Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matters of	)	
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Lifeline and Link Up Reform and Modernization	)	**WC Docket No. 11-42**
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Lifeline and Link Up	)	**WC Docket No. 03-109**
	)	
	)	
Federal-State Joint Board on Universal Service	)	**CC Docket No. 96-45**
	)	
	)	
Advancing Broadband Availability Through Digital Literacy Training	)	**WC Docket No. 12-23**

COMMENTS OF THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

The Public Service Commission of Wisconsin (PSCW) respectfully submits these comments in response to the Federal Communications Commission's (FCC's) Order and Further Notice of Proposed Rulemaking (FNPRM)[1] on the reform of the federal Lifeline and Link Up programs. The FCC seeks comments on several issues related to the reform of the Lifeline and Link Up programs and in particular seeks comments from states whose programs and systems can be used to help the FCC implement its reform order.

[1] *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Lifeline and Link Up*, WC Docket No. 03-109, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 12-23, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 12-11 (rel. Feb. 6, 2012) (hereinafter the *Lifeline Reform Order*).

Within the FNPRM, the FCC requested comments on several issues related to implementation. The PSCW has reviewed the *Lifeline Reform Order* and found that several issues may have a significant impact on the existing state USF programs, verification databases and Eligible Telecommunications Carriers (ETC) designation processes. These much-needed reforms will help to avoid fraud and abuse of Universal Service Fund (USF) dollars, an issue that the PSCW is focused on, providers are concerned about, and customers see every day as their payments into the fund have been increasing over time. The PSCW applauds the reforms set forth in the *Lifeline Reform Order* and provides these comments consistent with the Wisconsin experience and in recognition of the work being accomplished in Wisconsin.

The PSCW identifies the following comments to some issues identified by the FNPRM:

Eligibility Database

How can the FCC encourage accelerated deployment of automated eligibility databases at the state level for verification of eligibility for the Lifeline program?

The PSCW believes that encouraging and facilitating state collaboration will accelerate the benefits of the *Lifeline Reform Order*. Working together to share information and best practices as well as allowing access to existing state databases will accelerate the deployment of automated eligibility databases.

In addition, requiring the users (designated ETCs) of the databases to incur some of the costs associated with access to the databases could defray the costs of establishing those databases and accelerate deployment.

Whether existing efforts in establishing federal "benefit databases" can be leveraged to accelerate the deployment of automated eligibility databases.

The PSCW is not aware of any current efforts underway in Wisconsin to establish a "benefit database" that could be leveraged to accelerate the deployment of a federal database.

Whether state specific databases or a federal database would be more reliable.

Wisconsin has a long history of working with state agencies to assist with verification of eligibility of consumers for the Lifeline and Link Up programs. Since 1996, local exchange providers have been required to query, electronically and in real time, the applicable Wisconsin agency databases to verify applicant eligibility for Lifeline and Link Up.[2]

Wisconsin has over 15 years of experience in working with agency databases, including database changes and developments prompted both by the agencies housing the databases and the PSCW. The PSCW works directly with two state agencies to verify eligibility. The Wisconsin Department of Health Services (DHS) provides access to the Client Assistance for Re-Employment and Economic Support (CARES) database to designated ETCs to verify eligibility for Lifeline. CARES is the mainframe application used to determine eligibility, calculate benefits, and manage case activities for the FoodShare, Medicaid, SeniorCare, SSI Caretaker Supplement, Wisconsin Works, and Child Care programs. The ETC interface to CARES offers a Yes/No response to Lifeline eligibility queries.

In addition, the PSC works with the Wisconsin Department of Revenue (DOR) to provide access to ETCs to Homestead Tax Credit eligibility, which is also identified in the Wisconsin rules as a program that qualifies a consumer for Lifeline. The DOR process is less automated than the CARES database, but provides verification to ETCs as well.

[2] Wisconsin Admin. Code § PSC 160.06(1).

The value of the state-level databases in Wisconsin is that it allows the PSCW to work with the relevant agency to add features, including audit functionality. These features can facilitate the PSCW's ability to monitor ETC compliance with rules, modify the system requirements to meet ETC and PSCW needs, and maximize efficiency and minimize fraud, waste, and abuse. In addition, the state-level databases facilitate the ability of the PSCW to promulgate, monitor, and enforce its own eligibility requirements for the state USF program. For example, the PSCW is able to include BadgerCare (an income-based medical program) as a qualifying program for Lifeline eligibility because that data is tracked within the CARES system.

While a federal database may be desirable and may be as robust as any state system, most qualifying low-income programs are administered at the state level. Individual case workers are in a better position to refer consumers based on need and confirm Lifeline eligibility because of their direct social service contact with these consumers. Lifeline is a federal/state benefit program as well and would be a natural fit into the existing web of state-administered benefits programs. A federal database may preclude states from including other income-based state programs in the eligibility requirements, or make it more difficult for providers to verify eligibility, if they need to access a separate database to verify state-specific eligibility criteria. This result may contradict, or potentially complicate, the FCC's rules that allow a state to set its own eligibility criteria based on income.[3]

Of course, these concerns must be balanced against the primary benefit of a federal database in that it would be a more centralized way to verify some of the FCC's specifically identified eligibility criteria. However, given Wisconsin's experience, allowances for state-level databases provide flexibility to administer a Lifeline program that fulfills the diverse needs of different populations.

[3] 47 C.F.R. § 54.409(a).

How can the costs for establishing a verification database be mitigated?

Database costs can be mitigated in a variety of ways. In Wisconsin, an obvious way would be to avoid duplication of services by using existing databases to verify eligibility. The Wisconsin DHS has a contractual relationship with the users of the CARES system, and those users (designated ETCs) pay an annual fee to access the system. For ETC access to the DOR database, the DOR bills the Wisconsin USF an amount commensurate with the DOR staff time spent processing these eligibility queries. These payments defray the costs of the systems. The PSCW, together with DHS, may provide additional details on the system costs, relationships and agreements as part of the reply comments in this FNPRM.

Can the FCC condition state receipt of Lifeline reimbursement from USAC on state implementation of an eligibility database? In such a case, what would be the effect on Lifeline consumers?

The effect of such a mandate in Wisconsin would be negligible. However, clarification would be needed to ensure that consumers are not adversely affected by circumstances beyond their control. For example, recently the Wisconsin CARES eligibility database was disabled for approximately three months while DHS reformatted the access interface for ETCs. In that instance, the PSCW issued a temporary suspension of the verification requirement to allow ETCs to continue to add Lifeline customers to their services using customer self-certification. The PSCW seeks clarification on whether such an interruption in access to the eligibility database would have an impact on consumers' ability to receive the Lifeline benefit. In other words, requiring the implementation of state eligibility database has clear benefits. However, the requirements cannot be so rigid so that they will negatively impact customers in the event of short-term interruptions and outages in the database system.

What are the privacy concerns related to establishing an eligibility database and should ETCs be required to obtain consumer consent prior to making queries of an eligibility database?

The PSCW requires ETCs to obtain and consumers to give their consent prior to any query of the eligibility databases. Much like any benefit program, consumers must demonstrate eligibility and as such, must consent to offering proof of that eligibility. Recently DHS changed the ETC interface with the eligibility database to only provide a yes or no response to an eligibility query. This modification limits the information being shared with ETCs that access the system. The CARES system queries the eligible programs and income criteria and returns an eligible/ineligible response. Under those circumstances, the ETC is unaware of which program qualifies the consumer for Lifeline. In addition, an ETC must indicate at the start of its query that it has a consent form on file to query the consumer's eligibility information. PSCW rules require that an ETC adhere to the consent requirements of the relevant state agency database. That same rule provides that a consumer's refusal to provide authorization constitutes a forfeiture of eligibility.[4]

Privacy issues on a state or federal level should be directly addressed with the hosts of the data. Those are the entities that are responsible for meeting state and federal privacy laws. In addition, obtaining consumer consent to query the relevant databases serves two purposes. It ensures that the consumer has given his/her consent for the query and that s/he has applied for the Lifeline benefit.

[4] Wisconsin Admin. Code § PSC 160.06(4).

Should there be a national eligibility database in addition to or instead of existing state databases? And who should pay for the interface between existing state databases and any established federal database?

For the reasons discussed above, the PSCW believes that states are in a better position to use these databases to administer the program, monitor eligibility and ETC compliance, as well as prevent waste, fraud and abuse. If there is a federal database established, states that have already established functional databases should not be penalized with additional expenses to allow access to the state databases. In that case, the federal USF should incur the cost of interfacing with existing databases.

What are the reasons, if any, to mandate a national database if that database already relies on existing state databases?

For the reasons discussed above, the PSCW believes that mandating a federal database may be unnecessarily duplicative and may remove some of the flexibility that allows states to set eligibility requirements.

What are the synergies to be realized by combining eligibility databases with the duplication database? Should the eligibility database be built "on top of" the duplicates database? What are the cost/benefits to be realized in this approach?

Currently Wisconsin is working with the CARES database to allow an auditing function for use by PSCW staff to monitor the use of the system to verify ETC compliance and to monitor potential duplication of Lifeline services. The PSCW, together with DHS, will provide additional details on the system developments to allow for PSCW auditing, monitoring and elimination of duplicates as part of the reply comments in this FNPRM.

The PSCW believes the Universal Service Administrative Company (USAC) is in a better position to monitor the duplication issues. USAC has unique access to national data on service address, name, and telephone number. However, USAC is not currently capable of

providing eligibility support because that function is primarily handled by state databases or by self-certification of the customer. The PSCW believes that states can work with USAC to develop a synergistic system to both verify eligibility using state databases and eliminate duplication using USAC data. The PSCW is not able to comment at this time on the cost of such an effort.

Should the eligibility database be based on a query of the last 4 digits of the social security number or the full social security number? What are the privacy issues and can the FCC refuse to provide benefits to a consumer based on refusal to provide the full social security number?

Based on the PSCW's experience, the most efficient system query requires a full 9 digit social security number (SSN). With a last 4 digit SSN query, the provider will need to enter the date of birth (DOB) to eliminate duplicates. The likelihood of duplicates arising on the state level is not insurmountable, but the likelihood of duplicates on a national level increases exponentially. In the PSCW's experience, this additional step of using the DOB can significantly affect the efficiency of the database queries. It is also the PSCW's experience that the full 9 digit SSN is a more efficient element of data to collect than both the last 4 digits of the SSN and the DOB. Most ETCs in Wisconsin collect the full SSN.

The PSCW believes that the concerns about privacy in collecting the full SSN are mitigated by the fact that an applicant is seeking a state and federally administered benefit program to which specific eligibility requirements apply. In most, if not all, assistance programs an applicant is required to provide the full SSN to verify identity and eligibility as well as prevent duplication, fraud, waste and abuse. This program should be consistent with other programs–most of which require the full 9 digit SSN.

Facilities Requirements

Should the FCC amend its rules to clarify the term "combination of its own facilities" with respect to the facilities a carrier must own and use to provide USF supported services?

ETCs are required, pursuant to 47 U.S.C. § 214(e)(1)(A) to "offer the services that are supported by federal universal service support mechanisms under section 254 (c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services . . . ." The FCC has generally held that this provision is met, provided the carrier used its own facilities to offer at least some portion of the supported service.[5]

In the past, providers argued they met this requirement by providing directory assistance using a switch that the provider owned, either wholly or jointly with others, or by using unbundled network elements (UNEs) to provide service. The FCC has removed directory assistance from the list of supported services, but has not otherwise clarified this requirement.

The FCC has previously held that a provider is not required to have constructed its network prior to being designated as an ETC.[6] Providers are required only to "extend its network to serve new customers upon reasonable request."[7]

The PSCW has interpreted these FCC orders as requiring an ETC to provide some portion of its services over either its own facilities, or over UNEs leased from another provider, or both. As part of its application for ETC designation, the carrier would have to show how a Wisconsin customer could place a call that would use these facilities. UNEs or transmission

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[5] *In the Matter of Federal-State Joint Board on Universal Service*, 12 F.C.C.R. 8776, 8853, para. 169 (2000) (USF Order).

[6] *In the Matter of Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Preemption of An Order of the South Dakota Public Utilities Commission*, 15 F.C.C.R. 15168, 15178, para. 24 (2000).

[7] *Id.*, para. 17.

facilities located in other states could meet the requirement, provided a call originated or terminated in Wisconsin by a Wisconsin customer would be transmitted over these facilities.

Alternatively, the prospective ETC could show that it met the requirement by showing that it had a signed interconnection agreement with a Wisconsin carrier which would allow it to purchase UNEs within Wisconsin, and that it intended to use those UNEs to serve Wisconsin carriers. This would meet the "upon reasonable request" requirement under the *Western Wireless* declaratory ruling. Under that standard, the potential ETC was not required to have purchased UNEs prior to designation, but only to demonstrate the capability to do so.

As an example, assume that a carrier offers local service to customers in Bismarck, North Dakota, using its own switch and unbundled local loops. That same carrier is also seeking to provide service in Wisconsin, but only on a resale basis. However, calls from Wisconsin customers to the provider's local customers in Bismarck would travel over the provider's facilities (the switch) and leased local loops in Bismarck. The PSCW has interpreted a similar situation as meeting the facilities requirement in 47 U.S.C. § 214(e)(1)(A) and the FCC rules. Additional clarity on what specific facilities or arrangements meet the requirements of 47 U.S.C. § 214(e)(1)(A), as interpreted by the FCC, would be helpful for the PSCW and in all states where the state commission designates ETCs. Other jurisdictions appear to have reached different conclusions about how carriers can meet the "own facilities" test, a situation that encourages additional clarification.

Specifically, the FCC should clarify whether the facilities to be used must be located within the state in which the carrier is seeking ETC designation, or whether possession of facilities anywhere in the country is sufficient. Secondly, the FCC may wish to provide some guidance on how much weight a state commission should give an attestation that a provider will

obtain facilities, especially UNEs, if the provider intends to wait until designated as an ETC before entering a market. Finally, the FCC may wish to provide some guidance on the types of UNEs which would meet the "own facilities" requirement.

Whether there should be a minimum combination of facilities a carrier should own and use to qualify as a facilities-based carrier under section 254 (1)(A).

The FCC may wish to set a minimum requirement for use of facilities or UNEs which meet the "own facilities" test. The PSCW is concerned that failure to do so may result in compliance in name only. The apparent goal of the requirement is to compel ETCs that obtain federal USF dollars to develop and maintain additional network infrastructure. Depending on how this requirement is implemented, providers of Lifeline service may be developing very little new infrastructure and relying heavily on existing infrastructure. As identified above, additional clarification on the FCC's specific requirements and the intent of the recent changes will assist states in their function of designating ETCs.

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Respectfully submitted,

PUBLIC SERVICE COMMISSION
OF WISCONSIN

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