

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

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

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

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September 2, 2011

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I. INTRODUCTION AND SUMMARY.

The initial comments provided in response to the Commission's Notice of Further Inquiry¹ regarding Lifeline offer the Commission cogent analysis and particularly relevant information supporting the adoption of a one-per-adult rather than a one-per-address or one-per-household rule for Lifeline. Only a one-per-adult rule will adequately address the policy goals, particularly public safety, of the Lifeline program in the mobile age, and avoid creating arbitrary eligibility barriers and impossible administrative hurdles for Americans living in a broad array of nontraditional housing arrangements. General Communication, Inc. ("GCI") summarizes and expands upon the analysis here.

The new comments also nevertheless offer the Commission particular analysis of how a one-per-household rule might be constructed and applied. Many filers have suggested borrowing extant federal welfare-program definitions of "household." GCI here analyzes the issues raised by the potential extension of such a definition to the Lifeline program and compares it to the simpler alternative of defining "household" in terms of "nuclear family." GCI also joins other commenters who serve Tribal lands in discussing the particular issues raised by such a definition in that context and urges the Commission to tailor its proposed regulation appropriately for Tribal lands.

The comments also respond to the Commission's questions concerning sampling methodology regarding verification of consumer eligibility. Serving Alaska, where conditions are vastly different than almost all of the rest of America in basic, physical ways, GCI is particularly aware of the difficulties that a one-size-fits-all verification process would impose

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) ("Further Inquiry").

and explains why verification processes that might work perfectly well in Delaware or Connecticut are impossible in Alaska. GCI summarizes and responds to commenters' input on customer self-certification and other verification modifications considered in light of the prospects of a national Lifeline database.

Finally, GCI briefly summarizes the near-consensus emerging among the commenters regarding the proposed broadband pilot, which enjoys broad support.

II. THE COMMENTS DEMONSTRATE A CONSENSUS THAT THE COMMISSION SHOULD ADOPT A FLEXIBLE ELIGIBILITY RULE THAT ADVANCES PUBLIC SAFETY AND REFLECTS DIVERSE LIVING ARRANGEMENTS.

A. Commenters Support Adoption of a One-Per-Qualifying Adult Rule.

As GCI has argued in its comments in response to the Lifeline NPRM and its comments in response to the Further Inquiry,² the Commission should adopt a one-per-qualifying-adult rule for Lifeline, rather than a one-per-residence or one-per-household rule. In the wireless era, any rule more restrictive than one-per-qualifying-adult will necessarily exclude many otherwise-qualified adults from access to a telephone. As COMPTTEL observes, a one-per-residence rule might “have the unintended consequence of disqualifying the neediest of low income households and families from receiving [Lifeline] 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.”³ And as NASUCA and the New Jersey Division of Rate Counsel point out, a one-per-household rule, while less restrictive than a one-per-residence rule, “may still limit participation by the homeless or those

² See GCI Comments at 40-44 (filed Apr. 21, 2011); GCI Initial Reply Comments at 5-11 (filed May 10, 2011); GCI Comments in Response to Further Inquiry at 11-19 (filed Aug. 26, 2011).

³ COMPTTEL Comments at 3 (filed Aug. 26, 2011).

persons living in group living situations (*i.e.* nursing homes or shelters)”⁴ A one-per-qualifying-adult rule, by contrast, 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.”⁵

Many commenters agree that a one-per-qualifying adult rule is more sensible and would be better public policy than a one-per-residence or one-per-household rule. For example, Budget PrePay, GreatCall, and PR Wireless emphasize that “the adoption of a ‘one-per-household’ rule makes no sense in an age where wireless telephone service has become essential, not a mere convenience.”⁶ Similarly, Atlantic Tele-Network, Allied Wireless Communications, Commnet of Nevada, and Choice Communications urge the Commission to “get[] rid of the archaic ‘one-per-household’ restriction and adopt[] a more realistic and applicable ‘one-per-adult’ rule.”⁷

Sprint Nextel observes,

“In the era predating the widespread offering of Lifeline by wireless carriers, tying the discount to the physical residence where landline service was delivered, much like electricity or gas, was a sensible approach. To reflect the shift to mobile communications, the Commission should allow provision of a Lifeline discount to any eligible adult who provides documented proof of eligibility rather than associating the Lifeline discount with a residence.”⁸

AT&T points out the privacy implications of a one-per-household rule, arguing that “[r]equiring Lifeline providers to ascertain whether a consumer is part of the same household as another

⁴ NASUCA and New Jersey Division of Rate Counsel Comments at 8 (filed Aug. 26, 2011).

⁵ COMPTTEL Comments at 4.

⁶ Budget PrePay, *et al.* Comments at 3 (filed Aug. 26, 2011).

⁷ Atlantic Tele-Network, Inc., *et al.* Comments at 9 (filed Aug. 26, 2011).

⁸ Sprint Nextel Comments at 6 (filed Aug. 26, 2011).

consumer who already receives Lifeline-supported service inappropriately would intrude on these consumers' privacy and would be unnecessarily burdensome.”⁹ Thus, there is widespread agreement that the Commission should adopt a one-per-qualifying-adult rule.

The Commission should clearly acknowledge the policy implications of a one-per-household rule. As the Michigan Public Service Commission points out, “the purpose of the Lifeline discount should be determined.”¹⁰ However, the Michigan PSC erroneously surmises, “[i]f the Lifeline discount is intended to ensure that there is one telephone in every home for critical calls, then Lifeline service should be limited to one per household, regardless of who or how many persons live in the building.”¹¹ That logic misses the core point that a Lifeline mobile phone is mobile, *i.e.*, there is no basis for assuming that all residents of that household will have access to that phone at all times. In fact, for mobile wireless service, the only way to ensure that “there is one telephone in every home for critical calls” at whatever time those may need to be made is to permit each eligible adult to obtain a phone. GCI has pointed out that American households are moving away from landlines to wireless-only phones, and that the trend is particularly acute among low-income households.¹² Thus, both prongs of the Michigan PSC’s syllogism point to the same conclusion: whether the policy goal is to ensure that all residents of a household have access to a phone, or that all independent adults have access to a phone, “the Lifeline service should be limited to one per independent adult.”¹³

⁹ AT&T Comments at 3 (filed Aug. 26, 2011).

¹⁰ Michigan Public Service Commission Comments at 3 (filed Aug. 26, 2011).

¹¹ *Id.*

¹² GCI Initial Reply Comments at 1-3.

¹³ Michigan Public Service Commission Comments at 3.

Nowhere are the public policy benefits of a one-per-qualifying adult rule more apparent than with respect to public safety. Adopting a one-per-household rule rather than a one-per-qualifying adult rule would indicate that the Commission has concluded that the incremental universal service savings (*i.e.*, the incremental decline in consumer welfare from the incremental difference in the federal universal service assessment) generated under a one-per-household rule justify denying some otherwise-qualifying low-income consumers the ability to dial 911 in an emergency—which would occur whenever the Lifeline-supported householder puts his phone in his pocket and walks out the door. The Commission can, of course, make this choice, but it should be upfront about the public policy choice it is making.

Before making such a choice, however, the Commission should consider that its own reports show that *70 percent* of 911 calls now come from wireless phones.¹⁴ A Pew Research Center study also found that *40 percent* of wireless phone users have found their wireless phones to be helpful in an emergency.¹⁵ A policy decision to effectively deny some otherwise-qualifying low-income consumers the ability to dial 911 would be unprecedented: the Commission recently reaffirmed that “[o]ne of the most important opportunities afforded by mobile telephony is the potential for the American public to have access to emergency services personnel during times of crisis, wherever they may be.”¹⁶ The one-per-household rule would

¹⁴ See FCC Consumer Facts: Wireless 911 services, *available at* <http://www2.fcc.gov/cgb/consumerfacts/wireless911srv.pdf>.

¹⁵ Aaron Smith, *Americans and their Cell Phones*, Pew Internet (Aug. 15, 2011), *available at* <http://pewinternet.org/Reports/2011/Cell-Phones.aspx>.

¹⁶ *Wireless E911 Location Accuracy Requirements*, Second Report and Order, PS Docket No. 07-114, 25 FCC Rcd 18,909, 18,909 ¶ 1 (2010); *see also* Separate Statement of Chairman Julius Genachowski, *Proposed Extension of Part 4 of the Commission’s Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Notice of Proposed Rulemaking, PS Docket No. 11-82, 26 FCC Rcd 7166, 7223 (2011) (“When disaster strikes, the public must be able to make emergency calls to

acutely impact low income consumers who depend on Lifeline service, demoting their ability to make emergency calls from a “top priority” to second place.

Moreover, the savings underlying such a policy are entirely speculative, but the costs that a one-per-household rule would impose on ETCs are certain and substantial. A one-per-household limitation imposes a huge administrative burden on ETCs that would require them to perform investigative functions on customers that normally are reserved for a public assistance agency, not a telephone company. As AT&T observes, a one-per-household rule “would require Lifeline providers to comb through a Lifeline applicant’s tax form (or other documentation) in order to identify the applicant’s dependents (i.e., the applicant’s ‘household’ members), and then investigate whether those individuals are existing Lifeline subscribers Performing such a painstaking investigation inevitably would increase significantly a Lifeline provider’s costs.”¹⁷ In addition, a one-per-household rule would require numerous exceptions for atypical living situations, such as group homes and nursing homes, which would require ETCs to bear the burden of applying the exceptions and monitoring subscribers to determine whether their living situations have changed.

summon help, particularly those facing life-threatening situations.”); Separate Statement of Commissioner Michael Copps, *Framework for Next Generation 911 Deployment*, Notice of Inquiry, PS Docket No. 10-55, 25 FCC Rcd 17,869, 17,901 (2010) (“[W]e can all agree that the safety of the American public must always be our top priority.”); Separate Statement of Robert M. McDowell, *Proposed Extension of Part 4 of the Commission’s Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Notice of Proposed Rulemaking, PS Docket No. 11-82, 26 FCC Rcd 7166, 7226 (2011) (“My colleagues and I agree on the vital importance placed on voice calls to 9-1-1. All Americans rightly expect their emergency calls to go through, even though most may not understand the technologies involved, how the systems operate or their regulatory treatment.”); Mignon L. Clyburn, Comm’r, FCC, Welcoming Remarks at NENA’s “9-1-1 Comes to Washington Conference (March 29, 2011) (“One of the top priorities for any government -- federal, State, or local -- should be to ensure the safety of our citizens.”), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0329/DOC-305439A1.pdf.

¹⁷ AT&T Comments at 5-6.

B. If the FCC Declines to Adopt a One-Per-Adult Rule Nationwide, It Should Still Apply It to Tribal Lands.

If the Commission declines to adopt a one-per-qualifying-adult rule nationwide, it should nevertheless apply that rule on Tribal lands. As GCI and others have explained at length, Tribal lands are characterized by remote spaces, poor economic conditions, and atypical living arrangements that require a unique approach. As Smith Bagley has explained,

Low-income citizens on tribal lands need mobile communications as much, if not more, than citizens living in other parts of the United States. Tribal residents often travel long distances to go to school or work, to purchase basic necessities, and even to get their mail, which they must pick up at the post office. Many tribal residents move around the reservation with the seasons, or to follow sometimes transient job opportunities.¹⁸

For such consumers, a mobile telephone “is a true ‘lifeline’ when a person leaves home.”¹⁹ But “[w]hen one person leaves the home carrying a mobile phone, which is vitally needed when traveling in remote areas, those remaining at home still require the ability to communicate.”²⁰ Thus, limiting support to one-per-household would guarantee that many residents of Tribal lands will frequently be without the means to communicate. A one-per-qualifying-adult rule, by contrast, will ensure that residents of Tribal lands have, for example, the ability to make potentially life-saving telephone calls to emergency services.

Furthermore, as Gila River Telecommunications points out, “[m]ultiple generations of families often live in the same residence on tribal lands, and providing additional enhanced Lifeline support to the poorest of these families will enable increased connectivity capabilities to

¹⁸ Smith Bagley Comments at 2 (filed Aug. 26, 2011).

¹⁹ *Id.*

²⁰ *Id.* at 5.

this vulnerable population.”²¹ This raises two important points: First, a one-per-residence rule is unworkable on Tribal lands because many people share residences, often as a matter of economic necessity. Thus, the Commission would have to articulate numerous exceptions to a one-per-residence rule to accommodate the various alternative living situations found on Tribal lands. A one-per-qualifying-adult rule, by contrast, would be simple to apply. Second, a one-per-qualifying-adult rule would promote increased telephone penetration on Tribal lands, which currently lags far behind nationwide telephone penetration rates.²² Thus, the Commission should adopt a one-per-qualifying-adult rule for Tribal lands at least, even if it imposes a one-per-household restriction elsewhere.

C. Commenters Agree that Any One-Per-Household Rule Cannot be a Mere One-Per-Address Rule But Should Be Flexible Enough to Reflect Atypical Living Arrangements. Defining “Household” in Terms of Nuclear Family Offers the Best Balance of Policy and Practicality Considerations.

There is broad consensus among commenters that, if the FCC adopts a rule more restrictive than one-per-adult, it should not be a rigid address-restricted definition but must be broader and more flexible to account for myriad living arrangements among Americans.

The Commission’s initial proposal to limit Lifeline support to “a unique residential address recognized by the U.S. Postal Service”²³ would be unworkable in many regions. The

²¹ Gila River Telecommunications Comments at 13 (filed on Aug. 26, 2011).

²² See, e.g., *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands*, Notice of Proposed Rulemaking, WT Docket No. 11-40, 26 FCC Rcd 2623, 2625, ¶ 4 (2011) (“Telephone penetration rates are significantly lower than the nationwide rate, as is access to fixed terrestrial broadband services. ... [A]lthough the national rate of wireline and wireless telephone subscribership was 97.6%, only 67.9% of Native American households on Tribal lands had telephone service. Some Tribal areas had significantly lower subscribership rates than the national rate of 67.9%.”).

²³ *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 at Appendix A (2011) (“NRPM”).

proposal overlooks the fact that the U.S. Postal Service does not create addresses but merely compiles and records addresses created by local governments. While local-address creation (*e.g.*, numbering houses and naming streets) may happen routinely as housing is built in Washington, Chicago, San Francisco, Anchorage or other such developed areas, house numbers and street names are superfluous in many rural Alaskan villages, and many local governments have made no such address designations. An address-based definition of “household” would thus arbitrarily eliminate most Alaskan communities, and communities in other Tribal lands²⁴ or remote areas, from Lifeline eligibility.

Some commenters deny the difficulty of administering a one-per-address requirement. TracFone assures the FCC that difficult cases can be referred to the U.S Postal Service, and one hopeful vendor pitches a computerized process that promises “an unqualified ‘yes’” to the question of whether it can be done.²⁵ But the Pollyannas on this issue are notably few and notably vague about how they would deal with the administrability problems raised by GCI and other commenters. Both Emerios and TracFone would rely on the U.S. Postal Service’s Address Matching System, which, as GCI and Smith Bagley have pointed out, simply does not cover Tribal lands that often lack the number/street name address criteria commonplace in more developed regions.

The Emerios solution—“If a match cannot be found, the applicant could re-enter his or her address to correct spelling or other items, and/or call a customer representative for

²⁴ See Smith Bagley Comments at 6 (explaining that “[m]any parts of tribal lands SBI serves are beyond the U.S. Postal service addressing system....”).

²⁵ Emerios Comments at 6 (filed Aug. 26, 2011).

assistance”²⁶—begs the question. Left unanswered is what the customer representative is to do with group homes, extended families, hogans, or remote abodes with no address because they are on no road. Emerios promises a “dynamic workflow and rules engine that ... [e]nables special rules concerning tribal lands, rural Alaska, group homes, shelters, and similar exceptional circumstances to be implemented as described in the NPRM....”²⁷ But no such “special rules” are proposed or analyzed. Such generalities simply evade rather than solve the central problems raised by the address-based proposal: its arbitrary threat to deny Lifeline service to otherwise eligible people in nontraditional living arrangements and the twin administrative problems of 1) creating exceptions for such varying and constantly changing circumstances, and 2) the execution of such exceptions by private-sector personnel rather than government welfare-program caseworkers.

Household composition and living arrangements in America are constantly, and relatively rapidly, changing.²⁸ The majority of comments therefore showed wide agreement that if a one-per-household restriction is to be imposed on Lifeline support, it must reflect some rational basis, such as a family/economic unit, not mere address, and be broad enough to cover atypical living

²⁶ *Id.* at 7; see also TracFone Comments at 5 (filed Aug. 26, 2011) (“Where there are questions whether or not unrelated persons residing at the same street address live in separate quarters (in the absence of apartment numbers, room numbers, etc. included in the address), TracFone instructs applicants to contact the U.S. Postal Service to register the individual quarters as a separate address.”).

²⁷ *Id.*, Attachment 1 at 3.

²⁸ See Edward Flores, Ph.D., and Dowell Myers, Ph.D., *Census Brief: The Changing Household and Family*, (analyzing “the decline of the nuclear household and the rise of non-nuclear types of households”), available at http://www.usc.edu/schools/sppd/research/popdynamics/pdf/2011_Myers-Flores_Census-Brief_Households.pdf.

arrangements.²⁹ Several comments suggest borrowing an existing definition of “household” from other federal anti-poverty programs, such as the Low-Income Home Energy Assistance (“LIHEAP”) or Supplemental Nutritional Assistance (“SNAP”) programs.³⁰ Borrowing such an extant federal definition of “household” is facially appealing. It has the virtue of focusing on members of an economic unit, such as a family, rather than the often-irrelevant fact that different individuals who operate largely independently from a financial perspective (other than, perhaps, sharing rent and utilities) sleep under the same roof at night.

But despite the LIHEAP/”economic unit” proposal’s improvement over a rigid address-based definition, serious administrative problems lie beneath the surface appeal. First, the LIHEAP definition was designed for the purposes of ensuring heat for residences, and so it is limited to individuals “for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.”³¹ But that criterion has no logical application to Lifeline, would generate needless complexity and, like other residence-based definitions, threatens to arbitrarily penalize the homeless, group-facility residents, and others in nontraditional living arrangements.³²

²⁹ See, e.g., TracFone Comments at 3-4; Smith Bagley Comments at 6, Leap Wireless and Cricket Communications Comments at 3 (filed Aug. 26, 2011); Cox Communications Comments at 13-14 (filed Aug. 26, 2011); Minority Media and Telecommunications Council Comments at 7 (filed Aug. 26, 2011); Consumer Groups Comments at 9; NASUCA Comments at 8, Budget PrePay *et al.* Comments at 4-5; Benton Foundation *et al.* Comments at 15-16 (filed Aug. 24, 2011); Atlantic Tele-Network *et al.* Comments at 9-11; Sprint Nextel Comments at 6-7; COMPTTEL Comments at 5-6.

³⁰ See, e.g., Smith Bagley Comments at 6; Cox Communications Comments at 14; Budget PrePay *et al.* Comments at 4; Benton Foundation *et al.* Comments at 16.

³¹ Further Inquiry at 4 n.24 (citing 42 U.S.C. §8622(5)).

³² For instance, if two roommates’ living arrangement was that they split the rent, one covered groceries and telephone, and the other covered heat and water, that would take them outside the LIHEAP definition of “household.” As applied to LIHEAP, this would be

Moreover, the application of a LIHEAP/SNAP “economic unit” criterion threatens to send personnel from carriers into very unfamiliar territory: inquiring into and evaluating their customers’ living arrangements and economic circumstances to make eligibility decisions. The Consumer Groups have emphasized their concerns with the similar administrative efforts of TracFone, even while noting the superiority of an “economic unit” test over a simple address test.³³ LIHEAP and SNAP are government anti-poverty programs. The LIHEAP application process is searching—more searching than is appropriate in a transaction between a corporation and its customer. It is administered not by private-sector corporations but by specially trained civil servants who, bound by the Privacy Act and/or state analogues, probe deeply into the lives of beneficiaries in order to assess the contours of each applicant’s “economic unit” and that unit’s cognizable income for LIHEAP purposes. A Department of Health and Human Services (HHS) brochure, for instance, advises LIHEAP applicants to present government caseworkers with a detailed list of personal information, including

- A recent payroll stub or other proof that shows your current gross income.
- Documentation showing income from Social Security, Unemployment Insurance, Pension Funds, disability, *etc.*
- Proof of present address (*e.g.*, rent receipt, lease or deed, property tax bill).
- Proof of total members living in your household (*e.g.*, birth certificates, school records, *etc.*)
- Social Security cards (or numbers) for all persons living in your household.³⁴

immaterial, because both would obtain the benefit of the support for heat. But as applied to Lifeline in the modern context, only one would get the benefit of a supported mobile phone even if their incomes were identical, because one paid the heat bill by herself.

³³ Consumer Groups Comments at 9-12.

³⁴ LIHEAP Brochure: Administration for Children and Families, *available at*, <http://www.acf.hhs.gov/programs/ocs/liheap/brochure/brochure.pdf>.

Beneficiaries will be rightly reluctant to share such private information with carrier personnel, and prudent carriers will be equally reluctant to accept such documents and the potential personal-privacy liability that comes with it.

Moreover, while government welfare caseworkers have (one would hope) the experience, training and resources to evaluate varying forms of income and public-sector support, private-sector customer-service personnel generally do not. Even trained civil servants find processing such welfare-application paperwork so complex that potential beneficiaries are advised, “Contact the local agency and make an appointment to apply for funds. It may be a few weeks or even a month or two before your appointment, depending on how busy the agency is, but keep at it.”³⁵

HHS offers continuing interpretive guidance to help LIHEAP administrators, such as bulletins on general exclusions from the meaning of “income” for LIHEAP purposes³⁶ and the appropriate treatment of such esoteric issues as special per capita payments to members of Indian tribes.³⁷ Civil servants evaluating an economic unit’s eligibility for LIHEAP also have access to government data that the private sector does not, and should not, have. HHS, for instance, advises state agencies administering LIHEAP to secure applicants’ Social Security numbers so they can verify eligibility by cross-checking with special government data sources, such as

³⁵ “*How to Apply for LIHEAP*, eHow Home, http://www.ehow.com/how_2173054_low-income-heat-assistance-program.html (last visited Aug. 31, 2011).

³⁶ Low Income Home Energy Assistance Information Memorandum, Transmittal No. LIHEAP-IM-2010-7, Administration for Children and Families, Department of Health and Human Services (May 6, 2010) *available at* http://www.acf.hhs.gov/programs/ocs/liheap/guidance/information_memoranda/im10-07.html.

³⁷ Low Income Home Energy Assistance Information Memorandum, Transmittal No. LIHEAP-IM-2011-02, Administration for Children and Families, Department of Health and Human Services (Dec. 22, 2010) *available at* http://www.acf.hhs.gov/programs/ocs/liheap/guidance/information_memoranda/im11-02.html.

- The Social Security Administration’s Enumeration Verification System to confirm identity of applicants and household members;
- State directories of new hires or similar systems to confirm income eligibility;
- Prisoner databases to ensure that applicants and individuals listed as household members are eligible recipients; and
- Other databases that may be used to confirm applicant and household eligibility, such as State vital records registries.³⁸

If the Commission decides to adopt a “one-per-household” rule, the nuclear-family-based approach that GCI and Sprint³⁹ have proposed as an alternative to one-per-adult would be flexible, offer much of the policy benefit of the LIHEAP/“economic unit” test suggested by others, yet be more straightforward and less intrusive to administer. Under a nuclear-family limit, Lifeline would be limited to one supported line per nuclear family. A “nuclear family” would be defined as spouses plus minor children living together. Such a policy would reflect the common sense observation that nuclear families act as single economic units. It would also solve the policy/administrative problems raised by institutional facilities, unrelated roommates, group homes, the homeless, and multifamily housing: in all such cases, any members of the same nuclear family under the same roof would become eligible for one supported service, whether the roof be a single-family home, a shelter, or some other shared abode such as a native hogan. Other adults sharing an address, whether they be members of extended families, totally unrelated roommates, or homeless persons sharing a shelter, would be eligible for their own service if they otherwise qualify and no other member of their nuclear family already has Lifeline support. Such a policy could (and should) be implemented based on customer certification without need of intrusive case-by-case inquiries into living arrangements, and with

³⁸ *Low Income Home Energy Assistance Information Memorandum, Transmittal No. LIHEAP-IM-2010-6*, Administration for Children and Families, Department of Health and Human Services (May 5, 2010) *available at* http://www.acf.hhs.gov/programs/ocs/liheap/guidance/information_memoranda/im10-06.html.

³⁹ Sprint Nextel Comments at 6.

less administrative burden, delay and uncertainty. GCI today requires such certification as part of its Lifeline application. And, a nuclear-family policy would obviate the need to continually develop exceptions to address the continual change of societal living arrangements.

III. THE COMMISSION SHOULD NOT IMPOSE A SINGLE NATIONAL VERIFICATION REQUIREMENT AND, AS MOST COMMENTERS AGREE, IT SHOULD REFRAIN FROM ADOPTING A SAMPLE-AND CENSUS APPROACH.

A. In Non-Federal-Default States, the Commission Should Preserve the Authority of State Regulators to Craft Annual Verification Requirements.

The adoption of uniform national verification requirements across all states—including non-federal-default states—would usurp the states’ role in Lifeline administration and ignore the fundamental differences that necessitate individual state regulators’ involvement in crafting appropriate rules for ETCs operating in their jurisdictions. Accordingly, GCI strongly opposes the proposal to establish a uniform approach to annual verification.

The characteristics and geographic limitations related to Lifeline subscribers vary from state to state. As GCI has explained in depth,⁴⁰ the job of reaching qualified subscribers and providing Lifeline service to them presents unique challenges in remote areas like much of Alaska. This is especially true outside of the limited areas of the state connected by highway, railway and pipeline systems, where many communities are accessible only by air, boat or snow machine. As Gila River Telecommunications explains in the related context of Tribal authority, “Tribal governments are uniquely capable of performing such validation [because they] have an intimate knowledge of the cultural, linguistic, and economic needs of their members and, as a

⁴⁰ See GCI Comments at 25.

result, are ideally situated to develop certification and verification procedures that will not be overly burdensome.”⁴¹

The existing national rules for federal default states would be unworkable if applied nationally. For instance, the prospect of presenting proof of eligibility in person at an ETC’s retail establishment—one of the alternatives under the existing rule in federal default states⁴²—is simply impractical in much of Alaska. While Lifeline subscribers in suburban Delaware might be able to walk, drive, or catch a bus to an ETC’s storefront to recertify, many consumers in rural Alaska could undertake the same task only by traveling by air up to hundreds of miles from their rural village to a regional center such as Bethel, Kodiak, Kotzebue or Nome or to one of Alaska’s cities. In Alaska, a trip to the big city, or even the equivalent of the county seat, can be an arduous journey requiring air travel.

Considering the unique conditions present in every state—and considering each state government’s unique familiarity with its own citizens and circumstances—the FCC should not remove the states from the process of assessing and applying the most appropriate annual verification requirements. The Commission itself has acknowledged the critical role that states play in Lifeline administration, explaining in the context of initial eligibility determinations that the program must afford “states sufficient flexibility to target support based on that state’s particular needs and circumstances.”⁴³ The same rationale applies to annual verification procedures. Considering that states already have authority to develop and implement state-

⁴¹ Gila River Telecommunications Comments at 15.

⁴² See 47 C.F.R. § 54.410(c)(2).

⁴³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd. 8776 ¶ 373 (1997); see also *id.* ¶ 353 (“[S]tates may have greater familiarity than we with income levels, demographic patterns, and factors affecting low-income subscribership.”); see also 47 U.S.C. § 254(f) (articulating states’ role in administering universal service support).

specific eligibility criteria,⁴⁴ they should also have authority to develop and implement the corresponding annual verification processes best tailored to the circumstances in their unique jurisdictions.

Preserving the state-based status quo with respect to annual verification also makes sense to the extent the FCC is considering a national eligibility database. As Cox Communications explains, “a national database would alleviate any need to establish a uniform methodology, applicable to all states, for conducting verification sampling and would make it unnecessary to modify the existing sampling methodology.”⁴⁵ There is simply no good reason to abandon the current state-regulated approach in favor of a new national approach if the Commission also is contemplating scrapping the new national verification approach in favor of a database.⁴⁶

B. If the FCC Imposes National Annual Verification Standards, It Should Permit Subscribers to Self-Certify Continuing Eligibility.

If the Commission imposes national standards notwithstanding states’ unique expertise in this area (and notwithstanding the prospect of a national database that would moot a national approach), it should permit subscribers to self-certify their continued eligibility rather than require them to produce documentary proof. This approach would reflect the initial certification rules which allow applicants to self-certify their participation in a qualifying program.⁴⁷

⁴⁴ See 47 C.F.R. § 54.409(a).

⁴⁵ Cox Communications Comments at 13.

⁴⁶ AT&T Comments at 12-13 (suggesting that the FCC eliminate annual verification requirements altogether and, instead, “direct states . . . to inform the national Lifeline consumer database administrator when a particular consumer is no longer eligible for Lifeline.”); Smith Bagley Comments at 7 (supporting creation of “a centralized database of eligible consumers”); Alabama PSC Comments at 1 (filed Aug. 24, 2011) (describing states’ ability to provide data to support an eligibility database).

⁴⁷ See 47 C.F.R. § 54.409(d) (program self-certification rule for federal default states); 3 AAC § 53.390(d) (program self-certification rule for Alaska).

Requiring subscribers to provide more documentation to verify continued eligibility than is necessary to enroll in the first place would be logically incoherent—and it would undermine the Commission’s past conclusion that self-certification is valuable because it “encourages eligible consumers to participate” and “imposes minimal burdens” on them.⁴⁸

As the Commission’s past statement indicates, requiring consumers to document continued eligibility would increase the difficulty associated with maintaining Lifeline service and discourage eligible consumers from participating (or continuing to participate) in the program. AT&T makes the same point in its supplemental comments, noting that this requirement would place “burdens on consumers who must obtain copies of documents, submit them to service providers, and then await a decision.”⁴⁹ As a result of such a rule, otherwise qualified subscribers would stop receiving Lifeline benefits—not for any substantive reason but simply because of the burdens associated with staying on the subscriber rolls.

Requiring documentary proof of continued eligibility would also burden ETCs.⁵⁰ As TracFone has explained, self-certification can be far more cost effective from the ETCs’ perspective. TracFone reports that its self-certification efforts generate costs of \$3.39 per subscriber, while document-based eligibility verification generates costs of \$66.69 per subscriber.⁵¹ Considering that the Universal Service Fund must support these administrative

⁴⁸ *Lifeline & Link Up*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, 19 FCC Rcd. 8302, 8319 ¶ 27 (2004).

⁴⁹ AT&T Comments at 12.

⁵⁰ *See, e.g.*, AT&T Comments at 11-12 (“Requiring providers to review corroborating documentation from all of their Lifeline subscribers each year would require them to develop state-specific methods and procedures and train service representatives on acceptable documentation for every state-specific qualifying program.”).

⁵¹ TracFone Notice of Ex Parte Presentation at 2-3, WC Docket No. 11-42, 03-109, CC Docket No. 96-45 (filed Aug. 24 2011).

costs to avoid imposing an unlawful unfunded mandate,⁵² the more efficient approach would clearly leave more funding available for substantive use.

C. If the FCC Imposes National Standards for the Annual Verification, Most Commenters Concur that It Should Not Impose Census Requirements.

In the NPRM and again in the Further Inquiry, the Commission seeks comments on a conditional sample-and-census rule under which an ETC would be required to undertake a census-based approach to the annual verification in the event a sampled rate of ineligible subscribers exceeded a certain threshold.⁵³ As GCI has already explained in depth,⁵⁴ requiring ETCs to conduct a full annual Lifeline subscriber census under any circumstances would eliminate service for thousands of qualified active subscribers and also generate enormous administrative complexity and expense. By design, Lifeline serves a marginal population that tends to respond to inquiries at a relatively low rate. Given that illiteracy, minimal writing ability, and lack of the ability to read or speak English are common contributors to low-income status and are frequently paired with discomfort in dealing with official institutions (including utilities), it is not surprising that response rates are low. A census-based approach would result in qualifying subscribers losing service simply because in many cases they are vulnerable members of society who are unlikely to respond in a timely manner—that is, because they are precisely the type of person Lifeline is supposed to help.

Apart from the harm that such a rule would inflict on thousands of qualifying subscribers, the process of contacting every subscriber, following up on non-responses, assessing the results,

⁵² See *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 425 (5th Cir. 1999) (“*TOPUC I*”).

⁵³ Lifeline NPRM at ¶¶ 183-186; Further Inquiry at 7.

⁵⁴ GCI Comments at 49-51; GCI Initial Reply Comments at 21-22; GCI Comments in Response to Further Inquiry at 22-24.

and investigating inconsistencies would impose an enormous cost on ETCs.⁵⁵ Considering the destructive result that this process would produce for subscribers, the cost is completely unjustified. Moreover, the Universal Service Fund would have to support these substantially increased administrative costs,⁵⁶ diverting yet more funding away from substantive universal service support.

Other commenters agree. With respect to the deleterious impact on subscribers, CenturyLink observes that under a census “a very large number of customers would be removed for failure to respond to the survey,” even though “a great many of those customers would otherwise be entirely eligible.”⁵⁷ CenturyLink also explains that the sample-and-census approach “would be excessively burdensome for all carriers”—not just the small ETCs highlighted in the Further Inquiry—because it would obligate large ETCs to conduct annual verification outreach to “tens of thousands or even hundreds of thousands of customers.”⁵⁸ Describing the widespread burden and privacy invasions that the proposed rule would entail, Cox

⁵⁵ In its supplemental comments, TracFone suggests that the Commission should eliminate sampling altogether and instead require all ETCs to conduct a complete verification census every year. TracFone Comments at 10-12. TracFone argues preposterously that a census requirement would “be far more efficient for each ETC,” *id.* at 12, but it neglects to consider the fact that many ETCs (especially carriers that provide wireline Lifeline) are simply unable to conduct the rapid-fire text-message based verification that TracFone appears to use. In reality, TracFone is attempting to turn a competitive burden—the annual verification obligation it was required to accept as a condition of forbearance—into a competitive advantage by convincing the FCC to apply it to all ETCs in all circumstances. TracFone’s census approach, however, reflects the peculiarities and fraud vulnerabilities unique to its own business model in which a Lifeline “customer” might otherwise have no ongoing interaction at all with its ETC. The approach therefore should not be imposed on differently situated ETCs.

⁵⁶ See *TOPUC I*, 183 F.3d at 425.

⁵⁷ CenturyLink Comments at 5 (filed Aug. 26, 2011).

⁵⁸ *Id.*; see also AT&T Comments at 11 (noting that a sample-and-census rule would “be burdensome to *all* Lifeline providers”).

Communications concludes correctly that the sample and census approach would “cause more harm than good.”⁵⁹

D. If the FCC Imposes a Sample-and-Census Rule, A Census Should Be Triggered Only When the Sampled Rate of Ineligible Subscribers Exceeds the National Average.

In the event the FCC adopts a sample-and-census rule notwithstanding the burdens and costs described above, it should calibrate the rule to ensure that an ETC is subject to the census requirement only if the rate of ineligible subscribers among the ETC’s sample group exceeds the national average. The Missouri PSC agrees, stating that a census should be required only “if a company’s results reveal a significant percentage of ineligible responders.”⁶⁰ In other words, the census trigger should reflect two related aspects of the sample results. First, the trigger should be based only upon the rate of *ineligible* subscribers among the sample—not non-responders because, as described above, eligible subscribers frequently fail to respond. Second, considering the extreme burden that a census would impose on subscribers and on ETCs, the trigger should be set at a rate that suggests an unusually large number of ineligible subscribers. The trigger point must therefore be *above* the nationwide ineligible rate (29 percent in 2008, based on data received in a FOIA request) because any ETC with a rate lower than or approximately the same as the national rate cannot be viewed as suffering from an unusually high incidence of ineligible subscribers.

⁵⁹ Cox Communications Comments at 13.

⁶⁰ Missouri Public Service Commission Comments at 5 (Aug. 26, 2011).

IV. THE COMMENTS DEMONSTRATE NEARLY UNANIMOUS SUPPORT FOR A BROADBAND PILOT.

As with prior rounds of comments in this proceeding, there is widespread support for launching a Lifeline-supported broadband pilot.⁶¹

The minority of comments opposing the broadband pilot largely urge caution based on the cost of the program,⁶² but none offer any empirical assessment of what that cost would be or analysis of affordability. Many commenters agree, however, that the pilot should support broadband services but not equipment—because the Commission lacks authority to support equipment and because doing so would tax an already strained fund.⁶³ The Commission can, of course, exercise caution as to the potential expense of the program by encompassing broadband services only in the pilot program and defer the issue of supported equipment until after it gathers evidence on the programmatic and cost impact of supporting equipment.

Many commenters also agree that the eligibility criteria for the pilot should mirror the eligibility criteria for voice Lifeline support—because the criteria are appropriate and because adopting different criteria would result in undue administrative complexity.⁶⁴

⁶¹ See, e.g., TracFone Comments at 1; Smith Bagley Comments at 9-10; Minority Media and Telecommunications Council Comments at 1; Leap Wireless and Cricket Communications Comments at 1-2; Gila River Telecommunications Comments at 3; Budget PrePay *et al.* Comments at 1; Atlantic Tele-Network *et al.* Comments at 3; Consumer Groups Comments at 6; NASUCA and New Jersey Division of Rate Counsel Comments at 3.

⁶² See, e.g., CenturyLink Comments at 2.

⁶³ See, e.g., TracFone Comments at 1-2.

⁶⁴ See, e.g., Sprint Nextel Comments at 1-2; Smith Bagley Comments at 9-10; Cox Communications Comments at 9; California Public Utilities Commission Comments at 5 (filed Aug. 26, 2011); Budget PrePay *et al.* Comments at 1; Michigan Public Service Commission Comments at 2.

No one opposes GCI's suggestion of an approach that recognizes that available broadband speeds will vary from one location to the next based on geographic and technological limitations.

Contrary to Nexus's assertion⁶⁵, the FCC should not mandate broadband resale. As a threshold matter, the suggestion has little or nothing to do with Lifeline and therefore has no place in this proceeding. More fundamentally, such arrangements should be left to carriers to consider in the free market and should not be dictated by regulation.

V. CONCLUSION.

GCI urges the Commission to consider carefully the comments and analysis regarding how the threatened one-per-household rule would affect the Lifeline program and to instead consider the one-per-adult option. If it elects to proceed nevertheless with some version of a one-per-household restriction, GCI urges in the alternative that the Commission exempt Tribal lands (applying a one-per-adult rule there) and to construct a simple, broad, flexible, and administrable restriction based on nuclear families and relying upon customer self-certification rather than carrier investigation of customers' lives. GCI also urges the Commission to maintain the flexibility provided by state-mandated annual verification requirements rather than attempt to impose the same standards in Rhode Island as Alaska, and to avoid any general requirement for burdensome annual census requirements. Finally, GCI suggests that the Commission proceed with the proposed Lifeline broadband pilot projects as supported by the vast majority of commenters.

⁶⁵ See Nexus Communications Comments at 7 (filed Aug. 26, 2011).

Respectfully submitted,

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September 2, 2011

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