Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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

REPLY OF CENTURYLINK

CenturyLink files this reply to address certain issues raised in the Petitions for Reconsideration of the *Lifeline Reform Order* and in the oppositions and other comments filed addressing the petitions.[1] CenturyLink agrees that the Commission should (1) eliminate for wireline eligible telecommunications carriers (ETCs) the obligation to re-verify a customer's temporary address every ninety days; (2) not require ETCs to receive and retain subscriber's initial eligibility certification forms and eligibility recertification forms in states where a state

[1] *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (Feb. 6, 2012) (*Lifeline Reform Order* or *Order*), 77 Fed. Reg. 12952 (Mar. 2, 2012), 77 Fed. Reg. 19125 (Mar. 30, 2012), 77 Fed. Reg. 25609 (May 1, 2012); petitions for reconsideration of the *Lifeline Reform Order* were filed on April 2, 2012 by American Public Communications Council, District of Columbia Public Service Commission, General Communication, Inc, Nexus Communications, Sprint Nextel Corporation, T-Mobile USA, TracFone Wireless and United States Telecom Association; oppositions, responses or comments in response to the petitions for reconsideration were filed on May 7, 2012 by California Public Utilities Commission, *et al.*, CTIA, District of Columbia Public Service Commission, General Communication, Inc., Gila River Indian Community, *et al.*, Leap Wireless, *et al.*, National Association of State Utility Consumer Advocates, National Congress of American Indians, National Telecommunications Cooperative Association, Sprint Nextel Corporation, United States Cellular Corporation, *et al.*, United States Telecom Association and Verizon.

agency or state Lifeline administrator determines subscriber eligibility; (3) revisit the new biennial audit requirement; (4) allow three business days for ETCs to remove de-enrolled customers from the National Lifeline Accountability Database; (5) afford ETCs flexibility in providing the required marketing disclosures; and (6) permit tribal governments to elect whether to receive ETC Lifeline reporting information. The Commission should clarify that (1) ETCs have flexibility in how they notify customers about application of partial payments to service bundles; (2) USAC may only suspend low-income program payments for non-compliance with Lifeline rules; and (3) the requirement to provide customer service initiation dates will be for new subscribers after the effective date of the *Order*.

I. RECONSIDERATION ISSUES

A. The Commission Should Eliminate For Wireline ETCs The Obligation To Re-verify A Customer's Temporary Address Every Ninety Days.

In their petitions for reconsideration, US Telecom, GCI, Sprint, and TracFone have all advocated that the Commission should reconsider the new requirement that ETCs must re-verify every ninety days a Lifeline customer's temporary address.[2] CenturyLink agrees that the Commission should reconsider this obligation.[3] As the petitioners and others responding to the petitions have noted, the requirement imposes potentially significant burdens on ETCs to request temporary addresses, track temporary addresses, seek customer re-certifications of those addresses every ninety days, monitor for responses to those re-certification requests, review the re-certifications received; track and de-enroll customers for re-certifications not received; maintain appropriate documentation of this process for audit purposes, and repeat as necessary. At the same time, the Commission has not articulated how this process guards against waste,

[2] US Telecom petition at 2-4; GCI petition at 3-8; Sprint petition at 1, 2-6; TracFone petition at ii, 22-24.

[3] *See also* NTCA opposition at 4-5; CTIA opposition at 2-4; Sprint comments at 2-3.

fraud, or abuse of the Lifeline program that is not already accomplished by other measures the Commission has adopted. As US Telecom notes, for wireline ETCs this requirement is superfluous given that (1) if a Lifeline customer moves to a new address they will need to provide that new address information to their telephone provider to transfer any existing service, and (2) if a Lifeline customer attempts to establish new service at a new address without terminating service at another address, a check by the ETC of the duplicates database should enable the ETC to inform the potential customer that they may only receive Lifeline support for one line at one address.[4] Any obligation to provide updated address information should be borne solely by the Lifeline customer. CenturyLink further agrees that if the Commission does not wholly eliminate the rule, the Commission should define "temporary address" and clarify that the scope and application of the rule is meant for nomadic or "non-fixed location" services.[5]

B. In States Where A State Agency/Lifeline Administrator Determines Lifeline Eligibility The Commission Should Not Require ETCs To Receive And Retain Subscribers' Initial Eligibility Certification Forms And Eligibility Re-certification Forms.

Under the new Lifeline rules due to take effect June 1, 2012, in states where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility (either program-based or income-based), ETCs must receive notice from the state administrator/agency of the subscriber's eligibility and a copy of the subscriber's eligibility certification.[6] Further, ETCs must retain these eligibility certifications in accord with the document retention requirements of 47 C.F.R. § 54.417.

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[4] US Telecom petition at 2-3.

[5] *See id.* at 3; GCI petition at 8-9.

[6] 47 C.F.R. § 54.410(b)(2)(ii) & (c)(2)(ii), *Lifeline Reform Order* (Appendix A).

It is less clear whether there is a similar obligation with respect to a Lifeline subscriber's eligibility certification that is completed for re-certification purposes. In the text of the *Order* the Commission instructs that in states where a state agency or third party is responsible for performing re-certification of eligibility that the state or its agent should "provide the ETC with a copy of each Lifeline subscriber's re-certification form."[7] But, the text of the new rules does not seem to have a similar obligation. The new rules only require that the state agency/Lifeline administrator provide the ETC with the *results* of annual re-certification efforts.[8]

CenturyLink agrees that the Commission should reconsider and eliminate any obligation that states provide ETCs with subscriber certification forms where the state makes the initial eligibility determination or the re-certification eligibility determination. Instead, in either situation the ETCs should be able to rely on the state's determination that the customer is eligible and the state's representation that it has the requisite eligibility certification for the customer, without needing to receive and retain a copy of the customer's certification. Requiring states and ETCs to engage in this additional document transfer and retention creates unnecessary burdens that do not further the aims of the program.

C. The Commission Should Reconsider The Biennial Audit Requirement.

CenturyLink agrees with US Telecom, GCI and others that the Commission should reconsider the structure and scope of its new biennial outside audit requirement for ETCs that receive more than $5 million in annual Lifeline support.[9] While CenturyLink understands the Commission's use of audits as a means to deter and check misuse of Lifeline program support, the Commission should exercise care in its use of audits, so that its audit structure is not itself an

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[7] *Lifeline Reform Order* ¶ 131, n. 341.

[8] 47 C.F.R. § 54.410(f)(4), *Lifeline Reform Order* (Appendix A).

[9] *See, e.g.*, US Telecom petition at 9-10; GCI petition at 9-11.

inefficient use of government resources. If the Commission wishes to subject certain ETCs providing Lifeline support to expansive biennial audits of their Lifeline program compliance, then those ETCs should not be subject to any other audits for the same time period as they likely will be necessarily repetitive.[10] Further, as the Commission has suggested, where a biennial audit results in no material findings, the ETC should be relieved of providing a biennial audit for the next cycle.[11] In fact, if there are material findings, any subsequent biennial audit should only apply to those areas where there was a material finding.

Additionally, CenturyLink agrees that the Commission should not require drafts of the biennial audit reports be submitted to the Commission and USAC. The Commission has provided no explanation of why both draft audit reports and final audit reports should be submitted to the Commission and USAC. In the absence of any explanation the Commission's decision seems highly arbitrary and legally suspect.[12]

Further, the requirement to also provide the final audit reports to relevant state and Tribal governments is simply excessive. If the biennial audit reports are to focus on "corporate-wide compliance," then for ETCs serving in many states and tribal areas throughout the nation, this obligation likely requires providing a potentially large audit report to scores of state and tribal government entities that may not even be interested in receiving the report. The Commission

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[10] The Commission has stated that the focus of the biennial audits will be on "the corporate-wide compliance program, rather than carrier activity in a particular study area," thus suggesting that these biennial audits will cover compliance issues that are distinct from compliance for specific study areas. *Lifeline Reform Order* ¶ 295. It remains to be seen, however, how this distinction will manifest as non-overlapping compliance obligations in practice.

[11] *Id.* ¶ 295.

[12] If the Commission intends to require that draft audit reports be submitted to itself and USAC it should explain the legal authority and policy rationale for the requirement and clarify that the draft audit reports can be provided on a confidential basis.

should revise this obligations such that ETCs should make the biennial audit report available to state and tribal government entities upon request.

D. The Commission Should Reconsider The One-Business-Day Time Period To Remove De-Enrolled Customers From The Accountability Database, The Scope Of Marketing Disclosures, And The Manner Of Reporting To Tribal Communities.

One Business Day to Remove De-enrolled Customers. CenturyLink agrees that the Commission should reconsider requiring that ETCs remove de-enrolled customers from the Lifeline National Accountability Database within one business day of their de-enrollment from the ETC's Lifeline program. Initially, three business days should enable more effective compliance while ETCs get acclimated to the processes surrounding use of the database.

Marketing Disclosures. CenturyLink also agrees with those who support a more flexible approach to use of the new marketing disclosures. Although leaving it to each ETC to determine the specific language and format to be used, the Commission requires that in all Lifeline marketing materials ETCs must explain in clear, easily understood language that "the offering is a Lifeline-supported service; that only eligible consumers may enroll in the program; what documentation is necessary for enrollment; . . . that the program is limited to one benefit per household, consisting of either wireline or wireless service; . . . that Lifeline is a government benefit program, and [that] consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program."[13]

The Commission should reconsider mandating all of these disclosures in every Lifeline marketing piece. It is reasonable to include this information in the application materials, but including all of these disclosures in marketing materials such as radio spots and bus advertisements is not likely to be useful to consumers and may make use of those materials

[13] *Lifeline Reform Order* ¶ 275 (footnote omitted).

unreasonably expensive for these purposes. CenturyLink agrees that for those marketing materials where providing all of these disclosures is impractical, ETCs should have the flexibility to refer in those materials to a website for additional information.

Reporting to Tribal Communities. CenturyLink agrees with US Telecom, GCI and others that the Commission should reconsider the manner in which Lifeline program information is provided to tribal governments.[14] CenturyLink commends the Commission for encouraging further tribal engagement with respect to Lifeline services. At the same time it should be recognized that providing the identified Lifeline program information to tribal governments is not a simple task. Obtaining and maintaining appropriate tribal government contacts for the Lifeline program is not easy; even with available lists of tribal government contacts those contacts may not be the appropriate contacts for the Lifeline program. And, structures need to be put in place for each tribe in order to provide sufficient protection for any confidential information to be shared.

Additionally, it is not at all clear that all tribes want this information thrust upon them; especially if the majority of information has little relevance to a specific tribal area. It may be more effective for ETCs, the Commission's Wireline Competition Bureau and Office of Native Affairs and Policy, and the tribal governments to work together to develop a list maintained by the Commission of tribal government contacts for the Lifeline program, and allow those tribal governments to choose whether they want the Lifeline information identified by the Commission.

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[14] *See, e.g.*, US Telecom petition at 16-17; GCI comments at 4-5.

II. CLARIFICATION ISSUES

There are several issues for which US Telecom has requested clarification and CenturyLink supports those requests. Among those, CenturyLink agrees that the Commission should clarify that (1) ETCs have flexibility in how they notify customers about application of partial payments to service bundles; (2) USAC may only suspend low-income program payments for non-compliance with Lifeline rules; and (3) the requirement to provide customer service initiation dates will be for new subscribers after the effective date of the *Order*.[15]

Partial payment reminder. In the *Order*, the Commission states that "we agree with commenters that ETCs should explicitly notify Lifeline subscribers that partial payments will first be applied to pay down the allocated price of the Lifeline voice services, and require ETCs to provide clear language to this effect on the bills of those Lifeline subscribers who are receiving bundled service packages from the ETC."[16] The Order language plainly does not require that this notice be provided each month or on every customer bill. In the new rules adopted with the *Order* there is a rule that describes the requirement on applying partial payments,[17] but there is no rule setting out the new notification of partial payment obligation described in the *Order* text. The Commission should clarify that ETCs have flexibility as to how and how often this information is provided to customers.

Suspension of payments. The Commission has stated that in the event that USAC finds that an ETC has violated the Commission's low-income program rules that USAC must notify the ETC of the violation and request a response and that "USAC has the discretion to suspend further payments to the carrier pending USAC's receipt and evaluation of the carrier's response

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[15] US Telecom petition at 2, 8, 14, 15.

[16] *Lifeline Reform Order* ¶ 320 (footnote omitted).

[17] *Id.* at 47 C.F.R. § 54.403(b)(2) (Appendix A).

to this notification."[18] The Commission further states that USAC should only suspend "payments related to the Study Area Codes where the ETC is operating in violation of the Commission's low income rules and requirements."[19] CenturyLink agrees with US Telecom, NTCA and GCI that the Commission should clarify that in a situation where USAC exercises its discretion to suspend payments to an ETC for apparent violation of the low-income rules that only payments of *low-income* support for the relevant Study Area Code may be suspended. USAC should not have the discretion to suspend any other universal service support that might pertain to the associated study/service area for an apparent violation of the low-income rules.

Service Initiation Dates. CenturyLink agrees that the obligation to document customer Lifeline service initiation dates should be applied prospectively such that the obligation applies only for new customers enrolled after the effective date of the *Order*. Applying the rule to existing customers would impose an undue hardship on customers and ETCs alike who have not previously been required to retain that information and may be unable to obtain that information now.

Respectfully submitted,

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[18] *Id.* ¶ 298.

[19] *Id.*

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY OF CENTURYLINK** to be served, via United States First Class Mail, postage prepaid, on the parties listed on the attached service list.

/s/ Richard Grozier

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