

tiers be appropriate?⁴⁴⁰ Would a percentage discount rate, subject to an overall dollar cap, better assist low-income households in securing the best retail rates offered by their chosen ETC? In the alternative, should we establish national parameters of a basic Lifeline service, and require ETCs to specify the minimum price per household they would accept to provide such service? We seek comment on these alternatives.

3. Minimum Service Requirements for Voice Service

252. *Background.* As part of the ETC designation process, a carrier applying for designation must show that it offers local usage comparable to that offered by the incumbent LEC.⁴⁴¹ In June 2010, the National Association of State Utility Consumer Advocates (NASUCA) adopted a resolution that raised concerns about “free” Lifeline calling plans offered by various wireless ETCs. In particular, NASUCA identified three areas of concern: First, that such plans have resulted in substantial growth of the Lifeline program, without a “necessary assurance of adequate value provided to the Lifeline customer,” or a demonstration that these plans make efficient use of Lifeline funds; second, that such plans include limited usage minutes and require subscribers needing additional minutes to purchase those minutes from the carrier; and third, that it is not evident whether such calling plans offer local usage comparable to available ILEC Lifeline calling plans.⁴⁴² The NASUCA resolution recommended that the Commission consider establishing minimum standards of service for pre-paid wireless Lifeline service to ensure value for Lifeline consumers, as well as efficient use of universal service dollars.⁴⁴³ The Joint Board, in its *2010 Recommended Decision*, urged the Commission to investigate the impact of designation of prepaid wireless providers on the program, noting that several commenters have suggested that minimum service requirements should be imposed upon prepaid wireless ETCs.⁴⁴⁴

253. *Discussion.* We seek comment on the advantages and disadvantages of adopting minimum standards for all ETCs offering Lifeline service. In the section above, we asked whether we should establish national parameters for a basic Lifeline service. Accordingly, if we were to adopt minimum service requirements for Lifeline-only ETCs, what should those requirements be? Should we establish a set minimum number of monthly minutes to be included in ETCs’ Lifeline service offerings, and if so, what would be an appropriate number of minutes?⁴⁴⁵ Should we establish a minimum number

⁴⁴⁰ See, e.g., Letter from Jamie M. Tan, Director, Federal Regulatory, AT&T Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (filed Dec. 9, 2010) (AT&T Dec. 9, 2010 *Ex Parte* Letter) (recommending that the Commission simplify the current rules for providing Lifeline support payments by providing a reimbursement mechanism that is not tied to ILECs’ SLC charges); AT&T’s ETC Proposal, *infra* note 533.

⁴⁴¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371, 6380, para. 20 (2005) (*ETC Designation Order*).

⁴⁴² National Association of State Utility Consumer Advocates, Resolution 2010-02, Calling for Reform of the Lifeline Program, Including Reform for Prepaid Wireless Lifeline Services, at 2-3 (June 15, 2010) (*NASUCA Resolution*).

⁴⁴³ *NASUCA Resolution* at 4.

⁴⁴⁴ *2010 Recommended Decision*, 25 FCC Rcd at 15627, para. 80 (citing Consumer Groups Joint Board Comments at 37).

⁴⁴⁵ We note that several pre-paid wireless, Lifeline-only ETCs, such as TracFone and Virgin Mobile, include several hundred minutes per month in their Lifeline service offerings. See SafeLink Wireless, <http://www.safelinkwireless.com> (last visited Mar. 2, 2011) (showing that TracFone, through its Lifeline service SafeLink Wireless, provides 68 minutes at a minimum, with options for 125 and 250 minutes); see also Assurance Wireless, <http://www.assurancewireless.com> (last visited Mar. 2, 2011) (showing that Virgin Mobile, through its (continued...))

of free long-distance calls? Is there a need for service quality standards when consumers often have the choice of several Lifeline providers? We seek comment on whether the Commission should impose minimum service requirements on all ETCs, as opposed to just wireless ETCs, and how we could impose standards that are technologically neutral. We note that wireless providers offer the benefits of mobility and often additional features and functionality, such as voicemail, caller ID, and call waiting, at no extra charge. Similarly, low-income households that select Lifeline offerings from wireless providers may have the ability to call distant family members and friends without incurring toll charges. Can uniform minimum standards be developed for all technologies, or is there a benefit to having standards tailored to different technologies? What are the relevant attributes or features that should be standardized across Lifeline offerings?

254. We also seek comment on the relevant costs and benefits associated with setting minimum standards of service. We note that minimum standards of service could increase the costs of Lifeline service to ETCs and could thus provide a disincentive for additional carriers to seek ETC status for the program. Would minimum standards deter companies from seeking ETC designation? Would high minimum standards make Lifeline offerings more attractive to low-income households, and thereby increase demand for the program?

4. Support for Bundled Services

255. *Background.* As noted above, our rules provide for Lifeline discounts on “basic, local service,” but do not address whether such discounts may be applied to bundled offerings that include basic local voice service. As noted above, section 54.401 of the Commission’s rules provides that Lifeline supported services consist of a “retail local service offering” with specified functionalities.⁴⁴⁶ It is not clear from the rule, however, whether the consumer may apply his or her Lifeline discount to reduce the cost of calling plans that include additional service components in addition to basic, local calling. Similarly, section 54.403(b) of the Commission’s rules sets out how Lifeline support discounts are passed through to consumers.⁴⁴⁷ Pursuant to that rule, ETCs that charge federal SLCs or equivalent federal charges apply Tier 1 federal Lifeline support to waive the federal SLC for Lifeline consumers.⁴⁴⁸ Any additional support received (*i.e.*, from Tiers 2 through 4) is then applied to reduce the consumer’s intrastate rate.⁴⁴⁹ ETCs that do not charge federal SLCs or equivalent federal charges must “apply the Tier [1] federal Lifeline support amount, plus any additional support amount, to reduce their lowest tariffed (or otherwise generally available) residential rate” for the services they provide.⁴⁵⁰ Our rules, however, do not define the parameters of a lowest-cost plan or specify the types of service plans that are eligible for Lifeline support.

256. Some states have enacted policies to clarify whether Lifeline support may be used to reduce the cost of expanded service voice offerings that include optional features or bundled combinations of other services. Among these states, however, there is no uniform approach.⁴⁵¹ Several

(Continued from previous page)

Lifeline service Assurance Wireless, provides 250 minutes per month at a minimum, with options for 500 and 1000 minutes).

⁴⁴⁶ 47 C.F.R. § 54.401(a).

⁴⁴⁷ See 47 C.F.R. § 54.403(b).

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*

⁴⁵⁰ *Id.*

⁴⁵¹ See NRRI STUDY at 49, Table 30.

states permit consumers to apply their monthly discounts to the basic voice plan of their choice, including enhanced service plans. Oregon and Texas, for example, have policies mandating that ETCs offer Lifeline discounts on all service plans that include a basic voice component.⁴⁵² On the other hand, according to an October 2010 GAO report, ETCs in 14 states do not currently permit consumers to apply the Lifeline discount to a bundled service offering or package that includes telephone service.⁴⁵³

257. The National Broadband Plan observed a wide variance in statewide Lifeline participation rates.⁴⁵⁴ Among other things, the Plan attributed the varied participation rates to differing “restrictions on consumers’ ability to apply the Lifeline discount to certain types of services.”⁴⁵⁵ The Plan recommended that the Commission and states should permit Lifeline customers to apply their Lifeline discounts on all calling plans with a local voice component, including bundled service packages.⁴⁵⁶ By so doing, the Plan stated, the Commission would make bundled offerings, including those that include broadband, more affordable for low-income households.⁴⁵⁷

258. *Discussion.* We seek comment on amending the Commission’s rules to adopt a uniform federal requirement that Lifeline and Link Up discounts may be used on any Lifeline calling plan offered by an ETC with a voice component, including bundled service packages combining voice and broadband, or packages containing optional calling features. We note that section 254(f) of the Act bars states from adopting regulations that are inconsistent with the rules established by the Commission to preserve and advance universal service.⁴⁵⁸

259. In a number of states where ETCs are not precluded by state requirements from allowing consumers to apply their Lifeline discounts to the purchase of bundled packages or optional services, many carriers – including large carriers like Sprint Nextel, Verizon Wireless, and AT&T Mobility – limit Lifeline offerings to basic voice service.⁴⁵⁹ We seek comment on whether to adopt a national rule that would require all ETCs to offer Lifeline and Link Up discounts on all of their service plans with a voice component. Under such a rule, ETCs could be required to apply federal Lifeline support to reduce the cost of any calling plan or package selected by an eligible low-income household that allows local calling, rather than offering a discount only on the carrier’s lowest tariffed or otherwise generally available residential rate plan. However, each eligible household’s Lifeline discount would be capped at the

⁴⁵² Or. Admin. R. 860-033-0010 (2009); Tex. Admin. Code tit. 16, § 26.412(e)(6)-(7); see also *Petition of Sprint Spectrum L.P. for a Declaratory Ruling that the Kansas Corporation Commission’s October 2, 2006 Order in Docket 06-GIMT-446-GIT, Violates Federal Law*, WC Docket Nos. 03-109 and 07-138 (filed June 8, 2007) (challenging an order of the Corporation Commission of the State of Kansas, which modified the state’s Lifeline rules to require that ETCs allow Lifeline customers to choose a calling plan and apply the Lifeline discount to the plan selected by the customer).

⁴⁵³ 2010 GAO REPORT at 13.

⁴⁵⁴ See NBP at 172 (Recommendation 9.1) (noting that “some states have participation rates of more than 75% and others have rates less than 10%”).

⁴⁵⁵ *Id.*

⁴⁵⁶ *Id.*

⁴⁵⁷ *Id.*

⁴⁵⁸ See 47 U.S.C. § 254(f). States may, however, choose to supplement the federal Lifeline rules by establishing their own state low-income universal service programs and requirements that do not conflict with federal universal service regulations. *Id.*

⁴⁵⁹ See lifelinesupport.org, www.lifelinesupport.org (last visited Mar. 2, 2011) (searchable database listing Lifeline and Link Up services available by each ETC in a state).

amount the subscriber would have received if it had selected a basic voice plan. Additionally, we seek comment on requiring all ETCs to permit eligible households to apply the Link Up discount amounts set forth in section 54.411(a) of the Commission's rules to any service plan with a voice component. As with the Lifeline program, each eligible household's Link Up discount could be capped at the amount the household would have received pursuant to the Commission's rules if it had selected a basic voice plan.

260. We seek comment on whether amending our rules in this way would further the statutory principle that consumers have access to quality services at "just, reasonable, and affordable rates."⁴⁶⁰ Restrictions on use of Lifeline discounts, whether imposed under state law or by an ETC, may preclude a significant number of eligible low-income households from the expanded service options available in the marketplace, such as packages that include broadband or data service. Further, as compared to carriers' basic plans, bundled packages of services may offer better value for Lifeline and Link Up consumers.⁴⁶¹

261. We seek to develop a fuller record on current ETC practices regarding the provision of Lifeline discounts on bundled offerings. To what extent do ETCs currently offer Lifeline and/or Link Up discounts on plans that include bundles of services or optional calling features? If so, what services are Lifeline and Link Up consumers permitted to purchase? We also seek comment on the extent to which specific states mandate that ETCs allow the application of Lifeline and/or Link Up discounts to expanded service plans. Is there any evidence that Lifeline and Link Up participation rates have been positively affected by policies requiring the extension of program discounts to the purchase of bundled packages and optional services? Where available, commenters are encouraged to submit supporting documentation of ETC or state practices along with any written submissions.

262. We seek comment on the potential administrative and practical consequences of amending our rules in this fashion. What changes to internal back office systems (*e.g.*, for ordering service and billing) would be required to implement such a rule, and what costs would that impose on ETCs? How long would it take to implement such a change? If we were to adopt such a rule, should ETCs be obligated to offer a Lifeline discount on all of their service plans, including premium plans and packages? Conversely, are there certain service plans or packages that ETCs should not be required to make available to consumers seeking to apply Lifeline discounts? Should consumers be prohibited from applying a Lifeline discount to bundled offerings that contain a video component?

263. Would allowing consumers to choose from an array of expanded packages create a greater likelihood that Lifeline and Link Up consumers may be unable to pay for the remaining portion of their chosen calling plan and therefore risk termination of voice service? What are the options for reducing that risk? If we were to adopt such a rule, one option would be to require ETCs to offer methods of managing usage (whether minutes of use or data) that otherwise would yield higher monthly charges beyond the monthly fee. For instance, Lifeline consumers could elect to set maximum usage amounts for themselves that may not be exceeded per billing cycle.⁴⁶² We seek comment on the feasibility of this

⁴⁶⁰ 47 U.S.C. § 254(b)(1).

⁴⁶¹ For example, a recent Commission study found that consumers who receive broadband bundled with other services pay an average of \$8.55 less per month than those customers who purchase stand-alone broadband service. *See Broadband Adoption and Use in America* at 15.

⁴⁶² In October 2010, the Commission issued a Notice of Proposed Rulemaking proposing rules that would require mobile service providers to provide usage alerts and information to consumers in avoiding unexpected charges on their bills. *See Empowering Consumers to Avoid Bill Shock, Consumer Information and Disclosure*, CG Docket No. 10-207, CG Docket No. 09-158, Notice of Proposed Rulemaking, 25 FCC Rcd 14625 (2010) (*Bill Shock Notice*). The Commission noted that approximately 10% of all wireless billing rate complaints filed at the Commission relate to voice, text, or data overages, along with overages due to roaming. In addition, the U.S. Government Accountability Office (GAO) found that 34% of wireless subscribers had experienced unexpected charges on their wireless bills. *Bill Shock Notice*, 25 FCC Rcd at 14626, para. 2.

proposal. What capabilities exist today, or are anticipated in the near term, for carriers to assist Lifeline consumers in managing their service usage?⁴⁶³ What would be the administrative burdens and costs for a carrier if it were required to offer this to Lifeline subscribers?⁴⁶⁴

264. We seek comment on how we can identify and measure the potential benefits of this proposal. As residential broadband usage becomes more common, many companies have begun offering consumers the option to purchase broadband as part of a “bundled package” that provides a combination of voice, data, and video services to the customer, delivered over a shared infrastructure.⁴⁶⁵ As noted above, compared to carriers’ basic plans, bundled packages of services may offer better value for consumers.⁴⁶⁶ Would this proposal, if adopted, be likely to make broadband more affordable for low-income households and stimulate broadband adoption by low-income households?

265. We also seek comment on how we can identify and measure the potential costs of this proposal. For example, would this proposed rule change be likely to have an impact on the size of the universal service fund? What are the potential costs to carriers (e.g., administrative costs) in complying with the proposed rule? Finally, are there any potential costs to consumers associated with the proposed rule? To the extent that it is available, commenters are encouraged to submit supporting data along with any written submissions.

B. The Transition to Broadband

1. Background

266. Over the last decade, the communications landscape has been transformed by the advent of broadband. Access to broadband is increasingly important for all Americans to actively participate in our economy and our society. Broadband can serve as a platform for educational, economic and social opportunities. It can also minimize socioeconomic disparities. However, despite the potential opportunities available through broadband, many low-income Americans simply cannot afford a home broadband connection. There is a broadband adoption gap in the United States, with low-income households among those being left behind.⁴⁶⁷ Our 2010 Broadband Consumer Survey found that 93 percent of households with incomes greater than \$75,000 have broadband at home, only 40 percent of adults with household incomes less than \$20,000 have broadband at home, and non-adopters cite cost as the primary obstacle to adoption.⁴⁶⁸

267. Research suggests that increasing broadband adoption could significantly increase national productivity and growth.⁴⁶⁹ Nearly 100 million Americans have not adopted broadband, and there is evidence that adoption is growing slowly.⁴⁷⁰ Cost appears to be the leading obstacle to low-

⁴⁶³ See *Bill Shock Notice*, 25 FCC Rcd at 14634-35, para. 20.

⁴⁶⁴ 47 C.F.R. § 54.403(c).

⁴⁶⁵ See NATIONAL BROADBAND PLAN at 149.

⁴⁶⁶ See *supra* note 463 (citing *Broadband Adoption and Use in America*).

⁴⁶⁷ NATIONAL BROADBAND PLAN at 167.

⁴⁶⁸ NATIONAL BROADBAND PLAN at 172; *Broadband Adoption and Use in America* at 7; see *supra* para. 21, Chart 1 (detailing the household income levels, based on the Federal Poverty Guidelines, sufficient to establish eligibility for the Lifeline program); see also NTIA DIGITAL NATION at 5 (presenting a more up-to-date, but less detailed, analysis of the reasons that consumers have not adopted broadband at home and finding cost to be the most important factor as to why consumers do not have broadband at home).

⁴⁶⁹ NTIA DIGITAL NATION at 5.

⁴⁷⁰ The Pew Internet Home Broadband 2010 Report finds that the broadband adoption in the United States has (continued....)

income Americans adopting broadband;⁴⁷¹ the lack of digital literacy is another major factor.⁴⁷² Closing the adoption gap and accelerating broadband adoption, particularly among low-income Americans, will require significant effort, primarily by the private sector. But the Lifeline/Link Up program may be able to play an important if limited role in this effort, by enabling public-private partnerships to help tackle our national adoption challenge. Utilizing Lifeline/Link Up to reduce the cost of broadband for low-income Americans could help increase broadband adoption.

268. Closing the broadband adoption gap may be more difficult than closing the gap in telephone penetration because the barriers to broadband adoption are more complex. In addition to the cost of service and the cost of acquiring a computer or other Internet-access device, which some research suggests may be the leading barrier to adoption, the National Broadband Plan noted that almost two-thirds of non-adopters cite another reason, such as lack of digital skills, as the main reason for not adopting broadband at home.⁴⁷³ In contrast, consumers generally do not need any special skills to understand how to make a phone call; a telephone is often much less expensive than a computer, laptop, or other Internet access device; and monthly subscription fees for basic telephone service may be less than the fees for broadband.

269. The National Broadband Plan suggested that creating the conditions necessary to promote broadband adoption and increase utilization would require a range of activities conducted by a variety of stakeholders. Among other things, the Plan recognized the need to form partnerships across stakeholder groups to increase broadband adoption and utilization.⁴⁷⁴

270. There are some ongoing efforts to address the broadband adoption gap at the federal, state, and local level.⁴⁷⁵ As part of the Broadband Technology Opportunities Program (BTOP), the National Telecommunications and Information Administration provided approximately \$450 million in one-time grants to help develop sustainable broadband adoption initiatives and public computing centers across the country.⁴⁷⁶ Several private corporations and non-profits are also engaged in broadband adoption efforts, either on their own or in partnership with other stakeholders. For example, in 2001, Hewlett-Packard provided grant funding and other resources to the Southern California Tribal Chairman's

(Continued from previous page)

slowed dramatically in the last year. See PEW RESEARCH CENTER, PEW INTERNET AND AMERICAN LIFE PROJECT, HOME BROADBAND 2010 REPORT 2 (2010) (HOME BROADBAND 2010 REPORT) available at <http://www.pewinternet.org/Reports/2010/Home-Broadband-2010.aspx>.

⁴⁷¹ NATIONAL BROADBAND PLAN at 168; see also HOME BROADBAND 2010 REPORT at 10 (noting that a fifth of non-adopters cite cost as a barrier).

⁴⁷² NATIONAL BROADBAND PLAN at 168.

⁴⁷³ NATIONAL BROADBAND PLAN at 170; see also *Broadband Adoption and Use in America* at 5.

⁴⁷⁴ NATIONAL BROADBAND PLAN at 171.

⁴⁷⁵ See *Roundtable Discussion to Explore Broadband Pilot Programs for Low-Income Consumers*, Public Notice, WC Docket No. 03-109, 25 FCC Rcd 7305 (Wireline Comp. Bur. 2010) (announcing roundtable); see also *Details for Low-Income Pilot Program Roundtable Discussion*, Public Notice, WC Docket No. 03-109, 25 FCC Rcd 7947 (Wireline Comp. Bur. 2010) (providing agenda) (*Roundtable Agenda Public Notice*); Webcast of Wireline Competition Bureau, Low-Income Pilot Program Roundtable Discussion (Jun. 23, 2010), <http://reboot.fcc.gov/video-archives> (Roundtable Discussion) (identifying getconnectedtoday.com, the Cox Santa Barbara program, and initiatives by LEAP/Cricket, Charter, and others).

⁴⁷⁶ As of February 2011, NTIA had awarded approximately \$200 million in one-time grants to support public computing centers, and \$250 million to help develop sustainable broadband adoption initiatives. See Grants Awarded: Broadband USA – NTIA, <http://www2.ntia.doc.gov/awards> (last visited Mar. 2, 2011).

Association (SCTCA) to help launch the Tribal Digital Village (TDV). The Tribal Digital Village provides infrastructure as well as training and online content to 15 American Indian Reservations in San Diego and southern Riverside counties.⁴⁷⁷ A BTOP grant awarded to ZeroDivide in 2010 provided funding for additional equipment and support for community anchor institutions as well as computer skills and awareness training.⁴⁷⁸ We also note that, as a voluntary commitment in its recent transaction involving NBC Universal, Inc., Comcast Corporation agreed to make broadband available to low-income households for less than \$10 per month, and making personal computers, netbooks, and other computer equipment available at a purchase price below \$150.⁴⁷⁹

271. To help address the cost barrier faced by many low-income households unable to afford broadband, the National Broadband Plan recommended that Lifeline/Link Up be modernized to support broadband.⁴⁸⁰ The Joint Board also recognized the importance of broadband to low-income households in its *2010 Recommended Decision*.⁴⁸¹ The Joint Board proposed that the Commission adopt an additional universal service principle pursuant to its authority under section 254(b)(7) of the Act, that “universal service support should be directed where possible to networks that provide advanced services, as well as voice services.”⁴⁸² In the *USF/ICC Transformation Notice*, the Commission proposed to adopt the Joint Board’s recommended principle and sought comment on whether to expand the definition of “universal service” to make broadband a supported service.⁴⁸³

272. The National Broadband Plan and the Joint Board also identified several practical issues that the Commission should consider when assessing whether and how to include broadband as a supported service under the program, including, among other things, how “broadband” should be defined and measured for universal service purposes, how best to ensure broadband availability in unserved and underserved areas, and how to structure a Lifeline discount for broadband services.⁴⁸⁴ The *USF/ICC Transformation Connect America Fund Notice* sought comment on how to define broadband for purposes of the high-cost program, but expressly reserved the right to adopt different performance requirements for Lifeline/Link Up.

273. Recognizing the complexities of modernizing the low-income support mechanisms for broadband while ensuring that universal service funds are used efficiently, the National Broadband Plan

⁴⁷⁷ Tribal Digital Village Broadband Adoption Program, Executive Summary, available at http://www.zerodivide.org/sites/default/files/5507_TD.V.pdf (last visited Mar. 3, 2011); see also Tribal Digital Village, <http://www.sctdv.net/> (last visited Mar. 2, 2011).

⁴⁷⁸ See BroadbandUSA, Connecting America’s Communities, ZeroDivide Fact Sheet, available at http://www2.ntia.doc.gov/files/grantees/fact_sheet_-_zerodivide_tribal.pdf (last visited Mar. 3, 2011); Press Release, ZeroDivide, ZeroDivide Receives Stimulus Funding to Increase Broadband in Native American Communities (Aug. 18, 2010), available at http://www.zerodivide.org/ntia/zerodivide_funding_native_american_tribal_communities (last visited Mar. 3, 2011).

⁴⁷⁹ See *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc.; For Consent to Assign Licenses and Transfer Control of Licensees*, MB Docket No. 10-56, Memorandum Opinion and Order, FCC 11-4, at para. 233 (rel. Jan. 18, 2011).

⁴⁸⁰ NATIONAL BROADBAND PLAN at 172.

⁴⁸¹ See NATIONAL BROADBAND PLAN at 169, Box 9.1 (“Broadband Means Opportunity”); *2010 Recommended Decision* at 15624-25, paras. 74-75.

⁴⁸² See *2010 Recommended Decision* at 15625, para. 75; see also *2007 Recommended Decision*, 22 FCC Rcd at 20477 (discussing the redefinition of supported services to include broadband and mobility services).

⁴⁸³ See *USF/ICC Transformation NPRM*, FCC 11-13, at paras. 63, 65.

⁴⁸⁴ *2010 Recommended Decision* at 15625-26, para. 77.

recommended that the Commission begin transitioning Lifeline to support broadband by facilitating pilot programs to test different program design elements.⁴⁸⁵ More recently, in its review of the Lifeline and Link Up program, the GAO highlighted the importance of developing a needs assessment for the design of any new programs and to determine whether existing programs are meeting the needs of the targeted population.⁴⁸⁶ The GAO also noted that agencies should develop implementation and evaluation plans when conducting pilot programs to increase confidence in the results of such programs.⁴⁸⁷

274. The Commission hosted a roundtable discussion last summer to solicit input on pilot programs to integrate broadband as a supported service under the program.⁴⁸⁸ Participants discussed a number of critical issues, including goals for supporting broadband through the low-income program, the importance of addressing barriers in addition to the cost of service, what existing data and information is available on broadband service and adoption for low-income individuals, and pilot program mechanics and operation.⁴⁸⁹ Participants in the roundtable discussion and other stakeholders have suggested that they are exploring ways to conduct low-income broadband pilot projects.⁴⁹⁰

2. Support for Broadband

275. The Commission seeks comment on revising the definition of “Lifeline” to ensure it is keeping pace with the needs of low-income households, consistent with the statutory principle that “consumers in all regions of the country, including low-income consumers . . . should have access to telecommunications and information services.”⁴⁹¹ Lifeline/Link Up does not currently support broadband. We seek comment on whether the Commission should amend the definition of Lifeline to explicitly allow support for broadband.

276. As noted above, the Commission has sought comment in the *USF/ICC Transformation Notice* on whether to make broadband a supported service and has sought comment on extending universal service support to broadband. If the Commission does not make broadband a supported service, what would be the legal basis for our authority to support broadband in the Lifeline and Link Up program? If the Commission makes broadband a supported service, what are the associated practical and operational challenges that we would need to address when expanding Lifeline support to broadband? For example, how should a broadband Lifeline service be defined and measured? Should Lifeline support be available on services that do not meet whatever speed threshold the Commission ultimately adopts for

⁴⁸⁵ NATIONAL BROADBAND PLAN at 173.

⁴⁸⁶ 2010 GAO REPORT at 30. See Letter from Julius Genachowski, Chairman, Federal Communications Commission to the Honorable Joseph I. Lieberman, Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate (Feb. 2, 2011) (agreeing with the GAO recommendation to conduct a needs assessment)(Commission Senate Letter).

⁴⁸⁷ 2010 GAO REPORT at 30-31.

⁴⁸⁸ See Roundtable Discussion.

⁴⁸⁹ See *Roundtable Agenda Public Notice*; Roundtable Discussion.

⁴⁹⁰ See Letter from Jonathan Banks, Senior Vice President, Law and Policy, United States Telecom Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket Nos. 09-47, 09-51, 09-137 (filed Jan. 25, 2010) (USTA Jan. 25, 2010 *Ex Parte* Letter); Letter from Kelley Dunne, CEO, One Economy Corporation, and Ken Eisner, Managing Director, OE Ventures, to Hon. Julius Genachowski, Chairman, Federal Communications Commission, Docket No. 03-109 (filed Feb. 10, 2011) (One Economy Broadband Pilot Proposal); see also North Carolina Economic Development Center, E-NC Lite-Up Program, http://www.e-nc.org/public/nc_lite_up (last visited Mar. 2, 2011).

⁴⁹¹ See 47 U.S.C. § 254(b)(1),(3); see also 47 U.S.C. § 151.

purposes of setting infrastructure deployment requirements under the Connect America Fund? For instance, some parties have suggested that for purposes of Lifeline, consumers should be free to choose to use discounts on services that provide 768 kbps or 1.5 Mbps downstream, rather than being forced to use the discount only on higher-speed offerings.⁴⁹² Should there be any minimum performance requirements for Lifeline broadband offerings?

277. What would be the appropriate framework for determining support levels for broadband services, given that the price of the retail service is not regulated at either the federal or state level? We are mindful of the need to ensure that contributions to our universal service support mechanisms do not jeopardize our ability to promote quality services at affordable rates for all consumers. How should we balance these competing goals as we consider modernizing Lifeline and Linkup to support broadband?

278. If broadband is made a supported service, should we impose any terms and conditions on the Lifeline support that is available for broadband? For example, should there be any limitations on the types of services that are offered as part of a Lifeline plan? We sought comment above on whether low-income households should be able to use their Lifeline discounts on any plan with a voice component; should ETCs similarly be required to offer Lifeline discounts on all broadband plans, or just some? We note that several wireless ETCs currently offer text messaging services as part of their Lifeline calling plans.⁴⁹³ Should consumers be permitted to select “data only” Lifeline plans? Is there a risk that low-income households might incur excessive charges for data plans, absent some form of data or usage cap? We note that some Lifeline consumers already subscribe to broadband services.⁴⁹⁴ We ask that ETCs provide any data they may have regarding broadband subscribership among current Lifeline recipients. We also recognize that our analysis of these questions may depend, in part, on what we learn from the broadband pilots described below.

3. Broadband Pilot

279. We propose to set aside a discrete amount of universal service funds reclaimed from eliminating inefficiencies and/or waste, fraud, and abuse to create a pilot program to evaluate whether and how Lifeline/LinkUp can effectively support broadband adoption by low-income households. A broadband pilot program could help us gather comprehensive and statistically significant data about the effectiveness of different approaches in making broadband more affordable for low-income Americans and providing support that is sufficient but not excessive.⁴⁹⁵ This data could assist the Commission in considering the costs and benefits of various approaches prior to using Lifeline to support broadband on a permanent basis. We recognize that the ultimate success of using Lifeline funds to support broadband may hinge on the sufficiency and effectiveness of preliminary testing conducted through a pilot program. As identified by the GAO, the Commission has recognized the importance of developing an assessment

⁴⁹² See, e.g., Cox Communications Comments, GN Docket Nos. 09-47, 09-51, 09-137, at 12 (filed Dec. 7, 2009); AT&T’s ETC proposal, *infra* note 533; Hughes Network Systems, LLC and WildBlue Communications, Inc., Joint Reply Comments, GN Docket No. 09-51, at 7 (filed July 21, 2009).

⁴⁹³ See, e.g., GCI, Lifeline Rural Wireless Service, <http://wireless.gci.com/catalog/lifeline-rural-p-154.html> (offers unlimited text messaging with all calling plans) (last visited Mar. 2, 2011); SafeLink Wireless Raises the Lifeline Offering: New York, <http://www.cell-phone-plans.net/blog/cell-phones/safelink-wireless-raises-the-lifeline-offering-new-york/> (detailing TracFone’s new Lifeline plans that include one text message in exchange for one minute of provided voice service) (last visited Mar. 2, 2011).

⁴⁹⁴ Cf. *Broadband Adoption and Use in America* at 7 (stating that 40 percent of low-income Americans with annual household incomes at \$20,000 or below have broadband).

⁴⁹⁵ See *supra* paras. 37-41 (proposing, as a performance goal, to ensure that Lifeline/Link Up provides support that is sufficient, but not excessive).

of the telecommunications needs of low-income households to inform the design and implementation of broadband pilot programs.⁴⁹⁶

280. *Scope of the Pilot Program.* We propose using the pilot program to fund a series of projects that would test different approaches to providing support for broadband to low-income consumers across different geographic areas. The projects could also try to take into account unique barriers faced by certain groups of low-income non-adopters such as Tribal communities or Americans for whom English may be a second language. While individual projects might involve only one type of provider or technology, the overall objective would be to design a pilot program that would be competitively and technologically neutral.

281. We propose structuring the pilot program as a joint effort among the Commission, one or more broadband providers, and/or one or more non-profit institutions or independent researchers with experience in program design and evaluation.⁴⁹⁷ The pilot also could include participation from other stakeholders such as private foundations; non-profits experienced in outreach and digital literacy training; desktop computer, laptop, or mobile device manufacturers or retailers; and state social service or economic development agencies. We seek comment on these proposals to structure the pilot program as a joint effort among a variety of stakeholders focused on conducting a series of projects to test different approaches to providing support. We expect that the projects would test several variations on program design, including experimenting with different techniques to combine discounts on service and/or hardware with efforts to address other barriers to broadband adoption such as digital literacy.

282. Consistent with our historic role in providing support for services and not equipment,⁴⁹⁸ we seek comment on funding projects that would test variations in the monthly discount for broadband services, including variations on the discount amount, the duration of the discount (limited or unlimited, phased-down over time or constant), and the treatment of bundled services. We also propose to test variations in Linkup-like discounts to reduce or eliminate installation fees, activation fees, or similar upfront charges associated with the initiation of service. We seek comment on these proposals.

283. We propose to require at least some pilot participants to either offer hardware directly or partner with other entities to provide the necessary devices as a condition of participating in the pilot program. The cost of customer equipment necessary to access the Internet (including computers or other devices) has been shown to be a major barrier to adoption, particularly for low-income households.⁴⁹⁹ Some stakeholders have suggested that the cost of Internet-enabled devices poses a significant burden on an ETC's ability to provide affordable broadband to low-income consumers.⁵⁰⁰ It would be valuable for pilot projects to test variations in discounts to reduce the cost of hardware, including discounts for air cards or modems. Because we intend to evaluate the impact of ETCs' providing different types of discounts on hardware versus not providing any discount, some consumers would not be offered

⁴⁹⁶ Commission Senate Letter.

⁴⁹⁷ The National Broadband Plan highlighted the importance of forming partnerships across multiple stakeholder groups and simultaneously addressing multiple barriers to adoption which may include cost of service, cost of hardware, digital literacy and many others. NATIONAL BROADBAND PLAN at 170-71.

⁴⁹⁸ See 47 C.F.R. §§ 54.101(a), 54.401(a)(3).

⁴⁹⁹ See Robert D. Atkinson, The Information Technology and Innovation Foundation, *Policies to Increase Broadband Adoption at Home* (Nov. 2009), available at <http://www.itif.org/files/2009-demand-side-policies.pdf> (*Broadband Adoption Report*).

⁵⁰⁰ Letter from David Cohen, Vice President, Policy, US Telecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45, WC Docket No. 03-109, at 2 (February 23, 2011) (US Telecom Broadband Pilot Proposal).

discounted hardware. If we require some applicants for pilot program funding to offer discounted hardware, should all applicants be required to agree to do so even though we do not expect all consumers to receive discounts? We seek comment on these proposals.

284. We propose that applicants for pilot program funding should be prepared to experiment with different approaches to overcoming digital literacy barriers, other non-cost barriers to adoption, and variations in other program design elements that may help the Commission implement a permanent support mechanism. The National Broadband Plan and subsequent research identified the lack of digital literacy among low-income Americans as a major barrier to broadband adoption.⁵⁰¹ Skills such as being able to use a computer or other Internet-enabled device to retrieve and interpret information or to communicate and collaborate with other users, and even such fundamental steps as navigating a website and creating a username and password, may pose significant difficulties for many consumers. Any program seeking to effectively increase adoption of broadband may need to address this barrier. We specifically seek comment on what subset of the following additional program design elements should be tested:

- Training methods;
- Outreach methods;
- Contract terms;
- Product offerings/service restrictions or requirements (such as establishing minimum or maximum speed offerings for consumers participating in the pilot); and/or
- Administration/enrollment methods such as automated enrollment through low-income housing facilities or other social service entities.

We also seek comment on how the Commission should take into account elements beyond its control, such as programs or services provided by the private sector, other governmental agencies, or non-profits in conjunction with support provided as part of a broadband Lifeline and Link Up program.

285. We intend for the pilot program as a whole to test the impact of these varying factors; we are not suggesting that each project funded through the pilot test every variable of interest to the Commission. We seek comment on this proposal. We also ask commenters to consider how many settings of key variables should be tested for each program design element (e.g. discount amount, duration of the discount). How many households should participate to test each element and variation in a way suitable for generalizing to a large scale program? Should all elements be tested simultaneously, or should they be sequenced in some manner?

286. We note that the goal of the pilot program is to conduct experiments to collect information that would help inform future policy decisions. The pilot is not intended to have an immediate impact on low-income consumers on a large-scale. Similarly, the structure and rules governing pilot projects may differ in important ways from rules that the Commission may ultimately adopt to expand Lifeline to support broadband.

287. *Pilot Program Funding.* We seek comment on how much money should be allocated to support discounts on broadband and administrative costs associated with the pilot projects. Because the goal of the pilot program is to conduct test projects that would produce meaningful data by experimenting with different program design elements, we believe that only a relatively small sample size is needed to

⁵⁰¹ NATIONAL BROADBAND PLAN at 174; see NTIA DIGITAL NATION, at 9 (noting that level of education is a strong predictor of broadband use among adults).

develop statistically valid results.⁵⁰² Depending on the parameters assessed by different pilot programs, the program may be able to gather statistically valid data from a smaller number of participating households.

288. Consistent with our over-arching objective of ensuring fiscal responsibility, we propose to fund the pilot projects by utilizing at least some of the savings from the proposal to eliminate reimbursement for Toll Limitation Services, as well as some of the savings realized by eliminating waste, fraud, and abuse from the program.⁵⁰³ USAC's most recent projections forecast total annual 2011 TLS support of approximately \$23 million.⁵⁰⁴ Are there other funding sources available that we should consider in implementing these pilot programs? Should we require entities applying for pilot program funding to contribute some sort of matching funds or in-kind contribution?

289. *Duration of Pilot Program.* Commenters have recommended pilot programs ranging from six months to multiple years.⁵⁰⁵ USTelecom suggested, for instance, that a period of 18 to 24 months would be needed to produce "meaningful data that would permit the Commission to thoughtfully design a permanent program."⁵⁰⁶ We seek comment on the appropriate duration of a pilot program. Commenters who suggest schedules should explain the relative advantages and disadvantages of specific lengths of time.⁵⁰⁷

290. At the Commission's broadband pilot roundtable, several parties suggested that it might be appropriate to provide subsidies only for a limited period of time to address the initial adoption hurdle of realizing the benefit of broadband.⁵⁰⁸ If some of the variables tested include variations on the length of time that a subsidy is available or a reduction in the amount of subsidy over time, for how long would researchers need to follow subscribers after the reduction to test whether adoption outcomes stay the same, or whether consumers drop service when the subsidy is eliminated or reduced?

291. *Role of the States.* We seek comment on the role that states should play in any pilot program integrating broadband service into the low-income program. For instance, could states assist in identifying target populations or assist in administration? Are there services or funding support that states are uniquely situated to provide in a broadband pilot program? How should low-income universal service support for broadband be integrated into other federal, state, regional, private, or non-profit programs that help address barriers to broadband adoption?

292. *Consumer Eligibility To Participate in Pilot Projects.* We propose using the Lifeline

⁵⁰² See US Telecom Broadband Pilot Proposal at 3; see also e-NC Authority, http://www.e-nc.org/public/nc_lite_up (describing pilot program targeting only 270 households).

⁵⁰³ See *supra* Section IV (Immediate Reforms to Eliminate Waste, Fraud, and Abuse).

⁵⁰⁴ USAC 2Q 2011 FILING, at 17.

⁵⁰⁵ See, e.g., Letter from Christopher Savage, Counsel, Nexus Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket 03-109; CC 96-45 at 2 (Nexus Communications Broadband Pilot Proposal) (proposing a 6 month pilot); Michigan Public Service Commission Comments, WC Docket No. 03-109, at 5 (filed Nov. 26, 2008) (encouraging the Commission to extend by 2 years a pilot program originally proposed for 3 years if the pilot is successful).

⁵⁰⁶ USTelecom Broadband Pilot Proposal at 1.

⁵⁰⁷ Some stakeholders have expressed concern about delaying a wide-scale launch of a low-income support mechanism for broadband while the Commission conducts further analysis by facilitating pilot programs or through other means. At the same time, others have warned about the dangers of impatience and suggested that it would take at least two to three years to evaluate the results of a well-run pilot. See Roundtable Discussion.

⁵⁰⁸ See Roundtable Discussion.

eligibility rules currently in effect in federal default states as a uniform set of consumer eligibility requirements to be used in all pilot projects. We believe uniform eligibility rules will lower administrative costs associated with the pilots and help the Commission more easily compare results from different pilot projects. Is there any reason to allow some pilot projects to deviate from the federal default rules? For example, should the Commission consider funding a pilot project that tested the impact of more stringent or more lenient eligibility requirements to help assess the potential impact such requirements might have? Alternatively, are there reasons that the Commission should consider pilot projects that limit eligibility to a more narrowly defined group of households currently eligible under the federal default rules, such as households with children participating in the National School Lunch Program?⁵⁰⁹

293. *Eligibility To Apply for Funding for Proposed Pilot Projects.* We seek comment on whether funding for the pilot program should be limited to ETCs or whether non-ETCs could be eligible to receive funding during the pilot. Several commenters have suggested eligibility for funding for broadband pilots, or any broadband Lifeline support, should be independent from the traditional ETC requirements established under section 214 of the Act.⁵¹⁰ Could we forbear from our current ETC requirements to allow non-ETCs (e.g. broadband providers who are not ETCs or non-providers) to participate in the pilot? Forbearance from our ETC requirements may encourage participation by a greater number of broadband providers. What are the advantages and disadvantages of having a larger number of providers seek funding for pilot projects?

294. We propose to allow non-ETCs (e.g., non-providers) to submit applications for pilot funding provided they have identified ETCs, which would receive the support disbursements, as partners. We believe allowing non-ETCs to apply for funding may increase participation by allowing ETCs to rely on other entities to help with pilot program administration. This approach may also encourage more multi-stakeholder partnerships designed to simultaneously address multiple barriers to adoption. We seek comment on this proposal.

295. We also seek comment on limiting program participation to ETCs that partner with entities approved by the NTIA's State Broadband Data & Development (SBDD) Program. The SBDD program, led by state entities or non-profit organizations working at their direction, facilitates the integration of broadband and information technology into state and local economies.⁵¹¹ The program awarded a total of \$293 million to 56 grantees or their designees and the grantees use this funding to support the use of broadband technology.⁵¹² Among other objectives, these state-created projects use the grants to research and investigate barriers to broadband adoption and created state and local task forces to expand broadband access and adoption. ETCs could work with the SBDD grantees and other stakeholders to develop pilot projects that integrate federal universal service support into a state's existing or planned adoption efforts. The potential benefits of encouraging ETCs to partner with these SBDD grantees to participate in this pilot program are numerous: Each of the grantees was selected by a state

⁵⁰⁹ Letter from Steven F. Morris, National Cable & Telecommunications Association, GN Docket No. 09-51, WC Docket No. 05-337, CC Docket No. 96-45 (filed Dec. 4, 2009).

⁵¹⁰ See, e.g., AT&T's ETC Proposal, *infra* note 533; *Supporting Broadband Access for Users of Video and IP-Based Communications who are Deaf, Hard of Hearing, Late-Deafened, or Deaf-Blind, or who have a Speech Disability*, WC Docket No. 03-109, CC Docket No. 96-45, at 23 (filed Oct. 30, 2008); AT&T Comments, WC Docket No. 96-45, WC Docket No. 03-109, at 53 (filed Nov. 26, 2008); Qwest Communications Comments, GN Docket Nos. 09-47, 09-51, 09-137, at ii-iii (filed Dec. 7, 2009).

⁵¹¹ State Broadband Data & Development Program: BroadbandUSA – NTIA, <http://www2.ntia.doc.gov/SBDD> (last visited February 28, 2011).

⁵¹² *Id.*

government that may be well positioned to develop targeted, state-specific adoption approaches; many of the grantees have experience with training, outreach, and surmounting barriers to adoption; and such a pilot could leverage the work already conducted by NTIA, such as the due diligence it performed on the grantees and ongoing program oversight over those grantees. We seek comment on limiting eligibility in the pilot program only to ETCs that are partnering with SBDD grantees. Is there another group of federal or state program grantees that we should consider including in the pilot?

296. *Proposals.* We propose to require entities interested in applying for pilot program funding to submit specific information about the proposed project, such as applicant information, including any and all private or corporate partners or investors; a detailed description of the program, including length of operation; product offerings and service restrictions; discount or discounts provided, the duration of the discounts; treatment of bundled services; whether discounts would reduce or eliminate installation fees, activation fees, or other upfront costs; how to address (if at all) the cost of hardware, including aircards, modems, laptops, desktops, or other mobile devices;⁵¹³ training and outreach; testing; identification of costs associated with implementing the program, including equipment and training costs; how the project complies with relevant program rules, adequately protects against waste, fraud, and abuse, and achieves the goals of the program discussed above. We also propose to require applicants to provide a brief description of how their program would help inform the Commission's future decision-making related to providing low-income support to broadband on a nationwide basis. We seek comment on this process for submission of pilot proposals.

297. *Pilot Evaluation.* We seek comment on how to evaluate the results of pilot projects and what reporting requirements should be adopted for pilot participants. How could the Commission evaluate whether approaches tested during the pilot program further the proposed goal of providing affordable broadband service? Should one goal of the pilot be to test the impact of the project's approach on increasing adoption? For instance, should we assess the total number of new adopters; new adopters as a percentage of eligible program participants; the number of program participants as a percentage of eligible participants; average percentage of participants' discretionary income spent on discounted broadband service through the pilot relative to the national average percentage of household discretionary income spent on broadband? How could we evaluate the relative impact of the service discount compared to other potential factors that may be tested, such as the provision of training or equipment? We propose that the Commission also seek to develop information about the cost per participant and cost per new adopter through the pilot program. This information could assist the Commission in assessing the costs and benefits of particular approaches to whether broadband should be supported, and if so, how. We seek comment on this proposal and whether there are other types of data that the Commission should review to evaluate whether a given approach would provide support that is sufficient but not excessive.

298. We seek comment on other types of information the Commission should consider when assessing projects funded through the pilot program. For instance, how best can the Commission evaluate program administration costs and the feasibility of expanding any given test project to a national scale?

299. *Delegation of Authority.* We propose to delegate authority to the Wireline Competition Bureau to select pilot participants and take other necessary steps to implement the proposed program. We seek comment on this proposal.

300. *Previously Submitted Proposals.* A number of entities have developed and submitted ideas for different types of broadband low-income pilots.⁵¹⁴ For instance, US Telecom explains that an efficient broadband pilot program design should include three components: research; program design and

⁵¹³ See Roundtable Discussion.

⁵¹⁴ US Telecom Broadband Pilot Proposal; Nexus Communications Broadband Pilot Proposal; One Economy Broadband Pilot Proposal.

implementation; and evaluation.⁵¹⁵ Nexus Communications proposes that a broadband pilot be conducted in four different cities using “smart phones” that would enable the Commission to obtain real-word data with regard to community response to four different pricing and service arrangements.⁵¹⁶ One Economy proposes two distinct pilot programs, one involving a 4G public private partnership and another one involving a reverse auction design.⁵¹⁷

301. We seek comment on these proposals. We ask commenters to identify how these proposals could be improved or altered and to explain how any measures that they suggest are consistent with our proposed goals of ensuring just, reasonable, and affordable service and providing support that is sufficient but not excessive.

302. Finally, as discussed above, a number of other broadband adoption programs are currently underway, and other stakeholders have suggested that they may conduct their own projects on these issues. We are interested in learning more about the status of these projects and what data we can gather from those efforts. Is there information or data that the Commission is uniquely positioned to gather? What data can the Commission rely on outside sources to collect, and how could it design pilots to complement any private sector research efforts? Can the Commission gather sufficient information from existing adoption programs to inform its policies sufficiently to implement a long-term low-income support for broadband program without launching Lifeline and Link Up pilots? We welcome information from industry, academic institutions, governmental agencies, and other stakeholders that could assist in our evaluation of strategies to extend Lifeline to broadband.

C. Eligible Telecommunications Carrier Requirements

303. *Background.* Section 254(e) of the Act limits universal service support, including Lifeline and Link Up support, to ETCs designated under section 214(e) of the Act.⁵¹⁸ Section 214 of the Act, in turn, requires that ETCs use their own facilities, at least in part, to provide services supported by universal service and requires carriers to engage in a two-stage “redefinition” process before carriers may serve certain rural service areas.⁵¹⁹ When Congress first adopted—and the Commission first interpreted—these requirements, the focus was on participation by ETCs in the Commission’s high-cost program and the need to encourage ETCs to invest in infrastructure to cover new areas and reduce the risk of cream skimming.⁵²⁰ In this section, we seek comment on whether those requirements remain necessary and in the public interest for participants in the Commission’s program. We also consider whether these requirements should be modified if we modernize the program to support broadband.

304. Since 2005, the Commission has granted forbearance eight times to carriers seeking to participate in the Lifeline program without using their own facilities to provide service.⁵²¹ In each case,

⁵¹⁵ US Telecom Broadband Pilot Proposal.

⁵¹⁶ Nexus Communications Broadband Pilot Proposal.

⁵¹⁷ One Economy Broadband Pilot Proposal.

⁵¹⁸ 47 U.S.C. § 254(e).

⁵¹⁹ 47 U.S.C. § 214(e)(1)(A) (requiring an ETC to “offer the services that are supported by Federal universal service support mechanisms . . . either using its own facilities or a combination of its own facilities and resale of another carrier’s services”), 214 (e)(5) (defining service areas for ETCs); 47 C.F.R. § 54.207 (establishing the process carriers must use to redefine a rural service area).

⁵²⁰ See, e.g., *Universal Service First Report and Order*, 12 FCC Rcd at 8861–76, 8880–83, paras. 150–80, 186–91.

⁵²¹ See *TracFone Forbearance Order*; *Virgin Mobile Forbearance Order*; *i-wireless Forbearance Order*; *Global Forbearance Order*; *Telecommunications Carriers Eligible for Universal Service Support*; *Federal-State Joint* (continued....)

the Commission has concluded that the use of a carrier's own facilities when participating in the Lifeline program is not necessary to ensure just and reasonable rates or to protect consumers and is in the public interest so long as the carrier granted forbearance fulfills certain conditions.⁵²² And in each case, the reseller seeking to participate in the Commission's Lifeline program has gone through the same process: filing a forbearance petition with the Commission and responding to comments and concerns about that petition; filing a compliance plan with the Wireline Competition Bureau and responding to comments and concerns about that plan; and filing ETC designation petitions with the Commission or the states and responding to another round of comments and concerns. This multi-stage process may take years to complete, costing companies time and money and placing a not insignificant burden on Commission resources.

305. The National Broadband Plan recommended that any broadband provider meeting criteria established by the Commission – whether wired or wireless, fixed or mobile, terrestrial or satellite – should be eligible to participate in Lifeline/Link Up.⁵²³ In the *Connect America Fund Notice*, we sought comment on whether the Commission should establish Lifeline-only ETCs, in the event it extends support to broadband.

306. *Discussion.* We seek comment on whether the Commission should forbear from applying the Act's facilities requirement to all carriers that seek limited ETC designation to participate in the Lifeline program.⁵²⁴ Should every wireless reseller be eligible to become an ETC so long as it fulfills the conditions we have previously imposed as conditions of forbearance?⁵²⁵ If so, should the Commission adopt rules codifying the conditions rather than imposing them on a case-by-case basis?

307. Some of those conditions previously imposed on resellers may have some benefit even if applied to facilities-based carriers that participate in the Lifeline program, such as the condition that carriers directly deal with their customers (rather than use a third-party intermediary, like a retailer).⁵²⁶ Should the Commission adopt any of these conditions as rules that would apply to all ETCs that participate in the Lifeline program? Other conditions—such as the requirement to provide appropriate

(Continued from previous page)

Board on Universal Service; Conexions Petition for Forbearance, WC Docket No. 09-197, CC Docket No. 96-45, Order, 25 FCC Rcd 13866 (2010) (*Conexions Forbearance Order*).

⁵²² See, e.g., *Conexions Forbearance Order*, 25 FCC Rcd at 13868–72, paras. 8-20.

⁵²³ NATIONAL BROADBAND PLAN at 173.

⁵²⁴ 47 U.S.C. § 160(a) (“[T]he Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier . . . or class of telecommunications carriers” in certain circumstances.”).

⁵²⁵ See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8788, 8790, paras. 11, 16 (conditioning forbearance on i-wireless (1) providing its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (2) providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (3) complying with conditions (1) and (2) as of the date it provides Lifeline service; (4) obtaining a certification from each public safety answering point (PSAP) where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (5) requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier; (6) establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address; (7) dealing directly with the customer to certify and verify the customer's Lifeline eligibility; and (8) submitting to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement these conditions).

⁵²⁶ See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8790, para. 16.

access to 911 and E911—may be applicable to facilities-based carriers that use their own facilities only in part.⁵²⁷ Should the Commission adopt such conditions as rules that would apply to ETCs that use other carriers' facilities to offer access to emergency services? In short, what rules should the Commission adopt if it forbears from the facilities requirement for a class of carriers?⁵²⁸

308. More broadly, should the Commission consider issuing blanket forbearance for other purposes? For example, several carriers have requested forbearance from the facilities requirement for purposes of participating in the Commission's Link Up program, but the Commission has thus far found that no carrier has shown that such forbearance would be in the public interest.⁵²⁹ Would blanket forbearance from the facilities requirement for this purpose, taking into account the differences between the Lifeline and Link Up programs, be in the public interest? What rules would be necessary to ensure that any such forbearance protects consumers, is in the public interest, and would not encourage waste, fraud, and abuse of universal service funds?

309. Other carriers have requested forbearance from the Act's redefinition process as applied to low-income-only ETCs.⁵³⁰ Should the Commission consider forbearing from this process for a class of carriers, and if so, what rules and conditions would be necessary to protect the public interest?

310. AT&T has proposed that the Commission adopt an entirely new ETC regulatory framework. Specifically, AT&T argues that we should allow all providers of voice and broadband services to provide Lifeline discounts on a competitively neutral basis where they offer service.⁵³¹ Under this proposal, we would establish a "Lifeline Provider" registration process whereby provider participation is not tied to the existing section 214 requirements or ETC designations, and not necessarily mandatory. Under this framework, each provider of eligible voice and broadband Internet access service, including resellers and wireless providers, would be eligible to provide Lifeline discounts to qualifying households in the areas where the provider offers the service.⁵³²

311. Consistent with this alternative approach, AT&T proposes that the Commission abolish the current Lifeline tier support structure set forth in section 54.403 of our rules and replace it with a flat, fixed-dollar discount amount that could be applied to the retail price of one eligible voice service and one eligible broadband service.⁵³³ Similarly, AT&T proposes a flat discount approach to Link-Up. AT&T's ETC proposal also includes a recommendation that we automate program eligibility and verification processes and procedures, which is discussed in more detail above in the Database section of this Notice.

⁵²⁷ See, e.g., *id.* at 8788, para. 11.

⁵²⁸ For example, the Wireline Competition Bureau recently conditioned Virgin Mobile's designation as a Lifeline-only ETC in certain states on voluntary commitments Virgin Mobile made to implement procedures to guard against waste, fraud, and abuse of its Lifeline service. See *Virgin Mobile 2010 ETC Order*, 25 FCC Rcd at 17805, para. 24. Should any of the conditions imposed in that order become rules for all carriers that receive forbearance?

⁵²⁹ See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8791–92, para. 21.

⁵³⁰ See, e.g., *NTCH, Inc. Petition for Forbearance from 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b)*, WC Docket No. 09-197 (filed Mar. 5, 2010); *Cricket Communications, Inc. Petition for Forbearance*, WC Docket No. 09-197 (filed Jun. 21, 2010).

⁵³¹ Letter from Jamie M. Tan, AT&T, to Marlene Dortch, Secretary, FCC, WC Docket No. 03-109, GN Docket Nos. 09-51, 09-47, 09-137 (filed Dec. 22, 2009) (AT&T's ETC Proposal).

⁵³² *Id.*

⁵³³ *Id.* See *supra* paras. 245–47 for a discussion on lifeline support amounts and the current tiered Lifeline support structure.

312. We seek comment on AT&T's proposal, which would enable all providers of voice and broadband services to offer Lifeline discounts to eligible low-income households. In particular, we ask commenters to address: (1) Whether the current ETC designation process should be revised for Lifeline providers and, if so, how; (2) whether current ETCs should be able to opt out of providing Lifeline services; (3) whether it should be mandatory or optional for ETCs to participate in the Lifeline program; (4) whether consumers should be entitled to a single discount off of a single service or whether consumers should be allowed to receive multiple Lifeline discounts on multiple services, (e.g. voice and broadband); (5) how this new regulatory framework would be administered; (6) what processes and procedures would be necessary to support this new framework; (7) what additional steps the Commission should take to guard against waste, fraud, and abuse in the program if additional providers offering multiple services were to participate in the program; (8) the legal basis for adopting such a proposal; (9) whether there are any issues we would need to account for in terms of transition to this type of model, such as service contracts; and (10) how this proposal would impact the states, including their current roles associated with granting ETCs authority to operate in their states and overseeing their performance.

X. OTHER MATTERS

313. We propose to eliminate section 54.418 of our rules, which required ETCs to notify low-income consumers of the DTV transition. This rule is now obsolete given the completion of the DTV transition. We seek comment on this proposal.

XI. PROCEDURAL MATTERS

314. The proposed rules are attached as Appendix A. In addition to the changes discussed above, the proposed rules include non-substantive changes to the rules applicable to the program. We seek comment on such changes.

A. Paperwork Reduction Act Analysis

315. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995.⁵³⁴ In addition, pursuant to the Small Business Paperwork Relief Act of 2002,⁵³⁵ we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."⁵³⁶

B. Initial Regulatory Flexibility Analysis

316. As required by the Regulatory Flexibility Act of 1980, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document.⁵³⁷ The IRFA is set forth in Appendix E. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided on or before the dates indicated on the first page of this Notice. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.⁵³⁸ In addition, the

⁵³⁴ Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (1995).

⁵³⁵ Small Business Paperwork Relief Act of 2002, Pub. L. No. 107-198, 116 Stat. 729 (2002).

⁵³⁶ See 44 U.S.C. § 3506(c)(4).

⁵³⁷ See 5 U.S.C. § 603.

⁵³⁸ See 5 U.S.C. § 603(a).

Notice and IRFA (or summaries thereof) will be published in the Federal Register.⁵³⁹

C. Ex Parte Presentations

317. The rulemaking this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁵⁴⁰ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.⁵⁴¹ Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission’s rules.⁵⁴²

D. Comment Filing Procedures

318. Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

319. In addition, one copy of each paper filing must be sent to each of the following: (i) The Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–

⁵³⁹ *Id.*

⁵⁴⁰ 47 C.F.R. §§ 1.1200-1.1216.

⁵⁴¹ 47 C.F.R. § 1.1206(b)(2).

⁵⁴² 47 C.F.R. § 1.1206(b).

B402, Washington, DC 20554; Web site: www.bcpiweb.com; phone: 1-800-378-3160; (ii) Kimberly Scardino, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-B448, Washington, DC 20554; e-mail: Kimberly.Scardino@fcc.gov; and (iii) Charles Tyler, Telecommunications, Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A452, Washington, DC 20554, e-mail: Charles.Tyler@fcc.gov.

320. *People with Disabilities*: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

321. Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C., 20554. Copies may also be purchased from the Commission's duplicating contractor, BCPI, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its website: www.bcpiweb.com, by e-mail at fcc@bcpiweb.com, by telephone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563.

322. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules.⁵⁴³ We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the NPRM in order to facilitate our internal review process.

323. For further information, contact Kimberly Scardino at (202) 418-1442 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

XII. ORDERING CLAUSES

324. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 201-205, 214, 254, 403, and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 201-205, 214, 254, 403, 410(c), this Notice of Proposed Rulemaking IS ADOPTED.

325. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary

⁵⁴³ See 47 C.F.R. § 1.49.

APPENDIX A

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 C.F.R. Part 54 as follows:

PART 54 - UNIVERSAL SERVICE

1. The authority citation for Part 54 continues to read as follows:

Authority: 47 U.S.C. §§ 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Amend § 54.101 by removing subsection (a)(9), to read as follows:

§ 54.101 Supported services for rural, insular and high cost areas.

(a) Services designated for support. The following services or functionalities shall be supported by federal universal support mechanisms:

(1) *****

(2) *****

(3) *****

(4) *****

(5) *****

(6) *****

(7) *****

(8) *****

(9) [Reserved]

3. Amend § 54.400 by revising subsection (e), adding new subsections (b) and (e), eliminating subsections (b), (c), and (d), and re-designating (b), (c), (d), and (e), to read as follows:

§ 54.400 Terms and Definitions.

(a) *Qualifying low-income consumer.* A “qualifying low-income consumer” is a consumer who meets the qualifications for Lifeline, as specified in § 54.409, and complies with the one-per-residence limitation, as specified in § 54.402.

(b) *Duplicate support.* Duplicate support exists when (1) two or more ETCs are receiving Lifeline or Link Up support for the same residential address at the same time; or (2) an ETC is receiving two or more Lifeline or Link Up support reimbursements for the same residence at the same time.

(c) *Eligible resident of Tribal lands.* An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in paragraph (a) of this section, living on a reservation or on Tribal lands designated as such by the Commission. A “reservation” is defined as any federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. “Tribal lands” also shall mean any land designated as Tribal lands by the Commission for purposes of this subpart pursuant to the designation process in §54.402.

(d) *Income.* *****

(e) *Customary charge for commencing telecommunications service.* A “customary charge for commencing telecommunications service” is the ordinary charge an ETC routinely imposes on all customers within a state to initiate service. Such a charge is limited to an actual charge assessed on all customers to initiate service with that ETC. A charge imposed only on Lifeline and/or Link Up customers to initiate service is not a customary charge for commencing telecommunications service. Activation charges waived, reduced, or eliminated with the purchase of additional products, services, or minutes are not customary charges eligible for universal service support.

4. Amend § 54.401 by removing subsection (c), revising subsections (a)(3), to read as follows:

§ 54.401 Lifeline defined.

(a) As used in this subpart, Lifeline means a retail local service offering:

(1) *****

(2) *****

(3) That provides voice telephony service as specified in § 54.101(a);

(b) [Reserved]

(c) [Reserved]

(d) *****

(e) *****

5. Add new § 54.402, to read as follows:

§ 54.402 Tribal lands designation process. The Commission may designate specific areas as Tribal lands for purposes of this subpart for areas or communities that fall outside the boundaries of a designated reservation, but which maintain the same characteristics as those defined. A request for designation must be formally requested by an official of a federally recognized Tribe who has proper jurisdiction and must be filed pursuant to the Commission's rules. Good cause for the designation may be shown by: (1) providing evidence of a nexus between the area or community and the Tribe, such as identifying an area in which the federal government delivers services to Tribal citizens; (2) detailing how program support to the area would aid the Tribe in serving the needs and interests of its citizens in that community and further the Commission's goals of providing Tribal support. The region or community areas associated with the Tribe, as outlined and described in a grant of designation request, shall be considered Tribal lands for the purposes of this Subpart.

6. Amend Section 54.403 by removing subsection (c), revising subsections (a) and (b), and adding a new subsection (c), to read as follows:

§ 54.403 Lifeline support amount.

(a) The federal Lifeline support amount for all eligible telecommunications carriers shall equal:

(1) *****

(2) *****

(3) *****

(4) *Tier Four.* Additional federal Lifeline support of up to \$25 per month will be made available to an eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400(c), to the extent that the eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tier-Four amount to qualifying eligible residents of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required

rate reduction, to the extent that: *****

(b) Maximum Lifeline Support Amount.

(1) For a qualifying low-income consumer who is not an eligible resident of Tribal lands, as defined in §54.400(c), the federal Lifeline support amount shall not exceed \$3.50 plus the tariffed rate in effect for the primary residential End User Common Line charge of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service, as determined in accordance with §69.104 or §69.152(d) and (q) of this chapter, whichever is applicable.

(2) For an eligible resident of Tribal lands, the federal Lifeline support amount shall not exceed \$28.50 plus that same End User Common Line charge.

(3) For a qualifying low-income consumer who purchases a bundled service package or a service plan that includes optional calling features, the federal Lifeline support amount shall not exceed the maximum Lifeline support amount as determined in accordance with § 54.403(b)(1) or (b)(2) of this subpart, whichever is applicable.

(c) Application of Discount Amount. Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges shall apply Tier-One federal Lifeline support to waive the federal End-User Common Line charges for Lifeline consumers. Such carriers shall apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers shall apply the Tier-One federal Lifeline support amount, plus any additional support amount, to reduce the cost of any eligible residential Lifeline service plan or package selected by a qualified low-income consumer that provides voice telephony service with the performance characteristics listed in § 54.101(a), and charge Lifeline consumers the resulting amount.

7. Amend § 54.405 by adding subsections (e), and revising subsection (c), to read as follows:

§ 54.405 Carrier obligation to offer Lifeline.

(c) *Termination for Ineligibility.* *****

(e) *De-enroll for disqualification.* Notwithstanding § 54.405(c) of this section, notify Lifeline subscribers of impending termination of Lifeline service if the subscriber fails (1) to respond to notifications regarding duplicate support; (2) to respond to ETC verification attempts made pursuant to § 54.410(d) or (3) to use the supported service during a 60-day period. ETCs shall provide the subscriber 30 days following the date of the impending termination letter in which to demonstrate that Lifeline service shall not be terminated. ETCs shall terminate the Lifeline service if the subscriber fails to demonstrate that Lifeline service shall not be terminated. ETCs shall not seek Lifeline reimbursement for the subscriber during the 30-day period.

8. Amend § 54.407 by revising subsection (b) and (d), to read as follows:

§ 54.407 Reimbursement for offering Lifeline.

(a) *****

(b) The eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer who has used the supported service to initiate or receive a voice call within the last 60 days.

(c) *****

(d) The eligible telecommunications carrier seeking support must report partial or pro rata dollars when claiming reimbursement for discounted services to low-income consumers who receive service for less than a month.

9. Add new § 54.408, to read as follows:

§ 54.408 One-per-residence.

(a) Lifeline and Link Up support is limited to one Lifeline discount and/or one Link Up discount per billing residential address.

(1) *Billing Residential address.* For purposes of the Lifeline and Link Up programs, a “billing residential address” is a unique residential address recognized by the U.S. Postal Service address.

(2) Lifeline and Link Up support is available only to establish service at the qualifying low-income consumer's primary residential address. The consumer must initially certify at enrollment that the consumer's billing residential address of record is his or her primary residential address.

(b) To be considered an eligible consumer for the purposes of Lifeline and Link Up support, a consumer must meet the criteria set forth in section §54.409 of the rules.

10. Amend § 54.409 by adding subsection (c)(3) and (d), revising subsections (a), (c) and (d), eliminating subsections (b) and (d), and re-designating subsections (b), (c), (c)(3) and (d), to read as follows:

§ 54.409 Consumer qualification for Lifeline.

(a) To qualify to receive Lifeline service, a consumer's household income, as defined in § 54.400(d), must be at or below 135% of the Federal Poverty Guidelines, or a consumer must participate in one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families.

(b) A consumer that is an eligible resident of Tribal lands, as defined by § 54.400(c) or § 54.402, shall be a "qualifying low-income consumer," as defined by 54.400(a), and shall qualify to receive Tiers One, Two, and Four Lifeline support if the consumer's residence: (1) has income that meets the threshold established in § 54.409(a) or participates in one of the federal assistance programs identified in § 54.409(a); or (2) participates in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance, Tribally administered Temporary Assistance for Need Families (TANF); Head Start (but only those households meeting its income qualifying standard); or Food Distribution Program on Indian Reservations (FDPIR). Such qualifying low-income consumer shall also qualify for Tier Three Lifeline support if the carrier offering the Lifeline service is not subject to the regulations of the state and provides carrier-matching funds, as described in § 54.403(a)(3).

(c) Each eligible telecommunications carrier providing Lifeline service to a qualifying low-income