

**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

SECOND REPLY COMMENTS OF GENERAL COMMUNICATION, INC.

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Table of Contents

I. INTRODUCTION AND SUMMARY..... 1

II. THE COMMISSION SHOULD NOT CAP THE LOW-INCOME FUND..... 3

III. THE COMMISSION’S PROPOSED PERFORMANCE GOALS ARE APPROPRIATE, BUT THE COMMISSION SHOULD CONSIDER AVAILABILITY AND AFFORDABILITY IN TANDEM. 11

IV. CODIFYING THE COMMISSION’S MARKETING GUIDELINES WOULD TIE THE HANDS OF ETCS, WHICH ARE BEST POSITIONED TO DETERMINE WHICH APPROACHES WILL BE EFFECTIVE IN THEIR MARKETS. 13

V. THE COMMISSION SHOULD TAKE STEPS TO ADVANCE THE AVAILABILITY OF BROADBAND TO LOW-INCOME HOUSEHOLDS. 15

VI. CONCLUSION. 16

I. INTRODUCTION AND SUMMARY.

In these reply comments, GCI reiterates the views it expressed in its opening comments and demonstrates support for those views among other commenters. Most critically, GCI focuses on the nearly unanimous view that the proposed rules capping the low-income fund would undermine the statute that they are intended to implement. The statute requires the FCC to ensure that affordable service is available to low-income consumers. The proposed rules, by contrast, suggest arbitrary limitations and reductions that would limit availability, affordability or both. Apart from contravening the statute, these proposals would prove devastating for the vulnerable populations the program is designed to serve.

Wireless networks are becoming the networks upon which consumers rely when they need to make and receive essential calls. 70 percent of 9-1-1 calls are now made from cell phones.¹ And as the full Commission has observed, “[o]ne of the most important opportunities afforded by mobile telephony is the potential for the American public to have access to emergency services personnel during times of crisis, wherever they may be.”² One of the

¹ Federal Communications Commission, “NG 9-1-1 Fact Sheet” (rel. December 21, 2010), *available at*: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303733A2.pdf

² *Wireless E911 Location Accuracy Requirements*, Second Report and Order, 25 FCC Rcd 18,909, 18,909 ¶ 1 (2010); *see also* Separate Statement of Chairman Julius Genachowski, *Proposed Extension of Part 4 of the Commission’s Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Notice of Proposed Rulemaking, PS Docket No. 11-82, FCC 11-74 (rel. May 13, 2011) (“When disaster strikes, the public must be able to make emergency calls to summon help, particularly those facing life-threatening situations.”); Separate Statement of Commissioner Michael Copps, *Developing a Framework for Next Generation 911 Deployment*, Notice of Inquiry, 25 FCC Rcd 17,869, 17,901 (2010) (“[W]e can all agree that the safety of the American public must always be our top priority.”); Separate Statement of Robert M. McDowell, *Proposed Extension of Part 4 of the Commission’s Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Notice of Proposed Rulemaking, PS Docket No. 11-82, FCC 11-74 (rel. May 13, 2011) (“My colleagues and I agree on the vital importance placed on voice calls to 9-1-1. All Americans rightly expect their emergency calls to go through, even though most may not understand the

foremost purposes of universal service is to ensure that low-income Americans, like all other Americans, can place these life-saving and life-enhancing calls when they need to do so.

In addition to providing access to emergency services, wireless Lifeline service is uniquely suited to meet the needs of many low-income consumers who are forced by economic conditions to live a transient lifestyle and sometimes suffer homelessness. Wireless Lifeline service provides these low-income consumers with the ability to communicate with family, friends, and public assistance agencies and to otherwise remain connected to society despite their transiency. The Commission must take care to modernize and reform the Low Income Program in a manner that preserves and promotes this essential function.

Twice as many adults now rely solely on wireless networks to provide telephone service than rely solely on wireline networks—with low-income households even more likely than the population as a whole to rely exclusively on wireless services.³ Preventing some otherwise-eligible low-income Americans from obtaining wireless Lifeline services, such as by prohibiting more than one person at a postal address from having a Lifeline-supported telephone or by capping Lifeline support, will fundamentally harm low-income consumers’ access to 911 and other emergency services in times of need.

technologies involved, how the systems operate or their regulatory treatment.”); Prepared Welcoming Remarks of FCC Commissioner Mignon L. Clyburn at NENA’s “9-1-1 Comes to Washington Conference,” Washington, DC (March 29, 2011) (“One of the top priorities for any government -- federal, State, or local -- should be to ensure the safety of our citizens.”), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0329/DOC-305439A1.pdf.

³ See Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics, *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January – June 2010* (2011), *available at* <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201012.pdf>. For January through June 2010, 12.9 percent of adults were in wireline-only households, and 26.6 percent of adults were in wireless-only households. *See id.*

Like GCI, nearly every commenter that addressed the issue argues that the Commission should not cap the low-income fund, as GCI explains in Section II below. In Section III, GCI notes commenters' general support for the Commission's three proposed performance goals, but cautions the Commission to consider affordability and availability of Lifeline service in tandem. Next, GCI discusses the widely shared view that the Commission should not impose mandatory marketing and outreach requirements. Finally, GCI expresses its support and demonstrates the support of others for the inclusion of broadband in the Lifeline program.

II. THE COMMISSION SHOULD NOT CAP THE LOW-INCOME FUND.

The Commission's proposal to cap the low-income program at its 2010 disbursement level⁴ would violate 47 U.S.C. § 254(b)(3), directly harm low-income consumers and, particularly in the midst of a fragile recovery, harm the economy. As the vast majority of commenters point out, the Commission should accordingly decline to adopt this proposal.

Capping the low-income fund would contravene the requirement in Section 254(b)(3) that "low-income consumers . . . should have access to . . . telecommunications . . . that are reasonably comparable to those services provided in urban areas... at rates that are reasonably comparable." While the FCC's proposal is not entirely clear, it would violate the statute if it would either (a) make Lifeline service available to all qualifying subscribers but reduce the size of the discount per subscriber or (b) continue providing full discounts but limit the number of subscribers who receive them.⁵

⁴ *Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up*, Notice of Proposed Rulemaking, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109 ¶ 45 (rel. Mar. 4, 2011) ("Lifeline NPRM").

⁵ As GCI noted in its opening comments, *see* GCI Comments at 44, there is a third possible reading, which also contravenes the law. In particular, the proposed rule might require ETCs to provide full *discounts* to all eligible subscribers but prevent the ETCs from receiving full *reimbursements*. If that is what the FCC means to propose, the rule would violate the statute's

The first reading—reducing per-subscriber discounts—must be ruled out. As common sense suggests, limiting the discount available to every subscriber would save Lifeline dollars by harming the poorest of the poor—that is, it would put service out of reach for those who simply cannot afford to spend any more than they already do for telephone service. The FCC’s own data show that lower per-subscriber discounts are not effective at meeting the statutory imperative to provide low-income subscribers reasonably comparable services at reasonably comparable rates. The proof is seen in the growth of telephone penetration among less privileged Americans since the program began and since it was expanded in 1998.⁶ The Industry Analysis and Technology Division has analyzed with care, and over many years, the effect of varying state levels of Lifeline support. Those state Lifeline variations, which are magnified by the federal Lifeline program’s matching provisions, provide hard data on the effect of lower support levels upon telephone subscribership among lower-income Americans. The data confirm and quantify the common-sense proposition that lower support levels are simply less effective at achieving the statute’s goal. In states with “basic” or “low” Lifeline assistance rates (less than 50 cents of state support per line, triggering less than 25 cents of federal matching support), telephone penetration among low-income households show only a statistically insignificant 2.9 percent increase from 1997 to 2009.⁷ In contrast, in states with full or intermediate support, telephone penetration rates among low-income households rose by a

command that universal service support must be “explicit.” *See* 47 U.S.C. § 254(e). As courts have made clear, the statute bars the Commission from either “permit[ting]” or “maintain[ing]” an implicit subsidy of this kind. *See Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 425 (5th Cir. 1999); *Comsat v. FCC*, 250 F.3d 931, 939 (5th Cir. 2001).

⁶ *See* Telephone Penetration by Income by State, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission at 5 (2010), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297986A1.pdf (“Telephone Penetration by Income by State”).

⁷ *Id.* at 5-8.

statistically significant 4.6 percent.⁸ This is consistent with a 2009 study published by the Stanford Institute for Economic Policy Research, which found that “low-income telephone penetration would be 4.1 percentage points lower without Lifeline and Linkup.”⁹ The Lifeline/Linkup program works: “Since 1985, when the Federal Communications Commission ... first established Lifeline to help low-income households afford the monthly cost of telephone service, penetration rates among low-income households have grown from 80.0% to 90.4%.”¹⁰ Implementing a cap by reducing per-subscriber discounts threatens to gut it, foreseeably mimicking the ineffectiveness of Lifeline in low-support states but on a national basis. Reducing the discount simply makes participation in the program less desirable for consumers, which undermines the core goal of higher penetration rates.

The harmful effect of the other alternative—simply denying support to eligible subscribers who apply after an arbitrary support cap is reached—is even clearer: some uncertain number of substantively eligible low-income subscribers would be denied support entirely. But they will suffer this loss not because of any action they take, or any difference between their need for the support and the need of more fortunate subscribers who get benefits before the Lifeline cap is reached. Rather, they would suffer it simply because other eligible consumers signed up first—which means that this approach would disproportionately harm consumers (like the young or the newly unemployed) who have become eligible most recently while preserving service for those who have subscribed longer. It is impossible to square such a cap and cutoff

⁸ *Id.*; see also Lifeline NPRM ¶ 26.

⁹ Daniel A. Ackerberg, Michael H. Riordan, Gregory L. Rosston and Bradley M. Wimmer, Low-Income demand for Local Telephone Service: Effects of Lifeline and Linkup (2009), available at <http://www.stanford.edu/group/siepr/cgi-bin/siepr/?q=system/files/shared/pubs/papers/pdf/08-047.pdf>.

¹⁰ Telephone Penetration by Income by State at 1.

with the statutory imperative. Given the lack of any rational basis for the resultant disparate treatment of equally eligible subscribers, such a regulation would also be vulnerable to challenge under the Equal Protection Clause.¹¹

The vast majority of commenters oppose this proposal and provide the Commission with an ample record for why it should be rejected. Some point out that neither the NPRM nor any material submitted in the comments creates any record justification for a Commission finding that capped Lifeline funds would be sufficient to ensure services are affordable for low-income consumers.¹² Others call the Commission’s attention to the risk that a reduced investment in safety net programs like Lifeline would yield increased rather than decreased long-run costs; by making it more difficult for low-income Americans to use telephone service for job-hunting, medical care, *etc.*, the country risks higher expenses later such as higher unemployment and more emergency-room visits.¹³ The impact of implementing a cap in the current economic climate and under the current unemployment rate would be particularly severe.¹⁴ Other comments echo the point that in this consumer-driven program—in which circumstances vary state-by-state and among categories (*e.g.*, urban / rural and tribal / non-tribal)—cap administration would be both arbitrary and exceedingly complex.¹⁵ As the Mississippi Public Service Commission observes, cap administration would be “extremely bothersome.”¹⁶ The Commission itself recognizes that “fund growth is not necessarily indicative of waste, fraud, and

¹¹ See *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000).

¹² See Conexions LLC Comments at 10; Leap and Cricket Comments at 13; Consumer Groups Comments at 10.

¹³ See AARP Comments at 5.

¹⁴ See Benton Foundation Comments at 3; COMPTTEL Comments at 17-18; Budget PrePay Comments at 3; Consumer Cellular Comments at 18-19.

¹⁵ See Conexions LLC Comments at 9; CTIA Comments at 24.

¹⁶ Mississippi Public Service Commission Comments at 6.

abuse,”¹⁷ and several commenters make the corollary point that a cap will do nothing to cure those ills.¹⁸ All in all, commenters are clear and forceful in explaining why the cap proposal would cause unjustifiable harm to low-income subscribers, would fail to advance the program’s statutory goals, and should not be adopted.¹⁹

The FCC suggests that a cap may be appropriate because it would constrain program growth, which would moderate the contribution burden, which in turn could forestall a threat to universal service that might arise if the contribution factor grew so large that it actually discouraged Americans’ adoption and use of communication services.²⁰ Neither the NPRM itself, however, nor the few comments supporting the concept of a cap offer any evidence in support of this reasoning. That reasoning is particularly deficient here because the impact of the Lifeline cap would fall entirely on low-income Americans—those with household incomes below 135 percent of the federal poverty guidelines or receiving designated public assistance—while universal service contributions come from all telecommunications consumers, including higher income Americans and businesses. Moreover, there is no evidence in the record suggesting that the contribution factor is, in fact, discouraging use and adoption of communication services or that, if it is, Lifeline growth is the cause. Nor is there any evidence (not surprisingly) that the incremental increase in universal service surcharges would have a larger impact on telephone subscription than would reducing Lifeline benefits through a cap.

¹⁷ Lifeline NPRM ¶ 144.

¹⁸ *See, e.g.*, TracFone Comments at 24.

¹⁹ *See, e.g.*, Leap and Cricket Comments at 13; Media Action Grassroots Network Comments at 22; Minority Media and Telecommunications Council Comments at 1; NASUCA Comments at 20; Consumer Groups Comments at 9; Ohio Public Utilities Commission Comments at 14; Rainbow Push Coalition Comments at 1; Sprint Nextel Comments at 13.

²⁰ Lifeline NPRM ¶ 142.

Thus, neither evidence nor logic supports the counterintuitive proposition that Lifeline subsidies should be capped in order to make more progress toward universal service.

The only comments supporting a cap come from those who pay more than they receive under the current system. The Connecticut Department of Public Utility Control, for instance, “note[s] that Connecticut has historically been a net contributor to the program” and, perhaps unsurprisingly, it advocates both for a cap and for “efforts ... to minimize any state paying significantly more into the Commission’s Universal Service and high cost support programs than the amount returned in benefits.”²¹ But a fund transfer—in which some segments are net payers and others net beneficiaries—is the very *point* of the universal service program and the plain requirement of the 1996 Act. An arbitrary cap designed to balance contributions and receipts would contravene a fundamental policy choice enacted by Congress in the governing legislation.

Verizon asserts that “a fund cap will not undermine Lifeline availability and access,” but for support it notes only that the E-rate program is capped and still provides “substantial services and benefits.”²² This comparison is inapposite. In the first instance, the E-rate program includes different types of supported services, and some have priority over others. Basic telecommunications and Internet access, for example, are supported entirely without touching the program’s cap, while internal connections are supported only to the extent the cap allows. But for Lifeline, there is no such division among supported services: the supported service is a voice connection to the PSTN, so access itself would be harmed by a cap. Moreover, the schools and libraries program is not subject to the same statutory standard that governs Lifeline. For schools and libraries, the statute requires rates that are “less than the amounts charged for similar services

²¹ Connecticut Department of Public Utility Control at 5; *see also* Verizon Comments at 13-14.

²² *See* Verizon Comments at 14.

to other parties,” and it gives the Commission express authority to determine the “appropriate and necessary” discount amount to ensure affordable access.²³ For low-income consumers, by contrast, Congress enacted a more precise command, requiring access to “reasonably comparable services” at “reasonably comparable rates.” An arbitrary cap cannot satisfy that standard—particularly given the data demonstrating that states with lower levels of lifeline support were unable to achieve substantial improvements in Lifeline subscribership over the 12-year period from 1997 to 2009.

Although the Commission and several commenters identify the huge increase in prepaid wireless Lifeline service as a root cause of the problem that an arbitrary cap is designed to address, the existence and growth of prepaid service likely promotes Lifeline objectives, rather than hindering them.²⁴ Although GCI does not offer prepaid Lifeline services, prepaid services offer low-income Americans a high level of control over their telecommunications expenditures. Prepaid services may be particularly valuable for low-income consumers who are homeless or transient and, as a result, may not have a permanent billing address. Prepaid services also provide low-income consumers with a convenient ability to pay up front, which can save them from having to budget for the expense on a monthly basis. And as several commenters point out,²⁵ both historically and in response to the NPRM itself, the FCC has been concerned about *undersubscription* to Lifeline services.²⁶ To the extent that prepaid plans may be vulnerable to

²³ 47 U.S.C. § 254(h)(1)(B).

²⁴ See Lifeline NPRM ¶ 143; see also, e.g., United States Telecom Association (“USTA”) Comments at 20.

²⁵ See, e.g., Benton Foundation Comments at 3; COMPTTEL Comments at 2; Nexus Comments at 6; Sprint Nextel Comments at 13-14.

²⁶ For example, the Commission’s proposals regarding enhanced marketing requirements and coordinated enrollment are clearly targeted at concerns about under-subscription. See Lifeline NPRM ¶¶ 199-204, 226-238; see also *Federal-State Joint Board on Universal Service*,

specific types of waste, fraud and abuse, those specific concerns calls for a carefully targeted regulatory response, rather than blunt imposition of new rules across the board. An arbitrary, program-wide cap would hit all Lifeline subscribers and providers alike without taking any directed action to address the source of the concerns.

Finally, as the FCC notes, Tribal lands face unique circumstances and challenges, and telephone penetration rates there continue to lag.²⁷ The application of a cap to Tribal lands would be particularly poor public policy and would directly undermine the statute. Earlier this year, the Commission acknowledged that “[h]istorically, members of federally-recognized American Indian Tribes and Alaska Native Villages . . . and other residents of tribal lands have lacked meaningful access to wired and wireless communications services. This remains true today.”²⁸ Through its efforts to expand access to wireless services in rural Alaska, GCI has been bringing modern wireless services to many Alaskan villages for the first time.²⁹ Given the persistence of the communications gap on Tribal lands, the proposal to cap a program like Lifeline that is so important to tribal lands is particularly problematic for Tribal lands residents.

To sum up, the size of the low-income fund should be driven by the needs of qualifying Americans who would not otherwise have reasonably comparable access to telecommunications.

Recommended Decision, 25 FCC Rcd 15,598, 15,619 ¶ 60 (2010); *Virgin Mobile L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, 24 FCC Rcd 3381, 3393 ¶ 30 (2009) (granting forbearance from the facilities-based requirement for ETC certification is in the public interest “in that it should expand participation of qualifying consumers”); *Lifeline and Link-up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004) (expanding Lifeline eligibility standards to increase participation).

²⁷ See Lifeline NPRM ¶ 146.

²⁸ *Improving Communication Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands*, CG Docket No. 11-41, Notice of Proposed Rulemaking, ¶ 1 (rel. Mar. 4, 2011).

²⁹ See GCI Comments at 10; *Comments of General Communication, Inc., In the Matter of Connect America Fund*, WC Docket No. 10-90, at 18-20 (filed Apr. 18, 2011).

The existing subsidy levels—at least in states that maximize Lifeline support by providing substantial state support—are appropriately structured to address those needs while avoiding excess support. As summarized above and made clear in the comments, any arbitrary Lifeline cap would violate the statutory standard, fail to achieve the program’s goal, be impossible to administer equitably, and harm the program’s intended beneficiaries—particularly in Tribal lands. The Commission’s concern about a specific cause of increasing expenditures—prepaid Lifeline-only wireless service—should be addressed by reforms targeted at that specific concern. An arbitrary cap is unfair, unworkable, and unlawful, and the Commission should decline to adopt it.

III. THE COMMISSION’S PROPOSED PERFORMANCE GOALS ARE APPROPRIATE, BUT THE COMMISSION SHOULD CONSIDER AVAILABILITY AND AFFORDABILITY IN TANDEM.

The Commission’s three proposed performance goals for the Low Income Program enjoy widespread support in the comments. GCI supports the three performance goals as well but reiterates that availability and affordability are both essential requirements for universal Lifeline service. Accordingly, the Commission should give precedence to the first two goals (availability and affordability) in tandem.³⁰

GCI and others³¹ support the FCC’s proposal to establish, as an outcome measure of the first performance goal (availability), the difference between voice service subscribership rates for low-income households eligible for the Lifeline and voice subscribership rates for the households in the next higher income level.³² Indeed, focusing on subscribership rates appropriately

³⁰ See GCI Comments at 12-16.

³¹ See, e.g., New Jersey Division of Rate Counsel Comments at 4 (“It would be entirely appropriate for the FCC ... to compare the subscribership rate of low-income households with the mean and median subscribership rates for all non-low-income-households.”).

³² See Lifeline NPRM ¶ 35.

measures *both* availability and affordability in tandem. And the specific proposal to focus on subscribership rates for the households in the \$35,000-\$39,000 income bracket as providing a target for Lifeline-eligible subscribership rates is both practical and consistent with the statute.

Although GCI supports the Commission’s second proposed performance goal (affordability), the corresponding performance metric must take into account both absolute affordability and relative affordability. Using percentages of total household income devoted to communications as a proxy for affordability would be misleading because disadvantaged members of the population have no alternative but to spend a larger share of their income on absolute necessities such as food and housing. Other commenters share this view. For example, the Consumer Groups state that “[t]he proposed measurement [for the second performance goal] to capture the relative aspect of affordability, whether the cost of phone service requires a disproportionate amount of income, is appropriate in intention, but falls short in execution.”³³

Commenters³⁴ who support the Commission’s proposed performance metric for the second performance goal did not address the fact that low-income Americans simply have a smaller percentage of income *available* for telecommunications service because they are forced to spend much higher percentages on other necessities. In rural Alaska, for example, low-income consumers are forced to spend a significant and disproportionate share of their budgets on fuel. In other words, poverty reduces not only the absolute dollars available for

³³ Consumer Groups Comments at 15.

³⁴ *See, e.g.*, AARP Comments at 3-4 (“An appropriate measure of this second performance goal would include an affordability benchmark (a target percentage of income) that equals the average share of income spent on telephone service by all non-low-income households. A determination of affordability would depend on the extent to which the percentage of income spent on telephone service by low-income households reflects the same proportion of income as the affordability benchmark.”); New Jersey Division of Rate Counsel Comments at 5 (“Rate Counsel supports [a comparison of the percentage of low-income household income that is spent on voice service to the percentage for the next highest income range], provided that the Commission can obtain the requisite data for the calculations without undue difficulty.”).

communications services but the relative percentage of income available, since other necessities take up a larger percentage of income for the poor than they do for more fortunate citizens.

Finally, with respect to how the Commission “should prioritize among competing goals,”³⁵ GCI endorses the New Jersey Division of Rate Counsel’s comment that “[s]ubscribership is the paramount objective because it affects customers’ safety.”³⁶ Increasing subscribership among those who would not otherwise have the benefit of the program is clearly the overarching purpose of the statutory framework and a working synthesis of the first two goals. To the extent there is tension among the goals, therefore, it must be resolved in favor of the twin priorities of access and affordability, as reflected by subscribership.

IV. CODIFYING THE COMMISSION’S MARKETING GUIDELINES WOULD TIE THE HANDS OF ETCs, WHICH ARE BEST POSITIONED TO DETERMINE WHICH APPROACHES WILL BE EFFECTIVE IN THEIR MARKETS.

The Commission’s marketing and outreach guidelines are useful and effective in their current form—that is, as illustrative guidelines, not binding requirements. ETCs, which are uniquely familiar with the peculiarities of the various markets they serve, should be permitted to exercise discretion in determining which methods will be most effective. As Leap and Cricket note, “the appropriateness of various outreach methods will vary across communities and user groups, such that the Commission should not dictate any ‘one-size-fits-all’ solution.”³⁷ This is particularly true in remote regions like much of rural Alaska. Traditional outreach and marketing practices like print advertisements and radio spots simply are not available in many such communities. In these remote villages, GCI often has no choice but to send in teams of

³⁵ Lifeline NPRM ¶ 42.

³⁶ New Jersey Division of Rate Counsel Comments at 7.

³⁷ Leap and Cricket Comments at 12.

direct marketers when the weather permits. Considering such unique marketing challenges, a one-size-fits-all rule would be unworkable.

Many other commenters agree on this point. As Sprint Nextel explains, “[t]here is no evidence that existing outreach and marketing efforts have been inadequate or ineffective; to the contrary, the dramatic growth in the number of Lifeline subscribers in the past two years is evidence of the effectiveness of existing outreach and marketing efforts.”³⁸ Other commenters argue that competition in the marketplace will determine the appropriate levels and types of marketing and outreach.³⁹ Additionally, as CTIA notes, “[d]etailed outreach rules may dissuade new ETC entry and stifle competition, resulting in less desirable service offerings for low-income consumers.”⁴⁰ Likewise, Sprint Nextel argues that “Commission-mandated outreach and marketing requirements are likely to be ineffective, potentially costly, and would limit the ETCs’ flexibility to address local needs.”⁴¹ Even AARP, which supports “the adoption of mandatory outreach requirements for all ETCs that receive low income support,” recognizes that “[o]utreach and education efforts should be customized to the needs of the intended target audience in order to help consumers understand the procedures and operations of program enrollment from the program participant’s perspective.”⁴²

³⁸ Sprint Nextel Comments at 15.

³⁹ See, e.g., Cincinnati Bell Comments at 15 (“[T]he Commission should refrain from mandating that all providers utilize this or any other specific means of reaching out to eligible consumers. In today’s competitive marketplace, each competitor needs the freedom to determine how best to market its services to potential customers in the markets it serves.”); CTIA Comments at 16-17 (“Rather than adopting prescriptive outreach requirements, ETCs should be allowed to market in innovative ways in order to most effectively reach low-income consumers and best foster competition for Lifeline subscribers.”).

⁴⁰ CTIA Comments at 17.

⁴¹ Sprint Nextel Comments at 17.

⁴² AARP Comments at 10.

In contrast, comments supporting mandatory marketing and outreach requirements fail entirely to address the point that ETCs are uniquely equipped to ascertain which methods will work best in their own unique markets.⁴³ Mandatory outreach prescriptions crafted in Washington, particularly a “uniform national rule,”⁴⁴ will be self-defeating.

V. THE COMMISSION SHOULD TAKE STEPS TO ADVANCE THE AVAILABILITY OF BROADBAND TO LOW-INCOME HOUSEHOLDS.

GCI reiterates its support for including broadband as a Lifeline-supported service and adopting as a fourth performance goal the advancement of broadband availability to low-income households. Indeed, GCI notes that Section 254(b)(3) expressly references the inclusion of broadband, as it includes “information services” among the services that should be available to low-income consumers.⁴⁵ Like GCI, those commenters who address the issue almost universally support adding broadband to the Lifeline program.⁴⁶ As AARP notes, “[h]igh-quality broadband networks and similar advanced communications technologies have the potential to make the world more accessible for all Americans, erasing the distances between rural and urban communities and providing convenient pathways to the economic and social activities that are vital for leading comfortable and meaningful lives.”⁴⁷

⁴³ See, e.g., Ohio Public Utility Commission Comments at 21.

⁴⁴ Lifeline NPRM ¶ 235.

⁴⁵ See GCI Comments at 18, 53; see also CTIA Comments at 25-26 (stating that inclusion of mobile broadband services in Commission pilot programs would be consistent with the Communications Act).

⁴⁶ See, e.g., AARP Comments at 10-11; Benton Foundation Comments at 6-11; CenturyLink Comments at 24-25; Cox Communications Comments at 10-13; CTIA Comments at 25-29; Gila River Comments at 4-11; Leap and Cricket Comments at 16-17; Massachusetts Department of Telecommunications and Cable Comments at 10-12; Media Action Grassroots Network Comments at 21-22; Minority Media and Telecommunications Council at 8-10; NATOA Comments at 4; New Jersey Division of Rate Counsel Comments at 27; TracFone Comments at 44; USTA Comments at 22; ViaSat Comments at 4.

⁴⁷ AARP Comments at 10.

However, GCI also reiterates its caution that “broadband” should not be defined in a manner that ignores the current physical, economic and network realities of rural states and areas. In particular, carrying over the “4Mbps download /1Mbps upload” definition of broadband from the National Broadband Plan as an eligibility criterion for Lifeline support would be self-defeating in remote areas, like many Tribal lands and most of Alaska. Were the Commission to use the 4 Mbps/1 Mbps definition to establish minimum criteria to receive support, it would deny support to all of rural Alaska. Such speeds simply cannot be provided over the existing satellite-based middle-mile networks and would thus require either large new investments in satellite capacity or large investments in terrestrial middle mile. If such a requirement were imposed as a condition of universal service support, broadband would remain unavailable in those areas. The Commission should therefore apply different minimum speed standards in remote areas like rural Alaska.

VI. CONCLUSION.

For the reasons presented above, GCI (and the vast majority of other commenters) urge the Commission to refrain from adopting a rule that would cap the low-income fund. Such a rule would contravene the statute, create intractable implementation complexities and, most importantly, directly harm the very people the Low-Income Program was designed to serve. In addition, GCI reiterates its general support for the Commission’s proposed performance goals, its opposition to codifying the marketing guidelines, and its wholehearted support for adding broadband to the list of services supported by the Low-Income Program.

Respectfully submitted,

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