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 LEAP WIRELESS INTERNATIONAL, INC.
AND CRICKET COMMUNICATIONS, INC.

Leap Wireless International, Inc. and its subsidiary Cricket Communications, Inc. (collectively, "Cricket") hereby submit these reply comments in connection with the Public Notice released in the above-captioned proceedings on August 5, 2011. In its comments in response to the Public Notice, Cricket expressed its support for Sprint's proposal to eliminate the Link Up mechanism in light of the decreasing costs of connecting low-income consumers to the public-switched telephone network ("PSTN").[1] Cricket observed that the telecommunications landscape has evolved significantly over the past 25 years and that many carriers have reduced and ultimately eliminated activation fees. Consequently, Cricket agreed that Link Up support is not necessary to enable consumers to access the PSTN. Several parties attempt to demonstrate a continued need for Link Up support, but Cricket respectfully submits that their arguments are without merit.

Most notably, the Link Up for America Coalition claims that: (i) the Link Up mechanism was designed to recover foregone carrier revenues irrespective of a carrier's actual costs of connecting a customer to the PSTN; (ii) customer activation costs have not decreased

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[1] *See* Comments of Sprint Nextel Corporation at 9 (Apr. 21, 2011).

significantly over time; and (iii) there is no justification for eliminating the Link Up mechanism today.[2] Each of these arguments is flawed.

First, while the Link Up program does compensate eligible telecommunications carriers ("ETCs") for "the revenue they forgo" in reducing activation fees charged to low-income consumers,[3] the Commission clearly intended to tie such compensation to the *actual* costs incurred by the carrier in connecting a customer. In establishing the parameters of the Link Up program in 1987, the Joint Board linked the activation fees covered by the program with "the administrative costs of opening an account and the costs of turning the switch at the central office."[4] Moreover, the Joint Board intended that the program would cover tariffed charges incurred in connecting a subscriber to a network, allowing state commissions to review the cost basis of the activation fees charged.[5]

In other words, Link Up was intended to cover a portion of the costs of "flipping the switch" to initiate service to a low-income customer, not to serve as a vehicle through which a carrier could seek reimbursement for whatever it chooses to label an "application fee," including the marketing, sales, and other generalized subscriber-acquisition costs.[6] This limitation is consistent with the core purpose of the Link Up program—namely, to allow low-income consumers within an ETC's existing footprint to obtain affordable service, and not to give carriers incentives to enter new geographic markets that they otherwise would not serve. That is the function of High-Cost support.

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2 *See* Comments of the Link Up for America Coalition (Aug. 26, 2011).

3 47 C.F.R. § 54.413(a).

4 *See MTS and WATS Market Structure*, Recommended Decision, 2 FCC Rcd 2324, at ¶ 69 n.115 (1987).

5 *Id.* ("Under this program, federal funds could be used to offset state-tariffed charges incurred in connecting a subscriber to the network.").

6 *Cf.* Coalition Comments at 13-19.

Second, while there is some evidence to suggest that the "activation" *fees* imposed by some carriers have not declined significantly over time, such charges do not imply that activation *costs* have remained constant. Rather, there is every reason to suspect that some carriers have been charging inflated "activation fees" to recover service-related costs that are not directly tied to connecting a customer to the PSTN. Wireless carriers, moreover, may charge upfront fees as a hedge against high churn rates. Notably, wireless carriers are not subject to restrictive rate regulation, and generally are able to set their "activation fees" without any cost justification.

The Coalition itself acknowledges that some carriers have designed their business plans (and, presumably, rate structures) to exploit the revenue possibilities created by the Link Up mechanism.[7] This acknowledgement underscores the fact that the structure of the Link Up mechanism invites waste and abuse by support recipients. Indeed, certain carriers apparently are seeking Link Up support for "activation charges" that they do not impose on non-Link Up subscribers—a concern noted by the Commission in the *NPRM*.[8]

Finally, regardless of the original justifications for Link Up, there is no continuing reason to maintain the Link Up program *today*, given the declining costs of connecting customers to the PSTN and carriers' increased flexibility in establishing monthly or per-minute charges to recover such costs. When the Link Up program was put into place in 1987, local telecommunications markets were dominated by incumbent local exchange carriers ("ILECs") that faced minimal competition and were subject to rigid rate regulation. In contrast, today's telecommunications landscape features robust competition among ILECs, CLECs, VoIP providers,

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7 *See* Coalition Comments at 8 (acknowledging that "Coalition members and other carriers have designed their business plans" based on the expectation that Link Up would offset whatever activation fees are *charged* by a carrier).

8 *NPRM* ¶ 72. *See also TracFone Wireless Inc. Petition for Declaratory Ruling*, WC Docket No. 09-197, CC Docket No. 96-45 (filed Dec. 1, 2010).

wireless carriers, and other service providers—all of which enjoy significantly more flexibility in structuring their rates and service plans. In today's competitive marketplace, carriers can and do recoup any "activation" costs through their general rate structure. For example, Cricket eliminated activation charges for all customers in response to market forces, and to make its rate structure as straightforward and transparent as possible for its value-oriented customer base. There is no reason why other Lifeline providers cannot do the same. In fact, the Coalition acknowledges that any activation costs would be available through standard monthly or per-minute charges if Link Up support were eliminated.[9] Moreover, any slight increase in the monthly rates charged by carriers over time could be offset by a more robust (and, potentially, more generous) Lifeline support mechanism, which would allocate universal service support more efficiently and effectively.

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9 *See* Coalition Comments at 11.

Cricket urges the Commission to reform the Lifeline and Link Up mechanisms in a manner consistent with these reply comments and Cricket's previous submissions in this proceeding.

Respectfully submitted,

LEAP WIRELESS INTERNATIONAL, INC. AND
CRICKET COMMUNICATIONS, INC.

By: /s/ Matthew A. Brill

Matthew A. Brill
Jarrett S. Taubman
LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, D.C. 20004

Their Counsel

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