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Congress of the United States
House of Representatives
Washington, DC 20515–4336

0313

March 8, 2013

Mr. Julius Genachowski
Chairman, Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Chairman Genachowski:

The undersigned wish to register our concerns over the rampant, mostly unrestrained, growth of the federal Universal Service Fund's (USF's) Lifeline program. Significant increases in the size of this program threaten the sustainability of universal service in general, to the detriment not only of low income consumers, but also the millions of beneficiaries of the Schools and Libraries, Rural Health Care and High Cost programs.

The Lifeline program was created in 1985 to serve the laudable objective of ensuring quality basic telephone service and 911 connections were available to low-income consumers at just, reasonable and affordable rates. Yet, more recently, the Federal Communications Commission (FCC) has allowed the program to be manipulated, primarily by prepaid wireless providers, into an unintended source of company revenues rather than the true consumer "lifeline" that was intended.

Even in the wake of a January 2012 FCC Lifeline Reform Order, the Lifeline program stands alone among its USF program counterparts as not subject to any control by an annual budget. In just the past three years alone, the program has swelled at an average rate of between two and five percent *per month*, jumping from a total annual cost of around $600 million to more than $2.4 billion. The program's spiraling growth continues to threaten the sustainability of the overall USF.

We can no longer afford to overlook the largely unchecked growth that continues to permeate the Lifeline program while the other universal service programs are restricted to the degree that they are increasingly unable to fulfill their statutory mandates. In short, the uncontrolled growth of the Lifeline program threatens to compromise the legitimate goals of the other programs.

The FCC stated its January Order would finally begin to limit the waste, fraud and abuse associated with the program in recent years, suggesting the reforms would yield savings of $200 million in 2012, and more than $2 billion over three years. While the initial $200 million in savings might be achievable, the longer term objective seems highly unlikely. At best, the program looks poised to grow only somewhat less rapidly than it has in recent years, and depending upon what assumptions are made, it is possible we could see more phenomenal expansion of the Lifeline program in coming years.

Many factors contribute to our concern. First, only 50% of eligible consumers are estimated to receive Lifeline support today. Second, the Order expanded the base of eligibility for Lifeline support to include a host of other low income criteria. Third, the program will soon expand to cover not just voice but broadband level service as well. This confluence of factors could easily lead the Lifeline program to engorge to an annual $4 billion level in no time at all. If there are reliable checks on the program that would somehow offset these factors, it would be useful to have you identify those and to detail the assumptions that lead you to conclude that such checks will control rampant growth and continuing increases in the Lifeline Program over time.

We are further concerned that the Lifeline Order sets up a program that is altogether divorced from the cost required to deliver services to consumers. For example, the Lifeline Order established a flat rate level of support of $9.25 to carriers for each Lifeline subscriber they enroll. There is no relationship between this level of support and the cost of providing such service. Indeed, the torrent (or "gold rush") of new prepaid wireless providers flooding the Lifeline market would appear to indicate that this level of support constitutes a windfall for such providers.

At the same time, the FCC has waived facilities and service area requirements for companies applying for designation as "Lifeline-only" carriers. Consider that neither the FCC nor any state commission in the country has denied a Lifeline-only Eligible Telecommunications Carrier (ETC) application. There are now hundreds of Lifeline-only ETCs, with more in the pipeline. None of these companies provides new broadband infrastructure in unserved areas of the country—a goal of the National Broadband Plan. If anything, this policy discourages, rather than promotes, investment in the kinds of advanced networks and infrastructure that will deliver benefits to all American consumers and businesses.

We are concerned that the recent growth and lack of apparent controls on the Lifeline program creates poor incentives and places USF as a whole in jeopardy. Rural constituents, such as our seniors and other beneficiaries of universal service supported investments in our schools and libraries, rural health care providers and rural broadband infrastructure, are affected negatively by the wake of mismanagement in the Lifeline program.

We understand that the FCC has launched a further notice of proposed rulemaking seeking recommendations for further improving the Lifeline Program to eliminate waste, fraud and abuse, and we applaud such an examination. But we remain concerned that not enough has yet been done to check growth in the Lifeline program or to set appropriate incentives for delivery of critical services to low-income consumers. In this regard, we urge the FCC to take prompt action to constrain growth of the Lifeline program by setting a budget in the same vein as it has for other aspects of the USF program, and by taking meaningful steps to set more proper incentives for carrier participation in the program than exist in the current version.

Please let us know what the FCC is planning to do to rein in the Lifeline program, and please provide details for any assumptions with respect to why you may believe that actions already taken will help to control growth in the program. We look forward to your response and to further steps that can be taken to ensure that this program is a more reasonable and well-governed component of the USF.

Warmest Wishes,

STEVE STOCKMAN
Member of Congress

FEDERAL COMMUNICATIONS COMMISSION

Mignon L. Clyburn
Acting Chairwoman

June 20, 2013

The Honorable Steve Stockman
U.S. House of Representatives
2400 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Stockman:

Thank you for your letter regarding the Universal Service Fund's Lifeline program. I appreciate your interest in this matter and am pleased to provide the enclosed letter on this issue from the Chief of the Wireline Competition Bureau's Telecommunications Access Policy Division.

If you have any additional questions or need any further assistance, please do not hesitate to contact me.

Sincerely,

Mignon L. Clyburn

Enclosure

Federal Communications Commission
Washington, D.C. 20554

June 20, 2013

The Honorable Steve Stockman
U. S. House of Representatives
2400 Rayburn House Office Building
Washington, DC 20515-0102

Dear Congressman Stockman:

Thank you for your inquiry concerning the federal universal service Lifeline program. Specifically, you expressed concern with the Commission's efforts to address waste, fraud, and abuse in the Lifeline program.

Lifeline is a critical part of the Commission's universal service mission that is designed to implement Congress' directive to ensure the availability of basic telecommunications services to all Americans, including low-income consumers. Lifeline, which is supported by the federal universal service fund, provides discounts off an eligible consumer's basic monthly wireline or wireless service.

In your letter, you expressed concern about the provision of Lifeline service by prepaid wireless operators and about the potential for increase in the size of the Lifeline program. In 2009 the Commission began the process of overhauling the program to make it more accountable; to root out waste, fraud, and abuse; and to modernize it to meet the communications needs of low-income Americans, while minimizing the burden on the consumers and businesses that fund the program. These steps have fundamentally altered the course of the program. Disbursements have declined steadily from $185.1 million in December 2012 to $145.8 million in May of this year. As you noted in your letter, the changes implemented by the Commission are expected to lead to $2 billion in savings through the end of 2014.

The Lifeline program is on track to save the estimated $2 billion by the end of 2014. These savings will be achieved through reform and modernization of all aspects of the program. The reforms include: (1) requiring consumers to provide proof of eligibility at enrollment; (2) requiring consumers to certify that they understand key program rules and to recertify annually their continued eligibility for support; (3) limiting the Lifeline benefit to one per household; (4) eliminating Link Up support for all providers except those that receive high-cost universal service support on Tribal lands; (5) establishing a uniform, nationwide floor for consumers' eligibility to participate in the program, which states may supplement; (6) enhanced requirements concerning marketing and advertising practices of supported carriers; and (7) putting in place a robust audit requirement for providers entering the Lifeline program and an ongoing independent audit requirement for providers drawing more than $5 million from the Fund.

In addition to the reforms described above, the Commission, in partnership with the Universal Service Administrative Company (USAC), the administrator of the Fund, has also identified and cut substantial amounts of duplicative Lifeline support, resulting in the de-enrollment of hundreds of thousands of subscribers with more than one Lifeline supported service. And at our direction, USAC is building the National Lifeline Accountability Database that will, by the end of this year, detect and prevent duplicative support before it occurs. These reforms are in place, are working as intended, and are cutting waste, fraud and abuse from the program while ensuring that low-income consumers have access to basic communications.

In your letter, you also asked about the ETC designation process. Under section 214(e)(2) of the Communications Act, states designate providers as ETCs to participate in the Lifeline program, including in most cases wireless ETCs. Currently, all but ten states and the District of Columbia handle the designation of Lifeline-only wireless ETCs to participate in the program. States have broad authority to conduct thorough reviews of ETC applications. The Commission's new rules require that providers demonstrate that they are "financially and technically capable of providing Lifeline service in compliance with program rules." In deciding whether to designate a provider to participate in Lifeline, a state must, among other things, review how long the company has been in business, whether the provider intends to rely exclusively on universal service disbursements to operate its business, whether the provider receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.

As part of its ongoing commitment to fight waste, fraud, an and abuse in the program, the Commission now requires that all non-facilities-based providers seeking to become Lifeline-only ETCs, which includes prepaid Lifeline-only carriers, first have a compliance plan approved by the Wireline Competition Bureau before being designated as an Eligible Telecommunications Carrier by a state or the Commission. Commission staff thoroughly reviews these plans to ensure that providers have procedures in place to adhere to the new stringent program requirements.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Kimberly A. Scardino
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau