

54. *Discussion.* In order to simplify administration of the program and revise our rules in light of current marketplace conditions, we now change the Lifeline reimbursement structure for non-Tribal support and seek further comment in the *FNPRM* on the establishment of an appropriate amount for Lifeline reimbursement. Here, on an interim basis, we replace Tiers One, Two and Three with a uniform flat-rate reimbursement.<sup>143</sup>

55. As an initial matter, we find that an incumbent telephone company's SLC is no longer the appropriate metric for determining the amount of Lifeline reimbursement.<sup>144</sup> In particular, the prices consumers face in the marketplace are what determine affordability and adoption decisions, not the network costs of the incumbent LEC (the original basis for the SLC).

56. In addition, since the Commission adopted the tiered structure of support in 1997 and revised it in 2000,<sup>145</sup> significant marketplace changes have occurred. Many low-income consumers take Lifeline service from competitive ETCs, who do not assess SLCs on their subscribers and whose cost structures are wholly unrelated to the SLC.<sup>146</sup> The majority of Lifeline support is provided to wireless carriers, whose rates are not regulated by the Commission or the states, and who do not participate in jurisdictional separations.<sup>147</sup>

57. For wireless ETCs, Lifeline support is determined by the SLC of the ILEC in the area they serve. Given that wireless ETCs typically serve a state with multiple ILECs, it is administratively burdensome for both the ETC and USAC to determine the correct amount of Tier 1 support. As commenters note, the variation in the SLC makes it difficult for ETCs to offer rates that apply nationwide or even to determine the Lifeline discount for a given consumer.<sup>148</sup> For example, in Florida, wireless carriers such as TracFone and T-Mobile must submit a weighted average of the SLCs that their subscribers would face if service were purchased from their local ILEC for Tier One reimbursement.<sup>149</sup> This administrative burden causes wireless carriers to incur significant costs in ascertaining ILEC SLCs across the ETC's service area.

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<sup>143</sup> See, e.g., Cincinnati Bell Comments at 13-14; COMPTTEL Comments at 25; CTIA Comments at 18-19; OH PUC Comments at 26; AT&T Comments at 3-4, 6; Cricket Reply Comments at 13; Sprint Reply Comments at 2, 12.

<sup>144</sup> See, e.g., Cincinnati Bell Comments at 13-14; COMPTTEL Comments at 25; CTIA Comments at 18-19; OH PUC Comments at 26; AT&T Comments at 3-4; Cricket Reply Comments at 13; Sprint Reply Comments at 2, 12. See *TracFone Tier One Petition*; YourTel Comments on TracFone Tier One Petition at 1. But see MI PSC Comments at 10; NASUCA Comments at 28.

<sup>145</sup> *Universal Service First Report and Order*, 12 FCC Rcd 8776 at para. 367; *2000 Tribal Lifeline Order*, 15 FCC Rcd at 12302-03.

<sup>146</sup> UNIVERSAL SERVICE ADMINISTRATIVE COMPANY, 2010 ANNUAL REPORT 13, available at <http://usac.org/about/governance/annual-reports/2010.html>. See 47 C.F.R. §§ 69.104, 69.152(d)(1), 69.152(q). The Commission acknowledged that non-incumbents do not charge SLCs in the *Universal Service First Report and Order*, but ultimately opted to require that all ETCs pass Lifeline discounts in the amount of the SLC through to eligible consumers. See *Universal Service First Report and Order*, 12 FCC Rcd at 8970-71, paras. 366-67.

<sup>147</sup> 47 U.S.C. § 332.

<sup>148</sup> Cincinnati Bell Comments at 13-14; COMPTTEL Comments at 25; Cricket Nov. 22 *ex parte* Letter at 1. Commenters also point out that the tiered structure complicates comparison of Lifeline plans. CTIA Comments at 19; AT&T Comments at 10.

<sup>149</sup> See Universal Service Administrative Company, 1Q 2012 Filing, Appendices at LI 10 (Tier One Amounts Reported by All Companies - 2Q2011), available at <http://www.usac.org/about/governance/fcc-filings/2012/quarter-1.aspx>.

58. Given this evolution, there are two aspects of reimbursement that must be changed to better reflect the realities of the telecommunications marketplace: the structure of the reimbursement mechanism, be it tiered or flat, and the level of reimbursement. We do not have a basis in the record before us to determine at this time the appropriate total level of Lifeline support that should be provided to each low-income consumer to meet our universal service goals established above. However, we agree with commenters that the current structure based on the SLC and Tiers One through Three is administratively burdensome and would benefit from simplification. Therefore, we eliminate Tiers One, Two and Three and replace them with a flat rate. Currently, Tier One support, which is equivalent to the relevant SLC, ranges from \$2.24 per month to \$6.50 per month, while Tier Two support ranges from \$0 to \$1.75 per month, with the vast majority of ETCs receiving the maximum Tier Two support.<sup>150</sup> Tier Three support ranges from \$0 to \$1.75 and the average combined support is \$9.25. Therefore, on an interim basis, beginning with April 2012 disbursements, we set the flat rate to the current average amount of non-Tribal Lifeline support provided today, *i.e.*, \$9.25 per line per month.<sup>151</sup> This flat rate will be provided for all subscribers equally, regardless of whether they subscribe to wireline or wireless Lifeline service, and will significantly simplify administration for ETCs.<sup>152</sup> In the attached *FNPRM*, we seek comment on what amount of support should be provided to ETCs over the long term.

59. In the *Lifeline and Link Up NPRM*, the Commission sought comment on whether Tier Four support is reasonable or whether it creates a price floor for carriers serving Tribal lands.<sup>153</sup> We received little comment on whether Tier Four support is sufficient, excessive, or insufficient. In light of the limited record on this issue, we decline to make any changes to Tier Four support (*i.e.*, support for low-income consumers residing on Tribal lands) (hereinafter Tribal Lands support) or its structure at this time. Therefore, subscribers who receive Tribal Lands support will continue to receive Tribal Lands support plus the interim flat rate in lieu of Tiers One, Two and Three support.

## VI. CONSUMER ELIGIBILITY & ENROLLMENT

60. In the *2010 Joint Board Recommended Decision*, the Joint Board recommended that the Commission adopt uniform minimum verification procedures and sampling criteria that would apply to all ETCs in all states and that the Commission seek comment on adopting uniform minimum program- and income-based eligibility criteria for ETCs in all states.<sup>154</sup> In light of the Joint Board's recommendations and the record before us, we adopt uniform eligibility criteria applicable in all states. We codify a rule limiting Lifeline support to a single discount per household and adopt policies to assist in the implementation of this rule. We modify the Lifeline certification rules to adopt a uniform set of requirements that will increase consistency in certification practices across states and encourage accountability by consumers and ETCs. We also replace the current methodology employed by ETCs to annually verify consumer eligibility with an annual self-certification of continued eligibility that will serve as a minimum threshold process to be performed in all states. We take several steps to advance the availability of Lifeline and Link Up support for low-income consumers living on or near Tribal lands. We will also continue to encourage coordinated enrollment while placing restrictions on automatic

<sup>150</sup> *USAC 2011 Support Amounts Letter*.

<sup>151</sup> We chose \$9.25 per line per month based on September Lifeline reimbursement data from USAC, which is the latest month in which all ETCs sought reimbursement for Lifeline. We note that this amount is \$0.07 higher than the average 2010 reimbursement amount set forth in the 2011 Monitoring Report at Table 2.3.

<sup>152</sup> We note that some ETCs will receive more support under a flat rate of \$9.25 per month, and some will receive less. See 2011 MONITORING REPORT at Table 2.3 (showing a range of support by state.) Regardless, we do not expect that the interim flat rate reimbursement of \$9.25 per month to increase the size of the Fund.

<sup>153</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2847, para. 250.

<sup>154</sup> See *2010 Joint Board Recommended Decision*, 25 FCC Rcd at 15601, 15607, paras. 8-9, 26.

enrollment consistent with our measures to eliminate waste. Finally, in order to further modernize the program, we permit the use of electronic signatures, including interactive voice responses, for the purposes of consumer certification.

61. The specific eligibility and certification requirements adopted below are a minimum floor for determining and verifying consumer eligibility for the federal Lifeline program. The rules we adopt in this Order are a core set of requirements necessary to make the program more accountable and to ensure that the program operates efficiently and effectively. State commissions may include additional qualifying eligibility criteria and impose additional certification requirements that they believe are necessary to ensure that ETCs are using support consistent with the statute and our implementing regulations, so long as those additional reporting requirements do not create burdens that thwart achievement of the objectives of our universal service policies and regulations, including those set forth in this Report and Order, or otherwise conflict with federal law.

#### A. Uniform Eligibility Criteria

62. *Background.* Today, eligibility requirements for the Lifeline program vary from state to state.<sup>155</sup> Lifeline eligibility is based upon participation in certain means-tested programs and, in most states, upon income. The federal default Lifeline eligibility criteria—which apply in eight states and two territories (*i.e.*, “federal default states”)—require consumers to either: (1) have a household income at or below 135 percent of the Federal Poverty Guidelines;<sup>156</sup> or (2) participate in at least one of a number of federal assistance programs.<sup>157</sup> Commission rules currently permit the District of Columbia and the 42 remaining states and three territories with their own programs to establish their own eligibility criteria, provided that qualification criteria are based solely on income or factors directly related to income.<sup>158</sup> Many states have adopted eligibility criteria very similar to the federal default criteria,<sup>159</sup> but some states have not.<sup>160</sup> This current patchwork of eligibility criteria means that consumers in some states qualify for

<sup>155</sup> Compare Washington Telephone Assistance Program, <http://www.utc.wa.gov/consumers/telephone/Pages/telephoneAssistanceProgram.aspx> (last visited Feb. 2, 2012), with 47 C.F.R. § 54.409(b), (c) (federal default eligibility criteria). The State of Washington’s Telephone Assistance Program uses a mix of federal (SNAP, TANF, Supplemental Security Income) and state eligibility criteria (Medical Assistance, Refugee Assistance, DSHS Chore Services, Community Options Program, and General Assistance).

<sup>156</sup> See 47 C.F.R. § 54.409(b). Based on the current Federal Poverty Guidelines for the 48 contiguous states and Washington, DC, annual income of 135 percent of the guidelines is \$14,702 for a one-person household or family; \$19,859 for a two-person household or family; \$25,016 for a three-person household or family; and \$30,173 for a four-person household or family. For each additional member of a household above four, \$5,157 is added, so for an eight-person household, the maximum annual income would be \$50,801. Annual Update of the U.S. Dep’t. of Health and Human Servs. Poverty Guidelines, 76 Fed. Reg. 3,367, 3,637-38 (Jan. 20, 2011).

<sup>157</sup> Federal programs qualifying consumers for the low-income program are: Medicaid; Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps; Supplemental Security Income (SSI); Federal Public Housing Assistance; Low-Income Home Energy Assistance Program (LIHEAP); National School Lunch Program’s free lunch program; and Temporary Assistance for Needy Families (TANF). Low-income consumers living on Tribal lands may also qualify by participation in one of several additional assistance programs: Bureau of Indian Affairs general assistance; Tribally-administered TANF; or Head Start (only those meeting its income-qualifying standards). See 47 C.F.R. § 54.409(c).

<sup>158</sup> 47 C.F.R. §§ 54.409, 54.415.

<sup>159</sup> Currently, every state, with the exception of Idaho, Virginia, Colorado, and Montana, uses at least four of the seven programs utilized by the federal default states.

<sup>160</sup> For example, Oregon and Colorado do not have income-based Lifeline eligibility, while Ohio sets income eligibility at 150% of the Federal Poverty Guidelines. Oregon Telephone Assistance Program, <http://www.oregon.gov/PUC/rspf/otap.shtml> (last visited Feb. 2, 2012); Colorado Department of Human Services, (continued....)

Lifeline support while similarly situated consumers in states without those same qualifying criteria may not be eligible for federal support.

63. In the *2010 Joint Board Referral Order*, the Commission asked the Joint Board “to undertake a thorough review of the existing consumer eligibility requirements, as well as the certification and documentation requirements imposed on ETCs.”<sup>161</sup> During its deliberations, the Joint Board recommended that the Commission seek comment on whether to adopt uniform federal minimum income- and program-based eligibility standards that would apply in all states, provided that the impact of uniformity is reasonable.<sup>162</sup> The Joint Board noted that uniform eligibility requirements could be burdensome on some states in terms of cost and administration, but recognized that such uniformity could simplify ETC certification of consumer eligibility and may increase program participation.<sup>163</sup> The Joint Board also recommended that the Commission seek comment on raising the program’s income eligibility criterion of 135 percent or below of FPG to 150 percent or below of FPG.<sup>164</sup>

64. In the *Lifeline and Link Up NPRM*, the Commission proposed a core set of federal eligibility requirements that would apply in all states, and sought comment on permitting states to adopt additional measures that could complement the federal standards.<sup>165</sup> As recommended by the Joint Board, the Commission also sought comment on raising the minimum income eligibility to 150 percent.<sup>166</sup>

65. *Discussion.* We amend our rules to require all states to utilize, at a minimum, the income and program criteria currently utilized by federal default states.<sup>167</sup> In so doing, we establish baseline eligibility requirements on top of which states may adopt additional program or income criteria to address the unique circumstances facing consumers in their states.<sup>168</sup>

66. Uniform eligibility criteria would simplify the development of an eligibility database, an important tool in preventing ineligible consumers from enrolling in the federal program.<sup>169</sup> Moreover, together with an eligibility database, uniform eligibility criteria will facilitate the auditing process because

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Low-Income Telephone Assistance, <http://www.colorado.gov/cs/Satellite/CDHS-SelfSuff/CBON/1251589753838> (last visited Feb. 2, 2012); OH PUC Comments at 15.

<sup>161</sup> *2010 Joint Board Referral Order*, 25 FCC Rcd at 5081, para. 6.

<sup>162</sup> *2010 Joint Board Recommended Decision*, 25 FCC Rcd at 15601, paras. 8-9.

<sup>163</sup> *2010 Joint Board Recommended Decision*, 25 FCC Rcd at 15601, paras. 8-9.

<sup>164</sup> *2010 Joint Board Recommended Decision*, 25 FCC Rcd at 15601, para. 10.

<sup>165</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2820-21, paras. 152-56.

<sup>166</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2821-22, para. 157.

<sup>167</sup> See 47 C.F.R. § 54.409(a), (b).

<sup>168</sup> For example, if a state wishes to adopt participation in a certain federal or state assistance program not included in the Commission’s list of eligible programs, the state may do so, provided the program is based on income or factors directly related to income. See Georgia Public Service Commission – Lifeline Assistance Program & Link-Up Georgia, [http://www.psc.state.ga.us/consumer\\_corner/cc\\_telecom/advisory/lifeline.asp](http://www.psc.state.ga.us/consumer_corner/cc_telecom/advisory/lifeline.asp) (last visited Feb. 2, 2012); see also Florida Public Service Commission – Lifeline Assistance and Link-Up Florida Brochure, <http://www.floridapsc.com/utilities/telecomm/lifeline/engbrochure.aspx> (last visited Feb. 2, 2012); Kansas Corporation Commission – Kansas Lifeline Program, <http://www.kcc.state.ks.us/pi/lifeline.htm> (last visited Feb. 2, 2012); 47 C.F.R. § 54.409 (permitting “narrowly targeted qualification criteria that are based solely on income or factors directly related to income”).

<sup>169</sup> COMPTTEL Comments at 19.

all ETCs will operate under a set of baseline rules.<sup>170</sup> There is also widespread support for uniformity of eligibility criteria from various consumer groups, states, and ETCs.<sup>171</sup> Commenters, including consumer advocates and ETCs, agree that uniformity ensures that consumers in all states have comparable access to the program.<sup>172</sup> Currently, ETCs operating in multiple states have to develop state-specific policies and procedures to ensure compliance with state-specific program eligibility requirements, but with uniform eligibility requirements, consumers will face more streamlined enrollment procedures, while there would be fewer regulatory burdens on service providers.<sup>173</sup>

67. A few state commissions that commented oppose uniform eligibility criteria.<sup>174</sup> For example, two state commissions note that state laws may need to be changed due to adoption of uniform eligibility requirements.<sup>175</sup> One state commission argues that a uniform federal floor of eligibility criteria could place a financial burden on states that have stricter eligibility criteria than the federal default states.<sup>176</sup> We believe that such a burden, while not quantified in the record, may be overstated. It is important to note that such a burden would only fall on states that choose to allocate state funds for Lifeline support, which are then matched through federal Tier Three support.<sup>177</sup> Thus, a state would only be burdened insofar as the state has its own Lifeline fund and adoption of uniform eligibility criteria increases enrollment in that state.<sup>178</sup> For example, if a state does not currently include the Low-Income Home Energy Assistance Program (LIHEAP) as a program conferring Lifeline eligibility, our adoption of a uniform floor of eligibility would immediately render that state's LIHEAP customers eligible for Lifeline, provided those subscribers were not already enrolled in another qualifying program. If a state were to find that uniformity increases demand on its own state fund, it could adjust its state Lifeline support per household without increasing its overall fund size, among other options. The potential for increased costs to states from our adopting uniform eligibility criteria are further diminished by the fact that many Lifeline-only ETCs, including TracFone and Virgin Mobile, do not take from state funds.<sup>179</sup>

<sup>170</sup> COMPTTEL Comments at 19-20.

<sup>171</sup> AARP Comments at 5-6; Benton/PK/UCC Comments at 5; CA PUC Reply Comments at 6-7; CenturyLink Comments at 16-18; COMPTTEL Comments at 18-19; Conexions Comments at 8; Consumer Groups Reply Comments at 6-8; Cricket Comments at 11-12; CTIA Comments at 18-19; DC PSC Comments at 4-5; GCI Comments at 45-46; NASUCA Comments at 20-22; NJ DRC Reply Comments at 26; OH PUC Comments at 14; Alaska Commission Reply Comments at 12-13.

<sup>172</sup> See, e.g., COMPTTEL Comments at 18-19; Conexions Comments at 8; AARP Comments at 6.

<sup>173</sup> CenturyLink Comments at 16 ("Standard minimum criteria should enable easier program administration across multiple states."); Cricket Comments at 11 ("Cricket fully supports this proposal, which would create greater consistency in eligibility and verification requirements nationally. It also would help to eliminate ambiguities in certain state regulatory frameworks and streamline the administration of Low-Income support programs by ETCs."); CTIA Comments at 18.

<sup>174</sup> FL PSC Comments at 19; MI PSC Comments at 7; MS PSC Comments at 13; OR PUC Comments at 2.

<sup>175</sup> The Oregon Commission states that "changes in income qualification levels (such as the suggested increase from 135 percent to 150 percent of federal poverty guidelines) will require changes in Oregon law." OR PUC Comments at 2; see also MI PSC Comments at 7 (arguing that some states, including Michigan, have laws regarding eligibility and compliance with uniformity would necessitate burdensome legislative changes).

<sup>176</sup> OR PUC Comments at 2.

<sup>177</sup> 47 C.F.R. § 54.403(a)(3).

<sup>178</sup> We note that most states and territories, with the exceptions of Colorado, Montana, Idaho, and Virginia, maintain eligibility criteria very similar to or more permissive than the federal default criteria.

Therefore, we conclude that the benefits of uniformity of eligibility criteria outweigh any potential costs to states.<sup>180</sup>

68. We decline at this time to adopt a uniform national rule mandating that households with 150 percent of the FPG be eligible for Lifeline/Link Up. The record was mixed on this proposal.<sup>181</sup> We conclude that we should evaluate the impact of the other changes we adopt today before taking steps that could increase program demand.

## **B. One-Per-Household**

69. We take several steps to more effectively target low-income support by codifying a one-per-household requirement, while creating a framework that will more clearly delineate the obligations and expectations for both qualifying households and ETCs. First, we codify a rule limiting Lifeline support to a single subscription per household and define “household.” Second, recognizing that there are instances where multiple households (i.e., families) reside at the same address we implement procedures to enable applicants in such circumstances to demonstrate at enrollment that other Lifeline recipients residing at the same address are a separate household. Third, we adopt a requirement that, prior to providing service to a consumer, an ETC must obtain that consumer’s permanent residential address, unless they only have a temporary address. Fourth, we codify additional protections to be implemented by those ETCs that serve consumers without a permanent residential address, in order to assist ETCs in more easily verifying such consumers’ continued eligibility for the program. Fifth, we clarify that Lifeline is available to otherwise eligible low-income consumers residing in areas zoned as “commercial” if the consumer certifies at enrollment that the address of record provided by the consumer is his or her residential address.

### **1. Background**

70. The Commission previously has stated that eligible low-income consumers may receive low-income support for “a single line in their principal residence.”<sup>182</sup> This requirement historically was intended to target support where it was needed most and to maximize the number of Americans with access to the telephone network. Commonly known as the “one-per-household” limitation, in practice this requirement has been implemented by providing one Lifeline discount per residential address.<sup>183</sup>

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<sup>179</sup> Some states do not have or do not assert jurisdiction over wireless carriers, and some states do not have state funds; therefore some ETCs receive Tier Three support by providing additional service to the subscriber provided that “the carrier certifies to the Administrator that it will pass through the full amount of Tier Three support [up to \$3.50] to its qualifying low-income consumers.” 47 C.F.R. § 54.403(a)(3). Additionally, some ETCs choose not to accept state funds due to attached conditions and ease of administration.

<sup>180</sup> In furtherance of our goal of uniformity, we clarify that participants in Medicaid, a qualifying means-tested assistance program, are eligible for Lifeline even if their Medicaid participation consists solely of assistance in payment of Medicare Part B premiums.

<sup>181</sup> AARP Comments at 6; Benton/PK/UCC Comments at 5; Budget/GreatCall/PR Comments at 6; Conexions Comments at 8; Consumer Groups Reply Comments at 7; Cox Comments at 9; Keep USF Fair Comments at 2; MAG-Net Comments at 13-14; OH PUC Comments at 15; Open Access Comments at 2-3. *But see* One Economy Comments at 16-17; OR PUC Comments at 2; USTelecom Comments at 8.

<sup>182</sup> *Lifeline and Link Up*, WC Dkt. No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8306, para. 4 (2004) (*2004 Lifeline and Link Up Order and FNPRM*); *Universal Service First Report and Order*, 12 FCC Rcd 8776 at 8957, para. 341.

<sup>183</sup> Some parties dispute that the Commission has ever adopted a one-per-household requirement. *See, e.g.*, CTIA Comments at 13-16; GCI Comments at 37; AT&T PN Comments at 3. We disagree. As discussed in greater detail below, the aforementioned orders, *see infra* para. 76, established such a principle.

71. Beginning in 2005, the Commission has on a case-by-case basis permitted non-facilities-based providers, including prepaid wireless carriers, to obtain low-income support from the Universal Service Fund.<sup>184</sup> When designating certain non-facilities-based wireless carriers as Lifeline-only ETCs, the Commission has directed those carriers to establish safeguards to comply with the one-per-household rule, including requiring Lifeline consumers to self-certify under penalty of perjury upon service activation and then annually thereafter that they are the head of household and only receive Lifeline supported service from that carrier.<sup>185</sup> The greater availability of Lifeline services from a variety of providers has increased the likelihood that a residence may receive more than one Lifeline-supported telephone service.<sup>186</sup> Thus, notwithstanding existing program protections, including certification and verification requirements,<sup>187</sup> low-income consumers may be obtaining more than one Lifeline service per household, either knowingly or unwittingly.

72. In the *Lifeline and Link Up NPRM*, the Commission proposed to adopt a one-per-residential address requirement that would limit program support to a single subscription per residence, with “residence” defined as a U.S. Postal Service address.<sup>188</sup> The Commission also sought comment in the NPRM on how best to apply its proposed one-per-residence rule in non-traditional living situations, such as group living facilities and Tribal communities, in order to ensure that Lifeline is available to such consumers but also to prevent instances of duplicative support.<sup>189</sup>

73. In June 2011, the Commission codified a prohibition on qualifying individual consumers receiving more than one Lifeline subsidy at a given time.<sup>190</sup> In August 2011, the Bureau sought additional

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<sup>184</sup> See *i-Wireless Forbearance Order*, 25 FCC Rcd at 8784; *Virgin Mobile 2010 ETC Order*, 25 FCC Rcd at 17797; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3381; *TracFone Forbearance Order*, 20 FCC Rcd at 15095.

<sup>185</sup> See, e.g., *Telecommunications Carriers Eligible for Universal Service Support, Federal-State Joint Board on Universal Service, Conexions Petition for Forbearance*, WC Dkt. No. 09-197, CC Dkt. No. 96-45, Order, 25 FCC Rcd. 13866, 13871, para. 17 (2010) (*Conexions ETC Order*); *Telecommunications Carriers Eligible for Universal Service Support, Virgin Mobile USA, L.P. Petition for Designation as an Eligible Telecommunications Carrier*, WC Dkt. No. 09-197, Order, 25 FCC Rcd. 17797, 17804, para. 20 (2010) (*Virgin Mobile ETC Order*).

<sup>186</sup> Beginning in May 2011, the Commission asked USAC to begin conducting state-specific in-depth data validations (IDVs) after USAC audits undertaken in the course of ongoing oversight over the Low Income Program revealed that multiple ETCs were seeking reimbursement for Lifeline service provided to the same individual, and in some instances, to more than one individual living in the same residence. See *2011 Duplicative Program Payments Order*, 26 FCC Rcd at 9022. Adoption of a rule clarifying the one-per-household policy will similarly advance our efforts to eliminate duplicative Lifeline payments and guard against waste, fraud, and abuse.

<sup>187</sup> See 47 C.F.R. §§ 54.409, 54.410. For example, currently, certification rules applicable in federal default states require consumers that receive income-based support to self-certify under penalty of perjury as to their qualification to receive support and as to the number of individuals in their household. See 47 C.F.R. § 54.410(b). Prior to designating a wireless carrier as a Lifeline-only ETC, the Commission has required each carrier to take specific steps to further comply with the single supported service per household rule and establish safeguards to prevent consumers from receiving Lifeline-supported service from multiple ETCs. See *i-Wireless Forbearance Order*, 25 FCC Rcd at 8784, 8790, para. 16; *Virgin Mobile 2010 ETC Order*, 25 FCC Rcd at 17797, 17804, para. 21; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3381, 3387, 3392, paras. 12, 25; *TracFone Forbearance Order*, 20 FCC Rcd at 15095, 15103-04, para. 18. These requirements are only applicable to Lifeline-only ETCs designated as such by the Commission, and not state-designated Lifeline ETCs.

<sup>188</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2805-08, paras. 106-16.

<sup>189</sup> See *id.* at 2707-10, paras. 113-14, 116-25.

<sup>190</sup> *2011 Duplicative Program Payments Order*, 26 FCC Rcd at 9026, para. 7.

comment on limiting Lifeline support to one discount per residential address.<sup>191</sup>

## 2. Discussion

74. As an initial matter, we reiterate that under no circumstances may a single consumer receive more than one Lifeline-supported service.<sup>192</sup> We also now codify a rule limiting Lifeline support to a single subscription per household.<sup>193</sup> We define “household” in a manner consistent with the definition used in the Low-Income Home Energy Assistance Program, as “any individual or group of individuals who are living together at the same address as one economic unit.”<sup>194</sup> For the purposes of this rule, an economic unit consists of all adult individuals contributing to and sharing in the income and expenses of a household.<sup>195</sup> In light of extensive comment received in response to the *Lifeline and Link Up NPRM* and the *Lifeline and Link Up Public Notice*, we believe that a one-per-household rule defined as an economic unit is a reasonable way to ensure that voice and broadband service are available to low-income consumers while minimizing the contribution burden on consumers and businesses.<sup>196</sup>

<sup>191</sup> See *Lifeline and Link Up Public Notice*.

<sup>192</sup> *2011 Duplicative Program Payments Order*. In this Order, we move the codified restriction from section 54.401(a) to revised section 54.409(c).

<sup>193</sup> For commenters supporting a one-per-household rule, see, e.g., Cricket Comments at 8-9; Benton/PK/UCC Comments at 4; Consumer Groups Reply Comments at 4-5; CA PUC Reply Comments at 3, 5; LCCHR Comments at 8; NHMC Reply Comments at 1, 3.; Sprint Reply Comments at 1, 8; Letter from John T. Nakahata, Counsel, GCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.* (filed Jan. 13, 2012) (GCI Jan. 13 *ex parte* Letter).

<sup>194</sup> The U.S. Department of Health and Human Services establishes eligibility for the Low-Income Home Energy Assistance Program. See 42 U.S.C. § 8622(5). See, e.g., Benton/PK/UCC Comments at 4; Consumer Group Comments at 18-19; LCCHR Comments at 8; USTelecom Comments at 20.

<sup>195</sup> For the purposes of the rule we adopt today, “adults” are persons eighteen years of age or older, and children living with their parents or legal guardians are considered to be part of their parent or guardian’s household. A household may include related and unrelated persons. If a low-income consumer has no/minimal income, but lives with someone else who provides financial support to him/her, the low-income consumer should be considered to be part of that person’s household. An economic unit consists of adults contributing to and sharing in the income and expenses of a household. Examples of persons living together at an address that may constitute separate economic units are multi-generational families living together (e.g., parents living with their adult children) or unrelated adult roommates. See, e.g., Letter from John T. Nakahata, Counsel, GCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at Attach. (filed Jan. 23, 2012) (GCI Jan. 23 *ex parte* Letter); U.S. Department of Agriculture, Food & Nutrition Service (FNS), Women, Infants and Children (WIC) Prescreening Tool, Household Size, available at <https://stars.fns.usda.gov/wps/pages/household.jsf> (stating that a “household” is everyone who lives in a home (including children) and shares income and household expenses (bills, food, etc.). They may be related or unrelated) (last visited Feb. 2, 2012); see also Committee on National Statistics, Division of Behavioral and Social Sciences and Education, National Research Council of the National Academies, Estimating Eligibility and Participation for the WIC Program: Final Report at 51-52 (Michele Ver Ploeg and David M. Betson, eds., 2003), available at [http://www.nap.edu/openbook.php?record\\_id=10804&page=52](http://www.nap.edu/openbook.php?record_id=10804&page=52); Nebraska Health & Human Services, Nebraska WIC Program, Family Size/Economic Unit Determination, WIC Procedure Manual, Volume 1 (Clinic Services & Management), Section D, (1999), available at <http://dhhs.ne.gov/publichealth/Documents/section%20D%20page%204%20Family%20Size%20Determination.pdf>; California WIC Program Manual, Certification, Eligibility Requirement, Determination of Income Eligibility, WIC 210-03 (2009), available at <http://www.cdph.ca.gov/programs/wicworks/Documents/WPM/WIC-WPM-210-03.pdf>.

<sup>196</sup> There is a wide variety of practices among Lifeline providers today. See, e.g., Letter from John T. Nakahata, Counsel, GCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 2 (filed Nov. 23, 2011) (GCI Nov. 23 *ex parte* Letter) (stating that GCI currently employs a nuclear family approach to a one-per-household limitation under which a consumer is not eligible for service if either anyone else residing (continued...))

75. A one-per-household limitation is also consistent with our prior determination that eligible consumers may receive universal service low-income support for “a single line in their principal residence,”<sup>197</sup> as well as other existing Lifeline program rules. For example, today, in those states where eligibility is permitted based on a percentage of income above the FPG, consumers may qualify for Lifeline based on income level by demonstrating that their household income is at or below 135 percent of the FPG.<sup>198</sup> Similarly, as several commenters observe,<sup>199</sup> most of the underlying public assistance programs on which consumers rely to meet the Lifeline eligibility criteria also are based on a “household unit.”<sup>200</sup> Because use of the household unit is already well-established, we believe that a one-per-household rule is a reasonable extension of our current program rules, and is unlikely to cause confusion among consumers and ETCs.

76. We disagree with those parties who dispute that the Commission has ever adopted a one-per-household requirement.<sup>201</sup> We believe that the Commission, in prior orders, has established such a requirement for the Lifeline program.<sup>202</sup> We acknowledge, however, that this rule has not been a model of clarity in the past and may have caused unnecessary confusion among consumers and ETCs. We thereby remedy this issue today by codifying the one-per-household requirement in our Lifeline program rules.

77. We also take steps to anticipate and resolve instances where multiple households reside at the same address. In cases where multiple households reside at an address, including in Tribal communities and group living facilities, program applicants must affirmatively certify that other Lifeline recipients residing at that address are part of a separate household, *i.e.*, a separate economic unit that does not share income and expenses.<sup>203</sup> The *Lifeline and Link Up Public Notice* noted that at least one ETC

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at the consumer's physical address has Lifeline-supported wireline service, or anyone in the consumer's nuclear family (defined as spouse and minor children) has Lifeline-supported wireless service); Letter from Mitchell F. Brecher, Counsel, TracFone Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, enclosure at 6 (filed Nov. 10, 2011) (TracFone Nov. 10 *ex parte* Letter) (stating that TracFone currently limits its Lifeline enrollment to “one-per-residence”). A codified one-per-household rule as described above will make the Fund size more predictable because all ETCs will be adhering to the same rule.

<sup>197</sup> 2004 *Lifeline and Link Up Order and FNPRM*, 19 FCC Rcd at 8306, para. 4; *Universal Service First Report and Order*, 12 FCC Rcd at 8957, para. 341.

<sup>198</sup> Section 54.400(f) of the Commission's rules defines “income” for the purposes of establishing income-based eligibility for Lifeline as “all income actually received by all members of the household.” 47 C.F.R. § 54.400(f). *See also* Annual Update of the 2011 U.S. Department of Health & Human Services Poverty Guidelines, 76 Fed. Reg. 3,367, 3,637-38 (Jan. 20, 2011) (Federal Poverty Guidelines).

<sup>199</sup> *See, e.g.*, AT&T PN Comments at 2; CTIA Reply Comments at 10; Consumer Groups Comments at 19-20; Benton Foundation Comments at 4; LCCHR Comments at 8.

<sup>200</sup> Some examples of federal benefit programs that define “household” or “family” for the purpose of establishing eligibility include the Low-Income Home Energy Assistance Program (LIHEAP), Supplemental Nutrition Assistance Program (SNAP), National School Lunch Program (NLSP), Food Distribution Program on Indian Reservations (FDPIR), and Section 8 Public Housing Assistance.

<sup>201</sup> *See, e.g.*, CTIA Comments at 13-16; GCI Comments at 37.

<sup>202</sup> *See 2004 Lifeline and Link Up Order and FNPRM*, 19 FCC Rcd 8302 at 8306, para. 4; *Universal Service First Report and Order*, 12 FCC Rcd at 8957, para. 341.

<sup>203</sup> *See* Letter from Mitchell F. Brecher, Greenberg Traurig, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 2 (filed June 1, 2011) (TracFone June 1 *ex parte* Letter); *see also, e.g.*, CA PUC Reply Comments at 2 (noting that California permits Lifeline support in situations where multiple, qualified households reside at the same address); Cox PN Comments at 14-15; Letter (continued...)

already has procedures in place to comply with a one-per-household limitation in situations where multiple consumers claim the same U.S. Postal Service address, and sought comment on whether to require ETCs to implement similar processes to ensure compliance with a one-per-household rule.<sup>204</sup> Generally, this process allows the ETC to provide Lifeline service to multiple qualified residents at an address and also comply with the one-per-household limitation. However, some commenters responding to the Public Notice raised concerns about such an “escalation” process, arguing that the low-income consumers’ applications will typically be rejected and the consumer must initiate a dispute resolution process with the ETC to reverse that decision.<sup>205</sup> Thus, we find that it is preferable to implement procedures to enable applicants to demonstrate at the outset that any other Lifeline recipients residing at their residential address are part of a separate household. This will minimize burdens in resolving disputes, making it easier for consumers to enroll in the program.

78. As explained below in the database section, upon receiving an application for Lifeline support, all ETCs must check the duplicates database to determine whether an individual at the applicant’s residential address is currently receiving Lifeline-supported service.<sup>206</sup> The ETC must also search its own internal records to ensure that it does not already provide Lifeline-supported service to someone at that residential address. If nobody at the residential address is currently receiving Lifeline-supported service, the ETC may initiate Lifeline service after determining that the household is otherwise eligible to receive Lifeline and obtaining all required certifications from the household. If the ETC determines that an individual at the applicant’s residential address is currently receiving Lifeline-supported service, the ETC must take an additional step to ensure that the applicant and the current subscriber are part of different households. To enable applicants to make this demonstration, the ETC must require applicants to complete and submit to the ETC a written document, to be developed by USAC as discussed below, containing the following: (1) an explanation of the Commission’s one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant’s household and share in the household’s expenses or benefit from the applicant’s income, pursuant to the definition we adopt here today; and (4) the penalty for a consumer’s failure to make the required one-per-household certification (*i.e.*, de-enrollment).<sup>207</sup> All ETCs must collect the completed document upon initial program enrollment from those consumers who apply for Lifeline using a residential address that the ETC determines is already

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from Sindy Y. Yun, Staff Counsel, California Public Utilities Commission, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. Nos. 11-42 *et al.*, Attach. A, at 5 (filed June 28, 2011) (California PUC Resolution T-17321, discussing California’s Lifeline “roommate rule”) (CA PUC June 28 *ex parte* Presentation).

<sup>204</sup> *Lifeline and Link Up Public Notice*, 26 FCC Rcd at 11102, para. 2(a)(ii).

<sup>205</sup> *See, e.g.*, Consumer Groups PN Comments at 5; Benton PN Comments at 16; *cf.* Consumer Advocates PN Comments at 8-9.

<sup>206</sup> The one-per-household rule we adopt today applies to all ETCs, whether designated as such by a state or by the Commission.

<sup>207</sup> For ease of administration, the ETC may also choose to provide pre-populated options for applicants to initial to provide further explanation about their address being occupied by multiple households (*e.g.*, share a home with relatives that do not share income or expenses, live with an adult roommate who does not share in the applicant’s income or expenses, applicant resides in a group housing facility). We expect that it will be advantageous for ETCs to begin gathering such information, as it will assist them in more easily populating the duplicates database, once it is implemented.

receiving Lifeline-supported service.<sup>208</sup>

79. We direct USAC, within 30 days of the Order's publication in the Federal Register, to develop and submit to the Bureau a form consistent with the above requirements to assist ETCs in providing Lifeline to low-income households sharing an address. Additionally, within 30 days of this Order's publication in the Federal Register, USAC should develop print and web materials to be posted on USAC's website that both USAC and ETCs can use to educate consumers about the one-per-household rule.<sup>209</sup> By requiring applicants to provide this information as part of the initial program sign-up process, we will alleviate delays in the enrollment process, as it is less likely that an application will be rejected due to multiple households sharing an address and will reduce the burden on the part of both the consumer and the ETC. Additionally, this process will assist persons living at an address shared by multiple households to select the telephone service of their choice, wireless or wireline, without encountering unreasonable barriers due to not being the "first resident" at an address to apply for Lifeline.<sup>210</sup>

80. We decline to adopt the one-per-residential address rule proposed in the NPRM in part because it would be inappropriate to exclude otherwise eligible consumers solely because they lack a unique residential address.<sup>211</sup> Consumers may live in residences for which there is no unique U.S. Postal Service address or where multiple persons or families share a residential address, and this may be particularly common for low-income consumers.<sup>212</sup> Based on the record before us, we decline to adopt a rule that would potentially have the unintended consequence of excluding low-income consumers from participation in Lifeline.<sup>213</sup> In contrast, by codifying the one-per-household requirement, we will enable

<sup>208</sup> Thus, the first low-income consumer applying for Lifeline at a given address will not need to provide a one-per-household worksheet to the ETC. As described in the Certification section, below, ETCs must also obtain a certification from each consumer that he or she complies with the one-per-household requirement. *See supra* section VI.C (Certification of Consumer Eligibility for Lifeline). This certification must be provided by each Lifeline subscriber at initial enrollment and annually thereafter. *See supra* para. 120. In the event that a Lifeline subscriber joins a household that also obtains Lifeline (*i.e.*, becomes part of that economic unit), that subscriber will no longer be entitled to the Lifeline benefit. For example, if an adult Lifeline subscriber moves in with his or her parents, who also obtain Lifeline, and becomes a part of the parents' economic unit, only the subscriber's parents would be entitled to continue receiving Lifeline benefits.

<sup>209</sup> For example, USAC should develop a tool similar to WIC's that helps consumers to determine if they are eligible for Lifeline. *See, e.g.*, U.S. Department of Agriculture, Food and Nutrition Service (FNS), Women, Infants and Children (WIC) Prescreening Tool, Household Size, <https://stars.fns.usda.gov/wps/pages/household.jsf#> (last visited Jan. 30, 2012); U.S. Department of Agriculture, Food and Nutrition Service, Supplemental Nutrition Assistance Program Prescreening Eligibility Tool, <http://www.snap-step1.usda.gov/fns/> (last visited Jan. 30, 2012).

<sup>210</sup> Commenters state that ETCs have interpreted the Commission's existing "one-per-household" rule by providing one Lifeline discount per residential address; thus, in some cases, only one resident at an address shared by multiple households has been able to obtain Lifeline service. *See, e.g.*, Fletcher School Reply Comments at 6. MFY Legal Services Reply Comments at 2.

<sup>211</sup> *See* Amvensys Comments at 6; GCI Reply Comments 2 at 2; MAG-Net Reply Comments at 6-8; NATOA Comments at 3; NHMC Reply Comments at 3; AT&T Comments at 17; Consumer Groups Comments at 18-19; YourTel Comments at 3.

<sup>212</sup> *See, e.g.*, GCI Comments at 38; NHMC Reply Comments at 3; Consumer Groups Comments at 19-20; State of Alaska Reply Comments at 2; Letter from James E. Dunstan, Brian Tagaban & W. Greg Kelly, Navajo Nation Telecommunications Regulatory Authority (NNTRC), to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 5 (filed Jan. 20, 2012) (NNTRC Jan. 20 *ex parte* Letter).

<sup>213</sup> Commenters provided numerous examples of these living situations, including: unrelated adults living together; multiple families living together; and multi-generational families living together; residents of Tribal lands; as well as group living facilities, such as nursing homes, domestic abuse shelters, and persons occupying commercially zoned (continued...)

eligible low-income consumers, including consumers in non-traditional living situations, to receive Lifeline support.

81. Several commenters recommend that the Commission adopt a rule allowing for one Lifeline-supported service per consumer, which they assert is the best means to ensure the availability of telephone service for low-income consumers.<sup>214</sup> Other commenters advocate for adoption of a more limited “one-per-person rule,” for example recommending that we adopt such a rule only for residents of Tribal lands or group living facilities.<sup>215</sup> In support of a one-per-person rule, such commenters point to the increasing wireless penetration rate, as well as the varied living situations of low-income consumers.<sup>216</sup> They state that although the increasing availability of wireless Lifeline services has increased consumer choice, it has also made it more difficult to enforce a one-per-household or one-per-residence requirement.<sup>217</sup> Such commenters also point out that the challenges in applying the Commission’s existing one-per-household policy have been exacerbated by the fact that some residences, such as those on Tribal lands, lack a unique U.S. Postal Service address.<sup>218</sup> Other commenters point to the potential public safety impact of a rule permitting only one Lifeline-supported service per household

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facilities. *See, e.g.*, GCI Reply Comments at 10; LCCHR Comments at 8; COMPTTEL Comments at 16; Sprint Comments at 11-12; MAG-Net Reply Comments at 9; Verizon Reply Comments at 5; MA DTC Comments at 7; YourTel Comments at 2; Cricket Reply Comments at 10; MI PSC Comments at 6; MFY Legal Services Reply Comments at 2.

<sup>214</sup> *See, e.g.*, GCI Comments at 39-40; COMPTTEL Comments at 15; NALA/PCA Comments at 2; NHMC Reply Comments at 1, 3; Budget/GreatCall/PR Comments at 9-10. In response to the *Lifeline and Link Up Public Notice*, a few commenters mistakenly stated that the Commission already adopted a one-per-qualifying consumer rule in the *2011 Duplicative Program Payments Order*. *See, e.g.*, AT&T Public Notice Comments at 1-2; CTIA Public Notice Reply Comments at 3-4. To the contrary, in that order, the Commission explicitly prohibited a qualified low-income individual from receiving more than one Lifeline-supported service at the same time; it did not hold that each such person was entitled to Lifeline benefits. *2011 Duplicative Program Payments Order*, 26 FCC Red. 9022 at 9026-28, paras. 8-14.

<sup>215</sup> *See, e.g.*, SBI Comments at 9-10 (recommending that the Commission provide one Lifeline discount per eligible adult to eligible residents of Tribal lands whose annual household income is at or below the federal poverty level, which SBI estimates would cost approximately \$25 million with a 32 percent program take rate); Letter from John T. Nakahata, Counsel, GCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 2-3 (filed Dec. 6, 2011) (stating that Lifeline-supported wireless services should be available to each eligible adult on Tribal lands and estimating that this would expand service to an additional 22,000 adults in Alaska) (GCI Dec. 6 *ex parte* Letter); Letter from Steven M. Chernoff, Counsel, PR Wireless d/b/a Open Mobile, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 5 (filed Jan. 25, 2012) (stating that if a one-per-qualifying-adult rule is adopted for Tribal lands, it would be essential to extend such a rule to Puerto Rico, which has economic and infrastructure conditions similar to many Tribal areas) (PR Wireless Jan. 25 *ex parte* Letter). *But see* Letter from Michael R. Romano, Senior Vice President – Policy, NTCA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 1 (filed Dec. 22, 2011) (stating that there is no reason to base a rule of general applicability on unique circumstances that may be faced in specific areas) (NTCA Dec. 22 *ex parte* Letter).

<sup>216</sup> *See, e.g.*, NHMC Reply Comments at 1, 3; Sprint Reply Comments at 8; GCI Comments at 39-40; COMPTTEL Comments at 15; Budget/GreatCall/PR Comments at 9-10.

<sup>217</sup> Commenters point out that multiple members of a family, for example, or adult roommates may each sign up for a separate plan from different companies so that each person has his or her own subscription. Additionally, low-income consumers, such as residents of nursing homes or shelters, may share a residence with other similarly situated consumers, each of whom may wish to obtain a Lifeline service.

<sup>218</sup> SBI Comments at 10-12; GCI Reply Comments at 10; Consumer Groups Comments at 19-20; State of Alaska Reply Comments at 2.

or residential address.<sup>219</sup>

82. Although we acknowledge these concerns and issues, the program's ability to subsidize service for each eligible low-income individual is tempered by the need to minimize the contribution burden the program places on all consumers. A one-per-person rule could potentially increase the size of the low-income program by a significant percentage above the projected Fund size with the one-per-economic unit rule we adopt in this Order. By codifying a one-per-economic unit rule rather than a one-per-person rule, the Commission can strike an appropriate balance between ensuring that support is available for eligible low-income families and that universal service funds are spent in a fiscally prudent way.<sup>220</sup> Moreover, the expected savings from strict enforcement of a one-per-economic unit rule may be utilized to implement other measures to modernize the Lifeline program, such as the broadband pilot program we adopt below,<sup>221</sup> that will assist in meeting the challenges of broadband adoption for low-income consumers.

83. Contrary to assertions in the record that a one-per-household rule overlooks the importance of mobility for low-income consumers, the rule we adopt today will allow eligible low-income households to select the Lifeline service, whether landline or mobile, that best meets their needs.<sup>222</sup> We recognize the public safety concerns raised by some commenters with respect to a one-per-household rule. However, as noted above, the potential benefits of a one-per-person rule must be balanced against the corresponding increase in the burden on the consumers and businesses that contribute to USF.<sup>223</sup> The Lifeline program can play an important safety role for low-income consumers, particularly those in isolated rural areas; however, in some limited instances consumers may need to seek out other alternatives to ensure phone coverage in emergency situations (e.g., non-Lifeline prepaid wireless services or postpaid wireline services). Additionally, as we clarify below, eligible consumers may choose to apply their Lifeline discount to the purchase of family shared calling plans, which may mitigate commenters' public safety concerns by making voice service available to more than one person in a household at any given time.<sup>224</sup>

84. We acknowledge those comments that urge the Commission to use caution to ensure that the rules we adopt do not impose additional or excessive administrative costs on ETCs, including small carriers.<sup>225</sup> The rules we adopt here will not unreasonably burden ETCs, including those with a small number of Lifeline subscribers, as the rules will require ETCs to obtain information from only a limited

<sup>219</sup> Commenters state, for example, that one member of a household could take a mobile phone with them outside of their residence, leaving the rest of the household members without a phone. Letter from David A. LaFuria, Counsel, SBI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 1 (filed Nov. 25, 2011) (SBI Nov. 25 *ex parte* Letter); GCI PN Comments at 13; Letter from John T. Nakahata, Counsel, GCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 3 (filed Dec. 6, 2011) (GCI Dec. 6 *ex parte* Letter); Letter from Tom W. Davidson, Counsel, GRTI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 1 (filed Jan. 24, 2012) (GRTI Jan. 24 *ex parte* Letter).

<sup>220</sup> See, e.g., Cricket PN Comments at 2-3; Consumer Groups Comments at 17-18; CA PUC Reply Comments at 3, 5; Cricket Reply Comments at 10. See also *supra* Section III.C (Performance Goals & Measures).

<sup>221</sup> See *infra* section IX.B (Broadband Pilot).

<sup>222</sup> See, e.g., Amvensys Comments at 7; GCI Reply Comments at 6; PR Wireless Jan. 25 *ex parte* Letter at 1-2; NHMC Reply Comments at 3.

<sup>223</sup> See *supra* section III.C (Performance Goals & Measures).

<sup>224</sup> See *infra* section IX.A (Bundled Services).

<sup>225</sup> See, e.g., NTCA Comments at 3-4; MITS Reply Comments at 7-8.

number of consumers about their household arrangements, specifically those who are residing in group living facilities or at addresses shared by multiple households.<sup>226</sup> This information is necessary to assist qualifying consumers in such living situations to obtain Lifeline service and to document their compliance with the one-per-household rule. As noted above, USAC will develop materials print and web materials that ETCs can use to educate consumers about the one-per-household rule. We stress that we are requiring consumers to furnish only as much information as is needed for the ETC to verify the consumer's compliance with the one-per-household rule, which allows more than one Lifeline-supported service at a given address in specific circumstances.<sup>227</sup> We are not expecting a consumer, for example, to list the names of other residents of their household or explain personal or familial relationships on the Lifeline application form. Rather, as stated above, it would be sufficient for a consumer to state that he or she shares an address with other adults who do not contribute income to their household or share in the household expenses. We are not imposing an obligation on ETCs to investigate or inquire further about the specifics of those household arrangements.

85. *Lifeline Address Requirement.* We adopt a requirement that, prior to providing service to a consumer, ETCs must obtain that consumer's residential address, which the consumer must indicate is his or her permanent address, and a billing address for the service (if the consumer's billing address differs from his or her residential address).<sup>228</sup> We also adopt a requirement that Lifeline participants provide their new address to the ETC within 30 days of moving. As described in the Database section below, ETCs will be required to enter this address in the duplicates database within 10 business days of receipt to determine if a subscriber is receiving Lifeline support from another ETC.<sup>229</sup> It is important that ETCs obtain accurate address information for all subscribers so that such information can be used to detect potential cases of duplicative support, and for eligible consumers to promptly notify the ETC of any changes in their address.

86. In the record of the *NPRM*, we observed that some ETCs have not permitted consumers to obtain Lifeline support when using a P.O. Box as their mailing address.<sup>230</sup> Instead, ETCs have required applicants seeking Lifeline support to provide a residential address on their application to ensure that the subscriber is eligible for supported service and is not receiving more than one subsidized service.<sup>231</sup> We sought comment on whether to codify a rule requiring ETCs to collect the residential addresses of their Lifeline applicants before they provide discounted service, meaning that if a consumer receives mail at a P.O. Box, the consumer would have to provide a residential address to which his or her service would be

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<sup>226</sup> A few commenters contend that the Commission should not require ETCs to collect potentially sensitive information about low-income consumers' household living arrangements. *See, e.g.,* AT&T Comments at 18; CTIA Reply Comments at 11; COMPTEL PN Comments at 6-7.

<sup>227</sup> We acknowledge the challenges associated with the lack of addresses on Tribal lands and discuss this issue further below. *See infra* para. 166. The record indicates that residential addresses are frequently non-existent on Tribal lands and, where present, often differ significantly from residential addresses off Tribal lands. *See, e.g.,* SBI Comments at 14-16.

<sup>228</sup> *See Lifeline and Link Up NPRM*, 26 FCC Rcd at 2807-08, para. 115 and Appendix A, 47 C.F.R. § 54.408(a)(2) (proposed rule). The rule is supported by CenturyLink and the Missouri Public Service Commission. *See* CenturyLink Comments at 8; MO PSC Comments at 11-12.

<sup>229</sup> *See infra* section VII.A (National Lifeline Accountability Database).

<sup>230</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2792, para. 63. *See, e.g.,* City of Cambridge TracFone One-Per-Household Clarification Comments at 2; NNEDV TracFone One-Per-Household Clarification Reply Comments at 2; SBI TracFone One-Per-Household Clarification Comments at 4-5; POTS TracFone One-Per-Household Clarification Comments at 2.

<sup>231</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2792, para. 63.

tied.<sup>232</sup>

87. Lifeline applicants will not be permitted to use a P.O. Box address as their Lifeline address. We are concerned that some subscribers could list a P.O. Box as their address in an effort to avoid complying with our one-per-household requirement. Moreover, requiring a residential address to serve as the Lifeline address will facilitate the discovery of duplicative support for a particular household or subscriber.<sup>233</sup> Thus, requiring a residential address is an important tool in reducing the potential for waste, fraud, and abuse in the program. We recognize that there are also circumstances where an applicant may not have a permanent residential address due to a temporary living situation or because the address is not recognized by the post office.<sup>234</sup> In the case of temporary living situations, the applicant must provide a temporary residential address or other qualifying address, such as the address of a temporary shelter, or a friend or family member, which could be used to perform a check for duplicative support and trigger the requirement that the consumer complete the one-per-household document referenced above.<sup>235</sup> In the case of addresses not recognized by the post office, including residences on Tribal lands, the applicant must provide a descriptive address which could be used to perform a check for duplicative support and trigger the requirement to complete the one-per-household document. For the consumer's billing address, an ETC may accept a P.O. Box or General Delivery address in lieu of a residential address.<sup>236</sup>

88. *Persons with temporary addresses.* As stated above, the one-per-household rule will be applicable to individuals residing in group living facilities, including, but not limited to, nursing homes, shelters, halfway houses, boarding houses, and apartment buildings without individual unit numbers. This rule and its associated procedures will provide an administratively feasible means for ETCs to provide Lifeline-supported service to residents of these facilities, while also reducing the risk of waste, fraud, and abuse. Some group living facilities, however, may serve consumers who lack a permanent address. In the *2010 Joint Board Recommended Decision*, the Joint Board recommended that the Commission consider how to best serve such populations while also maintaining a commitment to preventing waste, fraud, and abuse in the program.<sup>237</sup>

89. We agree with those commenters who state that consumers without permanent addresses should not be precluded from participation in Lifeline. However, we also share the Joint Board's concern

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<sup>232</sup> *Id.*

<sup>233</sup> See, e.g., MO PSC Comments at 5; IN URC Comments at 4. As discussed above, while our rules will allow ETCs to provide service to multiple households at an address, this will require the consumer to take affirmative steps to confirm that his or her housing arrangement involves multiple households at the same address and to certify that no more than one Lifeline subsidy is received by his or her household.

<sup>234</sup> See, e.g., GCI Jan. 13 *ex parte* Letter; Letter from David A. LaFuria, Counsel, SBI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.* (filed Dec. 6, 2011) (SBI Dec. 6 *ex parte* Letter); Letter from Erica M. Olsen, MSW, Technology Safety Specialist, National Network to End Domestic Violence (NNEDV), WC Dkt. No. 11-42 *et al.* (filed July 27, 2011) (NNEDV July 27 *ex parte* Letter).

<sup>235</sup> See *supra* paras. 77-79. See, e.g., Family Services Manual, Oregon Department of Human Services, Supplemental Nutrition Assistance Program (SNAP), Section D (Non-Financial Eligibility), Residency, <http://apps.state.or.us/cfl/EligManual/EMnlFrame.htm?Page+ID=06-toc> (noting that persons without fixed residential addresses can provide the address of a shelter or the address of a friend to receive SNAP benefits) (last visited Feb. 2, 2012).

<sup>236</sup> See USPS.com, Research Delivery Options, General Delivery, <https://www.usps.com/manage/research-delivery-options.htm>.

<sup>237</sup> See *2010 Joint Board Recommended Decision*, 25 FCC Rcd at 15602-03, paras. 12-14.

with respect to the “inherent difficulties of serving and verifying such highly mobile populations.”<sup>238</sup> Accordingly, we adopt additional protections to be implemented by those ETCs that serve consumers without a permanent address, in order to assist ETCs in more easily confirming such consumers’ continued eligibility for the program. Specifically, we adopt a rule requiring ETCs to inquire on their Lifeline application forms whether the applicant’s address is a temporary one. If it is, the ETC must verify with the subscriber every 90 days that he/she continues to rely on that address.<sup>239</sup> As noted above, if the subscriber has moved, the ETC must update the database with the information within 10 business days of receipt of that information.<sup>240</sup> Similar to the non-usage requirement for prepaid Lifeline service, if the subscriber fails to respond within 30 days of the ETC’s attempts to verify the temporary address, the subscriber must be de-enrolled from Lifeline pursuant to the program’s de-enrollment rules. This requirement will enable consumers with temporary addresses to reap the benefit of the Lifeline program, but will also alleviate the concerns about waste, fraud, and abuse raised by the Joint Board in the *2010 Joint Board Recommended Decision*.<sup>241</sup>

90. *Application of the One-Per-Household Rule to Commercially Zoned Buildings.* As noted in the NPRM, there are instances where otherwise eligible applicants have been denied Lifeline service because they live in facilities that are zoned for commercial, rather than residential use.<sup>242</sup> Such commercial residences typically tend to be group living facilities, such as single-room occupancy buildings, lodging houses, rooming houses, and shelters, rather than individual residences.<sup>243</sup> Several commenters responding to the NPRM state that otherwise eligible consumers should not be denied Lifeline service due to their residence in these commercially zoned facilities.<sup>244</sup> We agree. Accordingly, we clarify that if the consumer is otherwise eligible for Lifeline and the consumer certifies at enrollment that the address of record provided by the consumer is his or her residential address, the consumer should not be denied Lifeline because of residence in an area that is commercially zoned.

### C. Certification of Consumer Eligibility for Lifeline

91. In this section, we adopt uniform and consistent measures to check low-income consumers’ initial and ongoing eligibility for Lifeline. The measures we adopt today will increase consistency in certification practices and reduce the number of ineligible consumers in the Lifeline program.<sup>245</sup> First, we take several steps in this Order to move expeditiously toward the goal of having an

<sup>238</sup> *Id.* at 15603, para. 14.

<sup>239</sup> We do not impose a requirement as to what method ETCs must use to verify the address of such subscribers. For example, a free-of-charge text message confirming the subscriber’s address or a confirmation from a group living facility that the subscriber resides there could be sufficient to satisfy this requirement.

<sup>240</sup> *See supra* para. 85.

<sup>241</sup> *See 2010 Joint Board Recommended Decision*, 25 FCC Rcd at 15602-03, paras. 12-14. We do not expect this requirement to impose unreasonable burdens on ETCs. As stated above, we do not prescribe the method that ETCs must use to verify the address of those subscribers utilizing temporary addresses. *See supra* n.240. Moreover, in most cases this rule is likely to be applicable to only a small portion of an ETC’s Lifeline subscriber base. Thus, the rule we adopt today properly balances our obligation to provide access to telecommunications services for eligible low-income consumers with our responsibility to ensure that funds are spent in a fiscally responsible way.

<sup>242</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2808, para. 117.

<sup>243</sup> *Id.* at 2808, paras. 117-18.

<sup>244</sup> *See, e.g.*, CenturyLink Comments at 13; FL PSC Comments at 17; MA DTC Comments at 5; Media Action Grassroots Network Comments at 19; MI PSC Comments at 6; MFY Legal Reply Comments at 2.

<sup>245</sup> To date, “certification” has referred to the initial determination of eligibility for enrollment in the program, and “verification” has referred to the subsequent determinations of ongoing eligibility after a subscriber has already been (continued....)

automated means to determine Lifeline eligibility for all consumers. Second, we amend section 54.410 of the Commission's rules to require that ETCs (or the state Lifeline program administrator, where applicable) check the eligibility of low-income consumers seeking to enroll in Lifeline either by accessing electronic eligibility databases, where available, or by reviewing documentation from the consumer demonstrating his/her eligibility for Lifeline service.<sup>246</sup> Third, we amend section 54.410 of the Commission's rules to require Lifeline subscribers to make initial and annual certifications under penalty of perjury concerning their eligibility for Lifeline. Fourth, we amend sections 54.410 and 54.407 of the Commission's rules to require that all Lifeline subscribers certify upon enrollment in Lifeline and annually thereafter that the subscriber's household is receiving no more than one Lifeline-supported service. Fifth, we amend section 54.416 of the Commission's rules to require ETCs to certify to their compliance with our rules on an annual Lifeline eligible telecommunications carrier certification form and when submitting FCC Forms 497 to USAC for reimbursement.

92. We also take several actions to improve the current methodology employed by ETCs to verify ongoing consumer eligibility for Lifeline. First, we amend section 54.410 of the Commission's rules to replace the existing verification procedures and methodology with a uniform annual re-certification requirement to be performed through the end of 2012 by ETCs in all states (or the state Lifeline program administrator, where applicable), while also allowing ETCs to leverage existing databases to more easily confirm the continued eligibility of their subscribers. Second, we establish a process to transition, beginning in 2013, the responsibility for annual subscriber re-certification to USAC, at the ETC's election. Third, we amend section 54.405 of the Commission's rules to adopt a procedure for de-enrolling those subscribers who do not respond to an ETC's or state's annual re-certification efforts, which will encourage consumer accountability and ensure that universal service support is not directed toward consumers who may not be eligible for Lifeline. Fourth, to provide the Commission and the states with a more complete set of consumer eligibility data, we codify a rule requiring ETCs in all states to share their annual re-certification results with USAC, the Commission, and their respective state commissions, where the carrier is subject to state jurisdiction.

### 1. Background

93. The Commission's current rules regarding the certification and verification of consumer eligibility for Lifeline differ based on whether a state maintains its own universal service low-income program. States with their own low-income programs may establish rules to govern the initial certification and ongoing verification of consumers' eligibility for Lifeline support.<sup>247</sup> Such states are referred to as "non-federal default states." In states without their own low-income programs, referred to as "federal default states," ETCs must follow the federal certification and verification requirements set forth in sections 54.409, 54.410, and 54.416 of the Commission's rules.<sup>248</sup> Thus, ETCs providing Lifeline service in multiple states may be required to comply with various state and/or federal certification and

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enrolled in and is receiving support from the program. *See, e.g., 2010 Joint Board Recommended Decision*, 25 FCC Rcd at 15606-15611, paras. 23-34. As detailed below, we replace this approach today with a process requiring ETCs to make and obtain certain initial and annual attestations relating to consumer eligibility for Lifeline. Accordingly, in the Discussion section below we use the term "certification" to collectively refer to the procedures that ETCs (or states, where applicable) must employ to check both the initial and ongoing eligibility of their Lifeline subscribers.

<sup>246</sup> Throughout this section, we use the term "state Lifeline program administrator", "states" and "state agencies" interchangeably to include any governmental agency within a state, or its agents, that may perform functions relating to consumer eligibility.

<sup>247</sup> *See* 47 C.F.R. §§ 54.410(a)(1), (c)(1).

<sup>248</sup> *See* 47 C.F.R. §§ 54.409(d); 54.410(a)(2), (c)(2); 54.416.

verification procedures. Moreover, certification and verification requirements may even vary from ETC to ETC within a given state because some states do not assert jurisdiction over certain carriers within the state (e.g., wireless ETCs).<sup>249</sup> In such circumstances, the federally-designated ETCs may be subject to different standards from the state-designated ETCs in the same state.

94. *Initial Certification of Consumer Eligibility.* Certification is the process by which eligible consumers establish their qualification for Lifeline. Certification occurs at the time a consumer is applying to enroll in Lifeline.<sup>250</sup> To qualify for universal service low-income support, a consumer must first demonstrate that he or she meets the eligibility criteria set forth in federal or state rules, as applicable. Sections 54.409 and 54.410 of the Commission's rules provide two options for consumers in federal default states to choose between to establish eligibility for Lifeline: (1) consumers may self-certify that they are eligible for Lifeline support based on participation in certain federal programs;<sup>251</sup> or (2) consumers may provide documentation showing that they meet the income threshold requirements set forth in the Commission's rules.<sup>252</sup> Non-federal default states, however, exhibit variation in permitted certification practices, particularly with respect to the proof required by low-income consumers seeking to enroll in Lifeline based on participation in a qualifying state or federal program.<sup>253</sup> According to the 2010 GAO study of the Lifeline program, 25 states currently require consumers to provide documentation of enrollment in a qualifying program.<sup>254</sup>

95. *Annual Verification of Continued Eligibility.* Currently, section 54.410 of the Commission's rules sets out a bifurcated structure for ETCs to follow when verifying consumers' ongoing eligibility for Lifeline. Pursuant to section 54.410(c)(1) of the Commission's rules, ETCs in non-federal-default states must comply with the verification procedures established by the states, each of which may adopt its own method for verifying continued consumer eligibility.<sup>255</sup> GAO's 2010 report noted wide variation in methods employed by non-federal-default states to verify consumers' ongoing eligibility for Lifeline.<sup>256</sup> Section 54.410(c)(2) of the Commission's rules requires ETCs in federal default states to annually verify the continued eligibility of a statistically valid random sample of their consumers.<sup>257</sup> The size of annual samples are based on a number of factors, including the number of

<sup>249</sup> Under the current rules, when a state commission mandates Lifeline support but does not impose certification and verification requirements on certain carriers or customers within the state, the affected carriers must follow federal default criteria for certification and verification purposes. See *Lifeline and Link Up*, WC Dkt. No. 03-109, Order and Declaratory Ruling, 25 FCC Rcd 1641, 1641-42, 1645, paras. 1, 9 (2010) (*Lifeline Declaratory Ruling*).

<sup>250</sup> 2004 *Lifeline and Link Up Order and FNPRM*, 19 FCC Rcd at 8317, para. 23.

<sup>251</sup> 47 C.F.R. § 54.409(b), (c), (d)(1).

<sup>252</sup> 47 C.F.R. §§ 54.409(b), (d)(2), 54.410(a)(2). Currently, consumers in federal default states who wish to qualify for Link Up support based on income levels must present documentation showing they meet the income threshold requirements in the Commission's rules. 47 C.F.R. § 54.416.

<sup>253</sup> According to GAO, 16 states permit self-certification under penalty of perjury, 25 states require documentation of enrollment in a qualifying program, and 9 states have in place automatic enrollment of eligible consumers. 2010 GAO REPORT at 51.

<sup>254</sup> *Id.*

<sup>255</sup> 47 C.F.R. § 54.410(c)(1).

<sup>256</sup> See 2010 GAO REPORT at 51. According to GAO, 14 states conduct random audits of Lifeline recipients, 20 states require periodic submission of supporting documents, 13 states require an annual self-certification, 13 states use an online verification system using databases of public assistance participants or income reports, and 17 states conduct verification by confirming the continued eligibility of a statistically valid sample of Lifeline recipients. *Id.*

<sup>257</sup> 47 C.F.R. § 54.410(c)(2); see also *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2879-81, Appendix B (overview of the current sampling methodology used by ETCs in federal default states). Subscribers who are sampled in (continued...)

Lifeline subscribers served by the ETC and the previously estimated proportion of Lifeline subscribers served that are “inappropriately taking” Lifeline service.<sup>258</sup> However, the current methodology assumes that no more than six percent of consumers would be found ineligible in any given year.<sup>259</sup>

96. In the *Lifeline and Link Up NPRM*, the Commission suggested several changes to the Lifeline certification and verification rules aimed at improving the integrity of the program by strengthening federal requirements and introducing greater consistency nationwide.<sup>260</sup> The Commission developed such proposals drawing, in large part, on recommendations of the Joint Board and the findings of the GAO in its 2010 review of the low-income program.<sup>261</sup> GAO, for example, found that the Lifeline program lacks an adequate front-end mechanism to prevent ineligible consumers from receiving program support, and that there are risks associated with self-certification of subscriber eligibility.<sup>262</sup> Additionally, the Joint Board recommended that, to promote nationwide uniformity in the verification of consumer eligibility for Lifeline, the Commission adopt uniform, minimum verification procedures and sampling criteria that would apply to ETCs in all states.<sup>263</sup> The changes we adopt today directly address the GAO’s critiques and the Joint Board’s recommendations.

## 2. Discussion

### a. Initial and Annual Certification Requirements

97. *Eligibility Databases.* We find that establishing a fully automated means for verifying consumers’ initial and ongoing Lifeline eligibility from governmental data sources would both improve the accuracy of eligibility determinations, ensuring that only eligible consumers receive Lifeline benefits, and reduce burdens on consumers as well as ETCs. We therefore direct the Bureau and USAC to take all necessary actions so that, as soon as possible and no later than the end of 2013, there will be an automated means to determine Lifeline eligibility for, at a minimum, the three most common programs through

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federal default states and who qualify for Lifeline under program-based eligibility criteria must present proof of their continued eligibility and self-certify under penalty of perjury that they continue to participate in a qualifying public assistance program. See 47 C.F.R. § 54.410(c)(2). Subscribers who are sampled in federal default states and who qualify for Lifeline based on income must present current documentation of income and self-certify under penalty of perjury as to the number of individuals in the subscriber’s household and that the documentation presented accurately represents their household income. *Id.* ETCs are required to retain copies of the self-certifications but not the underlying documentation of income. See 47 C.F.R. § 54.417.

<sup>258</sup> See *Lifeline and Link Up NPRM*, at 26 FCC Rcd at 2879-81, Appendix B (Sample Size Table); see also 2004 *Lifeline and Link Up Order and FNPRM*, 19 FCC Rcd at 8365, Appendix J-1.

<sup>259</sup> See *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2879-81, Appendix B (“In all instances, the estimated proportion P should never be less than .01 or more than .06.”).

<sup>260</sup> See *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2824-31, paras. 167-98.

<sup>261</sup> See generally 2010 *Joint Board Recommended Decision*; 2010 GAO REPORT.

<sup>262</sup> See 2010 GAO REPORT at 37.

<sup>263</sup> 2010 *Joint Board Recommended Decision*, 25 FCC Rcd at 15607, para. 26. However, the Joint Board recommended that states be permitted to utilize different and/or additional verification procedures, as long as those procedures are at least as effective in detecting waste, fraud, and abuse as the minimum federal procedures. *Id.* at 15608, para. 28. For additional discussion of the Joint Board’s recommendations with respect to verification, see *infra* discussion at section VI.C.2.b (Annual Re-Certification of Consumer Eligibility).

which consumers qualify for Lifeline.<sup>264</sup> Several states have already developed qualifying databases through which a Lifeline subscriber's initial and continued eligibility can be verified, and in some cases eligibility determinations are performed by a third-party administrator rather than ETCs. In other states, ETCs can directly access an eligibility database.<sup>265</sup> We take several steps in this Order to move expeditiously toward the goal of having an automated means to determine Lifeline eligibility for all consumers. First, we direct the Wireline Competition Bureau to reach out to the other federal government agencies responsible for the qualifying programs to help facilitate access to the data necessary to determine subscriber eligibility. Second, we direct the Bureau to host a series of workshops including non-governmental entities such as ETCs, technical experts, and database vendors to identify pragmatic solutions to issues regarding the establishment of one or more databases. Finally, we seek additional targeted comment on implementation issues in the attached further notice.<sup>266</sup>

98. *Determination of Initial Program Eligibility.* We first amend section 54.410 of the Commission's rules to require all ETCs, prior to enrolling a new subscriber in Lifeline, to access state or federal social services eligibility databases, where available, to determine a consumer's program-based eligibility.<sup>267</sup> By accessing state or federal social service eligibility data, ETCs will more efficiently and accurately determine whether a consumer is eligible for low-income support.<sup>268</sup> As discussed below, we conclude that a rule requiring ETCs to access databases where available at enrollment to confirm program-based eligibility is necessary in light of evidence demonstrating that consumer self-certification of program-based eligibility does not effectively prevent ineligible consumers from enrolling in Lifeline.<sup>269</sup> Where ETCs access state or federal databases to make determinations about consumer

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<sup>264</sup> Based on the information in the record, most consumers qualify for Lifeline through Medicaid, SNAP, and SSI. See *infra* paras. 104 and n.1063. We recognize that meeting this goal will require coordinated action among numerous parties outside of the Commission.

<sup>265</sup> As the record indicates, there are at least nine states with an automated means for ETCs or state administrators to determine consumer participation in at least some programs which qualify consumers for Lifeline support. See Letter from Mitchell F. Brecher, Counsel, TracFone Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 5 (filed Jan. 24, 2012) (noting that TracFone has access to eligibility information in Florida, Wisconsin, Maryland, Texas and Washington state) (TracFone Jan. 24 *ex parte* Letter); Letter from Shana Knutson, Staff Attorney, Nebraska Public Service Commission, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. Nos. 11-42 *et al.*, at 2 (filed Aug. 8, 2011) (NE PSC Aug. 8 *ex parte* Letter); Letter from Jon Cray, Residential Service Protection Fund Program Manager, Public Utilities Commission of Oregon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. 11-42 *et al.*, at 2 (filed Aug. 24, 2011) (OR PUC Aug. 24 *ex parte* Presentation); NY PSC Comments at 10; Letter from Robert W. Wilhelm, Jr., Regulatory Pricing Manager, Cincinnati Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 2 (filed Aug. 30, 2011) (discussing data access to Ohio energy assistance program) (Cincinnati Bell Aug. 30 *ex parte* Letter).

<sup>266</sup> See *infra* FNPRM, section XIII.A (Establishing an Eligibility Database).

<sup>267</sup> This discussion focuses on certification requirements for consumers seeking Lifeline support. ETCs must also follow the certification procedures set forth in section 54.410, as modified, to determine an eligible resident of Tribal lands' initial eligibility for Link Up.

<sup>268</sup> See, e.g., Letter from Mitchell F. Brecher, Counsel, TracFone Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.* (filed Nov. 22, 2011) (TracFone Nov. 22 *ex parte* Letter); Letter from Danielle Frappier, Counsel, Nexus Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.* (filed Nov. 18, 2011) (proposing that ETCs participating in the Lifeline program engage in a cooperative effort to establish a database to screen for duplicative Lifeline subscriptions and confirm consumer eligibility) (Nexus Nov. 18 *ex parte* Letter).

<sup>269</sup> See *infra* paras. 102-05.

eligibility for Lifeline, we do not require ETCs to obtain from a new subscriber documentation of his or her participation in a qualifying federal program. The ETC or its representative must note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline (e.g., name of a state database.) This rule will reduce administrative burdens on ETCs by allowing them to leverage existing systems and processes. In states where the ETC is not responsible for the initial determination of consumer eligibility, a state agency or third-party administrator, as applicable, may query the database in lieu of the ETC doing so.

99. We recognize that some ETCs will not have access to centralized consumer eligibility data in the near-term, or may only have access to eligibility data for a subset of the social services programs in a given state. In states where ETCs are responsible for establishing eligibility (i.e., there is no state administrator, and the state commission or other state agency is not making eligibility determinations) and there is no automated means for ETCs to check electronic databases for eligibility, an ETC must review documentation to determine eligibility for new subscribers until such time as a qualifying eligibility database is available.<sup>270</sup> In states where the ETC is not responsible for the initial determination of consumer eligibility, a state agency or third-party administrator, as applicable, may obtain consumer documentation in lieu of the ETC doing so.<sup>271</sup>

100. No later than June 1, 2012, ETCs in states where carriers are responsible for checking consumer eligibility must implement certification procedures to document the eligibility of those consumers seeking to qualify for Lifeline under program-based criteria.<sup>272</sup> Consistent with our current Lifeline rules, ETCs in states where carriers are responsible for checking consumer eligibility must have already implemented procedures to document the eligibility of consumers seeking to qualify for Lifeline under income-based criteria.<sup>273</sup> ETCs will be required to comply with these documentation requirements unless access to an electronic eligibility or income database is available.

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<sup>270</sup> For comments in support of a rule requiring consumers to provide documentation of program-based eligibility, see, e.g., Letter from Sen. Claire McCaskill, United States Senate, to Hon. Julius Genachowski, Chairman, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 1 (filed Dec. 9, 2011) (*Sen. McCaskill Letter*); CenturyLink Comments at 16-17; NY PSC Comments at 7; MI PSC Comments at 8; OH PUC Comments at 18; Cricket Reply Comments at 13; DC PSC Comments at 5; MO PSC Comments at 13; NE PSC Comments at 12; Letter from Commissioner Anne Boyle, Nebraska Public Service Commission, to Hon. Julius Genachowski, Chairman, Federal Communications Commission, WC Dkt. No. 11-42 *et al.* (filed July 21, 2011) (stating that self-certification exacerbates the potential for waste, fraud, and abuse in the Lifeline program) (*Comm'r Boyle Letter*); Letter from Norina T. Moy, Director, Government Affairs, Sprint Nextel, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 1 (filed Jan. 18, 2012) (Sprint Jan. 18 *ex parte* Letter).

<sup>271</sup> We note that while we require upfront documentation of program eligibility where a carrier cannot access state or federal eligibility data evidencing the consumer's participation in a qualifying federal program, the amended re-certification process we adopt today reduces burdens on consumers and carriers by eliminating the requirement that Lifeline subscribers in federal default states provide annual documentation of their continued eligibility. See *infra* section VI.C.2.b.

<sup>272</sup> We recognize that ETCs may choose to enroll consumers online or by phone. We do not discourage ETCs from employing these types of enrollment methods, but stress that ETCs choosing to utilize them must have a means for verifying eligibility pursuant to the rules set forth in this order.

<sup>273</sup> The rule we adopt today does not modify the current rule requiring consumers qualifying for Lifeline under income-based criterion to present documentation of household income to the ETC prior to enrolling in the program. See 47 C.F.R. § 54.410(a). Where ETCs access state or federal databases to make determinations about consumer income-based eligibility for Lifeline, we do not require ETCs to obtain from a new subscriber documentation of his or her household income. The ETC or its representative must note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline (e.g., name of a state income database).

101. Acceptable documentation of program eligibility would include: (1) the current or prior year's statement of benefits from a qualifying state, federal or Tribal program; (2) a notice letter of participation in a qualifying state, federal or Tribal program; (3) program participation documents (e.g., the consumer's Supplemental Nutrition Assistance Program (SNAP) electronic benefit transfer card or Medicaid participation card (or copy thereof); or (4) another official document evidencing the consumer's participation in a qualifying state, federal or Tribal program. Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or Tribal notice letter of participation in General Assistance, or a divorce decree, child support award, or other official document containing income information.<sup>274</sup> While ETCs will be required to examine such documentation as appropriate to verify a consumer's program or income-based eligibility for initiating Lifeline service, ETCs are not required to and should not retain copies of the documentation.<sup>275</sup> Rather, pursuant to section 54.417 of our rules, the ETC or its representative should establish policies and procedures to review such documentation and must keep accurate records detailing how the consumer demonstrated his or her eligibility. Within 45 days of the effective date of this Order, USAC should develop training materials to educate ETCs on the types of documentation, consistent with the list of documentation described above, that may be presented by low-income consumers to demonstrate program and income-based eligibility for Lifeline.<sup>276</sup>

102. We view the documentation requirement as necessary to protect the integrity of the program. Recent verification data provides troubling evidence that suggests additional measures are needed to prevent ineligible consumers from signing up for Lifeline. Up to an estimated 15 percent of existing Lifeline subscribers could be ineligible for Lifeline benefits, potentially representing hundreds of millions of dollars in support that could have been used to serve eligible subscribers.<sup>277</sup> As an example, Appendix D, Tables 1 and 2 summarize the percentage of subscribers deemed ineligible for Lifeline based on the results of verification surveys conducted by ETCs in 2011 and 2007.<sup>278</sup> The verification survey data for 2011 and 2007 separately reports ineligibility and non-response rates. Based on USAC's preliminary results for 2011, 9 percent of subscribers surveyed responded that they were no longer

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<sup>274</sup> We clarify that the consumer must provide either documentation of income that covers a full year (e.g., pay stubs) or three consecutive months' worth of the same types of document within the previous twelve months. As noted by GCI, the current language of 47 C.F.R. § 54.410 could be construed to preclude some consumers from obtaining Lifeline support within the first three months of the calendar year, because three months' worth of documentation is unavailable. See Letter from John T. Nakahata, Counsel, General Communications Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.* (filed Dec. 19, 2011) (GCI Dec. 19 *ex parte* Letter).

<sup>275</sup> See also, e.g., YourTel Comments at 12-13 (stating that carriers should not be required to retain documents containing potentially sensitive information).

<sup>276</sup> These materials should be developed in conjunction with the print and web materials that USAC creates to assist ETCs in educating consumers about the one-per-household rule. See *supra* para. 79.

<sup>277</sup> Staff conservatively assumes that ineligible subscribers could constitute up to 15 percent of the total Lifeline subscribers in 2011 – 2014.

<sup>278</sup> See Appendix D, Tables 1 and 2; see also Letter from Karen Majcher, Vice President High Cost and Low Income Division, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Dkt. Nos. 11-42, 03-109, CC Dkt. No. 96-45 (Jan. 10, 2012) (*USAC Certification & Verification Letter and Data*); Letter from Karen Majcher, Vice President High Cost and Low Income Division, Universal Service Administrative Company, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Dkt. Nos. 11-42, 03-109, CC Dkt. No. 96-45 (Jan. 24, 2012) (*USAC 2011 Verification Results Letter*).

eligible for Lifeline, in comparison to the 27 percent of subscribers who failed to respond to the carriers' verification surveys.<sup>279</sup> Similarly, in 2007, 12 percent of subscribers surveyed responded that they were no longer eligible for Lifeline, in comparison to the 10 percent of consumers who failed to respond to the carriers' verification surveys.<sup>280</sup> Moreover, in some cases, a substantial percentage of subscribers surveyed were found to be ineligible for the program.<sup>281</sup> This data suggests that existing certification practices may be insufficient to prevent ineligible consumers from enrolling in Lifeline.<sup>282</sup>

103. Lifeline subscribership data also reflects troubling evidence suggesting that ineligible consumers may be enrolling in the program at a particularly rapid rate in states that do not require documentation of program-based eligibility at sign-up. For example, subscribership data demonstrates that the number of Lifeline subscribers in Louisiana, which does not require documentation of program participation at enrollment, increased by 1,565 percent from 2008 to 2011.<sup>283</sup> In comparison, the number of Lifeline subscribers in Kansas, which requires program participants to provide documentation of

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<sup>279</sup> Appendix D, Table 1; *USAC 2011 Verification Results Letter* at 1, 3. In the 2011 verification survey results compiled by USAC, 4,694 subscribers were found to be ineligible for Lifeline, out of a total of 52,865 subscribers surveyed by ETCs (or the state Lifeline administrator, where applicable). In addition, 14,219 or 27 percent of subscribers surveyed could be deemed ineligible for Lifeline due to failure to respond to the carrier or state administrator's verification efforts. That is, at least 9 percent of subscribers surveyed in 2011 were found to be ineligible for Lifeline. In the 2007 Lifeline verification survey, 23,360 subscribers were found to be ineligible for Lifeline, out of a total of 203,057 subscribers surveyed.

<sup>280</sup> See Appendix D, Table 2; see also *USAC Certification & Verification Letter and Data* at 2-3. In the 2007 Lifeline verification survey, 23,360 subscribers were found to be ineligible for Lifeline, out of a total of 203,057 subscribers surveyed. Therefore, at least 12 percent of subscribers surveyed in 2007 were found to be ineligible. In addition, 19,572 subscribers, *i.e.*, 10 percent of the sample, could be deemed to be ineligible for Lifeline due to failure to respond to the carrier or state administrator's verification efforts. One commenter asserts that the results of its verification surveys do not reflect a significantly higher percentage of ineligible consumers in those states that currently require documentation of program eligibility as compared to states that do not. Letter from Mitchell F. Brecher, Counsel, TracFone Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 2 (filed Aug. 3, 2011) (TracFone Aug. 3 *ex parte* Letter) (noting that 34.9 percent of Safelink consumers in Louisiana could not verify continued eligibility for Lifeline, as opposed to 30.5 percent of Safelink consumers in Missouri). See also Nexus Reply Comments at 11-13; *cf.* AARP Comments at 9 (stating that there is no basis to believe that large numbers of consumers will fraudulently assert eligibility for Lifeline, particularly if verification surveys are conducted on a yearly basis).

<sup>281</sup> See Appendix D, Table 1 (in Alabama, for example, which permits consumers to self-certify their participation in a qualifying federal or state program, see, *e.g.*, TracFone Jan. 24 *ex parte* Letter, nearly twenty percent of subscribers surveyed in 2011 were found to be ineligible for Lifeline).

<sup>282</sup> We do recognize that it is not unusual for consumers to fail to respond to surveys. At the time same, a subscriber's failure to confirm his or her continuing eligibility for Lifeline is potentially suggestive that the consumer may not be eligible for the program. See *Comm'r Boyle Letter* at 2 (noting that if an application to participate in Nebraska's Lifeline program is not supported by documentation, the state returns it and asks the consumer to provide documentation to demonstrate program eligibility; however, a significant number of persons do not respond when asked to produce such documentation, despite verbally asserting that they are eligible to participate in the program).

<sup>283</sup> The number of Lifeline subscribers in Louisiana grew from approximately 38,000 in 2008 to 626,000 in 2011 (annualized based on 11 months subscriber data), which is an increase of 1565 percent. See Letter from Karen Majcher, Vice President High Cost and Low Income Division, Universal Service Administrative Company, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 2 (filed Jan. 23, 2012) (*USAC Low Income Support and Subscriber Claims Letter*).

participation in a qualifying federal program, increased by 105 percent from 2008 to 2011.<sup>284</sup> Lifeline participation rates in other states reflect a similar trend. It is critical that the Commission put in place measures immediately to address this situation.

104. Requiring consumers to present documentation demonstrating their participation in a qualifying program prior to enrollment in Lifeline will go a long way towards ensuring that only qualified consumers benefit from the program, thereby reducing waste, and possibly fraud and abuse in the program.<sup>285</sup> As we noted in the NPRM, self-certification does little to guard against those persons who wish to intentionally defraud the Lifeline program by enrolling in the program despite their ineligibility.<sup>286</sup> Similarly, self-certification does not exclude consumers who are ineligible to participate in the program but mistakenly enroll due to misunderstanding the eligibility requirements. Recent data from two of the ETCs with the largest number of Lifeline subscribers indicates that an overwhelming majority of consumers today sign up for Lifeline on the basis of program eligibility.<sup>287</sup> Additionally, state data indicates that most low-income consumers qualify for Lifeline based on participation in Medicaid, SSI, and SNAP.<sup>288</sup> Requiring that consumers present documentation of eligibility before receiving subsidized phone service will help to reinforce that they are signing up for a federal benefit.

105. A new rule requiring consumers to provide documentation of program-based eligibility as part of the initial enrollment process is consistent with the existing rule applicable in federal default states requiring documentation for income-based eligibility. It is also consistent with enrollment requirements

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<sup>284</sup> The number of Lifeline subscribers in Kansas grew from 26,737 in 2008 to 54,680 in 2011 (annualized based on 11 months subscriber data), which is an increase of 105 percent. It should be noted that the difference in poverty rates between Kansas and Louisiana remained same in 2008 and 2010 and is expected to remain same in 2011. See U.S. Department of Agriculture, Economic Research Service, 2010 County-Level Poverty Rates, <http://www.ers.usda.gov/data/povertyrates/> (last visited Jan. 30, 2012); United States Census Bureau, State Rankings, Statistical Abstract of the United States, Persons Below Poverty Level, 2008, <http://www.census.gov/compendia/statab/2011/ranks/rank34.html> (last visited Jan. 30, 2012). Thus, it does not appear that the disparity in poverty rates contributed to the higher growth in Lifeline subscribership in Louisiana. See *USAC Low Income Support and Subscriber Claims Letter* at 2. This growth rate could be explained by new entrants providing low-income consumers telephone service, including mobile service, for the first time.

<sup>285</sup> See, e.g., *Sen. McCaskill Letter*; *Comm'r Boyle Letter*; Cricket Reply Comments at 13; NE PSC Comments at 12.

<sup>286</sup> One commenter states that a requirement that consumers provide documentation of both program- and income-based eligibility will not prevent outright fraud, as consumers may fabricate eligibility documentation in order to obtain benefits. See Letter from Joan M. Griffin, Counsel, Emerios, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, at 5 (filed Nov. 3, 2011) (Emerios Nov. 3 *ex parte* Letter). To protect against such scenarios, we expect that ETCs will enact appropriate safeguards to prevent fraudulent enrollments. Further, as detailed below, any individual who willfully and knowingly violates any rule or regulation of the Commission may be subject to penalties and permanent program de-enrollment. See *infra* para. 115.

<sup>287</sup> See, e.g., TracFone Aug. 3 *ex parte* Letter (stating that, since 2008, TracFone has enrolled nearly 5 million households in its Lifeline program, of which 99 percent qualified based on program-based criteria); Letter from Jamie M. Tan, Director, Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.* (filed Aug. 15, 2011) (noting that, in AT&T's experience, the vast majority of Lifeline customers qualify via participation in public assistance programs, rather than on the basis of documenting household income); see also Solix Aug. 31 *ex parte* (stating that in Texas and California, approximately 70 percent of consumers qualify for Lifeline based on program eligibility, while 30 percent qualify based on income level) (AT&T Aug. 15 *ex parte* Letter); see also CA PUC June 28 *ex parte* Presentation, Attachment B, at 18.

<sup>288</sup> See, e.g., WASHINGTON STATE DEPARTMENT OF HEALTH & SOCIAL SERVICES, REPORT TO THE LEGISLATURE, WASHINGTON TELEPHONE ASSISTANCE PROGRAM, YEAR 21 OF PROGRAM OPERATION: JULY 1, 2007 THROUGH JUNE 30, 200811 (2008), available at <http://www.dshs.wa.gov/pdf/main/legrep/Leg1208/WTAP2008LegReport.pdf>; CA PUC June 28 *ex parte* Presentation, Attachment B, at 18.