

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 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

**Joint Public Interest Comments in Support of NALA Petition of Waiver of Lifeline Mobile
Broadband Minimum Standard and Voice Support Phase-Down**

National Consumer Law Center (“NCLC”)
Access Humboldt
Access Now
Asian Americans Advancing Justice | AAJC
Benton Institute for Broadband & Society (“Benton”)
Common Cause
Common Sense Media
Communications Workers of America (“CWA”)
Greenlining Institute
MediaJustice
Multicultural Media, Telecom and Internet Council (“MMTC”)
National Consumers League (“NCL”)
National Digital Inclusion Alliance (“NDIA”)
National Hispanic Media Coalition (“NHMC”)
Native Public Media (“NPM”)
New America’s Open Technology Institute (“OTI”)
Next Century Cities (“NCC”)
Public Knowledge (“PK”)
United Church of Christ, OC Inc. (“UCC”)

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I. Introduction

The National Consumer Law Center, Access Humboldt, Access Now, Asian Americans Advancing Justice | AAJC, Benton Institute for Broadband & Society,¹ Common Cause, Common Sense Media, Communication Workers of America, Greenlining Institute, MediaJustice, Multicultural Media, Telecom and Internet Council, National Consumers League, National Digital Inclusion Alliance, National Hispanic Media Coalition, Native Public Media, New America’s Open Technology Institute, Next Century Cities, Public Knowledge, and United Church of Christ, OC Inc. submit these comments in response to the National Lifeline Association’s (“NaLA”) Commission’s Petition for Waiver of Lifeline Mobile Broadband Minimum Service Standard and Voice Support Phase Down requesting that the Commission waive the Lifeline mobile broadband minimum service standard (MSS) increase and voice support phase-down scheduled to take effect on December 1, 2020.²

II. Background

Lifeline, the only federal program that addresses the issue of affordability central to accessing essential communications service,³ is not just a crucial tool to closing the digital

¹ Benton, a non-profit, operating foundation, believes that communication policy – rooted in the values of access, equity, and diversity - has the power to deliver new opportunities and strengthen communities to bridge our divides. Our goal is to bring open, affordable, high-capacity and competitive broadband to all people in the U.S. to ensure a thriving democracy. These comments reflect the institutional view of the Benton Institute for Broadband & Society, and, unless obvious from the text, is not intended to reflect the views of its individual officers, directors, or advisors.

² National Lifeline Association, Petition for Waiver of Lifeline Mobile Broadband Minimum Service Standard and Voice Support Phase Down, WC Docket Nos. 11-42, 09-197, and 10-90 (filed August 27, 2020) (“Petition”). See also *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, WC Docket No. 11-42, Public Notice, DA 20-820 (rel. July 31, 2020).

³ The federal Lifeline program supports broadband, voice and voice and broadband bundles. The minimum standards for Lifeline service can be found at 47 C.F.R. §54.408. The support amount for the regular Lifeline broadband service is \$9.25/month. The support amount for standalone Lifeline voice service is in the midst of a four-year glide path to \$0 with support in 2020 at \$7.25, but scheduled to go down to \$5.25 on December 1, 2020. See 47 C.F.R. §54.403.

divide, but has also become an essential resource for low-income people across the country during the ongoing COVID-19 pandemic.⁴ Carriers report a marked increase in voice usage during this historic public health crisis.⁵ Millions of people in various states of social distancing and lockdown need phone and internet access more than ever before to maintain connections with almost every facet of daily life, including school, work, medical care, and social activities. With many businesses and institutions temporarily closed, open only in limited capacity, or even shuttered, millions of people are left more vulnerable than before. New unemployment claims in the United States have remained around 1 million a week, with roughly 30.3 million people on unemployment aid. Many calling for assistance face long hold times.⁶ Meanwhile many federal and state pandemic-related unemployment benefits, waivers, eviction and utility shut-off moratoria have expired or diminished in support and length, despite the health emergency and its consequences.⁷ The COVID-19 virus is highly transmissible through airborne respiratory droplets from an infected person, and the safest way to minimize transmission and exposure is to do as much of the day-to-day activities remotely from home as possible. Lifeline, during the COVID-19 pandemic, is truly a lifeline for low-income households and can help protect the health and well-being of low-income households and the larger community.

It is in this troubled context that the Commission is considering major, permanent changes to the Lifeline program that could jeopardize subscribers' access to essential voice and

⁴ Monica Anderson and Madhumitha Kumar, *Digital divide persists even as lower-income Americans make gains in tech adoption*, The Pew Research Center (May 7, 2019), <https://www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>

⁵ Taylor Locke, *Verizon customers making 800 million calls a day now -- double the amount on Mother's Day*, CNBC (Mar. 27, 2020), <https://www.cnbc.com/2020/03/27/verizon-ceo-amid-covid19-cell-calls-hit-highs-only-seen-at-peak-times.html>.

⁶ Clio Chang, Alex Norcia, Maxwell Strachan, *We Called Unemployment Offices in All 50 States. Only 2 Picked Up*, Vice (April 13, 2020), https://www.vice.com/en_us/article/9394v3/we-called-unemployment-offices-in-all-50-states-only-2-picked-up.

⁷ Christopher Rugaber, "30 million have sought US unemployment aid since virus hit," Associated Press, August 30, 2020, <https://apnews.com/7f38d7fa2982dc53572232c9d2049dca>; Matthew Goldstein, "U.S. Orders Eviction Moratorium for Most Through Year's End," New York Times, September 1, 2020, <https://www.nytimes.com/2020/09/01/business/eviction-moratorium-order.html>

broadband services. The record confirms that the Commission should grant the Petition to retain the mobile broadband minimum service standard (MSS) at 3 GB rather than increasing it to 11.75 GB, and also to maintain Lifeline voice support at \$7.25 rather than decreasing it to \$5.25 as planned.⁸ Recent *ex parte* presentations with members at the Commission reflect the public interest's concern that MSS changes would be disruptive and especially harmful during the ongoing pandemic.⁹ It is not just advocates who are worried about the increase -- the Commission's proposal last year to increase MSS drew a widespread call from service providers, civil rights and consumer advocates, and policymakers to pause a sudden leap in MSS and phase-down of voice support that would restrict eligible low-income consumers' access to, and undermine the affordability of, Lifeline broadband and voice service offerings, particularly among low-income consumers who would not otherwise purchase voice or broadband services.¹⁰ Since last year, circumstances have changed for the worse, with many more people unable to afford broadband and voice services or pay their bills without additional support after losing their employment and access to usual services due to the pandemic. Policymakers are also speaking up in support of the points raised by this petition, and especially when accounting for the crisis at hand, any increase to the MSS should be paused until the Commission publishes its scheduled Lifeline Marketplace Report in 2021.¹¹ The record reflects strong and widespread support for

⁸ National Lifeline Association, Petition for Waiver of Lifeline Mobile Broadband Minimum Service Standard and Voice Support Phase Down, WC Docket Nos. 11-42, 09-197, and 10-90 (filed August 27, 2020) ("Petition"). See also *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, WC Docket No. 11-42, Public Notice, DA 20-820 (rel. July 31, 2020).

⁹ See e.g., Public Interest, Consumer and Civil Rights *Ex Parte*, WC Docket Nos. 17-287, 11-42, 10-90, 96-45 & 09-197 (filed August 21, 2020); *Ex Parte*, WC Docket Nos. 17-287, 11-42, 10-90, 96-45 & 09-197 (filed August 17, 2020), *Ex Parte* Letter, WC Docket Nos. 17-287, 11-42, 10-90, 96-45 & 09-197 (filed August 11, 2020).

¹⁰ See e.g., NaLA *Ex Parte*, WC Docket Nos. 17-287, 11-42, 10-90 (filed August 6, 2020); NaLA *Ex Parte*, WC Docket Nos. 17-287, 11-42, 10-90 (filed August 24, 2020); TracFone *Ex Parte* WC Docket Nos. 17-287, 11-42, 10-90, 96-45, 09-197 (filed July 27, 2020).

¹¹ E.g., Letter from Representative Mark E. Green to Chairman Ajit Pai, June 16, 2020.

<https://markgreen.house.gov/2020/6/rep-green-urges-fcc-to-grant-temporary-waiver-protecting-exercise-of-religious-freedom>

granting NaLA's petition, and to avoid disruption of Lifeline service to low-income households during this pandemic.

III. Pause the Mobile Broadband Minimum Service Standard at 3 GB (current standard) until the State of the Lifeline Marketplace Study

The Commission's plans to increase the mobile broadband minimum service standard to 4.5GB without an increase in the Lifeline subsidy risks disruption of Lifeline service to low-income households -- during a pandemic. The Commission is taking action without any analysis as to how this increase will impact the Lifeline marketplace -- information that it will have by next year, when it will have the benefit of the analysis of the State of the Lifeline Marketplace.¹² By increasing the minimum service standards before this report is issued, the Commission is jeopardizing a literal lifeline for the millions of low-income households that rely on the Lifeline program for connectivity. Pausing the increase in the mobile broadband MSS until the marketplace report is released will allow the Commission to make decisions informed by data, in order to ensure that Lifeline subscribers can continue to utilize this benefit.

If the Commission was to follow through on its proposal to increase the minimum service standards by 50% without increasing the Lifeline support amount, the FCC would jeopardize the availability of no-cost products. According to NaLA, Lifeline providers cannot profit off Lifeline subscribers using the updated minimum service amount without imposing a co-pay on Lifeline subscribers.¹³ They note that to date, no mobile plans offer more than 3 GB of data for less than \$9.25 -- even the lowest cost offerings in recent memory (from T-Mobile and AT&T) offer just 2 GB for \$15 during the pandemic. Since it is unlikely that for-profit companies will engage in unprofitable business ventures, Lifeline subscribers will almost certainly have to pay a copay for Lifeline service.

¹² Lifeline and Link Up Reform and Modernization, et al., WC Docket 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, para.66 (2016).

¹³ National Lifeline Association petition.

However, essentially requiring Lifeline consumers to pay a copay runs counter to the FCC's own goals. In the 2016 order modernizing the Lifeline program, the FCC set its minimum standards to provide "consumers with services that allow them to experience many of the Internet's offerings, but not mandating the purchase of prohibitively expensive offerings."¹⁴ For many Lifeline subscribers, any cost is prohibitive. Many low-income people are unbanked and thus lack the infrastructure to make any payment at all, no matter its size. NaLA's Lifeline subscriber survey from the summer of 2020 finds that:

- Over 80% cannot afford a monthly co-pay of any amount;
- Nearly 2 out of 3 Lifeline customers are unbanked (no checking account);
- Nearly 60% do not have a debit or credit card which makes it infeasible to set up automatic recurring payments;
- Over 81% do not use reloadable payment cards, and
- Over 80% of Lifeline customers report being unemployed, have disabilities or are retired, with over 2 out of 3 households reporting negative impacts to income or employment from the COVID-19 crisis.

The financial status of millions of households has been upended during the COVID-19 pandemic, making now a particularly difficult time to make unstudied changes to the Lifeline program. Those who would otherwise struggle to afford copays are likely to be struggling financially more so now. Lifeline, like other low-income assistance programs, is counter-cyclical. When the economy declines, Lifeline helps more households stay connected. When the economy is strong, the demand for Lifeline will lessen. During the COVID crisis, many more could seek Lifeline service, causing it to grow significantly in the coming months, particularly now that the Keep Americans Connected pledge has expired.

While there is greater need, Lifeline is also particularly critical during this pandemic, which requires people to shelter-in-place or social distance. Many individuals have become

¹⁴ See Lifeline and Link Up Reform and Modernization, et al., WC Docket 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶ 71 (2016) (2016 Lifeline Modernization Order)

particularly reliant upon their phones in order to navigate business closures, or learn news about COVID. Others need it to make up for lost income by participating in the app economy. Both students and teachers require access to communications tools to keep up with virtual classes and coursework.¹⁵ The Commission must be prepared to meet those needs and create certainty for the millions of people who rely on and may come to need the program by only making changes once their impact is known.

The soundest path to protecting Lifeline-eligible and Lifeline households is to immediately waive the Lifeline mobile broadband minimum service standard increase scheduled to take effect on December 1, 2020¹⁶ (“pause” the minimum service standard at the current standard) until the Commission has ability to analyze the implications of the State of the Lifeline Marketplace report that is due in 2021¹⁷ (“study” the Lifeline marketplace report to assess what is needed to achieve affordability and access in the setting of the appropriate minimum service standards for Lifeline). Moving forward with the standards described in the Chairman’s July 30, 2020 Press Release without a firm understanding of the implications on the Lifeline services and providers in the marketplace could leave consumers at risk of losing essential communications services if their provider leaves the marketplace or changes from a no-cost service to one with a monthly co-pay. This risks consumer stress and confusion over the loss of their essential communication service in the midst of a pandemic.

IV. Ensure Lifeline Consumers Have Access to Adequate Voice Minutes During the COVID-19 Crisis

¹⁵ See Closing the K–12 Digital Divide in the Age of Distance Learning, Common Sense Media & Boston Consulting Group (June 2020) (showing that 15 million to 16 million students lack adequate internet or devices and approximately 300,000 to 400,000 teachers lack access to adequate connectivity), available at <https://www.commonsensemedia.org/kids-action/publications/closing-the-k-12-digital-divide-in-the-age-of-distance-learning>.

¹⁶ See 47 C.F.R. §54.408(c)(2)(ii).

¹⁷ See Lifeline and Link Up Reform and Modernization, et al., WC Docket 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶ 71 (2016) (2016 Lifeline Modernization Order).

During the COVID-19 public health and economic crisis, consumers have been increasingly reliant on voice service to stay connected with loved ones and to get things done remotely. Lifeline voice service also provides ready access to emergency services, which is even more critical during a public health crisis. Without a waiver of the Lifeline voice support rule,¹⁸ this critical support will diminish from \$7.25 to \$5.25 per month. At a minimum, the Commission should waive the decrease in the voice support. The Commission should analyze the State of the Lifeline Marketplace report to assess, particularly given the increased reliance on voice during this COVID crisis, consideration of returning voice support to \$9.25 so that consumers have adequate voice service to address the extra needs concerning access to healthcare, education, employment and assistance programs.

V. Conclusion

The COVID-19 public health and economic crisis has magnified the importance of essential voice and broadband service and for low-income households, Lifeline is truly a lifeline to emergency services, healthcare, education, assistance programs, connection to support networks, and so much more. Households need these broadband and voice services in order to perform day-to-day tasks remotely and minimize the risks of exposure to COVID-19. Keeping Lifeline subscribers connected benefits everyone in society including, most especially, businesses. Businesses benefit when they can contact, or be contacted by, their customers. This enables them to take customer orders, arrange deliveries, make and cancel appointments, and receive employment applications, among many other things. At a time when the economy is in a historic recession which impacts small business most severely, maintaining Lifeline service helps protect against worsening conditions and assists in a possible economic recovery.¹⁹

¹⁸ See 47 C.F.R. §54.403(a)(2)(ii).

¹⁹ Metcalfe's law applies to Lifeline.

We urge that the Commission grant NaLA's petition to waive the Lifeline mobile broadband minimum service standard increase and the voice support phase-down ("pause" planned changes to Lifeline regarding these minimum standards and support rules) and review these standards in light of the State of the Lifeline Marketplace analysis that is due in 2021 (carefully "study" what is needed to achieve affordability and access in the setting of the appropriate minimum service standards for Lifeline). This will ensure minimal disruption to Lifeline service for the millions of Lifeline households in this time of crisis. We look forward to working with the Commission in ensuring the Lifeline program achieves the goals of affordability and access to quality communications services for low-income households.

Respectfully submitted,

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