

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Federal-State Joint Board on Universal Service)	WC Docket No. 96-45
)	
Lifeline and Link Up)	WC Docket No. 03-109

FURTHER COMMENTS OF COMPTTEL

August 26, 2011

Mary C. Albert
COMPTTEL
900 17th Street N.W., Suite 400
Washington, D.C. 20006
(202) 296-6650

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COMPTTEL, through undersigned counsel, hereby responds to the Commission’s Further Inquiry¹ in the above captioned Universal Service Lifeline/Link Up Reform and Modernization proceeding. Specifically, COMPTTEL offers further comments on the proposed “one-per-residential address” limitation and on the continuing need for Link Up reimbursement for voice services.

I. Introduction and Summary

As the Commission takes steps to modernize and reform the Lifeline/Link Up program, it must do so in a manner consistent with its performance goal of preserving and advancing the availability of voice service for low income consumers. Substituting a single line per qualifying adult rule for the proposed single line per residential address rule would better promote the availability of voice service by ensuring that the neediest of low income consumers are not

¹ Public Notice, *Further Inquiry Into Four Issues In the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, WC Docket No. 11-42, DA 11-1346 (rel. Aug. 5, 2011) (“Further Inquiry”).

denied Lifeline/Link Up assistance simply because they do not have a unique fixed residential address recognized by the U.S. Postal Service or because they live in group facilities.

The Commission should reject the suggestion that Link Up support for non-recurring charges incident to establishing telephone service be limited or eliminated as some commenters propose. Doing so would recreate a barrier to subscribership for low income consumers. None of the commenters opposing the Link Up subsidy presented any evidence that the the subsidy is no longer necessary to maintain or increase subscribership.

The Link Up program was created to reimburse ETCs for the revenues they forgo in providing low income consumers a discount on service activation fees. Service activation fees are standard in both the wireline and wireless industries and in the absence of Link Up assistance, consumers will be forced to pay 100 percent of those charges, which very well may discourage consumers from signing up for telephone service. Such a result would frustrate the Commission's performance goal of preserving and advancing the availability of voice service for low income consumers.

There is no support for the contention that Link Up subsidies are only intended to cover the costs of the physical installation of equipment or facilities at the customer's premises. In recommending to the Commission that the Link Up program be adopted, the Joint Board noted that Link Up funds would be used to cover "the administrative costs of opening an account and the costs of turning the switch at the central office." All carriers incur administrative costs to open new accounts, including the expense of having a customer service representative obtain subscriber and service package information, establish a billing account for the customer, and activate the new account in the carrier's operational support systems so that the customer's telephone equipment may properly communicate and interact with the network. For a Lifeline

customer, the carrier will also incur the cost of a customer service representative's time and efforts to verify that the customer is eligible and qualifies for the service. Link Up opponents have failed to demonstrate that ETCs should not be reimbursed for the revenues they forgo in providing these services to Lifeline customers and the Link Up program must be preserved to preserve and advance the availability of voice service.

II. The “One Per Residential Address” Limitation

In the NPRM, the Commission proposed to codify its single line per residential address policy as a rule.² It now asks for additional comment on whether a one-per-household or one-per-family rule would provide an administratively feasible approach to distributing Lifeline/Link Up subsidies.³ Consistent with its prior submissions, COMPTTEL continues to maintain that a single line per qualifying eligible adult rule would be the preferable alternative. Such a rule would be easier to administer and would facilitate the audit process.

Proposed rule 54.408(a)(2) provides that “Lifeline/Link Up support is available only to establish service at the qualifying low-income consumer’s primary residential address” and that such address must be recognized by the U.S. Postal Service.⁴ While this rule may work to qualify a large number of low income consumers, households and families for Lifeline/Link Up assistance, it may also have the unintended consequence of disqualifying the neediest of low income households and families from receiving such assistance – *i.e.*, those that do not have a home of their own or a primary residential address recognized by the U.S. Postal Service.

² *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Notice of Proposed Rulemaking, FCC 11-32 at Appendix A, 47 C.F.R. §54.408 (rel. Mar. 4, 2011) (“NPRM”).

³ Further Inquiry at 4.

⁴ NPRM, Appendix A, 47 C.F.R. §54.408(a)(2).

In a recent *ex parte*, the Department of Veterans Affairs advised the Commission that the one-per-residential address requirement presents a very real barrier to subscribing to Lifeline service for homeless veterans as well as veterans in living in transitional housing, “in which multiple, unrelated Veterans share one common address and have no self-identifying unit number within that address.”⁵ Allowing low income consumers who independently qualify to receive Lifeline/Link Up discounts based on income or through participation in a state or federal assistance program would ensure that the subsidies are available to individuals who do not have a fixed residential address, such as the homeless or those seeking temporary refuge in a shelter, as well as to those residing in group homes or other communal living situations, such as nursing homes or assisted living facilities. Lifeline applicants would be required to produce supporting documentation to demonstrate to the ETC that they qualify for Lifeline/Link Up subsidies and to certify that they are not receiving duplicate support from either the same or another ETC. These safeguards would work to protect against waste, fraud and abuse of the Lifeline/Link Up fund without requiring that low income consumers have a unique fixed residential billing address recognized by the U.S. Postal Service in order to qualify for assistance. Just a few of the benefits of replacing the one-per-residential-address rule with a one-per-qualifying-adult rule were described by the Department of Veteran Affairs as follows:

Lifeline Telephone services will allow the Department of Veteran Affairs and its community partners to expand outreach access and coordinate essential services for Veterans and Veteran families. It will assist in overcoming many of the Veteran unique barriers to preventing and eliminating Veteran homelessness such as receiving appropriate healthcare and surmounting disproportionately high unemployment rate among Veterans in a very competitive, economy driven job market. In addition, such services provide more ready access to other supportive services, as well as preventive and emergency services. In addition, it permits case workers to provide more frequent contact with this most vulnerable population and therefore, eliminate the isolation that

⁵ See August 23, 2011 letter from Peter Dougherty, Department of Veteran Affairs, to Marlene Dortch filed in WC Docket No. 11-42 at page 5.

places them at increased risk for homelessness. Unfortunately, the requirement for one telephone per residential address is a barrier to Veterans in our transitional housing program, in which multiple, unrelated Veterans share one common address and have no self-identifying unit number within that address, i.e., apartment number.⁶

The federal government defines a homeless individual to include an individual who lacks a fixed, regular and adequate night time residence.⁷ The Commission need only compare its own data regarding telephone subscription and Lifeline participation presented in the NPRM to appreciate the advantages of a one-per-qualifying-individual rule over a one-per-residential-address rule. The Commission noted in the NPRM that as of March 2009, 90 percent of low income households *subscribed to telephone service in their homes*, but only 33 percent of eligible low income households participated in the Lifeline program.⁸ This discrepancy is undoubtedly at least partially due to the significant number of low income people who are unable to qualify for Lifeline service because they do not have fixed residential addresses.

At the very least, the Commission should allow low income consumers the option of qualifying for Lifeline under either a one-per-household, one per-residential-address or one-per-qualifying adult rule. The expanded inclusiveness of such a rule would ensure that low income consumers are not denied access to discounted telephone service because they are without a unique fixed residential address recognized by the U.S. Post Office either for the short term or long term.

The Commission asks for comment on how it should define “household” for purposes of the Lifeline program.⁹ COMPTTEL submits that the Commission does not need to reinvent the

⁶ *Id.* at 4-5.

⁷ 42 U.S.C. §11302.

⁸ NPRM at ¶¶25, 26.

⁹ Further Notice at 4.

wheel here. The use of a definition of household that mirrors the definitions used to establish eligibility for the federal benefit programs that qualify consumers for Lifeline would be practical and easy to administer. For example, if a low income consumer/household participates in the Low Income Home Energy Assistance Program, the consumer/household should qualify for Lifeline on that basis, consistent with the terms of the existing and proposed text of Section 54.409 of the Commission's rules.¹⁰

The Commission also asks for comment on whether it should require all ETCs to use the procedures TracFone reports that it uses to comply with the one-per-household limitation in group living situations, including having group living facilities notify TracFone of the number of rooms or beds in the facility and certify that the Lifeline applicant resides at the facility; having applicants provide documentation showing that unrelated persons residing at their address are part of separate households; and having applicants contact the U.S. Postal Service to register the address of a group living facility as containing multiple residential units.¹¹ The Commission also asks for comment on the proposal of MFY Legal Service to use room numbers or bed numbers in group living facilities as unique address identifiers.¹² COMPTTEL submits that it should be sufficient for the manager or administrator of a group living facility to certify to the ETC that a Lifeline applicant resides at the facility and that the facility is a group living facility. The manager or administrator should not have to disclose to the ETC the number of rooms or beds in the facility, nor should Lifeline applicants be required to provide documentation showing that other persons residing at the group facility are unrelated and part of separate households

¹⁰ See 47 C.F.R. §54.409 and NPRM, Appendix A, Section 47 C.F.R. §54.409.

¹¹ Further Notice at 5.

¹² *Id.*

(whatever documentation that may be). As long as the low income applicant otherwise qualifies for Lifeline service, it is irrelevant how many other rooms, beds or unrelated persons occupy the facility.

III. Link Up Reimbursement For Non-Recurring Service Activation Fees Continues To Be Necessary

The Commission has asked for additional comment on proposals to limit or eliminate Link Up support for the non-recurring charges for activating voice service and on the Indiana Utility Regulatory Commission's ("IURC") proposal to eliminate the Link Up subsidy unless new installation of equipment and/or facilities is required at the consumer's residence.

COMPTTEL submits that if the Commission were to limit or eliminate the Link Up subsidy, it would recreate a barrier to obtaining voice service and discourage low income consumers from subscribing.

The Commission adopted the Link Up program at the recommendation of the Joint Board on Universal Service in 1987 to "help bring on to the public switched telephone network low income households without telephone service" and help ensure that no group of Americans are "'locked out' of the information age."¹³ The Joint Board specifically identified high non-recurring charges as a reason that low income consumers did not sign up for telephone service.¹⁴ None of the commenters urging the Commission to limit or eliminate the Link Up subsidy has presented evidence that non-recurring charges do not continue to constitute a barrier to low income subscriptions to voice service or that the subsidy is no longer necessary to maintain or increase subscribership. On the contrary, the IURC, which is advocating that the Commission eliminate the Link Up subsidy for wireless and wireline providers unless installation of new

¹³ *In the Matter of MTS and WATS Market Structure*, 2 FCC Rcd 2953 at ¶35 (1987).

¹⁴ *In the Matter of MTS and WATS Market Structure*, 2 FCC Rcd 2324 at ¶68 (1987).

equipment or facilities is required, candidly admits that “[s]ince retail rates for telecommunications services are deregulated in Indiana, the IURC does not have access to data regarding the typical cost of service installation.”¹⁵ In the absence of such data, the IURC is in no position to argue that Link Up subsidies should be eliminated. It is telling that this argument is made by a state that has one of the lowest rates of participation in the Lifeline/Link Up program in the nation (10 percent or less of the eligible low income consumers in Indiana participate in Lifeline/Link Up).¹⁶

On such a record, the Commission cannot possibly limit or eliminate the Link Up subsidy, especially when so many eligible low income consumers do not yet take advantage of the program. Only 33 percent of eligible low income households currently participate in the Lifeline program.¹⁷ Clearly, barriers to participation remain and those advocating the elimination of the Link Up subsidy have not demonstrated that the non-recurring charges for service initiation do not put voice service out of the reach of low income consumers. To the extent the Commission were to eliminate or reduce Link Up reimbursement for service activation fees, low income consumers would be forced to bear 100 percent of those non-recurring charges and may well be priced out of the market.

Moreover, there is no legal basis for the Link Up opponents’ contention that universal service reimbursement is only intended to reimburse ETCs for the costs associated with physically connecting the customer to the telecommunications network.¹⁸ The purpose of the

¹⁵ See Comments of the Indiana Utility Regulatory Commission Regarding The Lifeline and Link Up NPRM, filed April 21, 2011 in WC Docket No. 11-42, et al., at 5.

¹⁶ NPRM at Chart 2.

¹⁷ NPRM at ¶25.

¹⁸ Further Inquiry at 6-7, nn. 40, 41.

Link Up subsidy is to reimburse ETCs for the *revenues* they forgo in providing discounts to eligible low income consumers on service activation charges up to a maximum of 50 percent of their customary charges or \$30.00, whichever is less.¹⁹ When the Commission adopted the Joint Board’s recommendation that an additional lifeline assistance program be created to offset the non-recurring charges incurred in connecting a subscriber to the network, it did not disturb or modify the Joint Board’s determination that Link Up funds would be used to cover “the administrative costs of opening an account and the costs of turning the switch at the central office.”²⁰ In addition, the Commission has recognized for years that wireless carriers are entitled to receive Link Up support for wireless activation fees.²¹

Today service activation or connection charges continue to be standard in the industry for both wireline²² and wireless²³ carriers. Such charges cover tasks and functions other than

¹⁹ 47 C.F.R. §§54.411, 54.413.

²⁰ *In the Matter of MTS and WATS Market Structure*, 2 FCC Rcd 2324 at ¶68 and n. 115; *In the Matter of MTS and WATS Market Structure*, 2 FCC Rcd 2953 at ¶35.

²¹ *See, In the Matter of Federal State Joint Board on Universal Service*, CC Docket No. 96-45, Twenty-Fifth Order on Reconsideration, Report and Order, Order and Further Notice of Proposed Rulemaking, FCC 03-115 at ¶18 (rel. May 21, 2003) (wireless carriers remain eligible to receive Link Up support for the “customary charge for commencing telecommunications service” as defined in Section 54.411 of the Commission’s rules, including wireless activation fees).

²² *See e.g.*, FCC Industry Analysis and Technology Division, Wireline Competition Bureau, Reference Book of Rates, Prices, Indices, and Household Expenditures for Telephone Service (2008) at page I-2, and Tables 1.1, 1.2 and 1.3 (showing nationwide average charge to have a single residential line connected; nationwide average additional charge for new installations; and specific connection charges by city and state for AT&T, Verizon and Qwest). The data compiled in the Reference Book is collected through an annual survey of incumbent LEC rates. *Id.* at I-2. Unfortunately, the most recent Reference Book dates back to 2008.

²³ For example, AT&T Mobility’s wireless service activation charge is \$36 per line, see <http://www.att.com/esupport/article.jsp?sid=52268&cv=820&title=How+much+is+the+Activation+Fee+for+a+new+AT%26T+wireless+account%3F#fbid=gt0AkXzikhJ> (checked Aug. 18,

premises visits and the physical installation of new equipment.²⁴ At the very minimum, the administrative costs of opening an account include the expense of having a customer service representative obtain subscriber and service package information, establish a billing account for the customer, and activate the new account in the carrier's operational support systems so that the customer's telephone equipment may properly communicate and interact with the network. For a Lifeline customer, the carrier will also incur the cost of a customer service representative's time and efforts to verify that the customer is eligible and qualifies for the service, a process that can be time-consuming and requires an above average degree of sensitivity and care.

The Indiana Utility Regulatory Commission argues that because TracFone, Virgin Mobile and i-wireless "do not charge activation fees," the Commission should eliminate Link Up support for all wireless carriers.²⁵ The Commission should reject this argument out of hand. What the Indiana Commission fails to acknowledge is that TracFone, Virgin Mobile and i-wireless are not eligible for Link Up support by virtue of the terms on which this Commission granted them forbearance from the facilities requirement of Section 214(e)(1)(A) of the Act, either because they did not ask to participate in the Link Up program (TracFone and Virgin Mobile) or because they failed to meet their burden of proof (i-wireless).²⁶ It is unclear from the

2011); Verizon Wireless's service activation charge is \$25 per line for prepaid wireless, <http://www.verizonwireless.com/b2c/store/controller?item=prepayItem&action=continueToCart> (checked August 19, 2011) and \$35 per line for month to month and contract plans see <http://www.verizonwireless.com/b2c/store/controller?item=familyShare&action=viewFSPlanList&typeId=2&catId=323&sel=fam> (checked August 19, 2011);

²⁴ See n. 20, *supra*, where the Commission acknowledges that carriers generally assess an *additional* non-recurring charge where the installation of new equipment is necessary.

²⁵ Further Inquiry at 6-7.

²⁶ See, *In the Matter of Petition of TracFone Wireless, Inc. For Forbearance From 47 U.S.C. §214(e)(1)(A) and 47 C.F.R. §54.201(i)*, CC Docket No. 96-45, 20 FCC Rcd 15095 at ¶1 (2005); *In the Matter of Virgin Mobile USA, L.P. Petition For Forbearance From 47 U.S.C.*

Indiana Commission's comments whether it is advocating that wireless ETCs simply forgo service activation charges for Lifeline customers or have the customers pay 100 percent of those charges if Link Up support is eliminated. Neither alternative is acceptable or consistent with the purpose of the Lifeline/Link Up program. The Lifeline/Link Up universal service program is designed to provide financial assistance for low income consumers to connect to the telephone network *and* to ensure that carriers serving the low income community at discounted rates recover their lost revenues. Nothing in the Act authorizes the Commission to preclude ETCs from charging for their services. Therefore, eliminating the Link Up subsidy would financially penalize low income consumers by forcing them to absorb 100 percent of the non-recurring charges for establishing service.

The Commission should also reject the Indiana Commission's suggestion that Link Up reimbursement be limited to wireline service initiations that involve the physical installation of facilities at the consumer's residence. As noted above, the Link Up program was created to cover, among other things, the *administrative* costs of setting up a customer account and connecting the customer to the network. Both wireline and wireless ETCs incur such costs regardless of whether it is also necessary to physically install facilities at the customer's premises.²⁷ ETCs should continue to be reimbursed for the revenues they forgo in offering low

§214(e)(1)(A), CC Docket No. 96-45, 24 FCC Rcd 3381 at ¶2 and nn. 2 and 102 (2009); *In the Matter of i-wireless Petition For Forbearance From 47 U.S.C. §214(e)(1)(A)*, CC Docket No. 96-45, Order, FCC 10-117 at ¶21 (rel. June 25, 2010).

²⁷ See e.g., FCC Industry Analysis and Technology Division, Wireline Competition Bureau, Reference Book of Rates, Prices, Indices, and Household Expenditures for Telephone Service (2008) at page I-2, and Tables 1.1, 1.2 and 1.3 (showing nationwide average charge to have a single residential line connected and the *additional charge* for new installations).

income consumers a 50 percent discount on service activation charges.²⁸ The fact that only one-third of eligible low income consumers take advantage of the Lifeline program²⁹ demonstrates that the Commission needs to be more vigilant in advancing the availability of voice service for low income consumers, rather than creating financial barriers to participation in the program.

The Commission also must be sensitive to and consider the impact that eliminating federal Link Up support would have on state universal service funds. For example, the state of Wisconsin requires all local exchange carriers to waive all non-recurring charges when initiating Lifeline service. ETCs that are able to recover 50 percent of the non-recurring charges from the federal Link Up fund may recover the other 50 percent from the state universal service fund. Local exchange carriers that are not ETCs may recover 100 percent of the waived non-recurring charges from the state fund.³⁰ The state of Ohio also requires ETCs to waive all non-recurring charges for establishing Lifeline service.³¹ If the Commission were to eliminate federal reimbursement for Link Up discounts, low income consumers in these states would face an additional financial burden to subscribing to telephone service in the event that the state universal service fund did not reimburse ETCs for the difference.

²⁸ See, *In the Matter of Federal State Joint Board on Universal Service*, CC Docket No. 96-45, Twenty-Fifth Order on Reconsideration, Report and Order, Order and Further Notice of Proposed Rulemaking, FCC 03-115 at ¶18 (rel. May 21, 2003) (wireless carriers remain eligible to receive Link Up support for the “customary charge for commencing telecommunications service” as defined in Section 54.411 of the Commission’s rules, including wireless activation fees).

²⁹ NPRM at ¶25.

³⁰ See, Wisconsin Administrative Code, Chapter PSC 160.061.

³¹ See, Ohio Administrative Code 4901:1-6-19(B)(2) and (P).

Finally, elimination of the Link Up reimbursement cannot be reconciled with the performance goals the Commission has proposed in this rulemaking. The Commission’s first proposed performance goal is “to preserve and advance the availability of voice service for low income consumers.”³² As the Commission recognized, “Lifeline and Link Up are a critical part of the Commission’s universal service mission, ensuring that we implement Congress’s directive to ensure the availability of basic communications services to all Americans, including low-income consumers.”³³ It is difficult to imagine how removing a “critical” funding source that subsidizes the non-recurring charges of establishing voice service could possibly promote the Commission’s performance goal of preserving and advancing the availability of voice service for low income consumers.

Ironically, at the same time the Commission is asking for comment on eliminating Link Up support for voice service, it is proposing to have the USF fund “Linkup-like discounts” to reduce or eliminate installation fees, activation fees, and similar upfront charges associated with the initiation of broadband service³⁴ as well as discounts on the customer equipment and hardware necessary to access the Internet, including air cards, modems and computers.³⁵ How the Commission would legally or logically justify such discriminatory treatment is not readily apparent. Where are the equities in denying the Link Up discount to a low income consumer who opts for voice service alone because that is all he/she could afford, but providing a low income consumer who opts for a more expensive broadband bundle a Link Up discount to reduce or eliminate the installation and service activation fees as well as subsidize the cost of hardware and

³² NPRM at ¶34.

³³ *Id.* at ¶1.

³⁴ *Id.* at ¶282.

³⁵ *Id.* at ¶ 283.

equipment necessary to access the Internet? Raising the cost of voice service for Lifeline customers will do anything but promote the availability of basic communications services for low income consumers.

Conclusion

For the foregoing reasons and those set forth in its initial Comments and Reply Comments, COMPTEL respectfully requests that the Commission adopt a single line per qualifying adult rule for purposes of determining eligibility for Lifeline/Link Up service and that it maintain Link Up reimbursement for wireline and wireless service activation fees.

Respectfully submitted,

/s/

August 26, 2011

Mary C. Albert
COMPTEL
900 17th Street N.W., Suite 400
Washington, D.C. 20006
(202) 296-6650