

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

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
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 JOINT COMMENTERS

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SUMMARY

The Joint Commenters are competitive eligible telecommunications carriers (“ETCs”) that provide wireless, sometimes wireline, and, with increasing frequency, broadband service to eligible low income consumers in numerous states. The Joint Commenters urge the Commission to only take actions that are competitively neutral and that will allow ETCs to provide Lifeline service to low income consumers in an efficient and effective manner.

The Joint Commenters oppose any reduction to the newly established interim uniform Lifeline support amount. Any reduction in the Lifeline support amount will jeopardize wireless ETCs’ ability to provide the popular “free” wireless service packages to eligible low income consumers that have increased telephone subscribership levels and Lifeline penetration rates in recent years. These free wireless Lifeline service offerings bring and keep low income customers on the network and, in so doing, provide them with the critical ability to communicate with work, potential employers, school, family, health care and social welfare organizations and emergency responders.

Further, the Commission should continue to identify disadvantaged groups, such as participants in the Special Supplemental Nutrition Assistance Program for Women, Infants and Children (“WIC”) and homeless veterans, who desperately need Lifeline services, and allow ETCs to more efficiently identify and serve them.

The Commission also should permit ETCs to participate in, and receive funding for, the proposed digital literacy training programs for low income individuals. It should do so because ETCs such as the Joint Commenters have an established track record of identifying and reaching out to low income consumers that are eligible for Lifeline services and only they can

effectively tie digital literacy training to the receipt of bundled Lifeline services and use of broadband-capable devices.

In addition, the Commission should eliminate the Lifeline resale requirement and allow incumbent LECs to leave the Lifeline business to those ETCs that actively seek to serve the low income population. However, these changes should be subject to an adequate transition period that will allow resellers to become designated ETCs and incumbent LEC customers ample time to identify and switch to new Lifeline service providers without disruption in service or Lifeline benefits.

Further, in order to allow ETCs to provide Lifeline service efficiently, the Commission should not adopt additional wasteful and burdensome regulatory requirements such as a ten year recordkeeping requirement. The existing three year requirement is likely more than adequate. Any change should be considered only after the Commission has had ample time to consider the impact of the recently adopted Lifeline rule changes and audit requirements.

The Commission should not impose a national standard for the “own” facilities requirement because the speed of technological change and innovation could make such specific requirements quickly obsolete. However, the Commission should provide guidance to ETCs and states that can be instructive regarding state law-based facilities requirements for access to state low income funds.

The Commission should establish a fully automated, nationwide, front-end eligibility database solution so that ETCs can efficiently and effectively verify the eligibility of new Lifeline customers. To maximize efficiency and effectiveness, the eligibility database solution should follow a federally mandated nationwide framework that calls for uniform access to data for all ETCs and their agents, accuracy of data, and ease of use.

Finally, the Commission should eliminate Link Up funding in Tribal lands because the deployment and access challenges on Tribal lands have been addressed and will continue to be addressed through the high cost fund. Permitting high cost fund recipients to double recover from the Fund for the same extension of service to residents on Tribal lands skews the competitive landscape in favor of incumbent recipients of high cost funding and to the detriment of the Fund and the Tribal lands citizens it aims to serve.

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COMMENTS OF THE JOINT COMMENTERS

The Joint Commenters, by and through their attorneys, submit these comments in response to the Federal Communications Commission’s (“Commission’s” or “FCC’s”) Further Notice of Proposed Rulemaking in the above-captioned docket.¹ The Joint Commenters are competitive eligible telecommunications carriers (“ETCs”) that provide wireless, sometimes wireline, and, with increasing frequency, broadband service to eligible low income consumers in numerous states.² The Joint Commenters oppose any reduction to the newly established interim

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

² The Joint Commenters are TAG Mobile, LLC, Telrite Corporation, Global Connection Inc. of America, Easy Telephone Services Company dba Easy Wireless, Absolute Home Phones, Inc., Absolute Home Phones, Inc. dba Absolute Mobile, Absolute Mobile, Inc. and Image Access, Inc. d/b/a NewPhone. All of the members provide wireless Lifeline service; many of the members provide wireline Lifeline service; and many are providing, or are planning to provide, broadband data services to Lifeline customers, and plan to apply to participate in the Commission’s broadband pilot.

uniform Lifeline support amount. Any reduction in the Lifeline support amount will jeopardize wireless ETCs' ability to provide the popular "free" wireless service packages to eligible low income consumers that have increased telephone subscribership levels and Lifeline penetration rates in recent years. These free wireless Lifeline service offerings bring and keep low income customers on the network and, in so doing, provide them with the critical ability to communicate with work, potential employers, school, family, health care and social welfare organizations and emergency responders.

Further, the Commission should continue to identify disadvantaged groups, such as participants in the Special Supplemental Nutrition Assistance Program for Women, Infants and Children ("WIC") and homeless veterans, who desperately need Lifeline services, and allow ETCs to more efficiently identify and serve them.

The Commission also should permit ETCs to participate in, and receive funding for, the proposed digital literacy training programs for low income individuals. It should do so because ETCs such as the Joint Commenters have an established track record of identifying and reaching out to low income consumers that are eligible for Lifeline services and only they can effectively tie digital literacy training to the receipt of bundled Lifeline services and use of broadband-capable devices.

In addition, the Commission should eliminate the Lifeline resale requirement and allow incumbent LECs to leave the Lifeline business to those ETCs that actively seek to serve the low income population. However, these changes should be subject to an adequate transition period that will allow resellers to become designated ETCs and incumbent LEC customers ample time to identify and switch to new Lifeline service providers without disruption in service or Lifeline benefits.

Further, in order to allow ETCs to provide Lifeline service efficiently, the Commission should not adopt additional wasteful and burdensome regulatory requirements such as a ten year recordkeeping requirement. The existing three year requirement is likely more than adequate. Any change should be considered only after the Commission has had ample time to consider the impact of the recently adopted Lifeline rule changes and audit requirements.

The Commission should not impose a national standard for the “own” facilities requirement because the speed of technological change and innovation could make such specific requirements quickly obsolete. However, the Commission should provide guidance to ETCs and states that can be instructive regarding state law-based facilities requirements for access to state low income funds.

The Commission should establish a fully automated, nationwide, front-end eligibility database solution so that ETCs can efficiently and effectively verify the eligibility of new Lifeline customers. To maximize efficiency and effectiveness, the eligibility database solution should follow a federally mandated nationwide framework that calls for uniform access to data for all ETCs and their agents, accuracy of data, and ease of use.

Finally, the Commission should eliminate Link Up funding in Tribal lands because the deployment and access challenges on Tribal lands have been addressed and will continue to be addressed through the high cost fund. Permitting high cost fund recipients to double recover from the Fund for the same extension of service to residents on Tribal lands skews the competitive landscape in favor of incumbent recipients of high cost funding and to the detriment of the Fund and the Tribal lands citizens it aims to serve.

I. THE COMMISSION SHOULD SET THE LIFELINE REIMBURSEMENT AMOUNT AT A LEVEL THAT WILL ALLOW WIRELESS ETCs TO CONTINUE TO PROVIDE POPULAR FREE LIFELINE SERVICES

The Commission should set the monthly support rate at or above the interim \$9.25 rate adopted in the Lifeline Reform Order. A reduction in the Lifeline reimbursement amount below the current \$9.25 would jeopardize wireless ETCs' ability to provide free services and reasonably robust packages of minutes that allow low income customers to begin to use the telephone services – and wireless services, in particular, like the rest of the population does.³ Indeed, if the Commission were to increase the Lifeline reimbursement amount, wireless ETCs would be able to provide additional free minutes, which would allow low income consumers to utilize telecommunications services more in line with the national average usage. This enhanced level of Lifeline support and service would surely translate into economic and social welfare benefits for America's swollen low income population.

Current Lifeline support rates, including the interim \$9.25 rate, present challenges to wireless ETCs aiming to provide compelling service offerings that are competitive with larger ETCs that likely enjoy lower cost structures, engage in less community-based outreach, or both. This is especially true for those ETCs that formerly could rely on Link Up to defray service commencement costs. While the Commission has not specified a minimum number of wireless minutes that should be available for free, the state commissions often do. Packages of "free" minutes provided to Lifeline customers have trended upward and, in some cases have increased from 68 minutes, to 100, and sometimes to 250 minutes in various states. A wireless ETC that offers up to 250 free anytime minutes to eligible Lifeline customers, along with a free handset, text messaging capability and additional custom calling features at no charge, such as caller ID,

³ See Further Notice, ¶ 462.

call waiting, call forwarding, 3-way calling, and voicemail, is often hard pressed to do so. A plan that offers 250 free minutes to customers based on a Lifeline reimbursement of \$9.25 yields an effective rate of 3.7 cents per minute, which represents a high-value, below-market rate in the prepaid market for low income individuals. With the loss of Link Up funding and the reduction (in certain locations) of Lifeline support to \$9.25, the FCC and the state commissions have made the provision of certain free wireless service plans difficult and in some cases uneconomic. Such free Lifeline plans, however, have contributed to the recent increases in telephone subscribership and Lifeline penetration among eligible low income consumers, which serve the Commission's universal service goals and obligations. Any reduction in the Lifeline reimbursement amount below \$9.25 would require many ETCs to renegotiate their free minute plans with the state commissions or relinquish their ETC designation in the state. Either outcome would operate to the detriment of the low income community that relies increasingly on free wireless phones and services to reach emergency services, seek and hold employment and keep in touch with friends and family.

The Commission recognized the value of free wireless Lifeline services in the Lifeline Reform Order, when it decided against imposing a minimum charge for Lifeline service.⁴ The Commission correctly found that “imposing a minimum charge could impose a significant burden on some classes of Lifeline consumers.”⁵ Further, the Commission found that,

a minimum charge could potentially discourage consumers from enrolling in the program and could result in current Lifeline subscribers leaving the program. Commenters argue that a minimum charge will drive down participation, and cite to a TracFone survey in which almost 65 percent of its responding consumers stated that they would de-enroll from the Lifeline program instead of paying a mandatory charge. The Lifeline program is serving the truly neediest of the

⁴ See Lifeline Reform Order, ¶ 266.

⁵ *Id.*

population in the most dire economic circumstances and for whom even a routine charge is an excessive financial burden.⁶

Finally, the Commission astutely recognized that making regular payments is burdensome on low income consumers because they often do not have bank accounts or credit cards and would potentially have to pay by money order, which would significantly affect the cost of Lifeline service.⁷ These findings remain sound. Low income consumers often cannot afford a minimum charge or any charge at all for Lifeline service and often have no effective means of making payments.

Yet, if low income consumers are to improve their standing, having reliable access to voice telephony is likely essential. Low income consumers should be able to use, or seek to use, their wireless phones and service plans in the same manner as other Americans. The Commission's statistics show that the average wireless customer uses 708 minutes per month.⁸ The current Lifeline offerings are not able to come close to such average usage, however, prepaid wireless ETCs could come much closer with an increased Lifeline benefit.

The Commission also seeks comment regarding proposals to make an additional Lifeline benefit available in the same household.⁹ The Joint Commenters support a *one-per-eligible-adult* standard for Lifeline benefits, especially given the importance of mobile communications to all segments of the population, including low income. Many low income households need more than one phone to ensure that family members can communicate; coordinate schedules, rides to and from work and school; and reach each other in emergencies.

⁶ *Id.*, ¶ 267.

⁷ *Id.*, ¶ 266.

⁸ See *Trends in Telephone Service, Industry Analysis and Technology Division, Wireline Competition Bureau* at Table 11-3 (Sept. 2010).

⁹ See Further Notice, ¶ 470.

No economically disadvantaged household should be forced to choose between one member taking the family's only phone to work or on an errand or leaving it at home in case of an emergency. The Joint Commenters are as concerned as the Commission should be about these choices that households have to make under the current one-per-household requirement.

However, the Joint Commenters cannot make a second free wireless Lifeline service available to a household for a 50 percent reimbursement, as proposed by T-Mobile.¹⁰ The Joint Commenters respectfully submit that this proposal highlights the inadequacy of the current one-per-household rule without providing a meaningful solution to it. Providing a second Lifeline service involves the same costs as the first and doing so based on \$4.60 of additional Lifeline support would not be possible, regardless of whether the second plan were an additional 250 minutes or something less. This is because a significant amount of the costs incurred in providing Lifeline service are incurred on a per line basis. The costs of providing the handset, locating, signing up and verifying the eligibility of each customer, and maintaining and documenting compliance would not be less for a second eligible adult in a household.¹¹ Moreover, per minute rates incurred by the Joint Commenters do not change based on the addition of an extra line. In sum, there are no savings realized by an ETC adding a second Lifeline service to a household that would justify any reduction in the benefit.

Finally, the Commission seeks comment regarding whether the Lifeline support amount should be different for wireline or wireless services. The Joint Commenters submit that

¹⁰ See *id.*, ¶ 471.

¹¹ For this reason, the Joint Commenters urge the Commission to provide support for non-recurring up-front charges associated with the provision of Lifeline service, including order fulfillment, setting up the customer in customer support and other systems, network activation and provisioning, including paying the activation charge from the wireless wholesale provider, and in-person phone activation at events.

governing principles of competitive and technical neutrality suggest that support amounts should not be different based on wireline or wireless or pre-paid or post-paid distinctions.¹² Certainly, the support amount should be no lower for wireless as compared to wireline services. One reason for this is that wireline carriers generally bill customers each month and are able to pass along E911 charges separate from the rate for the service. In contrast, wireless carriers that provide a free minutes plan to customers cannot recover the often significant state and local E911 surcharges from their customers because the customers are not billed regularly. Accordingly, these costs of providing service are often absorbed by wireless ETCs.

Further, the Commission has imposed a sixty day non-usage requirement on ETCs that do not assess or collect a monthly fee from their customers,¹³ which is more likely to be applicable for wireless customers than wireline. This sixty-day non-usage requirement imposes additional costs on prepaid wireless ETCs because they have to monitor usage, send out notices and incur the costs of terminating service, including often the loss of the wireless handset. Although the Joint Commenters do not assert now that the Lifeline benefit should be higher for wireless services than for wireline, for the reasons described above, the benefit for wireless services certainly should not be lower than the benefit for wireline services.

¹² Joint Commenters oppose any proposal that would provide Lifeline support to certain subsets of ETCs on other than a monthly basis. The fact that monthly billing may not occur does not alter the fact that replenishment of minutes occurs on a monthly basis. Because costs are incurred on a monthly basis, support for voice telephony services should be provided in the same manner. *See* Further Notice, ¶ 470.

¹³ *See* Lifeline Reform Order, ¶ 261.

II. THE COMMISSION SHOULD CONTINUE TO IDENTIFY SPECIFIC GROUPS OF LOW INCOME CONSUMERS THAT ARE ELIGIBLE TO RECEIVE LIFELINE SERVICES AND ESTABLISH AN EFFICIENT MEANS TO DEMONSTRATE ELIGIBILITY

While the Commission’s current income and program-based eligibility standards allow the vast majority of low income consumers that need the Lifeline benefit to establish eligibility, there are additional programs that should be added to the list for program-based eligibility to allow ETCs to more efficiently identify and verify eligibility for those consumers. The Commission has identified two such groups in the Further Notice, and the Joint Commenters support establishing more efficient means for participants in WIC and homeless veterans to receive the Lifeline benefit.¹⁴

Participants in the WIC program should be automatically eligible for Lifeline benefits for the reasons described by the Commission and other parties: the program has an income requirement; participants require the ability to regularly contact obstetricians, pediatricians, child care and schools (and be reached by such entities in case of emergency or more routine needs); and over 35 percent of WIC participants do not participate in another federal assistance program.¹⁵ In addition, as the Commission transitions its Lifeline benefit to supporting broadband services, expectant and new mothers will be able to access the virtually unlimited information on the Internet regarding pregnancy, childrearing and health care,¹⁶ as well

¹⁴ See Further Notice, ¶¶ 483, 487.

¹⁵ *Id.*, ¶ 484.

¹⁶ As the Commission stated elsewhere in the Further Notice, “Broadband Internet is also a tremendous resource for health care information, including specific information about treatment options, safety and drug recall information, doctors and other health professionals, and health insurance.” Further Notice, ¶ 418 (citing Susannah Fox, *The Social Life of Health Information*, 2011, Pew Internet and American Life Project, at 3 (May 12, 2011), available at http://pewinternet.org/~media/Files/Reports/2011/PIP_Social_Life_of_Health_Info.pdf)

as free applications, such as Kidsdoc, Total Baby, playground locators and others that are designed for mobile devices with data plans.

Homeless veterans are no less worthy of Lifeline benefits, but are more difficult to identify than participants in the WIC program. The Joint Commenters support establishing a program-based eligibility standard for homeless veterans in coordination with the Veterans Homeless Initiative Office to allow veterans without any income to demonstrate eligibility for Lifeline benefits. Veterans without any income certainly meet the income-based requirements for Lifeline and should be provided a streamlined method of demonstrating eligibility for participation in the program. Further, as many veterans are moved off of Medicaid and onto health care provided by the Department of Veterans Affairs, they can no longer automatically qualify for Lifeline benefits by showing a Medicaid card.¹⁷

The Commission has suggested that homeless veterans could establish eligibility with a certification under penalty of perjury and a form of additional certification from an authorized VA official. The Joint Commenters agree that would be a suitable method of demonstrating eligibility, but they are also willing to work with the Veterans Homeless Initiative Office on other potential solutions that are also administratively feasible for ETCs and as simple as possible for veterans.

The Joint Commenters are committed to actively seeking out and providing Lifeline services to homeless veterans, however, they should not be required to check in with such participants every ninety-days regarding their address as required by the Commission's new

¹⁷ Many states are moving veterans off of Medicaid and onto health care provided by the VA in order to balance budgets. See Pauline Vu, *Program Moves Vets From Medicaid*, Stateline.org (Mar. 30, 2009), available at <http://www.stateline.org/live/details/story?contentId=376237>.

rules.¹⁸ The ninety-day address verification requirement is burdensome and would be required for every homeless veteran by definition. Imposing this requirement for homeless veterans would disincentivize ETCs from seeking them out to provide Lifeline benefits because of the high cost of this burdensome regulatory requirement. It is sufficient that the veteran certify under penalty of perjury that he or she will notify the ETC within 30 days if the veteran changes address.¹⁹

III. ETCs WILL BE BENEFICIAL PARTICIPANTS OR PARTNERS FOR DIGITAL LITERACY TRAINING PROGRAMS

Provided that the Commission has adequate legal authority for its proposal, the Joint Commenters support the Commission's proposal to use monies saved through USF reform to fund digital literacy training. However, the Commission should not focus only on schools and libraries, as ETCs can make significant contributions to such a program.²⁰ Further, the Commission should fund training not only on computers, but also on tablets, smartphones and other mobile devices that low income consumers are more likely to use in the coming years to communicate with educational institutions and employers.

The Commission should not focus too heavily on schools and libraries so as to overlook the potential importance of ETCs to its proposed digital literacy initiative. ETCs have unique expertise in locating low income individuals that are eligible to receive Lifeline benefits

¹⁸ See Lifeline Reform Order, ¶ 89. ETCs are required to verify continued use of the address provided by subscribers that provide a temporary address on the Lifeline application form.

¹⁹ See 47 C.F.R. § 54.410(3)(iii).

²⁰ The Commission seeks comment regarding whether ETCs could be allocated additional support for providing digital literacy training. See Further Notice, ¶ 428.

and could benefit from digital literacy training, especially in rural and poor urban areas.²¹

Schools and libraries are excellent locations to hold digital literacy training sessions, but schools and libraries generally do not have the expertise regarding outreach to low income communities that could be provided by partnering with ETCs. With adequate funding from the Fund, ETCs can provide their expertise at reaching out to low income communities and working with low income individuals to help them learn to operate communications devices. ETCs can partner with companies like Microsoft or Google, or non-profits like I Keep Safe that can provide the most effective curriculum.²² The Joint Commenters would welcome the opportunity to work with digital literacy training content providers and school and library locations to further the Commission's digital literacy goals.

Further, ETCs can assist with the essential transition from training to broadband adoption, which should include obtaining Lifeline benefits for bundles of voice and broadband data services. The Commission noted that,

Connect Ohio, a BTOP grantee that offers digital literacy training classes in libraries and community centers across Ohio, found that approximately 87 percent of consumers who took formal digital literacy classes said they intended to subscribe to broadband at home within a year as a result of the training, demonstrating the effectiveness of digital literacy training as a tool for increasing broadband adoption.²³

²¹ The Commission noted that 38 percent of public libraries offer digital literacy training, however, only 25 percent of those in rural areas are offering such courses. *See id.*, ¶ 420. The Joint Commenters and other ETCs have significant expertise and experience conducting outreach events and marketing for Lifeline-supported communications services in rural areas.

²² The Commission proposes to fund not only administrative costs of scheduling classes and reserving rooms, but also activities that can be more effectively provided by companies, non-profits and ETCs, such as staff training for the trainers, curriculum development, software and materials and marketing. *See Further Notice*, ¶ 436.

²³ *Id.*, ¶ 426.

By including ETCs in such initiatives, the Commission can more quickly transition attendance by Lifeline-eligible low income consumers at digital literacy training sessions into adoption of Lifeline-supported voice telephone and broadband service bundles offered by ETCs at such training events.

Finally, the Commission should focus not only on training people to use a computer in a library, but also to use tablets, smartphones or other mobile devices that are more likely to be the broadband solution for many low income individuals in the years to come. Individuals can complete many online job applications using a tablet or correspond more regularly with employers using an email address set up on a smartphone. ETCs are uniquely positioned to instruct attendees on how to use the broadband capable devices offered to Lifeline subscribers, set up email accounts and to use the Internet to access resources such as job boards.

IV. THE COMMISSION SHOULD ALLOW INCUMBENTS TO CHOOSE WHETHER TO PARTICIPATE IN THE LIFELINE PROGRAM AND SHOULD NOT REQUIRE CARRIERS TO RESELL LIFELINE SERVICES

The Joint Commenters agree with AT&T that incumbent LECs should be able to choose whether to participate in the Lifeline program,²⁴ and leave the provision of Lifeline services to those ETCs that have a business plan to seek out and serve low income consumers. Further, the Joint Commenters support the requirement of a direct relationship between ETCs and their Lifeline customers and the elimination of the resale requirement, by re-interpretation of the Section 251(c)(4) requirement or forbearance, for Lifeline services.²⁵

With regard to each of the above, however, the Commission should establish an appropriate ramp down process to transition existing Lifeline customers from incumbents to new

²⁴ See Further Notice, ¶ 503.

²⁵ See *id.*, ¶¶ 451-53.

ETCs or to allow existing service providers that resell Lifeline services of an incumbent LEC to obtain an ETC designation and approved compliance plan in order to avoid harm to existing Lifeline customers and ensure continuity of service.²⁶ If an incumbent LEC directly provides Lifeline service to customers and elects to leave the Lifeline business, an appropriate transition timeframe should be established (*e.g.*, three months) for new wireline or wireless ETCs to acquire those customers without disruption in service or benefit. In such cases, the new ETCs should not be required to undertake an initial eligibility verification for the transitioned customers, but rather take over the annual verification requirements.

In addition, those service providers that serve Lifeline customers by reselling Lifeline services from an incumbent LEC should be given ample time to obtain an ETC designation and compliance plan approval so that they can continue to serve their existing customers and so that those customers can get Lifeline benefits directly through their existing service provider.

Finally, when an incumbent LEC ceases providing Lifeline service on a resale basis and the customer's existing provider continues to provide service via the resale of equivalent non-Lifeline service, the incumbent should not be permitted to impose any service order or service change charge on the existing service provider. Incumbent LECs often charge a Universal Service Order Code or Local Service Request charge of \$3.50 or more to switch from providing resold Lifeline service to equivalent resold non-Lifeline services. The costs of such a transition should not be borne by the service providers that must incur the costs to obtain an ETC designation to continue serving existing Lifeline-eligible customers.

²⁶ See *id.*, ¶ 458.

V. **THE PROPOSED RECORDKEEPING EXTENSION IS OVERLY BURDENSOME AND PREMATURE**

The Joint Commenters oppose the Commission’s proposal to extend the record retention requirement for ETCs from three years to ten years. Such an extension would be wasteful and overly burdensome, especially when the effects of recently adopted rules and audit requirements – which on their own introduce substantial and in some respects undue burdens – are not yet known.²⁷ The Commission can neither reasonably nor rationally extend the recordkeeping obligation for an additional seven years without first evaluating the impacts of the new documentation and audit requirements on ETCs.

VI. **THE COMMISSION NEED NOT ESTABLISH A NATIONALLY UNIFORM STANDARD FOR THE “OWN” FACILITIES REQUIREMENT**

The Commission seeks comment regarding whether there remains a need to establish uniform standards for the designation of Lifeline-only ETCs, given the grant of blanket forbearance from the facilities requirement in the Lifeline Reform Order.²⁸ In the wake of the Commission’s grant of blanket forbearance, there appears to be no need to establish uniform facilities standards or requirements. Innovation and technological changes occur rapidly in telecommunications and the requirements could become outdated before they are ever used.

The present lack of a need to establish a standard, however, does not mean that state commissions and the industry would not benefit from some guidance from the Commission regarding the functionalities that should be provided over an ETC’s own facilities to meet the requirements of section 214(e)(1)(A) of the Communications Act of 1934, as amended (the “Act”).

²⁷ See Further Notice, ¶ 506.

²⁸ See *id.*, ¶¶ 496-97.

The Joint Commenters intend to comply with the blanket forbearance requirements contained in the Lifeline Reform Order (*e.g.*, filing a compliance plan) for purposes of receiving reimbursements from the federal Lifeline program in each state in which they provide service as a designated ETC. In each such case, states may not impose an “own” facilities requirement on ETCs for purposes of obtaining federal Lifeline support because the Commission’s grant of forbearance means the ETCs comply with the requirements of the federal statute for purposes of receiving federal funds. However, several states appear to be in the process of considering or reconsidering facilities requirements for participation in state low income support programs pursuant to state statutes and regulations. It is in this context that the states and ETCs may benefit from some guidance from the Commission regarding the functionalities that can meet a general “own” facilities requirement for purposes of receiving state low income support. While the Commission lacks the authority to address state law requirements for participation in state funds, its views on what it means to provide voice telephony service over an ETC’s own facilities may be instructive for states that seek to administer their own state funds and who may be unable to eliminate or forbear from state-based facilities requirements.

VII. THE COMMISSION SHOULD ESTABLISH A NATIONWIDE, FRONT-END ELIGIBILITY DATABASE SOLUTION

The Joint Commenters support the establishment of a fully automated, nationwide, front-end eligibility database solution so that they can efficiently and effectively verify the eligibility of new Lifeline customers. To maximize efficiency and effectiveness, the eligibility database solution should follow a federally mandated nationwide framework that calls

for uniform access to data for all ETCs and their agents, accuracy of data and ease of use. Each of these principles is important.

First, while the Commission lacks the statutory authority to mandate that the states create their own eligibility databases or to deny ETCs funding in those states that do not have eligibility databases, the Commission can provide guidance to facilitate uniform access to such data – whether housed at the federal or state level. Such guidance should address data privacy and security concerns. Notably, privacy concerns can in large measure be addressed by obtaining consent for such access from Lifeline program applicants and by restricting use of such data to determining participation for Lifeline eligibility.

Second, the Commission should provide guidance for assuring the accuracy of the data and a means for consumers and ETCs on behalf of their customers to correct data. Known data problems should be scrubbed prior to its inclusion in any eligibility database or family of databases, so as not to create barriers to Lifeline participation by eligible low income consumers.

Third, the Commission should ensure that the eligibility database solution affords a method or methods of access and ease of use so as not to be unduly burdensome to ETCs and low income consumers. This entails ensuring that ETCs do not have to check (or “dip”) and set up multiple connections to multiple databases, but rather can rely on a single interface to establish connectivity to eligibility and duplicate data checks.²⁹

Finally, the eligibility database should be accessible in real-time so that ETCs can dip the database before signing up a customer and distributing a handset for activation. Such a front-end dip is the most effective way to avoid activation of ineligible customers and the most cost-effective for ETCs.

²⁹ See Further Notice, ¶ 404.

VIII. THE COMMISSION SHOULD ELIMINATE LINK UP FUNDING IN TRIBAL LANDS TO AVOID DOUBLE RECOVERY BY HIGH COST SUPPORT RECIPIENTS

The Commission should eliminate Link Up funding in Tribal lands because the deployment and access challenges on Tribal lands are being addressed in the high cost reform proceeding³⁰ and high cost fund recipients should not be permitted to double recover from the Fund for the same extension of service to residents on Tribal lands.

In the Lifeline Reform Order, the Commission eliminated Link Up funding in non-Tribal lands because it determined that “Link Up support is not the most efficient means to reach [the Commission’s] programmatic goals.”³¹ The Commission, however, has apparently found (without explanation) that Link Up remains an efficient means of support in Tribal lands. The reason given for maintaining enhanced Link Up for Tribal lands is the “the significant telecommunications deployment and access challenges on Tribal lands,”³² however, those challenges are being addressed in the High Cost Reform Order.

The High Cost Reform Order dedicates \$50 million in one-time support for a Tribal Mobility Fund in addition to the \$300 million general Mobility Fund, for which qualifying ETCs in Tribal lands are also eligible.³³ Further, the Commission reserved up to \$100 million annually for support for Tribal lands out of the \$500 million annual Mobility Fund Phase II

³⁰ See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, ¶¶ 479-88, 493-97 (rel. Nov. 18, 2011) (“High Cost Reform Order”).

³¹ Lifeline Reform Order, ¶ 245.

³² *Id.*

³³ See High Cost Reform Order, ¶ 485.

support.³⁴ Finally, the Commission established a \$100 million annual Remote Areas Fund that will be used to serve extremely high cost areas of the country, including potentially Tribal lands.³⁵ Given this support intended to permit CAF recipients to build infrastructure to serve residents of Tribal lands, Link Up funding would be redundant. Moreover, permitting high cost fund recipients to double recover from the Fund for the same extension of service to residents on Tribal lands skews the competitive landscape in favor of incumbent recipients of high cost funding and to the detriment of the Fund and the Tribal lands citizens it aims to serve. Therefore, maintaining enhanced Link Up for residents of Tribal lands is not an efficient use of the Commission's limited universal service funds and it should be eliminated.

³⁴ See *id.*, ¶ 494.

³⁵ See *id.*, ¶ 534.

IX. CONCLUSION

For the foregoing reasons, the Joint Commenters urge the Commission to take only those actions that will allow ETCs that actively seek to provide Lifeline service to low income consumers in an efficient and effective manner, and to do so consistent with the recommendations set forth herein.

Respectfully Submitted:	
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