

**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
)	

**Opening Comments On the Second Further Notice of Proposed Rulemaking
by**

*National Consumer Law Center
Advocates for Basic Legal Equality
Asian Americans Advancing Justice
Citizens Coalition
Crossroads Urban Center
Edgemont Neighborhood Coalition
Legal Services Advocacy Project
Low Income Utility Advocacy Project
Ohio Poverty Law Center
Open Access Connections
Pennsylvania Utility Law Project
Pro Seniors
Texas Legal Services Center
United Church of Christ, OC Inc.*

(Low-Income Consumer Groups)

Olivia Wein
Telecom Project Lead Attorney
National Consumer Law Center
1001 Connecticut Avenue, NW, Suite 510
Washington, DC 20036-5528
(202)452-6252, x 103
owein@nclc.org

August 31, 2015

Executive Summary

The Commission's Notice of Proposed Rulemaking ("NPRM")¹ to modernize the Lifeline program to include broadband Internet service is a long-awaited development for low-income consumer advocates. At the same time it is important to note that access to voice service is essential for reaching emergency service, and it also remains an important means of staying connected to friends, family, work, healthcare, schools and services.

In modern society, access to broadband along with voice is as essential for access to opportunity as electricity was in the last century. For those with the resources to afford broadband service, broadband integration in modern life has been nearly ubiquitous. There is a growing expectation of instant information: from how we learn about breaking news (e.g., newsfeeds to our smart phones), to how we find out about and apply for jobs (online applications) and how we network professionally (LinkedIn). There is a growing presumption that consumers will be able to find information posted online, and often give a website as the way to learn about any topic 24/7.

Broadband has transformed the delivery of healthcare from the days where we carried x-ray films and reports from one office to another to the rapid email of a digital file that patients can view in their electronic records along with the scheduled appointments and medical history. How we teach and how we learn has been transformed by broadband (online reference materials, e-books, distance learning, video conferencing study groups, webinar trainings). Broadband has had a profound impact on how we engage in commerce, from instant access to product and service reviews (and the opportunity to provide reviews), to shopping online for the best deal, to setting up a digital storefront to sell products around the world from your dining room table. The list of impacts on daily life goes on, and at the same time as more aspects of modern life move online, the harmful effects of digital exclusion increase.

Summary of Low-Income Consumer Group Recommendations:

The NPRM covered a broad area of issues and our comments focus on a core set of interrelated recommendations. Our recommendations focus on ensuring quality Lifeline voice and broadband service and program design modifications that will align Lifeline implementation with other traditional federal low-income programs. The intent of these recommendations is to keep the disruption to the Lifeline program administration to a minimum while achieving improved efficiency, accountability, and transparency, and improving consumer protections and consumer control of their Lifeline service. These comments do not address all the issues raised in the NPRM, but we reserve the ability to comment on additional issues raised by other commenters in our reply.

Low-Income Consumer Group Recommendations

Consumer Choice/Flexibility of the Program

- Consumers should be able to choose between voice-only, broadband or bundles.
- Consumers should be able to easily shop with their feet for better services.

¹ Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, WC Docket Nos. 11-42, 09-197, 10-90, FCC 15-71 (Rel. June 22, 2015) ("NPRM").

- Consumers should be allowed to apply their Lifeline benefit to broadband and bundled products available in the general marketplace
- The Commission needs to collect more data on what services consumers are choosing, how long the consumers are able to maintain service (i.e., continuity of service), better demographic data on who Lifeline is serving, and whether the Lifeline benefit is being integrated with other adoption programs.

Service Standards

- Minimum service standards for stand-alone Lifeline voice service should be established.
- Where broadband products are specifically targeted to Lifeline or low-income consumers, they should meet minimum standards.

Program Elements/Mechanics

- If the starting point for the Lifeline support amount is \$9.25, strong consideration should be given to establishing two tiers of benefit, a lower support amount for voice-only and a higher support amount for broadband and bundles.
- The Commission should create a pre-approval process so that consumers can apply for Lifeline eligibility before they shop for service. There are means to automate this process.
- Lifeline competitive grants should be provided to states to encourage National Eligibility Verifier access to state databases to check if a Lifeline applicant is participating in a qualifying program. These competitive grants can also fund coordinated outreach and enrollment with state programs (e.g., adding Lifeline to a SNAP or LIHEAP application and leveraging the qualifying benefits delivery network for Lifeline outreach and education).
- Consumers should be able to apply to the Lifeline program directly through an online application or through coordinated enrollment with a qualifying program. There should be funding to community groups and state agencies for outreach and education as well as assistance with the applications.
- NARUC and NASUCA consumer division staff should have access to the Enhanced Lifeline database to help consumers in their states with their Lifeline benefits.

Program Eligibility

- The Commission should retain the existing eligibility criteria programs and the income eligibility avenue and should expand eligibility to include the low income means-tested Veterans Pension Benefits program.
- The program should transition to a national eligibility verifier and the WCB should establish a working group of service providers and consumer advocates to provide feedback to the FCC and USAC so that administrative issues can be flagged early on and addressed promptly as the transition rolls out. Such verifier would provide consumer control over the Lifeline benefit without having to set up an additional system for a benefits card/voucher/PIN. Benefit card/voucher/PIN systems add a layer of complexity, cost to the program and inconvenience to the consumer that is not necessary to achieve consumer control over the benefit.
- Eligibility determinations should be added to the existing National Lifeline Accountability Database (NLAD) to avoid unnecessary duplication of efforts. The Enhanced NLAD database can facilitate Lifeline portability because it tracks who is

currently receiving Lifeline and what service the benefit is applied to. NLAD already can accommodate the transfer of benefits from one carrier to another.

- The Lifeline eligibility determination should leverage the means-tested enrollment determinations already made by the half dozen federal programs that qualify a household for Lifeline (i.e., a “Yes/No” check to see if Lifeline applicant is participating in a qualifying program).

Budget

- A budget for Lifeline is premature and risks rationing access to essential broadband and voice service.

Interagency Coordination

- The Commission should work closely with the Department of Human Services, Administration for Children and Families (TANF and LIHEAP are in that division) to leverage outreach and education opportunities because there are a suite of low-income programs targeted to families with young children. This also applies to the other agencies with Lifeline qualifying programs.

I. Ensuring Maximum Value for Voice and Broadband Lifeline Benefit

A. High Quality Voice Service Offerings

Low-Income Consumer Groups² support the preservation of a Lifeline voice-only product as a service eligible for Lifeline support. It is in the public interest and pro-consumer to allow the Lifeline household to have the option of choosing which communications service best fits their needs, whether it is a voice-only service, broadband or a bundle.

Within these voice-only product offerings, the pre-paid “free” Lifeline products can meet the communications needs of some of the most vulnerable and fragile low-income consumers. For example, survivors of domestic violence may not have ready access to a bank account for traditional post-paid service, yet there is an immediate need for access to 911 and social services to help rebuild their lives. Households with poor credit scores and those without a bank account may find it hard to start post-paid phone service without a hefty deposit and may also find it difficult to manage the monthly bill payments. Yet having a phone is necessary for picking up extra shifts at work, setting up interviews for a job, finding housing, managing arrangements for child care, having access to emergency services, managing chronic conditions, etc. We share the Commission’s frustration with stagnant pre-paid wireless Lifeline offering of 250 minutes, especially as the cost of providing voice service has dropped dramatically.³

Lifeline should be supporting services that meet the basic communications needs of the recipients. We are concerned that Lifeline customers may spend more minutes of their time allotment on hold than non-low-income consumers. Lifeline eligible households are, by definition, households whose incomes are so low that they qualify for an array of assistance programs to meet basic needs. The trend with federal benefits programs and state unemployment compensation programs has been to move away from brick and mortar intake sites and move

² See Appendix A for a description of the signatories to these comments.

³ NPRM ¶ 16 and ¶¶39-40.

towards online and telephone interactions for benefits administration.⁴ Aspects of low-income program implementation such as benefits interviews have moved to phone interviews.⁵ The hold times to reach a case worker or to resolve a benefits issue can be extremely long.⁶

The Commission points out the average wireless minutes-of-use is two and a half-to-three times the 250 minute pre-paid Lifeline offering.⁷ A voice-only Lifeline product should, at a minimum, offer comparable minutes to what the average voice customers is using.⁸ We are supportive of using the average wireless minutes of use to determine the adequacy of a voice-only wireless offering and recommend that the Commission use this as a threshold to determine which products should be reviewed for adequacy of service. Regarding any weight given to whether consumers are purchasing extra minutes when their 250 minutes runs out, it is possible that Lifeline consumers are rationing their minutes to stay within the covered minutes.

B. Quality Broadband Lifeline Service

Broadband Lifeline service will be a nascent program offering and it is hard to say which speeds, devices, and/or packages will best meet the basic internet needs of Lifeline households. The goal will be to ensure that the broadband Lifeline service is sufficient to, at a minimum, meet the basic needs of Lifeline households, particularly in the areas of education,⁹ health care,¹⁰ benefit those with disabilities,¹¹ and public safety.¹² The Commission has recently set a broadband standard for the Connect America Fund, another Universal Service Program at 10 Mbps downstream/1 Mbps upstream. At this time, not all Lifeline customers will live in areas where 10/1 or better speeds are available, so setting a firm minimum standard could leave out those who could have access, but at lower speeds.

The Commission faces two different approaches to obtain quality broadband service for Lifeline consumers: it may define a set of minimum standards (e.g., speed) or it may rely on the

⁴ See e.g., 2011 Lifeline Comments by Professor David A. Super, Georgetown Law, WC Docket Nos. 11-42 and 03-109; CC Docket No. 96-45 (Nov.7, 2011)(describing the shift away from eligibility workers in local sites to call centers out of state and the reliance on online applications); *see also* University of Utah, Center for Public Policy & Administration, *Smarter eGovernment The Economics of Online Services in Utah*, (Fall 2012)(study estimates Utah has saved \$46 million by moving general government services online). Available at <http://cppa.utah.edu/documents/publications/e-gov/Smarter%20eGovernment%20Economics%20Final.pdf>.

⁵ See e.g., 2011 Lifeline Comments by Professor David A. Super, Georgetown Law, WC Docket Nos. 11-42 and 03-109; CC Docket No. 96-45 (Nov.7, 2011)(describing the shift away from eligibility workers in local sites to call centers out of state and the reliance on online applications) at pp 4-7.

⁶ See e.g., 2011 Lifeline Comments by Professor David A. Super, Georgetown Law, WC Docket Nos. 11-42 and 03-109; CC Docket No. 96-45 (Nov.7, 2011)(describes in detail the need for adequate minutes to access federal assistance programs and provides an example of 141 minutes in one month spent on hold re access to a benefits program).

⁷ NPRM at ¶40 (average wireless minutes of use between 690 and 746 minutes).

⁸ The Commission currently requires companies seeking ETC designation to demonstrate that they “offer local usage comparable to that offered by the incumbent local exchange carrier (LEC)” and reserves the right to determine some plans do not meet that standard. *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371, 6380, 6485 (2005).

⁹ NPRM at ¶¶18-26.

¹⁰ NPRM at ¶27.

¹¹ NPRM at ¶28.

¹² NPRM at ¶ 29.

marketplace to reward better products. The challenge with set standards is that the standards can quickly become antiquated unless they are constantly reviewed and refreshed, and standards that are set too high or that are too prescriptive may limit the products and providers that can and are willing to participate. The danger with solely relying on the marketplace is that low-value products could receive a Lifeline subsidy, so there will need to be robust outreach and education that facilitates upward pressure for better products (to weed out the low-value products) and “frictionless” portability of the Lifeline benefit so consumers can easily drop an poor product (see II D, *infra*).

Setting minimum service standards for broadband could hamper the speed at which products, or product improvements, are available for Lifeline consumers as there will be a gatekeeper role required to approve new products and regularly review existing products for adequacy. Setting minimum standards also adds to the complexity of auditing the Lifeline program (e.g., checking on the provision of speeds and data packages for products at a point in time in the past).

To balance these concerns we recommend allowing the Lifeline broadband benefit to apply to broadband products available in the general marketplace while collecting data on what consumers are choosing, which products are providing continuous connectivity to broadband and how quickly service offerings are improving (e.g., faster speeds, more data, etc.). We recommend the imposition of minimum standards for broadband products targeted directly to Lifeline/low-income consumers as set forth below.

C. Low-Income/Lifeline Broadband Products

We recommend the Commission treat products that have been specifically designed or targeted as Lifeline-only or limited to low-income households more stringently than products that are marketed to the general public. Where the product is limited to Lifeline or low-income households, the Commission should prescribe minimum standards that provide functional access to education, public health and public safety applications. The Commission should consider whether to create a presumption of adequacy if the broadband service meets broadband criteria established for other universal services programs (e.g., 10/1 Mbps) and allow for lower speeds if that is all that is available in a region for a particular technology (e.g., 4/1 Mbps if DSL is only service available). Lifeline customers will have the ability to shop with their feet so they are not bound by a poor product. The Commission should also prohibit early termination fees, teaser rates and long term contracts.¹³ Early termination fees and long term contracts are anti-competitive practices that can lock consumers into higher prices. They also disproportionately impact low-income consumers who can least afford additional fees and who would benefit the most from the ability to switch to a lower priced provider. Teaser rates can be deceptive and disruptive and, because of limited budgeting flexibility characteristic of low-income households,

¹³ See e.g., Dharma Dailey, Amelia Bryne, Alison Powell *et al*, *Broadband Adoption in Low-Income Communities*, Version 1.1 (March 2010) at 25-36 (in addition to cost, additional barriers include teaser rates, lack of predictable and transparent billing, and problems with bundled offerings). Available at <http://www.ssrc.org/publications/view/1eb76f62-c720-df11-9d32-001cc477ec70/>.

place additional and disproportionate burdens on family budgets. Additionally, protections that preserve access to voice service in the scenario of failure to pay a full bill where the consumer chooses a bundled service must be put in place.¹⁴

D. Additional Recommendations Regarding Service and Consumer Protections

Lifeline consumers should be able to decide which product best meets his or her needs. Our recommendations in this section are based on the framework we set out in the following sections regarding a national verifier and modifications to the eligibility determinations to facilitate competitive market pressure to continually improve Lifeline product offerings. Our recommendation that the broadband Lifeline benefit be applicable to any broadband product in the marketplace is conditioned on the expectation that the Commission will expressly condition the provider's receipt of Lifeline monies on the provider's agreement to promote the Lifeline program and to collect and report data to improve the broadband Lifeline program. The Commission must also aggressively remove products and providers from Lifeline whose products have received a large number of complaints re service quality. We also recommend that the Commission revisit the question of minimum standards after broadband Lifeline has been in place for a year. There should also be an annual report prepared on the broadband Lifeline program.

E. Lifeline Support Levels

The Commission proposes to retain the current Lifeline support amount of \$9.25 for a permanent support amount and seeks comments on this proposal.¹⁵ This initial \$9.25 must be revisited in a year, as the Commission will have a better understanding of which products Lifeline consumers are choosing and how well those products maintain continuous access to service. The primary goal of broadband Lifeline is to help low-income households secure affordable broadband that meets their needs. We also appreciate that time is of the essence to modernize Lifeline so that it allows a household to direct its Lifeline benefit to modern communication services. We caution the Commission to not let the perfect be the enemy of the good. The Commission must revisit the issue of contributions reform, but at the same time, Lifeline modernization must not be held in limbo until that happens. There is a growing cost to digital exclusion and there is strong merit to laying the groundwork for a more robust broadband Lifeline service in the future. There is an opportunity now to gather more information on what services Lifeline consumers view as meeting their needs and there are, in some places, low-income broadband products near the \$9.25/month price point.¹⁶

¹⁴ Cf. Tex. Util. Code Ann. §55.013(2007) (protection of basic voice service when there is nonpayment of bundled service). We also note that *In re: FCC 11-161* (10th Cir. May 25, 2014) overcomes FCC's barriers to protecting Lifeline voice service for failure to pay ancillary service (interstate toll) in *Texas OPC v FCC*, 183 F.3d 393, 421 (5th Cir. 1999).

¹⁵ NPRM at ¶¶ 52- 53.

¹⁶ For example, Comcast Internet Essentials is a \$9.95, 10 Mbps plan. Cox, CenturyLink, TimeWarner and others have \$9.95 to \$14.99 to \$24.99/month plans targeted to low-income, but the speeds range from 2 – 12 Mbps. While these programs have some limitations, they also provide a starting point for developing services targeted to low-income consumers.

If the starting point for broadband Lifeline is constrained to a \$9.25 month benefit, then treatment of the \$9.25 as an average per household benefit would allow the provision of a larger amount for broadband and bundles with a lower amount for voice-only (e.g., two tiers of benefit).¹⁷ Another alternative, if the Commission determines that tracking two different benefit levels adds too much complexity to the administration of the Lifeline program, we recommend that the voice-only Lifeline product, at a minimum, move toward the average wireless minutes of use within a year or a date-certain in the very near future, and from there to move to unlimited minutes.

The Commission should revisit the issue of minimum standards in a year's time and look at who (based on the program used to qualify or income eligibility) is choosing what type of service and the duration of the connectivity.¹⁸ Data from Pew¹⁹ show that mobile access is currently the on-ramp to the internet for many, and the Lifeline program should accommodate that access. This highlights the challenges for a broadband Lifeline program. Wireless speeds, data constraints and pricing provide a very different internet experience using mobile when compared to home broadband service, but there is also value to having instant internet access while mobile. Higher income households can avoid having to choose and utilize both forms of access; we hope that Lifeline households will someday very soon be able to enjoy the same internet access as non-low-income families. Nonetheless, we must begin the modernization of Lifeline somewhere and the Commission's NPRM focuses us forward on navigating this dramatic transition.

F. Paying A Monthly Bill Does Not Mean A Service Is Affordable

Low-income households face numerous challenges making ends meet from month-to-month. Even so, voice and broadband service are not luxury items. In a 24/7, instant-access, information economy, these are essential services and households will go to great lengths (and endure other hardship) to maintain these services. Just because a low-income household is paying for phone service does not mean that is this is occurring without sacrifices in other basic necessities.

Access to communications services can be tenuous for the poor, especially given that any setback (e.g., a serious illness, a loss of hours or a job, car problems) can rapidly lead to a downward financial spiral that will result in an inability to pay the phone or broadband bill. Use of payday and auto-title loans and other high cost, risky financial products further exacerbates the debt load of these households. For many low-income households there is also seasonality to periods of financial stress. Survey data of recipients of the Low Income Home Energy Assistance

¹⁷ In this circumstance, the initial difference between voice-only and the broadband or bundle tier should not be so significantly different so as to threaten the viability of a voice-only product.

¹⁸ Pew reports that 44% of smartphone owners in households with income less than \$30,000 had to cancel or suspend their service in the past due to financial constraints. See Aaron Smith, Dana Page, *US Smartphone Use in 2015*, Pew Research Center (April 1, 2015) at 14.

¹⁹ See Aaron Smith, Dana Page, *US Smartphone Use in 2015*, Pew Research Center (April 1, 2015) at 3-4 (low-income households, individuals with lower levels of education, younger adults, and Latinos and African Americans rely more on smartphones for online access than the rest of the population).

Program (one of the programs that qualify a household for Lifeline) reveal the untenable choices households face when paying home heating bills in the frigid wintertime and cooling bills in the sweltering summers. These households sacrifice food, postpone medical care, cut back on medications, and/or skip rent payments to keep their homes at safe temperatures.²⁰ There is hardship data that captures some of this struggle to show that low-income households experience disconnection and threats of disconnection of essential utility service, miss housing payments, turn to high-cost, asset-depleting financial products to pay for essentials, and juggle paying basic necessities to make it from one month to another.²¹

Lifeline has been effective in getting low-income households connected to voice service.²² Lifeline is a targeted benefit²³ designed to assist struggling households in affording essential voice service and it is well-poised to address the affordability barrier²⁴ to broadband access. Monthly Lifeline assistance with voice service, and soon broadband, relieves pressure on the strapped household budgets for other basic necessities. Being reachable by phone and having phone service helps improve household self-sufficiency and, as discussed above, access to broadband is growing even more critical for modern life.

II. Transitioning to Third Party Eligibility Determinations

A. Strong Support for a National Lifeline Eligibility Verifier

Low-Income Consumer Groups strongly support the immediate establishment of a national Lifeline eligibility verifier that is an agent of the Commission, to make eligibility determinations and perform other functions related to the Lifeline program.²⁵ Currently, in the vast majority of states, the Eligible Telecommunications Carriers (ETCs) collect an array of sensitive personal information including name, address phone number, last four digits of the Social Security

²⁰ National Energy Assistance Directors' Association, *2011 National Energy Assistance Survey*, Final Report (November 2011). Available at <http://www.appriseinc.org/reports/Final%20NEADA%202011%20Report.pdf>.

²¹ *Id.*; and *Material Hardships During the Great Recession: Findings from the Michigan Recession and Recovery Study*, National Poverty Center Policy Brief, #35 (July 2012) Fig. 2 available at http://www.npc.umich.edu/publications/policy_briefs/brief35/policybrief35.pdf.

²² See Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Lifeline and Link Up Reform and Modernization, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45 (Rel. Feb. 6, 2012) at ¶¶15-16 (Lifeline has increased access to voice by addressing affordability barrier and Lifeline helps facilitate continuity of service).

²³ See 47 C.F.R. §54.409 (Lifeline eligibility is based on participation in specific means-tested low-income programs or documentation of income-eligibility and the benefit is provided directly to participating carriers).

²⁴ See e.g., *Oregon Broadband Adoption Survey*, prepared for the Oregon Broadband Advisory Council (Aug. 2014) at 7 (cost ranked highest as reason for non-home Internet use). Available at <http://www.oregon.gov/Broadband/Documents/2014%20Oregon%20Broadband%20Adoption%20Survey%20Report%20Final.pdf>; Pew Research Center, *US Smartphone Use in 2015* (April 2015) (Affordability is one of the main barriers to broadband adoption). Available at <http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/> (44% of low income smartphone dependent consumers lose service because of financial hardship); WCB Staff Report, Low-Income Broadband Pilot Program, WC Docket 11-42, DA 15-624 (May 2015) (cost is a factor in choice of broadband service). Available at https://apps.fcc.gov/edocs_public/attachmatch/DA-15-624A1.pdf.

²⁵ NPRM at ¶¶64-91.

number, and date of birth when enrolling a customer in the Lifeline program.²⁶ This information is collected to perform an identity authentication and to check that the consumer is not already enrolled in Lifeline (duplicates check). In at least 17 states, ETCs have access to state-run databases for programs that qualify a consumer for Lifeline (e.g., SNAP, SSI, TANF, LIHEAP, etc.). Moving the enrollment and re-certification of eligibility functions away from private companies to a single agent of the Commission is both more appropriate for the administration of a low-income program and is more protective of consumer privacy. There are several hundred carriers that participate in the Lifeline program.²⁷ It is more efficient to focus on the privacy protections and data handling and storage practices of a centralized entity than to track the practices of hundreds of carriers.

Other important benefits of a national eligibility verifier include: (1) the removal of the structural conflict inherent in having the carrier who receives a reimbursement for each Lifeline customer in control of eligibility determination; (2) limiting the sharing of sensitive personal information with front-line customer service representatives or agents of private companies (e.g., partial social security number, date of birth, SNAP card, benefits letters or statements, tax returns, etc.); and (3) more uniform application of eligibility determination procedures and processes.

The shift to a national eligibility verifier will be a fundamental change in the administration of the Lifeline program and will require a thoughtful transition to ensure that existing Lifeline consumers do not experience a disruption in their service. Systems (beta tested) and trained staff must be in place before the new eligibility systems start to roll out. There must be robust and aggressive outreach and education regarding the new processes and funding to community groups, anchor institutions and organizations that serve low-income households. The Commission should establish competitive grants for Lifeline outreach and education with an eye towards organizations that are currently serving low-income populations. We recommend that the task of determining the details of the transition be delegated to the Wireline Competition Bureau to work through with USAC. We also recommend that the WCB establish a working group of providers and consumer advocates within 30 days of the Order. This working group will be tasked with providing feedback on the administrative aspects of the systems and processes so that problems can be flagged early on. The meetings should be open to the public and the working group should meet often (weekly in the beginning). The intent of this recommendation is to design a process where the immediate stakeholders have the ability to raise, in real-time, administrative issues or concerns so that the Enhanced NLAD's usability improves as the system rolls out. We note that when the National Lifeline Accountability Database (NLAD) was created, USAC carefully rolled out the new process a few states at a time.

²⁶ Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45 (rel. Feb. 6, 2012)(2012 Reform Order)at ¶184.

²⁷ For example, according to the USAC there are 25 Lifeline carriers in Florida, 25 Lifeline carriers in Maryland, 33 Lifeline carriers in Maine, 35 Lifeline carriers in Washington state, 44 Lifeline carriers in New York, 58 Lifeline carriers in Illinois, 97 Lifeline carriers in Minnesota, etc. From USAC's website, *Companies in My State*. Available at <http://www.lifelinesupport.org/ls/companies/companies.aspx> .

This allowed for early improvements to the process and minimized large-scale disruption of the program.

B. Adding Eligibility Determinations to the Existing National Database that Checks for Duplicate Benefits (Enhanced NLAD)

Currently, in the vast majority of states, carriers that enroll consumers into the Lifeline program must first check the National Lifeline Accountability Database (NLAD) to make sure that the applicant does not already receive a Lifeline benefit.²⁸ The NLAD check is instantaneous and also includes an identity authentication check. In order to perform these checks, all Lifeline applicants are required to provide uniform information (name, date of birth, last 4 digits of Social Security Number/Tribal ID, address, program that qualifies applicant for Lifeline, etc.). We recommend that the Commission add additional data fields to this national database in a manner that leverages to enrollment determinations that have already been made by the Lifeline qualifying programs (e.g., SNAP, LIHEAP, TANF, Medicaid, SSI, Subsidized Housing (Section 8), and National School Lunch Program). The additional data fields would capture a “Yes/No” determination as to whether the household is participating in a qualifying program and the start date for the provision of Lifeline service. ETCs currently have access to state databases for qualifying programs in 17 states. This verification check should be transitioned to the national verifier. There should then be a transition to expand this “Yes/No” eligibility check for the additional programs and into the remaining states. States should be allowed to opt out if they can create a system for eligibility determination, a duplicate benefits check and the identity authentication that provides the same degree, or better, of program integrity and pro-consumer usability (see II C, D, E, F, *infra*).

We recommend the establishment of Lifeline competitive grants to states to encourage National Eligibility Verifier access to state databases to check if a Lifeline applicant is participating in a qualifying program. These competitive grants can also fund coordinated outreach and enrollment with state programs (e.g., adding Lifeline to a SNAP or LIHEAP application and leveraging the qualifying benefits delivery network for Lifeline outreach and education).

C. An Enhanced NLAD (Duplicates, Identity Authentication and Eligibility Determination) Can Be Designed to Allow for Pre-Qualification of Lifeline

Adding the data fields for the “Yes/No” determination of whether an applicant is currently enrolled in a qualifying program to the existing national duplicates data base creates a centralized location for carriers to check if a household is enrolled in the Lifeline program. With a central Lifeline enrollment database, there is a structure in place for consumers to pre-qualify for Lifeline by enrolling into the Lifeline program at the time of enrollment in a qualifying program (for example, SNAP). The Commission should dedicate a competitive grant fund to states for

²⁸ States were allowed to opt-out of the NLAD if they could demonstrate that they had a statewide system that could perform these two functions as well NLAD. Only a handful of states/territories have opted out of NLAD (California, Texas, Oregon, Vermont and Puerto Rico).

the costs to add Lifeline to the enrollment application for one or more qualifying low-income programs and set up the interface with USAC to regularly upload once a day, once a week, or at a minimum once a month, a data batch of Lifeline eligible households. Consumers new to Lifeline will be preloaded into the Enhanced NLAD as enrolled in Lifeline to provide a fast track for Lifeline service. The pre-approved Lifeline participant can then go to any service provider and sign up for service as a Lifeline customer. The provider can contact the NLAD database for confirmation that the customer is enrolled in Lifeline. There is no need for a physical card or PIN, as the customer would already be listed in the central database and could be located with a few fields such as name and address. Thus the Lifeline benefit could be applied immediately to a service plan. The following provides an example of how this pre-qualification could be structured:

- The qualifying benefits application (e.g., SNAP) adds a consent box for the limited purpose of sharing consumer information with the National Lifeline Eligibility Verifier for enrollment in the Lifeline program.
- The qualifying benefits application (e.g., SNAP) includes the data fields necessary for Lifeline enrollment on the benefits form (e.g., name, address, DOB, last 4 digits of social security number, mailing address, etc.)
- Data for those households that have provided approval to be enrolled in Lifeline is regularly uploaded into the Enhanced NLAD database. Since this information comes directly from a state entity and is provided to the national eligibility verifier (an agent of the Commission), the personal data is not exposed to the carriers' customer service representatives.
- Pre-qualified Lifeline consumers can approach a service provider and sign up for service. The provider, upon contacting the Enhanced National Lifeline database to verify Lifeline eligibility and can run the instantaneous identity verification and duplicates check. Upon confirmation of that real-time check, the consumer can receive the Lifeline benefit immediately. The date of the initiation of service, the provider name and type of service should also be uploaded to the NLAD.
- There is no need for a physical card as a payment mechanism and no need for the consumer to remember a PIN. There is also no need to for a consumer to go to a payment site once a month to access service (e.g., the model where Lifeline is added to the SNAP electronic benefits card). The Enhanced NLAD Lifeline benefit will operate as it does now for consumers. The accounting for the reimbursement is handled between USAC and the carriers.
- The consumer is in the driver's seat and is free to choose the service that best meets their household's needs, but the benefit isn't attached to a physical card or PIN.
- Keeping the current reimbursement mechanism for Lifeline between the service provider and USAC also avoids complexities in tracking the one-per-household rule where a benefit is attached to a physical item like a plastic card.

D. Enhanced NLAD Can Facilitate “Frictionless” Portability

It is important for the Commission to ensure that Lifeline eligibility and duplicate Lifeline service check systems are designed to facilitate a competitive marketplace. The Enhanced NLAD is a centralized Lifeline database that can be designed to provide “frictionless” portability of the

Lifeline benefit. Competition for Lifeline customers can provide pressure on providers to improve their service offerings for Lifeline subscribers. The current Lifeline benefit is portable and the NLAD has built-in capability to handle service transfers from one provider to another. Current Lifeline service transfers require the acquiring carrier to obtain affirmative consent from the Lifeline recipient to transfer the Lifeline benefit to the acquiring carrier. The affirmative consent must include an acknowledgement that the consumer understands the one-per-household rule and that once the transfer is complete, the subscriber will lose their Lifeline benefit with their incumbent carrier. This process is reasonable and should be carried over to the Enhanced NLAD system. The Commission should provide clear transfer rules setting out when the old provider must “let go” of the customer and when the new provider “acquires” the Lifeline customer, to ensure that the transfers are handled uniformly.²⁹

Another rule that would promote portability of the Lifeline benefit is to establish that once a consumer is enrolled in Lifeline, eligibility is deemed to last at least a year (perhaps longer for some subsets of consumers e.g., frail elderly or disabled consumers who have a fixed income under the qualifying level). Within the period of eligibility a consumer should be able to port their Lifeline benefit to another provider or service for the remainder of the period of eligibility without having to re-enroll. There also needs to be a balance between the churn due to transferring a Lifeline benefit between carriers or services and consumer control in finding the best service for his/her household. Current Lifeline benefit transfer rules limit benefit transfers to once in a 60 day period.³⁰ At this point in time there seems to be a benefit to keeping this 60-day limitation as it may limit churning without imposing too much constraint on the ability to shop. The one exception should be if the initial service fails to provide promised functionality (e.g., no access to emergency services because the home is in a dead zone). This frictionless portability of the Lifeline benefit would provide consumers with control over where their Lifeline benefit is directed without the burden of keeping track of yet another plastic card or remembering a special PIN.

E. Transferring Lifeline Benefits Directly to the Consumer

As discussed in the NPRM, the Commission has long considered, but rejected, specific proposals to assign Lifeline benefits directly to the consumer.³¹ We recommend the rejection of these proposals again because they add cost and complexity and are not necessary for consumer control and portability of the Lifeline benefit. They could also introduce additional vulnerabilities to the program’s integrity that would require time and resources to mitigate and add an unnecessary obstacle to consumers’ use of the Lifeline benefit. Moving to a physical card or PIN is unnecessary if the goal is consumer control. The framework outlined in our package of recommendations provides for frictionless portability of the Lifeline benefit so that consumers

²⁹ Cf Commission’s carrier change rules and local number portability.

³⁰ See NLAD Benefit Transfers Process described at <http://www.usac.org/li/tools/nlad/benefit-transfers.aspx>.

³¹ NPRM at ¶¶ 105-106 (discussion of the Metro PCS proposal for a voucher-based program and AT&T’s proposal to transfer benefits directly to subscriber by assigning subscribers a unique identifier or PIN).

could shop around and consumers would be able to sign up for the service that best fits their needs.

At this time, we do not support the drastic modification of the Lifeline administration to transfer benefits directly to the subscriber via a physical card, voucher or PIN³² because it creates undue complexity in the program and is not necessary to ensure consumers can choose their service and provider and shop around for a better service. The proposals set forth earlier in these comments regarding an Enhanced NLAD achieve the goal of consumer control to shop around for better Lifeline service. The proposal regarding pre-qualification for Lifeline allows consumers to immediately receive their Lifeline benefit once they choose their provider and service.

A great deal of time and resources were invested in the creation of a duplicates database (NLAD) to track whether a Lifeline recipient only has one Lifeline benefit. While the one-benefit-per-household limitation is in existence, the Lifeline program must also provide controls to track who is receiving a Lifeline benefit. A physical card, such as an electronic benefits card or the assignment of a unique Lifeline PIN will require some type of identity authentication and duplicates check with each Lifeline benefits transaction. There is also a grave risk to the public perception of the program that stem from a physical embodiment of the Lifeline benefit (e.g., allegations that Lifeline cards are being sold on Craigslist).

For consumers, there is significant inconvenience in tying the Lifeline benefit to a physical item (e.g., an electronic benefits card, or a voucher) or creating a benefit mechanisms that requires the Lifeline consumer to actively do something each month to receive the benefit (e.g., go to a storefront to make a payment or remember a PIN each month).

Finally, there are additional costs to the program and to consumers if the program shifts to using an EBT or other form of payment card. There will be fees to a bank for the processing of the payments. This introduces yet another entity in the delivery of the Lifeline benefit. What happens in the case of a lost card or missing or improper benefit amounts on the card? A PIN system requires a consumer to remember that number and will create headaches for the consumer when he or she forgets the PIN. The Lifeline administrator will need to establish a mechanism to address the problem of forgotten PINS in a timely manner. There could also be increased costs for audits as the audits would shift from the service providers to the millions of Lifeline beneficiaries.

F. Interaction Between Consumers and the National Eligibility Verifier

The transition to a national eligibility verifier will be a significant undertaking and there will be great efficiencies in focusing on getting in place coordinated enrollment forms and pre-qualification of Lifeline eligibility in the states. It is possible that once there are coordinated automated enrollment processes in a majority of states, the number of individual Lifeline applications will become a smaller percentage of the overall Lifeline applications. In the

³² NPRM at ¶107.

meantime, the Commission will need to establish a means for individual consumers to directly apply to the National Eligibility Verifier to enroll in Lifeline.

The Commission should, concurrently with the aggressive push to have access to state eligibility databases,³³ require the development of an online Lifeline application. Such an application should meet accepted web accessibility standards.³⁴ The application should be designed to signal to consumers where there are problems with their application (e.g., missing data fields). The online application should also include the ability for consumers to monitor where their application is in the approval process. Consumers should also be able to use the online Lifeline form to terminate their Lifeline benefit in a timely manner. There should also be an online, consumer friendly appeals form regarding the denial of Lifeline service and a dedicated help desk to assist applicants with their Lifeline application. There should also be funding for statewide grants to caseworkers at the intake sites for the various qualifying programs to assist consumers with their online Lifeline applications. For example Lifeline implementation grants could be directed to the entities that handle applications for a qualifying assistance program. For example, state grantees of the Low Income Home Energy Assistance Program often subcontract with Community Action Agencies (CAAs) to process LIHEAP applications. The CAAs in such circumstances could receive Lifeline funding to assist LIHEAP applicants with their Lifeline application.

While we recommend the immediate development of an online application form, we are also concerned that over-reliance on such an online form might limit access to the enrollment process. This very NPRM is necessary because of the lack of broadband access for low-income households. While we expect the majority of Lifeline applicants will enroll through online or an automated process in the near future, whether directly or with the assistance of a caseworker at a qualifying intake site or CBO, there still remains a need for prompt and effective paper applications process. We realize the cost in the processing of paper applications, but it is necessary to reach a segment of Lifeline households that will not be able to apply online.

We expect an online application process to have a faster processing time than a mailed, paper application. The online process should strive towards real-time or same day determinations. However, unless and until more qualifying programs use a centralized state database that can be “pinged” by the national verifier; there will be some programs in some states that allow for near real-time processing of applications and some programs in some states that could experience longer processing times while the National Verifier obtains more manual verification of program participation. The Commission could also determine that submission of scanned eligibility documentation should be required in states where there is not yet access to eligibility databases. However, any process that puts the burden on low-income consumers will likely result in lower participation than a process that can be handled by the National Eligibility Verification Administrator.

³³ Currently ETCs have ability to check state qualifying program participation databases in 17 states, additional state-to-Enhanced NLAD (USAC) systems will take time to develop.

³⁴ The most widely accepted standard is WCAG 2.0 AA. More information about web accessibility standards for people with disabilities can be found at <http://www.w3.org/WAI/intro/wcag>.

Trainings on the centralized Lifeline enrollment process should be available to local government agencies, frontline benefits programs staff, CAAs and other groups who have staff to help low-income households apply to benefits programs. NARUC and NASUCA³⁵ offices should have the capability to help consumers apply for Lifeline and should have access to the Enhanced Lifeline database to assist Lifeline customers with their Lifeline benefits problems or questions. Individual Lifeline applications to a national eligibility determiner will require additional customer service staff to handle inquiries, complaints and appeals. The current administration of the program relies primarily on ETCs as the intermediary between the consumer and USAC. Direct Lifeline beneficiary contact will require more consumer-focused customer-service staff and accessible materials, in simple to understand language, as well as different languages. Until an online applications portal can be built, there will need to be a hybrid model where ETCs still handle Lifeline eligibility determinations.

III. Miscellaneous Lifeline Matters

A. Lifeline Budget is Premature and Risks Rationing Access to Broadband

At this point in time, setting a budget on the Lifeline program runs the very real risk of rationing access to essential voice and broadband service which is contrary to the intent of universal service to all, including low-income households. Thus, we object to a “budget” that would result in the denial of Lifeline to any eligible household.

B. Expand Lifeline Eligibility Criteria

The NPRM seeks comment on several matters regarding Lifeline eligibility criteria.³⁶ The Low-Low-Income Consumer Groups recommend that the Commission retain all the programs used to qualify a household for Lifeline and retain the ability to qualify using income eligibility. Low-income households are not monolithic. They face different challenges and not all will want or need to access the same set of federal programs. Currently SNAP and Medicaid are two of the most popular programs used to qualify for Lifeline, covering the vast majority of applicants (around three out of four).³⁷ More people qualify for Lifeline using income eligibility than SSI, LIHEAP TANF Section 8 or NSL Free Lunch Program.³⁸ However, it is possible that some programs that are not currently widely used to establish Lifeline eligibility would become more popular with the use of common application forms and funding for benefits intake sites to include Lifeline applications. In addition, retaining all the current qualifying programs facilitates opportunities to target programs serving households with young children, households with members with disabilities, households needing medical care, etc.

³⁵ We note that, at this time, not all NARUC or NASUCA offices will have this capability due to state telecom deregulation laws. In those states, another statewide consumer advocates should be permitted to apply to the Commission to perform this function.

³⁶ NPRM at ¶¶ 113-115.

³⁷ Karen Majcher, USAC, response to NCLC query about eligibility preferences for Lifeline participants on April 6, 2015.

³⁸ *Id.* Also, about 7% of the Lifeline eligibility determinations are handled by a state administrator.

The NPRM also seeks comment on expanding eligibility to include participation in the Veterans Pension benefit.³⁹ Low-Income Consumer Groups strongly support the addition of the means-tested Veterans Pension benefits program and are open to adding additional low-income Veterans programs. Access to affordable voice and broadband can help further such efforts as the prevention of suicides and homelessness for veterans.

The NPRM seeks comment on requiring the provision of additional documentation for Lifeline eligibility determinations.⁴⁰ Low-Income Consumer Groups are opposed to adding additional documentation requirements for Lifeline as that will provide additional barriers to service. The emphasis should be on rapidly getting Lifeline added to as many qualifying program applications as possible so consumers to apply to Lifeline at the same time as they apply for other qualifying benefits.

C. Additional Strategies to Increase Lifeline Efficiency

The Lifeline program is well situated to play a contributing role in the closing of the digital divide by targeting assistance to low-income households who have trouble affording broadband service. There are other aspects to access that Lifeline is not currently set up to address such as the provision of digital literacy training and the subsidization of equipment cost. On March 23, 2015, the President issued a Memorandum for the heads of executive departments and agencies regarding “Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training.” The Memorandum directs federal agencies to identify opportunities to promote broadband adoption. Civil rights advocates raised have raised the need for these agencies to help promote the Lifeline program, particularly through the Lifeline qualifying programs in the Broadband Opportunity Council process. The Commission should use this window of attention to establish ties between Lifeline and the agency divisions responsible for the programs that establish Lifeline eligibility.

Notably, the Department of Health and Human Services, Administration for Children and Families oversees LIHEAP and TANF as well as a suite of other programs targeted to low-income families. Lifeline should provide grants for the networks used by ACF to reach low-income families. For example, LIHEAP distributes energy assistance to state grantees who then subcontract to local agencies and Community Action Agencies to administer the intake. Lifeline could direct grants to these same networks for targeted promotion of Lifeline and applications assistance. The Department of Health and Human Services also houses Medicaid and the Children’s Health Insurance Program (CHIP).⁴¹ These are two programs that reach low-income

³⁹ NPRM at ¶115.

⁴⁰ NPRM at ¶¶118 -120.

⁴¹ CHIP is not currently a qualifying Lifeline eligibility program, but we recommend the Commission consider adding this program as well. For states not opting into the Medicaid expansion, the CHIP program is targeted to insure low-income households with children. This could be another avenue for targeting outreach and education to households with children facing the homework gap.

households focused on access to affordable healthcare. Similar potential exists for all the Lifeline qualifying programs.

IV. Conclusion

We appreciate the opportunity to comments on this important NPRM and look forward to reviewing the other comments filed in this proceeding.

Respectfully Submitted,



Olivia Wein, on behalf of
the Low-Income Consumer Groups

Telecom Project Lead Attorney
National Consumer Law Center
1001 Connecticut Avenue, NW, Suite 510
Washington, DC 20036-5528
(202)452-6252, x 103
owein@nclc.org

August 31, 2015

Appendix A

National Consumer Law Center is a nonprofit founded in 1969 that works for economic justice for low-income and other disadvantaged people in the U.S. through policy analysis and advocacy, publications, litigation, and training. NCLC has expertise in protecting low-income customer access to affordable telecommunications services in front of state utility commissions and at the Federal Communications Commission.

Advocates for Basic Legal Equality is a regional public interest law firm serving low income individuals and groups in western Ohio. ABLE has a long history of representing clients in telecommunications matters before the Public Utilities Commission of Ohio and the Federal Communications Commission and has worked actively to expand access to and preserve affordability of that service.

Asian Americans Advancing Justice | AAJC is a national nonprofit founded in 1991 to protect civil and human rights. As a national advocate for Asian Americans based in Washington, D.C., we serve our country's newest American community by promoting justice for all Americans, empowering our communities, bringing local and national constituencies together, and ensuring Asian Americans are able to fully participate in our democracy. Rooted in the dreams of immigrants and inspired by the promise of opportunity, Advancing Justice | AAJC advocates for an America in which all Americans are able to equally benefit from, and contribute to, the American dream.

Citizens Coalition is made up of six community groups in the Greater Cleveland area. We represent low-income families, senior citizens, ESL families, and other vulnerable citizens, our goals are to insure that these vulnerable people and their families have access to necessary utility services required for preserving health, maintaining standards of cleanliness, and saving lives. This includes utilities such as gas, electricity, telephone, sewer, water, and rubbish services. Our coalition members have been involved in this work since the 1970's. Our advocates include individuals who have been representing low-income communities and families for more than forty years. These organizations were instrumental in establishing phone programs for seniors and the poor as well as establishing the Percentage of Income Payment program in Ohio. They have secured more than \$225 million dollars from our utility companies for various programs for the poor.

Crossroads Urban Center has been assisting and organizing low-income, disabled and minority Utah residents in meeting their basic survival needs and in addressing essential issues affecting the quality of their lives since 1966.

Edgemont Neighborhood Coalition is a community organization in the oldest African American neighborhood in Dayton Ohio. Edgemont advocates for economic and community development and has worked for affordable telecommunications access since 1996.

Legal Services Advocacy Project is a statewide division of Mid-Minnesota Legal Aid, a nonprofit organization representing the six regional legal services programs and the interests of all low-income Minnesotans through legislative and administrative advocacy, research, and community education activities.

Low Income Utility Advocacy Project engages in administrative and legislative advocacy in Illinois in the utility/energy area on behalf of low income households and not-for-profits. It is a project of the Shriver Poverty Law Center, Voices for Illinois Children and Heartland Alliance for Human Needs and Human Justice."

Ohio Poverty Law Center is a nonprofit law office that pursues statewide policy and systemic advocacy to protect and expand the economic and legal rights that low-income Ohioans need to live healthy, secure, successful lives. OPLC works collaboratively with our direct service legal aid colleagues and a statewide network of social services, policy research, and advocacy organizations to advance or protect the rights of Ohioans living in poverty.

Open Access Connections is a Minnesotan based nonprofit that has been providing free communication tools, such as free community voice mail, since 1994.

The Pennsylvania Utility Law Project is a specialized project of the Pennsylvania Legal Aid Network that provides information, assistance, and advice on low income residential utility and energy matters. PULP acts in coordination with the Pennsylvania Legal Aid Network of Programs and other non-profit agencies and community groups. Our mission is to assist Pennsylvania's low-income residential utility and energy consumers connect to and maintain affordable utility and energy services within their homes.

Pro Seniors is a non-profit organization that provides free legal and long-term care help to older adults in Ohio. Pro Seniors offers Ohio residents age 60 and older the advice and information they need to solve their legal and nursing home, adult care facility, and home health care problems.

Texas Legal Services Center is a statewide Legal Aid program that sponsors the TexasLawHelp.org website that provides Texans with free information concerning their legal rights. Pursuant to Texas law, TLSC established a Collaborative Community Network with the State Bar and public libraries known as the Partnership for Legal Access to ensure consumers have free access to consumer-oriented legal information.

United Church of Christ, OC Inc. is the communications and media advocacy ministry of the United Church of Christ. Because the UCC is a faith community rooted in justice, the denomination established OC Inc. in 1959 to create just and equitable media and communications structures that give meaningful voice to diverse peoples, cultures and ideas. More information available at: www.uccmediajustice.org.