

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Lifeline and Link Up Reform and |) | WC Docket No. 11-42 |
| Modernization |) | |
| |) | |
| Telecommunications Carrier Eligible for |) | WC Docket No. 09-197 |
| Universal Service Support |) | |
| |) | |
| Connect America Fund |) | WC Docket No. 10-90 |

Comments of WTA-Advocates for Rural Broadband

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EXECUTIVE SUMMARY

WTA and its members support the Commission's goal of modernizing the Lifeline program to address the advanced telecommunications landscape of the 21st Century, and have also been actively participating in the Commission's efforts to modernize its high-cost and E-Rate universal service programs. WTA asks the Commission to design and implement its Lifeline reforms in a manner that does not impose additional burdens and costs upon RLECs and other small service providers, and that does not divert their scarce financial and administrative resources away from their critical ongoing efforts to upgrade the broadband facilities and services available to all of their rural customers. Coordinated Lifeline enrollment with eligible state and Federal programs provides the most efficient and cost effective manner to verify program eligibility, minimize fraud, reduce government costs, and protect consumer privacy.

WTA further notes that there are many aspects of the current Lifeline program the Commission should retain in a 21st Century Lifeline program, including enhanced support for residents of Tribal lands and Lifeline benefit distribution as discounts on consumer bills. The Commission should refrain from imposing additional administrative requirements upon providers that would result in increased costs, particularly to small providers such as WTA's members, with minimal tangible benefit for Lifeline customers. The Commission should also proceed expeditiously to reform the high-cost universal service support mechanism for rate-of-return carriers to enable them to offer stand-alone broadband to all of their customers, including low-income customers, at an affordable rate and refrain from imposing a stand-alone broadband requirement on RLECs until such time as the rate-of-return reforms are effective.

As the Commission proceeds to review and revise the Lifeline program, it should avoid adopting reforms that could be unnecessarily expensive for providers and the Commission to

implement. The Commission should take care to ensure that reforms intended to increase efficiency and reduce fraud and abuse do not inadvertently eliminate or reduce the benefits and successes of the current mechanism and previous reforms (such as requiring Lifeline providers to be Eligible Telecommunications Carriers) that preserve the sustainability and accountability in the Lifeline program.

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Comments of WTA-Advocates for Rural Broadband

WTA-Advocates for Rural Broadband¹ files these comments in response to the Commission’s Second Further Notice of Proposed Rulemaking (“Second FNPRM”) seeking comment on “a fundamental, comprehensive restructuring of the [Lifeline] program.”²

I. INTRODUCTION

WTA’s members are rural local exchange carriers (“RLECs”) that have lengthy and significant experience in providing Lifeline services to low-income households located within their rural service territories. WTA and its members support the Commission’s goal of modernizing the Lifeline program to address the advanced telecommunications landscape of the 21st Century and have also been actively participating in the Commission’s efforts to modernize its high-cost and E-Rate universal service programs. However, they urge the Commission to take into account the fact that RLECs are caught in a squeeze between the need to upgrade their

¹ WTA – Advocates for Rural Broadband (formerly known as “Western Telecommunications Alliance”) is a national trade association representing more than 280 rural telecommunications providers offering voice, broadband and video services in rural America. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities.

² *In re Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42 et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, ¶ 8 (rel. June 22, 2015) (“*Second Lifeline FNPRM*”).

networks to increase broadband speeds and service quality for all of their rural customers (including their low-income customers) on the one hand and a shortage of the financial resources (including capped high-cost support) needed to make the requisite infrastructure investments on the other. Therefore, WTA asks the Commission to design and implement its Lifeline reforms in a manner that does not impose additional burdens and costs upon RLECs and other small service providers and that does not divert their scarce financial and administrative resources away from their critical ongoing efforts to upgrade the broadband facilities and services available to all of their rural customers.

WTA further notes that there are many aspects of the current Lifeline program (such as enhanced support for residents of Tribal lands and distribution of support payments to providers) are worth retaining in a 21st Century Lifeline program. As the Commission proceeds to review and revise the Lifeline program, it should take care to ensure that reforms intended to increase efficiency and reduce fraud and abuse do not inadvertently eliminate or reduce the benefits and successes of the current mechanism.

II. COORDINATED ENROLLMENT WOULD BE THE MOST EFFICIENT AND EFFECTIVE WAY TO DETERMINE LIFELINE ELIGIBILITY

WTA agrees that shifting responsibility for conducting Lifeline eligibility determinations from service providers to trusted third parties constitutes a promising way to administer the Lifeline program more efficiently and cost-effectively while further reducing waste, fraud and abuse. Of the two primary trusted third party options raised in the Second FNPRM – a National Lifeline Eligibility Verifier and Coordinated Enrollment with Other Federal and State Plans – the Coordinated Enrollment approach appears to be far superior. Given that the Commission previously declined to establish a national Lifeline database would be costly and administratively

challenging to pursue,³ the creation and staffing of a substantially new national eligibility verification organization would appear to be prone to similar problems. In contrast, facilitating coordinated Lifeline enrollment via appropriate existing federal and state programs is a more effective and efficient approach with respect to virtually every goal or criterion mentioned by the Commission. These include: (a) encouraging participation by eligible households; (b) reducing administrative costs and minimizing transitional dislocations by leveraging existing eligibility and oversight procedures from correlated benefit programs; (c) encouraging continued and expanded state participation; (d) reducing administrative burdens on service providers; and (e) minimizing waste, fraud and abuse.

a. Coordinated Enrollment More Effectively and Efficiently Encourages Lifeline Usage by Eligible Households.

Given that at least a substantial majority of households qualify for Lifeline service due to their receipt of benefits from one or more federal or state assistance programs,⁴ it makes great sense to allow households to enroll in Lifeline in connection with their participation in associated federal and state programs that already have mechanisms to confirm eligibility. Coordinated enrollment will increase the awareness of eligible households regarding the existence and advantages of the Lifeline program because they can learn about Lifeline while applying for or otherwise dealing with the other benefit programs. Likewise, coordinated enrollment will make

³ See *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, 27 FCC Rcd 6656, ¶ 399 (2012) (“*Lifeline Reform Order and FNPRM*”).

⁴ These programs include Medicaid, Supplemental Nutritional Assistance Program (SNAP), Supplemental Security Income (SSI), Federal Public Housing Assistance, Low-Income Home Energy Assistance Program (LIHEAP), National School Lunch Program’s free lunch program, and Temporary Assistance for Needy Families (TANF). It is not clear to WTA how many households currently eligible for Lifeline would no longer qualify if Lifeline eligibility were limited to those eligible for one or more of a list of federal and state programs for which coordinated enrollment was feasible. It is also unclear to WTA how a separate NLE Verifier would be economically justifiable if coordinated enrollment procedures were cost effective for the substantial majority of Lifeline subscribers. Would it be reasonable and equitable for the Commission to limit Lifeline eligibility to households that are also eligible for federal or state assistance programs with which coordinated enrollment arrangements can be established?

it much more convenient for eligible households to enroll in Lifeline because they can apply for multiple programs with the same application.

In contrast, the use of a National Lifeline Eligibility Verifier (“NLE Verifier”) would require a new and separate set of Lifeline applications that would have to be filled out by the subscriber or service provider and sent to a new and separate location, and that could take significant additional time to process. As least initially, it can be expected that such new and unfamiliar NLE Verifier forms would generate confusion, mistakes and omissions that would delay their completion and processing, complicate and push back the initiation of Lifeline service, and discourage some eligible subscribers from enrolling. Even in the longer term, the filing of all Lifeline applications with a single national agency is far more likely to result in processing bottlenecks and lengthy service delays than a coordinated enrollment program that would distribute Lifeline applications among multiple federal and state agencies that are processing related applications for correlated benefit programs. Finally, coordinated enrollment would protect the dignity and privacy of Lifeline subscribers by limiting the number of entities to which they would be required to disclose their financial circumstances and other personal information.

b. Coordinated Enrollment Would Reduce Administrative Costs and Transitional Dislocations.

By leveraging the existing eligibility and oversight personnel and procedures from associated federal and state benefit programs, coordinated enrollment would significantly reduce administrative costs and eliminate many transitional problems. It makes little sense to establish, train and launch a wholly new and untried NLE Verifier organization when multiple existing federal and state agencies have demonstrated the capability to determine Lifeline eligibility at an incremental cost that is likely to be a fraction of the cost of establishing and operating a wholly

separate new entity. It would appear to entail minimal training and costs to prepare the staffs of correlated federal and state programs to hand out Lifeline literature and answer frequently asked questions about the Lifeline program. Given that eligibility for the associated federal and state programs determines Lifeline eligibility, it would likewise involve minimal incremental costs to add required Lifeline questions to the applications and databases of associated programs, and to add such additional Lifeline matters to the related eligibility investigations. Finally, the participating federal and state agencies would not incur significant incremental costs to notify FCC staff or agents, as well as service providers, of the names and addresses of the households that had been determined to be eligible for their relevant benefit programs and who had elected to enroll in Lifeline as well.

For example, WTA notes that a similar approach has been operating very effectively and efficiently in Idaho where consumers eligible for Lifeline can enroll through their local Department of Health and Welfare office or Community Action Agency. After enrollment, telephone companies are provided a list of consumers that identified themselves as a telephone company's subscriber. The Lifeline provider then reports the number of Lifeline subscribers to the Universal Service Administration Company ("USAC") for reimbursement, and also receives periodic updates of the identities of their Lifeline eligible customers. WTA understands that providers in Idaho find this to be an efficient and effective way to ensure subscriber eligibility without any additional burdens for Lifeline providers. Other states such as Nebraska also conduct enrollment through similar processes involving the state Public Service Commission.

Finally, given that the relevant federal and state agencies already have had application and eligibility determination procedures for their respective programs in place for some time, the coordinated enrollment approach poses little or no need for a substantial transition process or

period which would be required with creation of the new NLE Verifier. Whereas some procedures and arrangements may need to be modified or expanded to accommodate Lifeline considerations, such relatively minor adjustments are far less complicated, disruptive and expensive than the establishment of an entirely new national entity, and can be expected to be made in major part during the ordinary course of operations. Hence, whereas the Commission would need to set a date certain when the participating federal and state agencies would assume complete responsibility for determining customer eligibility, the preceding transition period would not need to be anywhere near as lengthy or complex as a transition to a wholly new NLE Verifier.

c. Coordinated Enrollment Will Encourage State and Tribal Lifeline Participation.

The Commission has recognized that a number of states have proactively established state eligibility databases or other means to verify Lifeline eligibility and has commended these states for making the Lifeline program a prime example of federal-state partnership.⁵ The best way to build off these successful efforts is to preserve and expand the existing coordinated enrollment activities of federal and state agencies that make use of these state projects. In stark contrast, the establishment of a new, nationwide NLE Verifier organization is likely to disrupt some or all of these existing federal-state arrangements and to discourage both participating and non-participating states from making further efforts to upgrade or establish their own Lifeline eligibility databases and procedures. If the Commission wants to increase and expand state participation in the Lifeline and other universal service programs, the approach most likely to succeed is to preserve and expand their existing database and administrative functions and

⁵ *Second Lifeline FNPRM* at ¶ 63.

arrangements and not to create a comprehensive new federal agency that will exert new controls over their activities.

In addition to increasing state participation in the Lifeline program, coordinated enrollment could also facilitate additional participation and broadband deployment on Tribal lands by enabling residents of Tribal areas to more easily access Lifeline benefits that support high-capacity fixed broadband infrastructure that has a necessity for participation in a 21st Century economy.⁶

d. Coordinated Enrollment Will Reduce the Administrative Burdens on Service Providers.

Ideally, a coordinated enrollment process will entail the determination by an appropriate federal or state agency that an applicant household is eligible for its relevant benefit program and the Lifeline program, the notification of the Commission or its agent and the affected service provider of the household's eligibility for Lifeline, and the distribution of subsequent periodic updates indicating the households that remain eligible for the relevant benefit program. This would significantly reduce the administrative burdens and costs of Lifeline service providers.⁷

WTA notes that the current Lifeline support amount of \$9.25 per month (\$111.00 per year) per eligible Lifeline recipient is generally not enough to cover administrative costs, much less the costs of providing service. Billing, collection and recordkeeping expenses eat up most of this amount, particularly for RLECs that handle all administrative aspects of Lifeline

⁶ See, *id.* at ¶ 18; see also Federal Communications Commission, Connecting America: The National Broadband Plan at 338 (2010), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-296935A1.pdf (“Broadband, too, is a modern necessity of life, not a luxury. It ought to be found in every village, in every home and on every farm in every part of the United States.”).

⁷ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17676,17744-45, ¶ 219 (directing establishment of a framework for developing capital and operating expense limitations) (“*USF/ICC Transformation Order and FNPRM*”).

administration in-house and have higher costs than larger Lifeline providers not serving high-cost areas. Because Lifeline support amounts are generally not compensatory,⁸ service providers should not be required to pay for the Lifeline-related operations of either a NLE Verifier or the federal and state agencies participating in coordinated enrollment activities. Any such compensation should be paid by the Commission out of its general budget and funds. Whereas WTA members and other service providers do not seek to profit from the Lifeline program and are willing to provide service to low-income households at compensation below their normal rates and costs, it would be wholly unreasonable and inequitable to require them to pay out their scarce resources to the NLE Verifier or other federal and state agencies that help to administer the Lifeline program.

e. Coordinated Enrollment Will More Effectively and Efficiently Combat Fraud, Waste and Abuse.

The existing federal and state agencies with which coordinated enrollment arrangements would be established already have experienced application processing and investigative staffs and tested procedures. Most have offices and branches distributed throughout the nation and are familiar with many of their program beneficiaries. They are in a much better position to detect waste, fraud and abuse than a new NLE Verifier agency that likely would be concentrated in the Washington, DC region or some other metropolitan area, at least during its early years, and that consequently would lack the local or regional presence and face-to-face investigative capabilities of the existing federal and state agencies. Furthermore, it is highly unlikely that a new NLE Verifier would have the necessary access to state program

⁸ The Commission's rules recognize that providing service can be a cost to providers through lost revenues: "In order to receive universal service support reimbursement, an eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline services." 47 C.F.R. § 54.407(e).

databases to make the necessary verifications, a problem already faced by some existing third-party verifiers operating under the existing structure of the Lifeline program.

III. ANY MINIMUM BROADBAND SERVICE LEVELS OR STANDARDS FOR LIFELINE CUSTOMERS IN RLEC SERVICE AREAS MUST BE CONSISTENT WITH APPLICABLE CONNECT AMERICA FUND REQUIREMENTS

WTA members and other RLECs are struggling to find the capital, loans and high-cost support necessary to invest in the network infrastructure required to provide all of their rural customers with the broadband capabilities necessary to participate in today's economy and society. Whereas FCC Chairman Wheeler and others have already begun talking about broadband standards of 25 Megabits per second ("Mbps") downstream and 3 Mbps upstream, and the Commission has already adopted such a standard for its annual assessment of deployment of advanced telecommunications services, many RLECs are still struggling to deploy the current 10 Mbps downstream, 1 Mbps upstream broadband speed targets of the Connect America Fund ("CAF") rules throughout their rural service areas. Moreover, even when they have upgraded their own networks to meet the 10/1 goal, some RLECs may still be unable to provide their customers with actual 10/1 broadband services unless they can obtain adequate and affordable middle mile capacity and service from third parties.

a. Lifeline Service Standards for RLEC Fixed Broadband Offerings Must Be Consistent with Applicable Connect America Fund Requirements.

WTA members have encountered few problems in providing reasonably comparable voice services to their Lifeline customers and have no objection to providing fixed broadband services to their Lifeline customers that are reasonably comparable to those that they provide to similarly situated customers. However, due to uneven broadband deployment and high broadband construction costs in rural areas, it will be very difficult for the Commission to

develop reasonable and equitable minimum broadband service standards in RLEC service areas. The most practicable approach is to develop Lifeline service requirements that are consistent with the CAF standards applicable to the particular RLEC.

For rural fixed broadband Lifeline service, it makes no sense to look at the kinds of services typically offered or subscribed to in urban areas or by a substantial majority of Americans. When that standard reaches 25/3 Mbps, as it likely will in the near future, many RLECs will not be able to provide that level of service to many of their regular customers or their Lifeline customers. They will not be discriminating against their Lifeline customers; rather, they simply will not have the financial resources to upgrade significant portions of their networks to deploy the fiber-to-the-home (“FTTH”) facilities necessary to offer 25/3 Mbps service to the customers located in such areas.⁹

Location is the most significant factor in all RLEC broadband service determinations, including those with respect to Lifeline customers. Put simply, RLECs and other rural service providers must have a broadband network in place before they can provide service to a particular rural household location, whether or not that household is eligible for Lifeline service. For example, it will matter greatly whether a household requesting fixed Lifeline broadband service is situated along an existing broadband trunk or twenty miles beyond the closest broadband-capable facility. Section 54.308(a) of the Commission’s Rules requires RLECs to construct broadband facilities to a particular customer location only “upon reasonable request.” A request is not considered to be “reasonable” unless the applicable federal and state universal service

⁹ Although there are reports of some companies being able to utilize their legacy copper networks and new engineering techniques to provide service up to 100 Mbps, the viability of such an option rests on the current quality of the copper and the customer’s proximity to the central office. Because many customers in rural areas are located far away from the nearest central office, such techniques are not guaranteed to provide high speeds on a reliable basis to all rural consumers.

support (including Lifeline support) and customer revenues are sufficient to cover the cost to deploy facilities and provide service.

Hence, establishing minimum Lifeline broadband service levels (such as 10/1 Mbps or 25/3 Mbps speeds) is not practicable in rural service areas due to the great variances in construction costs and build-out circumstances. The Commission's rules that impose a "reasonable request" standard for RLEC service to all of their rural customers already recognize this fact. The broadband service levels available in urban areas or subscribed to by a substantial majority of residential customers are of little use or relevance if a potential Lifeline customer has elected (or been forced by circumstances out of the control of his or her service provider) to live miles away from the nearest broadband trunk. The only feasible solution in this circumstance is for the Commission to apply the "reasonable request" rule to determine the availability and level of fixed broadband service that particular Lifeline customers will receive in rural areas.

The "reasonable request" rule will prevent discrimination against Lifeline customers. For example, if a potential Lifeline household is located close to other customers that are currently receiving 10/1 or 4/1 Mbps fixed broadband service, the household's request for the same level of service should meet the "reasonable request" test because the household would be able to be connected with the same broadband facilities as its neighbors via a relatively short and inexpensive drop. In contrast, if the potential Lifeline household is situated in a cluster twenty miles beyond the nearest existing broadband facilities, neither the household nor its neighbors will be able to receive broadband service until the "reasonable request" rule requires the service provider to extend its broadband facilities and services to the cluster.¹⁰

¹⁰ The "reasonable request" rule would also work with respect to both large and small carriers receiving model-based support in rural service areas. As WTA understands, both the Commission's existing model-based support rules for price cap carriers and its developing voluntary model-based support rules for electing rate-of-return carriers, carriers receiving model-based support are required to meet certain annual build-out percentage levels but

b. The Commission Should Not Require Lifeline Providers of Fixed Broadband to Provide Stand-Alone Broadband Services to Lifeline Customers Until Reforms to the Rate-of-Return Carrier Portion of the High-Cost Fund Are in Effect.

In most cases, Lifeline customers can be expected to want both voice and broadband service, and WTA notes that some of its members report having Lifeline voice customers that subscribe to bundled service packages in addition to stand-alone voice service. However, in the instance that a Lifeline customer wants to take voice service from a different service provider than the RLEC from which it wants to take fixed broadband service (such as a cellular carrier), the Commission should not require RLECs to provide stand-alone Lifeline broadband services until it addresses existing stand-alone broadband issues that inhibit availability of affordable stand-alone broadband for all of an RLEC's customers. WTA notes that the "reasonable request" rule could be used to resolve this problem, for if the Lifeline customer declines to take voice service and the RLEC consequently does not get high-cost support for the line, the Lifeline stipend and the customer's payment for the service are not likely to be sufficient to cover the costs to deploy facilities and provide service such that a request for service in those instances would not be "reasonable."

IV. THE COMMISSION MUST CONSIDER THE IMPACT OF INCREASED LIFELINE EXPENDITURES ON PROVIDERS, RATE-PAYERS AND THE FUND

WTA notes that the Lifeline program is currently the only Universal Service Fund ("USF") program that is not subject to a budget or cap. Whereas it may be necessary to remain flexible temporarily until the Commission can determine the demand for broadband as well as voice Lifeline service, there is still a need to monitor the situation very carefully not only to

have the discretion to determine where to build to meet such standards. Given that potential Lifeline households can be located anywhere throughout the annual build-out areas and may not be reached for several years, the "reasonable request" rule would appear to be the only practicable criterion for determining whether a particular Lifeline household can be served at a given time and what level of service is available.

prevent fraud, waste and abuse, but also to protect rate-payers from excessive USF contribution pass-throughs and to preserve the financial sustainability of other important USF programs.

WTA fully supports the availability of quality and affordable voice and broadband service for low-income households. However, it notes that a high-quality, ubiquitous broadband network is required throughout the United States, including throughout high-cost rural areas, in order to connect and serve all households (including low-income households), businesses, schools, libraries and health care facilities. Sufficient high-cost support remains necessary to construct, maintain and operate the rural broadband networks needed to serve Lifeline households and others. Likewise, the E-Rate and Rural Health Care programs remain necessary to serve members of Lifeline households and others.

Certain steps could jeopardize sustainability of the Lifeline program if not thoroughly thought through. For example, eliminating the one-per-household rule would risk substantial Lifeline budget increases without appreciably increasing the number of people having actual access to Lifeline services. Accordingly, the Commission should carefully consider the impact of Lifeline program expansion upon the overall Universal Service Fund budget and associated ratepayer contributions.

V. THE COMMISSION SHOULD NOT ALLOW NON-ETCS TO BECOME LIFELINE PROVIDERS

As the Commission has recognized, its 2012 *Lifeline Reform Order* substantially strengthened protections against waste, fraud, and abuse and improved program administration and accountability.¹¹ The Commission needs to stay the course and not risk backsliding with

¹¹ *Second Lifeline FNPRM* at ¶ 3. See also *Lifeline Reform Order and FNPRM* at ¶ 1 (announcing reforms that “substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund.”).

respect to these successes by taking steps that could increase fraud and reduce accountability in the program. In particular, the Commission should not eliminate the requirement for Lifeline service providers to be eligible telecommunications carriers (“ETCs”) and should not distribute Lifeline benefits directly to consumers rather than to ETCs.

Section 254(e) of the Act continues to require that only ETCs designated under Section 214(e) of the Act are eligible to receive specific Federal universal service support.

Notwithstanding the desires of some entities to end-run or eliminate ETC requirements, ETC designation has not generally been a lengthy, complicated or onerous process. It essentially requires an applicant entity to demonstrate to its state commission (or to this Commission in some instances) that it is a substantial entity rather than a fly-by-night fabrication, it can be expected to provide reasonable and reliable service to the public (including providing access to critical 911 services), and be responsible for compliance with applicable laws and regulations. This is an important element in minimizing waste, fraud, and abuse because it permits states and the Commission to weed out entities that are plainly unqualified to provide reliable service and/or cannot be trusted to operate in a lawful manner.¹² Furthermore, the Commission has long ago made the Lifeline ETC requirements even less burdensome by permitting designation of ETCs for Lifeline purposes only rather than requiring ETCs to offer a broad range of telecommunications services.

ETC designation and ETC receipt of support gives the Commission and its agents a limited and manageable number of entities to supervise and monitor in order to ensure that Lifeline support is used for its intended purposes and in accordance with applicable laws and

¹² Indeed the Commission has previously recognized that “[e]xtending Lifeline/Link-up universal service support to carriers that do not satisfy the requirements for designation as an ETC could serve as a disincentive for other carriers to comply with their ETC obligations.” *Lifeline and Link Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8306, ¶54 (2004) (“*2004 Lifeline Order and FNPRM*”).

regulations. Whereas Lifeline customers already can and do determine from which ETC to take service (and therefore which ETC receives their Lifeline support payments), distributing Lifeline support directly to individual consumers would be likely to create massive oversight and enforcement problems.¹³ Whereas the vast majority of Lifeline customers are honest people, the activities of millions of Lifeline recipients cannot be monitored as effectively and efficiently as the operations of several thousand ETCs, and it is inevitable that some people (and even some Lifeline providers) will deliberately or inadvertently engage in activities that game the system and violate the Commission's Lifeline policies and rules.

For example, how will the Commission stop unscrupulous entities from buying up Lifeline vouchers and debit cards for cents on the dollar from eligible recipients and then reselling them at a profit to non-eligible entities? And how will the Commission monitor and enforce its rule limiting Lifeline support to one stipend per household when individual recipients can have their vouchers and debit cards sent to different addresses than where they actually live?

a. The Commission Should Establish a 6-month Shot-Clock and “Deemed Granted” Approach for ETC and Lifeline-only ETC petitions

Rather than removing the critical oversight and fraud and abuse protections provided by requiring ETC and Lifeline-only ETC designations in order to receive Lifeline support, the Commission should establish a shot-clock for acting on ETC designation and Lifeline-only ETC compliance plans applicable to state entities and the Commission. The Commission previously addressed similar complaints by committing to acting on properly filed ETC petitions within six

¹³ Additional administrative problems can be expected if Lifeline providers are required to implement procedures to accept new methods of Lifeline payment such as dedicated voucher cards or PIN numbers. This could also create an additional layer of complication for consumers for whom Lifeline support does not cover the total monthly price of service, particularly those that elect to receive broadband service. These customers would need to submit payment via methods rather than simply receiving a discount on their bill for the amount of the Lifeline subsidy.

months of the date of filing and encouraging states to commit to the same.¹⁴ The Commission simultaneously sought comment on whether it should adopt a rule requiring that such petitions be acted on within six months or a shorter time.¹⁵ The Commission declined to ultimately adopt such a rule, however, noting that the petitions pending in 2000 had been addressed and seeing no additional need to impose the six-month review requirement at that time.¹⁶ Because there are numerous compliance plans and ETC petitions long pending before the Commission as of mid-July, 2015,¹⁷ setting a time limitation is entirely appropriate and could serve to address most of the concerns raised by non-ETCs seeking to provide Lifeline service.

Establishing a time limitation for states and the Commission to act on petitions and implementing a “deemed granted” approach for petitions not promptly acted on would ensure that petitions from qualified entities seeking to provide Lifeline services do not sit pending before the Commission and states thereby depriving consumers of an additional option for Lifeline service. At the same time it would provide an incentive for states and the Commission to promptly act to ensure that providers of Lifeline service are indeed qualified and provide reasonable and reliable services to Lifeline customers. Such an approach would resolve concerns that the current ETC designation process is too lengthy and prevents providers that are willing to provide Lifeline services from doing so without unnecessarily expanding the number of Lifeline

¹⁴ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, and Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, ¶9 (2000) (“2000 Tribal Lifeline Order”).

¹⁵ *Id.* at ¶ 10.

¹⁶ See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twenty-Fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10958, ¶ 26-27 (“2003 Tribal Lifeline Order”).

¹⁷ See Federal Communications Commission, *Lifeline Compliance Plans & ETC Petitions*, available at <https://www.fcc.gov/encyclopedia/lifeline-compliance-plans-etc-petitions> (last accessed Aug. 31, 2015).

providers and risking additional fraud and abuse in the program that would arise from allowing service providers to offer Lifeline service and receive support without Commission oversight.

VI. CONSUMERS ON TRIBAL LANDS FACE UNIQUE BARRIERS TO AFFORDABILITY AND ACCESS TO BROADBAND JUSTIFYING ADDITIONAL SUPPORT FOR TRIBAL CONSUMERS

a. The Commission Should Retain the Enhanced Lifeline Subsidy for Tribal Lands But Limit Enhanced Support to Facilities-Based Service Providers.

Historically, “[t]he disproportionately lower-than-average subscribership levels on tribal lands are largely due to the lack of access to and/or affordability of telecommunications services in these areas (as compared with cultural or individual preferences that cause individuals to choose not to subscribe).”¹⁸ A lower level of service is available on Tribal lands as compared to consumers nationwide largely due to the high costs to provide service on remote tribal lands and the unique nature of providing service on tribal lands, including jurisdictional issues that make it more difficult to obtain proper permissions to construct broadband networks. The combination of the high cost to provide service in remote areas and household income levels in Tribal areas that are well-below the national average continue to support the Commission’s decision to provide an enhanced level of Lifeline support for Tribal residents and the conclusion “that a substantial additional amount of support is needed to have an impact on subscribership.”¹⁹

Indeed, in adopting the enhanced Lifeline and Link Up support for Tribal residents, the Commission previously noted that “the significantly lower-than-average incomes and subscribership levels of members of federally-recognized Indian tribes warrant ... immediate action to increase subscribership and improve access to telecommunications on tribal lands.”²⁰ The Commission has likewise recognized that “tribal members appear to spend a significantly

¹⁸ 2000 Tribal Lifeline Order at ¶ 20.

¹⁹ *Id.* at ¶ 44.

²⁰ *Id.* at ¶ 28.

higher proportion of their incomes on telecommunications services than do other Americans [and] low-income tribal members' services may be more likely to be disconnected[.]”²¹ The Commission has also recognized the link between the potential customers' ability to pay with incentive for providers serve Tribal customers, expressing the belief that “the availability of enhanced federal support for all low-income individuals living on tribal lands will maximize the number of subscribers in such a community who can afford service and, therefore, make it a more attractive community for carrier investment and deployment of telecommunications infrastructure.”²² Each of these considerations remains relevant today and supports the continued retention of enhanced Lifeline support for Tribal Lifeline customers, as well as retaining Tribal programs on the list of programs that make consumers eligible for Lifeline so as to avoid eliminating Lifeline eligibility for Tribal consumers.

The Commission seeks comment on narrowly tailoring enhanced Lifeline support to ensure that it supports the deployment of infrastructure.²³ The Commission has previously found several reasons that facilities deployment on Tribal lands is more difficult, including “(1) the lack of basic infrastructure in many tribal communities; (2) a high concentration of low-income individuals with few business subscribers; (3) cultural and language barriers where carriers serving a tribal community may lack familiarity with the Native language and customs of that community; (4) the process of obtaining access to rights-of-way on tribal lands where tribal authorities control such access; and (5) jurisdictional issues that may arise where there are questions concerning whether a state may assert jurisdiction over the provision of

²¹ *Id.* at ¶ 51.

²² *Id.* at ¶ 30.

²³ *Second Lifeline FNPRM* at ¶ 158.

telecommunications services on tribal lands.”²⁴ However, low levels of deployment are and have been directly correlated to historically lower levels of employment and household incomes on Tribal lands, and the Commission should not lose sight of this important factor when reforming the Lifeline program.

According to the Commission, nearly two-thirds of enhanced Tribal support currently goes to non-facilities based Lifeline providers.²⁵ By definition, non-facilities-based ETCs do not invest in deploying broadband facilities in order to provide service. In order to support the goal of incentivizing broadband infrastructure deployment on tribal lands and to help resolve the issue of availability of broadband services, the Commission should adopt its proposal to limit enhanced Tribal Lifeline and Link Up support only to those Lifeline providers who own and operate broadband-capable facilities.²⁶ For several years, there has been an increased focus on broadband deployment at the Commission. Limiting enhanced support to high-cost support recipients and/or facilities-based providers would encourage broadband buildout to Tribal lands and would be a better use of enhanced program dollars. Enhanced Tribal Lifeline support in combination from the additional participation enabled by coordinated enrollment would support broadband deployment to all Americans.

Regarding oversight of such a rule, certification contained in an annual submission of FCC Form 481 would be sufficient to determine whether a Lifeline provider was deploying, building, and maintaining infrastructure on tribal lands.²⁷ High-cost support recipients such as WTA’s members are already required pursuant to the 2011 USF/ICC Transformation Order to

²⁴ *2000 Tribal Lifeline Order* at ¶ 32.

²⁵ *Second Lifeline FNPRM* at ¶ 166, n.320.

²⁶ *Id.*

²⁷ *Id.* at ¶ 168.

file annually the FCC Form 481 as a condition of receiving high-cost support.²⁸ Furthermore, high-cost support recipients continually invest in network upgrades and deployment in order to provide broadband services and obtain universal service support and are subject to build-out obligations that necessarily require investment in building and maintaining broadband infrastructure. If the Commission were to adopt a facilities-based approach (while not requiring a provider to receive high-cost universal service support), the Commission should require that such providers submit certifications that they are building or maintaining broadband-capable infrastructure in order for their Lifeline customers to receive enhanced support.

b. The Commission Should Not Eliminate Enhanced Support for More Densely Populated Tribal Areas Because Conditions Warranting Enhanced Support Still Exist Even in More Densely Populated Tribal Areas.

Although more densely populated areas might be less costly for a provider to deploy facilities to and serve, eliminating enhanced support for tribal residence in more densely populated areas as proposed²⁹ (such as those with greater than 10,000 inhabitants) would be contrary to the goals of the overall Lifeline program to assist in providing affordable telecommunications services to consumers that need the assistance. Low-income levels pose a major barrier to telecommunications service for residents of Tribal lands regardless of the density of the surrounding area, and the Commission recognizes that Tribal consumers spend substantially more of their income on telecommunications than other Americans.

Retaining enhanced support is a critical component to meeting the affordability needs for Lifeline-eligible consumers regardless of the population density in the surrounding areas, particularly for consumers living on Tribal lands – regardless of whether they be in Alaska and

²⁸ ETCs receiving high-cost support are subject to enhanced reporting requirements pursuant to the USF/ICC Transformation Order, requiring the annual filing of FCC Form 481. *See* 47 C.F.R. §§ 54.313 and 54.422 (requiring filing of Form 481 for ETCs that receive low-income support).

²⁹ *Second Lifeline FNPRM* at ¶ 170.

other similarly unique Tribal areas that might have an increased population density but have substantially higher costs for providers to deploy facilities to and serve as demonstrated by the low number of facilities-based providers in those areas as compared to similarly dense non-Tribal or urban population centers. Furthermore, the cost of providing service includes not only deployment of the immediate local network but also middle mile transport costs that vary across the country, particularly for providers serving rural and remote Tribal communities. These factors, in addition to the historically lower income levels in Tribal communities, support retaining enhanced Lifeline support for Tribal consumers regardless of the population density in the immediately surrounding area.

VII. MISCELLANEOUS ISSUES

a. A 24-hour Customer Service Requirement is Entirely Unnecessary At This Time and Concerns Relating to the Inability For A Consumer to De-Enroll Can Be Addressed With The Proposed 5-day De-Enrollment Requirement.

Most RLECs and other small ETCs likely do not have customer service representatives available on a seven days per week, 24 hours per day basis to address billing issues or to handle Lifeline enrollments and de-enrollments. Whereas most RLECs have technicians and others on call around the clock to handle service outages and other major emergencies, non-emergency issues such as billing and Lifeline-related questions are handled during regular business hours by live customer service staff. Currently, customers generally leave a non-emergency message with the RLEC's answering service and receive a call back the next business day to discuss and process their questions and requests.

The cost of having customer service staff available on a 24 hours-a-day basis to process de-enrollment requests would greatly outweigh the benefits thereof, particularly if the Commission were to adopt a requirement that a provider verify a customer's identity via Social

Security Number or photo identification prior to de-enrollment as proposed in the Second FNPRM.³⁰ Lifeline providers would need to have customer service staff available at all times or to invest limited available capital in establishing an automated process to guarantee a customer's identity prior to processing the customer's request. In addition to the increased additional burden on service providers, such a requirement would exacerbate consumer privacy and security concerns that stem from disclosure of a Social Security Number or other sensitive personal information.

Staffing a 24-hour customer service number with live representatives to accommodate de-enrollment requests would require substantial additional resources. For example, for one WTA member that receives approximately \$9,000 in annual Lifeline payments states that providing a 24-hour customer service support for Lifeline de-enrollment would cost approximately \$50,000 per year. In light of the limited benefit and substantial cost of such a proposal, particularly for small RLECs that do not have customer service support on a 24-hour basis, requiring providers to process de-enrollment requests within a five business-day window would suffice to address the Commission's concerns regarding potential delays in carriers responding to de-enrollment requests.³¹

b. The Commission Should Adopt Universal Consumer Certification, Recertification and Household Worksheet Forms.

Although many providers have created their own enrollment applications, adoption of a universal consumer certification, recertification and household worksheet forms would serve to simplify the enrollment and recertification process for small ETCs that handle those administrative tasks in-house. Establishing universal forms would eliminate the need for

³⁰ *Id.* at ¶ 152.

³¹ *Id.* at ¶ 153.

Lifeline providers to spend resources ensuring that their forms are compliant with all Lifeline requirements. Such an approach would save critical resources, including employee time and money on compliance consultants, which could better be spent in upgrading and deploying broadband facilities, particularly in rural service areas. The Commission would not need to complete all Lifeline reforms prior to implementing universal certification forms, however it could need to reconsider the necessity of such forms if providers were entirely removed from the enrollment and re-certification process through coordinated enrollment or similar enrollment approach.

c. The Commission Should Not Adopt Additional Certification Requirements, Particularly If a Third-Party Verification or Coordinated Enrollment System Is Established.

At current support levels most RLECs offer Lifeline service at a net financial loss due to the administrative costs of providing Lifeline services. Establishment of a NLE Verifier or coordinated enrollment approach would reduce some of the administrative obligations and costs of Lifeline providers. Requiring additional training and certification as proposed would be counter-productive, particularly if one of the intended goals of reforms in this proceeding is to remove burdens on Lifeline providers and reduce and/or eliminate their role in administration of the Lifeline program. For example, if a coordinated enrollment approach were adopted, such records could be easily audited and providers would still be required to certify their submissions to USAC for reimbursement. Requiring additional certifications of providers such as RLECs that are already heavily inundated with certification, training and audit requirements would constitute an additional administrative burden that would divert resources that could otherwise be used more effectively and efficiently to deploy broadband facilities to all customers (including Lifeline customers) in rural areas.

VIII. CONCLUSION

WTA and its members support the Commission's goal of modernizing the Lifeline program to address the advanced telecommunications landscape of the 21st Century. WTA asks the Commission to design and implement its Lifeline reforms in a manner that does not impose additional burdens and costs upon RLECs and other small service providers and that does not divert their scarce financial and administrative resources away from their critical ongoing efforts to upgrade the broadband facilities and services available to all of their rural customers. Coordinated Lifeline enrollment with eligible state and Federal programs provides the most efficient and cost effective manner to remove verification of program eligibility from Lifeline providers. Facilitating coordinated enrollment would reduce fraud and abuse in the program, does not require creation of a new Federal agency, and is also most consistent with consumer privacy expectations.

There are also many aspects of the current Lifeline program the Commission should retain in a 21st Century Lifeline program, such as enhanced support for residents of Tribal lands and Lifeline benefit distribution as discounts on consumer bills rather than via a voucher system. The Commission should also proceed expeditiously to reform the high-cost universal service support mechanism for rate-of-return carriers to enable them to offer stand-alone broadband to all of their customers, including low-income customers, at an affordable rate and refrain from imposing a stand-alone broadband requirement on RLECs until such time as the rate-of-return reforms are effective.

The Commission should take care to ensure that reforms intended to increase efficiency and reduce fraud and abuse do not inadvertently eliminate or reduce the benefits and successes of the current mechanism and previous reforms—such as not permitting Lifeline participation for

carriers that have not acquired ETC designation—that preserve the sustainability and accountability in the Lifeline program. As the Commission proceeds to review and revise the Lifeline program, it should avoid adopting reforms that could be unnecessarily expensive for providers and the Commission to implement and avoid adopting additional administrative requirements for providers that divert limited resources away from broadband investment and deployment.

Respectfully Submitted,

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