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United States Senate
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WASHINGTON, DC 20510–6100

August 15, 2013

0858

The Honorable Mignon Clyburn
Acting Chairwoman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairwoman Clyburn:

I write to express serious concerns about the Lifeline program, a part of the Universal Service Fund (USF) that, according to the Congressional Budget Office, outlayed more than $9.3 billion in FY2012.

The original intent of the Lifeline program was to provide discounted, subsidized phone service to qualifying low-income consumers so that they would have a way to contact employers, family members, and emergency services. Although the initial program was limited to land lines, it has now been expanded to include wireless or cellular phones. Crucially, participation in the program is supposed to be limited to those who have an income that is at or below 135% of the poverty level or participate in one of the many federal assistance programs, such as SNAP or Medicaid. Federal rules limit Lifeline phones to one per household. I am concerned that these basic, but fundamental, rules are not being enforced.

In a recent article in National Review, "Me and My Obamaphones," the writer offers a "confession" that readers are paying her phone bill and details how she does not meet any of the eligibility requirements listed above, but has received three Lifeline phones. (That article is attached.) The failure to check applicants' eligibility might be one of the reasons the Lifeline program has more than doubled in recent years—from $822 million in 2008 to over $2 billion in the latest annual report from the Universal Service Administrative Company (USAC).

I want to understand what your agency is doing to eliminate abuses within the program, and why previous efforts appear to be insufficient. To this end, please respond to the following:

1. What is the process for verifying eligibility from those seeking to enroll? Is this controlled by the FCC, the states, or the service providers?

2. Is there a verification process for those currently enrolled to assure continued eligibility? Please provide the details of the process and the number of individuals found ineligible through this review.

3. In the initial verification process, how does the FCC or service provider crosscheck to see whether a participant is participating in a qualified federal program or not living in a household where a Lifeline phone is already present?

4. How long does it take to process an application for Lifeline service and are providers required to delay providing a phone or service if they become aware that another application is pending or that another provider is servicing an account?

5. The underlying intent of Lifeline was to provide "security." Are the phones, often provided free-of-charge by providers, limited in capability? That is, are the phones capable of texting or using social media or other web-enabled applications?

6. How much service does participation in the Lifeline program provide? Does the program provide any funding for data or text transmissions? How many minutes per month does the program pay for participants?

7. How are participating service providers selected and are there eligibility requirements for providers? Explain the financial incentives for providers and how they are compensated.

8. There appears to be an ongoing recruitment process to enroll people in Lifeline. Is the FCC in charge of the recruiting process and how are those recruiters paid? Is payment for recruiters provided through USF? Are recruiters offered bonuses for the number of individuals enrolled or for those who apply, or are you aware of any other type of incentives that could increase taxpayer costs by targeting individuals for enrollment beyond the intended scope of the program? The USAC Annual report indicates that in 2012, administrative expenses were $110 million. Of that, how much was spent on recruitment material and personnel for the Lifeline program?

9. What is the process for monitoring provider activity? Have any providers been sanctioned or debarred by the FCC for over-enrollment or failing to properly verify eligibility?

10. According to the FCC's own review, a number of customers have been found to be in violation of the one phone per household limit. In those instances, are those customers disqualified from participation the program? Are there any sanctions for customers that violate the parameters of the program, criminal or otherwise?

It is important that all federal programs be effectively administered and that these programs adhere to the highest standards in order to protect the funds provided by the American people. The news article suggests serious flaws in this program. These public concerns must be addressed.

Please have your staff provide this information both in hard copy and in an electronic, searchable format no later than September 26, 2013, to William Smith on the Senate Committee on the Budget. If you have any questions, please contact me or have your staff contact Mr. Smith at (202) 224-6308 or william_smith@budget.senate.gov.

Very truly yours,

Jeff Sessions
Ranking Member

cc: FCC Commissioner Ajit Pai
FCC Commissioner Jessica Rosenworcel

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Me and My Obamaphones

Not on welfare or below the poverty line? Never mind — here's your free phone.

By Jillian Kay Melchior

Confession: You're paying my phone bill.

In the past month, I have received three shiny new cell phones, courtesy of American taxpayers, that should never have fallen into my hands.

The Federal Communications Commission oversees the so-called Lifeline program, created in 1984 to make sure impoverished Americans had telephone service available to call their moms, bosses, and 911. In 2008, the FCC expanded the program to offer subsidized cell-phone service, and since then, the expenses of running the program have soared. In 2012, the program's costs had risen to $2.189 billion, up from $822 million before wireless carriers were included. As of June, there were 13.8 million active Lifeline subscriptions.

To be eligible for Lifeline, the applicant is supposed to be receiving some significant government benefit — food stamps, Medicaid, Supplemental Security Income, public housing assistance, etc. But because welfare eligibility has expanded under the Obama administration, more people than ever before are qualified to receive "free" cell-phone service — part of the reason why Lifeline mobiles have become commonly known as Obamaphones. Alternatively, applicants can qualify if their household income is less than 136 percent of the federal poverty line.

But as with any federal program with too much funding, too little oversight, and perverse financial incentives, Lifeline has become infamous for rampant fraud and abuse. There have been news reports about recipients flaunting dozens of subsidized phones. And in February, the *Wall Street Journal* reported on an FCC audit of the top five Lifeline providers, which found that "41% of their more than six million subscribers either couldn't demonstrate their eligibility or didn't respond to requests for certification."

The FCC supposedly buckled down on eligibility standards last year and established

other safeguards aimed at reducing fraud. I was curious about how tough it was to get one of these phones, so last month, I hit the streets of New York. And out of respect for the law and my journalistic integrity, I did not lie to obtain a phone.

Now is the point, I suppose, where I should explain that I really, really shouldn't have received a single phone. Despite what you hear, not all 20-something writers in the Big City are starving. Given my earnings, even if I were supporting a family of eight, my income would still rule me out. Nor do I receive any type of government benefit. By the Lifeline program's standards, I am unambiguously ineligible.

My first task was figuring out where to register. The rule of thumb is that wherever you can sign up for food stamps, you can apply for an Obamaphone.

Representatives from SafeLink and Assurance, two of the leading New York Lifeline vendors, stand outside the food-stamp offices, paired like Mormon missionaries, young and polite and earnest. They carry electronic tablets and ask all passersby whether they've received their free phone "yet" — as if it were an inevitability.

They approached me for the first time outside the food-stamp office at Tenth Avenue and 216th Street, on the northern tip of Manhattan. The SafeLink vendor, a man probably in his mid 20s, asked me whether I was enrolled in any benefit programs.

"No," I said, "but I'd certainly like to be. I'm hoping to be." And indeed, while doing research for another story, I had gone through the motions of applying for New York City welfare, which I also don't qualify for. I showed him my Human Resources Administration paperwork packet and the case number assigned to me. I reiterated that though I had once applied, I had never been approved for any sort of benefit.

He brought out his electronic tablet immediately to sign me up for phone service. He asked if I had an insurance card, so I pulled out my trusty Blue Cross Blue Shield. He looked at it for a second, puzzled, then asked if I had Medicaid. No, I told him, just private insurance through my work plan.

"Private insurance? What's that?" he asked, maybe not facetiously. My BCBS card was nevertheless photographed, as well as the first page of my Human Resources Administration paperwork. He asked for my name and my home address, and that was about it. The whole process took less than five minutes, and I had to provide no documentation verifying my income level or (nonexistent) welfare status.

The SafeLink vendor then referred me to his opposite number, a rep from Assurance. She too took down my information, registering me for another Obamaphone.

Traveling to several of the welfare offices in the city, I learned this was common practice. Obamaphone reps come in twos, and both will sign you up if they can.

That's a very questionable practice, given the Lifeline program's rules: Each eligible household may receive only one Lifeline subsidy, and obtaining multiple subsidized phones from multiple Lifeline carriers is "a flat-out violation of our rules," says Michelle Schaefer, an attorney-adviser from the FCC's Telecommunications Access Policy Division, Wireline Competition Bureau.

Schaefer also tells me that "consumers are, on their applications, required to certify under penalty of perjury that they will only be receiving one Lifeline discount."

But when I went around New York signing up for multiple phones, I never even saw the applications; SafeLink and Assurance vendors filled out the necessary forms on their tablets on my behalf, clicking through so quickly that it must have been nearly muscle memory. And nobody mentioned perjury.

Granted, the first question the wireless reps asked was usually whether I was already enrolled in the Lifeline program. I told the truth: I had signed up recently, but the phone hadn't arrived in the mail yet. Almost always, that got me re-entered into the system without hesitation.

When I did receive my SafeLink phone a few days later, I started informing vendors that I did have one Lifeline phone. They assured me that the Lifeline program permitted me to have one phone from *each* participating wireless provider — which simply isn't true.

Maybe there's a disconnect between the corporate offices of wireless providers and their men on the street; a letter I later received from Assurance mentioned that "a household is not permitted to receive Lifeline benefits from multiple providers. Violation of the one-per-household rule constitutes a violation of federal rules and will result in de-enrollment from the Lifeline program and potentially prosecution by the United States government."

But the wireless providers aren't doing much due diligence, if my experience is indicative.

At the Union Square location, a SafeLink rep noted that I was already approved for a phone and declined to re-enter my information — but the rep from Assurance, standing only a few feet away, readily signed me up.

At the welfare office on Schermerhorn Street in Brooklyn, a vendor hesitated when I told her that I'd already applied but the phone had not yet been delivered. "Surely your system will catch if I'm actually enrolled," I told her. She shrugged and signed me up once more.

At the DeKalb Avenue office in Brooklyn, when I told the rep I wasn't receiving welfare, I was signed up for a phone but cautioned that I might well be denied upon secondary review.

And at one Lifeline location in East Harlem, I walked up to the wireless representative talking very loudly on my own smartphone. I hung up only to answer her questions. Now, keep in mind that the program is supposed to provide cell-phone service to people too poor to afford any phone whatsoever — but my application for a subsidized mobile was happily submitted, even as I dinked around very obviously on my existing smartphone.

So here's the final count: I was able to apply on the street for one SafeLink phone and seven Assurance phones. I received one SafeLink phone and two Assurance phones, no questions asked. For several other applications, Assurance sent me requests for more financial information.

Finally, I received one other letter, full of grammatical errors, informing me that "there is already an Assurance Wireless account established at this address" and requesting further information about my application. I find it curious that Assurance caught a duplicate only once, considering that I've got seven entries in their system, and that they have on file my name, address, HRA case number, and, in some instances, photos of my insurance card and driver's license. SafeLink was slightly better about catching duplications on the street, but it still gave me a phone when it shouldn't have.

Since receiving my undeserved phones, I've repeatedly tried to reach both SafeLink and Assurance press reps for comment, all to no avail. Their corporate offices have sent me the numbers of their customer-service centers, which are easily accessible and happy to offer plan upgrades to Lifeline clients.

Representative Tim Griffin (R., Ark.) has long opposed the Lifeline wireless subsidies, making it a pet cause. He reiterated the basic point I had learned from this experience: The problems began when the federal government got in the business of providing free cell phones, and the FCC's recent reforms aren't sufficient.

"I saw all the horror stories of people getting 10, 20, 30, 40 phones," Griffin says, "the [wireless] companies not paying a lot of attention and in some cases no attention to who was getting them and whether they were getting duplicates."

And if you've been wondering why the companies are so eager to hand out free phones, the incentive is built into the program. As Griffin explains, "Of course, the way the program was set up, [wireless companies] were getting money for every one they could give out, so they gave out as many as they could."

And still do.

— Jillian Kay Melchior is a Thomas L. Rhodes Fellow for the Franklin Center for Government and Public Integrity.

FEDERAL COMMUNICATIONS COMMISSION

Mignon L. Clyburn
Acting Chairwoman

September 27, 2013

The Honorable Jeff Sessions
United States Senate
326 Russell Senate Office Building
Washington, DC 20510 - 0104

Dear Senator Sessions:

Thank you for your inquiry concerning the Lifeline program, which provides a veritable lifeline to millions of families who otherwise might not have access to affordable phone service in our increasingly connected world. I agree with your statement that all federal programs should "be effectively administered" and "adhere to the highest standards," and I am proud to have been a part of efforts that have fundamentally reformed all of the Commission's universal service programs, including Lifeline.

While the Commission's 2012 reforms to the Lifeline program have made significant progress to address concerns about the program, I also recognize that our work is not complete. The Commission is continuing to monitor the impact of its reforms and evaluating what additional measures are appropriate to ensure the integrity of the Lifeline program. I appreciate your views and am grateful for the opportunity to share my own, and to address some of the concerns you may have. To provide context for my responses, I think it is important to first provide a brief overview of the history of the Lifeline program and the Commission's recent reforms.

Overview of Lifeline History and Recent Program Reforms

The Federal Communications Commission established the Lifeline program in 1985 in the wake of the divestiture of AT&T to ensure that low-income consumers had access to affordable telephone service. That original program supported the prevailing technology of the day—wired phone service delivered through one wire into the home. In the Telecommunications Act of 1996, Congress codified the principle of ensuring that all Americans, including low-income consumers, should have access to telecommunications services, including "advanced" telecommunications services. As American consumers increasingly began to adopt wireless services, the universal service program adapted to support wireless service in rural areas through the high-cost fund and for low-income families under Lifeline. In 2005, the FCC determined that, under certain conditions, non-facilities-based wireless providers could participate in the program as Lifeline-only Eligible Telecommunications Carriers (ETCs).[1] The Commission's goal was to foster more competition among providers to improve consumer choice. In 2008 under the Bush Administration, the first such providers were authorized to receive Lifeline funding. Unfortunately, those decisions did not include sufficient safeguards to protect the program, and, as a result, the Lifeline program became susceptible to waste and abuse.

[1]A carrier must be designated as an ETC, usually by a state public utility commission, but in some instances by the FCC, before it can receive federal Lifeline support.

The Commission took corrective action once it became clear that sufficient protections were not in place in the Lifeline program. In the spring of 2010, the FCC asked the Federal-State Joint Board on Universal Service (Joint Board) for input on reforming the Lifeline program. Building on recommendations from the Joint Board, as well as recommendations in a 2010 report from the Government Accountability Office (GAO), the FCC initiated reforms of the Lifeline program in 2011, not only by commencing a comprehensive rulemaking, but also by implementing intermediate steps directed at reducing duplicative support to subscribers. The rulemaking ultimately culminated in a complete overhaul of the program in early 2012 when the Commission approved the Lifeline Reform Order.

The tough, comprehensive reforms unanimously adopted by the Commission last year to combat waste, fraud and abuse have already resulted in hundreds of millions of dollars in savings to the Universal Service Fund. The Lifeline program is currently on track to save approximately $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 to participate in the Lifeline program at enrollment; (2) requiring consumers to certify that they understand key program rules at enrollment; (3) requiring consumers to recertify annually their continued eligibility for support; (4) limiting the Lifeline benefit to one per household; (5) eliminating Link Up support (a one-time payment for initiating service) for all providers except those that receive high-cost universal service support on Tribal lands; (6) establishing a uniform, nationwide floor for consumers' eligibility to participate in the program, which states may supplement; (7) enhancing requirements concerning marketing and advertising practices of supported carriers; (8) eliminating support for customers who have not used the service in over 60 days; and (9) putting in place a robust audit requirement for providers entering the Lifeline program and an ongoing independent biennial audit requirement for all providers receiving $5 million or more from the Fund per year (a requirement that applies to carriers receiving approximately 88% of total annual Lifeline disbursements).

In addition, the FCC, 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 the FCC's direction, USAC is building the National Lifeline Accountability Database that will be operational by the end of this year and will detect and prevent duplicative support before consumers are enrolled in the program. 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 voice communications.

Finally, while these significant reforms to the Lifeline rules are being implemented, the Commission has also stepped up its efforts to enforce the rules. In addition to the $1 million in consent decrees entered into with two providers this year, the FCC's Enforcement Bureau has issued citations to more than 300 Lifeline customers with duplicative subscriptions and has launched numerous investigations of company practices that appear to violate our rules. Separately, the FCC's Inspector General is investigating allegations of fraud on the Low Income Program and is supporting active investigations in coordination with the U.S. Department of Justice and the FBI. We also work closely with our partners in the Lifeline program – the states – to enforce our rules. Just last week, the Nebraska Commission expelled from the program a provider that failed to comply with eligibility verification requirements and earlier this month, an Oklahoma provider withdrew from the program in response to state allegations.

1.) **What is the process for verifying eligibility from those seeking to enroll? Is this controlled by the FCC, the states, or the service providers?**

In reforming the Lifeline program, the Commission took several steps to ensure that only eligible consumers that affirmatively request Lifeline service are able to receive the benefit. All ETCs must adhere to the Commission's requirements, and states may add additional requirements that go beyond the Commission's rules.

The Commission's reforms also require that ETCs affirmatively verify a prospective subscriber's eligibility at the time of enrollment and prior to activating a Lifeline service for that consumer, in addition to obtaining the written self-certification from the subscriber. A subscriber is eligible if he or she can show that his or her household income is at or below 135% of the Federal Poverty Guidelines, or by showing proof of participation in one of seven federal assistance programs, or certain state assistance programs. The ETC can verify eligibility by querying a state eligibility database (e.g., a state database of food stamp recipients) where available, obtaining verification from a state Lifeline administrator that the prospective consumer is eligible, or by a review of documentation provided by the consumer.

Consumers must also certify their eligibility for Lifeline at the time of enrollment as under the prior rule. In addition, ETCs now must disclose to consumers the rules of the Lifeline program (e.g. only one Lifeline benefit permitted per household) and consumers must attest under penalty of perjury that they understand and will comply with the Lifeline program rules. These certification and disclosure requirements work in tandem with the proof requirement described above to ensure that only eligible consumers sign up for support.

In states that have chosen to take a more active role in the Lifeline program, such as California and Oregon, a state administrator may examine these certification forms prior to forwarding them to ETCs; in other states, ETCs handle the certification process on their own. (Please also see response to Question 3 below, which concerns the initial verification process)

2.) **Is there a verification process for those currently enrolled to assure continued eligibility? Please provide the details of the process and the number of individuals found ineligible through this review.**

In the *Lifeline Reform Order*, the Commission put in place a robust recertification requirement to ensure that subscribers in the program remain eligible for the benefit because they are still at or below 135% of the Federal Poverty Guidelines, or continue to participate in one of the designated assistance programs. ETCs must recertify the continued eligibility of all of their Lifeline subscribers each calendar year. Subscribers can be recertified in one of two ways: 1) an ETC contacts the subscriber and obtains a certification from the subscriber who attests under penalty of perjury that he remains eligible for the program; or 2) the ETC can verify that the consumer remains eligible by querying a state database or receiving notice from a state Lifeline administrator that the consumer remains eligible.

Subscribers who fail to respond to recertification attempts will be de-enrolled from the Lifeline Program. Pursuant to the *Lifeline Reform Order*, by December 31, 2012, ETCs were required to obtain certifications for all the subscribers to whom they were providing service as of June 2012. Based on the results of the 2012 Lifeline recertification process, approximately one-third of all subscribers that were enrolled in the program in June 2012 were de-enrolled for failure to recertify their eligibility. Approximately 0.5% of all subscribers subject to recertification

responded that they were no longer eligible. Just under 4% of the total subscribers subject to recertification were determined to be ineligible via a state administrator or an ETC accessing a state eligibility database. The remaining consumers were de-enrolled for failure to respond to the recertification attempts. Subscribers in this last group are not necessarily ineligible for service; some may have simply failed to recertify or decided they no longer wanted the benefit.

3.) In the initial verification process, how does the FCC or service provider crosscheck to see whether a participant is participating in a qualified federal program or not living in a household where a Lifeline phone is already present?

As noted above, the National Lifeline Accountability Database will be operational by the end of the year and will ensure that prospective subscribers or members of their household do not already receive a Lifeline benefit. Even pending the completion of the database, ETCs must disclose to consumers that there is only one Lifeline service permitted per household, that a household is not permitted to receive Lifeline benefits from multiple providers, and that violation of the one-per-household limitation constitutes a violation of the program rules. Consumers must certify that, to the best of their knowledge, no other members of their households already participate in Lifeline. The Commission's reforms also require that ETCs verify a prospective subscriber's eligibility at the time of enrollment, rather than obtaining and relying on the subscriber's self-certification alone, as under the prior rule, and ETCs are required to make specific disclosures to consumers regarding the nature of the Lifeline benefit and the consumers' duty to comply with the rules. Consumers must certify their eligibility at the time of enrollment, attesting under penalty of perjury that they understand and will comply with program rules. As previously noted, providers may not activate Lifeline service for a consumer until completing the entire enrollment process. An ETC therefore may not provide a service that it represents to be a Lifeline service, even on an interim basis while the consumer's application is being processed, before verifying eligibility.

In certain states, state authorities play a significant role in verifying whether a potential subscriber qualifies to receive Lifeline service. For example, Texas, California, and Oregon all have state eligibility databases.

4.) How long does it take to process an application for Lifeline service and are providers required to delay providing a phone or service if they become aware that another application is pending or that another provider is servicing an account?

The Commission estimates that it takes, on average, a consumer approximately twenty minutes to complete the Lifeline application process, although it can vary depending on how the consumer is enrolled. All ETCs must determine a subscriber's eligibility prior to enrolling a new subscriber in Lifeline. Some ETCs may verify eligibility on-site and activate the subscriber's Lifeline service at that time. Others may make the determination off-site and only then initiate service. As explained above, providers must explain, and prospective subscribers must certify, that they will comply with the Lifeline program rules, including the one-per-household rule. If the ETC knows or has reason to believe that the prospective subscriber is already receiving Lifeline service, the ETC must not provide service to that prospective subscriber. Any ETC that knows or has reason to believe that a prospective subscriber is already receiving Lifeline service from another ETC violates the FCC rules by providing Lifeline service to, or seeking reimbursement from the Fund for, that subscriber.

In addition, once the National Lifeline Accountability Database becomes operational by the end of this year, an ETC must check the database to determine if a prospective subscriber is already enrolled with another carrier prior to providing service to that subscriber. The database provides an important additional means to eliminate waste, fraud, and abuse in the Lifeline program.

5.) The underlying intent of Lifeline was to provide "security." Are the phones, often provided free-of-charge by providers, limited in capability? That is, are the phones capable of texting or using social media or other web-enabled applications?

The flat-rate monthly Lifeline support amount can only be used to support the provision of voice telephony service. The Commission's rules do not permit Lifeline support to be used to support a phone or any other device. If an ETC chooses to offer a free or discounted device to Lifeline subscribers, similar to that offered to non-Lifeline subscribers, that is an independent business decision of the ETC. Similarly, any decisions to offer services beyond voice telephony service are independent business decisions of the ETCs, but such services are not supported by the Lifeline program.

6.) How much service does participation in the Lifeline program provide? Does the program provide any funding for data or text transmissions? How many minutes per month does the program pay for participants?

In the *Lifeline Reform Order*, the FCC considered but declined to adopt minimum Lifeline service requirements. The flat-rate support amount of $9.25 per month can only be used to support the provision of voice telephony service. Texting is not a supported service. As noted above, any decisions to offer services beyond voice telephony service are independent business decisions of the ETCs, but such services are not supported by the Lifeline program. As the FCC noted in the *Lifeline Reform Order*, the typical market-driven offering for pre-paid Lifeline wireless service supports 250 minutes per month.

7.) How are participating service providers selected and are there eligibility requirements for providers? Explain the financial incentives for providers and how they are compensated.

The states have an important role in overseeing the Lifeline program — they have been partners with the FCC in reform and in oversight and enforcement. Under section 214(e)(2) of the Communications Act, states designate providers as ETCs to participate in the Lifeline program, and to receive Lifeline support, 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.

In addition to the statutory requirements, the FCC's reforms 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 or the FCC must, among other things, examine 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 the Commission's ongoing commitment to combat waste, fraud, and abuse in the program, all non-

facilities-based providers seeking to become Lifeline-only ETCs are now required to have a compliance plan approved by the FCC staff before being designated as an ETC by a state or the FCC. FCC staff thoroughly reviews these plans to ensure that providers have procedures in place to adhere to the new stringent program requirements.

A provider's decision whether to seek designation as an ETC is based on its business judgment. Properly designated providers of Lifeline service are compensated by the Fund each month, based on a submission to USAC showing the number of Lifeline subscribers actually served.

8.) **There appears to be an ongoing recruitment process to enroll people in Lifeline. Is the FCC in charge of the recruiting process and how are those recruiters paid? Is payment for recruiters provided through USF? Are recruiters offered bonuses for the number of individuals enrolled or for those who apply, or are you aware of any other type of incentives that could increase taxpayer costs by targeting individuals for enrollment beyond the intended scope of the program? The USAC Annual report indicates that in 2012, administrative expenses were $110 million. Of that, how much was spent on recruitment material and personnel for the Lifeline program?**

Neither the FCC nor USAC provides Lifeline service directly to consumers, and neither entity is involved in recruiting or enrolling Lifeline subscribers. Section 214 of the Communications Act requires ETCs to advertise the availability of Lifeline service in a way that will reasonably reach qualified individuals. The Commission's *Lifeline Reform Order* specifically requires that such advertising to include specific information, including the rules of the program.

ETCs use company employees, agents or contractors to enroll qualified subscribers. The Commission's rules make clear that ETCs' marketing and recruiting costs are not paid for or reimbursed by the Lifeline program.

To the extent your question is based on concerns about the actions of sales representatives, we note that the ETCs are liable for the actions of such representatives. To that point, the FCC's Enforcement Bureau recently issued an advisory reminding ETCs that they are liable for the actions of their agents, contractors, and representatives.

As you note in your letter, USAC's annual report indicated administrative expenses of $110 million in 2012. None of this money was spent on recruitment material and personnel for the Lifeline program. Of USAC's $110 million administrative budget in 2012, USAC attributes $8.4 million to administration of the Lifeline program. Of that, just over $1.3 million was attributed to USAC salary and payroll expenses for USAC employees specifically assigned to the Lifeline program. USAC's Lifeline team is particularly focused on implementing the *Lifeline Reform Order*, which, among other things, directed USAC to continue targeted checks for duplicate Lifeline subscribers and create the National Lifeline Accountability Database for eliminating and preventing duplicative support. USAC is also responsible for conducting audits of Lifeline providers to ensure they are in compliance with FCC rules.

9.) **What is the process for monitoring provider activity? Have any providers been sanctioned or debarred by the FCC for over-enrollment or failing to properly verify eligibility?**

The Commission takes seriously its responsibility to ensure its rules are followed and to identify and deter any program abuse, and the Commission has worked on several fronts to eliminate

waste, fraud and abuse prior to the release of the *Lifeline Reform Order*. For example, to eliminate duplicative support, the Commission in conjunction with USAC initiated targeted audits known as In-Depth Data Validations (IDVs) in 2011. To date, through the identification and elimination of duplicate subscriptions, the IDV process has produced savings of over $200 million on an annualized basis. The *Lifeline Reform Order* contained new requirements to increase oversight of Lifeline providers and enhance the auditing program. USAC must now audit all newly designated Lifeline providers that have not previously provided Lifeline service to ensure they have established effective controls and procedures to comply with the Commission's rules. As part of vigorous accountability and oversight for the largest recipients in the program, the Commission's reforms require all Lifeline providers that draw $5 million or more from the Lifeline program on an annual basis to hire an independent audit firm to assess the ETC's overall compliance with the program's requirements.

In addition to the audit requirements, the Commission is actively enforcing its rules. Recently, the Commission's Enforcement Bureau pursued actions against two providers that resulted in an enforcement action worth over $1 million; other investigations of company practices that appear to violate our rules are ongoing. These investigations concern possible enrollment of ineligible subscribers, failure to de-enroll ineligible subscribers, and seeking support for customers who did not actually apply for service. Separately, the FCC's Inspector General is investigating allegations of fraud on the Low Income Program and is supporting active investigations in coordination with the U.S. Department of Justice and the FBI.

In addition, the Enforcement Bureau has issued nearly 300 citations to individuals in eight states notifying them that they violated the Lifeline program rules by receiving multiple Lifeline benefits. These citations order the consumers to cease and desist from applying for—or receiving—more than one Lifeline-supported phone service, and warn them that the Commission may impose a monetary fine if the violations continue. Beyond this, the FCC has launched a dedicated tip line and conducted outreach campaigns to make consumers and companies aware of our rules – and the penalties for violating them.

10.) According to the FCCs own review, a number of customers have been found to be in violation of the one phone per household limit. In those instances, are those customers disqualified from participation the program? Are there any sanctions for customers that violate the parameters of the program, criminal or otherwise?

The FCC's Enforcement Bureau has issued citations to nearly 300 consumers for violating the FCC's rules by obtaining and receiving more than one Lifeline supported service. Under section 503(b)(5) of the Act, the Commission may not impose forfeiture on a person if the person does not hold a license, permit, certificate, or other authorization issued by the FCC. In situations where such a person violates the FCC's rules, the Act forbids the FCC from proposing a forfeiture unless the FCC issues a citation and provides the person an opportunity to talk directly with the FCC, and the person subsequently engages in the same illegal conduct described in the citation. Section 54.8 of the FCC's rules also permits the FCC to debar persons by excluding them from activities associated with or relating to the universal service programs. Causes for debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out activities associated with or related to the universal service programs.

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

Sincerely,

Mignon L. Clyburn
Acting Chairwoman
Federal Communications Commission