Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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

COMMENTS OF AT&T

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I. INTRODUCTION

With its recent *Lifeline and Link Up Reform and Modernization Order*, this Commission began the process of implementing long overdue, common sense reforms to its low-income program.[1] For several years, AT&T has urged the Commission to make many of the changes that the Commission ultimately adopted in its *Order*. While a good start, the Commission's work remains unfinished. Through the attached *Further Notice*, the Commission requests comment on proposals to address two key areas where it seems likely that waste, fraud, and abuse have flourished: ineligible consumers inappropriately obtaining the Lifeline benefit and resellers that are subject to little to no regulatory oversight obtaining Lifeline-discounted lines from incumbent local exchange carriers (ILECs). In the *Further Notice,* the Commission suggests a number of ways to eliminate the risks that these areas pose.

AT&T Inc. (AT&T), on behalf of its operating affiliates, supports the Commission's proposal to move rapidly to electronic verification of Lifeline eligibility across the country. This is the next logical step after establishing the National Lifeline Accountability Database, which is designed to resolve and prevent duplicates. AT&T strongly believes, however, that the Commission's ultimate goal should be a single comprehensive national Lifeline database that is designed to support several different, but related, purposes. First, Lifeline providers should be able to access this one database to validate that a prospective Lifeline consumer is indeed eligible for the Lifeline benefit, thus supplanting the current process that requires a service provider to make this determination if the state in which it operates does not. Second, the same database should inform a service provider whether the consumer requesting the Lifeline benefit is

[1] *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (*Order*).

obtaining it from some other service provider. Lastly, the Universal Service Administrative Company (USAC) should be able to use information in this database to calculate each Lifeline provider's monthly reimbursement amount. Once established, such a comprehensive database will permit only eligible consumers to obtain Lifeline discounted service and will prohibit such consumers from obtaining multiple Lifeline benefits. Additionally, this database will prevent unscrupulous Lifeline providers from obtaining reimbursement for nonexistent or ineligible Lifeline customers.

AT&T also supports the Commission's proposal to prohibit resellers from obtaining Lifeline-discounted service from ILECs. We agree with the Commission that these resellers should obtain reimbursement for providing Lifeline-discounted service to eligible end-user customers from USAC, and not from their wholesale providers. This change will give federal and state regulators greater oversight, where none exists today, over these carriers' Lifeline activities.

The Commission also should adopt AT&T's proposal to permit ILECs to opt out of the Lifeline program. Throughout most of the country, the Lifeline marketplace is irreversibly competitive, with consumers increasingly opting for wireless Lifeline options. In those few situations where an ILEC is the sole Lifeline provider in a particular geographic area and the ILEC wants to be relieved of its obligation to provide Lifeline service, the Commission should consider such options as issuing vouchers to Lifeline-eligible consumers in that area, which the consumers could use with any provider of the Lifeline-supported service (e.g., voice telephony service).

On the other hand, there are several proposals in the *Further Notice* that the Commission should defer action on or reject. These proposals include the Commission's suggestion to fund digital literacy programs using universal service dollars, vary the new, flat-rate Lifeline discount amount by geography, require all Lifeline providers to offer their Lifeline customers all bundled service offerings that contain the Lifeline-supported service, and expand the Lifeline eligibility criteria to include new programs without first ensuring that the information about participants in those programs can be readily incorporated into a national Lifeline database.

II. DISCUSSION

A. The Commission Should Move Quickly To Establish A National Lifeline Database, Conditioning Lifeline Support, If Necessary, On State Participation.

Under the Commission's new rules, all Lifeline service providers are required to determine whether a consumer is eligible for Lifeline discounts based on a review of consumer-supplied documentation demonstrating that the requesting consumer either participates in some qualifying public assistance program (e.g., Medicaid, Supplemental Nutrition Assistance Program (SNAP)) or has household income at or below 135 percent of the Federal Poverty guidelines, unless the state performs the eligibility determination. *See* 47 C.F.R. §§ 54.409, .410(b), (c), as amended by the *Order*. In recognition of the burdens this requirement will impose on both consumers and service providers, the Commission committed to establishing "no later than the end of 2013, . . . an automated means to determine Lifeline eligibility for, at a minimum, the three most common programs through which consumers qualify for Lifeline." *Order* at ¶ 97; *Further Notice* at ¶ 403. Taking service providers out of the role of deciding whether consumers are eligible for the Lifeline benefit is one of the most common sense changes the Commission can make to this program. As we have said before, it is inappropriate for for-

profit entities that have a financial interest in the outcome to be reviewing private consumer information in order to make a decision about whether that consumer is eligible for a federal public assistance program.[2] Indeed, we can think of no other public assistance program where the for-profit party decides whether a consumer can participate. As the Nebraska Commission stated previously, "there will be some cost involved to develop a national Lifeline database[,] [h]owever, the benefits of having a national 'real time' database which reduces the likelihood of fraud and abuse will far outweigh the costs. . . [A] national database maintained by USAC (or other designated body) with a goal toward 'real time' verification would be more efficient." Nebraska Commission *Lifeline and Link Up Reform and Modernization NPRM* Comments, WC Docket No. 11-42, et al., at 5.[3]

In its *Further Notice*, the Commission requests comment on how to design a Lifeline eligibility database (either on a national or state level) through which Lifeline service providers would validate the eligibility of prospective Lifeline consumers. *Further Notice* at ¶¶ 399-415. For reasons we provide below, AT&T urges the Commission to establish a comprehensive, *national* Lifeline database that will perform several functions. Irrespective of where the underlying consumer information resides, providers should be able to check consumers' eligibility for Lifeline and duplicate status through one, single interface and process that covers all states, DC, and US territories. The Commission should not establish a system in which providers have to utilize one interface and type of process for one state or group of states, and a

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[2] AT&T *Lifeline and Link Up Reform and Modernization NPRM* Comments, WC Docket No. 11-42, et al., at 12 (filed April 21, 2011); AT&T *Lifeline and Link Up Reform and Modernization NPRM* May 10 Reply Comments, WC Docket No. 11-42, et al., at 2-9 (filed May 10, 2011).

[3] *See also id.* ("State-specific information, such as the Lifeline eligibility criteria, should be maintained and added to the national database at the state level").

different interface and process for another state or other groups of states, and yet another system (the National Lifeline Accountability Database) to check whether the requesting consumer obtains Lifeline service from some other carrier. Such a fractured system would be more costly for all parties and would expose the eligibility determination process to the variations in standards and protocols that have plagued the current program.

By contrast, a comprehensive national Lifeline database would efficiently serve three purposes. First, it would enable a Lifeline service provider to check that a requesting consumer is indeed eligible for the Lifeline benefit. Second, it would enable the service provider to check that the consumer is not obtaining the Lifeline benefit from some other provider. And, third, USAC could use information in the database to calculate a Lifeline service provider's reimbursement amount in lieu of service providers submitting monthly reimbursement claims, and thus cut down on the risk of error or fraud while streamlining the reimbursement process. Put differently, a comprehensive national Lifeline database (or information system) should include the functions the Commission contemplates for the National Lifeline Accountability Database and the planned electronic access to eligibility information, together with the necessary data to calculate provider reimbursements.

Ideally, the Commission would create a comprehensive national Lifeline database with the bare minimum information required to enable providers to check whether a requesting customer is eligible for Lifeline using data stored and maintained by other federal agencies or some intergovernmental entity. *Id.* at ¶ 402 (detailing several promising initiatives designed to, among other things, have states aggregate eligibility information for certain public assistance programs into a single database). There are numerous obvious advantages to this approach. First, rather than obtaining consumer-specific information from databases in 50 states, DC, and

US territories and possessions, the Commission's Lifeline administrator would obtain consumer information through just a few federally-administered national databases. Not only would this be dramatically more efficient from both a time and resource perspective, it also would help minimize any security issues associated with the Commission's administrator having to obtain information via 50+ databases. For these reasons, AT&T urges the Commission to prioritize inclusion of consumer information from those qualifying programs for which there is some centralized, including regional (*see id.*, describing a federal grant to southeastern states to aggregate their Medicaid eligibility information into one database), eligibility database, even if those programs are not the three most common programs through which consumers qualify for Lifeline. *Id.* at ¶ 403 (directing the Wireline Competition Bureau to focus first on Medicaid, SNAP, and Supplemental Security Income as the majority of consumers qualify for Lifeline based on their participation in one of those three programs).

In recognition that, at least as of today, most federal eligibility data resides with the states, the Commission requests comment on how to encourage states to "accelerate[] deployment of widespread state databases that can be used or accessed to streamline Lifeline eligibility determinations" or to "facilitate the transfer of state eligibility data to a federal database." *Id.* at ¶¶404, 405. Of these two options, AT&T strongly supports creation of a single, comprehensive national database or information system populated with or linked to eligibility data supplied by the states.[4] Alternatively, state agencies should provide the Commission's administrator access to their relevant databases to determine Lifeline eligibility. A third option

[4] It may be unnecessary for the Commission's national Lifeline database administrator to collect and retain Lifeline-eligible consumer information. Rather, when a Lifeline provider accesses the national Lifeline database to check whether a requesting consumer is eligible for the Lifeline benefit, the national database could, in turn, automatically query the relevant state's database or databases to determine whether that consumer is listed in any of those databases.

would be for the states to consolidate data from multiple state agencies into a single database that could be transferred to or accessed by the Commission's administrator. This administrator, which could be USAC, should bear the cost of ensuring that only a minimal amount of consumer information is incorporated into or accessible via the national Lifeline database (e.g., consumer's full name, residential address, last four digits of the consumer's social security number, and date of birth), and appropriate safeguards are in place so that information is used solely for the intended purpose by both the administrator and Lifeline providers.

Understanding that states, particularly state social service agencies, may have little incentive to participate with the Commission's administrator in information sharing so that the national Lifeline information system administrator can populate the system with Lifeline eligible consumers, the Commission seeks comment on different ways to incent the states to cooperate. *Id.* at ¶¶ 405-06. Included among the suggestions is for the Commission to condition receipt of federal Lifeline funds on state action. *Id.* at ¶ 406. AT&T supports this approach.[5] If the states determine that it is in the best interest of low-income consumers residing in their states to have access to this federal benefit, the states must cooperate by participating in the creation of a comprehensive national Lifeline database. Based on the Commission's research, it appears that other federal agencies have required states to do exactly that for other federal public assistance programs. *Id.* (explaining that "states must, as a condition of receiving federal funds for certain other federal programs, such as Medicaid, participate in national eligibility databases by transmitting beneficiary data to a national database"). The Commission should establish a certain deadline (e.g., January 1, 2013) by which states must inform the Commission whether

[5] We do not agree, however, that the Commission should condition Lifeline support on each state establishing its own Lifeline eligibility database. *Id.* Instead, for reasons we provided above, we urge the Commission to establish a single, national Lifeline eligibility database (and condition Lifeline support on a state's participation in that national database).

they will accept the Commission's terms for continued participation the federal Lifeline program. If the state consents, it agrees either to provide consumer information to the Commission's administrator about consumers in its state who participate in qualifying public assistance programs or to allow the Commission's administrator access to its relevant databases no later than July 1, 2013.

At least one commenter previously raised privacy concerns with the Commission establishing a national Lifeline eligibility database. *Id.* at ¶ 407 & n.1055 (citing a Cincinnati Bell *ex parte* filing). To minimize privacy concerns, AT&T suggests that the Commission's administrator limit service provider access to the least amount of information necessary for a Lifeline provider to verify that a requesting consumer is eligible for Lifeline service *and* not already obtaining Lifeline service from another provider. Lifeline providers should not be permitted to use the Commission's database or any consumer information contained in the database for any purpose unrelated to checking consumers' Lifeline eligibility or for preventing duplications (e.g., no use for marketing or advertising). Moreover, Lifeline providers should not have any access to additional information about these consumers, such as the underlying public assistance programs they participate in, their household incomes, full social security numbers, or the identities of their Lifeline service provider if the consumers are obtaining the Lifeline benefit from some other providers. In fact, as we have explained before, a national database (as described above) would raise far fewer privacy issues than today's program where prospective Lifeline customers are required to mail or present in person personally sensitive documents to the service provider to review.[6]

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[6] Contrary to the views of one commenter, it defies logic that a consumer's information would be more secure if ETCs (or their consultants) had direct access to a state social service agency's consumer

To ensure that consumers understand fully how their information will be used by the national Lifeline database administrator, consumers who apply for Lifeline benefits should be required to consent to having the state certifying agency share that consumer's information with the Lifeline database administrator. This opt-in language should clearly explain what information will be shared (e.g., consumer's full name, address, date of birth, last four digits of the social security number), with whom (i.e., the national database administrator and the Lifeline provider selected by the consumer), for what purpose (to verify that the consumer is eligible for the Lifeline benefit and that the consumer is not already obtaining Lifeline service), as well as the prohibited uses of the consumer's information (e.g., marketing, advertising). The Commission also should consider informing the consumer how long his/her data will be maintained once the consumer no longer qualifies for Lifeline. Additionally, it is important that the national database administrator establish and publish its privacy policy, which should detail how data is collected and maintained, as well as removed once a consumer is no longer eligible for the Lifeline benefit.

Until the comprehensive, national Lifeline database is established, AT&T strongly recommends that the Commission's administrator perform the income and program documentation review and make the initial Lifeline eligibility determinations for consumers who reside in states that do not currently perform this role.[7] In the *Order*, the FCC directed USAC to establish a process so that after 2012, a Lifeline service provider may elect to have USAC

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database than if the state transferred some minimal amount of information about a consumer to the Commission's database administrator. *Further Notice* at ¶ 409 & n.1057 (citing CGM Comments).

[7] *See Further Notice* at ¶ 414.

administer the consumer re-certification process on its behalf.[8] Just as it is appropriate for the Commission's designee – and not private sector entities – to manage annual Lifeline re-certifications for this federal government public assistance program, so too is it for USAC or some other Commission designee to handle the initial eligibility determinations.

B. The Commission Should Require All Lifeline Providers To Obtain Lifeline Reimbursement Directly From The Fund.

Under the Commission's current rules, ILECs are required to provide "Lifeline service at wholesale rates that include[s] the Lifeline discount" to resellers.[9] The Commission's orders are clear that ILECs have this obligation regardless of whether the requesting carrier is an ETC.[10] The Commission now recognizes that its previous interpretation of an ILEC's resale obligations under section 251(c)(4) of the Telecommunications Act of 1996 (1996 Act) has created the opportunity for waste, fraud, and abuse in the Lifeline program. *Further Notice* at ¶¶ 449-50. Such waste or fraud can occur in one of two ways. First, when a non-ETC obtains Lifeline-discounted wholesale service from an ILEC, there is little to no regulatory oversight of that non-ETC under the Commission's current rules. Absent any oversight, federal and state regulators have little assurance that a non-ETC carrier is complying with applicable federal and state Lifeline rules, including ensuring that its end users are eligible for Lifeline and then passing the Lifeline discount through to them. *Id.* at ¶ 450. Second, despite language in wholesale providers' interconnection agreements stating that the wholesale provider will seek direct

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[8] *Order* at ¶ 133.

[9] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd 8776, ¶ 370 (1997) (*First Universal Service Order*).

[10] *See, e.g., id.*; *2004 Lifeline and Link-Up Order and FNPRM*, 19 FCC Rcd 8302, at ¶ 40 (2004). *See also* 47 C.F.R. § 54.417(b) ("Non-eligible telecommunications carrier resellers that purchase Lifeline discounted wholesale service . . . .").

reimbursement from the Fund when a reseller requests a Lifeline-discounted line from the wholesale provider, regulators have no simple means to ensure that the ETC reseller also is not seeking direct reimbursement from the Fund for that same line (*id.* at ¶ 449) short of an audit or a time-consuming investigation, like that performed by Florida Commission staff.[11]

Consistent with one of the goals of its *Order* – to ensure that all Lifeline providers operate under a common set of rules designed to protect consumers and the Fund – the Commission proposes to require all Lifeline carriers to obtain direct reimbursement from the Fund when they provide Lifeline discounts to consumers. *Further Notice* at ¶ 449. Such a requirement would prevent resellers from obtaining Lifeline discounts from their wholesale providers and would facilitate the collection of data necessary for the national Lifeline database, which is designed to protect against future abuses in this program. In its *Further Notice*, the Commission suggests several approaches to implement this requirement. The Commission could reinterpret section 251(c)(4) so that an ILEC's "retail rate" is the rate for the ILEC's voice telecommunications service and does not include the Lifeline discount (*id.* at ¶ 452) or it could forbear, on its own motion, from the requirement in section 251(c)(4) that ILECs offer for resale at wholesale rates "any telecommunications service that the [ILEC] provides at retail." *Id.* at ¶¶

[11] *See, e.g.,* Investigation of Associated Telecommunications Management Companies, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunications carrier, and universal service requirements, Docket No. 100340-TP; Initiation of show cause proceedings against American Dial Tone, Inc. et al., for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC orders, Docket No. 110082-TP, *Memorandum*, at 5 (filed March 29, 2011) (explaining that staff commenced its investigation of ATMS in June 2010); Investigation of Associated Telecommunications Management Companies, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunications carrier, and universal service requirements, Docket No. 100340-TP; Initiation of show cause proceedings against American Dial Tone, Inc. et al., for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC orders, Docket No. 110082-TP, Order No. PSC-11-0259-AS-TP, *Order Approving Settlement Agreement* (filed June 16, 2011).

453-56. AT&T supports both options and believes that the Commission has the authority to adopt either one (or both, in the alternative). We discuss these approaches below.

Reinterpret section 251(c)(4) as it applies to Lifeline discounts. In its *Local Competition Order*, the Commission found that the resale obligation contained in section 251(c)(4) applies to all of an ILEC's retail telecommunications service offerings that the ILEC provides to subscribers who are not telecommunications carriers. *Local Competition Order*, 11 FCC Rcd 15499, ¶ 871 (1996). A year later, the Commission stated that, as part of their obligations under section 251(c)(4), ILECs must make available the Lifeline discount to resellers. *First Universal Service Order* at ¶ 370. Based on the lack of any supporting analysis, this result seems to have been driven by the Commission's desire to ensure that resellers could provide Lifeline-discounted service to eligible consumers. *See id.* (stating simply that "contrary to the fear of some commenters . . . those [carriers] providing service by purely reselling another carrier's services purchased on a wholesale basis pursuant to section 251(c)(4) [] will nevertheless be able to offer Lifeline service"). In fact, the Commission urged the states to "take the steps required to ensure that low-income consumers can receive Lifeline service from resellers" and it committed to "reassess this approach in the future if it appears that the revised Lifeline program is not being made available to low-income consumers nationwide." *Id.* Fifteen years later – post-entry of Lifeline-only ETCs, including prepaid wireless resellers – the Commission obviously need not have any such concern. *See Order* at ¶ 23 (comparing the size of the Lifeline fund at the inception of the program – an inflation-adjusted $582 million – to the estimated $2.4 billion at the end of 2012 absent any of the Commission's so-called savings targets). Indeed, through the action it took in the *Order*, the Commission has made it even easier for a pure reseller to participate directly in the Lifeline program as an ETC. *See id.* at ¶¶ 368-81 (granting blanket

forbearance of section 214(e)(1)(A)'s facilities requirement for all carriers seeking to become Lifeline-only ETCs).

Now that the Commission has removed the statutory impediment to a pure reseller becoming a Lifeline-only ETC, there is no policy reason to continue requiring wholesale providers to offer Lifeline-discounted lines to resellers. In fact, sound policy counsels in favor of requiring resellers that desire to provide Lifeline to become ETCs in their own right, thus ensuring that this class of carrier will finally be subject to federal and state oversight and the same regulations as their facilities-based competitors, which are designed to protect against waste, fraud, and abuse. *Further Notice* at ¶ 452. This action is consistent with the Commission's competitive neutrality principle.[12] It also is consistent with section 251(c)(4) because it preserves a reseller's ability to obtain voice telecommunications service at wholesale rates from the ILEC while enabling the reseller to obtain reimbursement directly from the Fund for providing a Lifeline discount to an eligible customer. *Id.* The Commission need not read section 251(c)(4) so expansively as it did in 1997 to mandate that wholesale providers offer requesting resellers both voice telecommunications service at a wholesale discount *and* the Lifeline discount. Instead, the Commission could reinterpret section 251(c)(4) to require ILECs to provide only the former discount. Such an interpretation would not adversely affect the Act's pro-competitive goals because, as mentioned above, resellers now have the same ability to obtain an ETC designation to participate in Lifeline as their facilities-based competitors.

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[12] *First Universal Service Order* at ¶ 47 ("Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.").

Forbear from section 251(c)(4) to relieve ILECs from any obligation to provide Lifeline discounts to resellers. If the Commission concludes that it cannot reinterpret section 251(c)(4) not to require ILECs to provide Lifeline-discounted lines to resellers, AT&T agrees with the Commission that it should, on its own motion, forbear from section 251(c)(4) for the limited purpose of relieving ILECs of any such obligation. *Id.* at ¶ 453. Blanket forbearance is warranted to minimize or eliminate the significant risks posed to the Fund and consumers by carriers that provide Lifeline service but are subject to little to no regulatory oversight.

We agree with the Commission that it can satisfy the statutory criteria for forbearance set forth in section 10(a). *Id.* First, the Commission can and should find that requiring ILECs to offer Lifeline discounted services under section 251(c)(4) is not necessary to ensure that the charges, practices, classifications, or regulations are just and reasonable and not unjustly or unreasonably discriminatory. 47 U.S.C. § 10(a)(1). Since the Commission issued its blanket forbearance of section 214(e)(1)(A)'s facilities requirement, a pure reseller now has the same ability as a facilities-based provider to participate in the Lifeline program and can obtain reimbursement from the Fund for having provided its end-user customers Lifeline service just like ILECs. For that reason, forbearing from the requirement that ILECs provide resellers with Lifeline-discounted service will have no effect on resellers that comply with the Commission's Lifeline rules – let alone an effect that is unjustly or unreasonably discriminatory.

Second, requiring ILECs to provide resellers with Lifeline-discounted service is unnecessary to protect consumers. 47 U.S.C. § 10(a)(2). In fact, forbearing from this requirement will improve consumer protection because it will force non-ETC resellers to seek a Lifeline-only ETC designation, which, if granted, will subject these carriers to federal and state

oversight.[13] Under today's rules, the Commission has little assurance that non-ETC resellers are passing through the Lifeline discount received by the wholesale provider in full or at all. Additionally, consumers will continue to have access to numerous Lifeline providers, including pure resellers that are Lifeline-only ETCs. *Further Notice* at ¶ 455.

Third, relieving ILECs of having to provide Lifeline-discounted lines to resellers would be consistent with the public interest. 47 U.S.C. § 10(a)(3). We agree with the Commission that limited forbearance from the resale requirement in section 251(c)(4) will improve carrier accountability because it will incent resellers to seek an ETC designation and resellers that are ETCs have direct reporting requirements to the Commission and USAC. By amending its rules to provide direct oversight of all Lifeline providers, the Commission would be better able to enforce compliance with its rules, which ultimately will make the Lifeline program more sustainable in the long run because there will be less waste, fraud, and abuse. And reduced waste, fraud, and abuse in the Lifeline program is, of course, in the public interest. *Further Notice* at ¶ 456. We also agree that, while forbearance may not promote competition in the Lifeline market (*id.*), it certainly will not harm competition in the already competitive Lifeline market. This is particularly true in light of the Commission's new rules, in which non-ETC resellers have an easy ability to become Lifeline-only ETCs. For the forgoing reasons, we believe that the Commission can satisfy the statutory criteria contained in section 10(a) and it

[13] As we have explained in previous filings and which we discuss again, *infra*, we believe the Commission has the authority under section 254(j) to permit non-ETCs to participate in the Lifeline program. AT&T *Lifeline and Link Up Reform and Modernization NPRM* Comments at 6-9; AT&T *Lifeline and Link Up Reform and Modernization NPRM* May 25 Reply Comments, WC Docket No. 11-42, et al., at 5-8 (filed May 25, 2011). Section 254(j) states that nothing in section 254 – including section 254(e), which provides that only ETCs are eligible to receive federal universal service support – shall affect the Commission's Lifeline program. 47 U.S.C. § 254(j). Congress was, of course, aware that, pre-1996 Act, Lifeline service providers were not ETCs. If the Commission agrees with AT&T and establishes a Lifeline provider designation, it and the states could maintain the same regulatory oversight that they have today over ETCs.

should act quickly to forbear from section 251(c)(4) in the manner discussed in the *Further Notice.*

In addition to seeking comment on the Commission's authority to adopt a rule preventing resellers from obtaining discounted Lifeline service from wholesale providers, the Commission requests comment on a number of implementation issues that could arise if it were to adopt such a rule. *Id.* at ¶¶ 458-61. For example, the Commission seeks comment on how it can best ensure continuity of service to current subscribers of resold Lifeline service. *Id.* at ¶ 458. As an initial matter, the Commission should immediately prohibit non-ETC resellers from obtaining Lifeline-discounted lines from ILECs for *new* customers. For a non-ETC reseller's current Lifeline customers, however, AT&T believes that it is appropriate to provide non-ETCs with a reasonable amount of time (e.g., 60 days after the effective date of the final rules) to file an ETC application with the state or the Commission, as appropriate, with a copy to any affected wholesale provider. The Commission should prioritize these ETC applications and commit to acting on them within 30 days. The Commission should encourage states to act in a similarly swift fashion on these applications. If a non-ETC reseller opts *not* to apply for a Lifeline-only ETC designation within 60 days of the effective date of the new rule, then the Commission should require that reseller to notify its Lifeline customers that it is required to cease providing Lifeline-discounted service by a date to be specified by the Commission and these customers must find another Lifeline provider by that date or risk interruption of their Lifeline discount. An additional 60 days is a reasonable amount of time for the reseller to notify its affected customers and for those customers to find another Lifeline provider. After that date, four months after the effective date of the order, resellers should be prohibited from continuing to obtain Lifeline-discounted resold lines from wholesale providers.

The Commission seeks comment on the effect that such a prohibition would have on ILEC tariffs and interconnection agreements (ICAs). *Id.* at ¶ 459. The Commission is correct that ILECs and resellers may have to modify their ICAs, which may currently provide that the ILEC will offer Lifeline-discounted service upon the reseller's request. While the ICA amendment process can be a long and drawn out process (i.e., up to nine months), we believe that this process can occur *after* the Commission has prohibited resellers from obtaining Lifeline-discounted service from ILECs.[14] Many ILECs also will require lead time to amend their tariffs *before* the new rule could become effective. AT&T and others recently filed state-specific tariffing information (e.g., the amount of time required before a tariff change is allowed to become effective) with the Commission.[15] We suggest the Commission account for these state requirements when its sets its effective dates, particularly the date on which resellers would be prohibited from obtaining Lifeline-discounted lines from ILECs for *new* customers.

The Commission also seeks comment on whether it should require ILECs to provide a certification or to comply with some other procedure to ensure that ILECs are not continuing to seek reimbursement for Lifeline lines provided to resellers (*Further Notice* at ¶ 460). Additionally, the Commission requests comment on the best way to ensure that information about consumers who receive Lifeline service from resellers will be entered into the national Lifeline database. *Id.* at ¶ 461. For the first issue, the Commission-proposed revised FCC Form

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[14] In doing so, the Commission could find that, pursuant to 47 U.S.C. § 251(c)(4)(B), the restriction against resale of Lifeline service is not an unreasonable or a discriminatory condition on the resale of a telecommunication service. Additionally, the Commission could amend its rules at 47 CFR §§ 51.605 and/or .613 to expressly state that a restriction on the resale of Lifeline service is permissible so as to eliminate any doubt on the issue. Such a clear and direct holding or rule change could greatly expedite the change of law process involving ILEC/reseller ICAs.

[15] AT&T *USTelecom et. al., Petition for Waiver and Clarification* Comments, WC Docket No. 11-42, et al. (filed March 20, 2012); Letter from Cathy Carpino, AT&T, to Marlene Dortch, FCC, WC Docket No. 11-42, et al. (filed March 22, 2012).

497 will require all filers to certify that they have “obtained a valid certification form for each customer for whom my company seeks Lifeline reimbursement.” A wholesale provider could not make that certification if it was including reseller Lifeline lines in its line counts and so no further certification would be necessary. Until such time as the Commission prohibits resellers from obtaining Lifeline-discounted lines from ILECs, however, the Commission should expressly permit ILECs to continue receiving reimbursement for these reseller lines notwithstanding that certification. For the second issue, AT&T agrees with the Commission that the responsibility for entering a Lifeline customer’s information into the national Lifeline database should lie with the Lifeline retail customer’s service provider. *Id.* In the case of a consumer who obtains Lifeline service from a reseller, it should be the reseller’s responsibility to input that consumer’s information into the database. It would be inappropriate for the Commission to direct the reseller to provide its customers’ information to the wholesale provider so that the latter carrier could, in turn, enter that information into the database. *Id.* Not only would such a requirement unfairly impose costs on the wholesale provider but it would compel the reseller to share its customer-specific information with its competitor.

AT&T urges the Commission to expedite issuing final rules prohibiting resellers from obtaining Lifeline-discounted lines from wholesale providers. Prompt action is warranted in this instance given the Commission-identified risks associated with these Lifeline resellers. *See Further Notice* at ¶¶ 449-50.

C. The Commission Should Permit ILECs To Opt Out Of The Lifeline Program.

Based on the Commission's own data, the majority of Lifeline-eligible consumers prefer wireless Lifeline service.[16] This trend only will continue as all consumers, regardless of their income, increasingly choose wireless over wireline service. *See* AT&T Jan. 24 *Ex Parte* Letter, Attach. at 5 (providing a chart showing that, by December 2012, only 29 housing units out of 100 will have an ILEC voice line). While states designated ILECs as ETCs throughout their service areas, wireless carriers have always had the flexibility to decide whether and where to seek an ETC designation (including a Lifeline-only ETC designation). The flexibility afforded wireless carriers certainly has not resulted in a market failure, where consumers have just one Lifeline provider option – the ILEC. To the contrary, as the Commission recognizes, consumers have "access to Lifeline-supported services from numerous providers," *Further Notice* at ¶ 455, with Lifeline-only ETCs "competing for low-income subscribers." *Order* at ¶ 23.

With this backdrop, AT&T proposed earlier this year that the Commission permit ILECs to opt out of the Lifeline program. *See* AT&T Jan. 24 *Ex Parte* Letter. The Commission requests comment on this proposal and asks "how it might be implemented given the statutory framework for revocation of ETC designations set forth in section 214." *Further Notice* at ¶ 503. AT&T submits that there is no statutory obstacle to the Commission relieving requesting carriers of their obligation to participate in the Lifeline program. The Commission appears to assume that Lifeline providers must be ETCs. But that is not the case. Congress did not mandate that Lifeline service providers be ETCs. Indeed, Congress expressly provided that nothing in section

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[16] *See Order* at ¶ 21 (in 2010, non-ILEC providers received more than half of the Lifeline support), *id.* at ¶ 23 (prepaid wireless Lifeline providers receive more than 40 percent of all Lifeline support). *See also* Letter from Mary Henze, AT&T, to Marlene Dortch, WC Docket No. 11-42, et al., Attach. at 2 (filed Jan. 24, 2012) (AT&T Jan. 24 *Ex Parte* Letter) (the two largest prepaid wireless providers collect more than double the amount of the two largest wireline Lifeline providers).

254 "shall affect" the Commission's preexisting Lifeline program. 47 U.S.C. § 254(j) ("Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program . . . ."). Since sections 254 and 214(e) (which established the ETC designation) were added as part of the 1996 Act, the service providers that had been participating in the Commission's "Lifeline Assistance Program" since the 1980s obviously could not have been ETCs.

Post-1996 Act, the Commission chose, through its rules, to tie participation in its Lifeline program to the ETC designation. *See, e.g.,* 47 C.F.R. § 54.405 ("All eligible telecommunications carriers shall: (a) Make available one Lifeline service . . . per qualifying low-income consumer . . . ."). It could just as easily break that link by amending its rules to permit, not require, ETCs to participate in the Lifeline program. In fact, AT&T suggests that the Commission create a new category of universal service provider – the Lifeline Provider.[17] *See Further Notice* at ¶ 504 (requesting additional comment on AT&T's Lifeline Provider proposal). Lifeline Providers do not need to be ETCs. By using the authority that Congress gave it in section 254(j) to designate Lifeline Providers outside of the ETC process, the Commission could encourage an even greater variety of service providers to participate in the Lifeline program. Expanding the program to include non-ETCs seems essential if the Commission has any hope of eventually making available Lifeline discounts for broadband service.[18] Contrary to the view of two commenters

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[17] AT&T *Lifeline and Link Up Reform and Modernization NPRM* Comments at 6-9; AT&T *Lifeline and Link Up Reform and Modernization NPRM* May 25 Reply Comments at 5-8.

[18] This is the case for the following reasons. Under the Commission's *USF/ICC Transformation Order*, the Commission explained that it would not provide high-cost support awarded under its new Connect America Fund in price cap carrier service areas where an "unsubsidized competitor" is providing broadband service at a certain speed. *See, e.g., USF/ICC Transformation Order*, 26 FCC Rcd 17663, ¶ 170 (2011). Of course, many of these unsubsidized competitors are cable operators who are unlikely to be ETCs. Under the Commission's current rules, which require Lifeline providers to be ETCs, a Lifeline-eligible person residing in an area served by a non-ETC cable operator could never obtain discounted

that opposed this proposal,[19] being a Lifeline Provider, and not an ETC, would not relieve the service provider of regulatory oversight. There is no reason why Lifeline Providers that are not ETCs should not be subject to the same Lifeline regulations as Lifeline Providers that are ETCs.[20]

The Commission asks how it can satisfy its statutory obligation to ensure that low-income consumers in all regions of the country have access to telecommunications and information services in areas where only the ILEC offers Lifeline service and the ILEC has expressed interest in opting out of the program. *Further Notice* at ¶ 503 (citing 47 U.S.C. § 254(b)(3)). While we think such areas will be the exception and not the rule[21] – particularly if the Commission adopts all of the reforms proposed by AT&T[22] –the Commission raises a fair concern. In the event that there is a geographic area where only the ILEC provides Lifeline-discounted service and the ILEC wants to be relieved of its Lifeline obligations, the Commission should consider other solutions, such as issuing vouchers to affected consumers in that area to

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Lifeline service from that cable provider, even if no other entity is providing broadband service in that geographic area. If the Commission adopts AT&T's Lifeline Provider proposal, however, that eligible consumer could obtain Lifeline-discounted broadband service from the non-ETC cable company.

[19] *See Further Notice* at ¶ 504 & n.1227 (citing DC and Nebraska Public Service Commissions comments).

[20] This is in sharp contrast to today's Lifeline program, where non-ETC resellers are able to participate indirectly in the program by obtaining Lifeline-discounted service from their ILEC wholesale providers. As we explained above, under today's rules, these non-ETCs are subject to little to no regulatory oversight. In fact, many (if not most) regulators may be unaware of these non-ETCs' Lifeline activities. If adopted, AT&T's proposal would ensure that all Lifeline providers have a direct relationship with the Commission, USAC, and the states, thus improving provider accountability.

[21] *See, e.g.*, *Order* at ¶ 23 (describing the robust competitive Lifeline marketplace). One Lifeline provider, TracFone, offers Lifeline service in those states where it is a Lifeline ETC everywhere that AT&T Mobility and Verizon Wireless offer service. Combined, these two national wireless carriers currently cover over 99 percent of U.S. households.

[22] *See* AT&T *Lifeline and Link Up Reform and Modernization NPRM* Comments at 6-19.

enable them to obtain Lifeline-discounted service from the provider of their choice. Again, there is no statutory problem with the consumer receiving the Lifeline benefit directly from USAC even though the consumer obviously is not an ETC[23] because, through section 254(j), Congress gave the Commission the flexibility to "distribut[e]" support without regard to the other subsections in section 254.

D. Unnecessary For Commission To Modify Its Prior Interpretation Of The Facilities Requirement In Section 214(e)(1)(A).

In its *Further Notice*, the Commission requests comment on a variety of issues related to its prior interpretation of the facilities requirement in section 214(e)(1)(A). *Further Notice* at ¶¶ 497-501. Section 214(e)(1)(A) provides that an ETC shall "offer the services that are supported by Federal universal service support mechanisms under section 254(c) either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier)." In its *First Universal Service Order*, the Commission concluded that an ETC could satisfy this statutory requirement by reselling another carrier's service while providing at least one of the supported services using its own facilities (*First Universal Service Order* at ¶ 169 ("we conclude that a carrier could satisfy the facilities requirement by using its own facilities to provide access to operator services, while providing the remaining services designated for support through resale")) or it could use its own facilities to provide service to some customers but resell another carrier's service to provide service to other customers in that service area. *Id.* at ¶ 185 ("We recognize that [an ETC] service area cannot be tailored to the natural facilities-based service area of each entrant, and we note that ILECs, like other carriers, may use resold wholesale service or

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[23] *See* 47 U.S.C. § 254(e) ("only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.").

unbundled network elements to provide service in the portions of a service area where they have not constructed facilities.").[24]

As the Commission notes, its prior interpretation of section 214(e)(1)(A) has provided ETCs with "broad flexibility in how they combine the use of their own facilities with the resale of another carrier's service." *Further Notice* at ¶ 498. While some carriers may have abused this flexibility in the past to avoid having to seek forbearance from the facilities requirement in order to provide Lifeline service (*id.*), the Commission should not expect this behavior to continue since the Commission forbore from the facilities requirement for all carriers seeking a Lifeline-only ETC designation. *See Order* at ¶¶ 368-81.[25] It is essential that the Commission maintain this flexibility for traditional ETCs that are evaluating options for how they will offer service in the future.

E. The Commission Lacks The Authority To Use Universal Service Funds For Digital Literacy Initiatives.

The Commission seeks comment on its legal authority to provide universal service support for digital literacy training.[26] In particular, the Commission points to 47 U.S.C. § 254(c)(3), which allows the Commission to support "additional services" "for schools, libraries, and health care providers for the purposes of subsection (h)." Subsection (h) in turn

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[24] *See also* AT&T *TracFone Wireless Petition for Declaratory Ruling* Comments, WC Docket Nos. 03-109, 09-197, CC Docket No. 96-45, at 5-6 (filed Dec. 23, 2010).

[25] We also can think of no financial incentive for a carrier that is interested in providing Lifeline service to seek a facilities-based ETC designation over a Lifeline-only ETC designation. *Further Notice* at ¶ 499. Under the old rules, a facilities-based competitive ETC automatically would be eligible for federal high-cost support but under the revised rules contained in the *USF/ICC Transformation Order*, competitive ETCs must affirmatively apply for Connect America Fund or Mobility Fund support. We believe it is more appropriate to discuss whether there should be a minimum level of facilities that the carrier should own before it may participate in these new support mechanisms in the Commission's *Connect America Fund* proceeding (WC Docket No. 10-90), and not in this *Lifeline* proceeding.

[26] *Further Notice* at ¶¶ 422-23.

directs the Commission "to enhance . . . access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries." 47 U.S.C. § 254(h)(2)(A). The Commission inquires whether, read together, these provisions authorize it to support digital literacy programs.[27] Although digital literacy training is certainly a worthy goal and may be within the prerogative of other federal, state, and/or local governmental entities, this Commission does not have authority to provide universal service support for such training. Doing so would stretch the meaning of "services" as used in section 254(c) beyond the breaking point and, in any event, would not enhance "access" to advanced telecommunications or information services as that term is commonly understood.

That section 254(c) does not extend to digital literacy training is clear from the Fifth Circuit's decision in *Texas Office of Public Utility Counsel v. FCC* ("*TOPUC*"). In that decision, the Fifth Circuit upheld the Commission's authority to designate certain information services and "internal connections" as "additional services" eligible for support under section 254(c)(3), when read in conjunction with subsection (h)(2)(A). *See* 183 F.3d 393, 442-43 (5th Cir. 1999). But in doing so, the court made very clear that the Commission was operating near the bounds of its statutory authority. Indeed, the court noted that it would be more than reasonable to read all the generic references to "services" in sections 254(c) and (h) as relating only to "*telecommunications* services." *Id.* at 440-43. Subsection (c)(1), for example, defines "[u]niversal service" as "an evolving level of *telecommunications* services." *Id.* at 441. And section 254(h) is titled "*telecommunications* services for certain providers." *Id.* Nevertheless, although the court found that "the best reading of the statute [did] not authorize the agency's actions," the court ultimately concluded that the statute was "sufficiently ambiguous" with

[27] *Id.* at ¶ 423.

regard to the specific services at issue that the Commission's interpretation was entitled to deference under *Chevron*. *Id.*

Importantly, all of the "services" at issue in *TOPUC*, even though in some cases properly classified as "information services," related only to the *transmission and transport* of data, as the Commission made abundantly clear in the underlying order. In authorizing support for certain information services, for example, the Commission concluded that it had authority to support the "data links" and other services "necessary to provide classrooms with access" to the Internet. It noted that "these information services are essential for effective transmission services," and that its authority was "broad enough" to reach these goals.[28] But the Commission *specifically declined* to subsidize information content provided over the web not related to the *transmission* of data. *Id.* In the same order, the Commission extended support to intra-school and intra-library internal connections. But again, in doing so, it stressed that "a given service is eligible for support as a component of the institution's internal connection only if that piece of equipment is necessary to transport information all the way to individual classrooms," and "expressly den[ied] support . . . to finance the purchase of equipment that is not needed to transport information to individual classrooms," such as personal computers. *Id.* at ¶¶ 459-60.

If the Commission now concludes that the "additional services" referred to in section 254(c)(3) include services – such as digital literacy training – that are wholly unrelated to the transmission and transport of data, it would eradicate the distinctions it made in the *Universal Service Order* and exceed the outer bounds of its statutory authority as recognized in *TOPUC*. The statutory context makes clear that those "additional services" are primarily telecommunications services and information services, both of which involve a transmission

[28] *First Universal Service Order* at ¶ 441.

component. For example, section 254(h)(2) – which was critical in *TOPUC* – refers only to those two categories of services, as do the other subsections of section 254. And for the very few services falling outside those categories that the Commission has brought under section 254 (those relating to internal connections), the Commission has stressed that they too relate directly to transmission. But if digital literacy training is a "service" that the Commission can fund under section 254, virtually any other service would qualify as well. Indeed, the provision of Internet *content* could be supported under 254, as could personal computers. But these are services that the Commission rightly concluded it could not support in 1997. It should not, and lawfully cannot, reverse that determination now.

Wholly apart from the fact that digital literacy training is not the type of service covered by section 254(c), this Commission lacks authority to use universal service funds to support such training for the additional reason that doing so would not enhance "access" to advanced telecommunications or information services as required by subsection (h). The Commission asks whether "the directive to provide 'access' [should] be understood to include the ability for consumers to use the services *once they have access to them*."[29] This question practically answers itself. To "enhance . . . access" in this context means to promote the availability of, and does not extend to things, such as digital literacy training, that are by their nature only meaningful when the specified services are already available. For this reason as well, the Commission cannot support digital literacy training under section 254.

[29] *Further Notice* at ¶ 423 (emphasis added).

F. Miscellaneous Matters

1. The Commission Should Not Require Lifeline Providers To Apply Lifeline Discounts To Bundles.

In the *Order*, the Commission amended its rules to permit Lifeline providers to offer Lifeline-discounted packages of services or bundles to eligible consumers. *Order* at ¶ 315. It now seeks comment on whether it should require them to do so. AT&T submits that the Commission lacks a record basis for such a requirement at this time. A number of providers previously expressed concerns about being mandated to offer all of their bundles to Lifeline customers because these carriers first would have to modify their billing systems and marketing materials, and re-train customer service representatives.[30] These service providers also may be unwilling to accept the greater risk of nonpayment because bundled customer bills are higher than the bills of customers who purchase only standalone voice service. Additionally, some providers that participate in Lifeline may offer bundles together with another provider, and that second provider may not be an affiliate or an ETC. In that case, applying the Lifeline discount to the voice component may not be a simple matter if, in this example, the ETC is not providing the voice component in the particular bundle.[31] For these reasons, AT&T cautions the Commission not to proceed at this time with a further rule modification that requires Lifeline providers to make available all of their service offerings that have a voice component to their Lifeline customers.

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[30] *See, e.g.*, Verizon *Lifeline and Link Up Reform and Modernization NPRM* Comments at 16-17; Sprint *Lifeline and Link Up Reform and Modernization NPRM* Comments at 18 & n.35.

[31] For example, if the ETC provides bundled service with an unaffiliated wireless provider and, in the particular bundle, the ETC is providing Internet access and video and the unaffiliated wireless provider, which is not an ETC, is providing the voice component, then it is unclear whether the ETC could apply the Lifeline discount to the non-ETC's voice component.

2. The Commission Should Maintain A Nationwide Federal Discount Amount And Factor In Time Required By Carriers To Implement Any Change To That Amount When Setting The Effective Date.

The Commission seeks comment on whether it should maintain a single flat rate of reimbursement or whether it should establish rates that vary by geography. *Further Notice* at ¶¶ 462-73. For the same reasons as AT&T and others urged the Commission to abolish its tiered system of discounts,[32] the Commission should reject requests to establish flat rates that vary by geographic area. The process of determining the "lowest-priced available offering in a particular geographic area" (*Further Notice* at ¶ 463) would be a full-time job for regulators or USAC employees as these rates are likely to change frequently given how competitive the telecommunications market is. It also would be extraordinarily confusing and potentially disruptive to consumers as a consumer's Lifeline support amount could change frequently. Similarly, such fluctuation in the discount amount would be unnecessarily burdensome to Lifeline providers because they may have to amend tariffs, comply with state-mandated or contractual customer notification requirements, and modify billing systems.

If the Commission adjusts the federal Lifeline discount amount sometime in the future, AT&T urges the Commission to factor in the amount of time that carriers require to amend their tariffs, comply with customer notification requirements, and make changes to their billing systems when it establishes the effective date. By providing affected carriers with an appropriate

[32] AT&T *Lifeline and Link Up Reform and Modernization NPRM* Comments at 10-11 (explaining how a flat, fixed dollar discount is easier for consumers to understand because it is consistent across all providers and all areas of the country, and it simplifies implementation by Lifeline providers).

amount of time to implement these changes, the Commission will avoid future petitions requesting the Commission to waive the effective date.[33]

3. The Commission Should Ensure That Participants In Any New Program Added To The List Of Qualifying Assistance Programs Can Be Readily Incorporated Into The National Eligibility Database.

If the Commission concludes that there is a gap in its current list of qualifying public assistance programs, through which participating consumers also may participate in the Lifeline program, AT&T has no objection to the Commission adding a national program to this list as long as participants in that new program can be readily incorporated into the comprehensive national Lifeline database. *See Further Notice* at ¶¶ 483-87 (requesting comment on whether to add the Women, Infants, and Children Program and homeless veterans programs to the Lifeline eligibility list). The Commission has committed to implementing an automated means of determining eligibility by the end of 2013 and so it makes sense to ensure that, on a going forward basis, the requisite information about consumers who participate in any new qualifying program can and will be readily added to the national database.

4. The Commission Should Retain Its Current Record Retention Requirements And Not Extend This Requirement To Ten Years.

For the same reasons provided in USTelecom's petition for reconsideration of the new high-cost support ten-year document retention rule contained in the *USF/ICC Transformation Order*, AT&T opposes the Commission's proposal to require Lifeline providers to maintain

[33] *See* Petition for Waiver and Clarification of the United States Telecom Association, the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, the Western Telecommunications Alliance, and the Eastern Rural Telecom Association, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45 (filed March 9, 2012)

documentation of consumer eligibility for at least ten years.[34] A ten-year document retention requirement goes beyond AT&T's record retention policies for customer records and thus would impose significant maintenance and storage costs on AT&T, particularly since its operating affiliates have over two million Lifeline customers. As USTelecom explains, a ten-year record retention requirement far exceeds the document retention requirements of other federal agencies, including those agencies administering federal grants.[35] Additionally, as the Commission knows, because the Commission's current Lifeline rules require service providers to retain certain Lifeline consumer documentation for long as the consumer obtains Lifeline service from that provider (and then three years thereafter), it is likely that carriers already retain this documentation for many of their Lifeline subscribers much longer than three years and, perhaps, substantially longer. *See* 47 C.F.R. § 54.417(a).

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[34] USTelecom Petition for Reconsideration, WC Docket No. 10-90 *et al.*, at 22-24 (filed Dec. 29, 2011).

[35] *Id.* at 23.

III. CONCLUSION

For the forgoing reasons, AT&T respectfully requests that the Commission adopt our recommendations on, among other things, establishing a comprehensive, national Lifeline database, prohibiting resellers from obtaining Lifeline-discounted lines from ILECs, and permitting ILECs to opt out of the Lifeline program.

Respectfully Submitted,

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