

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

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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
_____)	

REPLY COMMENTS OF THE JOINT COMMENTERS

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The Joint Commenters, by and through their attorneys, submit these reply 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

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.

I. INTRODUCTION AND SUMMARY

There is substantial agreement among the majority of parties to this proceeding regarding the most appropriate manner to further refine the Lifeline program to adequately support low-income consumers and combat waste, fraud and abuse. Almost all commenters agree that the flat Lifeline reimbursement should not be reduced, and many advocate an increase to as much as \$10.00. However, the Commission should not choose winners in the competitive Lifeline market by tying the Lifeline reimbursement to an ETC's monthly service charge, nor should it support an additional Lifeline benefit per household at a reduced and inadequate reimbursement rate.

Further, the parties agree that the Commission should not force carriers to provide Lifeline service; should eliminate the Lifeline resale requirement; should not extend the recordkeeping requirements to ten years; and should not mandate application of the Lifeline discount to all bundles that include voice service. Further, several commenters are persuasive that the Commission should focus on developing a nationwide, front-end eligibility database rather than diverting time and resources to establishing a third-party administrator. Additionally, it would be fundamentally unfair for the Commission to withhold federal Lifeline benefits from eligible low-income consumers in states that cannot or do not develop eligibility databases. Finally, commenters have provided convincing justification for the elimination of Link Up funding in Tribal lands, which duplicates the efforts of the high-cost reform proceeding.

II. THE COMMENTERS AGREE THAT THE FLAT LIFELINE RATE SHOULD BE AT LEAST \$9.25 PER CUSTOMER PER MONTH

The Joint Commenters urged the Commission to set the monthly support rate at or above the interim \$9.25 rate adopted in the Lifeline Reform Order because a reduction in the

Lifeline reimbursement amount 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

The Joint Commenters also informed the Commission that if it were to increase the Lifeline reimbursement amount, wireless ETCs would be able to improve service offerings, which would allow low-income consumers to utilize telecommunications services more in line with the national average usage.⁴

The vast majority of commenters support a flat Lifeline rate of at least \$9.25.⁵ A subset of those take the position that the Commission should at least monitor the effectiveness of the flat \$9.25 rate established in the Lifeline Reform Order before modifying it.⁶ In addition, several parties advocated for a flat rate greater than \$9.25, up to \$10.00.⁷ The Joint Commenters

³ See Comments of the Joint Commenters, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45, at 4 (filed Apr. 2, 2012) (“Joint Comments”).

⁴ See *id.*

⁵ See *e.g.*, Comments of the Independent Telephone & Telecommunications Alliance, WC Docket No. 11-42 et al. at 15 (filed Apr. 2, 2012) (“ITTA Comments”) (“the Commission should adopt the interim \$9.25 flat rate reimbursement amount...on a permanent basis.”); Comments of the United States Telecom Association, WC Docket No. 11-42 et al. at 4 (filed Apr. 2, 2012) (“USTelecom Comments”); Comments of Cox Communications, Inc., WC Docket No. 11-42 et al. at 9-11 (filed Apr. 2, 2012) (“Cox Comments”); and Comments of Comptel, WC Docket No. 11-42 et al. at 24 (filed Apr. 2, 2012) (“Comptel Comments”).

⁶ See *e.g.*, Comments of Verizon, WC Docket No. 11-42 et al. at 4-6 (filed Apr. 2, 2012) (“Verizon Comments”); Comments of T-Mobile USA, Inc., WC Docket No. 11-42 et al. at 5 (filed Apr. 2, 2012) (“T-Mobile Comments”); and USTelecom Comments at 4.

⁷ See Comments of TracFone Wireless, Inc., WC Docket No. 11-42 et al. at 12-14 (filed Apr. 2, 2012) (“TracFone Comments”) (supporting a \$9.58 rate consistent with its average reimbursement; Comments of Sprint Nextel Corporation, WC Docket No. 11-42 et al. at 8-11 (filed Apr. 2, 2012) (“Sprint Nextel Comments”) (supporting a flat \$10.00 rate to avoid decreasing support for many households, which the \$9.25 rate inarguably does); Comments of i-wireless, LLC, WC Docket No. 11-42 et al. at 6-7 (filed Apr. 2, 2012) (“i-wireless Comments”) (supporting a \$9.63 rate based on an analysis of the number of eligible participants in each state and the weighted average of the current tier rates provided per state); Comments of US Connect, WC Docket No. 11-42 et al. at 4 (filed Apr. 2, 2012) (stating that the \$9.25 rate is too low); Comments of the Joint

agree with the parties that there is sufficient justification for a reimbursement rate greater than \$9.25. Any increase in the Lifeline reimbursement rate would allow ETCs to improve service offerings to Lifeline customers.

Although Cricket supports an increased Lifeline reimbursement, it states that the Lifeline reimbursement should be limited to half of the carrier's monthly service charge, up to \$10.00.⁸ This proposal would impose a potentially massive minimum charge on Lifeline customers and would eliminate the free Lifeline service offerings that are so popular with eligible low-income consumers.⁹ The proposal would also eliminate most of Cricket's competition by regulation and should not be adopted. The Commission should instead continue to allow low-income consumers to choose which Lifeline services they prefer, especially when the reimbursement amount, and therefore the impact on the Low-Income fund, are the same.

Finally, the Joint Commenters and others oppose T-Mobile's proposal for an additional, reduced Lifeline reimbursement for a single household. As the Joint Commenters stated in their comments, "[p]roviding 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."¹⁰ CenturyLink correctly argues that the 50 percent additional benefit would "add complexities to the

Consumers, WC Docket No 11-42 et al. at 8 (filed Apr. 2, 2012) ("Joint Consumers Comments") (supporting a \$10.00 rate); and Comments of the National Association of State Utility Consumer Advocates, WC Docket No. 11-42 et al. at 10-12 (filed Apr. 2, 2012) ("NASUCA Comments") (supporting a \$10.00 rate to modestly offset the increase in costs due to the requirements of the Lifeline Reform Order).

⁸ See Comments of Leap Wireless International, Inc. and Cricket Communications, Inc., WC Docket No. 11-42 et al. at 8-9 (filed Apr. 2, 2012) ("Leap and Cricket Comments").

⁹ See Joint Comments at 5 (discussing the Commission's recognition of the value of free Lifeline service in its decision against imposing a minimum charge for Lifeline service). See Lifeline Reform Order, ¶ 266.

¹⁰ Joint Comments at 7.

administration of the Lifeline program.”¹¹ Further, as USTelecom stated in opposition to the proposition of splitting the Lifeline benefits across two or more lines, if a “fraction of Lifeline support allocated to each line would be sufficient to ensure connectivity, the implication is that the full amount of support is unnecessary.”¹² The Joint Commenters can state unequivocally that \$4.60 is not sufficient to provide adequate service to low-income consumers.

T-Mobile’s proposal is not the answer to the harms associated with supporting only one Lifeline service per household, and in fact it would make matters worse because ETCs would not be able to provide Lifeline services for a 50 percent reimbursement and would be forced to reduce the benefit provided to all Lifeline customers. The most administratively efficient and fundamentally fair way to allow low-income households to adequately communicate; coordinate schedules, rides to and from work and school; and reach each other in emergencies is to provide one Lifeline benefit per qualifying adult. Therefore, the Commission should not adopt T-Mobile’s proposal.

III. THE COMMENTERS GENERALLY AGREE THAT THE COMMISSION SHOULD ALLOW INCUMBENTS TO WITHDRAW FROM PROVIDING LIFELINE SERVICE AND SHOULD NOT REQUIRE CARRIERS TO RESELL LIFELINE SERVICES

The Joint Commenters have taken the position that incumbent LECs should be able to choose whether to participate in the Lifeline program, and leave the provision of Lifeline services to those ETCs that have a business plan to seek out and serve low income consumers.¹³ Further, the Joint Commenters supported the requirement of a direct relationship between ETCs

¹¹ Comments of CenturyLink, WC Docket No. 11-42 et al. at 6 (filed Apr. 2, 2012) (“CenturyLink Comments”).

¹² USTelecom Comments at 5-6.

¹³ See Joint Comments at 13.

and their Lifeline customers, and the elimination of the Section 251(c)(4) resale requirement for Lifeline services.¹⁴ The vast majority of commenters agree.¹⁵

The Joint Commenters, however, also addressed a concern with respect to these changes – that the Commission establish an appropriate ramp down process to transition Lifeline customers in such instances in order to ensure continuity of service.¹⁶ With respect to the elimination of the Section 251(c)(4) Lifeline resale requirement, CenturyLink agrees that “the Commission should allow a reasonable amount of time to enable ETCs to provide notice to any resellers of the change.”¹⁷ AT&T proposes that the non-ETCs reselling Lifeline-discounted services should be given 60 days from the effective date of new rules to file an ETC application with the FCC or a state commission, which should be acted on within 30 days.¹⁸ The Joint Commenters agree that this timing would be adequate if the FCC and state commissions can and will act within 30 days. However, if the Commission is unwilling to impose such obligations on the state commissions, the non-ETC resellers should be given more time to obtain ETC designations and avoid disrupting service to existing Lifeline customers.

¹⁴ *See id.*

¹⁵ *See e.g.*, TracFone Comments at 9-11, 22-24; Cricket Comments at 9-11, Verizon Comments at 3-4, 10-11; Comments of AT&T, WC Docket No. 11-42 et al. at 10-22 (filed Apr. 2, 2012) (“AT&T Comments”); ITTA Comments at 10-12 (“only ETCs that provide Lifeline service directly to subscribers should be allowed to receive Lifeline support from the Fund.”); Sprint Nextel Comments at 7 (opposing Lifeline resale by non-ETCs); USTelecom Comments at 4, 8; and CenturyLink Comments at 4-5, 7 (arguing that providing Lifeline service should be mandatory except where the carrier receives USF high-cost support).

¹⁶ *See* Joint Comments at 13-14. *See also* Further Notice, ¶ 458 (seeking input on how the Commission could avoid harm to existing Lifeline subscribers and ensure continuity of service).

¹⁷ CenturyLink Comments at 5.

¹⁸ *See* AT&T Comments at 16.

As long as a reasonable transition period is established to protect continuity of service for Lifeline customers, the parties agree that carriers should be free to withdraw from providing Lifeline service and incumbents should not be required to resell discounted Lifeline services pursuant to Section 251(c)(4).

IV. THE VAST MAJORITY OF COMMENTERS AGREE THAT THE EXTENSION OF RECORDKEEPING REQUIREMENTS TO TEN YEARS WOULD BE OVERLY BURDENSOME AND PREMATURE

The Joint Commenters asserted in their comments that extending the Lifeline recordkeeping requirement from three years to ten 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.”¹⁹ The overwhelming majority of commenters to address this issue agree.²⁰ CenturyLink highlights the fact that the Commission “has offered no evidence that False Claims Act cases pertaining to conduct in the Lifeline program back to ten years earlier have been so unduly hindered by lack of available documentation so as to justify the significantly expanded records retention burden.”²¹

The Joint Commenters agree with CenturyLink and others that the proposed recordkeeping extension to ten years would be “highly arbitrary, unjustified” and would “only serve[] to needlessly increase the costs of offering Lifeline services.”²² Therefore, the Commission should not modify the recordkeeping requirement at this time, but rather evaluate

¹⁹ Joint Comments at 15.

²⁰ See e.g., Cricket Comments at 12-14, Verizon Comments at 9, AT&T Comments at 29-30, i-wireless Comments at 8, USTelecom Comments at 8-9, Comptel Comments at 29-32, CenturyLink Comments at 7-8 and GCI Comments at 11-13.

²¹ CenturyLink Comments at 8. See also Verizon Comments at 9.

²² *Id.*

the new recordkeeping requirements and analyze whether an extension is necessary in the face of the substantial regulatory burden.

V. **THE COMMISSION SHOULD FOCUS ON DEVELOPING A NATIONWIDE, FRONT-END ELIGIBILITY DATABASE RATHER THAN DIVERTING TIME AND RESOURCES TOWARD ESTABLISHING AN INTERIM THIRD PARTY ADMINISTRATOR**

The Joint Commenters, like most parties, support the development of a fully automated, nationwide, front-end eligibility database solution.²³ CTIA supports a “national, automated database” and a “single, integrated interface” to avoid the detriments of the current system where individual ETCs act as independent verification agencies.²⁴ An automated database provides an additional level of certainty to the Lifeline eligibility process and allows ETCs to efficiently establish prospective customers’ eligibility. However, the same is not true with respect to a non-electronic means of checking eligibility by a third-party administrator. The Joint Commenters join with Sprint Nextel, TracFone and i-wireless in opposition to that proposal.²⁵

Without a national database in place, Sprint Nextel is correct that ETCs would end up competing for quick turnaround on eligibility determinations from the third-party administrator and would not be able to control their own customer service with respect to the Lifeline enrollment process.²⁶ Further, the Joint Commenters agree with Sprint Nextel that USAC could not serve as the third-party administrator because it would constitute a clear conflict

²³ See Joint Comments at 16.

²⁴ See Comments of CTIA, WC Docket No. 11-42 et al. at 2 (filed Apr. 2, 2012) (“CTIA Comments”).

²⁵ See e.g., TracFone Comments at 8 (opposing an interim third-party administrator on privacy grounds).

²⁶ See Sprint Nextel Comments at 5.

of interest.²⁷ Many customers that are eligible for Lifeline services require a “high degree of assistance”²⁸ from ETCs that help them to clear up address errors and identify appropriate program benefits documentation because they have an incentive to do so in a competitive marketplace. It is unlikely that USAC, acting as the third-party administrator, would take the time and effort to support customers in that manner, especially given USAC’s “conservative to the Fund” approach. Further, establishing such a third-party administrator and the necessary processes and protocols would only serve to slow down the process toward the automated database solution that is accepted as the appropriate approach to efficiently establish Lifeline eligibility.²⁹

In addition, the Commission lacks statutory authority to deny ETCs funding in states that do not have or develop eligibility databases.³⁰ TracFone agrees that the Commission should not condition receipt of Lifeline funds on state implementation of a database.³¹ It would be fundamentally unfair to low-income consumers for the Commission to deny their federal benefits simply because the state in which they live does not have the funding necessary to establish an eligibility database. Lifeline is a federal program and the Commission should allocate the necessary funds to establish the appropriate databases to efficiently administer the program without arbitrarily denying benefits to potentially hundreds of thousands or even millions of eligible low-income consumers.

²⁷ See *id.* at 6.

²⁸ See *id.* at 5.

²⁹ See i-wireless Comments at 5 (arguing that implementing a third-party administrator “would only serve to slow down the process and create higher costs and inefficiencies.”).

³⁰ See Joint Comments at 17.

³¹ See TracFone Comments at 3-4.

VI. THE JOINT COMMENTERS AGREE WITH THE OVERWHELMING MAJORITY OF PARTIES THAT THE COMMISSION SHOULD NOT MANDATE THE APPLICATION OF LIFELINE DISCOUNTS TO ALL VOICE AND BROADBAND BUNDLES

The overwhelming majority of parties praised the Commission for allowing ETCs to apply Lifeline discounts to voice and data bundled service packages, but opposed a mandate that would require ETCs to permit the application of Lifeline discounts to all such bundles that include a voice component.³² Especially with the proliferation of wireless competitors in the Lifeline service market, there is adequate competition such that a mandate is unnecessary. According to CTIA, “[t]here is no suggestion that Lifeline customers are not receiving a choice of offerings and thus no reason to switch to a more prescriptive policy now.”³³ The parties generally agree that “the Commission should allow the marketplace to determine the extent to which Lifeline discounts will be applied to bundled service offerings.”³⁴ Therefore, ETCs should retain the option to apply Lifeline discounts to their voice and data service bundles.

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

The Joint Commenters averred that 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 proceeding³⁵ and high cost fund recipients should not be

³² See e.g., AT&T Comments at 27 (“the Commission lacks a record basis for such a requirement at this time.”), GCI Comments at 7-8, Verizon Comments at 7-8, Comptel Comments at 26, T-Mobile Comments at 7-8, TracFone Comments at 16-17 and Cox Comments at 14-16.

³³ See CTIA Comments at 5.

³⁴ Leap and Cricket Comments at 11.

³⁵ 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*

permitted to double recover from the Fund for the same extension of service to residents on Tribal lands.³⁶ T-Mobile similarly stated that “Link Up may no longer be necessary to support deployment [in Tribal lands] because high-cost support is targeted more explicitly to ensure deployment, and will be more effective for this purpose.”³⁷ T-Mobile therefore argued that the Commission should transition Link Up support to the Connect America Fund, “where it can more directly and explicitly support the deployment of voice and broadband facilities on Tribal Lands.”³⁸ Further, permitting double recovery of high-cost support and Link Up skews the competitive landscape in favor of high cost funding recipients to the detriment of the Fund. 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.

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”).

³⁶ See Joint Comments at 18. Perhaps carriers such as GCI that support Link Up in Tribal lands seek to take advantage of such double recovery. See Comments of General Communications, Inc., WC Docket No. 11-42 et al. at 2-6 (filed Apr. 2, 2012) (“GCI Comments”) (arguing that subscribership remains low in Tribal lands, but not addressing double recovery under the high cost reform proceeding).

³⁷ T-Mobile Comments at 9.

³⁸ *Id.*

VIII. CONCLUSION

The Joint Commenters urge the Commission to adopt measures consistent with the common sense positions set forth in our comments and these reply comments.

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