools to tackle this problem. A number of commenters, including AT&T, explained that these proposals are problematic and less effective and efficient than other alternatives in the record.²⁸ We discuss these concerns below.

²⁷ *NPRM* at ¶ 27. Based on USAC’s projections, the “total annual 2011 Lifeline support is estimated to be \$1,440.39 million.” See USAC, Federal Universal Service Support Mechanisms Fund Size Projections for Third Quarter 2011, at 16 (May 2, 2011), available at [http://www.usac.org/about/governance/fcc-filings/2011/Q3/3Q2011%20Quarterly%20Demand%20Filing%20_FINAL%205.2.11\).pdf](http://www.usac.org/about/governance/fcc-filings/2011/Q3/3Q2011%20Quarterly%20Demand%20Filing%20_FINAL%205.2.11).pdf).

²⁸ See, e.g., Cox Comments at 4-5.

1. THERE IS CONSENSUS IN THE RECORD THAT THE COMMISSION’S PROPOSAL TO IDENTIFY DUPLICATIVE LIFELINE BENEFITS IS FLAWED AND SHOULD BE REJECTED.

The Commission proposes to require ETCs to include “customer names, addresses, social security numbers (either the full number or the last four digits), birthdates, or other unique household-identifying information to USAC on their Forms 497” as a means to eliminate duplicates.²⁹ USAC would then compare ETC subscriber lists to identify individuals receiving Lifeline-supported service from multiple providers. But, as several commenters, including at least one state commission, explained, many (if not most) ETCs do not obtain their Lifeline customers’ social security numbers (either in full or the last four digits) or their birthdates.³⁰ Consequently, it will take ETCs many months to collect this new information from their embedded base of Lifeline subscribers.³¹ One commenter stated that it would take it twelve months to comply with such a rule due to the modifications that it would have to make to its billing and customer service systems, in addition to the time required to attempt to obtain this information from its current Lifeline subscribers.³² It simply makes no sense for the

²⁹ *NPRM* at ¶ 56 & App. A at § 54.410(e).

³⁰ *See, e.g.*, CenturyLink Comments at 6; Missouri Commission Comments at 5-6; USTelecom Comments at 14; Verizon Comments at 9. In the 31 states in which we operate as an ETC (as an ILEC and/or a wireless provider), we are *required* to obtain Lifeline customers’ social security numbers in just one: West Virginia. AT&T’s ILECs operating in the legacy BellSouth states request both Lifeline customers’ social security numbers and birthdates but consumers are under no obligation to provide this information and, although we do not track the frequency in which consumers comply with our request, we have reason to believe that a large percentage of Lifeline subscribers choose not disclose this information to us. Moreover, AT&T’s ILEC ETCs, like all other ILECs subject to section 251(c)(4) of the Telecommunications Act of 1996, are wholesale providers and have no ability to obtain their competitors’ customers’ social security numbers.

³¹ According to the Commission, there were almost 9 million Lifeline subscribers in 2009. *See NPRM* at ¶ 25. Obtaining social security numbers and birthdates from even half of these consumers would be a huge undertaking.

³² GCI Comments at n.40 (also noting the anticipated low response rate and subsequent de-enrollment of large numbers of non-responsive Lifeline subscribers). *See also* CenturyLink Comments at 7 (this

Commission to require over 2,000 ETCs to begin the process of collecting additional personal information from their Lifeline customers when the ultimate solution – a national database – will prevent the occurrence of duplicative Lifeline benefits on a real-time basis, and not simply identify duplicates via a time-consuming, USAC monthly review of every ETC’s FCC Form 497 filings.³³ Moreover, the Industry Proposal, discussed immediately below, offers a superior springboard to the establishment of a comprehensive interim process to identify and eliminate duplicative Lifeline benefits.

2. THERE IS NEAR UNANIMITY AMONG THE COMMENTERS THAT THE COMMISSION’S PROPOSAL TO STOP INDIVIDUALS FROM RECEIVING DUPLICATIVE LIFELINE SUPPORT, AFTER ITS PROPOSED FCC FORM 497 PROCESS IDENTIFIES SUCH INDIVIDUALS, IS ILL-CONCEIVED AND MUST BE REJECTED.

The Commission proposes to adopt a Wireline Competition Bureau (Bureau) process for stopping duplicative support set forth in a January 21, 2010 letter to USAC.³⁴ Briefly, the Bureau directed USAC to require ETCs with shared Lifeline customers to cease including those subscribers in their line count filings and notify those customers by phone and in writing, where possible, that they have 30 days to select one Lifeline provider.³⁵ Rather than reciting the numerous flaws with this guidance, which were well-documented in the pending petition for

proposal would require it to modify its service ordering processes and may conflict with state requirements that prohibit the collection of this information); Verizon Comments at 9 (“ETCs are ill-equipped to execute the administrative functions associated with submitting to USAC unique household-identifying information on Forms 497 for every supported household.”); Cox Comments at 4 (“[s]uch new obligations would be needlessly burdensome to ETCs”).

³³ Cox Comments at 4.

³⁴ *NPRM* at ¶ 58 (proposing to amend its rules to codify the guidance contained in this letter).

³⁵ Letter from Sharon E. Gillett, FCC, to Richard A. Belden, USAC, DA 11-110, at 3 (WCB Jan. 21, 2011) (January 21 Letter).

reconsideration of the Bureau’s January 21 Letter,³⁶ we simply acknowledge with support the comments made by such parties as CTIA, GCI, and the Nebraska Commission.³⁷

After the release of the January 21 Letter and with input from Commission staff, AT&T and others in the industry worked together to develop a *workable* interim process to eliminate duplicative support.³⁸ This process, if adopted by the Commission, would exist only for a brief period of time until the Commission procures “the capabilities to operate a more permanent duplicate enrollment resolution process that could become part of a national Lifeline database solution.”³⁹ Under the Industry Proposal, USAC would obtain subscriber lists from major Lifeline providers in certain targeted states. These lists would include only subscribers’ names, addresses, and telephone numbers – not social security numbers or birthdates. After comparing the lists, USAC would give each ETC a list of individual subscribers suspected of receiving duplicate Lifeline benefits. The ETCs would have a few days to provide additional identifying information, eliminate subscribers who are no longer Lifeline subscribers, and make other corrections, if they so choose, before USAC deems the list correct. USAC would then divide the number of identified duplicates by the number of affected ETCs (most likely, two) and then

³⁶ Petition for Reconsideration of CTIA, USTelecom, *et al.*, WC Docket No. 03-109, CC Docket No. 96-45 (filed Feb. 22, 2011) (Joint Petition for Reconsideration).

³⁷ CTIA Comments at 8-11; GCI Comments at 25-27; Nebraska Commission Comments at 6 (“Although subscribers may be wary of responding to an inquiry from USAC, the potential for fraud may increase if inquiries are sent from the ETCs” and “[h]aving inquiries handled by one central organization, [] would allow for fewer mistakes and more streamlined oversight in the process”). *See also* Ohio Commission Comments at 5 (“potential for error and miscommunication would be reduced” by having only USAC involved in the process); Verizon Comments at 10.

³⁸ *See* Letter from US Telecom, CTIA, AT&T, *et al.*, to Marlene Dortch, FCC, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed April 15, 2011), corrected *ex parte* cover letter filed April 22, 2011 (together, Industry Proposal).

³⁹ Industry Proposal at 1.

randomly identify a “default carrier” for each identified consumer.⁴⁰ Next, USAC would mail identified consumers a letter, notifying them that they must select one of their two (or potentially more) current Lifeline providers or they will begin receiving Lifeline benefits from just the single default carrier listed in the letter. Consumers would have 30 days to call a toll-free number to indicate their choice of Lifeline provider. A third-party retained to operate the toll-free number would relay the results of any customer-generated provider selections to USAC, and USAC would inform each ETC which subscribers to de-enroll from the program.⁴¹

To implement the Industry Proposal, the Commission would have to amend its existing Lifeline rules, waive other Commission rules,⁴² and preempt any state requirement that would conflict with the Commission’s new rule to require ETCs to immediately de-enroll duplicate subscribers.⁴³ As indicated in the Industry Proposal cover letter, AT&T and others believe that the Commission could adopt the proposed rules and move forward with the related procedures noted above on an expedited basis, and we have no objection to the Commission doing so.⁴⁴

Adopting the Industry Proposal in lieu of the January 21 Letter would produce many benefits. Among other things, the Industry Proposal would not require ETCs to phone each

⁴⁰ For example, if USAC determined that two ETCs in a particular state shared 100 Lifeline subscribers, it would randomly identify each ETC as the default carrier for 50 consumers.

⁴¹ *See* Industry Proposal at 2-3 (detailing the process summarized above).

⁴² *See id.* at App. A & cover letter at 4.

⁴³ *See id.*, cover letter at 4 (also explaining that ETCs must be permitted to terminate service to these de-enrolled Lifeline subscribers or change these customers to another service tier immediately upon notice from USAC of the consumer’s de-enrollment, and any de-enrolled federal Lifeline customer also must be de-enrolled from a state Lifeline program).

⁴⁴ *Id.*, cover letter at 2 (citing the “good cause” exception to the Administrative Procedure Act).

affected subscriber, which would be extremely time consuming and costly⁴⁵ and, more importantly, confusing to the consumer. Instead, the consumer would receive clear and accurate information from one authoritative source: USAC. The Industry Proposal also would not result in the consumer being de-enrolled from Lifeline altogether if he failed to respond to an ETC's call or letter.⁴⁶ Moreover, ETCs would not be placed in the untenable – and unlawful – position of being required under the Commission's rules to provide Lifeline-supported service without being reimbursed,⁴⁷ which was one of the most problematic aspects of the January 21 Letter and the *NPRM*.⁴⁸

With experience, and any necessary adjustments, the Commission could consider deploying a version of the Industry Proposal on a broader scale.⁴⁹ Weeding out duplicates before consumer information is input into the national database will expedite that process. Of course,

⁴⁵ Joint Petition for Reconsideration, Declaration of Dewey E. Alexander III at 3.

⁴⁶ *See, e.g.*, GCI Comments at 49-50 (describing the low response rates from Lifeline customers). On the other hand, the Industry Proposal would not allow a subscriber to provide new self-certifications to both ETCs, and thus continue receiving duplicative Lifeline benefits, which certainly could happen if the Commission adopts the process contained in the January 21 Letter.

⁴⁷ *See* Sprint Comments at 4-7 (stating that the Commission's proposal "would penalize the ETC for fraud or errors over which it has no control" and, by essentially requiring the ETCs to seek reimbursement from the de-enrolled customer, the Commission's proposal "imposes a significant administrative cost on ETCs, [and] it also forces ETCs to bear the cost of any bad debt in cases in which the end user beneficiary does not or can not remit repayment."); Cricket Comments at 10; GCI Comments at 26; CenturyLink Comments at 7-8.

⁴⁸ *See NPRM* at ¶ 62. The Bureau itself recognized that ETCs today have no ability to determine whether one of its Lifeline subscribers is simultaneously obtaining Lifeline-supported service from another provider. *See* January 21 Letter at 2 ("There is no comprehensive database in place for ETCs to determine whether an eligible consumer is enrolled in Lifeline with another ETC, and ETCs are not in the position to share customer information with one another. ETCs therefore lack the data needed to prevent the occurrence of duplicate Lifeline claims.").

⁴⁹ Of course, we assume that, within six months of adopting the Industry Proposal, the Commission will have procured the capabilities necessary to manage this process itself, thus relieving private sector entities from retaining a third-party vendor to process customer-generated Lifeline provider selections.

no interim process is perfect because, until the database is operational, there is nothing to prevent consumers from repeatedly signing up with multiple Lifeline providers.⁵⁰ It is therefore in the best interest for the Commission to prioritize national database implementation and not adopt other interim modifications to the Lifeline process that will divert industry resources from working to implement the database.

3. THE COMMISSION’S PROPOSAL TO ENSURE CONSUMER ELIGIBILITY IS UNNECESSARILY BURDENSOME TO CONSUMERS AND ETCs.

The Commission proposes to eliminate consumer self-certifications of eligibility in lieu of requiring consumers to present copies of documentation demonstrating participation in a qualifying program to ETCs.⁵¹ Unsurprisingly, there is little disagreement in the record that self-certifications, made under penalty of perjury, do little to deter otherwise ineligible consumers from unlawfully obtaining Lifeline benefits.⁵² However, the Commission’s proposal to address consumer eligibility would impose unnecessarily burdensome document collection obligations on ETCs.⁵³ Sound public policy dictates that the Commission should always reject any proposal that requires private sector entities to collect *more* personally sensitive information about their customers when less intrusive and more effective alternatives are available. Here, plainly, the better answer is that states – which are already making consumer eligibility determinations for

⁵⁰ Nebraska Commission Comments at 6 (“the Lifeline subscribers may still indicate that they want service from both ETCs, perhaps on different dates, and the [interim] duplicate resolution process would need to continue”).

⁵¹ *NPRM* at ¶170.

⁵² *See, e.g.*, DC Commission Comments at 5; Nebraska Commission Comments at 12 (explaining that the Nebraska Commission requires “documentation from the state or federal agency that administers the qualifying program for all Lifeline and Link Up applicants prior to providing benefits”); Verizon Comments at 8.

⁵³ Cox Comments at 4; CTIA Comments at 21-22; TracFone Comments at 27; USTelecom Comments at 6.

the underlying programs – should signal via the database that these consumers are eligible for Lifeline.⁵⁴ This approach is far more consumer friendly because it does not require consumers, who might have little to no access to copy or fax machines, to produce documentation twice or share personal information with a communications provider.⁵⁵

To be sure, the Commission will have to develop a strategy to ensure that the embedded base of Lifeline subscribers is actually eligible for Lifeline before the database administrator enters their information into the database.⁵⁶ Such a strategy may require those consumers to produce to the database administrator documentation demonstrating participation in a qualifying program. Requiring consumers to produce such documentation to the Commission’s agent or designee is preferable to requiring consumers to provide copies of these documents to private

⁵⁴ CTIA Comments at 5; Nexus Comments at 23 (“It is crucial that the states, not ETCs, take responsibility for determining whether a customer is eligible to participate in the Low Income program.”); Verizon Comments at 8 (“ETCs do not have the expertise needed to execute these functions – which are fundamentally functions better suited for social service or government agencies”).

⁵⁵ Las Vegas Urban League Comments at 2 (“Many people who qualify for Lifeline, particularly minorities and seniors, simply do not have access to the computers, scanners, faxes or photocopiers necessary to prove that there are eligible to receive Lifeline services.”); Minority Media & Telecommunications Council Comments at 8 (“Requiring participants to provide proof of their eligibility through qualified assistance programs can be challenging for subscribers who may not have the proof required or the means to copy, fax, or scan the documents to send.”); Second Harvest Foodbanks Comments at 1; Rainbow PUSH Comments at 1; CTIA Comments at 6 (“The requirement that consumers disclose this sensitive information to carrier personnel also likely deters prospective Lifeline-eligible customers, undermining the program’s potential for success.”); TracFone Comments at 27 (this Commission proposal “would significantly complicate the enrollment process for many qualified low-income consumers and would lead to an inevitable reduction in Lifeline participation levels”) & 29 (“Mandatory documentation requires consumers to locate those materials – if they can – and later send them to TracFone via mail, e-mail, or fax. Since most low-income households do not have [access to the Internet, scanners, or fax machines], sending documentation of program-based eligibility is not a readily-available option”); USTelecom Comments at 6 (“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”).

⁵⁶ This additional step will be necessary for those consumers who receive Lifeline based on self-certifications but will be unnecessary for consumers who receive Lifeline because a state or its designee determined that the consumer was eligible (e.g., consumers in automatic enrollment states) or who demonstrated eligibility by already producing documentation of participation in a qualifying program.

sector communications providers.⁵⁷ This alternative also affords the Commission greater certainty that any consumer-supplied documentation is being reviewed and evaluated in a consistent manner.⁵⁸ And, under this alternative, consumers would be unable to provide the same documentation demonstrating their participation in a qualifying program to multiple Lifeline providers.

By contrast, under the Commission's approach, every ETC would have to not only review sensitive and private documentation from every Lifeline subscriber but also determine the legitimacy of that documentation, leaving the Commission to rely on an annual certification from an officer of the ETC that to the best of his or her knowledge, the ETC was presented with documentation of the consumers' program participation.⁵⁹ Putting aside that some ETCs and their employees (particularly, those paid on a commission basis) may have an incentive to apply something less than a discerning eye when reviewing consumer documentation, under the Commission's proposal, ETCs will be asked to review documents for obscure, state-specific

⁵⁷ In its *NPRM*, the Commission states that consumers will "present" such documentation to ETCs, perhaps under the erroneous assumption that a consumer will hand a document to an ETC representative to view and then hand back to the consumer. Other than in emergency situations like during the aftermath of Hurricane Katrina, that scenario simply does not occur for most of AT&T's ETCs (both wireline and wireless affiliates). AT&T's ETCs almost always require requesting Lifeline consumers to mail self-certification forms, along with any documentation that may be required by the particular state.

⁵⁸ See, e.g., CTIA Comments at 5 ("the significant human element in this process raises the risk that different ETCs may interpret or apply the eligibility rules differently in specific instances"); Verizon Comments at 8 ("assigning responsibility for enrollment decisions to multiple ETCs leads to inconsistent eligibility determinations").

⁵⁹ *NPRM* at App. A, § 54.410(c)(1). Based on our review of the Commission's order and proposed rule, we do not believe that the Commission is proposing to require ETCs to maintain copies of these documents (versus reviewing and then destroying these records). If that is not the case, then AT&T opposes the proposed rule on that basis too.

programs.⁶⁰ While no one questions the merit of these state programs, it is fair to say that ascertaining the validity of documents establishing participation in such diverse programs will be a significant challenge for Lifeline providers. For all of these reasons, we agree with COMPTTEL, Cox, CTIA, and TracFone that it makes more sense to continue the status quo in federal default states and states that currently permit self-certifications of consumer eligibility on an interim basis until the database is operational.⁶¹ At that time, the database administrator could be tasked with confirming the eligibility of *existing* self-certified consumers, and states will make these determinations for *new* consumers in the course of evaluating a consumer's eligibility for a qualifying program.⁶²

D. THE RECORD DOES NOT SUPPORT SEVERAL COMMISSION PROPOSALS THAT WOULD REQUIRE LIFELINE PROVIDERS TO MODIFY OR, IN SOME CASES, CREATE BILLING SYSTEMS, ONE OF WHICH WOULD BE RELEVANT FOR ONLY A BRIEF PERIOD OF TIME.

The Commission sought comment on a number of proposals that would require Lifeline providers to modify or create billing systems to: report subscribers who obtained Lifeline benefits for less than a full calendar month for the relatively brief period of time until the database is operational; track non-usage by postpaid Lifeline customers; and assess a minimum monthly charge and/or a minimum non-recurring charge on Lifeline customers. For reasons provided by AT&T and others, the Commission should decline to adopt all three proposals.

⁶⁰ GCI Comments at 48 (explaining that ETC personnel “struggle to identify valid qualified documents associated with [these state-specific programs]”).

⁶¹ COMPTTEL Comments at 19-20; Cox Comments at 4; CTIA Comments at 21-22; TracFone Comments at 31.

⁶² As we have explained before, to the extent that a consumer seeks to qualify on the basis of income, given their experience reviewing income documentation, the states are better situated to review this personally sensitive information than private sector communications providers.

Partial Month Reporting. Most commenters that addressed this issue agreed with AT&T that the Commission should maintain its current procedures, which *permit* ETCs to seek partial month reimbursement for Lifeline subscribers who receive something less than a full month of Lifeline-supported service.⁶³ This is particularly appropriate given that one of the many benefits of a national database is that it will not only track how many subscribers each provider has during a calendar month but the number of service days per subscriber, based on when that subscriber's service was "activated" or "deactivated" in the database, and USAC would reimburse providers directly on that basis without the submission of FCC Form 497 line counts.⁶⁴ A number of AT&T's ETCs and other carriers, such as GCI, Cox, and Cincinnati Bell take a snapshot of their Lifeline subscribers at the end of each month. As GCI explains, "the end-of-the-month snapshot provides an equitable, straightforward, reliable and easy-to-administer solution that avoids the complexity that partial month reporting on Form 497 would require."⁶⁵ This approach is reasonable because, as Cox points out, "[i]n practice, the number of customers enrolling mid-month will be roughly balanced by the number of customers de-enrolling mid-month."⁶⁶

On the other hand, the costs to implement the Commission's proposal would be significant for some carriers. Cincinnati Bell explains that while its billing system includes partial month billing, "this is a unique function of the billing system that does not carry over to

⁶³ Cincinnati Bell Comments at 14-15; Cox Comments at 8; CTIA Comments at 22-23; GCI Comments at 28-30; USTelecom Comments at 15-16; Verizon Comments at 11-12.

⁶⁴ AT&T Comments at 24 (explaining how line count filings become obsolete once a national database is operational).

⁶⁵ GCI Comments at 29.

⁶⁶ Cox Comments at 8.

[Cincinnati Bell's] customer records database. Pro rata reporting would require a fundamental change to [Cincinnati Bell's] systems that would entail programming updates, additional storage, and potentially the creation of a new database.”⁶⁷ Verizon adds that, for large carriers with millions of Lifeline customers, it would be “prohibitively expensive” to implement complex modifications to carrier billing systems to capture required data and adjust reimbursement claims.⁶⁸ For these reasons and those provided in our opening comments, we agree with GCI that, in the absence of any data demonstrating “that the pattern of customer subscriptions and terminations is anything other than random over the course of a month,” “requiring every ETC to implement partial month reporting on form 497 cannot be justified pursuant to the Paperwork Reduction Act.”⁶⁹

The few commenters that did support the Commission's proposal to mandate partial month reporting offer no explanation for their support⁷⁰ or use examples that do not accurately characterize how ETCs that perform a Lifeline subscriber snapshot at the end of each month populate their line count filings.⁷¹ For example, TracFone claims that carriers that fail to seek partial month reimbursement for customers beginning Lifeline-supported service at various points in a month receive a “windfall” when they obtain reimbursement as if they had provided service to such customers for the entire month. But, TracFone tells only half the story because it ignores the fact that subscribers *de-enroll* from Lifeline-supported service at various points

⁶⁷ Cincinnati Bell Comments at 14.

⁶⁸ Verizon Comments at 11.

⁶⁹ GCI Comments at 29.

⁷⁰ COMPTTEL Comments at 11; Florida Commission Comments at 10; Massachusetts Commission Comments at 3; NASUCA Comments at 10-11.

⁷¹ TracFone Comments at 35-36.

during the same calendar month.⁷² AT&T and other ETCs that report their Lifeline line counts based on a snapshot at the end of the month forego any reimbursement for such customers despite having provided Lifeline-supported service to those now de-enrolled subscribers for part of the month. At the end of the day, as AT&T and others have explained, it all comes out in the wash.

Tracking non-usage by postpaid customers. Like many commenters, AT&T opposes the Commission’s proposal to require providers of *postpaid* Lifeline-supported service to monitor usage in order to stop obtaining reimbursement for any Lifeline customer who has failed to use the service for 60 consecutive days.⁷³ Such a prohibition makes sense in the *prepaid* wireless context, where many prepaid wireless customers obtain free Lifeline service, and “there is no objective means of ascertaining whether they should still be viewed as active ‘subscribers’ apart from their usage patterns,”⁷⁴ which is why the Commission should extend this practice, which already applies to TracFone and Virgin Mobile,⁷⁵ by rule to all prepaid wireless ETCs. But the concerns that prompted the Commission and many state commissions to implement non-usage requirements on some prepaid wireless ETCs do not exist for postpaid providers and their customers. Among other things, “the fact that customers remain current on their accounts

⁷² *Id.* at 36.

⁷³ *NPRM* at ¶82. CenturyLink Comments at 9; Cricket Comments at 5-6; Florida Commission Comments at 12-13 (the proposed rule “would not be necessary for ETCs that bill their customers on a monthly basis since the ETC would receive payment each month indicating the customer’s desire to maintain the telephone service”); GCI Comments at 30-31; Mississippi Commission Comments at 5; NASUCA Comments at 14-15 (the Commission’s “proposal to extend the [60-day non-usage] rule to postpaid customers is directed toward a problem that does not exist”); New York Commission Comments at 9; USTelecom Comments at 17-18; Verizon Comments at 12.

⁷⁴ GCI Comments at 30.

⁷⁵ *See NPRM* at ¶ 81.

demonstrates that the service continues to have value.”⁷⁶ Also, GCI and CenturyLink are correct to point out that requiring wireline postpaid providers to monitor their customers’ usage to determine if they have placed or received any calls in the prior 60 days would require significant modifications to their billing systems.⁷⁷ As CenturyLink states, ETCs, like AT&T’s ILECs, “offer basic flat-rated unlimited local service for a periodic fee. They are not in a position to monitor and track individual customer use of that service.”⁷⁸ While AT&T’s ILECs’ systems are capable of monitoring an individual’s usage, that capability is extremely limited. It is used today exclusively on a one-off basis when we are required by law to track this information (e.g., pursuant to court order). It is no understatement to say that our ILEC ETCs will require substantial time, at great expense, to begin monitoring the usage of our millions of Lifeline customers, especially if this requirement is to be administered on a rolling 60-day basis. As is the case with partial month reporting noted above, in the absence of any data demonstrating that non-usage among postpaid Lifeline customers is a problem, the Commission cannot justify extending a non-usage rule to ETCs that provide postpaid Lifeline-supported service in light of the significant burden that such a rule will impose on these carriers.

Minimum consumer charge. The Commission’s proposal to require ETCs to collect some minimum monthly amount and/or minimum non-recurring amount from Lifeline customers⁷⁹

⁷⁶ Verizon Comments at 12.

⁷⁷ GCI Comments at 31 (stating that this proposal would require it to “overhaul its billing and data systems in a manner that would, after sixty days of non-usage, remove subscribers from the Form 497 line count of active Lifeline subscribers but without actually suspending Lifeline service”); CenturyLink Comments at 9.

⁷⁸ CenturyLink Comments at 9.

⁷⁹ NPRM at ¶¶ 85-92.

was panned by many commenters, and rightfully so.⁸⁰ While the Commission’s stated rationale for this proposal (“to guard against waste, fraud, and abuse in the Lifeline program by ensuring that low-income households have the incentive to make appropriate use of their Lifeline-supported services. . . .”)⁸¹ makes little sense, its effect, if adopted, is clear. The Commission’s action could drive prepaid wireless ETCs out of the Lifeline program. Prepaid wireless providers like TracFone have “no existing billing systems and no present ability to bill and collect such charges.” If the Commission adopts this rule, TracFone and others “would either have to invest in a carrier billing system unnecessary for any other aspect of its business to render bills for as little as \$1.00, or it would have to discontinue providing Lifeline service.”⁸² While AT&T would not be directly affected by this proposed rule if the Commission adopts it, as we do not have a prepaid wireless Lifeline service offering, we must nonetheless object to the senselessness of this proposal. The Commission should be trying to encourage more providers, using different business models, to participate in the low-income program in order to increase consumer choice. This proposal seems likely to have the opposite effect.⁸³

⁸⁰ Florida Commission Comments at 13; NASUCA Comments at 15-16; Sprint Comments at 18-19; TracFone Comments at 19-24; USTelecom Comments at 18; YourTel Comments at 7. *But see* CenturyLink Comments at 9; Michigan Commission Comments at 5 (supporting a one-time charge to deter fraud and non-usage but opposing a minimum monthly charge because of the associated administrative and billing costs); Nebraska Commission Comments at 8 (suggesting that a \$2 or \$3 minimum monthly charge might be more appropriate in order to allow ETCs to recover the costs of billing).

⁸¹ *NPRM* at ¶ 86.

⁸² TracFone Comments at 23; Sprint Comments at 18-19 (“Given billing and collection expenses, a required minimum payment could well render prepaid Lifeline service a non-viable business model.”).

⁸³ *See* CTIA Comments at 23 (noting that this proposal is “overly burdensome, ineffective, and ultimately would discourage customers from enrolling in the programs, reducing the value of competitive Lifeline offerings for consumers”).

The Commission should take note of the survey cited in TracFone's comments that almost 65 percent of its responding customers stated that they would de-enroll from the Lifeline program instead of pay a mandatory charge.⁸⁴ While some might view this statistic as demonstrating that prepaid wireless Lifeline consumers do not value the service because they would choose to discontinue it instead of paying \$1/month, the better interpretation is that TracFone, Virgin Mobile, and others are serving the truly neediest of the population and these consumers' responses are more reflective of their dire economic circumstances and the fact that most of them do not have bank accounts or credit/debit cards and thus no ready ability to pay even a nominal monthly charge.⁸⁵

The Commission also requests comment on amending its rules to require Tribal Lifeline customers to actually pay their service providers \$1/month.⁸⁶ As the Commission explains, its rules require ETCs to charge Tribal Lifeline customers at least \$1/month, but the rules do not explicitly require ETCs to collect such amounts and the Commission has learned anecdotally that some carriers do not collect the \$1/month from their Tribal customers.⁸⁷ In those areas where AT&T currently serves Tribal lands as an ETC, it applies its usual collections practices to its Tribal Lifeline customers. Based on our experience, the costs of trying to collect a few dollars from a delinquent customer are substantially higher than the amount owed. For that reason, it makes little sense for the Commission to adopt such a rule. Instead, the Commission should give ETCs that serve Tribal lands the option of providing free service to Tribal Lifeline customers

⁸⁴ TracFone Comments at 21.

⁸⁵ *Id.* at 23.

⁸⁶ *NPRM* at ¶ 91.

⁸⁷ *Id.* at ¶ 90.

instead of charging them \$1/month.⁸⁸ The amount of reimbursement that an ETC providing free service and an ETC charging \$1/month would claim from the fund would be identical. Whether to assess a nominal fee and then bear the collection costs if the Tribal Lifeline customer becomes delinquent is a business decision that should be left to the ETC. The Commission also should be clear that an ETC providing free service to Tribal Lifeline customers may properly include those subscribers not only in its Lifeline line count filings but in its high-cost line count filings, if applicable.

E. THE COMMISSION’S PROPOSED “ONE PER RESIDENCE RULE” IS CONTRARY TO SOUND PUBLIC POLICY AND WOULD BE DIFFICULT FOR ETCs TO IMPLEMENT.

There is unanimous agreement in the record that otherwise qualified individuals residing, however temporarily, in shelters, group homes, and similar “non-traditional” living arrangements should not be denied Lifeline-supported service simply because they cannot provide a “unique U.S. Postal Service address” and thus should be exempted from a “one per residence” rule. However, these same commenters fail to explain how any ETC – or USAC – could ever operationalize the number of exceptions that would be necessary to accommodate all “non-traditional” living arrangements.⁸⁹ We agree wholeheartedly with GCI that there is a

⁸⁸ If providers choose to provide free service to their Tribal Lifeline customers, it seems to make sense for the Commission to apply its proposed 60-day non-usage rule to such providers.

⁸⁹ See, e.g., Michigan Commission Comments at 6 (“Eligible customers residing in commercially-zoned locations like rooming houses, shelters and other group quarters should be allowed to participate in the Lifeline program.”); CenturyLink Comments at 13 (explaining that the exceptions to the rule should include basement apartments, group living arrangements, and commercially-zoned buildings, all assuming that there “*should* be sufficiently distinct service addresses to accommodate more than one consumer being eligible for support in such buildings”) (emphasis added). If that were the case – there are distinct service addresses for every unrelated individual residing in a shared residence – then AT&T and most others probably would have no objection to the Commission’s proposal. Of course, CenturyLink’s premise is incorrect because it fails to account for wireless, where the wireline-centric “unique service address” does not exist. Another supporter of the proposed rule, the Massachusetts

nearly limitless array of “atypical” housing arrangements that arguably do not fit within a traditional definition of “residence,” [and, thus,] the FCC and USAC will need to develop (and continually refine) a nearly limitless array of exceptions and alternative procedures that apply to non-traditional living arrangements. Moreover, the FCC and USAC will need to develop a mechanism for determining whether any particular subscriber fits within any of the exceptions. ETCs will face the burdensome task of applying the rule exceptions in qualifying circumstances and monitoring all of their subscribers to determine whether their residential characteristics have changed.⁹⁰

AT&T does not believe that the Commission and the supporters of this proposed rule have thought through how carriers or, ultimately, the state agencies responsible for determining eligibility would implement what will become an ever-growing list of exceptions – all of which are likely to be legitimate. The fact of the matter is that the Commission’s rule will deny otherwise eligible consumers Lifeline service and will place ETCs, and ultimately state agencies, in a nearly impossible position of attempting to verify whether, for example, a particular building is “commercially zoned” or whether it satisfies some other criterion that is wholly irrelevant to the provision of service. Unfortunately, the “one per residence” rule assumes that the low-income consumer has a “residence” and that that “residence” and the consumer are established enough to have a U.S. Postal Service address of record. As many commenters have pointed out, this is not always the case, particularly for the extreme-low-income population for whom the Lifeline benefit is most important. While we continue to believe that a “one per qualifying individual” rule is the superior public policy, AT&T believes that “one per household” where

Commission, made a point of highlighting in its comments a number of statements made in one of its proceedings about just how unworkable a one per residence rule is. *See* Massachusetts Commission Comments at 6 (quoting a legal services attorney who states “This rule clearly does not understand or take into consideration the reality of the types of housing settings that huge numbers of low-income people live in” and explains that persons residing in the following types of settings are ineligible for Lifeline service in Massachusetts under a one per residence rule: homeless shelters, domestic violence shelters, substance abuse residential treatment programs, housing programs supported by the state, low-income senior citizen housing, veterans’ housing programs, and rest homes).

⁹⁰ GCI Comments at 42.

household is defined in the same manner as the underlying program that is the basis for the consumer's Lifeline eligibility would be slightly less problematic than "one per resident" that the Commission proposes to define as "one per U.S. Postal Service address." A "household" based requirement would better accommodate diverse living arrangements and is a standard with which state agencies that handle eligibility for federal programs are already very familiar.

F. OTHER COMMISSION PROPOSED "IMMEDIATE REFORMS" COULD BE ADOPTED WITH CERTAIN MODIFICATIONS.

Toll Limitation Service. In response to the Commission's proposal to eliminate provider reimbursement for toll limitation service (TLS), a number of commenters agreed with AT&T that this proposal is acceptable only if the Commission eliminates the provider's corresponding requirement to provide Lifeline customers with free toll limitation service.⁹¹ It would be inappropriate and unlawful for the Commission to perpetuate the service obligation but deny carriers the ability to recover their incremental costs from the low-income fund as at least one commenter seems to recommend.⁹² If the Commission eliminates TLS reimbursement and the obligation of ETCs to provide TLS at no charge, Lifeline consumers who are concerned about managing their bills could purchase retail TLS, if one is offered by the ETC, just as non-Lifeline customers do today. AT&T's ILECs operating in the legacy BellSouth states, for example, charge non-Lifeline customers a \$9.95 activation fee and a recurring fee of approximately \$6/month for TLS (known in these states as "Customized Code Restriction" or CCR). If the Lifeline consumer opts not to pay the retail price for TLS, then the provider should be permitted

⁹¹ See, e.g., CenturyLink Comments at 8 (supporting the proposal "provided that the obligation to offer TLS at no charge to Lifeline customers is also removed"); USTelecom Comments at 16-17.

⁹² See NASUCA Comments at 11-12 (suggesting that the TLS reimbursement is unnecessary and is a tool for the sole benefit of the ETC, not the consumer, but the requirement that companies provide Lifeline service without a deposit is "essential").

to treat the Lifeline customer just like any other customer by applying its standard credit policies, which may result in the provider requesting a security deposit from the Lifeline consumer before initiating service.⁹³

De-Enrollment Proposal. The Commission recommends adopting a rule that would require ETCs to de-enroll Lifeline subscribers that (1) receive duplicative support and fail to select just one ETC in the allotted amount of time after being notified of a duplicative claim; (2) have not used their Lifeline-supported service for 60 days and failed to confirm their continued desire to maintain service; and (3) do not respond to the annual verification survey.⁹⁴ The first scenario would be moot under the Industry Proposal, discussed *supra* at Section II.B.2, because the consumer would always be assigned a default carrier; the Commission should limit the second scenario to *prepaid* wireless Lifeline customers only; and the annual verification survey is unnecessary post-implementation of the national database. Putting aside those observations, we agree with CenturyLink that the proposed rule must be modified to avoid imposing an unfunded mandate on ETCs. Proposed rule 54.405(e) states that ETCs shall give subscribers 30 days following the date of the impending termination letter to demonstrate why they should not be de-enrolled. During that 30-day grace period, “ETCs shall not seek Lifeline reimbursement for the subscriber.”⁹⁵ Like the Commission’s TLS proposal, this proposed rule would compel ETCs to provide a Lifeline benefit but then deny ETCs the ability to obtain reimbursement for

⁹³ The Commission should decline the Florida Commission’s suggestion to establish a security deposit rate for Lifeline customers. Florida Commission Comments at 11. The communications marketplace – even for low-income consumers – is hyper-competitive and there is no reason for the Commission to regulate rates in this manner.

⁹⁴ *NPRM* at ¶ 93.

⁹⁵ *Id.*, App. A at § 54.405(e).

having complied.⁹⁶ For that reason, the proposal must be modified to expressly permit ETCs to continue obtaining Lifeline reimbursement for these subscribers until they are de-enrolled from the program.

III. CONCLUSION

For the reasons provided above, AT&T urges the Commission to act quickly to begin the process of implementing a national Lifeline consumer database. AT&T's proposed national database will render unnecessary several of the Commission's proposed immediate reforms, and AT&T opposes imposing burdensome rules on Lifeline providers for a relatively brief period of time. Finally, the Commission should reconsider its proposed "one per residence" rule. Such a rule plainly will prevent otherwise eligible consumers from receiving Lifeline-supported service. Instead, the Commission should adopt a "one per qualifying individual" rule as AT&T and others recommended in their comments.

Respectfully Submitted,

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⁹⁶ See CenturyLink Comments at n.11 ("under no circumstances should ETCs be required to provide Lifeline service without being able to seek reimbursement for providing that service").