

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
LIFELINE AND LINK UP REFORM AND MODERNIZATION)	WC Docket No. 11-42
)	
TELECOMMUNICATIONS CARRIERS ELIGIBLE FOR UNIVERSAL SERVICE SUPPORT)	WC Docket No. 09-197
)	
CONNECT AMERICA FUND)	WC Docket No. 10-90
)	
)	

REPLY COMMENTS OF ITTA

ITTA – The Voice of Mid-Size Communications Companies (“ITTA”) hereby submits its reply comments in connection with the June 22, 2015 *Second Further Notice of Proposed Rulemaking* (“*FNPRM*”) issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceedings.¹

I. THE COMMISSION SHOULD NOT EXPAND THE LIFELINE PROGRAM UNTIL IT ADDRESSES USF CONTRIBUTION REFORM

The record in this proceeding suggests support for expansion of the Lifeline program to include broadband services. While it makes sense for the Commission to explore modernizing the Lifeline program, including by expanding the program to include support for broadband services, ITTA maintains that the Commission should first take steps to strengthen fiscal controls for the program to ensure that public resources are being managed in an effective and efficient manner that advances the public interest.

¹ *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, *Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order*, FCC 15-71 (rel. June 22, 2015) (“*FNPRM*”).

Other commenters agree. As TracFone points out, “[a] major change in the scope of supported services will require changes to the manner and level in which the USF is funded.”² If the range of services to be supported by universal service programs is to be expanded to include broadband, then “there must be resolution of the scope of the USF and how the USF is to be funded.”³ In other words, the Commission must “address [the] USF contribution methodology” and “consider appropriate ways to broaden the funding base if greater USF resources will be needed to expand the scope of USF-supported programs.”⁴

Moreover, as the New York Public Service Commission (“NYPSC”) observes, “it is becoming harder and harder to justify the current regime where only voice customers contribute to the federal USF.”⁵ In today’s marketplace, consumers are increasingly subscribing to newer technologies and voice applications provided by companies whose customers do not contribute to the USF while the number of customers subscribing to traditional voice services – who bear the burden of contributing to the federal USF – continues to decrease.⁶ The shrinking contribution base puts more fiscal pressure on those consumers who do contribute to the fund.⁷ In this environment, expanding the pool of eligible services while drawing funding from an ever-

² Comments of TracFone Wireless, Inc., WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 21 (“TracFone Comments”).

³ *Id.* at 21-22.

⁴ *Id.* at 22. *See also* Comments of the Missouri Public Service Commission, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 2 (“Missouri PSC Comments”) (asserting that “[s]omething needs to be done to minimize the contribution burden...”).

⁵ Comments of the New York Public Service Commission, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 3 (“NYPSC Comments”).

⁶ *See id.*

⁷ *See id.* at 3-4.

declining base of revenues would threaten the financial health of the Lifeline and other universal service programs.⁸

As ITTA emphasized in its comments, the Commission should conclude its long overdue contribution reform effort and expand the base of contributors to include broadband services before considering expansion of the Lifeline program to include support for broadband.⁹ It is both illogical and inequitable for the Commission to contemplate expanding the Lifeline program to support broadband when broadband services and service providers do not contribute to the federal universal service fund. In addition, the time is ripe for the Commission to move forward with the proposal first suggested in 2012 to set a budget for the program.¹⁰ A budget would induce careful spending, further promote needed fiscal responsibility, and ensure that Lifeline subsidies do not jeopardize important broadband deployment and adoption goals supported by other universal service programs, such as the Connect America Fund.

II. THE COMMISSION SHOULD ESTABLISH A NATIONAL, THIRD-PARTY LIFELINE VERIFIER

ITTA also continues to strongly support the Commission's proposal to establish a national verifier to determine subscriber eligibility for Lifeline service.¹¹ Having a national verifier would reduce waste, fraud, and abuse in the Lifeline program, create more efficiencies in overall program administration, and reduce administrative burdens for Lifeline providers.

Indeed, establishing a national verifier would be so effective that it would eliminate many of the

⁸ *See id.* at 4.

⁹ *See* Comments of ITTA – The Voice of Mid-Size Communications Companies, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 5-7 (“ITTA Comments”).

¹⁰ *See id.* at 7-8. *See also* Comments of the American Cable Association, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 4 (“ACA Comments”); Comments of the Florida Public Service Commission, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 4-5; Missouri PSC Comments at 2; NYPSC Comments at 3.

¹¹ *See* ITTA Comments at 13-17.

other concerns raised in the *FNPRM* regarding the program’s administration. For instance, it would diminish the significance of the ETC designation process as a means of guarding against program abuses by unscrupulous companies that exploit the program for their own benefit. It also would obviate the need for the Commission to adopt its proposed requirements relating to the certification process and employee training in connection with Lifeline providers’ verification of consumer eligibility for the Lifeline program.¹²

A variety of commenters agree with ITTA and enthusiastically support the Commission’s proposal for a national, third-party verifier.¹³ However, a handful of commenters have expressed reluctance toward the proposal primarily due to concerns that it would be time-consuming and costly to implement and administer.¹⁴ Certain commenters also have suggested that the Commission should refrain from implementing this proposal because having a single source

¹² Furthermore, numerous commenters agree that the Commission should reject this proposal as well as the proposal to require Lifeline service providers to maintain a 24-hour service line for de-enrollment requests. *See, e.g.*, Comments of the United States Telecom Association, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 12-14 (“USTelecom Comments”); Comments of WTA – Advocates for Rural Broadband, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 21-23; Comments of AT&T, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015) (“AT&T Comments”), at 37-38; Comments of Verizon, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 6-7 (“Verizon Comments”); Comments of Cox Communications Inc., WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 4 (“Cox Comments”); Comments of the Lifeline Joint Commenters, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 68-71, 95-96 (“Lifeline Joint Commenters Comments”).

¹³ *See, e.g.*, USTelecom Comments at 7-9; Verizon Comments at 3-5; Comments of Frontier Communications, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 6-7 (“Frontier Comments”); Comments of Windstream Services, LLC, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 7-9; Comments of GVNW Consulting, Inc., WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 16-17 (“GVNW Comments”); Comments of Charter Communications, Inc., WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 4-5; Comments of Comcast Corporation, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 7-8 (“Comcast Comments”); Cox Comments at 4-7; Comments of the National Cable & Telecommunications Association, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 5-6.

¹⁴ *See, e.g.*, TracFone Comments at 23-30; Comments of the Michigan Public Service Commission, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 6-7.

verifier is not as flexible as an approach that would leverage existing state databases, encourage creation of additional state databases, and fill in the gaps with a patchwork of other certified, third-party verifiers in affected markets.¹⁵

Undoubtedly, shifting to a single national verifier will involve some time and expense. However, these and other concerns raised by opponents of the proposal are outweighed by the myriad benefits that having a centralized verifier would provide for both consumers and carriers. As Public Knowledge and other public interest organizations observe, a centralized verifier will allow consumers to easily and seamlessly change carriers, reduce opportunities for duplicate enrollment, and protect valuable universal service funds.¹⁶ Furthermore, by lowering the costs and administrative burdens for carriers to participate in the Lifeline program, a national verifier would promote competition for Lifeline customers, lowering costs and improving the quality and quantity of services available to subscribers.¹⁷

Indeed, to maximize benefits to consumers, the Commission should take the additional step of permitting the national verifier to transfer the Lifeline discount directly to consumers via a portable subsidy.¹⁸ This approach would be enormously useful to consumers by allowing them to use their Lifeline benefits with the provider of their choosing for whatever service best meets their needs.¹⁹

¹⁵ See Lifeline Joint Commenters Comments at 25-41.

¹⁶ See Comments of Public Knowledge, Appalshop, and Center for Rural Strategies, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 33 (“Public Knowledge, *et al.* Comments”).

¹⁷ See *id.*

¹⁸ See ITTA Comments at 16-17. See also Public Knowledge, *et al.* Comments at 21-22; AT&T Comments at 10-11, 21-23; GVNW Comments at 15-16; Frontier Comments at 8; Comcast Comments at 9; ACA Comments at 9-10.

¹⁹ For the same reasons, the Commission should refrain from establishing minimum service levels that Lifeline providers must offer to Lifeline subscribers. As ITTA pointed out in its comments, establishing minimum service levels would limit consumers’ ability to determine for themselves which Lifeline provider and which service plan makes the most sense for their

III. TO THE EXTENT THE COMMISSION REFRAINS FROM ESTABLISHING A NATIONAL, THIRD-PARTY LIFELINE VERIFIER, IT MUST MODERNIZE THE ETC DESIGNATION PROCESS

Certain commenters oppose any efforts by the Commission to streamline the ETC designation process or to allow providers to opt out of providing Lifeline service in certain circumstances. For instance, some of the state commissions claim that the Commission should maintain the *status quo* with respect to the ETC designation process because it is the “last line of defense” against waste, fraud, and abuse in the Lifeline program and because streamlining the process would violate Sections 214 and 254 of the Communications Act.²⁰ In addition, a few states reject the notion that providers should be allowed to opt out of providing Lifeline service due to concerns that consumers will not be able to subscribe to Lifeline service from an alternative provider.²¹

As ITTA pointed out in its comments, it is essential that the Commission modernize the ETC designation process if it does not move forward with its proposal for a national, third-party Lifeline verifier.²² Despite claims to the contrary, there is no statutory impediment that would prevent the Commission from de-linking providers’ Lifeline obligations from their ETC status and instituting a separate process for establishing Lifeline provider eligibility. As AT&T

particular circumstances. *See* ITTA Comments at 27. Imposing minimum service requirements also would increase Lifeline providers’ costs, thereby undermining participation in the Lifeline program. *See id.* at 26.

²⁰ *See, e.g.*, Comments of the National Association of Regulatory Utility Commissioners, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 10-12; Comments of the Massachusetts Department of Telecommunications and Cable, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 2-4 (“Massachusetts DTC Comments”); Comments of the Michigan Public Service Commission, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 12-13 (“Michigan PSC Comments”); Comments of the Pennsylvania Public Utility Commission, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 31, 2015), at 24-25, 30-34 (“Pennsylvania PUC Comments”).

²¹ *See, e.g.*, Massachusetts DTC Comments at 4-6; Michigan PSC Comments at 13; Pennsylvania PUC Comments at 26-28.

²² *See* ITTA Comments at 17-20.

observes, Congress did not mandate that Lifeline service providers be ETCs.²³ Indeed, Congress expressly provided that nothing in Section 254 “shall affect” the Commission’s preexisting Lifeline program.²⁴ In other words, the Lifeline program existed for more than a decade prior to enactment of the 1996 Act, and when Section 254 was adopted, Congress gave the Commission “*permission* to leave the Lifeline program in place, without modification, despite Lifeline’s inconsistency with other portions of the 1996 Act.”²⁵ Additionally, the Commission has concluded that it has “the authority under sections 1, 4(i), 201, 205, and 254 to extend Lifeline to include carriers other than eligible telecommunications carriers;” it simply has declined to do so to this point.²⁶ Because the Commission only linked Lifeline participation to the ETC designation process through its rules following enactment of the 1996 Act,²⁷ the Commission could just as easily delink them by amending its rules to separate carriers’ Lifeline obligations from their ETC status and instituting a separate process for establishing Lifeline provider eligibility.

Stated another way, ETC status is unnecessary so long as other controls are in place to prevent waste, fraud, and abuse in the Lifeline program. Thus, there is nothing that stands in the way of the Commission adopting a streamlined designation process, such as the proposal advanced by AT&T. Under this approach, an eligible consumer would be permitted to obtain Lifeline-supported service from any provider that offers a voice service (either on a stand-alone

²³ See, e.g., Comments of AT&T, WC Docket No. 11-42, 03-109, 12-23, CC Docket No. 96-45 (filed Apr. 2, 2012), at 19.

²⁴ 47 U.S.C. § 254(j) (“Nothing in the section shall affect the collection, distribution, or administration of the Lifeline Assistance Program...”).

²⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, ¶ 332 (1997) (emphasis in original).

²⁶ *Id.* at ¶ 369.

²⁷ 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...”).

basis or as part of a bundled package of services) that meets certain minimal criteria (such as access to emergency services via 911 dialing and access to Telecommunications Relay Service via 711 dialing), so long as the provider meets certain requirements to ensure proper accountability.²⁸

Moreover, opponents of the proposal to allow providers to opt out of providing Lifeline service have offered no compelling justification for this position, particularly given the level of competition in today's marketplace. Any concerns that low-income subscribers will have difficulty obtaining Lifeline service are purely hypothetical, as the Lifeline program has created an environment where potential customers typically may choose from among numerous providers.²⁹ Based on these developments, it makes sense for the Commission to relieve ILECs of the obligation to provide Lifeline service if they so choose. Doing so would not in any way disserve the public interest because low-income consumers would have continued access to numerous competitive alternatives.³⁰

²⁸ See Comments of AT&T, WC Docket No. 11-42, 03-109, CC Docket No. 96-45 (filed April 21, 2011), at 7. Specifically, providers would be required to register as a Lifeline provider and obtain a service provider identification number ("SPIN") from USAC so that USAC can provide reimbursement for providing Lifeline service, similar to the way in which providers obtain a SPIN to participate in the E-rate program today. See *id.* at 9. When a new Lifeline provider registers to obtain a SPIN, it also would be required to file a certification, signed by a senior executive with appropriate authority and made under penalty of perjury, that it will comply with all Lifeline program rules. See *id.* Providers that already have SPINs and are currently providing Lifeline service would simply be required to submit such a certification within a reasonable period of time following the effective date of the new Lifeline rules establishing these procedures. See *id.*

²⁹ See ITTA Comments at 18.

³⁰ Should the Commission decline to allow ILECs to opt out of the Lifeline program generally, however, it should consider providing ILECs the ability to withdraw from the program in certain circumstances, such as where there is sufficient competition among Lifeline providers or in those geographic areas where the ILEC does not receive high-cost USF support. See ITTA Comments at 18-19.

CONCLUSION

For the reasons provided above, ITTA respectfully requests that the Commission adopt its recommendations with respect to the proposals for Lifeline program reform contained in the *FNPRM*.

Respectfully submitted,

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September 30, 2015