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 MEDIA ACTION GRASSROOTS NETWORK

Media Access Project, on behalf of Access Humboldt, California Center for Rural Policy, Center for Media Justice, Center for Rural Strategies, Chicago Media Action, Deep Dish TV, Esperanza Peace & Justice Center, First Voice Media Action, Generation Justice, Institute for Local Self-Reliance, Line Break Media, Main Street Project, Media Alliance, Media Justice League, Media Literacy Project, Media Mobilizing Project, Minnesota Center for Neighborhood Organizing, Mountain Area Information Network, Open Access Connections, People's Production House, Pineros y Campesinos Unidos del Noreste, The Praxis Project, Prometheus Radio Project, Reclaim the Media, Reel Grrls, and Thousand Kites (collectively, "MAG-Net" or the "MAG-Net Commenters"), submits this second reply to initial comments on the Commission's *Notice of Proposed Rulemaking* ("*NPRM*") in the above-captioned dockets.[1]

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[1] *See* Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link Up, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, *Notice of Proposed Rulemaking*, 26 FCC Rcd 2770 (2011) ("*NPRM*").

As the *NPRM* indicates, reply comments pertaining to certain *NPRM* subsections were due on May 10, 2011, on which date MAG-Net Commenters submitted their first replies.[2] MAG-Net welcomes this opportunity to reply on remaining issues set forth for comment in the Lifeline and Link Up reform and modernization *NPRM*.

INTRODUCTION AND SUMMARY

As MAG-Net Commenters have asserted in their Joint Board proceeding filings, their initial comments in this docket, and their first reply comments, the Commission must improve rather than constrain Lifeline and Link Up as it transitions the Low-Income mechanisms to support broadband adoption. Any reforms should improve these vital programs to help their intended beneficiaries, not confine the size of a currently under-utilized fund, nor improperly limit support by ignoring existing barriers to participation while creating new obstacles.

In their first reply comments, for example, MAG-Net Commenters discussed the sound policy rationales and legal arguments for adopting a "one per qualifying adult" Lifeline and Link Up eligibility rule,[3] rather than the "one per residence" rule that the *NPRM* proposes.[4] Carriers such as AT&T and GCI, along with state commissions such as the New York Public Service Commission, agreed that a one per residence approach actually would curtail Low-Income program benefits unjustifiably.[5] They argued persuasively that preserving eligibility for each

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[2] *See* Comments of Media Action Grassroots Network, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed May 10, 2011) ("MAG-Net First Reply").

[3] *See id.* at 5-9.

[4] *See, e.g.*, *NPRM* ¶ 106.

[5] *See, e.g.*, Comments of AT&T, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 16-17 (filed April 21, 2011) ("AT&T Comments") ("Adopting such a blunt rule clearly would cause providers to deny otherwise eligible consumers access to (and de-enroll existing qualifying subscribers from) this important public assistance benefit, which the Commission itself has characterized as 'critical' to its mission.").

qualifying individual better comports with the Communications Act's mandate to promote universal service for all consumers;[6] with the modern need for mobile and personalized communications services necessary to take advantage of a wide range of economic, educational, social, and public safety benefits;[7] and with Commission precedent regarding individual eligibility.[8] These parties and others recognized that, at minimum, the Commission should not adopt bright-line rules that deny support to qualified individuals living in tribal or rural areas without a consistent street address, or to those who might share a postal address in group housing settings such as senior assisted living centers, homeless shelters, or domestic violence shelters.[9]

In all such cases, the Commission should remove existing impediments to program utilization by promulgating improved enrollment procedures and eligibility guidelines during the transition to a broadband-oriented adoption support program. The Commission cannot curb any actual waste, fraud, and abuse by punishing fund recipients, nor by artificially limiting the overall size of the Low-Income fund, nor by reducing any individual's support to an inadequate level. Thus, the Commission should adopt more realistic, default income-based eligibility guidelines. It should improve coordinated enrollment programs and embrace other methods for empowering recipients, by considering proposals to expand customer choice through the use of

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[6] *See* Comments of General Communication, Inc., WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 35-38 (filed April 21, 2011) ("GCI Comments").

[7] *See, e.g.*, Initial Comments of the New York Public Service Commission, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 4 (filed April 22, 2011) ("NYPSC Comments") ("The one line per residence rule was established when the Program provided support for landline service…. Changes in technology, the telecommunications market and regulation have dramatically transformed the ways in which the general population uses telecommunications, including its low income members.").

[8] *See* AT&T Comments at 15-16.

[9] *See* MAG-Net First Reply at 8-9; Comments of Leap Wireless International, Inc. and Cricket Communications, Inc., WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 9 (filed April 21, 2011) ("Cricket Comments"); Comments of Sprint Nextel Corporation, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 3 (filed April 21, 2011) ("Sprint Comments").

transferable vouchers and expanding the pool of eligible providers. Finally, it should not at this time impose any cap on Low-Income support. As before, MAG-Net Commenters respectfully submit that the Commission should reject any proposed changes to the Low-Income program that would prevent or deter qualified recipients from applying for and receiving support.

I. Capping Lifeline and Link Up at Current Levels Would Harm Recipients, Especially as the Low-Income Program Transitions to Broadband Support.

In their initial comments, MAG-Net Commenters explained that capping Lifeline and Link Up as the *NPRM* suggests[10] – either at present levels or some other dollar figure – would be a mistake.[11] They noted that, as the *NPRM* itself acknowledges, these programs historically have served and continue today to serve just a fraction of eligible recipients. The failing of Lifeline and Link Up to this point has not been over-subscription, but under-utilization. Statistics cited in the *NPRM* indicate 2009 enrollment by "8.6 million eligible households . . . nationwide, which represented [only] 33 percent of the 25.7 million low-income households at the time."[12] Other commenters cited the same disturbingly low participation rates for the Low-Income program.[13] Therefore, the "Low-Income programs admittedly reach ***too few*** consumers in need," and

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[10] *See NPRM* ¶¶ 145-146.

[11] *See* Comments of Media Action Grassroots Network, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 22 (filed April 21, 2011) ("MAG-Net Initial Comments").

[12] *NPRM* ¶ 25; *see also* Comments of TracFone Wireless, Inc., WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 11 (filed April 21, 2011) ("TracFone Comments") ("[M]ost of the growth of the low-income programs in general and Lifeline in particular . . . is the result of increased numbers of qualified households actually enrolling in Lifeline.").

[13] *See* MAG-Net First Reply at 3-4; *see also* Cricket Comments at 14 ("[L]ow-income programs currently reach only a fraction of eligible households that could benefit from these programs[.]"); Comments of Advocates for Basic Legal Equality *et al.*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 10-11 & n.18 (filed April 21, 2011) ("Consumer Groups Comments") (noting that enrollment rates remain low even during these "dire economic times for struggling low-income families who need affordable phone service").

"program enrollment, and support levels, should be considerably ***higher*** to meet the universal service objectives established in Section 254" of the Communications Act.[14]

As the MAG-Net Commenters explained initially, the imposition of any cap indisputably would reduce support for all eligible recipients ***or*** arbitrarily would deny support to some eligible recipients. Neither of these results is acceptable at a time when the Low-Income program should be increasing its outreach and expanding its capacity to provide support for adequate broadband service – the increasingly indispensable telecommunications platform of the twenty-first century.[15] A broad swath of commenters agreed that the Commission should not cap the Low-Income program in the manner proposed in the *NPRM*.

Those opposing such a cap as unwise and uncalled for at this time included service providers such as AT&T,[16] Sprint,[17] GCI,[18] and TracFone;[19] regulatory agencies such as the New York Public Service Commission[20] and Nebraska Public Service Commission;[21] consumer advocates, including seventeen groups jointly filing comments that were submitted by the

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14 Cricket Comments at 14 (emphases in original).

15 *See* MAG-Net Initial Comments at 22.

16 *See* AT&T Comments at 32.

17 *See* Sprint Comments at 13.

18 *See* GCI Comments at 44 (asserting that capping the size of the fund would violate the law and devastate intended Low-Income program recipients by making "even discounted service unaffordable for many of those who need it most.").

19 *See* TracFone Comments at 24.

20 *See* NYPSC Comments at 3.

21 *See, e.g.*, Comments of the Nebraska Public Service Commission, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 9-10 (filed April 21, 2011) ("In some states, like Nebraska, the Lifeline/Link Up program is underutilized. Capping the fund would run counter to the purpose of the Lifeline program which is to provide benefits to qualifying subscribers and increase affordable access to telecommunications services.").

National Consumer Law Center and Pennsylvania Utility Law Project;[22] and numerous civil rights and telecommunications reform groups such as the Rainbow PUSH Coalition,[23] Leadership Conference on Civil and Human Rights,[24] Minority Media Telecommunications Council,[25] New America Foundation,[26] and (filing jointly) the Benton Foundation, Center for Rural Strategies, Public Knowledge, and United Church of Christ, OC Inc. [27]

The common theme of all of these various parties' comments is that imposing a cap now – prior to implementation of other, more targeted reforms, and with no study of such a cap's impact – would be disastrous for deserving and fully qualified recipients of the Low Income program. This is especially true because of the need for even greater investment as the Commission transitions USF to broadband, and especially when a cap would "deny Lifeline support to thousands of qualified low-income households during a period when the nation is only slowly beginning to emerge from the most significant economic recession of the last 80 years,"

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[22] *See* Consumer Groups Comments at 8.

[23] *See* Letter from Rev. Jesse L. Jackson, Sr., to Chairman Julius Genachowski, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 1 (filed April 15, 2011) ("My organization and I are opposed to capping the funds from the USF for the Lifeline and Link-Up programs when, at present, only 32% of those eligible for the programs' services are receiving them.").

[24] *See* Comments of the Leadership Conference on Civil and Human Rights, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 2, 9 (filed April 21, 2011) ("Leadership Conference Comments"). Signatories to the Leadership Conference Comments were the American Civil Liberties Union, Asian American Justice Center, Communications Workers of America, National Urban League, NAACP, National Coalition on Black Civic Participation, National Consumer Law Center (on behalf of its low-income clients), National Disability Rights Network, National Hispanic Media Coalition, National Organization for Women Foundation, and United Church of Christ, Office of Communication, Inc.

[25] Comments of the Minority Media and Telecommunications Council, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 1-5 (filed April 21, 2011) ("MMTC Comments").

[26] *See* Comments of New America Foundation, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 7 (filed April 21, 2011) ("New America Comments").

[27] *See* Comments of the Benton Foundation, Center for Rural Strategies, Public Knowledge, and United Church of Christ, OC Inc. at 3, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 9-10 (filed April 21, 2011) ("Benton/CRS/PK/OCI Comments").

from which the "lingering impacts . . . continue to disproportionately affect those on the bottom rung of the nation's economic ladder."[28] MAG-Net Commenters concur, and therefore join the large chorus of service providers, state commissions, and public interest advocates opposed to the Low-Income program-specific cap proposed in the *NPRM*.

II. Improvements in Coordinated Enrollment and Outreach Are Necessary to Raise Participation Rates, Yet the Commission Still Should Adjust the Default Income-Based Eligibility Level and Take Other Steps to Increase Consumer Choice.

MAG-Net Commenters recognize that eligibility determinations and enrollment procedures vary by state, and that most states do not make eligibility determinations in exclusive reliance on default income levels derived from the federal poverty guidelines.[29] For this reason, the MAG-Net Commenters[30] and others[31] acknowledged that improving participation in the Low-Income program requires at least two things: (1) better outreach efforts (including non-English language outreach and marketing to non-English speaking populations[32]); and (2) more coordinated or automatic enrollment tied to potential Lifeline recipients' participation in other need-based programs, or such recipients' residency in homeless shelters and similar settings.

Nevertheless, MAG-Net continues to believe that the Commission should raise the 135% of federal poverty guidelines income-based default threshold for eligibility, in recognition of the fact that even basic telephone services – let alone increasingly vital broadband services – are not

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28 TracFone Comments at 24.

29 *See NPRM* ¶¶ 152-157.

30 *See* MAG-Net Initial Comments at 14-16.

31 *See*, *e.g.*, NYPSC Comments at 10-11; MMTC Comments at 6-7; Consumer Groups Comments at 7; Benton/CRS/PK/OCI Comments at 5; Comments of Comptel, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 18 (filed April 21, 2011).

32 *See* MAG-Net Initial Comments at 16; Consumer Groups Comments at 36.

affordable for families living just above this extremely low default income level.[33] Despite the availability of coordinated enrollment eligibility, and the fact that states may continue to have some flexibility for setting their own eligibility criteria, several commenters "resoundingly concur[red]" with the suggestion to increase the default maximum income eligibility level.[34] In sum, MAG-Net concurs with Cox Communication's position that increasing the default income level "is particularly warranted in the current economic climate, which has required more families to make difficult choices about their expenditures" and that such an increase "would be entirely consistent with the program's purposes and would provide greater flexibility in the implementation of programs to support adoption of broadband service."[35]

The Commission should reject unsupported arguments for freezing in place the current income criteria, such as entirely unsubstantiated and demonstrably inaccurate claims that "robust" competition among providers already constrains rates effectively and provides "a great variety of service packages" for people earning just over 135% of the federal poverty level.[36]

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[33] *See* MAG-Net Initial Comments at 2, 12-14 (reiterating that even individuals and families earning 200% of the federal poverty guidelines income figure would find communications services unaffordable).

[34] Comments of the Mississippi Public Service Commission, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 7-8 (filed April 21, 2011); *see also* Benton/CRS/PK/OCI Comments at 5; Consumer Groups Comments at 22; Leadership Conference Comments at 7; Comments of Cox Communications, Inc., WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 9 (filed April 21, 2011) ("Cox Comments"); Comments Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 15 (filed April 21, 2011) ("While Ohio is not a federal default state and would not be directly affected by any change in the federal income eligibility requirement…. it makes little sense to have an income eligibility threshold that differs from the income eligibility threshold of some [coordinated enrollment] Lifeline qualifying programs.").

[35] Cox Comments at 9.

[36] *See* Comments of the United States Telecom Association, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 8-9 (filed April 21, 2011) (asserting flatly but unconvincingly that "[c]onsumers above 135% of the FPG level should be able to find a package that meets their needs and is affordable without a federal Lifeline subsidy").

Rather than ignoring problems, decreasing choice, and diminishing options for low-income individuals and historically underserved communities, the Commission should take steps that actually increase flexibility and the number of service offerings available to such populations.

In this regard, MAG-Net notes with great interest helpful proposals put forward by two very different sources: Verizon, and the New America Foundation. Verizon in its initial comments suggested that the Commission should move away from the current system of providing Low-Income program reimbursements to providers, and instead should start making support available directly to eligible consumers. Verizon called on the Commission to provide "discount vouchers to qualified beneficiaries to spend at their election on qualified services – whether wireless, wireline, broadband, or multi-carrier – offered by registered providers."[37] While this proposal may require more study, MAG-Net Commenters' initial reaction is that such a transformation of the program could indeed provide more meaningful customer choice for Lifeline and Link Up recipients.

New America Foundation offers a different proposal, but one that also could increase customer choice and provider accountability in the Low-Income program. New America called on the Commission to expand the type and number of providers eligible to receive Lifeline support by clarifying the eligibility of "Community Networks" – meaning various municipal, non-profit, or cooperative community-based broadband providers.[38] Whether the Commission undertakes exploration of such competitively neutral and technologically neutral reforms in the context of broadband pilot programs or a more comprehensive broadband transition for the Low-

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[37] Comments of Verizon and Verizon Wireless, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 4 (filed April 21, 2011).

[38] *See* New America Comments at 2-5 (suggesting that the Commission should "at minimum, permit any broadband Internet access provider that offers services that are the functional equivalent to the currently supported voice service to be eligible to participate in the Lifeline and Link Up programs").

Income program, MAG-Net Commenters believe such steps would improve the effectiveness of the program, in conjunction with implementation of other recommendations herein.

CONCLUSION

For the foregoing reasons, MAG-Net Commenters respectfully submit that the Commission should not adopt any cap on the Low-Income program, such as the one proposed in the *NPRM* or any other cap specifically applicable to Lifeline and Link Up. The Commission instead should increase default income-based eligibility levels while expanding coordinated enrollment procedures and taking additional steps to increase consumer choice.

Respectfully Submitted,

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May 25, 2011