

support is provided to all of the PSPs' competitors who also serve low income consumers but not to PSPs. In this proceeding, APCC pointed out that it is the Commission's practice of providing universal service support to one class of competitors and failure to provide support to payphone line service that is distorting competition and leading to the removal of payphones.⁶⁷ Yet the Commission simply denied relief without addressing this issue, leaving intact a decidedly competitively "unneutral" situation.

In sum, the current situation is in contravention of both competitive neutrality and technological neutrality. The Commission is not free to ignore or depart from the application of its own precedents and established doctrine without a reasoned explanation for the departure.⁶⁸ On this ground alone, the Commission should reconsider its decision denying the *APCC Petitions*.

2. The Section 276 Mandate

In denying the *APCC Petitions*, the Commission stated that it was "not persuaded by APCC that section 276 somehow compels us to use contributions collected pursuant to section 254 to advance the goals of section 276." But APCC did *not* argue that Section 276 "compels" the Commission to use Section 254 contributions to advance Section 276 goals. APCC argued that the Commission could not ignore the fact that its current policies were not effectuating the Commission's Section 276 duty to encourage the deployment of payphones and the Commission could help effectuate its responsibilities for implementing the Section 276 goals by providing universal service support for payphone line services.

⁶⁷ See, e.g., *APCC PN Reply Comments* at 8-9.

⁶⁸ *Motor Vehicles Mfg Assn. v. State Farm Mut. Ins. Co.*, 463 U.S. 29, 57-58 (1983); *Greater Boston Television Corp. v. FCC*, 444 F.2d 841,852 (1st Cir.1969).

Section 276 imposes upon the Commission the responsibility to promote the widespread deployment of payphones. The *Payphone Line Support Rulemaking Petition* explained that the Commission has not succeeded in implementing measures in a manner that has ensured the widespread deployment of payphones. Thus the states, to whom the Commission deferred, failed to develop to any meaningful degree public interest payphone programs under Section 276(b)(2), and in fact there are no such programs in existence. While the Commission has mandated guidelines for the imposition of cost based rates for payphone lines,⁶⁹ the Commission allowed the BOCs to drag their feet in implementing the rates, leading to erosion of the payphone base.⁷⁰ The Commission has developed rules for implementing compensation for PSPs for coinless dial around calls, but in the face of the inadequacy of those rules in the changed environment where the ILECs have abandoned providing their own payphones and call volumes have declined precipitously,⁷¹ there has been no movement to examine or revise the rules despite requests to do so.⁷² In the 14 years of the dial-around compensation program, the Commission has initiated and completed one enforcement action, which it took over 5 years to complete.⁷³

In the meantime, without any attention to the impact on payphones, the Commission has taken a number of actions that not only inhibit or prevent further deployment of payphones but lead to their removal. We have cited here the Commission's action in forbearing and granting

⁶⁹ *Wisconsin Public Service Commission*, 17 FCC Rcd 2051 (2002) (“*NST Order*”)(subsequent history omitted).

⁷⁰ See, e.g., *Petition of the Illinois Public Telecommunications Association for Declaratory Ruling*, CC Dkt. No. 96-128 (filed July 30, 2004).

⁷¹ See *Wireline Competition Bureau Announces July 29, 2010 Payphone Dial-Around Compensation Process Workshop*, Public Notice, DA 10-1171 (June 25, 2010).

⁷² *Report of the American Public Communications Council On FCC Payphone Dial-Around Compensation*, submitted on February 9, 2011.

⁷³ *Compass Inc.*, 26 FCC Rcd 9287 (2011).

waivers in multiple instances for wireless providers without in any of those proceedings broaching the subject of the impact of its actions on payphones. Yet the Commission took few or no steps either to expend resources to promote payphone service and indeed took actions, as described above, in contravention of its own bedrock principles of competitive neutrality, to support direct competitors of payphones without any steps to equalize the terms of competition. Now faced with another opportunity to assist deployment, the Commission has embarked on a campaign that will provide more support to the wireless competitors and none to payphone line service.

In sum, despite the Commission actions and sometimes because of the Commission's action or inaction payphones have continued to be removed at an accelerating rate. The Commission must take reasonable steps to ensure it is meeting its mandate under Section 276 and promoting payphone deployment. The fact that payphones used by consumers to make many calls are being removed indicates that more efforts are needed. In light of the continuing statutory mandate in Section 276, and the need for continuing efforts to fulfill it, universal support is the logical vehicle for doing so given the consumers who use payphones, the purposes of Lifeline support, and the relatively low cost of providing support.

III. RULE REVISION

The *Payphone Line Support Rulemaking Petition* had attached to it proposed revisions to the Commission's rules. In light of the amendments to the Commission's rules adopted in the *Lifeline Order* and the proposals in the Commission's Further Notice of Proposed Rulemaking, the rule amendments as contained in the Attachment to the *Payphone Line Support Rulemaking Petition* are no longer applicable. Accordingly revised amendments in track changes format are

attached hereto. The proposed amendments assume the Commission adopts the amount of \$9.25 as the universally applicable amount of Lifeline support.⁷⁴

IV. CONCLUSION

For the foregoing reasons, the Commission should grant this Petition For Partial Reconsideration by granting the *Petition for Interim Relief* and by initiating a rulemaking as requested in the *Payphone Line Support Rulemaking Petition*, subject to the modifications of the proposed rule indicated herein which are adjustments to take account of the Commission's actions in the *Lifeline Order* and *Connect America Fund*.⁷⁵

Respectively Submitted,



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⁷⁴ In the *Payphone Line Support Rulemaking Petition*, APCC proposed redefining low income consumer to include PSPs because it seemed like the most direct route to the result being sought. The Commission seemed to object to this inclusion. We have adhered to that structure in this Reconsideration Petition to preserve the structure of the relief requested in the *Payphone Line Service Rulemaking Petition*. In the rulemaking proceeding APCC is seeking, it may be possible to devise a different efficient route for implementing the results of the rulemaking. Particularly given the structure of the new rules, it may be preferable to write a single, separate section of the rules to address payphone line support rather than trying to fit it in the new rule structure.

⁷⁵ See preceding footnote.

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For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54 – UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

Subpart A – General Information

2. Amend § 54.5 by revising the definition of “eligible telecommunications carrier” to read as follows:

§ 54.5 Terms and definitions.

Eligible telecommunications carrier. “Eligible telecommunications carrier” means a carrier designated as such under subpart C of this part.

Subpart B – Services Designated for Support

3. Amend § 54.101 by revising paragraph (a) to read as follows:

§ 54.101 Supported services for rural, insular and high cost areas.

(a) Services designated for support. Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users *provided however that a PSP may require a coin deposit to initiate an unlimited minutes local call*; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

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Subpart C – Carriers Eligible for Universal Service Support

4. Amend § 54.201 by revising paragraphs (a)(1) and (h) to read as follows:

§ 54.201 Definition of eligible telecommunications carriers generally.

(a) ***

(1) Only eligible telecommunications carriers designated under this subpart shall receive universal service support distributed pursuant to part 36 of this chapter, and subparts D and E of this part.

(h) A state commission shall not designate a common carrier as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part unless the carrier seeking such designation has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of this part.

5. Revise § 54.202 to read as follows:

§ 54.202 Additional requirements for Commission designation of eligible telecommunications carriers.

(a) In order to be designated an eligible telecommunications carrier under section 214(c)(6), any common carrier in its application must:

- (1) (i) Certify that it will comply with the service requirements applicable to the support that it receives.
- (ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant

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shall estimate the area and population that will be served as a result of the improvements.

Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.

- (2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
- (3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.
- (4) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part.
- (5) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

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(b) Public Interest Standard. Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest.

(c) A common carrier seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of Tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal Communications Commission. In addition, the Commission shall send any public notice seeking comment on any petition for designation as an eligible telecommunications carrier on Tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by the most expeditious means available.

§ 54.209 [Removed]

6. Section 54.209 is removed.

Subpart E – Universal Service Support for Low-Income Consumers

7. Revise § 54.400 to read as follows:

54.400 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) Qualifying low-income consumer. A “qualifying low-income consumer” is a consumer who meets the qualifications for Lifeline, as specified in § 54.409.

(b) Toll blocking service. “Toll blocking service” is a service provided by an eligible telecommunications carrier that lets subscribers elect not to allow the completion of outgoing toll calls from their telecommunications channel *provided however, that PSPs requiring either a coin deposit separate from the coin deposit necessary to initiate a local call or a separate billing arrangement for outgoing toll calls originating from a payphone shall qualify as service meeting the requirements of this subsection.*

(c) Toll control service. “Toll control service” is a service provided by an eligible telecommunications

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carrier that allows subscribers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle provided however, that PSPs requiring either a coin deposit separate from the coin deposit necessary to initiate a local call or a separate billing arrangement for outgoing toll calls originating from a payphone shall qualify as service meeting the requirements of this subsection e.

(d) Toll limitation service. “Toll limitation service” denotes either toll blocking service or toll control service for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, “toll limitation service” denotes both toll blocking service and toll control service provided however, that PSPs requiring either a coin deposit separate from the coin deposit necessary to initiate a local call or a separate billing arrangement for outgoing toll calls originating from a payphone shall qualify as service meeting the requirements of this subsection.

(e) Eligible resident of Tribal lands. An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in paragraph (a) of this section, living on Tribal lands. For purposes of this subpart, “Tribal lands” include any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands – areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, et. seq., as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in § 54.412.

(f) Income. “Income” is all income actually received by all members of a household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid,

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military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

(g) Duplicative support. “Duplicative support” exists when a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently *provided however that a PSP receiving payphone service on more than one line shall not be considered to be receiving duplicative support.*

(h) Household. A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(i) National Lifeline Accountability Database or Database. The “National Lifeline Accountability Database” or “Database” is an electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Commission.

(j) Qualifying assistance program. A “qualifying assistance program” means any of the federal, state, or Tribal assistance programs participation in which, pursuant to § 54.409(a) or (b), qualifies a consumer for Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program’s free lunch program; Temporary Assistance for Needy Families; Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food

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Distribution Program on Indian Reservations (FDPIR), and with respect to the residents of any particular state, any other program so designated by that state pursuant to § 54.409(a).

8. Revise § 54.401 to read as follows:

§ 54.401 Lifeline defined.

(a) As used in this subpart, Lifeline means a non-transferable retail service offering:

(1) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(2) That provides qualifying low-income consumers with voice telephony service as specified in § 54.101(a). Toll limitation service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an eligible telecommunications carrier charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers' Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering

provided however that this sentence shall not apply to a qualifying low income consumer who is a PSP.

(b) Eligible telecommunications carriers may allow qualifying low-income consumers to apply Lifeline discounts to any residential service plan that includes voice telephony service, including bundled packages of voice and data services; and plans that include optional calling features such as, but not limited to, caller identification, call waiting, voicemail, and three-way calling. Eligible telecommunications carriers may also permit qualifying low-income consumers to apply their Lifeline discount to family shared calling plans.

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service for plans that:

(1) Do not charge subscribers additional fees for toll calls; or

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(2) That charge additional fees for toll calls, but the subscriber voluntarily elects toll limitation service

provided however that this subsection shall not apply to ordinary course deposits from PSPs.

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(d) When an eligible telecommunications carrier is designated by a state commission, the state commission shall file or require the eligible telecommunications carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in this subpart and describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans. Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this subpart.

(e) Consistent with § 52.33(a)(1)(i)(C), eligible telecommunications carriers may not charge Lifeline customers a monthly number-portability charge.

9. Amend § 54.403 to read as follows:

§ 54.403 Lifeline support amount.

(a) The federal Lifeline support amount for all eligible telecommunications carriers shall equal:

(1) Basic support amount. Federal Lifeline support in the amount of \$9.25 per month will be made available to an eligible telecommunications carrier providing Lifeline service to a qualifying low-income consumer, if that carrier certifies to the Administrator that it will pass through the full amount of support to the qualifying low-income consumer and that it has received any non-federal regulatory approvals necessary to implement the rate reduction.

(2) Tribal lands support amount. Additional federal Lifeline support of up to \$25 per month will

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be made available to an eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400 (e), to the extent that the eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tribal lands support amount to the qualifying eligible resident of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

(b) Application of Lifeline Discount Amount.

(1) Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges must apply federal Lifeline support to waive the federal End User Common Line charges for Lifeline subscribers. Such carriers must apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers must apply the federal Lifeline support amount, plus any additional support amount, to reduce the cost of any generally available residential service or payphone service plan or package offered by such carriers that provides voice telephony service as described in § 54.101, and charge Lifeline subscribers the resulting amount.

(2) Where a subscriber makes only a partial payment to an eligible telecommunications carrier for a bundled service package, the eligible telecommunications carrier must apply the partial payment first to the allocated price of the voice telephony service component of the package and then to the cost of any additional services included in the bundled package.

(c) Toll limitation service. An eligible telecommunications carrier providing toll limitation service voluntarily elected by Lifeline subscribers whose Lifeline plans would otherwise include a fee for placing a toll call that would be in addition to the per month or per billing cycle price of the subscriber's Lifeline service, shall, for April 2012 Lifeline disbursements through December 2013 Lifeline disbursements, receive support in an amount equal to the lesser of:

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- (1) The eligible telecommunications carrier's incremental cost of providing either toll blocking services or toll control services to each Lifeline subscriber who has selected such service; or
- (2) The following amounts for each Lifeline subscriber who has selected toll blocking services or toll control services:
 - (i) \$3.00 per month per subscriber during 2012; and
 - (ii) \$2.00 per month per subscriber during 2013

provided however that this subsection shall not apply where the service provided is payphone service.

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10. Add § 54.404 to Subpart E to read as follows

§ 54.404 The National Lifeline Accountability Database.

- (a) State certification. An eligible telecommunications carrier operating in a state that provides an approved valid certification to the Commission in accordance with this section is not required to comply with the requirements set forth in paragraphs (b) and (c) of this section with respect to the eligible telecommunications carriers' subscribers in that state. A valid certification must include a statement that the state has a comprehensive system in place to prevent duplicative federal Lifeline support that is at least as robust as the system adopted by the Commission and that incorporates information from all eligible telecommunications carriers receiving low-income support in the state and their subscribers. A valid certification must also describe in detail how the state system functions and for each requirement adopted by the Commission to prevent duplicative support, how the state system performs the equivalent functions. The certification must be submitted to the Commission no later than six months from the effective date of this section of the Commission's rules to be valid. Such certification will be considered approved unless the Wireline Competition Bureau rejects the certification within 90 days of filing.
- (b) The National Lifeline Accountability Database. In order to receive Lifeline support, eligible telecommunications carriers operating in states that have not provided the Commission with approved valid certification pursuant to paragraph (a) of this section must comply with the following requirements:

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(6) Eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Lifeline subscriber's full name; full residential address; date of birth and the last four digits of the subscriber's social security number or Tribal Identification number, if the subscriber is a member of a Tribal nation and does not have a social security number; the telephone number associated with the Lifeline service; the date on which the Lifeline service was initiated; the date on which the Lifeline service was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for Lifeline *provided however that this provision shall not apply if the subscriber is a PSP subscribing to payphone service.*

(7) In the event that two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber *provided however that this provision shall not apply if the subscriber is a PSP subscribing to payphone service.*

(8) All eligible telecommunications carriers must update an existing Lifeline subscriber's information in the Database within ten business days of receiving any change to that information, except as described in paragraph (b)(10) of this section.

(9) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the subscriber's information. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily

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(6) Eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Lifeline subscriber's full name; full residential address; date of birth and the last four digits of the subscriber's social security number or Tribal Identification number, if the subscriber is a member of a Tribal nation and does not have a social security number; the telephone number associated with the Lifeline service; the date on which the Lifeline service was initiated; the date on which the Lifeline service was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for Lifeline *provided however that this provision shall not apply if the subscriber is a PSP subscribing to payphone service.*

(7) In the event that two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber *provided however that this provision shall not apply if the subscriber is a PSP subscribing to payphone service.*

(8) All eligible telecommunications carriers must update an existing Lifeline subscriber's information in the Database within ten business days of receiving any change to that information, except as described in paragraph (b)(10) of this section.

(9) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the subscriber's information. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily

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understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Lifeline program, and that failure to provide consent will result in subscriber being denied the Lifeline service.

(10) When an eligible telecommunications carrier de-enrolls a subscriber, it must transmit to the Database the date of Lifeline service de-enrollment within one business day of de-enrollment.

(c) Tribal Link Up and the National Lifeline Accountability Database. In order to receive universal service support reimbursement for Tribal Link Up, eligible telecommunications carriers operating in states that have not provided the Commission with a valid certification pursuant to paragraph (a) of this section, must comply with the following requirements:

- (1) Such eligible telecommunications carriers must query the Database to determine whether a prospective Link Up recipient who has executed a certification pursuant to § 54.410(d) has previously received a Link Up benefit at the residential address provided by the prospective subscriber.
- (2) If the Database indicates that a prospective subscriber has received a Link Up benefit at the residential address provided by the subscriber, the eligible telecommunications provider must not seek Link Up reimbursement for that subscriber.
- (3) An eligible telecommunications carrier is not required to comply with paragraphs (c)(1) through (c)(2) of this section, if it receives notice from a state Lifeline administrator or other state agency that the administrator or other agency has queried the Database about a prospective subscriber and that providing the prospective subscriber with a Link Up benefit would not result in duplicative support or support to a subscriber who had already received Link Up support at that

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residential address.

(4) All eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Link Up recipient's full name; residential address; date of birth; and the last four digits of the subscriber's social security number, or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a social security number; the telephone number associated with the Link Up support; and the date of service activation. Where two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.

(5) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the information required in paragraph (c) of this section. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Link Up program, and that failure to provide consent will result in the subscriber being denied the Link Up benefit.

11. Revise § 54.405 to read as follows:

§ 54.405 Carrier obligation to offer Lifeline.

All eligible telecommunications carriers must:

- (a) Make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers.
- (b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

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(c) Indicate on all materials describing the service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term “materials describing the service” includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms.

(d) Disclose the name of the eligible telecommunications carrier on all materials describing the service.

(e) De-enrollment.

(1) De-enrollment generally. If an eligible telecommunications carrier has a reasonable basis to believe that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer under § 54.409, the carrier must notify the subscriber of impending termination of his or her Lifeline service. Notification of impending termination must be sent in writing separate from the subscriber's monthly bill, if one is provided, and must be written in clear, easily understood language. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination, that requires, at a minimum, written notification of impending termination, must comply with the applicable state requirements. The carrier must allow a subscriber 30 days following the date of the impending termination letter required to demonstrate continued eligibility. A subscriber making such a demonstration must present proof of continued eligibility to the carrier consistent with applicable annual re-certification requirements, as described in § 54.410(f). An eligible telecommunications carrier must terminate any subscriber who fails to demonstrate continued eligibility within the 30-day time period. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination must comply with the applicable state requirements.

(2) De-enrollment for duplicative support. Notwithstanding paragraph (e)(1) of this section,

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upon notification by the Administrator to any eligible telecommunications carrier that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of a subscriber's household is receiving Lifeline service and therefore that the subscriber should be de-enrolled from participation in that carrier's Lifeline program, the eligible telecommunications carrier must de-enroll the subscriber from participation in that carrier's Lifeline program within five business days provided however that this provision shall not apply if the subscriber is a PSP subscribing to payphone service. An eligible telecommunications carrier shall not be eligible for Lifeline reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

(3) De-enrollment for non-usage. Notwithstanding paragraph (c)(1) of this section, if a Lifeline subscriber fails to use, as "usage" is defined in § 54.407(c)(2), for 60 consecutive days a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers, an eligible telecommunications carrier must provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage under this paragraph. If the subscriber uses the Lifeline service within 30 days of the carrier providing such notice, the eligible telecommunications carrier shall not terminate the subscriber's Lifeline service. Eligible telecommunications carriers shall report to the Commission annually the number of subscribers de-enrolled for non-usage under this paragraph. This de-enrollment information must be reported by month and must be submitted to the Commission at the time an eligible telecommunications carrier submits its annual certification report pursuant to § 54.416.

(4) De-enrollment for failure to re-certify. Notwithstanding paragraph (e)(1) of this section, an eligible telecommunications carrier must de-enroll a Lifeline subscriber who does not respond to the carrier's attempts to obtain re-certification of the subscriber's continued eligibility as required

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by § 54.410(f); who fails to provide the annual one-per-household re-certifications as required by § 54.410(f); or who relies on a temporary address and fails to respond to the carrier's address re-certification attempts pursuant to § 54.410(g). Prior to de-enrolling a subscriber under this paragraph, the eligible telecommunications carrier must notify the subscriber in writing separate from the subscriber's monthly bill, if one is provided using clear, easily understood language, that failure to respond to the re-certification request within 30 days of the date of the request will trigger de-enrollment. If a subscriber does not respond to the carrier's notice of impending de-enrollment, the carrier must de-enroll the subscriber from Lifeline within five business days after the expiration of the subscriber's time to respond to the re-certification efforts.

12. Revise § 54.407 to read as follows:

§ 54.407 Reimbursement for offering Lifeline.

- (a) Universal service support for providing Lifeline shall be provided directly to an eligible telecommunications carrier, based on the number of actual qualifying low-income consumers and payphone lines it serves.
- (b) An eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer and payphone line served. For each qualifying low-income consumer and payphone line receiving Lifeline service, the reimbursement amount shall equal the federal support amount, including the support amounts described in § 54.403(a) and
- (c). The eligible telecommunications carrier's universal service support reimbursement shall not exceed the carrier's rate for that offering, or similar offerings, subscribed to by consumers who do not qualify for Lifeline.
- (c) An eligible telecommunications carrier offering a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers:

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(1) Shall not receive universal service support for a subscriber to such Lifeline service until the subscriber activates the service by whatever means specified by the carrier, such as completing an outbound call; and

(2) After service activation, an eligible telecommunications carrier shall only continue to receive universal service support reimbursement for such Lifeline service provided to subscribers who have used the service within the last 60 days, or who have cured their non-usage as provided for in § 54.405(e)(3). Any of these activities, if undertaken by the subscriber will establish "usage" of the Lifeline service:

(i) Completion of an outbound call;

(ii) Purchase of minutes from the eligible telecommunications carrier to add to the subscriber's service plan;

(iii) Answering an incoming call from a party other than the eligible telecommunications carrier or the eligible telecommunications carrier's agent or representative; or

(iv) Responding to direct contact from the eligible communications carrier and confirming that he or she wants to continue receiving the Lifeline service.

(d) In order to receive universal service support reimbursement, an eligible telecommunications carrier must certify, as part of each request for reimbursement, that it is in compliance with all of the rules in this subpart, and, to the extent required under this subpart, has obtained valid certification and re-certification forms from each of the subscribers for whom it is seeking reimbursement.

(e) In order to receive universal service support reimbursement, an eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline services. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this Subpart.

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13. Revise § 54.409 to read as follows:

§ 54.409 Consumer qualification for Lifeline.

(a) To constitute a qualifying low-income consumer:

(1) A consumer's household income as defined in § 54.400(f) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or

(2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families; or

(3) The consumer must meet eligibility criteria established by a state for its residents, provided that such state-specific criteria are based solely on income or factors directly related to income or

(4) The consumer must be a payphone service provider (PSP), as defined in Section 276 of the Communications Act, who uses a line in the class of service designated for payphone service in the local exchange where the line is being used to provide payphone service.

(b) A consumer who lives on Tribal lands is eligible for Lifeline service as a "qualifying low-income consumer" as defined by § 54.400(a) and as an "eligible resident of Tribal lands" as defined by § 54.400(e) if that consumer meets the qualifications for Lifeline specified in paragraph (a) of this section or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

(c) In addition to meeting the qualifications provided in paragraph (a) or (b) of this section, in order to

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constitute a qualifying low-income consumer, a consumer must not already be receiving a Lifeline service *provided however that this provision shall not apply to PSPs*, and there must not be anyone else in the subscriber's household subscribed to a Lifeline service.

14. Amend § 54.410 to read as follows:

§ 54.410 Subscriber eligibility determination and certification.

(a) All eligible telecommunications carriers must implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services.

(b) Initial income-based eligibility determination.

(1) Except where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, when a prospective subscriber seeks to qualify for Lifeline or using the income-based eligibility criteria provided for in § 54.409(a)(1) or (a)(3) an eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber, unless the carrier has received a certification of eligibility from the prospective subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's income-based eligibility using the following procedures:

(A) If an eligible telecommunications carrier can determine a prospective subscriber's income-based eligibility by accessing one or more databases containing information regarding the subscriber's income ("income databases"), the eligible telecommunications carrier must access such income databases and determine whether the prospective subscriber qualifies for Lifeline.

(B) If an eligible telecommunications carrier cannot determine a prospective subscriber's income-based eligibility by accessing income databases, the eligible telecommunications carrier must review documentation that establishes that the prospective subscriber meets