Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION

I. INTRODUCTION

The United States Telecom Association ("USTelecom")[1] is pleased to submit its comments in response to the Commission's Further Notice of Proposed Rulemaking ("Further Notice") in the matter of Lifeline and Link Up Reform and Modernization ("*Lifeline Reform FNPRM").*[2] The Commission has taken important steps to reform and modernize the Universal

[1] USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

[2] *See* Further Notice of Proposed Rulemaking, FCC, *In the Matter of Lifeline and Link Up Reform and Modernization* (WC Docket No. 11-42), *Lifeline and Link Up* (WC Docket No. 03-109), *Federal-State Joint Board on Universal Service* (CC Docket No. 96-45), *Advancing Broadband Availability Through Digital Literacy Training* (WC Docket No. 12-23), Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. February 6, 2012) (*Lifeline Reform Order* and *Lifeline Reform FNPRM*).

Service Fund's Lifeline program, and USTelecom supports much of the Commission's efforts and the reforms adopted in the *Order*, subject to resolution of the issues included in USTelecom's Petition for Reconsideration and Clarification of the *Order*.[3]

II. ESTABLISHMENT OF A NATIONAL ELIGIBILITY DATABASE WILL SUPPORT PRIVACY AND EFFICIENCY GOALS

Establishment of a national eligibility database will vastly improve privacy protections compared to the current system of ETC-administered manual document processing. Centralized retention of information determining the eligibility of low-income households in one database, and removal of the obligation for hundreds of ETCs to collect and retain that data, will significantly diminish the opportunity for the privacy of the information to be compromised. Similarly, one national database to process eligibility is superior for the protection of privacy (as well as for efficiency purposes) to a multiplicity of state databases, each with its own vulnerabilities.

It would be far simpler and more efficient for carriers to interface with one national database than a national database and state databases, particularly for companies that serve several states. There would be one uniform process for determining eligibility, and one source for the information. This would eliminate problems with eligibility determination for households that have moved from one state to another while their eligibility data did not move with them. It would have the same salutary effect on the uploading of information from federal programs relevant to the determination of eligibility.

ETCs should interface with the national eligibility database, not with databases containing information about the participation of households in programs that determine Lifeline eligibility. Having ETCs check program databases would put Lifeline providers back in the

[3] See Petition for Reconsideration and Clarification of the United States Telecom Association, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, filed April 2, 2012.

business of determining eligibility, put private information back in the hands of hundreds of providers, and potentially require ETCs to check several databases instead of just the national eligibility database. It is inappropriate for ETCs to be determining eligibility for what is essentially a government social program. That determination is properly the role of government. As service providers, ETCs should be able to query the national eligibility database and receive a yes or no answer as to whether a household is eligible for the Lifeline discount.

For all the privacy and efficiency reasons noted above, the national third-party administrator, not the ETCs, should examine income and program documentation submitted by end-users and make a determination of eligibility. As the Commission notes, it would relieve carriers from the burden of having to make initial determinations of eligibility and would result in increased standardization of eligibility determinations.[4] It also makes sense for this function to be performed by the same entity that administers the National Lifeline Accountability Database, which the Commission suggests to be USAC.

III. UNIVERSAL SERVICE FUNDS SHOULD NOT BE USED FOR DIGITAL LITERACY TRAINING

Although digital literacy may be an important component of a government effort to increase broadband adoption, it is not appropriate for the Commission to fund and administer such a program. It is premature to address potential funding of digital literacy programs when the Commission has not yet even accepted applications for the broadband pilot programs which will provide needed information on the costs and effectiveness of various strategies to increase broadband adoption. Moreover, there are serious legal concerns about the Commission's authority to fund digital literacy programs. The Commission should have its main focus on

[4] *See FNPRM* at para. 414.

determining the various elements of a Lifeline discount program for broadband and ensuring that such a program is targeted, effective and efficient.

IV. IN SITUATIONS INVOLVING RESALE OF LIFELINE SERVICE, RESELLERS SHOULD BE THE ONLY PARTY ELIGIBILE TO RECEIVE LIFELINE REIMBURSEMENT

USTelecom supports the Commission's proposal to limit the eligibility of Lifeline reimbursement to the ETC reseller that has the direct relationship with the end-user.[5] The Commission is correct that in situations where both the wholesaler and the reseller are ETCs, there may confusion about which entity seeks reimbursement from the Fund for the subscriber. It is problematic both for USAC and for the wholesaler ETC to have a role in reimbursement for the Lifeline discount provided by the reseller. Having the wholesaler and the reseller both recipients of the Lifeline discounts complicates USAC's task of ensuring the accuracy of reimbursement and adds audit concerns for the wholesaler which should not bear any responsibility for the actions of the reseller. It promotes accountability, and is simpler and more efficient, to have the entity with the direct relationship with the end-user be the party that receives the reimbursement from the Lifeline program.

V. IT IS PREMATURE TO RE-EXAMINE THE AMOUNT OF MONTHLY LIFELINE SUPPORT

USTelecom supports the Commission's adoption in the *Lifeline Reform Order* of the uniform $9.25 Lifeline discount. That new discount level is just being implemented. The Commission should gather data as to the impact of that discount on voice penetration before it seeks to change it. Moreover, the Commission has not yet even begun the process that will permit various broadband adoption strategies and discount levels to be tested in the broadband pilot programs. The voice discount level could be affected by the determination of an

[5] *See FNPRM* at para. 451.

appropriate broadband discount, or it could be determined that voice and broadband do not necessarily require distinct discounts. More data needs to be collected on the effect of the changes adopted by the Commission in the Order on voice penetration as well as the information garnered through the broadband pilot program before an optimal Lifeline discount rate and rate structure can be determined.

Further, the Lifeline rate should not be indexed for inflation. It has not been shown that small changes in the Lifeline rate would have an impact on penetration, but frequent changes in the Lifeline rate would be unduly burdensome to ETCs and would cause implementation issues involving state tariffing and unnecessary expenses due to changes to billing systems.

VI. THE LIFELINE DISCOUNT SHOULD BE NOT BE CHANGED AT THIS TIME

The Commission asks several questions about the proper level of the Lifeline discount. The change adopted in the Order to a uniform rate of $9.25 is a great step forward. That rate has not yet even been implemented by all ETCs. There is no immediate reason or need to change that rate or its application.

First, the Commission should not alter its one-per-household rule adopted in the *Order*. Applying the flat discount amount in a way that would provide support for multiple services within a household would be problematic. The suggestions in the *Lifeline Reform FNPRM* that a household be able to split the Lifeline discount across two or more lines would be an administrative nightmare as well as be inconsistent with the purpose of Lifeline support, which is to ensure that the household has *a* connection to the outside world, not *multiple* connections.

Second, from an administration standpoint, supporting two or more lines, which could potentially be provided by two or more ETCs, would multiply the current challenges relating to eligibility and verification. And if the fraction of Lifeline support allocated to each line would

be sufficient to ensure connectivity, the implication is that the full amount of support is unnecessary. The same concerns apply to permitting a household to use the discount for both a wireless and a wireline service. Moreover, creating a complex voice discount will add a further element of confusion to the challenging task of designing an effective and customer friendly broadband discount.

Third, when the Commission completes its evaluation of the broadband pilots, it will then be appropriate to consider how to handle discounts for voice and broadband, and combinations of those discounts. In that regard, it is highly premature to consider reductions to the discount amount for voice to the extent voice becomes a broadband service when the broadband pilot projects have not even been awarded, let alone completed, and data has yet to be generated, gathered and analyzed.

Moreover, given the different ways in which Americans choose to communicate today, the Commission may wish to consider a discount structure which allows maximum consumer choice. For example, the consumer could apply the discount to his or her choice of services, mixing and matching broadband and voice, deciding on the value of mobility, or making personal calculations as to whether a higher texting allowance or more broadband capacity is more important. But there is no compelling reason to address these questions now, given the lack of data on the success of various rate discounts and rate discount structures on the level of broadband adoption.

VII. WIC SHOULD NOT BE ADDED TO THE PROGRAM ELIGIBILITY LIST

The Commission should not add participants in the Special Supplemental Nutrition Assistance Program for Women, Infants and Children (WIC), administered by the U.S. Department of Agriculture, to the list of qualifying federal assistance programs for Lifeline at

this time. The record does not contain sufficient data to determine whether addition of WIC participants would capture additional households in need of Lifeline assistance that are not already covered by the other qualifying programs or the income test. What is known is that addition of another program would entail additional administrative costs, since this would be another program database that would need to be uploaded to the eligibility database, and/or another set of documents that would need to be examined for eligibility and verification purposes. These issues are further complicated by the temporary nature of WIC participation and the difficulties in attaching the benefit to a household when WIC benefits are also available to infants and children. Before adding WIC as a qualifying program, the Commission should gather more data and perform a rigorous cost/benefit analysis.

VIII. ETCS SHOULD BE PERMITTED TO CONTINUE TO ELECT WHETHER TO PERMIT SUBSCRIBERS TO APPLY THE LIFELINE DISCOUNT ON ANY BUNDLE THAT CONTAINS A VOICE COMPONENT

Carriers should be able to continue to elect whether to permit subscribers to apply the Lifeline discount on any bundle that contains a voice component. There is no demonstrated problem that indicates that the heavy hand of a requirement is necessary. The Commission should not interfere with the products offered by ETCs and should allow the market to resolve this issue. There is nothing in the record to indicate that such a requirement would stimulate broadband adoption by low-income individuals. Data could be gathered comparing adoption in states that have such a requirement with those that do not, along with the change, if any, in broadband adoption in both groups since the requirement was adopted. Analysis of such data may enable the Commission to better evaluate this issue in the context of data-driven decision-making.

IX. ILECs SHOULD BE ALLOWED TO CHOOSE WHETHER TO PARTICIPATE IN THE LIFELINE PROGRAM

Wireline telephone companies are no longer dominant providers of voice service and thus should be able to choose whether to participate in the Lifeline program, just as wireless providers do today.[6] The paradigm created in the USF/ICC Transformation Order for high-cost support – that providers affirmatively seek support that is awarded in exchange for service obligations – should also be applied to the Lifeline program. ILECs are required to participate in Lifeline and continue to have Carrier of Last Resort (COLR) obligations while wireless providers are not required to participate and can pick and choose when and where they serve. As has been demonstrated with business plans from wireless companies that are based on the Lifeline discount, the market will provide sufficient incentives for the provision of Lifeline service. Vigorous competition for communications service will ensure that consumers have a Lifeline choice. Applying the requirement to provide Lifeline solely to ILECs is a remnant of a long-gone industry structure in which ILECs were dominant providers. ILECs should be relieved of the obligation to offer Lifeline service.

X. THE RECORD RETENTION REQUIREMENT SHOULD NOT BE EXTENDED

The Commission should reconsider its decision to more than triple the existing record retention requirement from three to ten years for ETCs participating in the Lifeline program. The Commission again bases its ten-year record retention requirement on the False Claims Act. As pointed out by USTelecom in its Petition for Reconsideration of the USF/ICC Transformation

[6] *See* chart attached to ex parte of AT&T, January 24, 2012, which shows that by December 2012, it is estimated that, on average, out of every 100 housing units only 29 will have an ILEC voice line.

Order,[7] the False Claims Act is designed to ferret out fraudulent claims by government contractors, not to increase the recordkeeping expense of government contractors.[8] The costs of maintaining and storing records for ten years is significant – costs that greatly outweigh any purported benefit from having available records during the entire time that a person could assert a hypothetical False Claims Act claim. The ten-year record retention requirement also contravenes the purpose of the Paperwork Reduction Act by maximizing the paperwork burden for USF recipients with little, if any, corresponding benefit.

Moreover, Lifeline benefits are passed through to households, not invested in ETC facilities. As such, they are fleeting, as opposed to being used for investment in physical plant to provide service in high-cost areas. The former record retention requirements – five years for high-cost funding and three years for Lifeline funding – recognized that difference. Both of those periods were appropriate and conformed to the type of funding at issue. The Commission should retain the historically sufficient record retention rules for both high-cost and Lifeline funding, and not impose new and extensive burdensome requirements.

XI. CONCLUSION

The issues raised in the *Lifeline Reform FNPRM* raise important issues with regard to continuing the Commission's reform of the Universal Service Fund's Lifeline program. Several issues, such as establishing a national eligibility database, the questionable wisdom of using universal service funds for digital literacy training, clarifying reimbursement in resale situations, and the unnecessary and burdensome extension of the record retention requirement, can and should be resolved now. Other issues, such as the addition of WIC to the program eligibility list,

[7] cite

[8] *See* 31 U.S.C. §§ 3729-33. The False Claims Act provides in part that "any person who… knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval…is liable to the United States Government for a civil penalty…" 31 U.S.C. § 3729(a)(1)(a).

and particularly those involving the appropriate level of discounts for voice and broadband service, are best decided after there is more information available. The results of the broadband pilots and effect of the new voice rate should help inform Commission decisionmaking. Finally, the Commission should bias towards market solutions with respect to permitting subscribers to apply the Lifeline discount on any bundle that contains a voice component and as to permitting ILECs to choose whether to participate in the Lifeline program.

Respectfully submitted,

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