

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**Petition for Reconsideration of  
WTA – Advocates for Rural Broadband**

Pursuant to 47 U.S.C. § 405<sup>1</sup> and Section 1.429 of the Commission’s Rules,<sup>2</sup> WTA – Advocates for Rural Broadband<sup>3</sup> (“WTA”) files this Petition for Reconsideration in response to the Commission’s Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking,<sup>4</sup> which was formally noticed in the Federal Register on December 27, 2019.<sup>5</sup>

In its Fifth Report and Order (“Report and Order”), the Commission, among other things, codified recent USAC policy that requires all Eligible Telecommunications Carrier (“ETC”) enrollment representatives to register with a Universal Service Administrative Company

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<sup>1</sup> 47 U.S.C. § 405.

<sup>2</sup> 47 C.F.R. § 1.429.

<sup>3</sup> *WTA - Advocates for Rural Broadband* is a national trade association that represents more than 340 rural telecommunications providers offering voice, broadband, and video-related services in rural America. Its members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities.

<sup>4</sup> Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket Nos. 09-197, 11-42, 17-287, rel. Nov. 14, 2019, (“Report and Order”).

<sup>5</sup> 84 Fed. Reg. 71338, published Dec. 27, 2019.

(“USAC”) database, known as the Representative Accountability Database (“RAD”), in order to access USAC’s Lifeline systems for customer “enrollment, benefit transfers, subscriber information updates, recertification, and de-enrollment.”<sup>6</sup> Enrollment representatives not registered with the database will be unable to access USAC’s Lifeline systems. In order to verify the identity of ETC enrollment representatives at registration, the Commission allowed USAC to collect personal information from representatives including their first and last name, date of birth, the last four digits of his or her social security number, personal email address, and residential address in order to verify the identify of each representative.<sup>7</sup>

WTA recognizes that all enrollment representatives will be required to register by March 26, 2020.<sup>8</sup> However, WTA members remain concerned that enrollment representatives will be unwilling to provide such private information to USAC, impacting the quality of employees they can hire and retain. Therefore, WTA respectfully requests the Commission to reconsider:

1. Its decision to apply the same registration requirements to enrollment representatives directly employed by facilities-based ETCs despite the lack of evidence of waste, fraud, and abuse committed by enrollment representatives directly employed by facilities-based ETCs.

As an alternative, the Commission should collect less intrusive information from enrollment representatives of facilities-based ETCs, which would still enable the Commission to track down waste, fraud, and abuse in the rare instances it occurs.

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<sup>6</sup> Report and Order at ¶ 78.

<sup>7</sup> Id. at ¶ 81.

<sup>8</sup> Adoption Period, Universal Service Administrative Co., last accessed January 21, 2020, <https://www.usac.org/lifeline/additional-requirements/rad/adoption-period/>.

## STATEMENT OF INTEREST

Section 1.429 of the Commission’s Rules allows “an interested party” to petition for reconsideration of a final action by the Commission.<sup>9</sup> The Commission’s decision to codify the registration requirement in a Report and Order represents a final action by the Commission. WTA is also an “interested person” under the rules. WTA represents 340 small rural local exchange carriers (“Rural LECs”) whose enrollment representatives will be required to register with the new database by providing personally identifiable information to USAC. WTA has also engaged in this proceeding and raised concerns about the applicability of the database to its members.<sup>10</sup>

### **THE COMMISSION FAILED TO IDENTIFY ANY FRAUD COMMITTED BY ENROLLMENT REPRESENTATIVES DIRECTLY EMPLOYED BY FACILITIES-BASED ETCs AND YET WILL REQUIRE THEM TO REGISTER WITH THE DATABASE**

The Commission’s Report and Order is replete with documented cases of waste, fraud, and abuse in the Lifeline program.<sup>11</sup> In 2005, the Commission began forbearing the requirement that all Lifeline carriers must be facilities-based providers, and by 2005, it had granted conditional forbearance to all providers seeking “limited designation to participate in the Lifeline program.”<sup>12</sup> The Commission noted that these decisions resulted in large spending increases in the program<sup>13</sup> as well as increased the amount of waste, fraud, and abuse.<sup>14</sup> Understandably, the

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<sup>9</sup> 47 C.F.R. § 1.429.

<sup>10</sup> Ex parte of WTA – Advocates for Rural Broadband, WC Docket Nos. 09-197, 11-42, 17-287, filed Aug. 19, 2019.

<sup>11</sup> Report and Order at ¶¶ 6-10.

<sup>12</sup> Id. at ¶ 4.

<sup>13</sup> Id.

<sup>14</sup> Id. at ¶ 5. “Notably, the Improper Payment Rate for the Lifeline Program is high (18.47%), making the program an outlier among USF programs.”

Commission has taken several steps to combat this waste, fraud, and abuse including the creation of the National Lifeline Accountability Database (“NLAD”) and the National Verifier.<sup>15</sup>

Specific to this matter, Chairman Ajit Pai stated in a 2017 letter to USAC that Lifeline sales agents are “the primary drivers of inappropriate data manipulation” in the program and instructed USAC to require registration of sales agents in order for USAC to verify the identity of the agents as well as the ETC he/she works for.<sup>16</sup> Chairman Pai further stated that registration would be required by an agent before he/she would be able to access the NLAD system.<sup>17</sup> In 2019, the Commission’s Inspector General largely echoed these concerns and described in detail how sales agents of Lifeline-only ETCs have mislead USAC and the Commission – including submitting to USAC multiple variations of a single Lifeline customer’s name.<sup>18</sup> USAC thus created the RAD, and now with Commission approval, all Lifeline system transactions will require a representative ID by March 26, 2020.<sup>19</sup>

Before the Commission approved the Report and Order, WTA, as well as several other parties,<sup>20</sup> stressed their concerns that this new registration requirement would be inappropriately placed on direct employees of ETCs. WTA argued that its members’ enrollment representatives are not a source of the waste, fraud, and abuse, which the Commission seeks to end. This is due to the fact that their enrollment representatives are by nature different than those employed by a

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<sup>15</sup> Id. at ¶ 14-25.

<sup>16</sup> Letter from Ajit V. Pai, Chairman, FCC, to Vickie Robinson, Acting CEO and General Counsel, USAC, July 11, 2017, at 4.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> *supra* FN 8.

<sup>20</sup> Ex parte of ITTA, WC Docket No. 17- 287 et al., filed on July 24, 2019, at 2; Ex parte of USTelecom – The Broadband Association, WC Docket No. 17- 287 et al., filed on July 3, 2019, at 2; Ex parte of NTCA – The Rural Broadband Association, WC Docket No. 17- 287 et al., filed on July 24, 2019, at 1; Ex parte of TCA, Inc., WC Docket No. 11-42, filed on July 19, 2019, at 1; Ex parte of Sprint, WC Docket No. 17- 287 et al., filed on Aug. 14, 2019, at 2-3.

wireless reseller with a Lifeline-only ETC designation or a sales agent working for multiple wireless resellers.

Lifeline customers constitute a small fraction – generally at most 3% – of the customers of WTA members and other rural local exchange carriers. In fact, Lifeline enrollment representatives for WTA members are known more generally as “customer service representatives.” These customer service representatives have many other duties and responsibilities with respect to the general customer base, and devote only a small fraction of their work time to Lifeline enrollment and other Lifeline-related matters. They do not work on commission or have sign-up quotas, and hence, lack any significant incentive to commit the types of fraud described by the Commission and the Inspector General.

As part of their ETC obligations, WTA members and other Rural LECs are required to offer and advertise Lifeline service. However, because Lifeline service is viewed by most Rural LECs as a community service rather than a profit center, they do not aggressively sell it to their customers in the same manner that carriers with Lifeline-only ETC designations do. WTA members and other Rural LECs do not task their customer service representatives with finding new Lifeline subscribers (or general subscribers for that matter), and they do not use enrollment quotas or pay sales commissions that would encourage their customer service representatives engaged in Lifeline enrollment activities to provide erroneous, inflated, dishonest, or fraudulent information. Instead, Rural LEC customer service representatives assist customers when they contact the company for a variety of types of assistance including ordering of new or changed services, outages and service malfunctions, and billing and payment questions and issues. On occasion, a new or current customer requests a Lifeline benefit and/or is identified as potentially eligible for the program, and the customer service representatives simply submit the required

documentation to USAC and let USAC make a determination. However, the new RAD requirement treats these enrollment representatives as if enrolling and managing Lifeline customers is their sole work responsibility – an important factor that differentiates them from sales agents.

In its Report and Order, the Commission declined proposals to have direct ETC employees provide a less intrusive level of personal information as sales agents not directly employed by an ETC. In its analysis, the Commission cited identity verification concerns and also noted that it “has documented apparently fraudulent practices executed by direct ETC employees.”<sup>21</sup> Here, the Commission referred to the 2016 Notice of Apparent Liability for Forfeiture and Order where it fined wireless Lifeline reseller Total Call Mobile, Inc. \$51 million for “apparently enrolling tens of thousands of duplicate and ineligible consumers into the Lifeline program.”<sup>22</sup> The Commission noted that there were “actions by ETC employees, such as overriding initial rejections or disguising defective eligibility information, to assist sales agents with the submission of apparently fraudulent Lifeline enrollments.”<sup>23</sup>

However, the Commission fails to note that Total Call Mobile was a Lifeline-only ETC that viewed Lifeline subscribers as its predominant source of business.<sup>24</sup> By its nature, it was going to behave differently in relation to the Lifeline program and should have been regulated differently to ensure that it was incapable of committing waste, fraud, and abuse within the program. This differs from WTA members and other facilities-based ETCs where Lifeline

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<sup>21</sup> Report and Order at ¶ 83.

<sup>22</sup> Press Release, FCC Charges Total Call Mobile With Overbilling The Lifeline Program, Plants \$51 Million Fine, rel. April 7, 2016, <https://www.fcc.gov/document/fcc-plans-51-million-fine-lifeline-program-abuse-0>.

<sup>23</sup> Report and Order at FN 233.

<sup>24</sup> Total Call Mobile NAL, 31 FCC Rcd at 4199, at ¶ 12, rel. April 7, 2016.

customers represent a small fraction of their total customer base and the Lifeline Program is not viewed as a sustaining profit source.

As WTA noted previously, there have been no documented cases of Lifeline waste, fraud, and abuse committed by Rural LEC customer service representatives performing relatively limited Lifeline enrollment activities (or enrollment representatives of other facilities-based ETCs for that matter). Even while the Commission investigates Sprint for violation of the “non-usage” rule,<sup>25</sup> WTA notes that it appears Lifeline enrollment representatives and/or customer service representatives would have had no involvement in the alleged waste, fraud, and abuse that was discovered by the Oregon PUC.<sup>26</sup>

Therefore, WTA requests that the Commission reconsider its decision to place current Lifeline RAD registration requirements on customer service representatives/enrollment representatives directly employed by Rural LECs and other facilities-based ETCs who perform limited Lifeline enrollment functions. This seems appropriate when considering the lack of a documented history of Lifeline waste, fraud, and abuse with respect to such customer service representatives when compared to Lifeline sales agents and enrollment representatives employed by wireless resellers with a Lifeline-only ETC designation. WTA suggests the alternative of USAC collecting less intrusive information such as the employee’s name or worker ID number, work telephone, work email, and work mailing address.

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<sup>25</sup> Press Release, FCC Learns That Sprint Received Tens of Millions in Lifeline Subsidies—But Provided No Service, rel. Sept. 24, 2019, <https://www.fcc.gov/document/sprint-received-lifeline-subsidies-885000-inactivesubscribers>.

<sup>26</sup> Press Release, FCC Recognizes Oregon PUC for Reporting Potential Sprint Lifeline Subsidy Issue, Oregon Public Utility Commission, rel. Sept. 24, 2019, <https://www.oregon.gov/puc/news-events/Documents/PR-201908.pdf>.

## CONCLUSION

WTA remains concerned that the registration requirements in their current form will negatively impact the operations of their members' companies. As such, WTA requests that the Commission reconsider its decision to place current registration requirements on enrollment representatives directly employed by facilities-based ETCs and requests that it consider less intrusive alternatives.

Respectfully submitted,

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