

## APPENDIX H

## Further Inquiry Public Notice Reply Commenters

<u>Commenter</u>	<u>Abbreviation</u>
AT&T Inc.	AT&T
Benton Foundation	Benton Foundation
CenturyLink	CenturyLink
Cincinnati Bell Inc.	Cincinnati Bell
Cintex Wireless, LLC	Cintex
COMPTEL	COMPTEL
CTIA–The Wireless Association	CTIA
General Communication, Inc.	GCI
Gila River Telecommunications, Inc.	GRTI
Joint Center for Political and Economic Studies	Joint Center
The Leadership Conference	
Leap Wireless International, Inc.	
Cricket Communications, Inc.	Cricket
Link Up for America Coalition	Coalition
Massachusetts Department of Telecommunications and Cable	
Media Action Grassroots Network	MDTC
National Association of State Utility Consumer Advocates	MAG-Net
New Jersey Division of Rate Counsel	NASUCA
National Telecommunications Cooperative Association	NJ DRC
Nexus Communications, Inc.	NTCA
Rainbow PUSH Coalition	Nexus
Smith Bagley, Inc.	Rainbow PUSH
Sprint Nextel Corporation	SBI
Third Party Verification, Inc.	Sprint
TracFone Wireless, Inc.	3PV
Verizon and Verizon Wireless	TracFone
	Verizon

## APPENDIX I

## USAC Disbursement Public Notice Commenters

**Commenter****Abbreviation**

Alexicon Telecommunications Consulting  
 CenturyLink  
 COMPTEL  
 Michigan Public Service Commission  
 PR Wireless, Inc. d/b/a Open Mobile  
 Smith Bagley, Inc.  
 South Carolina Office of Regulatory Staff  
  
 Sprint Nextel Corporation  
 United States Telecom Association  
 Verizon and Verizon Wireless

Alexicon  
 CenturyLink  
 Comptel  
 MI PSC  
 PR Wireless  
 Smith Bagley  
 South Carolina Office of Regulatory  
 Staff  
 Sprint  
 USTelecom  
 Verizon and Verizon Wireless

**Reply Commenter**

Massachusetts Department of Telecommunications and Cable  
 National Tribal Telecommunications Association  
 Nexus Communications, Inc.

MDTC  
 NNTA

Nexus

## APPENDIX J

## Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Lifeline and Link Up Reform and Modernization Notice of Proposed Rulemaking (*Lifeline and Link Up NPRM*).<sup>2</sup> The Commission sought written public comments on the proposals in the *Lifeline and Link Up NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

**A. Need for, and Objectives of, the Order**

2. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254.<sup>4</sup> On May 8, 1997, the Commission adopted rules that reformed its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition.<sup>5</sup> Among other programs, the Commission adopted a program to provide discounts that make basic, local telephone service affordable for low-income consumers.<sup>6</sup>

3. In this Order, we comprehensively reform and begin to modernize the Universal Service Fund's Lifeline program (Lifeline or the program). Building on recommendations from the Federal-State Joint Board on Universal Service ("Joint Board"), proposals in the National Broadband Plan, input from the Government Accountability Office (GAO), and comments received in response to the Commission's March Notice of Proposed Rulemaking<sup>7</sup> the reforms adopted in this Order substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund (USF or the Fund). We take these significant actions, while ensuring that eligible low-income consumers who do not have the means to pay for telephone service can maintain their current voice service through the Lifeline program and those who are not currently connected to the networks will have the opportunity to benefit from this program and the numerous opportunities and security that telephone service affords.

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> *Lifeline and Link Up Reform and Modernization*, WC Dkt. No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking, 26 FCC Rcd 2770, FCC 11-32 (2011) (*Lifeline and Link Up NPRM*).

<sup>3</sup> See 5 U.S.C. § 604.

<sup>4</sup> 47 U.S.C. § 254.

<sup>5</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, paras. 326-328 (1997).

<sup>6</sup> See *id.*

<sup>7</sup> *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision, 25 FCC Rcd 15598 (Jt. Bd. 2010) (*2010 Recommended Decision*); see FEDERAL COMMUNICATIONS COMMISSION, OMNIBUS BROADBAND INITIATIVE, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN (2010) (NATIONAL BROADBAND PLAN), available at <http://www.broadband.gov/plan>; U.S. GOVERNMENT ACCOUNTABILITY OFFICE, REPORT TO CONGRESSIONAL REQUESTERS, GAO 11-11, TELECOMMUNICATIONS: IMPROVED MANAGEMENT CAN ENHANCE FCC DECISION MAKING FOR THE UNIVERSAL SERVICE FUND LOW-INCOME PROGRAM (2010) (2010 GAO Report); *Federal-State Joint Board on Universal Service, Lifeline and Link Up, WC Dkt. No. 11-42 et al.*, Notice of Proposed Rulemaking, 26 FCC Rcd 2770 (2011) (*NPRM or Lifeline and Link Up NPRM*). See also Appendices E & F listing comments and replies.

4. This Order is another step in the Commission's ongoing efforts to overhaul all Universal Service Fund programs to fulfill the goals Congress gave us to promote the availability of modern networks and the capability of all American consumers to access and use those networks. Consistent with previous efforts, we act here to eliminate waste and inefficiency, increase accountability, and transition the Fund from supporting standalone telephone service to broadband.<sup>8</sup> In June 2011, the Commission adopted the *Duplicative Program Payments Order*, which made clear that an eligible consumer may only receive one Lifeline-supported service, established procedures to detect and de-enroll subscribers receiving duplicative Lifeline-supported services, and directed USAC to implement a process to detect and eliminate duplicative Lifeline support—a process now completed in 12 states and expanding to other states in the near future.<sup>9</sup> Building on those efforts, we estimate that the unprecedented reforms adopted in today's Order could save the Fund up to an estimated \$2 billion over the next three years, keeping money in the pockets of American consumers that otherwise would have been wasted on duplicative benefits, subsidies for ineligible consumers, or fraudulent misuse of Lifeline funds.

5. These savings will reduce growth in the Fund but at the same time provide telephone service to consumers who remain disconnected from the voice networks of the Twentieth Century. Moreover, by using a fraction of the savings from eliminating waste and abuse in the program to create a broadband pilot program, we explore how Lifeline can best be used to help low-income consumers access the networks of the Twenty-First Century by closing the broadband adoption gap. This complements the recent *USF/ICC Transformation Order and FNPRM*, which reoriented intercarrier compensation and the high-cost fund toward increasing the availability of broadband networks, as well as the recently launched *Connect to Compete* private-sector initiative to increase access to affordable broadband service for low-income consumers.

6. To make the program more accountable, the Order establishes clear goals and measures and establishes national eligibility criteria to allow low-income consumers to qualify for Lifeline based on either income or participation in certain government benefit programs. The Order adopts rules for Lifeline enrollment, including enhanced initial and annual certification requirements, and confirms the program's one-per-household requirement. The Order simplifies Lifeline reimbursement and makes it more transparent. The Commission adopts a number of reforms to eliminate waste, fraud and abuse in the program, including creating a National Lifeline Accountability Database to prevent multiple carriers from

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<sup>8</sup> See *Joint Statement on Broadband*, GN Dkt. No. 10-66, *Joint Statement on Broadband*, 25 FCC Rcd 3420 (2010). The Commission has already made important strides in this area: We have modernized the E-rate program, by enabling schools and libraries to get faster Internet connections at lower cost. *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762 (2010) (*E-rate Sixth Report and Order*). We have established a Connect America Fund (CAF) to spur the build out of broadband networks, both mobile and fixed, in areas of the country that are uneconomic to serve. See *Connecting America et al.*, WC Dkt. No. 01-92 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 16522 paras. 115-567 (2011) (*USF/ICC Transformation Order and FNPRM*). We have proposed changes to the rural health care program so patients at rural clinics can benefit from broadband-enabled care, such as remote consultations with specialists anywhere in the country. *Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-60, Notice of Proposed Rulemaking, 25 FCC Rcd 9371 (2010) (*Rural Health Care NPRM*).

<sup>9</sup> *Lifeline and Link Up Reform and Modernization et al.*, Report and Order, WC Dkt. No. 11-42 *et al.*, 26 FCC Rcd 9022 (2011) (*Duplicative Program Payments Order*); Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, to D. Scott Barash, Acting Chief Executive Officer, Universal Service Administrative Company (USAC), WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, DA 11-1082 (Wireline Comp. Bur. Jun. 21, 2011) (*June Guidance Letter*); Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, to D. Scott Barash, Acting Chief Executive Officer, Universal Service Administrative Company (USAC), WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, DA 11-1986, (Wireline Comp. Bur. Dec. 11, 2011) (*December Guidance Letter*).

receiving support for the same subscribers; phasing out toll limitation service support; eliminating Link Up support except for recipients on Tribal lands that are served by eligible telecommunications carriers (“ETCs”) that participate in both Lifeline and the high-cost program; reducing the number of ineligible subscribers in the program; and imposing independent audit requirements on carriers receiving more than \$5 million in annual support. These reforms are expected to save the Fund approximately \$2 billion over the next three years. Using savings from the reforms, the Order establishes a Broadband Adoption Pilot Program to test and determine how Lifeline can best be used to increase broadband adoption among Lifeline-eligible consumers. We also establish an interim base of uniform support amount of \$9.25 per month for non-Tribal subscribers to simplify program administration.

**B. Summary of Significant Issues raised by Public Comments in Response to the IRFA**

7. No comments were filed in response to the IRFA attached to the *Lifeline and Link Up NPRM*. Notwithstanding the foregoing, general comments discussing the impact of the proposed rules on small business were submitted in response to the *Lifeline and Link Up NPRM*. With respect to the proposal to provide household identifying information as a measure to prevent duplicate enrollment, one commenter expressed concern that the imposition of a data transmission requirement would result in new training, programming, and administrative expenses which would be burdensome on small entities.<sup>10</sup> One commenter opposed any limitations placed on Link Up support arguing that such limitations would inhibit small ETCs’ ability to participate in the low income program.<sup>11</sup> Commenters expressed concern that the newly proposed audit requirements would be expensive and difficult for small companies to comply with.<sup>12</sup> One commenter opposed the proposed verification proposals asserting that such new requirements would be unnecessarily expensive and disproportionately burden small businesses.<sup>13</sup> Commenters opposed the proposed sampling methodology to confirm eligibility as it would have the result of requiring small entities to sample most if not all of their Lifeline subscribers.<sup>14</sup> Commenters asserted that outreach efforts may be unreasonably burdensome for small ETCs.<sup>15</sup> In making the determinations reflected in the Order, we have considered the impact of our actions on small entities.

**C. Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply:**

8. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>16</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>17</sup> In addition, the term “small business” has the

<sup>10</sup> See TSTCI Reply Comments at 2; see also, e.g., NTCA Comments at 3 (efforts to comply with the one-per-household limitation should not impose additional administrative costs on small companies).

<sup>11</sup> See Nexus Reply Comments at 5, 6.

<sup>12</sup> See NTCA Comments at 5-7; see also MITS Reply Comments at 5; TSTCI Reply Comments at 4.

<sup>13</sup> See NTCA Comments at 5, 7).

<sup>14</sup> See MITS Reply Comments at 5; see also NTCA Comments at 6.

<sup>15</sup> See LEAP Comments at 12-13; see also NJ FRC Corrected Reply Comments at 13 (citing Cricket Comments at 12).

<sup>16</sup> 5 U.S.C. § 603(b)(3).

<sup>17</sup> 5 U.S.C. § 601(6).

same meaning as the term “small business concern” under the Small Business Act.<sup>18</sup> A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>19</sup> Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.<sup>20</sup> A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>21</sup> Nationwide, as of 2002, there were approximately 1.6 million small organizations.<sup>22</sup> The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>23</sup> Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.<sup>24</sup> We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.”<sup>25</sup> Thus, we estimate that most governmental jurisdictions are small.

### 1. Wireline Providers

9. *Incumbent Local Exchange Carriers (Incumbent LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>26</sup> Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.<sup>27</sup> Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.<sup>28</sup> Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small

<sup>18</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3).

<sup>19</sup> Small Business Act, 15 U.S.C. § 632.

<sup>20</sup> See Small Business Administration, Office of Advocacy, Frequently Asked Questions, <http://www.sba.gov/advocacy/7495> (last visited March 2, 2011).

<sup>21</sup> 5 U.S.C. § 601(4).

<sup>22</sup> Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

<sup>23</sup> 5 U.S.C. § 601(5).

<sup>24</sup> U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Section 8, page 272, Table 415.

<sup>25</sup> We assume that the villages, school districts, and special districts are small, and total 48,558. See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

<sup>26</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>27</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>28</sup> See *id.*

providers.<sup>29</sup>

10. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>30</sup> Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities.<sup>31</sup> According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.<sup>32</sup> Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees.<sup>33</sup> In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.<sup>34</sup> In addition, 72 carriers have reported that they are Other Local Service Providers.<sup>35</sup> Seventy of which have 1,500 or fewer employees and two have more than 1,500 employees.<sup>36</sup> Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

11. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>37</sup> Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard,

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<sup>29</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517110 in the left column for “Wired telecommunications carriers”) (last visited March 2, 2011).

<sup>30</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>31</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517110 in the left column for “Wired telecommunications carriers”) (last visited March 2, 2011).

<sup>32</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>33</sup> See *id.*

<sup>34</sup> *Id.*

<sup>35</sup> See *id.*

<sup>36</sup> See *id.*

<sup>37</sup> 13 C.F.R. § 121.201, NAICS code 517110.

the majority of these Interexchange carriers can be considered small entities.<sup>38</sup> According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>39</sup> Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.<sup>40</sup> Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the Notice.

12. *Operator Service Providers (OSPs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>41</sup> Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>42</sup> Census Bureau data for 2007, which now supersede 2002 Census data, show that there were 3,188 firms in this category that operated for the entire year. Of the total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more.<sup>43</sup> Thus under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities.<sup>44</sup> According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees.<sup>45</sup> Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

13. *Local Resellers*. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>46</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>47</sup> Thus under this category and the associated small business size standard, the majority of these

<sup>38</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector..." choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

<sup>39</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>40</sup> See *id.*

<sup>41</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>42</sup> *Id.*

<sup>43</sup> See *Wired Telecommunications Data*, *supra* note 33.

<sup>44</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector..." choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

<sup>45</sup> *Trends in Telephone Service* at Table 5.3.

<sup>46</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>47</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector..." choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.<sup>48</sup> Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.<sup>49</sup> Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

14. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>50</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>51</sup> Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data,<sup>52</sup> 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

15. *Pre-paid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for pre-paid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>53</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>54</sup> Thus under this category and the associated small business size standard, the majority of these pre-paid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of pre-paid calling cards.<sup>55</sup> Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees.<sup>56</sup> Consequently, the Commission estimates that the majority of pre-paid calling card providers are small entities that may be affected by rules adopted pursuant to the Notice.

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<sup>48</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>49</sup> *Id.*

<sup>50</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>51</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector..." choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

<sup>52</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>53</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>54</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector..." choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

<sup>55</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>56</sup> See *id.*

16. *800 and 800-Like Service Subscribers.*<sup>57</sup> Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (“toll free”) subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>58</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>59</sup> Thus under this category and the associated small business size standard, the majority of resellers in this classification can be considered small entities. To focus specifically on the number of subscribers than on those firms which make subscription service available, the most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use.<sup>60</sup> According to our data, at of September 2009, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,888,687; the number of 877 numbers assigned was 4,721,866; and the number of 866 numbers assigned was 7,867,736. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,860,000 or fewer small entity 800 subscribers; 5,888,687 or fewer small entity 888 subscribers; 4,721,866 or fewer small entity 877 subscribers; and 7,867,736 or fewer small entity 866 subscribers. We do not believe 800 and 800-Like Service Subscribers will be effected by our proposed rules, however we choose to include this category and seek comment on whether there will be an effect on small entities within this category.

## 2. Wireless Carriers and Service Providers

17. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

18. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.<sup>61</sup> Prior to that time, such firms were within the now-superseded categories of “Paging” and “Cellular and Other Wireless Telecommunications.”<sup>62</sup> Under the present and prior categories, the SBA has deemed a wireless business

<sup>57</sup> We include all toll-free number subscribers in this category, including those for 888 numbers.

<sup>58</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>59</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517911 in the left column for “Telecommunications Resellers”) (last visited March 2, 2011).

<sup>60</sup> *Trends in Telephone Service* at Tables 18.4, 18.5, 18.6, 18.7.

<sup>61</sup> U.S. Census Bureau, 2007 NAICS Definitions: Wireless Telecommunications Categories (except Satellite), <http://www.census.gov/naics/2007/def/ND517210.HTM> (last visited March 2, 2011).

<sup>62</sup> U.S. Census Bureau, 2002 NAICS Definitions: Paging, <http://www.census.gov/epcd/naics02/def/NDEF517.HTM> (last visited March 2, 2011); U.S. Census Bureau, 2002 NAICS Definitions: Other Wireless Telecommunications, <http://www.census.gov/epcd/naics02/def/NDEF517.HTM> (last visited March 2, 2011).

to be small if it has 1,500 or fewer employees.<sup>63</sup> For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.<sup>64</sup> Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.<sup>65</sup> Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.<sup>66</sup> Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

19. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business” as an entity with average gross revenues of \$15 million for each of the three preceding years.<sup>67</sup> The SBA has approved these definitions.<sup>68</sup> The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

20. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of \$15 million or less in average annual receipts, under SBA rules.<sup>69</sup> The second has a size standard of \$25 million or less in annual receipts.<sup>70</sup>

21. The category of Satellite Telecommunications “comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”<sup>71</sup> Census Bureau data for 2007 show that 512 Satellite

<sup>63</sup> 13 C.F.R. § 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 C.F.R. citations were 13 C.F.R. § 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

<sup>64</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517210 in the left column for “Wireless Telecommunications Carriers (except Satellite)”) (last visited March 2, 2011).

<sup>65</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>66</sup> See *id.*

<sup>67</sup> *Amendment of the Commission’s Rules to Establish Part 27, the Wireless Communications Service (WCS)*, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, 10879, para. 194 (1997).

<sup>68</sup> See Letter from Aida Alvarez, Administrator, SBA, to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC (filed Dec. 2, 1998) (*Alvarez Letter 1998*).

<sup>69</sup> 13 C.F.R. § 121.201, NAICS code 517410.

<sup>70</sup> 13 C.F.R. § 121.201, NAICS code 517919.

<sup>71</sup> U.S. Census Bureau, 2007 NAICS Definitions, Satellite Telecommunications, <http://www.census.gov/naics/2007/def/ND517410.HTM> (last visited March 2, 2011).

Telecommunications firms that operated for that entire year.<sup>72</sup> Of this total, 464 firms had annual receipts of under \$10 million, and 18 firms had receipts of \$10 million to \$24,999,999.<sup>73</sup> Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

22. The second category, i.e. “All Other Telecommunications” comprises “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.”<sup>74</sup> For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year.<sup>75</sup> Of this total, 2,347 firms had annual receipts of under \$25 million and 12 firms had annual receipts of \$25 million to \$49, 999,999.<sup>76</sup> Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

23. *Common Carrier Paging.* The SBA considers paging to be a wireless telecommunications service and classifies it under the industry classification Wireless Telecommunications Carriers (except satellite). Under that classification, the applicable size standard is that a business is small if it has 1,500 or fewer employees. For the general category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.<sup>77</sup> Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small.<sup>78</sup> The 2007 census also contains data for the specific category of “Paging” “that is classified under the seven-number North

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<sup>72</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ4: Receipts Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517210 in the left column for “Satellite Telecommunications”) (last visited March 2, 2011).

<sup>73</sup> *Id.*

<sup>74</sup> U.S. Census Bureau, 2007 NAICS Definitions, All Other Telecommunications, <http://www.census.gov/naics/2007/def/ND517919.HTM> (last visited March 2, 2011).

<sup>75</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ4: Receipts Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517919 in the left column for “All Other Telecommunications”) (last visited March 2, 2011).

<sup>76</sup> *Id.*

<sup>77</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517210 in the left column for “Wireless Telecommunications Carriers (except Satellite)”) (last visited March 2, 2011).

<sup>78</sup> 13 C.F.R. § 121.201, NAICS code 517210.

American Industry Classification System (NAICS) code 5172101.<sup>79</sup> According to Commission data, 291 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 289 have 1,500 or fewer employees, and 2 have more than 1,500 employees.<sup>80</sup> Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the Paging Third Report and Order, the Commission developed a small business size standard for “small businesses” and “very small businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.<sup>81</sup> A “small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a “very small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.<sup>82</sup> The SBA has approved these small business size standards.<sup>83</sup> An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000.<sup>84</sup> Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

24. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite).<sup>85</sup> Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees.<sup>86</sup> According to the *2008 Trends Report*, 434 carriers reported that they were engaged in wireless telephony.<sup>87</sup> Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees.<sup>88</sup> We have estimated that 222 of these are small under the SBA small business size standard.

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<sup>79</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 5172101 in the left column for “Paging”) (last visited March 2, 2011). In this specific category, there were 248 firms that operated for the entire year in 2007. Of that number 247 operated with fewer than 100 employees and one operated with more than 1000 employees. Based on this classification and the associated size standard, the majority of paging firms must be considered small.

<sup>80</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>81</sup> Amendment of Part 90 of the Commission’s Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552, GN Docket No. 93-252, PP Docket No. 93-253, Third Report and Order and Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068-70, paras. 291-295 (1997) (220 MHz Third Report and Order).

<sup>82</sup> See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from A. Alvarez, Administrator, Small Business Administration (Dec. 2, 1998).

<sup>83</sup> *Revision of Part 22 and Part 90 of the Commission’s Rules to Facilitate Future Development of Paging Systems*, WT Docket No. 96-18, PR Docket No. 93-253, Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, paras. 98-107 (1999).

<sup>84</sup> *Id.* at 10085, para. 98.

<sup>85</sup> 13 C.F.R. § 121.201, NAICS code 517210.

<sup>86</sup> *Id.*

<sup>87</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>88</sup> *Id.*

### 3. Internet Service Providers

25. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (e.g., cable and DSL ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers,<sup>89</sup> which has an SBA small business size standard of 1,500 or fewer employees.<sup>90</sup> The latter are within the category of All Other Telecommunications,<sup>91</sup> which has a size standard of annual receipts of \$25 million or less.<sup>92</sup> The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers.<sup>93</sup> That category had a small business size standard of \$21 million or less in annual receipts, which was revised in late 2005 to \$23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year.<sup>94</sup> Of those, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999.<sup>95</sup> Consequently, we estimate that the majority of ISP firms are small entities.

26. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities."<sup>96</sup>

#### D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. *Support Amounts for Voice Service.* In the Order, we adopt an interim rate of reimbursement for Lifeline in lieu of the prior tiered system. The tiered system was tied to the subscriber line charge (SLC), which we find to be an imprecise basis for Lifeline support given the myriad changes in the telecommunications marketplace.<sup>97</sup> This interim monthly rate is set at \$9.25 per subscriber. This interim support amount was determined by calculating the average level of support from the most recent disbursement data available.<sup>98</sup> Because the interim support amount is an average, some ETCs will receive

<sup>89</sup> U.S. Census Bureau, 2007 NAICS Definitions: Wired Telecommunications Carriers, <http://www.census.gov/naics/2007/def/ND517110.HTM> (last visited March 2, 2011).

<sup>90</sup> 13 C.F.R. § 121.201, NAICS code 517110 (updated for inflation in 2008).

<sup>91</sup> U.S. Census Bureau, 2007 NAICS Definitions: All Other Telecommunications, <http://www.census.gov/naics/2007/def/ND517919.HTM> (last visited March 2, 2011).

<sup>92</sup> 13 C.F.R. § 121.201, NAICS code 517919 (updated for inflation in 2008).

<sup>93</sup> U.S. Census Bureau, 2002 NAICS Definitions: Internet Service Providers, Web Search Portals, and Data Processing Services, <http://www.census.gov/epcd/naics02/def/NDEF518.HTM> (last visited March 2, 2011).

<sup>94</sup> U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," at Table 4, NAICS code 518111 (issued Nov. 2005).

<sup>95</sup> An additional 45 firms had receipts of \$25 million or more.

<sup>96</sup> 5 U.S.C. § 603(c)(1) – (c)(4).

<sup>97</sup> For further discussion on the elimination of the SLC and the adoption of an interim rate of reimbursement, see Section V.

<sup>98</sup> See Section V.

more monthly support while others receive less – regardless of size. While there may be a slightly negative economic impact on some small entities, such an impact will be felt by all entities currently receiving more than \$9.25 per month per subscriber in Lifeline support, not just small entities. However, as with our adoption of uniform consumer eligibility rules, this uniform interim support amount will simplify program administration by ETCs operating across different SLCs.

28. *Uniform Eligibility Criteria.* As part of the Commission’s effort to streamline the program, the Commission adopts a uniform set of consumer eligibility requirements throughout the nation. This rule alleviates some of the administrative burdens on ETCs operating in multiple states caused by varying consumer eligibility requirements. We anticipate that this new rule will significantly simplify program administration by ETCs, resulting in greater program efficiencies. Given that we permit states to adopt more permissive Lifeline eligibility criteria on top of the base of federal Lifeline eligibility criteria, no ETCs will face a smaller Lifeline subscriber base because of the change in eligibility criteria. We expect no economic impact on entities through the adoption of the federal eligibility criteria across all states.

29. *One-per-Household.* First, the Order adopts a one-per-household requirement. “Household” is defined consistent with 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,” with an “economic unit” defined as “all individuals contributing to and sharing in the income and expenses of a household” (which would include persons with no income who benefit from another person’s financial support). Second, the Order adopts procedures to enable Lifeline applicants to demonstrate when initially enrolling in the program that any other Lifeline recipients residing at their residential address are part of a separate household and directs USAC, within 30 days of the effective date of the Order, to develop a form that will allow low-income households sharing an address to indicate they are part of a separate household. Third, the Order also directs USAC, within 30 days of the effective date of the Order, to 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 (*i.e.*, how to determine what persons comprise a household). USAC will prepare materials that the ETCs can rely on to educate their subscribers about the one-per-household requirement.

30. We estimate that these rules will have a minimal economic impact. While the rules will require eligible telecommunications carriers to obtain information from a limited number of consumers about their household arrangements, it will only impact those low-income consumers who reside in group living facilities or at addresses shared by multiple households. This information will be collected using a worksheet to be designed and provided to the ETCs by USAC. This information is necessary to assist qualifying consumers relying on addresses shared by multiple households to obtain Lifeline service and to document their compliance with the one-per-household rule. Additionally, USAC will develop print and web materials that ETCs can use to educate consumers about the one-per-household rule. We do not expect these requirements to have a disproportionate impact on carriers, including those that are small entities.

31. *Certification of Consumer Eligibility.* First, the Order amends section 54.410 of the Commission’s rules to require all Lifeline subscribers to provide certain certifications pertaining to their eligibility for Lifeline upon initial program enrollment and annually thereafter. Depending on the state, certifications should be collected from consumers by carriers or the state Lifeline administrator or a state agency.

32. Carriers and states (where applicable) may need to update their existing certification forms to comply with the requirements of section 54.410, as amended. Carriers already collect several similar certifications from Lifeline subscribers at enrollment; thus, we expect that the costs of compliance with the amended rule will be marginally larger. Therefore, we anticipate that the effect of this rule will have minimal economic impact. Carriers and states (where applicable) may choose to use their existing

certification forms so long as those forms are updated to comply with the new certification rules. We also provide in the Order that the new certification rules will not go into effect until June 1, 2012, which will give carriers (both large and small) time to make any needed system updates. We also expect to recover cost savings to the program based on the reduction of ineligible consumers stemming from the updated certification requirements. We do not expect that this rule will disproportionately impact small entities.

33. Second, the Order requires ETCs (or the state administrator, where applicable) to check the eligibility of new Lifeline subscribers at enrollment by accessing available state or federal eligibility databases. Where underlying eligibility data cannot be accessed through a database, the Order requires new Lifeline subscribers to provide documentation of program-based eligibility or income-based eligibility, which the entity enrolling the subscriber should review (but not retain). We acknowledge that compliance with the rule we adopt here will involve some administrative costs for ETCs, for example, modifying their internal processes and systems to comply with the new documentation requirement. However, we do not expect these costs to have a significant economic impact especially since we limit this requirement to new customers rather than requiring ETCs to re-verify all of their subscribers by obtaining documentary proof of eligibility. We do not expect these costs to be disproportionately large for small carriers. We also conclude that those costs are outweighed by the significant benefits gained by protecting the Fund from waste, fraud, and abuse. We estimate in the Order that up to 15 percent of current Lifeline subscribers may be ineligible for the program, potentially representing as much as \$375 million of support per year. We expect that a rule requiring ETCs to obtain documentation of program participation from new Lifeline applicants, in conjunction with our efforts to implement a Lifeline database, will enable the Commission to recapture those funds and prevent unbridled future growth in the Fund. The resulting cost savings will in turn benefit those consumers who contribute to the Universal Service Fund, new qualifying low-income consumers, and our goal to modernize the program for a broadband future. Further, while we will require consumers to provide documentation of program- and income-eligibility to ETCs at enrollment, consumers will no longer be required to provide such documentation as part of the annual verification process in federal default states. Moreover, consumers will not need to demonstrate eligibility at enrollment (or annually) once that function is addressed through a database. Lastly, we give ETCs until June 1, 2012, to implement processes to document consumer eligibility for Lifeline. We expect that these changes will reduce the burdens on both consumers and ETCs.

34. Third, the Order requires ETCs to make certain certifications annually and when submitting for reimbursement from the program. The Commission currently directs ETCs to make certain certifications relating to the Lifeline program. Section 54.410 of the Commission's rules, as modified, does not substantially change those requirements; rather, the Commission adds additional certifications that the ETC must make annually and when seeking reimbursement from the Fund. USAC and the Commission have jointly developed the certification language and the forms. Thus, carriers need only make the necessary internal inquiries (*e.g.*, ensure that they have received a signed certification form from each Lifeline subscriber) and sign the forms as provided to them by USAC. We do not expect that this requirement will have an adverse financial impact on small entities.

35. Fourth, we replace the existing process used by ETCs and states to verify ongoing consumer eligibility for Lifeline with a uniform rule requiring all ETCs (or states, where applicable) to re-certify the eligibility of their complete Lifeline subscriber base as of June 1, 2012. By the end of 2012, all ETCs (or states, where applicable) must obtain from each Lifeline subscriber a re-certification form that contains each of the required certifications listed in section 54.410, as amended, and report those results to USAC, the Commission, states (where the state has jurisdiction over the carrier), and Tribal governments (where applicable). Alternatively, in states where a state agency or a third party has implemented a database that carriers may query to re-certify the consumer's continued eligibility, the carrier (or state agency or third-party, where applicable) must instead query the database by the end of 2012 and maintain a record of what specific data was used to re-certify eligibility and the date of re-

certification.

36. We have taken steps in implementing this rule to minimize the impact on carriers and states performing the re-certification function. This re-certification may be done on a rolling basis throughout the year, at the ETC's election. ETCs (or states, where applicable) may re-certify the continued eligibility of an ETC's Lifeline subscribers by contacting them—which can be done in any of a number of ways, including in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility for Lifeline. As noted above, where available, ETCs and states will access electronic eligibility data rather than contact each subscriber to obtain an individual re-certification. Lastly, after 2012, ETCs may elect to have USAC administer the self-certification process on their behalf. We do not expect the costs of re-certification to disproportionately burden small entities, who will have a lesser number of subscribers to contact and may opt to use less costly means (such as text message or e-mail) to contact their subscribers for re-certification.

37. *Tribal Lifeline Eligibility.* First, the Order clarifies that residents of Tribal lands are eligible for Lifeline (and Link Up support if served by a high cost recipient) based on (1) income level; (2) participation in any Tribal-specific federal assistance program identified in the Commission's rules; or (3) participation in any other program identified in the Commission's rules. We do not expect that this clarification will have any financial impact, including on small businesses, as it does not change existing program rules, but rather removes any ambiguity in the interpretation of those rules by carriers and consumers.

38. Second, the Order adopts the NPRM proposal to add the Food Distribution Program on Indian Reservations (FDPIR) to the list of programs that confer eligibility. We expect this rule change to have only minimal financial impact. For example, carriers serving eligible residents of Tribal lands will need to update their certification/enrollment forms to add FDPIR to their list of qualifying programs. However, the benefit that will accrue to eligible residents of Tribal lands participating in FDPIR will outweigh the burdens to carriers. We do not expect this rule to have a disproportionate impact on small entities, for whom the cost of compliance would be the same as for other carriers.

39. Third, the Order establishes a waiver and designation process for those Tribal communities that are located outside of reservations, but can show ties to defined Tribal communities, and removes the term "near reservation" from the Commission's definition of Tribal lands. We do not expect this rule to have any financial impact, including on small entities, as carriers will not have any role in the designation process.

40. Fourth, the Order clarifies that we will continue to allow self-certification of residence on Tribal lands. We do not expect this rule to have any economic impact on any entities, as it clarifies, rather than changes, existing program rules.

41. *Electronic Signatures and Interactive Voice Response Systems.* In the Order, the Commission clarifies that ETCs may use electronic signatures and interactive voice response systems to obtain Lifeline subscriber certifications, provided the electronic signatures are obtained in accordance with the requirements of the E-SIGN Act. We expect no negative economic impact from this clarification because this clarification makes obtaining subscriber signatures easier for all ETCs.

42. *National Accountability Database.* The Order established a national accountability database to reduce the likelihood that a consumer or household will receive more than one subsidized service through the low-income program. The Order directs the Bureau to work with USAC and OMB to establish and implement the database and associated processes. The Order directs ETCs to (1) populate the database with the necessary subscriber information to implement these processes and (2) query the database for each new subscriber prior to receiving reimbursement from the fund for that subscriber. ETCs may have to collect customer information which is not currently in their possession to populate the database.

43. While the database imposes an economic impact on carriers to populate the database, and potentially interface with the database, the entire system will be designed to minimize burdens on small entities. There are a number of ways in which the database has been designed to limit the burden on small entities. First, the Commission does not impose any real-time obligations on ETCs to update the database. The ETCs must update the database prior to seeking reimbursement. Second, to the extent that ETCs have not collected the necessary data from existing customers to send to the duplicates database, ETCs will have a significant period of time before the database is operational to collect such information because the Commission projects that the database could take up to a year to build and ETCs are given an additional 60 days to populate the database. The Commission has directed USAC to provide support to ETCs regarding how they should populate the database, and this assistance should further reduce the burden on ETCs, particularly those smaller entities with fewer back-office resources and less sophisticated systems. For similar reasons, the burden on small entities will be limited because the database will be designed to accept the subscriber information in many different formats, not just via a machine to machine connection. The database will include an ID verification function, which had heretofore been undertaken by some ETCs at their own expense. The database includes an exception management and dispute resolution process so that the burden on ETCs to handle disputes if a subscriber is classified as a duplicate by the database will be limited.

44. *Toll Limitation Service Support.* In the Order, the Commission begins the process of eliminating toll limitation service (TLS) support and modifies its rules for which ETCs must offer TLS. The Commission finds that TLS is less relevant in a marketplace where many ETCs do not separately charge for “toll” or “long distance” calls. To the extent an ETC still distinguishes between local and long distance calling in its Lifeline service, it must provide at no additional cost to the consumer the ability to limit or block calls that would result in additional charge. Support for TLS will be eliminated over three years to mitigate the impact of this change. In the first year of limited TLS support, support will be capped at \$3 per month per consumer. In the second year, support will be limited to \$2 per month per consumer. In the third year, support will be eliminated. ETCs seeking TLS reimbursement will need to adjust their TLS provisioning methods as there will no longer be a separate TLS reimbursement outside of the standard Lifeline support amount. This rule will have an economic impact only on ETCs unable to provide TLS at an incremental cost above the limits set in the rule.

45. *Link Up.* The Order will eliminate Link Up support to all ETCs on non-Tribal lands and limit Link Up on Tribal lands to high cost recipients deploying infrastructure. Marketplace trends indicate that Lifeline consumers increasingly have service options from ETCs that neither draw on Link Up support nor charge the consumer a service initiation fee. In balancing a number of universal service goals with finite resources, we conclude that dollars currently spent for Link Up can be more effectively spent to improve and modernize the Lifeline program. Some ETCs who had previously been receiving support from the Fund will no longer receive such support, however, the rule will not disproportionately impact small entities because the support is being eliminated for all ETCs serving non-Tribal areas—not just small entities.

46. *Subscriber Usage of Customer Supported Service.* The Order establishes a rule that pre-paid ETCs who do not charge a fee for the service (pre-paid ETCs) may not seek Lifeline reimbursement until a subscriber initiates service. Moreover, the rules require pre-paid ETCs to de-enroll subscribers who fail to use the service within a consecutive 60-day period and correspondingly update the duplicates database within one business day of any such de-enrollment. These new rules require pre-paid ETCs to monitor usage prior to seeking reimbursement from the low-income fund. In an effort to make compliance easier, the rules identify what actions on the part of consumers constitute usage. Given that carriers already have systems in place whereby usage is monitored so as to prevent consumers from using more than their allocated minutes, the burden of de-enrolling those consumers who do not use the service within a 60-day period is likely minimal. Moreover, while there may be some administrative expense related to updating the database, we anticipate such expense to be nominal. The new rules also require

pre-paid ETCs to inform subscribers at service initiation of the usage and de-enrollment policies. This new requirement only applies to those ETCs choosing to provide Lifeline service at no charge to subscribers.

47. *Minimum Consumer Charge.* The Order does not adopt a minimum consumer charge for Lifeline services and eliminates the current rule imposing a minimum local charge on Tribal subscribers. The requirements do not impose any obligations on carriers, large or small, therefore there is no associated cost of compliance.

48. *Marketing & Outreach.* The Order requires ETCs to include plain, easy-to-understand language in all of their Lifeline marketing materials that the offering is a Lifeline-supported service; that Lifeline is a government assistance program; that only eligible consumers may enroll in the program; what documentation is necessary for enrollment; and that the program is limited to one benefit per household, consisting of either wireline or wireless service. Additionally, we require ETCs to disclose the company name under which it does business and the details of its Lifeline service offerings in its Lifeline-related marketing and advertising. We do not anticipate this rule to have a significant economic impact on any entities because the costs of including basic program information in all marketing materials should be minimal.

49. *Audits and Enforcement.* The Order adopts a new audit requirement whereby newly designated ETCs will be audited by USAC within the first 18 months of seeking Lifeline support in any single state. This requirement is the same regardless of the size of the ETC. Moreover, because all ETCs are required to maintain records for a period of three years, submit annual recertification documentation, and be subjected to discretionary USAC audits, this first year audit requirement does not pose any burden or hardship on new ETCs or a disproportionate burden on small ETCs. The Order also requires those ETCs drawing more than \$5 million in low-income support from the fund, at the holding company level, to perform a biennial independent audit. This requirement only pertains to large entities therefore there is no impact, let alone a disproportionate one, on small ETCs.

50. In the Order, the Commission requires the submission of certain ownership information to USAC in order to implement our new biennial audit rule. ETCs are required to report ownership information, including affiliates, holding companies, and any branding, to USAC, along with relevant universal service identifiers so that we may determine at the holding company level which ETCs meet the \$5 million threshold.<sup>99</sup> In addition, the Order requires newly designated ETCs to describe service offerings and type of service being provided. These reporting requirements apply to all ETCs equally and do not have a disproportionate impact on small providers. This reporting will help the Commission increase accountability in our universal service programs by simplifying the process of determining the total amount of public support received by each recipient, regardless of corporate structure. This new requirement will impose a burden on all ETCs, though not one that has a significant economic impact. While there will be some administrative costs associated with this requirement, the overall burden should be minimal and will be greater for large ETCs operating with complex corporate structures across multiple study areas.

51. *Payment of Low-Income Support.* The Order adopts a three month transition for low-income support to be disbursed based on actual support in place of the current administrative process of paying low-income support based on projected service. The Order accelerates USAC's payment of low-income support for carriers filing the FCC Form 497 electronically by a monthly deadline. The window by which carriers must file revisions or original FCC Form 497s is reduced from fifteen months from the

<sup>99</sup> Section 153 of the Act defines "affiliate" as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person." 47 U.S.C. § 153(2); see also 47 C.F.R. § 76.1200.

end of a calendar year, to a rolling twelve month window. In order to accomplish this transition, the Commission sets forth a procedure whereby entities determine which study area codes to transition in each of the transition months, thereby allowing carriers to proportionately distribute any potential financial burden resulting from the transition to payments based on actual support. The Commission sets the transition to payments based on actual support to begin in July 2012, giving small entities, and all ETCs alike, ample time to prepare for the transition to payments based on actual support. Any economic impact of this revision would be equal to all entities.

52. In addition, the Commission expedites payment of low-income funds for carriers that file the FCC Form 497 electronically by the monthly deadline, thereby allowing ETCs to receive payments in a timely manner for timely electronic filings, and helping small entities reduce the negative financial impact of delayed payment. The Commission narrowed the revision window for FCC Form 497s from fifteen months to a rolling twelve month window. While carriers, large or small, may experience a minor burden by narrowing this revision window, the burden is minimized by the transition to payments on actual support. Carriers should not require as much time to scrutinize payments received because the calculations of projections and true-ups is being eliminated, and payments will be based on actual support provided by the ETC. A twelve month rolling window should be sufficient time for carriers to reconcile their books and file any required revisions, without imposing an unfair burden.

53. *Bundled Services.* In the Order, we amend sections 54.401 and 54.403 of the Commission's rules to adopt a federal policy providing all ETCs (whether designated by a state or this Commission) the flexibility to permit Lifeline subscribers to apply their Lifeline discount to bundled service packages or packages containing optional calling features available to Lifeline consumers. We do not expect this rule change to have a substantial financial impact, as carriers can elect not to offer bundled service packages or packages containing optional calling features to Lifeline consumers. We are not mandating that they do so at this time and will continue to weigh the effects of the flexible policy adopted in the Order. We believe that the benefits to consumers that could result from this rule outweigh the potential costs of compliance for carriers who choose to make such plans available to Lifeline consumers.

54. *Support for Broadband: Pilot Program.* The Order will establish a broadband pilot program aimed at generating statistically significant data that will allow the Commission, ETCs, and the public to analyze the effectiveness of different approaches to using Lifeline funds to making broadband more affordable for low-income Americans while providing support that is sufficient but not excessive. The Commission directs the Bureau to solicit applications from ETCs to participate in the Pilot Program and to select a relatively small number of projects to test the impact on broadband adoption with variations in the monthly discount for broadband services, including variations on the discount amount, the duration of the discount (phased down over time or constant) over a 12-month period. The Bureau will also give preference to ETCs that partner with third parties that have already developed approaches to overcoming broadband adoption barriers, including digital literacy, equipment costs, and relevance.

55. We do not expect these requirements to have a significant economic impact on ETCs because entities have a choice of participating. We also do not expect small entities to be disproportionately impacted. The Bureau will consider whether the projects proposed will promote entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, consistent with section 257 of the Communications Act, including those that may be socially and economically disadvantaged businesses. All ETCs that choose to participate will be required to collect and submit data throughout the pilot to USAC. The collection of information is required to study the length and amount of subsidy that is necessary for low-income consumers to adopt broadband. The benefits of collecting information outweigh any costs.

56. *Facilities-Based Requirements.* In the Order, the Commission forbears from applying the Act's facilities requirement of section 214(e)(1)(A) to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program, subject to certain conditions. Specifically, each

carrier must (i) comply with certain 911 requirements; and (ii) file, subject to Bureau approval, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order. To avoid disruption to subscribers served by existing Lifeline-only ETCs designated prior to December 29, 2011, those ETCs can continue to receive reimbursement pending approval of their compliance plan, provided they submit their plan to the Bureau by July 1, 2012. Carriers designated after December 29, 2011 will not receive reimbursement from the Fund until the Bureau approves their compliance plans.

57. We do not expect these changes to have a disproportionate impact on entities, including those that are small entities, because the Commission will no longer require carriers to seek forbearance from the facilities requirement of section 214(e)(1)(a). The Commission, however, will continue to require carriers seeking to forbear from the facilities requirement of section 214 to comply with certain 911 requirements and to file and obtain approval from the Bureau of a compliance plan describing the ETC's adherence to certain protections designed to protect consumers and the Fund. The Commission has historically imposed these requirements on carriers seeking to forbear from the facilities requirement so this will not unduly burden to all impacted entities.

#### **E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

58. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.”<sup>100</sup>

59. *Support Amounts for Voice Service.* The Commission considered the establishment of a separate rate of reimbursement for for different types of providers. The Commission determined that such a system of reimbursement would create administrative difficulties for USAC and for ETCs. A tiered system, be it the prior structure or the one contemplated for the benefit of small entities, does not treat all subscribers equally and makes comparison of Lifeline plans difficult for consumers. Therefore, we determined that the benefits of such a structure do not outweigh the costs.

60. *One Per Household.* We considered alternatives to a one-per-household rule, including a rule permitting one Lifeline-supported service per adult and one Lifeline-supported service per residential address. We did not, however, adopt these approaches – the former because it would increase the size of the universal service fund, inconsistent with our program goals, and the latter because it could potentially exclude eligible consumers from the Lifeline program. Thus, we found that the benefits of a one-per-household rule and the associated processes we adopt today outweigh the potential costs.

61. *Certification of Consumer Eligibility.* We considered alternatives that would require ETCs to verify only a portion of their Lifeline subscriber base, including allowing small ETCs within a state to perform sampling in the aggregate rather than on an individual basis, requiring ETCs with a minimal number of Lifeline subscribers to sample fewer subscribers than larger ETCs, and allowing all ETCs to sample a lesser percentage of their Lifeline subscriber base. The approach we adopt in the Order strikes an appropriate balance between these interests by helping to identify and de-enroll ineligible subscribers, while imposing fewer burdens on consumers and ETCs than a full census survey (*i.e.*, requiring consumers to annually produce documentation to verify continued eligibility).

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<sup>100</sup> 5 U.S.C. § 603(c)(1) – (c)(4).

62. *National Accountability Database.* The Commission considered whether ETCs would be obligated to update the database with customer information in real-time. The Commission found that it would be overly burdensome for ETCs, particularly ETCs which are also small entities, to implement real-time connections between the database and carriers given the limited benefits that real-time updates would provide. We therefore did not adopt a rule that the database would have to be updated in real-time. Furthermore, except for information regarding customer de-enrollment, ETCs would have ten business days to update the database once it has become aware that information regarding a subscriber has changed. The Commission adopted a rule that the first ETC to populate the database with a particular customer's information would be able to receive reimbursement for that customer. The Commission acknowledged that this rule would provide an advantage to those ETCs with real-time updating capability, but the Commission found that this approach would reduce the amount of duplicative support and encourage the prompt transmission of data without imposing burdens that a real-time updating requirement might impose on small entities.

63. *Toll Limitation Service Support.* The new TLS support rule, as discussed above, may have an economic impact on entities, including an impact on small entities because they are used to getting TLS support. This rule will have an economic impact only on ETCs unable to provide TLS at an incremental cost above limits set in the rule. In the Order, we note that ILECs typically seek TLS support at a much lower rate than competitive LECs. Small entities that purchase TLS will no longer be able to seek reimbursement for the incremental costs of doing so after 2013. Therefore, small competitive LECs may still be required to offer TLS to Lifeline subscribers but unable to receive sufficient support for the incremental costs of doing so. However, we adopt this TLS support rule to encourage efficiencies in the provisioning of TLS. In light of the concerns expressed by competitive LECs, we considered several other approaches to reforming TLS support, including a shorter timeframe for reduction of TLS support as well as an immediate elimination of support. We chose the approach adopted in the Order because it is the least burdensome method to reform TLS support.

64. *Link Up.* While we considered some carriers' proposal to decrease the Link Up support amount, and others to define more narrowly appropriate and inappropriate uses of Link Up, on balance, the Commission concluded that the dollars spent on Link Up in its current form can be better spent on other uses, such as modernizing the program and constraining the overall size of the fund. We acknowledge that some ETCs will receive less support as a result of the elimination of Link Up funds but the Commission has concluded that Link Up support has been abused by some carriers and that USF dollars are better spent supporting other aspects of the program.

65. *Subscriber Usage of Customer Supported Services.* We extend the consumer usage condition (whereby subscribers will be de-enrolled if they fail to use the service within a consecutive 60-day period) only to free pre-paid services, which are those services for which subscribers do not receive monthly bills and do not have any regular billing relationship with the ETC, and decline at this time to impose this condition on other types of Lifeline supported services. We are sensitive to the administrative burden that a 60-day usage requirement may have on post-paid services, and at this time do not extend the usage requirements to post-paid services, whether wireline or wireless.

66. *Audits and Enforcement.* We adopt a requirement that every ETC providing Lifeline service and drawing \$5 million or more in the aggregate on an annual basis from the low-income program hire an independent audit firm to assess the ETC's overall compliance with the program's requirements every two years. We considered imposing the biennial independent audit requirement on all ETCs but rejected that as too burdensome on small entities. We concluded it was appropriate to focus the mandatory independent audit requirement on the largest recipients who post the biggest risk to the program if they lack effective internal controls to ensure compliance with Commission requirements.

67. *Payment of Low-Income Support.* The Commission sought comment on a one month transition, as proposed by USAC, however the Commission found that the financial impact of the one

month proposed transition could have been overly burdensome on the financial well-being of small entities participating in the Lifeline program. The Commission considered a two month transition as suggested by commenters, and went one step further to extend the transition to three months, thus allowing all carriers, especially small entities, to minimize any potential negative financial impact by spreading the transition out over the three months.

68. *Bundled Services.* We considered adopting a rule mandating that all ETCs allow Lifeline discounts to be applied to any package containing a voice component; however, we determined that we did not have sufficient information in the record to evaluate the impact of a rule at this time. We also adopt a rule that ETCs must explicitly notify Lifeline subscribers purchasing bundled packages or packages containing optional calling features that partial payments will first be applied to pay down the allocated price of the Lifeline voice services, and require ETCs to provide clear language to this effect on the subscriber's bill. We do not expect that this rule will disproportionately impact small businesses, which, as above, may opt not to offer such plans to Lifeline subscribers. Additionally, we expect that some carriers may already have processes in place to apply partial payments to maintain the voice portion of a Lifeline calling plan. Moreover, this rule will help to prevent Lifeline subscribers from being disconnected from voice service for non-payment, thereby reducing potential burdens that may result to ETCs from having to re-enroll disconnected subscribers.

69. **Report to Congress:** The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.<sup>101</sup> In addition, the Commission will send a copy of the Order, including this FRFA, to the Chief Counsel for Advocacy of the SVA. A copy of the Order and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>102</sup>

70. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

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<sup>101</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>102</sup> See 5 U.S.C. § 604(b).

## APPENDIX K

## Initial Regulatory Flexibility Analysis

1. As Required by the Regulatory Flexibility Act of 1980, as amended (RFA)<sup>103</sup>, the Commission has prepared this Initial Regulatory Flexibility analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (*FNPRM*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *FNPRM*. The Commission will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>104</sup> In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the Federal Register.<sup>105</sup>

**A. Need for, and Objectives of, the Proposed Rulemaking:**

2. The *FNPRM* seeks comment on a variety of issues relating to the comprehensive reform and modernization of the Universal Service Fund's Lifeline program. As discussed in the Order accompanying the *FNPRM*, the Commission believes that such reform will strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; modernize the program for broadband; and constrain the growth of the program. In proposing these reforms, the Commission seeks comment on various reporting, recordkeeping, and other compliance requirements that may apply to all carriers, including small entities. We seek comment on any costs and burdens on small entities associated with the proposed rules, including data quantifying the extent of those costs or burdens.

3. This *FNPRM* is one of a series of rulemaking proceedings designed to implement the National Broadband Plan's (NBP) vision of improving and modernizing the universal service programs.<sup>106</sup> In this *FNPRM*, we propose and seek comment on comprehensive reforms to the universal service low-income support mechanism.

4. Specifically, we propose and seek comment on the following eight reforms and modernizations that may be implemented in funding year 2012 (July 1, 2012 – June 30, 2013).

5. In the *FNPRM*, we recommend the creation of a centralized database for online certification and verification on Lifeline consumers' eligibility to participate in the low-income program. In the *FNPRM*, we seek comment on the methods of creating the database including whether, how, and with what information ETCs should populate the eligibility database.

6. Additionally, we seek comment on establishing a digital literacy training program, and specifically, we seek comment on what entities are best suited to provide such training (*i.e.*, schools and libraries), including ETCs.

7. As part of the effort to reduce waste, fraud, and abuse in the program, the Commission proposes to allow only ETCs with a direct relationship with the end-user Lifeline subscriber to seek

<sup>103</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>104</sup> See 5 U.S.C. § 603(a).

<sup>105</sup> See *id.*

<sup>106</sup> Connecting America: The National Broadband Plan (rel. Mar. 16, 2010)(NBP), *available at* <http://www.broadband.gov/download-plan/> (last visited January 26, 2012).

reimbursement from the Fund. In addition we propose that the ETC with the direct relationship with the end-user be responsible for populating the duplicates database. How would this proposal affect entities economically? We seek comment on the matter. We seek comment on procedures that should be implemented to ensure that Lifeline wholesalers are not seeking Fund reimbursement for resold Lifeline offerings including self-certification, record keeping, and audit requirements. We also seek comment on which ETC, the wholesaler or the reseller, should be responsible for complying with the other certification and verification requirements in the Order. Compliance with the proposed rule would require current Lifeline resellers who are not designated ETCs to either (1) obtain ETC designation or (2) purchase Lifeline for resale at wholesale rates and be prevented from seeking Fund reimbursement. As an alternative, we seek comment on whether the Commission should forbear, on its own motion, on incumbent LECs' obligation to resell Lifeline services. In addition, we seek comment on how, if at all, incumbent LECs would be required to amend tariffs to separate the amount of the Lifeline subsidy from the wholesale price of the underlying Lifeline service being resold. We seek further comment on how the proposed rule would impact existing contractual relationships between incumbent LECs and Lifeline resellers.

8. In the Order, we establish an interim amount of \$9.25 per month for Lifeline reimbursement. In the *FNPRM*, we seek comment on whether the interim reimbursement amount of \$9.25 is appropriate and should be made permanent. We also seek comment on how to best determine a flat rate of reimbursement. In furtherance of that, we seek comment on the best method of obtaining the necessary information to perform a demand estimation study. Finally, we seek comment on whether the discount should be reduced over time as voice becomes a secondary application compared to broadband service.

9. In the *FNPRM*, we seek comment on whether to adopt a rule permitting eligible residents of Tribal lands to apply their allotted Tribal Lands discount amount to more than one supported service per household (e.g., a household would be permitted to "split" their Lifeline discount between a wireline and a mobile phone service and receive a discount off of the cost of each service). The Commission seeks comment on how such a rule could be administered and how to prevent waste, fraud, and abuse if this rule is adopted.

10. The Commission seeks comment in the *FNPRM* on whether to include three additional programs in its eligibility criteria: the Supplemental Nutrition Assistance Program for Women, Infants and Children, administered by the Department of Agriculture; the Veterans Benefits Administration-Veterans Health Administration Special Outreach and Benefits Assistance program; and the Healthcare for Homeless Veterans program.

11. The Commission seeks comment regarding mandatory application of the Lifeline discount to bundled service offerings. Specifically, we seek comment on whether to require ETCs to permit subscribers to apply their Lifeline discount to any bundle that includes a voice component and whether there should be any limitations on this requirement. We ask whether there should be limitations on this potential requirement, should such a rule be adopted. Should ETCs be obligated to offer a Lifeline discount on all of their service plans, including premium plans and packages that contain services other than voice and broadband? We also seek comment on various implementation issues regarding any such rule (i.e., would Lifeline subscribers face loss of voice service based on their inability to pay the entirety of a bundled service bill; can carriers limit Lifeline consumers' use of premium services).

12. Finally, we propose to update our rules to extend the retention period for Lifeline documentation, including subscriber-specific eligibility documentation, from three years to at least ten years, because the current requirements are inadequate for purposes of litigation under the False Claims Act.