

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

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

REPLY COMMENTS OF GENERAL COMMUNICATION, INC.

The comments submitted in response to the various Petitions for Reconsideration of the Lifeline Order¹ demonstrate widespread agreement with General Communication, Inc.’s (“GCI”) Petition for Reconsideration.² In particular, the comments demonstrate a consensus that the Commission should:

- eliminate the rule requiring Lifeline subscribers with “temporary” addresses to recertify every 90 days that they continue to live at that address³;
- reconsider the new audit requirements⁴; and

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*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (rel. Feb. 6, 2012) (“Lifeline Order”).

² Petition for Reconsideration and Clarification of General Communication, Inc., WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed Apr. 2, 2012) (“GCI Petition”).

³ See Lifeline Order, Appendix A, Rule 54.410(d), Rule 54.410(g).

⁴ See Lifeline Order, Appendix A, Rule 54.420(a).

- revise the new marketing rule⁵ to permit Eligible Telecommunications Carriers (“ETCs”) to comply with the rule by including a link to a website that contains the required disclosures.

I. COMMENTERS AGREE THAT THE COMMISSION SHOULD ELIMINATE THE TEMPORARY ADDRESS RULE.

As GCI explained in its Petition for Reconsideration, the temporary address rule is unnecessary, overly burdensome, and futile.⁶ The rule is unnecessary because the Commission’s other requirements – such as collecting and verifying subscribers’ addresses, dates of birth, and last four digits of Social Security numbers – will better allow ETCs to detect cases of duplicative Lifeline support.⁷ The rule is also unnecessary “in light of the fact that [the FCC] has separately adopted a rule requiring ETCs to obtain the same information from every subscriber as part of the annual recertification process.”⁸

Other petitioners and commenters support GCI’s position. Like GCI, Sprint Nextel points out that the 90-day recertification process is “duplicative and inefficient” in light of the Commission’s independent requirements that ETCs annually recertify their entire subscriber base and that customers notify ETCs of their new address within 30 days of moving.⁹ The National Telecommunications Cooperative Association (“NTCA”) agrees that the temporary address rule “is not needed to determine whether an individual consumer is receiving more than one benefit

⁵ See Lifeline Order, Appendix A, Rule 54.405(c)

⁶ GCI Petition at 4-8.

⁷ See GCI Petition at 5-6. As the Commission is aware, the Office of Management and Budget has declined to approve the temporary address requirement. See Notice of Office of Management and Budget Action, OMB Control No. 3060-0819 (Apr. 13, 2012) (“OMB Order”).

⁸ GCI Petition at 7.

⁹ Petition for Reconsideration of Sprint Nextel Corporation at 5, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed Apr. 2, 2012) (“Sprint Nextel Petition”).

from two separate addresses. Comparing name, date of birth and last four digits of the Social Security number – information ETCs are required to collect – is a far more reliable method of determining duplicity.”¹⁰ And CTIA argues that “[t]hese repeated re-certifications will be repetitive of the initial certification that the customers provided, repetitive of the annual verification requirement, and repetitive of the customers’ certification that they will inform the carrier within 30 days in the event of any change of address.”¹¹

The temporary address rule is also overly burdensome on both ETCs and customers.¹² As GCI argued in its Petition, the rule will require ETCs to develop new systems to track subscribers’ address information and to follow up on their continual recertifications.¹³ Tracfone points out that, “[i]n order to have customers claiming a temporary address verify that they continue to live at that address every 90 days, the ETC must begin the verification process almost immediately.”¹⁴ Furthermore, “the 90 day temporary address verification requirement will require that ETCs develop and implement major changes to their tracking methods and their outreach procedures,” even though “there has been no showing that the increased paperwork required by that rule will produce any material reduction in waste, fraud, and abuse of USF

¹⁰ NTCA Opposition to Petitions for Reconsideration at 5, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed May 7, 2012) (“NTCA Opposition”).

¹¹ Opposition and Comments of CTIA-The Wireless Association® at 4, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed May 7, 2012) (“CTIA Opposition”).

¹² The Office of Management and Budget declined to approve the temporary address requirement due to the paperwork burden. *See* OMB Order.

¹³ GCI Petition at 7.

¹⁴ Tracfone Petition for Reconsideration and Clarification at 23, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed Apr. 2, 2012) (“Tracfone Petition”).

resources which will not result from other Lifeline reforms including, *e.g.*, the requirement that ETCs re-verify all of their Lifeline customers annually.”¹⁵

The rule is also burdensome on Lifeline customers who, as GCI noted, tend to respond to verification attempts at a notably low rate.¹⁶ Sprint Nextel observes that “[e]nd users who have a temporary address may well be facing substantial financial and personal stress and instability, which is hardly conducive to high rates of response to queries about their address. De-enrollment for failure to respond under such circumstances will harm a customer segment that has a dire need for Lifeline service.”¹⁷ The United States Cellular Corporation succinctly states the problem with the temporary address rule: “Requiring verification every 90 days essentially requires ETCs to engage in a never-ending cycle of attempts to obtain documentation from a subset of customers that may be most in need of the Lifeline subsidy, while at the same time being the hardest to reach and the least likely to respond.”¹⁸

As GCI pointed out, the Commission also failed to define the phrase “temporary address” in the Lifeline Order.¹⁹ The Commission’s failure to define the key term in the new requirement means that ETCs “will have to expend more time and resources trying to determine whether or not an address is temporary, and guarding against the unpredictable views of that question that might be taken by the variety of enforcing authorities unbounded by any regulatory definition at

¹⁵ Tracfone Petition at 24 (citing GCI Paperwork Reduction Act comments).

¹⁶ *See* GCI Petition at 7-8.

¹⁷ Sprint Nextel Petition at 5; *see also* Tracfone Petition at 23 (“Tracfone has learned from experience that customers, including temporary address customers, are difficult to reach and that it often takes multiple communications with the customers to elicit responses.”).

¹⁸ United States Cellular Corporation *et al.* Joint Comments in Response to Petitions for Reconsideration and/or Clarification at 3, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed May 7, 2012) (“United States Cellular Corporation *et al.* Comments”).

¹⁹ GCI Petition at 8.

all.”²⁰ Indeed, the term is so vague that there is virtually no chance of consistent application from one ETC to the next. As USTelecom observes, “every address in in some sense ‘temporary.’”²¹ In the event the Commission declines to eliminate the temporary address rule, it should, at the very least, define the key term in the new requirement.

II. THERE IS CONSENSUS THAT THE COMMISSION SHOULD RECONSIDER THE AUDIT REQUIREMENTS.

A. The Commission Should Eliminate the New Biennial Audit Requirement.

In its Petition for Reconsideration, GCI argued that the Commission should eliminate the new biennial, independent audit requirement.²² In particular, GCI argued that the requirement is “pure administrative overkill” because ETCs already face audits from their own outside auditors and USAC, as well as the possibility of investigations by the FCC’s Office of Inspector General and Enforcement Bureau.²³ In addition, the scope of the required audits is “extraordinarily broad and will quickly lead either to a logjam of FCC interpretive proceedings or a logjam of unresolved audits.”²⁴ In short, the burden of the new audit requirement outweighs the benefit.

Sprint Nextel agrees: “Requiring carriers who receive \$5 million or more in Lifeline benefits a year to commission a third party biennial audit is costly and unlikely to generate

²⁰ GCI Petition at 8.

²¹ Petition for Reconsideration and Clarification of the United States Telecom Association at 3, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed Apr. 2, 2012) (“USTelecom Petition”).

²² GCI Petition at 9-11. OMB also declined to approve the audit rule. *See* OMB Order.

²³ GCI Petition at 9. CPUC opposes GCI’s Petition in this regard but fails to respond substantively to any of GCI’s arguments. Instead, CPUC merely states that it agrees with the Commission’s findings in support of the audit requirement. *See* Opposition of the California Public Utilities Commission and the People of the State of California to Petitions for Reconsideration of the *Lifeline Reform Order* at 5-6, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed May 7, 2012) (“CPUC Opposition”).

²⁴ GCI Petition at 10.

meaningful program benefits given other extensive safeguards against waste, fraud and abuse in place today or scheduled for implementation within a matter of weeks.”²⁵ CTIA points out another problem with the new audit requirement: “The Order generally fails to articulate a coherent framework for these audits. As a result, such audits will be enormously difficult given the complexity of the rules and the limited ability of auditors to render opinions on legal issues.”²⁶ For all of these reasons, the Commission should reconsider and eliminate the biennial audit requirement.

In the event the Commission decides to preserve the audit requirements— notwithstanding OMB’s conclusion that it does not currently satisfy the requirements of the Paperwork Reduction Act²⁷—GCI supports USTelecom’s proposal that the Commission also eliminate the preexisting audit regime because “[f]ulfilling both sets of audit requirements is unnecessary and a drain on carrier and USAC resources.”²⁸

B. The Commission Should Eliminate the Draft Audit Requirement.

Commenters agree that the Commission should, at a minimum, eliminate the draft audit requirement. As GCI argued, ETCs should not be required to submit draft audit reports because “[a] draft is by definition tentative, incomplete, subject to further review, not held out to invite reliance, and superseded by the final report. Moreover, draft audit reports can be misleading, because they may reflect tentative views based on an incomplete or incorrect understanding of

²⁵ Comments on Petitions for Reconsideration of Sprint Nextel Corporation at 3, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23 (filed May 7, 2012) (“Sprint Nextel Comments”); *see also id.* (quoting GCI Petition at 9).

²⁶ CTIA Opposition at 5.

²⁷ *See* OMB Order.

²⁸ USTelecom Petition at 10.

the fact, processes, or the law.”²⁹ USTelecom agrees: “The very nature of a draft means that it is subject to review and revision, some of which may be significant. Given the document is not in its final form, distribution of the draft to the Commission and USAC could cause unnecessary confusion and create impressions of compliance (or lack thereof) that may be difficult to correct in the minds of the readers at the Commission and USAC.”³⁰ Sprint Nextel observes that “[r]eview of draft audit report[s] by the Commission or USAC would serve no useful purpose and would divert resources away from other, more productive and critical work.”³¹ And CTIA contends that “[t]he filing of draft reports will only engender confusion and mistaken impressions (potentially positive or negative) regarding compliance.”³² In summary, there is consensus among commenters that the Commission should eliminate the draft audit requirement.

III. COMMENTERS AGREE THAT THE COMMISSION SHOULD RECONSIDER THE MARKETING RULE.³³

In its Petition, GCI pointed out the impracticalities of including the required disclosures on *every* type of advertising media.³⁴ Specifically, GCI observed that “[i]t takes over 30 seconds to read out loud a statement of these required disclosures - thereby precluding marketing via standard 30-second radio or television advertisements. The space taken up by the required text would also make outdoor signage effectively unreadable.”³⁵ Accordingly, GCI suggested that

²⁹ GCI Petition at 11.

³⁰ USTelecom Petition at 9.

³¹ Sprint Nextel Comments at 3.

³² CTIA Opposition at 6; *see also* United States Cellular Corporation *et al.* Comments at 5 (citing GCI’s Petition for Reconsideration).

³³ The marketing rule requires OMB approval, but the Commission has not yet submitted the rule to OMB for review.

³⁴ GCI Petition at 15-17.

³⁵ GCI Petition at 15-16.

the Commission “revise the marketing rule to allow ETCs to include in advertising on which the full disclosures are impracticable a link to a website providing the disclosures in full.”³⁶

USTelecom concurs: “Radio and TV ads are commonly of a very limited length. Outdoor signage and posters often will be unable to practically accommodate the extensive disclosures required by the *Order*. Ads in many publications may have size restrictions. Including all the low-income disclosures in these media might result in ads of an impractical length, may discourage some valuable forms of outreach and advertising and may create confusion among consumers.”³⁷ Similarly, CTIA observes, “the rules are so burdensome they may actually deter carriers from marketing and publicizing Lifeline to eligible customers, contrary to the Commission’s long-standing goals.”³⁸ Sprint Nextel “agrees that, so long as the requisite disclosures are appropriately presented in the Lifeline service application, are on its website, and can be explained by its customer service representatives, that they need not be included in ‘newspaper, radio and television advertisements and outdoor signage.’”³⁹ Thus, commenters agree that the Commission should reconsider the marketing requirement to allow ETCs to comply with the requirement by including in certain marketing materials a link to a website that contains the required disclosures.

CONCLUSION

There is widespread agreement with the positions GCI took in its Petition for Reconsideration. Commenters agree that the Commission should reconsider and eliminate the temporary address rule and the audit requirement, including the draft audit requirement.

³⁶ GCI Petition at 16.

³⁷ USTelecom Petition at 13-14.

³⁸ CTIA Comments at 5.

³⁹ Sprint Nextel Comments at 7 (quoting GCI Petition).

Commenters also agree that the Commission should reconsider the marketing rule and permit ETCs to include a link to a website that contains the required disclosures on marketing material on which it is impracticable to include the full disclosures. For all of the foregoing reasons, GCI respectfully requests that Commission grant its Petition for Reconsideration.

Respectfully submitted,

Tina Pidgeon
General Counsel and Senior Vice
President, Governmental Affairs
Martin Weinstein
Regulatory Counsel
Chris Nierman
Director, Federal Regulatory
Affairs
GENERAL COMMUNICATION, INC.
1350 I Street, N.W., Suite 1260
Washington, D.C. 20005
(202) 457-8812

/s/ _____
John T. Nakahata
Patrick P. O'Donnell
Charles D. Breckinridge
Jacinda A. Lanum
WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, N.W.
Washington, D.C. 20036
(202) 730-1300

Counsel for General Communication, Inc.

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