

*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 MEDIA ACTION GRASSROOTS NETWORK AND
CONSUMERS UNION**

Introduction and Summary

Media Access Project, on behalf of the Media Action Grassroots Network (“MAG-Net”) member organizations, and joined by Consumers Union, submits these comments in response to the Commission’s recent Public Notice (“*Notice*”) seeking further inquiry in the Lifeline/LinkUp docket.¹ MAG-Net members joining these comments include: Center for Media Justice; Center for Social Inclusion; Highlander Research and Education Center; Inspired Leadership Inc. & Generation Justice/KUNM Youth Radio; Media Justice League; Media Literacy Project; National Latino Farmers & Ranchers Trade Association; Quote...Unquote, Inc.; People's Production House; and Piñeros y Campesinos Unidos del Noroeste/PCUN Oregon's Farmworker Union. Consumers Union (CU) is an expert, independent, nonprofit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves founded in 1936 to help distinguish hype from fact and good products from

¹ *Further Inquiry Into Four Issues in the Universal Service Lifeline/LinkUp Reform and Modernization Proceeding*, DA 11-1346 (rel. August 5, 2011) (“*Notice*”).

bad ones. Since then CU has filled that vacuum with a broad range of consumer information. To maintain its independence and impartiality, CU accepts no outside advertising and no free samples and employs several hundred mystery shoppers and technical experts to buy and test the products it evaluates.

Collectively, the Media Action Grassroots Network (“MAG-Net”) member organizations submitting these comments represent communities of color, low-income communities, tribal communities, and immigrant populations, in both rural and urban areas and Consumers Union is a leading voice protecting consumers. As it has throughout the course of this Lifeline and Link Up modernization proceeding, MAG-Net welcomes the opportunity to comment on reforms designed to increase subscribership in these programs that facilitate universal service and promote adoption by individuals in these least-served communities. For the constituents of MAG-Net’s member organizations, making affordable telecommunications services available to low-income individuals is key to achieving social justice, economic equality, and a wide range of positive outcomes dependent in today’s society on access to essential communications tools. As such, we urge the Commission with the greatest possible urgency to expand Lifeline to broadband services this fall while it continues further analysis and improvements to the program using pilots.

In our comments below, MAG-Net and CU encourage the Commission to expand eligibility to 150 percent of the federal poverty guideline for the full program, not just the pilot projects, and to similarly expand eligibility to one per eligible adult. We also encourage the Commission to avoid extremely burdensome and unrealistic verification procedures and to limit LinkUp support to those cases where costs are actually incurred, such as for new equipment

installation. Finally, we ask the Commission to add WIC and the Homeless Veterans program to the list of default eligibility programs.

I. Pilot Program

A. Both Voice and Broadband Programs Should Reach People within 150% of the Poverty Guideline.

In its *Notice*, the Commission sought comment on whether the Commission should implement the Benton Foundation proposal to expand the income eligibility criteria for any broadband pilot programs to 150 percent of the federal poverty guideline and whether residents of group homes should be eligible.²

Since the beginning of this most recent iteration of the Lifeline proceeding, MAG-Net has vigorously supported an expanded eligibility criterion for the full Lifeline program, not just the pilot programs.³ In fact, MAG-Net has demonstrated that the current eligibility criteria of 135 percent of the poverty guideline are insufficient and up to a 200 percent of the poverty guideline would be appropriate.⁴ The Joint Board already has recommended expanding the program.⁵ MAG-Net continues to urge the Commission to expand its reform efforts beyond use of the widely-criticized poverty guideline and use other measures of affordability, such as, for example, those developed by the Urban Institute or the Economic Policy Institute.⁶

² *Id.* at 2.

³ MAG-Net Joint Board Comments at 9.

⁴ *Id.* Other organizations and groups also support the 150% standard. *See, e.g.*, NASUCA Further Inquiry Comments at 5-6; Consumer Groups Further Inquiry Comments at 6; Sprint Further Inquiry Comments at 2; Gila River Further Inquiry Comments at 9.

⁵ Federal-State Joint Board on Universal Service, Lifeline and Link Up, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision, 25 FCC Rcd 15598 (Jt. Bd. 2010) at 15601 ¶ 10.

⁶ *See* MAG-Net Joint Board Comments at 9 (citing Gregory Arcs et al., “An Assessment of the Income and Expenses of America’s Low-Income Families: Using Survey Data from the National Survey of America’s Families, The Urban Institute” (2006), available at http://www.urban.org/UploadedPDF/411382_surve.pdf); *see also* James Lin and Jared

Similarly, MAG-Net has already supported eligibility for residents of group homes. As we articulated before the Joint Board and again to the Commission, “Perhaps more than any other class of individuals, the homeless deserve the Commission’s commitment to universal service.” We explained that while individuals without homes often find it difficult to prove their eligibility, this “does not diminish their need to utilize basic telecommunications services to stay connected with family, secure a job interview, search for resources, or gain access to opportunities for political and civic engagement.” And we emphasized that this analysis applies equally to residents of battered women’s shelters, half-way houses, and co-housing or multifamily housing settings.⁷

Despite these comments and other comments supporting such measures,⁸ the Commission appears to be seeking comment now on whether it should increase the poverty threshold for the pilots, instead of increasing it for the full Lifeline program. MAG-Net and CU cannot emphasize enough that the record in this proceeding is complete and that the eligibility criteria should be increased for the Lifeline program in full. The pilot programs are extremely important and necessary, but they should be reserved for testing out potential program reforms that require further testing and analysis.⁹ There is no particular difference in this analysis between the existing voice telephone program and the broadband program. If anything, because of the expense of broadband, such a new program might justify an even higher level of income eligibility.

Bernstein, Economic Policy Institute, What We Need to Get By, EPI Briefing Paper #224 (2008) available at: <http://www.epi.org/publications/entry/bp224/>.

⁷ MAG-Net Joint Board Comments at 9-10.

⁸ See, e.g., Benton Foundation *et al.* Further Inquiry Comments at 8.

⁹ For example, as MAG-Net suggests below, it is possible that the Commission could test a one per eligible adult standard in the pilots.

The Commission should act in its next order in this docket to ensure Lifeline eligibility for residents of group housing and for those within 150 percent of the poverty guideline, regardless of how it chooses to include broadband into the supported services in the Lifeline program. If the Commission includes broadband right away, as we strongly urge it to do, these changes should apply to broadband services as well. If the Commission decides to defer some aspects of the broadband Lifeline support, it should include these new federal default eligibility criteria into the pilots as it tests other components of offering broadband service to low-income people.

B. Lifeline Customers Should Pursue Wide Choice of Consumer Products and Services.

The Commission seeks comment on a NARUC resolution encouraging the Commission “not to require Lifeline/Link Up broadband service pilot program participants to change local telephone service providers, purchase bundled broadband and voice services, or otherwise be penalized when they purchase Lifeline and Link Up broadband services and enabling access devices.”¹⁰ MAG-Net and CU concur that low-income Americans, like all Americans, should be able to choose their broadband provider. As MAG-Net explained in previous filings, consumer choice is an important principle,¹¹ we now urge the Commission to consider it as one of the Commission’s program goals for the Lifeline and LinkUp consumers.¹² MAG-Net’s experience in assisting low-income people with access to media and telecommunications shows that additional choice can lead to increased adoption. For example, when assisting consumers with obtaining converter boxes as part of the DTV transition, MAG-Net observed the highest levels of

¹⁰ Notice at 2.

¹¹ See MAG-Net Second Reply Comments at 7-10 (filed May 25, 2011).

¹² See NPRM at ¶¶28-45.

participation in areas where consumers could use vouchers or coupons at the store of choice for the product of their choice. People are more inclined to participation in a program if given a degree of autonomy and self-selection.

Moreover, low-income people often face many challenges in dealing with large telecommunications companies, and we encourage the Commission to make every effort to ensure that they are not pushed into purchasing unnecessary and expensive products in order to avail themselves of the Lifeline benefit. While we did support expansion of Lifeline to broadband, and to bundled product offerings, we do not believe that consumers should be required to purchase broadband or a bundled offering if they would prefer a simpler, less-expensive option. If competition is intended to play a role in Lifeline offerings, consumer choice is an essential component: without choice, competition cannot function.

II. One-Per-Residence Limitation

A. The Commission Should Adopt a One Per Eligible Adult Standard.

The Commission seeks comment on a one-per-family or one-per-household definition for eligibility, asks for input on implementing such a rule and seeks comment on a one-per-person (or, two adults per household) rule for residents of Tribal land.¹³ While fully supportive of additional programs for residents of Tribal land, including the one proposed by Smith Bagley, MAG-Net reiterates here its support for a one-per-adult rule for eligibility across the board, not only on Tribal land. As MAG-Net explained in detail in its initial comments and reply comments, the use of telephone service has changed, and a single line per household no longer is a relevant benchmark when so many Americans clearly have chosen services used by an

¹³ *Notice* at 4.

individual, not a broader family unit.¹⁴ The statutory definition of universal service is an “evolving level of telecommunications services” that “have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential consumers....”¹⁵ A substantial majority of consumers have selected a personal wireless communications device; thus the Commission must keep pace by adopting a one-per-eligible-adult standard. If the Commission is unsure about the feasibility of adopting a one-per-adult standard for the full program, the Commission should adopt this standard in some portion of its pilot program to test the impact of such a decision on adoption and fund size. Moreover, a large number of non-profit and corporate commenters in this proceeding also support a one per eligible adult standard.¹⁶

In particular, MAG-Net and CU support last week’s comments of AT&T, noting that in its recent order combatting waste, fraud and abuse, the Commission adopted a one-per-qualifying consumer rule, which links eligibility directly to the eligibility rules of the federal benefits program that certifies eligibility. While not quite a one-per-eligible adult standard, because AT&T’s proposal only would offer support to those individuals who obtain access to Lifeline support via another federal benefit program, this proposal will assist the vast majority of individuals seeking assistance and has added administrative benefits as outlined by AT&T.¹⁷ This proposal is worthy of adoption.

Should the Commission not adopt a one-per-eligible-adult rule, then it must adopt a definition that will accommodate group housing. For this reason, we support the “household”

¹⁴ MAG-Net Comments at 16-17; MAG-Net Reply Comments at 5-9.

¹⁵ 47 U.S.C. §§254(c)(1) and 254(c)(1)(B).

¹⁶ *See, e.g.*, CompTel Further Inquiry Comments at 3-5; Sprint Further Inquiry Comments at 6; GCI Further Inquiry Comments at 11-15; Cox Further Inquiry Comments at 12.

¹⁷ AT&T Further Inquiry Comments at 2-8 (extensively explaining the problems with requiring a private company to certify low-income eligibility and the benefits of a one-per-qualifying consumer rule).

definition proposed by the National Consumer Law Center, which has extensive experience assisting low-income people with access to telecommunications and other utilities. The proposed NCLC definition, based on the program that provides assistance with home heating costs, distinguishes between families that live together as an economic unit and does not make housing-based distinctions among eligible individuals. This definition would allow independent adults who are not members of the same family but share a mailing address to be eligible for Lifeline. Any definition of household that restricts the availability of Lifeline to those living in a physical structure with a unique street address discriminates against arguably the most vulnerable low-income consumers – those who live in group housing, have doubled-up because they cannot afford separate housing, use PO boxes or have a box on a rural route, and the homeless.¹⁸ For this reason, the Census Bureau definition also is insufficient.

Moreover, the proposed NCLC definition would relieve the Commission of the burden of adopting complex “exceptions” for individuals who are residents of group housing. If the individual is not part of another economic unit, then the individual comprises his or her own household. No exceptions would be needed. It is nonsensical and inefficient to create a new one-per-residence rule and then develop exceptions when a one-per-household rule would suffice.

In order to implement the one-per-household rule, the Commission could use a process similar to the NTIA process created for supplying DTV converter boxes. However, the process suffered from significant problems; therefore the Commission should expand the categories of eligible group housing beyond those included in the NTIA program, which was limited to those serving the elderly who are permanent residents of a state-licensed facility. All residents of Multi Unit

¹⁸ See Consumer Groups Further Inquiry Comments at 18 (filed August 26, 2011). This issue is also of concern to residents of tribal lands, *see* Gila River Further Inquiry Comments at 11.

housing (including SRO hotels, homeless and battered women's shelters) as well as nursing homes, transitional housing and half-way homes should be eligible. Another group of residents that were not well accommodated in the DTV program were residents of manufactured homes parks. Often the entire manufactured home park has one address and residents do not share a single structure, but use subsets of letters or names for their unit. Additionally, the Commission should recognize that some individuals use P.O. boxes for security reasons. For example, many states permit victims of domestic violence to register to vote with a P.O. Box,¹⁹ such an exception would be appropriate for Lifeline as well, underscoring the importance that any information about housing submitted to Lifeline remain extremely secure from invasions of privacy. During the DTV transition all of these individuals faced serious hardship and outright denial of coupons as a result of their housing situation.²⁰ Even more than assistance with receiving over-the-air television, a U.S. Postal address has little bearing on the need or eligibility for Lifeline support.

B. Verification Should Not Be Draconian, Nor Should It Rely on Residential Addresses.

The Commission also seeks comment on two mechanisms to verify eligibility of individuals who reside in group housing, specifically asking about TRACphone's extensive procedures to find legitimate means within the current system to ensure widespread eligibility of

¹⁹ Jacqueline Syrnick and Valenda Applegarth, Relocation Project, Greater Boston Legal Services and the Safety Net Project at the National Network to End Domestic Violence, *State Address Confidentiality Programs* (January 2009), available at: <http://www.ncvc.org/src/AGP.Net/Components/DocumentViewer/Download.aspxnz?DocumentID=46189>.

²⁰ For more information and evaluations about the DTV transition, see Media Action Grassroots Network, *Socially Responsible DTV Transition Campaign Report* (April 2009) available at: <http://www.scribd.com/doc/34852181/MAG-Net-Socially-Responsible-DTV-Transition-Campaign-Report>.

consumers, despite their housing situations, and a proposal by MFY Legal Services that suggests using bed numbers or room numbers to distinguish among eligible individuals who share a mailing address.

MAG-Net and CU recognize that TRACphone's procedures are a work-around designed to comply with Commission rules but still maximize the number of individuals who can and should appropriately benefit from the program. The need for these work-arounds highlights the extreme difficulty of the Commission's proposed one-per-residence standard. Perhaps the best example of TRACphone's incongruity is its process of referring individuals who require Lifeline support to the federal postal service to register their individual units as separate addresses – there is absolutely no reason why the postal service should be Lifeline's registrar.

Similarly, well-intentioned though MFY's proposal may be, it continues to rely on a residential address as a condition of support. Connection of a mailing address to Lifeline eligibility is a vestige of yesteryear when telephones only were available attached to a physical structure. The Commission should abandon efforts to rely on residential addresses in this program, particularly since the Commission is considering broader database and other programs that would allow ETCs and USAC to distinguish among eligible users and thus easily avoid duplication of service without resorting to the flawed proxy of a residential address. Further, many applicants demonstrate eligibility based on qualification for another federal benefit program, a process that does not require a mailing address.

III. Link Up Funds Should Cover Real Service Initiation Costs.

The Commission seeks further detailed comment on whether it should eliminate LinkUp support or limit it to when installation of new facilities or equipment is required.²¹ To be sure, in the past Link Up funds were extremely important – they covered installation fees that often prevented low-income people from initiating service. In fact, past research indicated that LinkUp was a more cost-effective way to increase penetration of telephone service than the monthly Lifeline portion.²² Today, hardware costs could serve as the same kind of barrier for broadband costs that installation and initiation fees used to pose for wireline telephony. And in the broadband arena, installation costs seemingly remain important. For example, the Commission-procured study on low income people’s need for broadband technology found that start-up costs often were a critical factor in limiting subscribership.²³

However, as the Commission has noted, times have changed, and often companies that charge an installation fee for voice services do so not to cover expended costs but to profit. MAG-Net and CU do not support federal dollars being directed toward companies that are not incurring costs for serving low-income consumers. We agree, however, that some customers are legitimately charged a fee to install equipment of some kind. It would be extremely inappropriate to abandon LinkUp entirely if these fees are a legitimate cost, since they have been such a barrier in the past. We therefore support a distinction, similar to that proposed by the Commission, that supports actual costs. We also encourage the Commission to study the impact

²¹ Notice at 6-7.

²² Daniel A. Ackerberg, *et al.*, Low-Income Demand for Local Telephone Service: Effects of Lifeline and Linkup (September 2009) available at: http://www.econ.ucla.edu/ackerber/ARRWsubmit2_allfinal.pdf

²³ Dharma Dailey, *et al.*, Broadband Adoption in Low Income Communities (Social Science Research Council March 2010) at 31 (describing negative impact of unexpected and unaffordable installation fees for broadband services) available at http://webarchive.ssrc.org/pdfs/Broadband_Adoption_v1.1.pdf.

of any change of this type through the pilot programs to determine the nature of any continuing need for LinkUp support.

IV. The Commission Should Expand Lifeline Support to Two Particular Programs.

In addition to the proposals described in the Commission's notice, MAG-Net wishes to support adding the U.S. Department of Agriculture's Special Supplemental Nutrition Program for Women, Infants and Children (WIC) – as a federal default eligibility option.²⁴ The beneficiaries of this program are particularly likely to benefit from discounted telephone and broadband services. Families with young children require extensive connection to the community, whether it be pediatricians, child care providers or schools. Moreover, children themselves will benefit from early home access to high speed Internet technology. We likewise support the request of the Department of Veteran's Affairs for automatic for those participating in the Homeless Veterans Program.

We further suggest the Commission further explore a proposal by the American Public Communications Council (APCC)²⁵ to provide Lifeline support to payphone providers.²⁶ We note that the APCC projects a relatively small financial impact on the fund, which is of paramount importance to MAG-Net.

²⁴ See Letter from Debra R. Whitford, Supplemental Food Programs Division, USDA to Marlene Dortch, FCC, Docket No. 11-42 (filed August 17, 2011)

²⁵ See APCC Further Inquiry Comments (citing American Public Communications Council, Emergency Petition for Interim Relief to Prevent the Disappearance of Payphones, CC Docket 96-45, WC Docket No. 03-109 (filed Dec. 6, 2010).

²⁶ Anecdotally, it would seem that payphones offer a last-resort service for many low income people, particularly those who do not have sufficient wireless minutes to spend long periods of time on hold with low income benefits agencies that offer toll-free numbers. It is likely that many payphone operators are small businesses focused on serving low-income communities where few other businesses will locate, and payphones in higher end locations often provide service to the low-income people working at those locations in the capacity of food service or janitorial staff.

Conclusion

In sum, MAG-Net and CU encourage the Commission to expand eligibility to 150 percent of the federal poverty guideline for the full program, not just the pilot projects, and to similarly expand eligibility to one per adult. We also encourage the Commission to avoid extremely burdensome and unrealistic verification procedures and to limit LinkUp support to those cases where costs are actually incurred, such as for new equipment installation. Finally, we ask the Commission to add WIC and the Homeless Veterans program to the list of default eligibility programs.

Respectfully submitted,

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