

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
)	

**OPENING COMMENTS OF THE GREENLINING INSTITUTE , CENTER FOR
MEDIA JUSTICE, MEDIA ACTION GRASSROOTS NETWORK (MAG-NET),
CENTER FOR ACCESSIBLE TECHNOLOGY, MEDIA ALLIANCE,
18MILLIONRISING.ORG, ALLIANCE FOR COMMUNITY MEDIA, ALTERNATE
ROOTS, APPALSHOP, INC., BLACK ALLIANCE FOR JUST IMMIGRATION (BAJI),
CENTER FOR SOCIAL INCLUSION, COLOROFCHANGE.ORG, GENERATION
JUSTICE, GLOBAL ACTION PROJECT, HOPE COMMUNITY/ SPEAC, INSTITUTE
FOR LOCAL SELF-RELIANCE, LINE BREAK MEDIA, MARTINEZ STREET
WOMEN'S CENTER, MAY FIRST/ PEOPLE LINK, MEDIA MOBILIZING PROJECT,
MILLION HOODIES MOVEMENT FOR JUSTICE, MINNESOTA CENTER FOR
NEIGHBORHOOD ORGANIZING, MUSLIM AMERICAN WOMEN'S POLICY
FORUM, OPEN ACCESS CONNECTIONS, PRESENTE.ORG, PROMETHEUS RADIO
PROJECT, QUOTE...UNQUOTE, INC., SOMOS UN PUEBLO UNIDO, SOUTHWEST
ORGANIZING PROJECT, SOUTHWEST WORKERS UNION, ST. PAUL
NEIGHBORHOOD NETWORK, THE PEOPLE'S PRESS PROJECT, THE YOUNG
PEOPLE'S PROJECT, UCIMC, VOICES FOR RACIAL JUSTICE, AND WORKING
NARRATIVES ON THE SECOND FURTHER NOTICE OF PROPOSED
RULEMAKING, ORDER ON RECONSIDERATION, SECOND REPORT AND ORDER,
AND MEMORANDUM OPINION AND ORDER**

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RULEMAKING, ORDER ON RECONSIDERATION, SECOND REPORT AND ORDER,
AND MEMORANDUM OPINION AND ORDER**

I. INTRODUCTION

In accordance with the Commission's Second Further Notice of Proposed Rulemaking of June 22, 2015 and Order of August 5, 2015, The Greenlining Institute (Greenlining), Media Action Grassroots Network (MAG-Net), Center for Media Justice, Center for Accessible Technology, Media Alliance, 18MillionRising.org, Alliance For Community Media, Alternate ROOTS, Appalshop, Inc., Black Alliance for Just Immigration (BAJI), Center for Social Inclusion, ColorOfChange.org, Generation Justice, Global Action Project, Hope Community/ SPEAC, Institute for Local Self-Reliance, Line Break Media, Martinez Street Women's Center, May First/ People Link, Media Mobilizing Project, Million Hoodies Movement for Justice, Minnesota Center for Neighborhood Organizing, Muslim American Women's Policy Forum, Open Access Connections, Presente.org, Prometheus Radio Project, Quote...Unquote, Inc., Somos Un Pueblo Unido, SouthWest Organizing Project, Southwest Workers Union, St. Paul Neighborhood Network, The People's Press Project, The Young People's Project, UCIMC, Voices for Racial Justice, and Working Narratives (collectively, Joint Commenters), file these Opening Comments. As discussed below, Joint Commenters propose a robust, valuable service offering as the minimum service requirements while still ensuring that the Lifeline product remains affordable and that the program retains a reasonable budget. Joint Commenters look forward to working with all interested stakeholders to ensure that the program meets current customer needs, appeals to potential customers, does not overburden ratepayers, and provides value for the service by looking at a broad range of possible services, features and functions.

II. SUMMARY OF RECOMMENDATIONS

Joint Commenters have addressed the issues raised in the NPRM. While Joint Commenters may not have addressed each and every question separately, the goal of these

comments is to provide input, at least to be used for future discussions on the topic, on the majority of issues raised by the NPRM. In summary, Joint Commenters recommend:

- The Commission should institute a “Lifeline for broadband” program.
- Lifeline-eligible customers should be able to receive a subsidy for both telephone and broadband service.
- The Lifeline program should not allow providers, who receive large ratepayer-funded subsidies, to provide “second class” telephone or broadband service to Lifeline-eligible customers.
- The Commission should take steps to increase the availability of Lifeline:
 - The Commission should create incentives that encourage providers to offer Lifeline products that are attractive to Lifeline-eligible customers. These incentives include clarifying the role of states in the program and instituting tiered reimbursement to providers.
 - The Commission should create incentives that encourage states to contribute their own funds to the program by instituting a tiered subsidy.
 - The Commission should create incentives that encourage customers to participate in the program by eliminating the Social Security Number Requirement and providing funding for Community Based Organizations to perform marketing, education, and outreach.
- The Commission should take steps to increase the affordability of Lifeline:
 - The Commission should ensure that the Lifeline subsidy is sufficient to make both telephone and broadband services affordable.
 - The Commission should require that Lifeline providers offer unbundled services.
 - The Commission should require that Lifeline providers allow participants to apply their discount to plans for multiple users.
- The Commission should take steps to increase the service quality of Lifeline:
 - The Commission should require that providers offer a plan with unlimited use.
 - The Commission should require that providers offer customer service in the language in which the Lifeline Service was sold.
 - The Commission should require that providers ensure that participants with disabilities have access to the same information and options as other Lifeline participants.
- The Commission should take steps to increase the equity of Lifeline:
 - The Commission should require that providers allow customers to apply their lifeline discount to any device or plan that meets the Commission’s requirements.
 - The Commission should eliminate structural exceptions to the non-discrimination rules.
 - The Commission should not allow the Lifeline subsidy to become a “coupon” or voucher.”
- The Commission should take steps to increase the value of Lifeline:

- The Commission should require that Lifeline services meet minimum standards.
- To protect program integrity and reduce provider fraud, waste and abuse, the Commission should use a Third-Party Administrator ensure that eligible household receive only one phone and one broadband subsidy to ensure that ineligible households are kept off of Lifeline and that eligible households get the benefit of Lifeline.

III. OVERVIEW

A. The Commission Should Institute a “Lifeline for Broadband” Program.

The NPRM proposes amending the Commission’s rules to “include broadband Internet access service, defined consistent with the Open Internet Order, as a supported service in the Lifeline program.”¹ Joint Commenters cannot overstate the importance of broadband to low-income communities and communities of color. Today’s society demands the ability to communicate quickly and seamlessly and broadband provides consumers that critical link to communicate with their communities, employers, children’s schools, families and support network. As the NPRM notes, broadband is necessary for basic access to education, employment opportunities, government and health services, and banking.² Modifying the Lifeline program to support a low-income broadband option is consistent with equity, telecommunications policy, and the purposes of the Lifeline program.

B. The Lifeline Program Must Meet The Unique Needs Of Eligible Customers.

Joint Commenters applaud the Commission’s proposal to modernize the Lifeline program and maximize the benefits of the program to all eligible consumers. In so doing, the Commission should keep in mind that Lifeline-eligible consumers have unique characteristics.

¹ NPRM at ¶ 61.

² NPRM at ¶ 5.

The Commission should keep these unique characteristics in mind when making any changes to the Lifeline program.

1. Lifeline Customers Are Disproportionately Low-Income.

Lifeline-eligible subscribers are low-income, and therefore are less likely to have broadband access³ or access to transportation.⁴ As a result, basic telephone service may be Lifeline-eligible subscribers' **only** access to information, job offerings, community or school events, or emergency services. Accordingly, Lifeline-eligible subscribers are more dependent on reliable, affordable phone service than their non-Lifeline counterparts who may have an easier time looking information up through computers, smart phones or through more person-to-person involvement in the community.

Similarly, Lifeline-eligible subscribers lack the financial flexibility of other subscribers. For example, California Lifeline subscribers are significantly less able to afford rate increases, overage fees, early termination fees, or unreasonable or excessive non-recurring charges than non-Lifeline subscribers.⁵ Accordingly, as discussed below, Lifeline service elements should diverge from Basic Service elements to the extent necessary to protect low-income communities.

³ Cal.P.U.C, Staff Report to the California Legislature: Affordability of Basic Telephone Service, Vol. 2, (Sept. 30, 2010) p. 14, Table 2.2a (hereafter, Affordability Study), *available at* http://www.cpuc.ca.gov/NR/rdonlyres/383BBEA3-45F8-42E4-8582-70413539AC45/0/2010_Affordability_Report_Final_Sep_29_2010.pdf.

⁴ *See, for example*, William A.V. Clark and Wenfei Winnie Wang. *The Car, Immigrants And Poverty: Implications For Immigrant Earnings And Job Access*, UCLA Working Paper, (Sept.12, 2008), <http://www.uctc.net/papers/859.pdf>; *see also*, Rice, Lorien. *Transportation Spending by Low-Income California Households: Lessons for the San Francisco Bay Area*, Public Policy Institute of California, (2004).

⁵ Affordability Study at p. 10.

2. Lifeline Customers are Disproportionately From Communities of Color.

California Lifeline eligible customers are disproportionately people of color. Only 22 percent of white households are Lifeline eligible, compared to 36 percent of African American households and 56 percent of Latino households.⁶ Accordingly, communities of color are more reliant on Lifeline and, as a result, those communities will experience a disproportionate impact if the Commission permits Lifeline service that is less robust than services available to non-Lifeline customers. Accordingly, the Commission should not alter the Lifeline program in a manner that provides less robust protection than available to non-Lifeline customers or other requirements for non-discriminatory access to phone service.

3. Lifeline Customers are Disproportionately Limited-English and Non-English Proficiency Speakers.

Limited and Non-English speaking customers compose another segment of the marketplace that is significantly more likely than average to be Lifeline eligible. For example, in California while 33 percent of all customers are Lifeline eligible, 71 percent of Spanish-only customers are Lifeline eligible.⁷ It will be difficult for those customers to decipher English-only contracts or discuss customer service issues with English-only customer service representatives. Specific attention to Limited English proficiency populations also aligns with stated Commission consumer protection policies. The Commission has found that these populations are more likely to experience fraud and be confused by misleading marketing.⁸ These risks appear to be growing, as big companies are increasing their targeted marketing to these communities.⁹ Therefore, the Commission's upgrades to the Lifeline program should include protections that benefit Limited English Speaking populations.

4. Lifeline Customers are Disproportionately Senior Citizens

Senior citizens are also a significant demographic of Lifeline beneficiaries. At the federal level, almost half of the participants in the program are 45 to 50 years old and a substantial percent are over sixty.¹⁰ The elderly frequent combine many of the identifiers of the other communities such as the disabled. These constituents are frequently not mobile and as a result would be horribly isolated without the ability to have high quality telephone service. While they often do not need the enhanced features of some regular bundles of services they do need reliable service quality, ability to make calls over various distances, useful directory services, and robust 911 service.

5. Lifeline Customers are Disproportionately Consumers with Disabilities

People with disabilities face virtually all of the dependencies discussed above at heightened levels. People with disabilities are disproportionately low-income; they have very low rates of participation in the workforce,¹¹ and during the ongoing economic crisis facing low-income Californians following the 2008 financial collapse, many programs supporting people with disabilities have seen cuts.¹² People with disabilities also have one of the lowest levels of

⁶ Affordability Study, Vol. 1 at p. 2.2

⁷ Affordability Study at p. 18.

⁸ See Cal. Pub. Util. Comm'n, Decision Addressing The Needs Of Telecommunications Consumers Who Have Limited English Proficiency, D.07-07-043; Rulemaking to Address the Needs of Telecommunications Customers Who have Limited English Proficiency, R.07-01-021 (January 11, 2007).

⁹ For example, many large companies are increasing their marketing towards Spanish speakers. USA Today, Big Brands Target Hispanic Customers (Sept. 23, 2013) *available at* <http://www.usatoday.com/story/money/business/2013/09/22/big-brands-target-hispanic-consumers/2845009/> (last accessed August 31, 2015).

¹⁰ See, Statement by the Benton Foundation, "Benton: Preserve Vital Lifeline, Statement by Charles Benton to the House Communications and Technology subcommittee, on April 25, 2013, <http://benton.org/node/150348>

¹¹ According to the U.S. Department of Labor, in January of 2012, 17.4% of people with disabilities participated in the workforce, as compared to 62.9% of people without disabilities. People with disabilities had the lowest level of workforce participation of any demographic section measured. See Bureau of Labor Statistics, Economic News Release updated February 3, 2012, Table A-6, Employment status of the civilian population by sex, age, and disability status, not seasonally adjusted available at <http://www.bls.gov/news.release/empsit.t06.htm>.

¹² For example, in 2009, the California Legislature required the Department of Developmental Services (DDS) to reduce its budget by \$174 million for fiscal year 2011-2012, following prior cuts of \$334 million effective July,

connectivity of any demographic group regularly considered, a concern that has persisted over time, even as overall levels of connectivity have increased.

At the same time, people with disabilities are highly dependent on affordable and reliable telecommunications in order to live independently. This includes reliable access to service that allows them to participate in their communities, maintain contact with caregivers, aides, friends and family, service providers and healthcare resources, engage in commerce, and seek help in an emergency. Some people with disabilities, particularly vision and/or hearing impairments, have limited ability to make use of standard forms of communication, ranging from a need for adaptive phone equipment to a need for educational and outreach materials to be provided in non-standard formats, to information provided on internet websites being designed to meet accessibility standards, to ensuring access to customer assistance using relay services or other means.¹³ For all of these reasons, the Lifeline program must expressly take into consideration the way in which it engages with eligible customers with disabilities, to ensure that they have appropriate access to Lifeline.

6. Lifeline Customers are Disproportionately Mobile Families

Low-income families tend to change residences more than families with higher incomes.¹⁴ Low-income renters face disproportionately higher rent-to-income ratios and

2009. These cuts impact not only Supported Living Services, but other services for adults with developmental disabilities including transportation, residential services and adult day programs. At the same time, federal benefits for people with disabilities were cut or frozen for several years running. For example, there was no automatic cost of living adjustment (COLA) for Social Security in 2010 or 2011; a 3.6% increase in January of 2012 was the first adjustment that beneficiaries received since 2009.

¹³ The specific communications needs of people with disabilities are discussed in greater detail below in section V.D.3.

¹⁴ See, David K. Ihrke and Carol S. Faber, *Geographic Mobility: 2005 to 2010, U.S. Census* at pp. 4-5 (Dec. 2012) (Over half of households below poverty moved and almost two-thirds of renters moved within a 5-year period. African-American, Asian, Hispanic or Latino households moved more than white households. The unemployed

disproportionately low access to affordable rent;¹⁵ yet, Lifeline subscribers are less likely to be homeowners and more likely to rent.¹⁶ Accordingly, the only reliable means of communication for these low-income customers can be telephone service and, specifically, the mobility provided by wireless phone service.

The continuity in service allowed by a wireless Lifeline product for many transient low income customers can be invaluable for retaining continuous access to social services and possible employment opportunities.¹⁷ A subscriber who moves frequently may not receive their postal mail in a sufficiently timely manner and a wireline phone is generally disconnected upon moving. Accordingly, the Commission should include protections for those that move often by ensuring the availability of a valuable and robust Lifeline service.

IV. LIFELINE-ELIGIBLE CUSTOMERS SHOULD BE ABLE TO OBTAIN A LIFELINE INCENTIVE FOR BOTH TELEPHONE AND BROADBAND SERVICES.

As noted above, basic telephone service may be Lifeline-eligible subscribers' **only** access to information, job offerings, community or school events, or emergency services. Additionally,

moved more often than the employed. Over 40% of separated households and 40% of divorced households move within a 5-year period compared to 8% for married households.); *see also*, Center for Housing Policy, *Should I Stay or Should I Go? Exploring the Effects of Housing Instability and Mobility on Children* (2011), available at <http://www.nhc.org/media/files/HsgInstablityandMobility.pdf>.

¹⁵ John M. Quigley and Steven Raphael, *Is Housing Unaffordable? Why Isn't It More Affordable?*, 18 J.Econ. Perspectives 199 (Winter 2004), available at <http://urbanpolicy.berkeley.edu/pdf/QRJEP04PB.pdf>.

¹⁶ Center for Housing Policy, *Should I Stay or Should I Go? Exploring the Effects of Housing Instability and Mobility on Children* (2011), p. 2, note 1, available at <http://www.nhc.org/media/files/HsgInstablityandMobility.pdf>.

¹⁷ *See*, Letter from David Super, Professor, Georgetown University, FCC Ex Parte in WC Docket No. 11-42; WC Docket No. 03-109; CC Docket No. 96-45 (Nov. 7, 2011)(A stable phone number and connectivity is essential for helping the unemployed and underemployed get back on their feet; Lifeline helps workers pick up extra shift work; secure jobs; coordinate transportation to and from work and notify an employer of work missed due to emergencies, all critical for maintaining employment. Where workers have young children, reliable affordable, phone service is critical for coordinating childcare logistics and to provide an ability to reach a parent in case of emergency or if the child is sick).

while that telephone service may be necessary for that access, telephone service is becoming increasingly insufficient. For example, in Oakland, California, the only way for families to sign up for low-cost housing is online.¹⁸ Many employers, including some of the nation's largest, only accept job applications online.¹⁹ In order to access all of the economic opportunities available in today's society, individuals must have access to both telephone and broadband services.

Statistics show that Lifeline customers rarely can afford both wireline and wireless service even if one of those services is discounted.²⁰ It is reasonable to assume that if Lifeline customers cannot afford both wireline and wireless service, those customers cannot afford both telephone and residential broadband service.²¹ Accordingly, the Commission should ensure that can obtain both "Lifeline for phone" and "Lifeline for broadband," rather than being forced to choose between one or the other.

Additionally, dual eligibility will likely accelerate broadband adoption. Many of the current telephone Lifeline customers are familiar with the services they receive. Given the option of choosing between familiar Lifeline telephone service and relatively unknown Lifeline broadband service, those customers will likely choose to not obtain broadband service, slowing overall adoption of broadband. If the Commission crafts a program that allows Lifeline-eligible

¹⁸ For example, the Oakland Housing Authority's website does not include address or telephone information. Oakland Housing Authority, Contact Us, available at <http://www.oakha.org/AboutUs/Pages/Contact-Us.aspx>.

¹⁹ NPRM at ¶ 5.

²⁰ Data from the statewide portion of the Affordability Study shows that 51 percent of non-LifeLine households had wireline and wireless services, versus 8 percent for LifeLine households. Affordability Study, Vol. 1, p. 13, Table 1.4(b).

²¹ There is substantial research that smart phones should not be considered a replacement for residential broadband. Pittsburgh Post-Gazette, Smartphones don't replace home Internet Access, Pew Study finds (April 3, 2015), available at <http://www.post-gazette.com/business/tech-news/2015/04/03/Pew-study-shows-smartphones-don-t-replace-home-Internet-access/stories/201503310265> (last accessed August 31, 2015).

customers to obtain low-cost telephone and broadband service, this policy will encourage broadband adoption and increase opportunities for our unserved and underserved communities.

V. IN IMPLEMENTING ANY LIFELINE PROGRAM, THE FCC SHOULD FOLLOW FIVE CRITICAL PRINCIPLES

There are several critical principles of the program that the Commission must consider and protect: Availability, Affordability, Service Quality, Equity and Value. The Commission must encourage providers and States to expand the *availability* of Lifeline by implementing policies that provide incentives to participation by providers, states, and eligible consumers. As a subsidized service, Lifeline must remain *affordable*, regardless of how quickly the rates for other services are increasing. Lifeline must provide *high quality service* regardless of the service offered or technology used by the provider, or risk not satisfying its social goals. Lifeline must ensure that providers treat eligible customers with *equity* as compared to other telecommunications customers and that providers do not offer eligible customers a lesser service merely because it is “discounted.” Finally, the program must be designed and administered to provide *value*, not just to the participants but to the ratepayers paying the surcharge to support the program. Other considerations such as customer choice, technology neutrality and carrier support are also important, but the Commission should not prioritize these above the core principles of availability, affordability, service quality, equity and value.

VI. THE COMMISSION’S LIFELINE PROGRAMS SHOULD INCLUDE ELEMENTS THAT ADDRESS THE UNIQUE NEEDS OF LIFELINE-ELIGIBLE CUSTOMERS AND SERVE THE FIVE PRINCIPLES

When reviewing the Lifeline program, the Commission should ensure that any changes or upgrades to the program address the unique needs of Lifeline-eligible customers and serve the five principles discussed above. First and foremost, the Commission should ensure that Lifeline

customers do not receive “second-class” service. Additionally, the Commission should create incentives for participation by providers, states, and eligible subscribers, ensure that eligible subscribers can afford both telephone and broadband service, protect service quality, prohibit discriminatory policies by providers, and ensure that the ratepayer funds paid into the Lifeline fund are spent as efficiently and responsibly as possible.

A. Lifeline Customers Should Not Receive Second-Class Service.

As discussed above, Lifeline subscribers are low-income, seniors, disproportionately people of color, limited or non-English speakers, individuals with disabilities and people who are dependent on continuity of service. The Commission should be sensitive to the unique needs of these populations when considering its revision of the Lifeline service elements, and should include elements that minimize disparate impacts on those communities. The Commission should not shy away from opportunities to add specific consumer protections, disclosures and features of Lifeline that will specifically address the needs of Lifeline participants. This should be a stronger consideration and goal than accommodating the needs of the different carrier providers.

Based on the discussion above, it is clear that the Commission must move forward to ensure that the Lifeline program continues to meet the needs of its participants in a fair and cost-effective manner. This charge strongly supported by the fundamental policy, already expressed by the Commission, that consumers have basic communication needs that must be met. Lifeline customers have specific considerations that may require even stronger and more robust protections, but in general the Commission should ensure that these customers are not shunted to a second-class service in the name of providing a technologically neutral customer choice.

B. The Commission Should Ensure That Lifeline Programs Encourage Availability.

In the Second NPRM, the Commission notes that provider participation has stagnated, and asks how to encourage provider participation. If the Commission ultimately decides to create a “Lifeline for broadband” program, it is critical that the Commission permit households to obtain a subsidy for telephone service and a separate subsidy for broadband service. Additionally, the Commission should take steps to encourage participation by providers, states, and eligible customers.

1. The Commission Can Promote The Availability Of Lifeline by Creating Incentives To Participation By Providers.

The Commission should create incentives that encourage providers to offer Lifeline products that are attractive to Lifeline-eligible customers. The Commission should clarify that states have the limited authority to regulate rates for wireless Lifeline telephone service. The Commission should also expressly delegate the authority to implement “Lifeline for broadband” to state utility commissions. Finally, the Commission should replicate the California Public Utilities’ (CPUC) tiered subsidy model.

a. To Encourage Provider Participation The Commission Should Grant States the Limited Authority to Regulate Rates for Wireless Lifeline Telephone Service.

In the NPRM, the Commission notes lackluster participation by wireless providers, and stagnant service offerings that include extremely low numbers of minutes.²² When revising the California Lifeline program in 2014, the California Public Utilities Commission (CPUC) encountered the same problems. The CPUC determined that customers on average use more

²² NPRM at ¶ 16.

than 500 minutes per month of wireless service,²³ but that the vast majority of wireless Lifeline providers offered plans that included only 250 free minutes—only eight minutes a day, and that charges for additional minutes were expensive.²⁴ Many wireless Lifeline customers ran out of minutes because they spent a great deal of time on hold with “the Social Security Administration, to find out about the status of disability benefits, Veterans benefits, health care service and insurance options, or to request tenant service,” as well as “[s]uicide hotlines, domestic violence prevention hotlines, the prevention of violence against women hotline, and other services that address or help prevent emergencies also use 800 or 800-like toll-free numbers.”²⁵ The cost of overage minutes made wireless Lifeline offerings unattractive to Lifeline-eligible customers.

There was a rather simple solution to this problem—if the CPUC could cap wireless Lifeline rates (as it does with wireline Lifeline rates), it could help protect Lifeline-eligible customers from “bill shock,” thereby making the wireless Lifeline program more attractive to low-income consumers. However, as the CPUC noted, Section 332 of the Federal Telecommunications Act, on its face, preempts states from regulating market entry or rates charged by wireless providers.²⁶ Accordingly, the CPUC did not attempt to impose rate regulation on wireless Lifeline services.

²³ Cal. Pub. Util. Comm’n, Decision Adopting Revisions To Modernize And Expand The California Lifeline Program, D.14-01-036 at p. 70 (Jan. 16, 2014) (hereafter, CPUC 2014 LifeLine Decision), available at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M086/K541/86541587.PDF> (last accessed August 31, 2015).

²⁴ *Id.* at p. 71.

²⁵ *Id.* at p. 72.

²⁶ CPUC 2014 LifeLine Decision at p. 51.

However, the CPUC did note that Section 332, subdivision (c)(3)(A), provided an exception regarding universal service:

Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates.

The CPUC noted that “this section allows states to impose universal service rules to wireless service providers if the rules apply to all providers of telecommunications to ensure the availability of universal service at affordable rates.” Section 332, subdivision (c)(3)(A) indicates that Congress intended the Commission to be able to grant states the power to regulate wireless rates when doing so was necessary to ensure just and reasonable rates.

Joint Commenters do not take a position on the reasonableness of wireless rates throughout California generally. However, the CPUC’s inability to regulate rates for wireless Lifeline service has seriously hampered adoption of that service, and has required the CPUC to institute complicated and only partially effective solutions.²⁷ Joint Commenters respectfully request that the Commission clarify that Section 332, subdivision (c)(3)(A), as currently drafted, grants states the limited authority to regulate rates for wireless Lifeline services.

- b. To Encourage Provider Participation The Commission Should Expressly Delegate The Authority To Implement “Lifeline For Broadband” To State Utility Commissions.

If the Commission does implement a “Lifeline for Broadband” program, it is unclear

²⁷ Once such solution, tiered subsidies, is discussed in section VI.(B)(1)(c).

whether states like California would be able to participate in that program. Public Utilities Code section 710, subdivision (a) states, in pertinent part, that “The commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute....” Section 710 includes a number of exceptions to this limit on the CPUC’s jurisdiction. For example, Section 710(b) preserves state jurisdiction where that jurisdiction is explicitly delegated to the states by the FCC or other federal authority.

Section 710 has hampered the CPUC’s ability to include VoIP providers in the California Lifeline program. There is currently a great deal of debate in California whether Public Utilities Code Section 710 preserves the Commission’s authority to designate VoIP carriers as Eligible Telecommunications Carriers pursuant to federal regulations. Similarly, the question of whether the Commission can enforce the requirements of the Lifeline program against those VoIP carriers that voluntarily choose to participate in the program is also unresolved, although the Commission has already approved VoIP providers to participate in the Lifeline program under this theory of voluntary jurisdiction presuming that VoIP carriers will offer the service in compliance CPUC rules.

Joint Commenters believe that the CPUC has jurisdiction to oversee a federal Lifeline for broadband program where that oversight is “expressly delegated by federal law.”²⁸ Section 706 of the 1996 Telecommunications Act provides a specific grant of regulatory authority to both the FCC and to state commissions to “encourage the deployment of advanced telecommunications

²⁸ Cal. Pub. Util. § 710(a).

capabilities on a reasonable and timely basis” and to take necessary action.²⁹ Section 706 applies to “each State commission with regulatory jurisdiction over telecommunications services,” and the CPUC is the state commission in California with regulatory jurisdiction over telecommunications services. However, in California, carriers have hotly contested this argument, claiming that Section 706 does not fall within the express delegation exception in Section 710. Neither the CPUC nor the California courts have resolved this issue. In order to ensure that low-income Californians are able to take advantage of Lifeline for broadband service, the Commission should expressly delegate oversight of that service to state regulatory agencies.

c. To Encourage Provider Participation In The Lifeline Program, The Commission Should Replicate The CPUC’s Use of Tiered Subsidies.

As discussed above, during its reform of the California Lifeline program, the CPUC struggled with the problem that wireless Lifeline providers were generally offering 250-minute plans, which was less than half the number of minutes that customers generally used in a month.³⁰ Ultimately, the Commission crafted a solution designed to incentivize providers to offer a minimum of 1000 minutes a month. Providers that offered 1000 or more minutes a month would receive the maximum California subsidy of \$12.65 a month (plus the federal subsidy if that provider qualified for it).³¹ Providers that offered between 500 and 999 minutes a month would receive a reduced subsidy of \$5.75 a month (plus the federal subsidy if that

²⁹ *Verizon v. FCC* (D.C. Cir. 2014) 740 F.3d 623, 635, 638. *See also, Id.* at 649 (finding “section 706 grants the [Federal Communications] Commission authority to promote broadband deployment by regulating how broadband providers treat edge providers . . .”).

³⁰ CPUC 2014 LifeLine Decision at pp. 38-39.

³¹ *Id.*

provider qualified for it).³² Providers that offered fewer than 500 minutes did not qualify for the California subsidy (although they could still qualify for the federal subsidy).³³

This framework has been extremely successful. As a result of the CPUC's changes, wireless Lifeline enrollment has increased from 683,560 households in 2014 to 1,514,487 in 2015.³⁴ Anecdotally, the 500-999 minute range of plans appears to be most attractive to Lifeline-eligible consumers. Joint Commenters generally supported the CPUC's tiered subsidy framework. However, that framework lacks a subsidy that incentivizes service plans offering unlimited minutes. Joint Commenters feel that the Commission can encourage Lifeline providers to offer more attractive plans by including a similar tiered subsidy framework including a maximum subsidy for unlimited minutes.

The Commission should also implement a tiered subsidy framework to ensure that providers of broadband Lifeline services offer service plans that are comparable to those they offer their non-Lifeline customers. As the NPRM notes, current low-cost broadband offerings are generally limited and costly.³⁵ A broadband Lifeline provider should not receive a subsidy for a service offering that is not the equivalent of its lowest-priced service offering in the local service area. A broadband Lifeline provider should only receive the full subsidy for a service offering that meets the average upload and download speeds in the local area and does not include data caps.

³² *Id.*

³³ *Id.*

³⁴ CA Third Party Administrator LifeLine Customer Counts, available at <http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/> (last accessed August 31, 2015).

³⁵ NPRM at ¶ 16.

2. The Commission Can Promote The Availability Of Lifeline By Encouraging State Participation In The Lifeline Program.

The NPRM seeks comment on ways to encourage states to increase state Lifeline contributions.³⁶ Joint Commenters feel that a tiered federal subsidy could encourage states to commit their own funds to the Lifeline program. For example, the FCC could provide a two dollar increase to the federal individual subsidy amount for any state that commits to providing an individual state subsidy of at least five dollars. These additional funds could encourage states to implement their own Lifeline programs.

It should be noted that Joint Commenters do not support the FCC's tying any of the current \$9.25 federal subsidy to state participation. There are some states that have demonstrated an indifference, if not outright hostility to, the federal Lifeline program and to low-income communities in general.³⁷ If the FCC tied the current subsidy to state participation, those states would likely decline to participate, thereby effectively eliminating Lifeline for its inhabitants. Such an outcome is unacceptable, and would disproportionately harm low-income consumers and communities of color.

3. The Commission Can Promote The Availability Of Lifeline by Encouraging Eligible Subscriber Participation In The Lifeline Program.

The Commission should also take steps to increase participation in the Lifeline program by eligible subscribers. The Commission should eliminate the requirement that an applicant have a social security number in order to be eligible for Lifeline. Additionally, the Commission

³⁶ *Id.* at ¶ 10.

³⁷ See Forbes, State Takes Measures To Combat 'Obama Phone' Abuse As FCC Ramps Up Fines (Dec. 12, 2013), available at <http://www.forbes.com/sites/kellyphillipserb/2013/12/12/state-takes-measures-to-combat-obama-phone-abuse-as-fcc-ramps-up-fines/> (last accessed August 31, 2015).

should provide incentives for Community Based Organizations to perform marketing, education, and outreach.

- a. To Encourage Eligible Subscriber Participation In The Lifeline Program, The Commission Should Eliminate The Social Security Number Requirement.

Joint Commenters support providing Lifeline services to California consumers without a social security number.³⁸ Joint Commenters have long opposed the use of Social Security Numbers as part of the Lifeline certification and verification process due to concerns about privacy, identity theft and the discriminatory impact on many low-income California households.³⁹ When Social Security numbers were first issued in 1936, the federal government assured the public that use of their use would be limited to Social Security programs such as calculating retirement benefits. Today, there are widespread reports of data breaches in which SSNs are compromised on a daily basis. Current federal Lifeline rules require ETCs to collect the last four digits of a Lifeline applicant's SSN.⁴⁰

This data collection policy violates principles of equity, because consumers without valid social security numbers pay into the California Lifeline fund, but can otherwise not obtain assistance for the public purpose goals of protecting health and safety, facilitating economic security and the other benefits of affordable communications. Telephone subscribers without social security numbers pay into the Lifeline Fund,⁴¹ and should be able to draw from the Fund when their circumstances make them eligible for the Lifeline program. Joint Commenters urge the Commission to modify the Lifeline rules so that Lifeline customers do not have to provide a

³⁸ CPUC 2014 LifeLine Decision at p. 105.

³⁹ See e.g., Comments of TURN, NCLC, DisabRA, Greenling, LIF and ALC on the Draft Workshop Report, R.04-12-001 (Aug. 5, 2005) and Comments of TURN, NCLC, DisabRA, Greenling, LIF and ALC on the Draft Decision of ALJ Jones, R.04-12-001 (Nov. 22, 2005)(discusses Joint Consumer concerns about data handling and privacy protections and urges removal of the collection of SSN on the application forms).

⁴⁰ 47 C.F.R. § 54.404(b)(6)

⁴¹ CPUC 2014 LifeLine Decision at p 107.

social security number—for universal service to actually be universal, **everyone** who has paid into the Lifeline fund, including customers without SSNs, should be able to participate in the program.

Additionally, the Commission’s use of SSN’s to determine Lifeline eligibility poses grave privacy risks. The Huffington Post recently reported that data breaches at the US Governments personnel management agency by hackers resulted in the theft of millions of Social Security numbers.⁴² Between April 2011 and December 2014, the IRS stopped 19 million suspicious tax returns in an attempt to combat identity theft.⁴³ However these numbers are just a drop in the bucket.⁴⁴ Eliminating the social security requirement would significantly reduce the risk of identity theft for Lifeline subscribers. Accordingly, the Commission should eliminate the requirement that a subscriber provide a social security number in order to obtain Lifeline service.

- b. To Encourage Eligible Subscriber Participation In The Lifeline Program, The Commission Should Provide Incentives For Community Based Organizations (CBOs) To Perform Marketing, Education And Outreach..

Consumers urge the Commission to take advantage of the important role that Community Based Organizations (CBOs) play as both part of a targeted outreach plan (particularly for hard to reach customers) and as a valuable resource for Lifeline subscribers or applicants who experience difficulty navigating the Lifeline program. The most important CBOs for the purpose of assisting Lifeline-eligible customers are locally based non-profit organizations that provide

⁴² Reuters, Hackers Stole Social Security Numbers From 21.5 Million People In Recent Data Breach, U.S. Says (July 9, 2015), available at http://www.huffingtonpost.com/2015/07/09/social-security-data-breach_n_7764812.html (last accessed August 31, 2015)

⁴³ IRS, IRS Combats Identity Theft and Refund Fraud on Many Fronts (January 2015), *available at* <http://www.irs.gov/uac/Newsroom/IRS-Combats-Identity-Theft-and-Refund-Fraud-on-Many-Fronts-2015> (last accessed August 31, 2015).

⁴⁴ Adam Levin, 4 Big Problems With Social Security Numbers (May 3, 2013) *available at* http://www.huffingtonpost.com/adam-levin/4-big-problems-with-social-security-numbers_b_3205137.html (last accessed August 31, 2015).

social, educational, advocacy, informational and emergency services, including those that provide access to computers (including instruction or labs at little or no cost to individuals), particularly CBOs that work with individuals from lower socio-economic and disenfranchised communities. Many of these local CBOs primarily work with populations that are faced with socioeconomic or linguistic issues, low literacy levels, geographic isolation or other barriers that prevent them from gaining access to important and relevant information. They can provide information in-language or in accessible format, and otherwise ensure that a community that may not easily be able to use standard information has access to the Lifeline program.

Many community-based organizations have spent years working in their communities and have developed experience and relationships based on trust and confidence with their target community. Furthermore, these CBOs have clearly identified community boundaries and are familiar with local issues or needs of their clients. For example, in the CPUC's proceeding examining the California LifeLine program, the National Asian American Coalition noted that some Lifeline eligible consumers have existing relationships with, and are more comfortable working with CBOs rather than government agencies.⁴⁵ The CPUC's Office of Ratepayer Advocates notes that traditional outreach methods may fail to reach more rural areas of the state.⁴⁶ CBOs are uniquely positioned to provide outreach and program assistance regarding Lifeline services.

⁴⁵ NAAC, Opening Comments at p. 4 (May 28, 2013), available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M075/K391/75391554.PDF> (last accessed August 31, 2015).

⁴⁶ Division of Ratepayer Advocates, Opening Comments at p. 23. (May 28, 2013), available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M075/K673/75673545.PDF> (last accessed August 31, 2015).

The CPUC established outreach programs utilizing CBOs that effectively reach California's most vulnerable consumers. The Telecommunications Education and Assistance in Multiple-languages (TEAM) program provides education and complaint resolution to consumers who are not proficient in English through CBOs.⁴⁷ The Community Help and Awareness of Natural Gas and Electric Services (CHANGES) program is a pilot program evaluating the effectiveness of providing education and complaint resolution to consumers through some of the same CBOs that participate in the TEAM program.⁴⁸ Results from annual reports indicate that using CBOs is an effective strategy.⁴⁹ A review of the programs found that the main factor contributing to the success of the programs was the fact that the CBOs were trusted, knowledgeable and adaptable.⁵⁰ CBOs are effective in educating hard-to-reach populations, are trusted in their communities, and more effective in reaching their targeted groups.

The Commission should integrate CBOs into the Lifeline outreach program, and expand participation where possible. Because these CBOs generally operate on extremely limited budgets and cannot easily take on additional tasks without additional resources, the Commission should compensate the CBOs so that they can take on the tasks necessary to assist Lifeline customers; this should also include training of CBO staff so that they can assist Lifeline subscribers with the application process or other issues with program administration. By

⁴⁷ Cal. Pub. Util. Comm'n, TEAM and CHANGES Programs, *available at* <http://www.cpuc.ca.gov/PUC/aboutus/Divisions/CSID/Public+Advisor/TEAM+and+CHANGES.htm> (last accessed August 31, 2015).

⁴⁸ *Id.*

⁴⁹ Self-Help for the Elderly, TEAM Collaborative Annual Report September 2011-August 2012 (2012), *available at* <http://www.cpuc.ca.gov/NR/rdonlyres/9F2F02F5-32B7-464E-B978-FF7162465D72/0/TEAMAnnualReport20112012.pdf> (last accessed August 31, 2015); Cal. Pub. Util. Comm'n, CHANGES Pilot Program Annual Report (2014), *available at* http://www.cpuc.ca.gov/NR/rdonlyres/A67AE1DF-3A95-4264-A529-10AE4E1ED34B/0/CHANGES_2013_Annual_Rprt.pdf (last accessed August 31, 2015).

⁵⁰ *Id.*

working effectively with members of the community that they already serve, CBOs can ensure that Lifeline-eligible consumers know about the program, and assist them in enrolling. Current subscribers can also receive help with any questions or concerns about obtaining the services they need, as well as help in fully understanding the terms and conditions of Lifeline service (and any additional services offered by the carrier), and help resolving any billing or other customer service issues. Finally, these CBOs can provide valuable feedback back to the carriers and the Commission regarding the success of the Lifeline program and the potential need for future changes. Accordingly, the Commission should encourage increased participation by CBOs in the targeted outreach and administration of Lifeline.

C. The Commission Should Ensure That Lifeline Programs Encourage Affordability

The Commission should take steps to ensure that Lifeline, both for telephone and broadband services, is affordable to eligible subscribers. The Commission should ensure that the Lifeline subsidy is sufficient to make both telephone and broadband services affordable. The Commission should require that Lifeline providers offer unbundled services. Finally, the Commission should require that Lifeline providers allow participants to apply their discount to plans for multiple users.

1. The Current Subsidy Amount Is Sufficient For Telephone Services, But Not For Broadband Services.

The NPRM asks whether the current Lifeline subsidy is sufficient.⁵¹ Joint Commenters feel that the current subsidy is sufficient in states like California that offer a separate state

⁵¹ NPRM at ¶ 52.

subsidy. The current combined federal and California subsidies are enough to make Lifeline services affordable. However, while this discount is currently enough to make phone affordable, it would not be sufficient to make broadband services affordable, given the high cost of sufficiently robust broadband services. Joint Commenters propose that the maximum customer price for a broadband Lifeline product should be ten dollars per month. This price is consistent with previous low-cost programs crafted by the Commission.⁵²

2. The Commission Can Promote The Affordability Of Lifeline By Creating Incentives For State Contributions

As noted above, the Commission could use a tiered subsidy structure to encourage states to invest their own funds to enhance the Lifeline program. Increased state spending would further reduce the cost of Lifeline services to eligible customers. Accordingly, the Commission should consider the use of a tiered subsidy structure to encourage state participation in the program and increase affordability of Lifeline services.

3. The Commission Can Promote The Affordability Of Lifeline Services By Requiring That Providers Offer Unbundled Services.

The federal definition allows Lifeline participants to apply Lifeline discounts to “any residential service plan that includes voice telephone service, including bundled packages of voice and data services.”⁵³ Joint Commenters strongly believe that each carrier participating in the Lifeline program must be required to develop, market and offer a stand-alone Lifeline product that will have its own separate, identifiable rate for both its telephone and broadband

⁵² See Fed. Comm. Comm’n, Memorandum Opinion and Order, In the Matter of Applications of AT&T Inc. and DIRECTV For Consent to Assign or Transfer Control of Licenses and Authorizations p. 164 (July 28, 2015).

⁵³ 47 C.F.R. §§54.101(a) and 54.401(a).

services. This stand-alone plan must include monthly rates and exclude contract or early termination penalties. Further, customers participating in the Lifeline program should be required to purchase that Lifeline service while also being able to add additional non-Lifeline, non-subsidized services to their bill at the customer's discretion.

This stand-alone requirement is critical to the public policy goals of the program. First, this Commission must ensure that the surcharge money being collected and distributed is spent in the most cost-effective, productive, and fair manner. Therefore, it must only subsidize those services that it has determined are in keeping with the Lifeline goals, to provide high quality voice service. This means that the provider cannot require its potential Lifeline customers to purchase a bundle of non-Lifeline services and that the participants should not be allowed to use the discount on existing carrier plans that have not been reviewed by the Commission. Of course, a customer should continue to have the option purchase additional services. But, by keeping those purchases distinct and listed separately on the customer's bill, the Commission and the carrier can identify the subsidized service more readily. Also, if the program allowed customers to receive a discount (the amount of the discount is unknown at this time) to any service that includes voice service and/or broadband service then the Lifeline products will likely significantly vary and carriers will have every incentive to pressure the Lifeline customer into a more expensive option.

In order to ensure that the Lifeline participant is protected from strong marketing tactics and misleading offers, Joint Commenters propose these rules:

- A Lifeline carrier cannot require purchase of additional services or bundled services as a condition of receiving Lifeline services.

- Bills must list charges for Lifeline services and other purchased services separately, and any notices or other documents about the subscriber's account must clearly indicate whether the document relates to the subscriber's Lifeline service, bundled services, or both.
 - If a customer is not able to make a full payment for the Lifeline and bundled services, any payment will be applied to current and past due charges for Lifeline service before being applied to current and past due charges for bundled services.
4. The Commission Can Promote The Affordability Of Lifeline Services By Allowing Lifeline Participants To Apply Their Discount To Plans For Multiple Users.

The federal definition currently allows Lifeline participants to apply Lifeline discounts to service plans that include family plans.⁵⁴ There is no doubt that family plans have become a popular option for wireless consumers. These plans allow a family to share minutes, features, and functions of a single plan while each member has his or her own phone and phone number. The Commission should extend this policy to broadband Lifeline plans by requiring broadband Lifeline providers to provide equipment which enables multiple persons in household to use the broadband connection at the same time. Joint Commenters suggest the Commission adopt the rule that this requirement is satisfied if the carrier offers a wireless router at no additional cost to the Lifeline customer.

D. The Commission Should Ensure That Lifeline Programs Encourage Service Quality.

The Commission should take steps to increase the service quality of Lifeline. The Commission should require that providers offer a plan with unlimited use. The Commission should require that providers offer customer service in the language in which the Lifeline service

⁵⁴ 47 C.F.R. §§54.101(a) and 54.401(a).

was sold. Finally, The Commission should require that providers ensure that participants with disabilities have access to the same information and options as other Lifeline participants.

1. The Commission Can Promote The Service Quality Of Lifeline Services By Requiring Providers To Offer A Plan With Unlimited Use.

As discussed above, one flaw with the CPUC's 2014 LifeLine reform was that it did not encourage providers to offer unlimited use plans. The record in that proceeding supported a requirement that Lifeline customers should be given a choice of unlimited minutes from any Lifeline provider.⁵⁵ Joint Commenters urge the Commission to require providers to offer at least one plan that includes unlimited minutes. Similarly, as discussed above, the Commission should not provide the Lifeline subsidy for broadband plans that include data caps. These rules will ensure that Lifeline participants have access to telephone and broadband services that are consistent and reliable.

2. The Commission Can Promote The Service Quality Of Lifeline Services By Requiring Providers To Offer Customer Service for Limited English Proficiency Participants.

Joint Commenters suggest that the Commission require that notice and customer care be provided in the language in which the service is sold. As discussed above, Lifeline subscribers are more likely to be non-English or limited-English speakers, and may have difficulty understanding contractual language written in English or dealing with customer service representatives who only speak English. Accordingly, the Commission should include the following rules:

⁵⁵ See CPUC 2014 LifeLine Decision, Attachment C.

- A Lifeline carrier must provide contracts, terms of service, billing and notices in the same language in which California Lifeline was originally sold to the subscriber.
- A Lifeline carrier must provide free access to customer service representatives fluent in the same language in which California Lifeline was originally sold to the subscriber.

These service elements will ensure that limited or non-English speaking Lifeline subscribers will understand their rights and obligations, and have equity of access to customer service.

Allowing a sales representative to communicate in a customer's preferred language without providing customer support in that language creates the risk that a consumer might purchase service but then be unable to obtain customer support because of a language barrier. For example, a customer could decide to cancel their service because of reception issues, but be unable to find a customer service representative who could assist the customer in that customer's language. Accordingly, that customer could be locked into a multi-year contract for a service that does not meet that customer's needs. Joint Commenters encourage carriers to hire customer service representatives that speak a wide variety of languages. Hiring these representatives creates benefits for carriers (who can market to a wide variety of LEP customers), and consumers (who benefit from LEP customer service and from the jobs created by the need for LEP customer service). However, carriers who are unwilling to hire those customer service representatives can still provide in-language customer service using Language Line services.⁵⁶

⁵⁶ See Language Line Solutions, Over-the-Phone-Interpreting, *available at* <http://www.language-line.com/solutions/interpretation/telephone-interpretation/>.

3. The Commission Can Promote The Service Quality Of Lifeline Services By Ensuring That Participants With Disabilities Have Access To the Same Information And Options As Other Lifeline Participants.

As discussed above, people with disabilities have unique communications needs, and represent a constituency that can be difficult to reach with educational materials or other information. Because of this, and because this constituency can be underserved by various utility programs, the Commission must take steps to ensure that they have access to the same information and options as other Lifeline eligible consumers. This includes the following:

- All carrier websites and web pages that provide customer information about Lifeline, including all eligibility information and any application information, must be designed to be accessible in accordance with current standards. At this time, the appropriate standard is WCAG 2.0 Level AA.
- The internet cannot be the only source of information about Lifeline; all web-based information and material must also be available in some other accessible manner for people who may not have computer access.
- To meet the needs of customers with visual impairments, all information about Lifeline, including eligibility information and application material must be accessible. This includes:
 - Information must be available in alternative formats (large print, Braille, audio and electronic formats) upon request; and
 - Standard printed documents must include key information in large print, including information about the availability of alternative format material.
- Any customer of a particular carrier who has previously indicated a need for material (such as bills) in an alternative format should be provided with information about Lifeline in the same format.
- If the provider supplies information with an audio component, that component must be accessible to people who are deaf or hard of hearing
- Carriers should provide interpreters for individual communication where such communication is provided to consumers, and any telephone-based communication regarding customer service issues should be accessible to people who cannot use standard forms of telecommunications.

- Videos (such as any that may be provided on a carrier’s website) should be captioned and/or have sign language included.
- Any outreach efforts regarding the Lifeline program should include targeting to reach people with disabilities, including targeted advertising and outreach through disability-oriented Community Based Organizations (CBOs).

E. The Commission Should Ensure That Lifeline Programs Encourage Equity

The Commission should take steps to increase the equity of Lifeline. The Commission should require that providers allow customers to apply their lifeline discount to any device or plan that meets the Commission’s requirements. Additionally, the Commission should eliminate structural exceptions to these non-discrimination rules. Finally, and critically, the Commission should not allow the Lifeline subsidy to become a “coupon” or voucher.”

1. The Commission Can Promote The Equity Of Lifeline Services By Including Nondiscrimination Provisions.

The Commission should allow Lifeline eligible customers to apply the Lifeline discount to all service plans and devices that meet or exceed the Commission’s minimum standards and are consistent with the program rules. This will allow a consumer to choose a device and/or plan (e.g., voice and text only, broadband only, bundled service or a family plan) that best suits his or her household needs. Coupled with the requirement that carriers must offer at least one unbundled plan and must not condition California Lifeline on obtaining bundled service, these provisions will protect affordability while enhancing consumer choice. Joint Commenters additionally suggest that the Commission add a requirement that service providers note on their promotional materials which products are eligible for the California Lifeline program, so that customers are aware of all their options.

2. The Commission Can Promote The Service Quality Of Lifeline Services By Prohibiting Structural Exceptions To The Non-Discrimination Rules.

When reforming the California Lifeline program, the CPUC included non-discrimination provisions as described above. However, the CPUC created an enormous loophole for carriers by allowing carriers to limit “all service plans” or “all devices” to those offered by a subsidiary.⁵⁷ Allowing such structural exceptions dilutes these provisions because they only apply to the subsidiary offering prepaid and Lifeline services and not apply to the subsidiary focusing on post-paid, higher value, non-Lifeline plans and equipment. Allowing carriers to pick and choose which handsets, plans, and prices they can offer as part of their Lifeline service is contrary to the Commission’s goal of promoting competition and increasing customer choice. Lifeline rules should create a “floor” for service. A Lifeline customer should be able to purchase any service that meets or exceeds those requirements. Accordingly, the Commission should prohibit providers from using structural exceptions to limit the plans or devices a Lifeline eligible customer may choose from. However, if the Commission determines that the non-discrimination rules apply only to individual subsidiaries or brands, Joint Commenters urge the Commission to monitor providers to detect and prevent any use of a “Lifeline-only” brand that may result in a substandard, “poor person’s service.”

3. The Commission Should Not Allow the Lifeline Subsidy to Become a “Coupon” or “Voucher.”

The NPRM requests input regarding whether the Commission should alter the Lifeline program to allow the transfer of benefits directly to the consumer.⁵⁸ Joint Commenters fully

⁵⁷ CPUC 2014 LifeLine Decision at p. 44.

⁵⁸ NPRM at ¶ 104.

support consumer choice and, as discussed above, believe that a Lifeline customer should be able to apply the Lifeline discount to any service that meets the requirements of the program. However, Joint Commenters are concerned that turning the Lifeline discount into a coupon or voucher creates a significant risk of fraud, waste and abuse by **providers**. Consumers in California have consistently reported shady, if not outright deceptive, marketing tactics by providers. For example, one provider signed up several hundred limited English proficiency customers in the Los Angeles area for wireless Lifeline service without telling those customers that their wireline Lifeline service would be terminated. Customers seeking to purchase traditional POTS service on AT&T's website have been redirected to web pages that only permit purchasing of U-Verse phone service. Additionally, carriers have an incentive to push more expensive, bundled plans while making it difficult to purchase standalone service. Joint Commenters feel that transferring benefits directly to a Lifeline customer would significantly increase providers' already established tendencies to push inappropriate service and unnecessary features.

F. The Commission Should Ensure That Lifeline Programs Encourage Value.

If the Commission is providing a subsidy to carriers for offering a specific service, and if California consumers are paying a surcharge on their bills to support that subsidy, then the service being supported should be clear and specific. The Commission must ensure that the money that ratepayers contribute to the Lifeline fund is used in the most efficient and effective means possible. Accordingly, the Commission should require that Lifeline services meet minimum standards. Additionally, the Commission can increase the efficiency of the Lifeline program through the use of a third-party administrator.

1. The Commission Can Promote The Value Of Lifeline Services By Requiring That Lifeline Services Meet Minimum Standards.

As discussed above, providers could abuse the Lifeline program by offering offer “second class” services to Lifeline-eligible customers, limiting the plans or devices available to those customers, or forcing those customers to purchase a bundle. Prohibitions against these sorts of behaviors will ensure that Lifeline funds are being spent in the most efficient and beneficial manner possible. Accordingly, the Commission should implement those protections to ensure that ratepayers receive value for their contributions to Lifeline.

2. The Commission Can Promote The Value Of Lifeline Services By Using A Third-Party Administrator.

The NPRM asks about a potential role of a Third Party Administrator (TPA) in the Lifeline program.⁵⁹ Joint Consumers support the creation of a federal TPA. However, there should be a mechanism for opt out of the federal TPA program and customize their own state TPA programs.

- a. California Has Benefitted From The Use Of A Third-Party Administrator.

In California, the CPUC initially requested comment on the creation of a TPA process in 2004. At that time the FCC began requiring customers to provide income documentation to demonstrate Lifeline eligibility, and the Commission believed having a TPA would streamline the process and ensure a level of fairness that might not exist if each individual carrier had to

⁵⁹ NPRM at ¶ 64.

perform its own Lifeline administrative functions. Many of Joint Commenters participated in that discussion and, in general, supported the creation of a TPA.⁶⁰

The implementation of the California TPA and subsequent federal and state requirements for Lifeline have not gone smoothly. Joint Commenters will not dwell on the difficulties encountered by all stakeholders over the past years. However, despite the bumpy road, Joint Commenters support the use of a TPA at the federal level. If done properly, the TPA should streamline the enrollment process, allow for coordinated enrollment, provide more local control and quality control and create a neutral and consistent arbiter for process issues. Additionally, the use of a TPA will help ensure that individuals or households who aren't eligible are kept off of LifeLine and to make sure that households who **are** eligible get the benefits of LifeLine.

Joint Commenters have argued over the years that with more effective outreach and education, consumers could benefit from the centralized and consistent information that should come from the TPA. Many of the frustrations with today's certification and renewal processes relate generally to the documentation requirements and would exist regardless of whether there was a TPA. Joint Commenters believe that many of the other questions included in the NPRM such as proposals about increased involvement by CBOs, changing qualification and other changes to the program will mitigate some of the complexity introduced through the third party process. Ultimately, the Commission should contracting with a third party administrator to

⁶⁰ Order Instituting Rulemaking Into Implementation of Federal Communications Commission Report and Order 04-87, As It Affects The Universal Lifeline Telephone Service Program, R.04-12-001 (Dec. 2, 2004). *See* Comments of The Utilities Reform Network (Jan. 21, 2005), Comments of the Greenlining Institute (Jan. 21, 2005), Comments of Disability Rights Advocates (Jan. 21, 2005).

create unique PIN numbers for applicants, confirm income eligibility, and ensure that eligible households receive only one phone and one broadband subsidy.

b. The Federal Third-Party Administrator Should Allow States To Opt Out.

In California, the existence of the TPA has allowed California to opt-out of the FCC's Duplicates Database and impose additional local safeguards.⁶¹ Previously, Lifeline providers have pointed out that California is one of the few states with a TPA and that other states seem to be able to administer the program itself.⁶² California currently has over 1.5 million Lifeline subscribers, therefore requiring a substantial amount of administration and record keeping.⁶³

Joint Commenters believe that the need for a TPA is very fact-specific. The Commission's creation of a federal TPA should improve consistency, reliability and communications of the Lifeline program particularly for those states that have demonstrated a lackluster commitment to the program. However, the Commission's TPA program should include a mechanism for states that craft robust local TPA programs to opt out of the federal program.

VII. CONCLUSION

As discussed above, the Lifeline program must serve the unique needs of Lifeline customers while following the five critical principles of *Availability, Affordability, Service*

⁶¹ In the Matter of Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, *Order*, DA-13-329 (March 4, 2013).

⁶² See Verizon Initial Comments on Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in This Proceeding at p. 13, note 35 Rulemaking on the Commission's Own Motion to Review the Telecommunications Public Policy Programs, R.06-05-028 (Aug. 24, 2007).

⁶³ USAC Lifeline Subscribers by State or Jurisdiction, Jan. 2012 to Dec. 2012, Appx LI08, 3Q2013 page 1 (May 2, 2013).

Quality, Equity, and Value. Joint Commenters appreciate the opportunity to provide some “big picture” and more detailed thoughts on the future of Lifeline, but any subsequent decision from the Commission on this issues should prioritize those five core principles. Joint Commenters look forward to working with staff and stakeholders on improving this vital program.

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