

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
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)	
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 AT&T to *Further Inquiry*

AT&T Inc. (AT&T), on behalf of its wholly-owned operating affiliates, hereby submits these reply comments to address a number of issues raised by other commenters in response to the Commission's *Further Inquiry*.¹

I. Commenters Agree That The Commission Should Reject Its Proposed One-Per-Residence Or One-Per-Household Rule In Favor Of Retaining Its One-Per-Qualifying-Consumer Rule.

Commenters agree with AT&T that the Commission should reject its proposal to codify a rule that would limit the availability of Lifeline-supported service to one benefit per household.²

Adopting a formal one-per-household rule may seem reasonable when compared to the Commission's initial proposal to limit Lifeline benefits to one per residential address, which

¹ *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, WC Docket Nos. 11-42, 03-109; CC Docket No. 96-45, DA 11-1346 (rel. Aug. 5, 2011) (*Further Inquiry*). We limit these reply comments to two of the four issues: whether the Commission should adopt a one-per-residence or one-per-household limitation, and whether the Commission should establish different annual verification rules for smaller Lifeline providers.

² See, e.g., Atlantic Tele-Network *Further Inquiry* Comments at 6; Budget PrePay *et al.* Comments at 4; CompTel *Further Inquiry* Comments at 3-7; GCI *Further Inquiry* Comments at 12-19; Sprint *Further Inquiry* Comments at 6.

obviously would have resulted in otherwise eligible low-income consumers being denied Lifeline-supported service simply because these individuals reside at locations (e.g., apartments, rooms) not recognized by the U.S. Postal Service as having unique addresses.³ However, the supporters of a “one-per-household” rule have offered little explanation for how any Lifeline provider could ever implement such a rule and how the regulators could enforce it.

The Commission’s desire to establish a one-per-household rule seems driven by its concerns about the continuing growth in the size of the program⁴ and, perhaps, its belief that creating a rule that caps Lifeline benefits at one per household would cause the size of the low-income fund to remain steady or shrink. The Commission is right to be concerned about the waste, fraud, and abuse that exist in today’s Lifeline program. Under today’s rules, there is little to prevent ineligible consumers from obtaining Lifeline benefits, and eligible and ineligible consumers from inappropriately obtaining duplicative Lifeline benefits. But the solution to these problems is not for the Commission to establish a rule that limits Lifeline benefits to one-per-residence or one-per-household and create some burdensome and unenforceable exceptions process; instead, the Commission should move quickly to implement a national Lifeline consumer database, which would be populated with names of consumers that states – not service providers – have deemed eligible for Lifeline-supported service based on the states’ determination that the consumers are eligible to participate in a qualifying public assistance program.⁵ Putting states in charge of determining eligibility, rather than for-profit service

³ AT&T April 21 Comments at 15-19; AT&T May 10 Reply Comments at 25-27.

⁴ Universal Service Administrative Company, Federal Universal Service Support Mechanisms Quarterly Contribution Base & Revised Low Income Support Mechanism Demand Projection for Fourth Quarter 2011, at 8 (dated Sept. 1, 2011) (estimating that 2011 Lifeline support will be \$1,582.91 million, up from approximately \$1,220.78 million in 2010).

⁵ For the small number of consumers who seek to demonstrate eligibility for the Lifeline program based on household income, states would review the consumers’ documentation and determine whether the consumers are

providers that have a financial interest in the outcome, would provide the Commission with more assurance that only eligible consumers are obtaining this public assistance benefit. Additionally, establishing a database would eliminate today's problem of consumers obtaining duplicative Lifeline benefits from multiple providers. The Commission should anticipate that both benefits of AT&T's national database proposal would help right-size the fund and, most importantly, would do so in a pro-consumer manner.

AT&T explained in its *Further Inquiry* comments that if the Commission simply retains its current one-per-qualifying-consumer rule, it will have implemented a *de facto* one-per-household limitation but it will have done so without all of the baggage that accompanies trying to enforce a one-per-household rule.⁶ Most consumers qualify for the Lifeline program based on their participation in some underlying public assistance program.⁷ The eligibility criteria for most of these other, non-Lifeline public assistance programs are, in turn, based on a variety of "household" or "family" units. Thus, the one-per-qualifying-consumer rule incorporates the "household" concept without a provider having to make individual household determinations. If, for example, a state agency determines that a consumer is eligible for the Supplemental Nutrition Assistance Program (SNAP), which is based on a definition of "household," it can, at the same time, deem that consumer eligible for Lifeline. The same state procedures that prevent a single "household" from obtaining duplicative SNAP benefits would apply to deter that household (as defined by SNAP) from receiving multiple Lifeline benefits. A one-per-qualifying-consumer

eligible to participate in the Lifeline program on that basis. States are skilled at viewing such personally sensitive information and consumers are more apt to share this documentation with a state employee than with an employee of a for-profit communications provider.

⁶ AT&T *Further Inquiry* Comments at 2-3.

⁷ *Id.* at n.7 (explaining that where AT&T is required to track this statistic because of regulatory requirements, fewer than 3 percent of Lifeline consumers qualify for the Lifeline benefit based on a showing of their household income).

rule does not mean every adult living with the named SNAP beneficiary is eligible for Lifeline.⁸ Only the adult who is the named beneficiary of a qualifying program is eligible for the Lifeline benefit. So, for example, if another adult, who has independently qualified for SNAP, rents a room in the same “residence” as the other SNAP beneficiary, both individuals would be eligible for Lifeline. Determining their eligibility would not require an inquiry into living arrangements or some proof of economic independence, it would be a straightforward review of whether each individual is the named beneficiary in a qualifying program.

Without exception, all of the commenters that claim to support a one-per-household rule appropriately emphasize how critical it is for any such rule to recognize that multiple “households” can reside at the same address.⁹ These commenters, however, offer little to no guidance on how providers could ever implement the exceptions process that would be necessary to take into account these non-traditional living arrangements. Even TracFone, which supports a one-per-household rule, concedes that “it is difficult, *if not impossible*, to craft a single definition of ‘household’ or ‘residential address’ which covers every conceivable living situation.” TracFone Comments at 4 (emphasis added).

For consumers residing in locations that lack a unique U.S. Postal Service address, a few commenters suggested requiring: (a) these consumers to obtain a letter from their facility confirming that the consumer lives in a group or shared living facility and providing the unique room, bed or apartment number associated with that consumer, and, possibly, listing the

⁸ See NASUCA *Further Notice Reply Comments* at 9 (incorrectly asserting that AT&T supports a one-per-adult limitation).

⁹ See, e.g., California Commission *Further Inquiry Comments* at 7-8; Consumer Groups *Further Inquiry Comments* at 9-10; Cricket *Further Inquiry Comments* at 3; Minority Media and Telecommunications Council *Further Inquiry Comments* at 7.

members of the “household”;¹⁰ and (b) states to create registries of group housing providers for the purpose of enabling Lifeline providers to determine whether an applicant resides at such a facility (along with imposing deadlines for application approvals and an appeals process).¹¹ In addition to imposing significant burdens on consumers, group housing administrators (who undoubtedly will include individual landlords, and not just group housing facility employees), Lifeline providers, and states, these proposals would be ineffective given their reliance, to some degree, on representations that cannot be verified and inequitable because some number of group housing administrators or landlords simply will decline an otherwise eligible consumer’s request to provide a letter stating that the applicant resides in a separate household. Moreover, these proposals would require Lifeline providers to obtain an inappropriate amount of personal information about their customers – information that these providers do not require in order to provision service to these consumers. There simply is no business reason for a for-profit communications provider to have a list of individuals who comprise a subscriber’s “household.”¹²

TracFone suggests that the Commission require all Lifeline providers to “establish confirmation and escalation procedures so that unusual living situations may be carefully evaluated for compliance with the letter and the purpose of the one-per-household or one-per-residence address requirement,” just as TracFone has. TracFone Comments at 5. As noted by the Benton Foundation *et al.* Commenters (Public Interest Commenters), however well-

¹⁰ California Commission *Further Inquiry* Comments at 7-8; Consumer Groups *Further Inquiry* Comments at 11-12.

¹¹ Consumer Groups *Further Inquiry* Comments at 10. *See also* Cricket *Further Inquiry* Comments at 3 (requesting that the Commission establish a waiver process and require the assistance and certification of “facility management or responsible state officials”).

¹² Consumer Groups *Further Inquiry* Comments at 11-12 (recommending that the group housing provider list the members of the “household”).

intentioned, TracFone’s confirmation and escalation procedures are “limited” and the benefit “illusory” because “it takes so long to secure the work-around from the one-per residence rule. . . .”¹³ One such confirmation procedure that TracFone utilizes is to have the applicant “provide an explanation and supporting documentation which demonstrates that the applicant is not part of the same household as others residing at the address.” TracFone Comments at 5. With the possible exception of the applicant’s tax returns or, perhaps, a copy of the consumer’s state-accepted application for a qualifying public assistance program that lists the applicant’s dependents, we are unsure about what consumer-supplied documentation the Commission would find acceptable to demonstrate separate households.¹⁴

For the forgoing reasons, under a one-per-household rule, Lifeline providers and the Commission have no alternative but to rely to some degree on self-certifications that the consumer does not maintain a “household” with any other Lifeline recipient.¹⁵ That is essentially what happens today under the California Commission’s so-called “Roommate Rule.”

¹³ Public Interest Commenters *Further Inquiry* Comments at 16. *See also* Consumer Groups *Further Inquiry* Comments at 10 (explaining that, even under TracFone’s special processes, “many clients have had their Lifeline applications denied despite the theoretical work-around”), 11 (“the TracFone procedure that directs consumers to the U.S. Postal Service to register addresses as containing multiple units is highly problematic”); Budget PrePay *et al.* *Further Inquiry* Comments at 6 (explaining that most Lifeline providers lack the resources to replicate TracFone’s procedures, which are wholly unnecessary if the Commission adopts a national database, as recommended by AT&T); Smith Bagley *Further Inquiry* Comments at 7 (opposing requiring other Lifeline providers to implement TracFone’s procedures).

¹⁴ As we explained in our *Further Inquiry* Comments, even *that* documentation would not guarantee that a non-dependent was not residing in the same “household” and obtaining Lifeline-supported service under his/her own name. AT&T *Further Inquiry* Comments at n.13. *See also* NASUCA *Further Inquiry* Comments at 9 (asking “what documentation is considered acceptable” by TracFone); Consumer Groups *Further Inquiry* Comments at 11 (stating that “[t]here is no clear criteria for what suffices as a satisfactory explanation”); CompTel *Further Inquiry* Comments at 6-7 (Lifeline applicants should not be required to provide documentation showing that other persons residing at the same location are separate households “(whatever documentation that may be”).

¹⁵ As GCI states, “Private corporations are simply not equipped as government welfare caseworkers to investigate whether Lifeline subscribers are or are not part of the same nuclear family as another Lifeline subscriber.” GCI *Further Inquiry* Comments at 20. Even if a Lifeline provider or an auditor were to perform a site visit – which is ludicrous – it would be difficult, if not impossible, to determine whether two adults located at the same address are part of the same “household.”

As Cox notes, under this rule, there can be multiple Lifeline accounts at the same address as long as the consumers meet the eligibility criteria and “maintain separate households.” Cox Comments at 14 (quoting Resolution T-17321, Calif. Pub. Utils. Comm’n (July 28, 2011), at 5). This rule, however, relies on the honor system: The California Commission’s third-party Lifeline administrator does not determine whether those multiple Lifeline customers residing at the same address are separate households. This is not a criticism of the third-party administrator because, as we explained in our *Further Inquiry* comments, we are unaware of any independently verifiable way to determine whether certain individuals are members of a “household.” AT&T *Further Notice* Comments at n.13. For example, no database exists that would enable a Lifeline provider to determine if a “household” already receives Lifeline-supported service. To populate a database of “households” (versus a database of qualifying consumers, which is AT&T’s database proposal), both state and federal authorities would, in theory, have to compare and combine data from their respective public assistance databases in order to create a database that lists all of the members of a “household.”¹⁶ AT&T cannot imagine that such a database, which would provide service providers with unprecedented and inappropriate access to information about their subscribers’ families, would ever be created, particularly since it would be for the sole benefit of the relatively modest (in terms of public assistance programs) Lifeline program.

Rather than compelling consumers and providers to adopt burdensome procedures, which are of questionable utility and which intrude on consumers’ privacy, the Commission should

¹⁶ If these databases do not contain names of dependents and other potential household members, then, perhaps, additional federal and state databases (*e.g.*, those operated by the Internal Revenue Service and the Social Security Administration) would have to be included in the effort, making the creation of such a database that much more unlikely. And even such an undertaking may be insufficient absent resident interviews, which, as we note above, would be of questionable utility, because of the fluidity of living arrangements with this population.

reject its one-per-household and one-per-residence proposals and, instead, retain its existing one-per-qualifying-consumer rule. The Commission also should direct states to make Lifeline eligibility determinations and provide this information to the Commission's national Lifeline consumer database administrator. Lifeline providers would access this database to validate that a consumer is eligible for the Lifeline benefit and is not receiving Lifeline-supported service from some other Lifeline provider. Thus, under AT&T's proposal, consumers would not have to provide personally sensitive information to their Lifeline providers as they would under the Commission's one-per-household and one-per-residence proposals.

II. The Commission Should Retain Its Existing Annual Verification Rules Until States Assume The Eligibility And Verification Role From Lifeline Providers.

Uniform verification procedures would be a significant improvement over the patchwork of annual verification requirements that exist today throughout the states and thus we agree with those commenters that urge the Commission to adopt nationwide verification requirements.¹⁷ However, the Commission should keep in mind that any changes to the Commission's annual verification rules as applied to Lifeline providers would be short-lived, existing only until the national database is operational and states take over the role of making consumer eligibility and verification determinations. We agree with Cox that, rather than requiring Lifeline providers (along with the Commission, USAC, and consumers) to expend resources to develop, implement, and comply with one or more interim solutions,¹⁸ the Commission and industry should focus all

¹⁷ See, e.g., Consumer Groups *Further Inquiry* Comments at 14 (stating that they are "supportive of consistency in the method of verification sampling for all ETCs in a state"); Cricket *Further Inquiry* Comments at 5 (supporting the Commission's proposal to establish a uniform sampling methodology that would apply to all ETCs in all states).

¹⁸ The Missouri Commission proposed that Lifeline providers randomly sample 20 percent of their Lifeline subscribers to verify their continued eligibility. Missouri Commission *Further Inquiry* Comments at 5. In recognition of the burdens that the annual verification survey imposes on Lifeline providers and consumers, the Missouri Commission proposed capping at 600 the maximum number of subscribers per provider per state who would be surveyed. *Id.* The Missouri Commission's approach seems reasonable, unlike TracFone's request that the

of their efforts on implementing a national Lifeline consumer database as soon as possible.¹⁹ Under AT&T's Lifeline modernization proposal, just as states would deem consumers eligible for Lifeline and inform the national database administrator of the consumers' eligibility, so too would they inform the database administrator when a particular consumer is no longer eligible for the Lifeline benefit. This would occur when the consumer no longer qualifies for the underlying public assistance program that was the basis for that consumer's Lifeline eligibility. Among other benefits of this state-federal partnership, consumers would not be required to produce documentation to their Lifeline providers each year to demonstrate their continued eligibility, which may be a particularly burdensome requirement for these individuals.

At least one state commission agrees that states are "best positioned to develop a real-time database for purposes of verifying the eligibility for all those seeking approval to participate in the Lifeline and Link Up program. . . ." Alabama Commission *Further Inquiry* Comments at 1. The Alabama Commission further notes that the Commission may be best positioned to develop a real-time database to address duplicative Lifeline support. *Id.* A dedicated Lifeline database may make the most sense for some states, like Alabama and Oregon,²⁰ but the Commission should afford states the flexibility to establish alternative eligibility and verification processes to inform the Commission's database administrator which consumers are eligible and which consumers are no longer eligible for Lifeline-supported service.

Commission require all Lifeline providers to obtain confirmation annually from all of their Lifeline customers that they continue to be eligible. TracFone *Further Inquiry* Comments at 11.

¹⁹ Cox *Further Inquiry* Comments at 13. See also Nexus *Further Inquiry* Comments at 16 (urging the Commission to put its time and resources into completing a national database).

²⁰ See Letter from Jon Cray, Oregon Public Utility Commission, to Marlene Dortch, FCC, WC Docket Nos. 11-42, 03-109; CC Docket No. 96-45 (filed Aug. 24, 2011) (describing the Oregon Commission's database used to determine initial and continued consumer eligibility for the Lifeline program).

Given the rapid growth of the Lifeline fund and the increasing evidence that the existing rules are inadequate, the Commission should move quickly to formalize this state-federal partnership, which will “culminate[] in an effective and seamless Lifeline fraud management program.” Alabama Commission *Further Inquiry* Comments at 2. While we recognize that forging such a partnership is not without challenges, current trends strongly suggest that it would be patently irresponsible for the Commission to continue its anachronistic reliance on Lifeline providers to make eligibility and verification determinations. More enforcement of poorly conceived requirements is not the answer. We agree with the Alabama Commission that the Commission must give states a greater role in the federal Lifeline program if it is to become a program that serves the needs of low-income consumers, both for voice and broadband communications.

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Respectfully Submitted,

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September 2, 2011

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