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Before the
Federal Communications Commission
Washington, D.C. 20554

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

COMMENTS OF GENERAL COMMUNICATION, INC. IN RESPONSE TO THE PUBLIC NOTICE OF AUGUST 5, 2011 FURTHER INQUIRING INTO FOUR ISSUES

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I. INTRODUCTION AND SUMMARY

General Communication, Inc. ("GCI") hereby responds to the request by the Federal Communication Commission for further comment on certain aspects of the Universal Service Low Income Program.[1] The Commission's proposal for pilot programs to extend Lifeline/Link Up support to broadband is laudable, but it should employ broad, flexible, and simple regulations in order to allow the emergence of market-based and consumer-driven solutions. GCI agrees that any pilot should not require, nor should it inadvertently penalize or deter bundling. However, any provider that will be receiving compensation from the universal service fund must be an eligible telecommunications carrier. At this pilot phase, GCI urges the Commission not to expand support to broadband equipment in addition to services, because doing so introduces undue administrative complexity in the pilot program and risks straining the USF further. GCI also responds to the Commission's request for comment on structural and evaluative considerations, such as the quantitative metrics by which the broadband pilots should be measured and testing structures.

GCI also addresses the Commission's request for focused comment on the introduction and potential structure of a one-per-household limitation. As GCI explained in its earlier comments, the proposed regulation is contrary to law, unfeasible (particularly on Tribal lands), and potentially dangerous public policy that seeks to reverse, for low income consumers only, consumers' shift to personal communications. GCI urges the Commission to adopt a one-per-qualifying-adult limitation instead and provides the Commission with recently released US census data which quantifies the potential impact of the threatened address-based limitation

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1 *Further Inquiry Into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, Public Notice, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (rel. Aug. 5, 2011) ("Public Notice").

which could effectively deny Lifeline support to a majority of substantively eligible people regardless of their need. GCI also offers specific alternative comment on a one-per-nuclear-family rule and comments on special considerations that affect Tribal lands.

Finally, GCI responds to the Commission's request for comments on a possible annual census requirement for Lifeline, pointing out that it would deprive eligible consumers of support because of the proven ineffectiveness of such surveys.

II. THE COMMISSSION SHOULD LAUNCH LIFELINE-SUPPORTED BROADBAND PILOT PROGRAMS DESIGNED TO ENCOURAGE ACCESS FOR ELIGIBLE CONSUMERS IN ALL COMMUNITIES

A. Regulatory Criteria Should be Broad and Flexible, Encouraging Market Solutions to Develop During the Pilot Phase.

Broadband pilot projects will spur industry to develop effective supported service models only if they are guided by flexible criteria and open to market-generated solutions. The Commission should avoid overly complex procedural requirements which risk failure for administrative reasons unrelated to substantive universal service performance goals. If the experience of broadband pilot projects suggests that more regulation is needed, the FCC can develop those rules after industry has developed market-generated solutions that can be evaluated for their substantive merit.

Three principles of flexibility should guide the Commission's regulatory approach: 1) speed standards cannot be one-size-fits-all but must reflect existing technologies, end-user affordability, consumer choice, and geographic/local market differences; 2) to avoid deterring carriers' participation, the regulations should recognize and account for the increased credit risks caused by providing low-income consumers more expensive service than the voice services currently supported; and 3) a simple economic structure, such as a flat-fee subsidy (GCI recommends $10-15 per month) which the consumer can apply to the service of his choice, maximizes consumer choice and market flexibility. Each of these is addressed in more detail below.

1. Speed standards

The Commission will necessarily need to define the service eligible for support in a Lifeline broadband pilot program, but the concept of "broadband" is a continually evolving one, and its meaning varies not only across time but across geographic areas, too. The Commission's International Bureau has observed that;

> broadband is a heterogeneous product. It can be offered over telephone networks, cable networks, fiber networks, mobile or fixed wireless networks, and via satellite. These platforms offer broadband services that differ in important characteristics, such as maximum speed, contention, latency, and mobility. In addition, a single broadband provider may offer broadband service packages that may vary in terms of maximum speed, data limits, or bundled services. These differing service characteristics affect how much consumers are willing to pay for a particular broadband service as well as how many consumers will choose to purchase the service.[2]

Given the variety of broadband service offerings and their continual evolution, the pilot program will be fundamentally self-defeating if it adopts an inflexible or overly narrow definition of "broadband" services that excludes support from markets (particularly in remote regions) where geographic and technological limitations dictate which offerings are available.

There is a direct tradeoff between broadband speeds and the price of service, particularly in areas that do not have access to fiber middle mile facilities, as is the case in much of Alaska outside of the limited highway system. Because of the high cost, and frequently limited capacity, of middle mile facilities, the price of high bandwidth speeds (such as 4 Mbps down/1 Mbps up) in non-fiber served areas would be high – out of reach of most consumers, let alone low-income

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2 *Int'l Comparison Requirements Pursuant to the Broadband Data Improvement Act*, Second Report, IB Docket No. 10-171, 26 FCC Rcd. 7378, 7393-94 (2011) (footnotes omitted).

consumers -- and thus not affordable.[3] To make the service more affordable for low-income consumers, providers must offer lower speeds. The Commission must ensure that the pilot program can effectively assist consumers in accessing whatever higher-speed offerings the market provides to their localities today, taking into account the capabilities of the existing network infrastructure. Because many remote areas simply do not have the same broadband capabilities, and thus offer lower speeds than more developed areas, the Commission should not set a minimum speed requirement that cannot be delivered by the locally available middle-mile technology.

Even in fiber-served areas, it will serve affordability goals to offer low-income consumers a broad range of speeds and associated prices, so that the consumer can choose the service package that best fits his or her needs and budget. It is not necessary to structure Lifeline to incent deployment of higher speeds: the much larger market for non-Lifeline customers will do that. Competition in the non-Lifeline market will create pressure to roll out faster technology where it is economically and technically feasible to do so, and flexible speed standards will allow that to take place by raising affordability generally and neutrally. As occurs in the unsupported market, consumers will then maximize their own welfare by choosing the fastest technology they can afford. Requiring that all Lifeline broadband pilots provide service at a minimum 4 Mbps/1 Mbps would deny consumers the choice of a lower speed, but affordable, service while still receiving a Lifeline discount.

Any regulatory definition of "broadband" for purposes of Lifeline support should therefore reflect existing technological and end-user affordability standards as reflected in the

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[3] For instance, the highest speed residential service GCI offers in Nome, Alaska, a regional hub, is 2 Mbps download/512 kbps upload, for $150 per month. Such service may prove out of reach for low-income consumers even with support.

pilot market and should permit consumer choice among competing technologies. In markets where fiber backhaul is available, if the Commission sets minimum speeds at all, broadband pilot subsidies should be available for purchase of service allowing download speeds of at least 1.5 Mbps and upload speeds of 256 Mbps. In markets relying on terrestrial microwave middle mile facilities, the analogous minimum eligible speed limits should be no higher than 256 kbps download and 64 kbps upload. And, in markets relying on satellite transport across the middle mile, the analogous speed requirements should be no higher than 128 kbps download and 64 kbps upload. These speeds reflect affordable data plans that could be feasible in Alaska.

Such varying speed standards respond flexibly to on-the-ground service limitations and ensure that a higher threshold applies where faster speeds are available, without foreclosing broadband support in rural communities. Adopting unrealistic speed standards, by contrast, would distort the market by creating a governmental preference for some technologies and would simultaneously block broadband support entirely in some areas – like much of rural Alaska. Speed standards that might be appropriate in more developed areas like Wasilla are technically and economically unfeasible in remote areas. Imposing them in remote communities like Galena would have the perverse effect of deterring rather than encouraging broadband access.

2. *Credit Policies*

Broadband services are generally more expensive than voice services, and they expose carriers to commensurately greater credit risks – especially since the Lifeline subsidies are specifically targeted at the poor. The broadband pilot regulations therefore should not bar carriers from following their standard policies on credit-checks before service is initiated, and on suspension and termination of service for delinquencies.

Even with USF support, broadband services will be more expensive than voice services. The OECD in 2010 reported median US broadband charges at $38.99 per month, with prices ranging from $24.95 to $144.95.[4] These rates are generally above the costs of basic voice service of the type Lifeline and Link-Up currently support, and carriers will carry credit exposure for the balance of the bill after Universal Service support has been applied. Nonpayment risk is particularly high for low-income consumers who, axiomatically, have less resources available to pay bills than others.

The Commission should not, therefore, impose any regulatory barriers to credit checks or otherwise require carriers to incur unreasonable consumer-credit risks. Similarly, the Commission should not interfere with the application of carriers' normal policies for suspension and termination of delinquent accounts.

3. Fee Structures

Any regulations the Commission enacts concerning the price structure of Lifeline-supported broadband service should allow for a range of flexible and alternative pricing arrangements. Carriers should be allowed, and even encouraged, to consider a variety of pricing methods so that the Commission and the market can identify the price structures that most effectively encourage adoption. The Commission's regulations in this area should also maximize consumer choice.

GCI believes that, in Alaska, a flat-fee support amount, *e.g.*, $10-15 per month, which a qualifying consumer can apply to the broadband service offering of her choice, will accomplish

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[4] *See* "Price ranges, Monthly subscriptions, with/without line charge (Sept.2010)," available at http://www.oecd.org/document/54/0,3746,en_2649_34225_38690102_1_1_1_1,00.html (last visited Aug. 23, 2011).

these objectives.[5] Such a structure would allow carriers to develop and market any pricing structures they believe might find favor and allow the market decisions of supported consumers to identify the structures that best suit their needs. A flat-fee support amount will also allow different markets to adapt to differing conditions. In urban areas such as Fairbanks, providers will likely offer different service offerings and price structures than ones in remote areas. A simple, flat-fee discount that the consumer can use as he chooses, is flexible enough to allow low-income consumers in any kind of market to take advantage of the locally available service offering that best suits their needs.

B. The Commission Should Not Prohibit Bundling.

Some commenters have urged the Commission to allow qualifying consumers to purchase supported broadband service on a stand-alone basis rather than as part of a bundled service.[6] While GCI takes no position on whether bundling should be mandatory, it certainly should not be forbidden. The market has shown that many customers clearly prefer bundling. As the Commission has recognized, "the vast majority of consumers purchase broadband bundled with voice, video or both."[7] This reflects the fact that bundling lowers the total price consumers pay for the package of services they select. That, of course, directly advances the Commission's goal of making supported services more affordable.[8]

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5 In part, this reflects the availability of Tier 1- 4 support at current levels for voice services when a customer chooses to subscribe to both Lifeline voice and Lifeline broadband services.

6 Public Notice at 2.

7 *Connecting Am.: The Nat'l Broadband Plan* at 38 (Mar. 16, 2010) (available at http:// download.broadband.gov/plan/national-broadband-plan.pdf).

8 If the Commission adopts regulations that allow entities other than ETCs to provide broadband services, it should take care not to do so in such a way that disadvantages ETCs that wish to expand their service offerings to include bundled broadband. The better approach, in order to assure accountability, would be to require pilot project providers to be ETCs.

C. The Commission Should Adhere to its Low-Income Performance Goals When Evaluating the Broadband Pilot.

The Commission also sought comment on how the pilot program should be evaluated. GCI here suggests particular metrics and responds to specific evaluative suggestions on which the Commission sought comment. The FCC should assess the success of its broadband pilots by the following quantitative metrics:

- total number of new adopters supported by the program;
- which data plans the consumers choose;
- overall broadband penetration rates in pilot areas, before and after the pilot; and
- broadband penetration rates for low-income subscribers versus other subscribers in pilot areas.

This information should be readily obtainable, and it bears directly on the performance goals the Commission has proposed for Lifeline and Link Up generally: to (1) preserve and advance the availability of supported service for low-income Americans;[9] (2) ensure that low-income consumers can access supported services at just, reasonable, and affordable rates;[10] and (3) ensure that Lifeline support is sufficient but not excessive to achieve the Commission's goals.[11]

The Commission should not attempt to structure the pilot programs to have "each participant test a single variable for comparison against pilots operated by other participants."[12] Predesigning different pilots to test single variables is not feasible, forecloses market-generated

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9 *Cf. Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up,* Notice of Proposed Rulemaking, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, 26 FCC Rcd 2770, 2783 ¶ 34 (2011) (Lifeline NPRM).

10 *Cf.* Lifeline NPRM ¶ 36.

11 *Cf.* Lifeline NPRM ¶ 37.

12 Public Notice at 3.

solutions, will sow confusion, and will produce apples-to-oranges results. Rather, the Commission should set broad, flexible criteria, categorize the structures that participants themselves develop, and then evaluate the results.

Nor should the Commission attempt to test variations in equipment discounts or equipment arrangements (*e.g.*, lease v. buy) at this time.[13] Rather, the Commission should proceed in stages, first piloting and testing service discounts and then, once it settles on a permanent regulatory structure for broadband service support, considering equipment discounts. Attempting to evaluate both simultaneously creates two evaluation risks. First, the simultaneous introduction of both types of discount will create ambiguity as to the cause of resulting changes in affordability and penetration rates. Second, expanding Lifeline subsidies to equipment presents greater implementation risks and thus risks less reliable results.

D. At this Introductory Stage, Broadband Support Should be Limited to Broadband Service.

The Commission should not at this time authorize the use of USF funds to discount the cost of hardware (*e.g.,* computers, tablets, routers, etc.) used in connection with broadband service.[14] The Commission has identified no statutory authority for the support of equipment rather than services. Diverting USF funds to end-user equipment also exacerbates the tension that already exists between the increasing burden on the USF and the need to support broadband service in order to allow low-income Americans to close the digital divide. Minimal equipment discounts like those proposed by some commenters may be more affordable,[15] but the same low-dollar amounts that make them affordable also make them less effective. And, while supported

13 *Id.*

14 Public Notice at 2.

15 *See* Comments of United States Telecom Association at 25, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed Apr. 21, 2011).

services can simply be suspended or terminated for nonpayment, *equipment* purchased with the aid of supported funds would have to be physically retrieved, adding yet more administrative complexity to what is already an administratively challenging program for carriers to administer.

III. THE COMMISSION SHOULD ADOPT A ONE-PER-QUALIFYING ADULT LIMITATION OR, IN THE ALTERNATIVE, SHOULD ADOPT A ONE-PER-NUCLEAR-FAMILY LIMITATION THAT EXEMPTS TRIBAL LANDS

In the Lifeline/Link Up NPRM, the Commission proposed to adopt a one-per-residential-address requirement, which the Commission stated would be consistent with a supposed, uncodified single-line-per-residence requirement.[16] The Commission now seeks "focused comment on whether a one-per-household or one-per-family rule would provide an administratively feasible approach to providing Lifeline/Link Up support, and how the Commission could implement such a rule."[17]

As GCI has explained in previous filings, the Commission should adopt a one-per-qualifying-adult limitation, rather than a one-per-residence or one-per-household rule. A one-per-qualifying-adult rule would promote the statutory objectives of Lifeline, would improve public safety, and would be simple to administer. If the Commission nevertheless declines to adopt a one-per-qualifying-adult limitation, it should adopt a one-per-nuclear-family limitation. Tribal lands should, in any case, be exempt from such a rule.

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16 Lifeline NPRM ¶¶ 106-107; *see also* Public Notice at 3-4. The Commission has never adopted a rule imposing a one-per-residential-address limitation on Low Income Program services, and there in fact is no requirement – nor could there be one without following the procedures required by the Administrative Procedure Act. *See* Comments of General Communication, Inc. at 35, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed Apr. 21, 2011) ("GCI Comments").

17 Public Notice at 4.

A. The Commission Should Adopt a One-Per-Qualifying-Adult Limitation

1. A One-Per-Qualifying-Adult Rule Would Be Consistent with the Statute, Would Promote Public Safety, and Would Be Administratively Simple

A one-per-qualifying-adult rule would be most consistent with the statutory mandate that "low-income consumers ... should have access to telecommunications and information services ... that are reasonably comparable to those services provided in urban areas."[18] The statute refers to "consumers," not "households" or "residences." Nothing in the text of the statute indicates that a low-income consumer should be denied Lifeline service simply because another adult at the same residence or in the same household already has Lifeline service. A one-per-residence or one-per-household limitation would therefore be at odds with the statute because otherwise-eligible low-income consumers would be barred from obtaining Lifeline service if another individual at the same address or in the same household already subscribed to Lifeline.

A one-per-residence or one-per-household limitation is increasingly unsuitable today, when numerous households have only wireless service. In Alaska, for example, as of June 2010, nearly 20 percent of adults lived in wireless-only households.[19] Low-income households also are more likely to have only wireless telephones.[20] Nationally, adults living below federal poverty guidelines levels (39.3 percent) or between 100% and 200% of federal poverty guidelines (32.9 percent) are far more likely than higher income adults (21.7 percent) to live in wireless only

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[18] 47 U.S.C. § 254(b)(3).

[19] *See* Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics, *Wireless Substitution: State-level Estimates From the National Health Interview Survey* (2011), *available at* http://www.cdc.gov/nchs/data/nhsr/nhsr039.pdf.

[20] Stephen J. Blumberg, Ph.D., and Julian V. Luke, *Coverage Bias in Traditional Telephone Surveys of Low-Income and Young Adults*, Public Opinion Quarterly 71(5): 734-49 (2007) *available at* poq.oxfordjournals.org/content/71/5/734.full.