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
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	

COMMENTS OF SMITH BAGLEY, INC.

Smith Bagley, Inc. ("SBI"), by counsel and pursuant to the Federal Communication Commission's ("FCC" or "Commission") *Notice* released September 23, 2011,[1] hereby submits comments in the above-referenced proceedings.

I. Introduction

Smith Bagley, Inc. ("SBI") operates a commercial mobile wireless network in the "Four Corners" area of Arizona, New Mexico, Utah and Colorado. SBI has built extensive wireless coverage, and it currently provides service to over 100,000 people, 56,000 of whom live in low-income households on the Navajo, Hopi, White Mountain Apache, Zuni and Ramah Navajo Tribal lands. SBI was first designated as an ETC in December 2000, and the company has used support from both the High Cost and Low Income programs to increase subscribership in tribal lands and other portions of its service area. As a longtime provider of Lifeline service, SBI has a direct interest in the federal Low Income disbursement process being efficient, accurate, and fair. SBI offers comments on the Commission's *Notice* below.

[1] *Inquiry into Disbursement Process for the Universal Service Fund Low Income Program,* Public Notice, WC Docket Nos. 11-42, 03-109 (rel. Sept. 23, 2011)("*Notice*").

II. Discussion

SBI supports the efforts by the Commission and by USAC to improve the accuracy and efficiency of the Low Income payment process. Should the Commission determine that the Low Income payment procedures must be changed to a system based on actual claims and not projections, any such modifications must be done in a way that does not disrupt reimbursements to Lifeline providers or place them at an unfair disadvantage. The Commission should consider alternatives to USAC's proposed transitional month in which carriers would receive only true-ups based on the prior month's actual claim. For example, USAC could expedite the processing of actual claims, which currently takes 45 days, to eliminate the need for the one-month delay in the USAC Proposal. Lastly, the Commission should reject USAC's proposed one-sided window for revising Form 497 filings in favor of a two-year window equally applicable to upward and downward revisions.

A. The Commission Should Avoid the One-Month Delay in Payments Described in the USAC Proposal.

The USAC Proposal involves a "transitional month" in which carriers would be trued-up from the previous month's disbursement, but not receive a disbursement based on a projection for the current month. That is, carriers would receive no Lifeline support during the transitional month, only true up adjustments, which could be positive or negative. The following month would be the first month in which support would be based on the actual claim filed for that month. This proposed transition should be rejected in favor of other alternatives that would avoid the need for carriers to go a month without receiving payment.

Currently, carriers receive payments based on a projection for the prior month, along with a true-up based on the actual claim for the month before that. Under the USAC Proposal, carriers would no longer receive payments for the prior month. Rather, carriers would receive payments corresponding to a time period two months prior to the payment. For example, under the current system Carrier A receives its July projection in the end of August, which is trued-up in the disbursement at the end of September. Thus, there is a one-month lag between the end of the support month and the disbursement. Under the USAC Proposal, Carrier A would receive its July payment not in August, but in September, when USAC processes Carrier A's actual support claim for July filed on August 15. This would mean a two-month lag between the end of the support month and the disbursement. To be clear, SBI does not oppose the Commission's proposal to provide support based on actual submissions, only the transition mechanism.

The transitional period in the USAC Proposal would unfairly add a delay of one month for carriers that rely on regular reimbursements for providing Lifeline and Link Up discounts in accordance with the Commission's rules. If the proposal is adopted and payments are not made during a "catch-up" month, carriers will suffer direct harm. Carriers rely on timely payment of Low Income support to cover the expenses of providing Lifeline service to low-income consumers. Many of the direct costs of providing service are payable to third-party vendors, who bill on a monthly basis. A one-month delay in payments could put a carrier at risk with its vendors and harm its ability to provision the supported services. This is akin to an employer informing its employees that they will not receive their December paychecks until January, and will henceforth receive their paychecks with a one-month delay – putting employees at risk of missing mortgage payments and other scheduled December expenses.

This punitive effect of the proposed transition is not necessary. Instead of forcing carriers to go substantially without support during the transitional month, the transition could be accomplished by requiring USAC to eliminate the "catch-up" month altogether. Specifically, the first month in which payments are based on actual claims would be moved up so that there is no one-month gap after the last month in which payments are based on projections.

Below is USAC's proposal for how the transition would operate:

Table 1: Transition Under USAC Proposal

Carrier A	**Type of Disbursement Calculation**	**Actual Support Claim filed on FCC Form 497**	**True-Up**	**USAC-generated projection**	**Total Low Income Payment**
September 29 Disbursement	Pay on projections and true-up	$100,000 (July Form 497 actual support claim)	$3,000 (July projection was $97,000)	$125,000 August projection	$128,000
October 30 Disbursement	Pay on projections and true-up	$120,000 (August Form 497 actual support claim)	$-5,000	$115,000 September projection	$110,000
November 29 Disbursement **(Transition Month)**	Transition to paying on actual-- True-up outstanding projections	$125,000 (September Form 497 actual support claim)	$10,000	**$0** Transition to payment on actuals	$10,000
December 30 Disbursement (1st month of paying on actual)	Pay on actual support claims	$130,000 (October Form 497 actual support claim)	None (pay on actuals)	None (pay on actuals)	$130,000

Below is SBI's proposal. Without the transitional "catch-up" month, the transition would be simplified:

Table 2: Transition Under SBI Proposal

Carrier A	Type of Disbursement Calculation	Actual Support Claim filed on FCC Form 497	True-Up	USAC-generated projection	Total Low Income Payment
September 29 Disbursement	Pay on projections and true-up	$100,000 (July Form 497 actual support claim)	$3,000 (July projection was $97,000)	$125,000 August projection	$128,000
October 30 Disbursement	Pay on projections and true-up	$120,000 (August Form 497 actual support claim)	$-5,000	$115,000 September projection	$110,000
November 29 Disbursement (1st month of paying on actual)	Pay on actual support claims True-up outstanding projections	$125,000 (October Form 497 actual support claim) $130,000 (October Form 497 actual support claim)	$10,000	None (pay on actuals)	$140,000

In the modified approach shown immediately above, USAC would perform the final true-up during the same month it processes the first payment based on actual claims. Rather than skip one month's payment when the last true-up is processed, carriers would be paid in November based on actual claims for October. Thus, carriers would continue to be paid during the month following the support month, without the additional delay of one month envisioned under the USAC Proposal.

This would require USAC to expedite the processing of forms filed on or before October 15, making the payment 16 days after the filing of the actual claim. However, the USAC

Proposal acknowledges that "USAC will not require extensive lead time in order to implement the new payment process."[2] Given that USAC would no longer be required to engage in the calculations needed for October projections, USAC's task would be simplified as it would be limited to processing payments based on actual claims for all carriers. Accordingly, processing support based on actual claims two weeks after the carriers' filings should not be problematic.

If two weeks is deemed an insufficient amount of time for USAC to process actual claims for all carriers, we propose that the expedited two-week processing time be applied only to electronic filings. When actual claims are filed using the electronic Form 497, USAC's disbursement system captures the data automatically and does not rely on time-consuming data entry. If USAC announces that the "catch-up" month will only apply to carriers that submit filings via e-mail in Excel or scanned PDF format, then carriers will have a strong incentive to switch to electronic filing, which would promote the goal of efficient administration.[3]

SBI submits that the expedited processing schedule, limited to electronic filers if necessary, would be an appropriate measure to ensure a smooth transition without significant disruptions in payments.

2. The Commission Should Reject the Unfairly One-Sided Revision Window USAC Proposes.

USAC proposes to adopt a six-month window for carriers to file new Form 497s or to file revisions that would result in an upward adjustment to their reimbursement payments. Downward revisions could be filed at any time for any prior filing. This proposal would be

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[2] *Notice* at p. 11.

[3] *See* USAC 2009 Annual Report at p. 8, available at http://www.usac.org/_res/documents/about/pdf/usac-annual-report-2009.pdf ("Enhancements to program IT capacities included the August launch of the online FCC Form 497, the main form used by USAC to collect carrier data and calculate support. The online form is more efficient for large carriers, has built-in validations to reduce errors, and allows carriers to bulk upload and bulk certify multiple forms.")

unfair to carriers and would reduce the accuracy of payments, contrary to the stated objectives of the USAC Proposal. To avoid these effects, the Commission should adopt a revision window that treats all revisions similarly. Specifically, SBI recommends adopting for Form 497 the same two-year revision window that is used for all Form 525 revisions.

USAC attempts to justify selectively limiting the permitted time for filing new forms and upward revisions by reasoning that it would "protect the Low Income Program from waste, fraud, and abuse." This is the same faulty reasoning used in adopting a one-year window for revisions for Form 499 telecommunications revenue reporting worksheets that would reduce a carrier's contribution – a policy that has been challenged on multiple fronts and has yet to be upheld by the Commission. At a minimum, the Commission should decline to give further consideration to any one-sided revision window until it rules on the merits of the challenges to the Form 499-A revision policy.

USAC offers no proof that limiting carriers' ability to file upward revisions would cut down on waste, fraud or abuse of the program. USAC does not cite to any audit reports, congressional investigations, or other sources purporting to show that carriers making upward revisions to their Low Income reimbursement claims are somehow committing fraud or abusing the program. Nor does USAC explain how an upward revision that results in the correct reimbursement amount constitutes "waste" if it is filed more than six months after the original claim. Rather, USAC's proposal implies that upward revisions are wasteful merely by increasing demand on the program. The Commission should reject any such implication, especially in view of the FCC Consumer Advisory Committee's recent description of Low Income program participation rates as "shockingly low".[4]

Moreover, the six-month window for new claims and upward revisions will produce more inaccuracies in payments. Carriers that discover errors in reports more than six months old will be unable to correct such errors if they result in higher payments. This will cause errors to persist that might otherwise be corrected by Lifeline and Link-Up providers complying with requirements in good faith.

SBI does not object to placing a more restrictive time limit on Form 497 revisions than is currently in place. However, the resulting decline in payment accuracy would be contrary to the very objective advanced by USAC and the Commission in proposing the new disbursement process. Moreover, a decision to adopt a one-sided revision window when challenges to similar policies remain outstanding would be premature at best. Accordingly, the Commission should reject the proposal to adopt an asymmetrical revision window and instead adopt a two-year limit on all revisions, similar to the window for Form 525 high-cost line count filings.

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[4] *See* Letter to Marlene H. Dortch, FCC Secretary, from Debra Berlyn, Chairperson, FCC Consumer Advisory Committee, WC Docket No. 11-42 and 03-109, CC Docket No. 96-45 (Nov. 4, 2011) at p. 2.

III. Conclusion

SBI respectfully requests that any modifications to the Low Income payment process be consistent with the foregoing.

Respectfully submitted,

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