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March 18, 2011

**VIA HAND DELIVERY**

Jean Jewell  
Idaho Public Utilities Commission  
472 W. Washington Street  
P.O. Box 83720  
Boise, ID 83720-0074

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Re: IPUC Case No.: TFW-T-09-01  
Our File No.: 1233-201

Dear Ms. Jewell:

Enclosed for filing in the above-referenced matter, please find an original plus ten copies of IDAHO TELECOM ALLIANCE AND CTC TELECOM, INC.'S DIRECT TESTIMONY OF DANIEL L. TRAMPUSH. Please file the original and return one conformed copy to our office runner.

Thank you for your assistance. If you have any questions, please feel free to contact me.

Sincerely,

Cynthia A. Melillo

CAM/sp

Enclosures

cc: J. Dean Miller (via hand delivery)  
Mitchell F. Brecher (via U.S. Mail)

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ORIGINAL

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BEFORE THE IDAHO PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF  
APPLICANT TRACFONE WIRELESS, INC.  
FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER

CASE NO.: TFW-T-09-01

**DIRECT TESTIMONY  
OF  
DANIEL L. TRAMPUSH  
ON BEHALF OF  
THE IDAHO TELECOM ALLIANCE  
AND  
CTC TELECOM, INC.**

1     **Q.     WHAT IS YOUR NAME AND OCCUPATION?**

2     A.     My name is Daniel L. Trampush. I am currently employed by Moss Adams  
3           LLP, and my title is Director, Telecommunications Consulting Services.

4     **Q.     PLEASE SUMMARIZE YOUR CURRENT EMPLOYMENT AND**  
5           **EDUCATIONAL BACKGROUND.**

6     A.     Moss Adams is an accounting and business advisory firm that has been in  
7           business for over 90 years. The firm has 20 practice offices throughout the  
8           west coast and is the tenth largest public accounting firm in the United  
9           States. I graduated from Central Washington University in 1970 with a  
10          Bachelor of Arts degree in Business Administration.

11    **Q.     PLEASE DESCRIBE YOUR PRIOR BUSINESS EXPERIENCE.**

12    A.     I have been actively involved in the telecommunications industry for the  
13          vast majority of my forty-year professional career. Upon graduating from  
14          college in 1970, I joined the firm of Ernst & Ernst (now Ernst & Young). I  
15          was employed by the firm for twenty-seven years, the last seventeen of  
16          which I was a partner. During my time at Ernst & Young, I worked on a  
17          variety of telecommunications accounting and regulatory issues, some of  
18          which were national in scope. I left the firm in 1997 and became Senior  
19          Vice President and Chief Financial Officer of GST Telecommunications,  
20          Inc, a publicly traded Competitive Local Exchange Carrier. My  
21          responsibilities at GST included finance, accounting, and investor  
22          relations. My focus at Moss Adams is similar to that at Ernst & Young.

23

1 That is, I work in the firm's Telecom niche practice providing consulting  
2 services to rural telecommunications carriers.

3 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

4 A. This direct testimony is being filed in support of Idaho Telecom Alliance  
5 ("ITA") and CTC Telecom, Inc.'s petitions to intervene in the above-  
6 captioned matter. My testimony will show that TracFone Wireless, Inc.'s  
7 First Amended Application for Designation as an Eligible  
8 Telecommunications Carrier ("ETC") ("TracFone's Application" or  
9 "Application") and supporting documents do not meet the requirements for  
10 ETC designation in Idaho and is not in the public interest. The federal  
11 requirements are set forth in Section 214 of the Communications Act of  
12 1996, as amended, 47 U.S.C. § 214 ("Communications Act") and in the  
13 rules of the Federal Communications Commission ("FCC"). The Idaho  
14 ETC designation requirements are set forth in the Appendix to the Idaho  
15 Public Utility Commission ("PUC") Order No. 29841, in Case No. WST-T-  
16 05-1, *In the Matter of the Application of WWC Holding Co., Inc., DBA*  
17 *Cellular-One, Seeking Designation as an Eligible Telecommunications*  
18 *Carrier That May Receive Federal Universal Service Support* (August 4,  
19 2005) ("Idaho ETC Requirements Order").

20 **Q. HOW DOES TRACFONE'S APPLICATION FAIL TO MEET THE**  
21 **APPLICABLE REQUIREMENTS FOR ETC DESIGNATION?**

22 A. The federal ETC designation requirements are contained in 47 U.S.C.  
23 § 214(e)(1) and (e)(2), and 47 C.F.R. §§ 54.201(d) and 54.202. As

1 TracFone has made clear throughout its Application and supporting  
2 materials, TracFone has received a waiver of the facilities-based  
3 requirement of Section 214(e)(1)(A) and 47 C.F.R § 54.201(i). FCC  
4 Order, In the Matter of Federal-State Joint Board on Universal Services,  
5 Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C.  
6 § 214(e)(1)(A) and 47 C.F.R § 54.201(i), 20 F.C.C.R. § 15095 (2005) (the  
7 "TracFone Forbearance Order"). Although Section 214(e)(2) provides that  
8 a state commission *shall* approve an applicant's request for designation as  
9 an ETC if the applicant meets all of the requirements set forth in Section  
10 214(e)(1), the FCC has given the state commissions discretion in the  
11 designation of an ETC applicant in an area served by a rural telephone  
12 company. According to Section 214(e)(2), such designation must be  
13 based on a specific finding by this Commission that such designation is in  
14 the public interest. As this testimony will make clear, designation of  
15 TracFone as an ETC in areas served by rural telephone companies in  
16 Idaho is not in the public interest.

17 **Q. ARE THERE LIMITATIONS TO THE APPLICABILITY OF THE**  
18 **TRACFONE FORBEARANCE ORDER ON THE IDAHO PUBLIC**  
19 **UTILITIES COMMISSION'S AUTHORITY TO DETERMINE WHETHER**  
20 **TRACFONE MEETS THE PUBLIC INTEREST REQUIREMENTS FOR**  
21 **DESIGNATION AS AN ETC IN AREAS SERVED BY RURAL**  
22 **TELEPHONE COMPANIES?**

23

1 A. Yes. TracFone makes much “ado” about the FCC’s waiver of the facilities-  
2 based requirement of Section 214(e)(1)(A) and 47 C.F.R § 54.201(i) as  
3 set forth in the TracFone Forbearance Order. However, the FCC’s grant  
4 of forbearance from the facilities-based requirement did not automatically  
5 establish TracFone as an ETC anywhere. Designation of TracFone as an  
6 ETC in federal default states was to be addressed in subsequent orders.  
7 *TracFone Forbearance Order* at 1, N. 4. Thus, the designation of  
8 TracFone as an ETC in non-federal default states would be left for those  
9 states to determine whether TracFone meets the specific state  
10 requirements. Moreover, the TracFone Forbearance Order did not  
11 address the specific question of whether it is in the public interest to  
12 designate a non-facilities-based carrier as an ETC in areas served by rural  
13 telephone companies in the state of Idaho. That is the question now  
14 before this Commission.

15 **Q. WHAT ARE THE SPECIFIC REQUIREMENTS THAT AN ETC**  
16 **APPLICANT MUST MEET TO BE DESIGNATED AN ETC IN AN AREA**  
17 **SERVED BY A RURAL TELEPHONE COMPANY?**

18 A. This Commission’s designation of an ETC applicant in an area served by  
19 a rural telephone company is discretionary and must be based on a  
20 specific finding that such a designation is in the public interest. 47 U.S.C.  
21 § 214(e)(2).

22 **Q. WHAT IS THE “PUBLIC INTEREST” STANDARD AS THAT TERM IS**  
23 **USED IN SECTION 214(e)(2) AND BY THIS COMMISSION?**

1 A. The public interest standard, as that term has been interpreted under  
2 Section 214(e)(2), is essentially a cost-benefit analysis. The Commission  
3 must determine whether the potential public harm of granting an applicant  
4 ETC designation in an area served by a rural telephone company  
5 outweighs the public benefits claimed by the applicant.

6 **Q. HOW IMPORTANT ARE IDAHO OR SERVICE-AREA SPECIFIC**  
7 **CONCERNS IN CONDUCTING A PUBLIC INTEREST ANALYSIS**  
8 **UNDER SECTION 214(e)(2)?**

9 A. In the Idaho ETC Requirements Order, this Commission specifically noted  
10 the importance of a state “consider[ing] local factors and develop[ing]  
11 state-specific policies regarding universal service support.” *Idaho ETC*  
12 *Requirements Order* at 3. In addition, this Commission noted that the  
13 value of increased competition alone is not enough to tip the scales in  
14 favor of an applicant seeking ETC designation in an area served by a rural  
15 telephone company. PUC Order No. 29541, in Case No. GNR-T-03-8, *In*  
16 *the Matter of the Petition of IAT Communications, Inc. DBA NTCH-Idaho,*  
17 *Inc. or Clear Talk for Designation as an Eligible Telecommunications*  
18 *Carrier* and Case No. GNR-T-03-16, *In the Matter of the Application of*  
19 *NPCR, Inc. DBA Nextel Partners seeking Designation as an Eligible*  
20 *Telecommunications Carrier*, (July 23, 2004) (the “Clear Talk Order”), at 6  
21 (quoting FCC Order, *In the Matter of Federal-State Joint Board of*  
22 *Universal Service, Virginia Cellular, LLC, Petition for Designation as an*  
23 *Eligible Telecommunications Carrier in the Commonwealth of Virginia,*

1 19 F.C.C.R. 1563, 1574 (Jan. 22, 2004)). Rather, such factors as the  
2 impact of multiple designations on the Universal Service Fund, the unique  
3 advantages and disadvantages of the applicant's service offering,  
4 commitments made by the applicant regarding quality of service and the  
5 applicant's ability to provide the service throughout the designated service  
6 area should be considered. *Id.*

7 **Q. ARE THERE ANY ADDITIONAL PUBLIC INTEREST**  
8 **CONSIDERATIONS?**

9 A. Yes. Where an applicant like TracFone is seeking designation below the  
10 study area-level of a rural telephone company, this Commission has held  
11 that the public interest inquiry requires "a cream skimming" analysis to  
12 ensure that an applicant is not seeking to provide service to a  
13 disproportionate number of low-cost customers, thereby leaving the  
14 higher-cost customers for its competitors to serve, especially those who  
15 have carrier-of-last resort obligations. *Idaho ETC Requirements Order* at  
16 16.

17 **Q. DOES TRACFONE CLAIM THAT DESIGNATION OF IT AS AN ETC**  
18 **WOULD SERVE THE PUBLIC INTEREST?**

19 A. Yes. Among other things, TracFone asserts that the public interest  
20 benefits of designating TracFone as an ETC include larger local calling  
21 areas, the convenience and security afforded by mobile telephone service,  
22 the opportunity for customers to control their costs by purchasing in  
23

1 advance only the volumes of service which they need and the availability  
2 of E911 Services. TracFone Application at 19.

3 **Q. WHAT IS YOUR REACTION TO TRACFONE'S CLAIM ON PAGE 19 OF**  
4 **ITS APPLICATION THAT ITS LIFELINE SERVICE WILL PROVIDE**  
5 **LARGER LOCAL CALLING AREAS?**

6 A. While it may be true that, as compared to wireline carriers, wireless  
7 carriers often provide their customers with larger local calling areas,  
8 TracFone's claim ignores the fact that it does not provide a larger local  
9 calling area than the existing ETC-designated wireless carriers. To the  
10 contrary, as a non-facilities-based reseller, TracFone contributes nothing  
11 to the expansion of calling areas in Idaho.

12 **Q. HOW SHOULD THE COMMISSION EVALUATE TRACFONE'S CLAIM**  
13 **AT PAGE 19 OF ITS APPLICATION THAT "THE CONVENIENCE AND**  
14 **SECURITY AFFORDED BY MOBILE TELEPHONE SERVICE" IS A**  
15 **UNIQUE PUBLIC INTEREST BENEFIT OF ITS LIFELINE SERVICE**  
16 **OFFERING?**

17 A. There are very real challenges to providing wireless service in many  
18 portions of rural Idaho due to mountainous terrain and other geographic  
19 features. For many potential Lifeline customers, mobile service would not  
20 be a "more convenient and secure" option than wireline service if Lifeline  
21 is to be their sole telecommunications service. In fact, on page 8 of  
22 Exhibit 12 to TracFone's Application (Safelink Wireless Terms and  
23 Conditions of Service), TracFone states "If you are in an area where your

1 SAFELINK WIRELESS phone is searching for a wireless signal or there is  
2 no wireless signal or wireless service, it is highly probable that a call to  
3 911 will not go through. Do not rely solely on your SAFELINK WIRELESS  
4 in an emergency situation. In an emergency, locate the nearest landline  
5 phone and call for help." Thus, even TracFone makes clear that a policy  
6 that encourages such customers to forego supported wireline service in  
7 favor of wireless service may not be in the public interest in rural Idaho.

8 **Q. ANOTHER PUBLIC INTEREST BENEFIT CLAIMED BY TRACFONE AT**  
9 **PAGE 19 OF ITS APPLICATION IS THAT ITS CUSTOMERS CAN**  
10 **CONTROL THEIR COSTS BY PURCHASING IN ADVANCE ONLY THE**  
11 **VOLUMES OF SERVICE WHICH THEY NEED AND CAN SUPPLEMENT**  
12 **THOSE QUANTITIES ON AN "AS NEEDED" BASIS. IS THIS SERVICE**  
13 **MODEL UNIQUE TO TRACFONE?**

14 **A.** No. Syringa Wireless, LLC, CTC Telecom (d/b/a CTC Wireless) and Gold  
15 Star Communications, LLC (d/b/a Silver Star Wireless) offer pay-as-you-  
16 go plans, monthly plans and even weekly plans in connection with their  
17 ETC wireless service offerings. It is my understanding that Lifeline  
18 subscribers can obtain Lifeline support for any plan offered. Some  
19 examples include Syringa Wireless' unlimited local calling plan for \$30.00  
20 per month. Gold Star Communications offers up to 250 minutes for a fee  
21 of \$25.00, which includes voice mail and caller ID. CTC Wireless offers a  
22 monthly service plan for \$24.10. None of these plans requires a long-term  
23

1 contract, deposit or credit check. These plans are on file with the  
2 Commission in the ETC's annual re-certification documentation.

3 **Q. TRACFONE POINTS TO THE AVAILABILITY OF MOBILE ACCESS TO**  
4 **911 SERVICE AS A UNIQUE PUBLIC INTEREST BENEFIT OF ITS**  
5 **PROPOSED LIFELINE SERVICE. DO OTHER WIRELESS ETCs**  
6 **PROVIDE MOBILE ACCESS TO 911 SERVICE?**

7 A. Yes.

8 **Q. DO IDAHO'S RURAL ILECs AND CURRENT ETC WIRELESS**  
9 **CARRIERS CONTRIBUTE TO THE SUPPORT OF 911 SERVICES IN**  
10 **IDAHO?**

11 A. Yes.

12 **Q. DOES TRACFONE CONTRIBUTE TO THE SUPPORT OF 911**  
13 **SERVICES IN IDAHO?**

14 A. No.

15 **Q. WHY NOT?**

16 A. According to TracFone's response to Commission Staff Request for  
17 Production No. 25, TracFone believes that the Idaho Emergency  
18 Communications Act ("IECA") does not apply to TracFone.

19 **Q. IS THAT A CORRECT READING OF THE IECA?**

20 A. I am not a lawyer so I cannot render a legal opinion. Nevertheless,  
21 according to TracFone's response to Commission Staff Request for  
22 Production No. 25, the Idaho legislature amended Idaho Code Section 31-  
23 4813 in 2007 to clarify that while the IECA does not apply to pre-paid

1 calling cards, pre-paid wireless service with a service address or place of  
2 primary use within Idaho is *not* considered a “pre-paid calling card” as that  
3 term is used in the statute. I.C. § 31-4813. In its response to the  
4 Commission Staff’s production request, TracFone acknowledges that it is  
5 a pre-paid wireless service whose Idaho customers have a service  
6 address or place of primary use within Idaho. Therefore, according to the  
7 plain language of Idaho Code Section 31-4813, as clarified by the 2007  
8 Legislature, the exemption afforded pre-paid calling cards does not apply  
9 to TracFone.

10 **Q. IF TRACFONE DOES NOT QUALIFY FOR AN EXEMPTION FROM THE**  
11 **IECA PURSUANT TO THE 2007 AMENDMENT, THEN WHY DOESN’T**  
12 **TRACFONE COLLECT AND REMIT THE STATUTORILY MANDATED**  
13 **FEES?**

14 A. According to TracFone’s response to the Commission Staff’s Request for  
15 Production No. 25, TracFone maintains that the IECA does not apply to it  
16 because it has no current system in place to collect such fee on a monthly  
17 basis.

18 **Q. IS THIS “TRACFONE EXEMPTION” CODIFIED IN IDAHO LAW?**

19 A. Not that I am aware of.

20 **Q. TRACFONE STATES IN ITS APPLICATION THAT ITS LIFELINE**  
21 **OFFERINGS WILL DIFFER FROM OTHER IDAHO ETCS’ LIFELINE**  
22 **OFFERINGS DUE TO THE CONVENIENCE AND PORTABILITY OF**  
23 **WIRELESS SERVICES. IS THIS FEATURE UNIQUE TO TRACFONE?**

1 A. No. There are at least four other wireless providers that provide Lifeline  
2 services in Idaho's Rural Study Areas, including Syringa Wireless, CTC  
3 Telecom d/b/a CTC Wireless, Goldstar Communications, LLC d/b/a Silver  
4 Star Wireless, and Inland Cellular.

5 **Q. HOW DO THESE OTHER LIFELINE SERVICE OFFERINGS COMPARE**  
6 **TO TRACFONE'S SAFELINK WIRELESS PLANS?**

7 A. TracFone claims that other wireless providers require long-term contract  
8 commitments that can be a problem for low-income subscribers. As  
9 stated previously, the above-listed providers have a variety of flexible,  
10 temporary plans in which Lifeline-qualified subscribers can participate,  
11 including month-to-month plans with no long-term contracts or service  
12 commitments. In addition, the above-listed providers often waive the  
13 activation fees for initiating service to low-income subscribers. Thus, after  
14 the waiver of activation fees and the \$13.50 monthly Lifeline discount from  
15 the Lifeline program, the monthly charges are fairly minimal. In addition,  
16 there are no service disconnect fees or early termination fees as TracFone  
17 claims in its Application.

18 **Q. CAN YOU GIVE THE COMMISSION SOME SPECIFIC EXAMPLES OF**  
19 **THE CURRENTLY AVAILABLE PLANS FROM EXISTING WIRELESS**  
20 **ETCs AND THE RELATED COSTS?**

21 A. Using Syringa Wireless' \$30.00 monthly plan as an example, with no  
22 activation fee and a \$13.50 Lifeline subsidy, a Lifeline subscriber is paying  
23 only \$16.50 per month plus tax. Using CTC Wireless' \$24.10 monthly

1 plan as another example, a Lifeline subscriber will pay only \$10.60 per  
2 month once the Lifeline discount is applied. In addition, where customers  
3 do enter into longer term contracts, the existing wireless ETC providers  
4 subsidize the purchase of the customer's handset. Moreover, because all  
5 of the above-referenced wireless providers verify qualifying subscribers in  
6 the same manner as wireline ETCs, there is no risk of duplicate subsidies.

7 **Q. HAS TRACFONE DEMONSTRATED ANY UNIQUE ADVANTAGES OF**  
8 **ITS PROPOSED SERVICE OFFERINGS OVER THOSE OF EXISTING**  
9 **ETC DESIGNATED PROVIDERS IN IDAHO'S RURAL STUDY AREAS?**

10 A. No. The only unique feature of TracFone's proposed service is a "free"  
11 handset and free minutes, yet TracFone has failed to provide any  
12 verifiable information regarding the actual cost of the allegedly free  
13 handsets or how TracFone allocates the cost of the handsets in its  
14 Safelink business model. Thus, it is impossible for the Commission to  
15 determine whether this handset is simply a loss leader for TracFone that  
16 ultimately more than pays for itself in the form of customers who end up  
17 paying as much if not more for Lifeline supported wireless service from  
18 TracFone as they would for Lifeline-supported service from an existing  
19 rural ILEC or wireless ETC provider.

20 **Q. SO, IS TRACFONE'S PROPOSED SERVICE IN IDAHO'S RURAL**  
21 **STUDY AREAS REALLY NECESSARY?**

22 A. No. Idaho consumers currently have access to a full range of wireline and  
23 wireless Lifeline services. The coverage area offered by TracFone is no

1 larger than that offered by its Underlying Carriers and is not co-extensive  
2 with the service areas of existing wireless ETCs which are investing in  
3 deploying state-of-the-art wireless infrastructure throughout Idaho's rural  
4 areas. TracFone does not intend to invest in the service areas or increase  
5 coverage areas by the addition of any new facilities. In fact, TracFone  
6 neither owns nor operates any telecommunications facilities in Idaho.

7 **Q. DOES TRACFONE ADVANCE ANY OTHER PUBLIC INTEREST**  
8 **ARGUMENTS IN FAVOR OF ITS APPLICATION?**

9 A. A few others.

10 **Q. CAN YOU ADDRESS THOSE FOR THE COMMISSION?**

11 A. TracFone asserts that designation of it as an ETC for Lifeline purposes  
12 only will "provide an incentive to the incumbent LECs serving those  
13 portions of the state to improve their existing networks in order to remain  
14 competitive, resulting in improved services to consumers." TracFone  
15 Application at 20. TracFone has failed to specify why it believes this will  
16 happen or to provide any explanation or examples as to how this incentive  
17 will work.

18 **Q. ANYTHING ELSE?**

19 A. TracFone argues that its Lifeline services are needed in Idaho to increase  
20 Idaho's statewide Lifeline participation rate. TracFone Application at 23.

21 **Q. WHAT ARE THE CURRENT LIFELINE PARTICIPATION RATES IN**  
22 **IDAHO?**

23

1 A. The information provided on the Universal Service Administrative  
2 Company ("USAC") website shows participation rates for Idaho in 2009  
3 between 20 and 50 percent, similar to at least half the states in the United  
4 States. A map showing 2009 Lifeline Participation Rates by State is  
5 attached hereto as Exhibit 201. Many of those states shown with  
6 participation rates between 20 and 50 percent are states in which  
7 TracFone has already been designated an ETC to provide its Lifeline  
8 services.

9 **Q. WHAT'S THE TAKE AWAY FROM THE STATISTICS YOU'VE JUST**  
10 **PROVIDED?**

11 A. If Idaho already has the same Lifeline participation rates as other states in  
12 which TracFone has already been providing Lifeline services, then  
13 contrary to TracFone's assertion, it is not the *sine qua non* for increasing  
14 Lifeline participation rates in Idaho. In fact, TracFone states that two of  
15 the designated wireless ETCs in Idaho, Syringa Wireless, LLC and  
16 Cleartalk, served approximately 1,600 Lifeline customers in 2008. Using  
17 TracFone's analysis, that number increased to 1,725 in 2009. Through  
18 the third quarter of 2010, the number of customers served by Syringa  
19 Wireless increases to 2550. That represents approximately a 59 percent  
20 increase in Lifeline customers served by Syringa Wireless, LLC in less  
21 than two years. In addition to the wireless Lifeline customers, at the end of  
22 2010, there were over 20,000 households receiving Lifeline benefits for

23

1 wireline service. Idaho Department of Health & Welfare, Facts Figures  
2 Trends 2010-2011, at 79, attached hereto as Exhibit 202.

3 **Q. DO THE USAC STATISTICS MEAN THAT HALF OF THE LOW-INCOME**  
4 **RESIDENTS OF IDAHO ARE GOING WITHOUT TELEPHONE**  
5 **SERVICE?**

6 A. No. It is important to understand that these percentages relate to the  
7 percent of eligible customers receiving Lifeline support through the  
8 Universal Service Fund. These percentages are different than telephone  
9 penetration rates. For example, in its recently released Notice of Proposed  
10 Rule Making regarding the Low Income Support component of the  
11 Universal Service Fund, the FCC observed that 90% of low income  
12 households nationally have telephone service, compared to an overall  
13 penetration rate of 96%. FCC, *In the Matter of Lifeline and Link Up Reform*  
14 *and Modernization*, 2011 WL 773475 (Mar. 3, 2011) at 11 (“Lifeline  
15 NPRM”). The Lifeline NPRM is attached hereto as Exhibit 203. What this  
16 means is simply that all people eligible to receive a subsidy are not taking  
17 advantage of the program. TracFone’s sole purpose is to seek out those  
18 that are not taking advantage of the program and to offer them an  
19 additional way to do so, using a “free” handset as a loss-leader  
20 enticement.

21 **Q. IF THE PUBLIC INTEREST ANALYSIS THAT THIS COMMISSION**  
22 **MUST UNDERTAKE IS ONE OF WEIGHING THE ALLEGED BENEFITS**  
23 **OF DESIGNATING TRACFONE AS AN ETC FOR LIFELINE**

1           **PURPOSES ONLY AGAINST THE POTENTIAL RISKS, WHAT ARE**  
2           **THE RISKS THE COMMISSION SHOULD CONSIDER?**

3           A.    By providing services only in areas served by its "Underlying Carriers"  
4           (AT&T, Verizon and T-Mobile) and not committing to provide any  
5           improvements to the existing networks or facilities, there is significant  
6           potential for cream-skimming by TracFone.    The Act requires that  
7           companies seeking an ETC designation must provide the services  
8           supported by universal support mechanisms "throughout the service area  
9           for which the designation is received." 47 U.S.C. § 214(e). The Act  
10          further provides, "In the case of an area served by a rural telephone  
11          company, 'service area' means such company's 'study area.'" 47 U.S.C. §  
12          214(e)(5). When comparing the coverage area maps of the Underlying  
13          Carriers with the Idaho rural telephone companies' service area maps on  
14          file with the Commission, it is not clear that the Applicant can meet this  
15          fundamental requirement for ETC designation in most, if not all, of the  
16          affected rural telephone companies' service areas. Specifically, it does  
17          not appear that Applicant will provide coverage in the entirety of the study  
18          areas of Cambridge Telephone Company, Custer Telephone Cooperative,  
19          Inc., Midvale Telephone Exchange, Incorporated, and Rural Telephone  
20          Company. Whether it provides service throughout the entirety of any  
21          other ILEC service area cannot be determined without further  
22          investigation.

23

1 Q. IS THE CREAM-SKIMMING ANALYSIS APPLICABLE WHERE AN  
2 APPLICANT IS SEEKING ETC DESIGNATION FOR LIFELINE  
3 SUPPORT ONLY?

4 A. While cream-skimming is generally considered a factor in connection with  
5 the receipt of high-cost support, it is also applicable in the discussion of  
6 the public interest as it relates to a non-facilities-based applicant. With  
7 each customer that switches service from the incumbent LECs to  
8 TracFone, that is a customer who no longer contributes to the Universal  
9 Service Fund, assuming that customer purchases interstate services.  
10 This creates an upward pressure on the fund or requires increases in  
11 contributions of those who do contribute to the fund in order to fund the  
12 improvements to reach rural Idaho. This is definitely not a positive factor  
13 in any public interest analysis considering that the areas in question are  
14 already well-served by both wireline and wireless carriers that offer Lifeline  
15 service.

16 Q. TRACFONE DESCRIBES ITS LIFELINE SERVICE AS A "FREE"  
17 SERVICE. IS IT A FREE SERVICE?

18 A. Well, we've all heard the saying, "There's no such thing as a free lunch."  
19 The end-user customer may perceive the service to be "free", however,  
20 the support used to provide that service is far from free from the  
21 perspective of the consumers and businesses that use interstate  
22 communications services and are assessed the USF contribution factor.  
23 For example, the FCC, in its recently released Low Income Support

1 NPRM, noted that the contribution burden for Lifeline/Linkup was  
2 approximately \$0.95 per household per month. Lifeline NPRM, at 16.

3 **Q. ARE THERE OTHER IDAHO-SPECIFIC ETC REQUIREMENTS THAT**  
4 **TRACFONE HAS FAILED TO MEET?**

5 A. Yes. TracFone has not demonstrated its ability to remain functional in  
6 emergencies. In fact, TracFone claims this requirement is not applicable  
7 because it is a reseller of services and it owns no cell sites, microwave  
8 hubs or switches. Thus, rather than stating it cannot meet the requirement  
9 to remain functional in emergencies, TracFone simply maintains that the  
10 requirement is not applicable.

11 **Q. IS THAT AN ACCEPTABLE EXCUSE FOR NOT COMPLYING WITH**  
12 **THIS COMMISSION'S ETC REQUIREMENTS ORDER?**

13 A. No. TracFone could enter into agreements with other wireless providers  
14 to re-route traffic in the event of a non-functioning cell site, microwave hub  
15 or switch. If it cannot meet this requirement, then clearly there is no public  
16 interest benefit in providing a service that may not be functional when it is  
17 needed most.

18 **Q. IDAHO APPLICANTS MUST CERTIFY THAT THEY WILL COMPLY**  
19 **WITH APPLICABLE SERVICE QUALITY STANDARDS AND**  
20 **CONSUMER PROTECTION RULES. TRACFONE ASSERTS THAT IT**  
21 **IS ABLE TO MEET EACH OF THE CTIA CONSUMER CODE**  
22 **PROVISIONS. AS A RESELLER OF SERVICES, IS THAT TRUE?**

23

1 A. No. If you read TracFone's Direct Testimony carefully, you will see that  
2 what TracFone really says is that it meets each such provision that it  
3 believes is applicable to it. For instance, TracFone asserts in several  
4 places that it does not need to offer a trial period for new service or a right  
5 to terminate service in response to contract changes because TracFone  
6 services are purchased on a pre-paid basis. As such, a customer may  
7 cancel any time it chooses with no early termination fees or penalties.  
8 What TracFone fails to state is that if such customer desires to terminate  
9 its service prior to using all of its pre-paid minutes, such customer does  
10 not receive a refund for any minutes already purchased. Thus, there is  
11 really not a "free" trial period.

12 **Q. ANY OTHER CONCERNS REGARDING CUSTOMER SERVICE?**

13 A. Yes. All TracFone customer service access is via toll-free telephone  
14 number to a call center located outside of the United States. There is no  
15 local office and no local customer service representative.

16 **Q. CAN'T TRACFONE STILL PROVIDE ACCESS TO CUSTOMER**  
17 **SERVICE EVEN IF IT IS ONLY BY TELEPHONE TO A CALL CENTER**  
18 **IN COLUMBIA, THE PHILIPPINES, GUYANA, BELIZE OR**  
19 **GUATEMALA?**

20 A. Perhaps call centers can provide access to customer service no matter  
21 where such call centers are located, if in fact, the call center is readily  
22 available and the customer's concerns are adequately addressed.  
23 Nevertheless, a quick search of the internet shows a high percentage of

1 negative comments regarding TracFone's customer service. Customer  
2 Service Scoreboard, *TracFone Customer Service Ratings and Comments*,  
3 available at <http://www.customerservicescorboard.com/TracFone> (last  
4 accessed March 16, 2011), and Complaints Board, *Safelink Wireless*  
5 *Complaints* available at [http://www.complaintsboard.com/by](http://www.complaintsboard.com/by-company/Safelink-Wireless-a170970.html)  
6 [company/Safelink-Wireless-a170970.html](http://www.complaintsboard.com/by-company/Safelink-Wireless-a170970.html) (last accessed March 17, 2011),  
7 attached hereto as Exhibit 204. Wait times are often close to an hour and  
8 problems are often unresolved even after several attempts to contact  
9 customer service. TracFone simply asserts that it promptly responds to  
10 consumer inquiries and complaints but has provided no evidence in  
11 support of that claim.

12 **Q. SO, IF TRACFONE'S PROPOSED SERVICE IS NOT UNIQUE, IS NOT A**  
13 **SECURE AND CONVENIENT REPLACEMENT FOR LOW INCOME**  
14 **CUSTOMERS' SUPPORTED WIRELINE SERVICE, IS NOT RELIABLE**  
15 **IN THE EVENT OF AN EMERGENCY, AND TRACFONE IS NOT**  
16 **COMPLYING WITH IDAHO LAW REGARDING THE COLLECTION AND**  
17 **REMITTANCE OF USER FEES TO SUPPORT 911 SERVICES, ARE**  
18 **THERE ANY PUBLIC INTEREST FACTORS THAT WEIGH IN**  
19 **TRACFONE'S FAVOR?**

20 A. When you peel away all of the arguments that TracFone advances in  
21 support of its claim that the benefits associated with its proposed service  
22 outweigh the risks, all that remains is TracFone's assertion that  
23 designation as an Idaho ETC would serve the public interest because it

1 will promote competition, especially in the rural areas. TracFone  
2 Application at 18.

3 **Q. IS INCREASED COMPETITION ALONE A SUFFICIENT ENOUGH**  
4 **PUBLIC INTEREST FACTOR TO OUTWEIGH THE RISKS OF**  
5 **DESIGNATING TRACFONE AS AN ETC IN IDAHO'S RURAL AREAS?**

6 A. No. The Commission has clearly stated that "the value of increased  
7 competition, by itself, is not sufficient to satisfy the public interest test in  
8 rural areas." See *Clear Talk Order* at 6 (quoting *Virginia Cellular*, 19  
9 F.C.C.R. at 1574). In fact, the Commission has denied prior ETC  
10 applications because the applicants failed to carry out their burden of  
11 demonstrating that their applications for areas served by rural telephone  
12 companies were in the public interest because those applications placed  
13 too much emphasis on competition. See *Clear Talk Order* and Order No.  
14 30212, in Case No. Inc-T-06-02, *In the Matter of the Petition of Inland*  
15 *Cellular Telephone Company for Designation as an Eligible*  
16 *Telecommunications Carrier Under 47 U.S.C. § 214(e)(2)* (December 28,  
17 2006) ("*Inland Cellular Order*").

18 **Q. IN RESPONSE TO THE COMMISSION STAFF'S REQUEST FOR**  
19 **PRODUCTION NO. 9, TRACFONE DESCRIBED ITS SELF-**  
20 **CERTIFICATION PROCEDURES. ARE TRACFONE'S CURRENT**  
21 **PROCEDURES FOR SELF-CERTIFICATION OF QUALIFYING**  
22 **LIFELINE CUSTOMERS SUFFICIENT TO PREVENT WASTE, FRAUD**  
23 **AND ABUSE?**

1 A. Presently, applicants for TracFone Lifeline services apply on-line and  
2 certify under penalty of perjury that they receive the Lifeline support only  
3 from TracFone or that if they receive it from some other provider, the  
4 applicant will discontinue that subsidized service. The applicant is  
5 required to re-certify annually. So, once the applicant self-certifies, they  
6 receive support for a year, assuming they don't use the service for 60  
7 days and are de-certified. Applicants for Lifeline support from other Idaho  
8 ETCs must be certified through the Idaho Department of Health and  
9 Welfare. Once the requirements are met, the Department or its agents  
10 notifies the applicable telephone company that such subscriber qualifies  
11 for Lifeline support. The Department of Health and Welfare sends a list of  
12 qualified applicants to the provider in the area where such applicant  
13 resides. This list is sent quarterly with the names of the  
14 applicants/subscribers who are qualified to receive the benefit each  
15 month. After the list is received and the recipient's name is verified, only  
16 then does the provider receive the Lifeline subsidy. At any time the  
17 applicant/subscriber is no longer qualified to receive the support, the  
18 discount is not given and the ETC is not provided the funding from the  
19 Universal Service Fund. A recent audit of TracFone's low-income support  
20 is demonstrative of the failure of the self-certification process.

21 At footnote 79 of the Lifeline NPRM, the FCC references USAC,  
22 *Independent Auditor's Report on TracFone Wireless, Inc.'s Compliance*  
23 *with Low Income Support Mechanism Rules (USAC Audit NO.*

1 *LI2009BE006*) ("USAC Audit"). The USAC Audit is public information and  
2 is attached as Exhibit 205. While the USAC auditors concluded that  
3 TracFone was compliant with the rules, the audit found that TracFone was  
4 receiving Lifeline support for 111,682 lines where AT&T, Verizon, and  
5 Embarq were also receiving support. USAC Audit Report at page 5. The  
6 monetary impact of this finding was estimated at approximately \$1.1  
7 million, or an error rate of 10%. It should be noted that this finding was the  
8 result of only two sample months (June, 2009 and January, 2010) and  
9 focused only on two study areas in Florida and Tennessee. At page 6 of  
10 the USAC Audit Report, USAC states "While TracFone appears to have a  
11 process in place to notify subscribers that they may only obtain low-  
12 income discounts from only one carrier, this process has not been  
13 effective in preventing TracFone from providing low-income discounts and  
14 claiming a subscriber on the Form 497 where that same subscriber has  
15 also obtained low-income discounts from another carrier." While USAC  
16 went on to note that it was unable to determine which carrier improperly  
17 claimed the subscribers on the Form 497, this finding clearly demonstrates  
18 that the self-certification process is not effective and results in duplicate  
19 support being provided for the same customers, thus wasting scarce USF  
20 resources. Duplication of support is one of the many key issues addressed  
21 in the Lifeline NPRM.

22 It is not clear in TracFone's Application, Direct Testimony and/or discovery  
23 responses whether TracFone will use its self-certification process or

1 whether it will comply with Idaho's certification process. TracFone has  
2 recognized the Idaho process in its discovery responses, (see response to  
3 Staff Request for Production No. 29), but TracFone asserts in its  
4 Application that it will petition the Commission for waiver of any rules that  
5 impose certification and verification requirements that differ from the FCC  
6 requirements.

7 **Q. PLEASE COMMENT ON THE STATEMENT ON PG.18 OF**  
8 **TRACFONE'S APPLICATION WHERE THE COMPANY CLAIMS THAT**  
9 **ITS DESIGNATION AS AN ETC WILL CAUSE NO GROWTH IN THE**  
10 **HIGH COST PORTIONS OF THE USF.**

11 A. As it is narrowly stated, it is true that designating TracFone as an ETC for  
12 low income support only will not cause the high cost portion of the USF to  
13 increase. Nevertheless, the effects of TracFone's eligibility on the low  
14 income portion of the fund have been significant and growth in the low  
15 income fund has contributed significantly to the overall growth in the USF.  
16 As noted in the United States Government Accountability Office, *Report to*  
17 *Congressional Requesters, Telecommunications – Improved Management*  
18 *Can Enhance FCC Decision Making for the Universal Service Fund Low*  
19 *Income Program (October 2010)* ("GAO Report"), low income support  
20 payments increased from \$823 million in 2008 to \$1.025 billion in 2009, a  
21 25 percent increase. *GAO Report* at 14. The GAO Report is attached  
22 hereto as Exhibit 206. The GAO Report also notes that USAC estimates  
23 that 2010 low income support payments will increase an additional 36

1 percent to \$1.4 billion and acknowledges that the low income program is  
2 the fastest growing universal service support program. *Id.* The GAO  
3 Report goes on to state that during 2009, TracFone received \$189.7  
4 million in low income support payments and more than 90 percent of the  
5 increase in disbursements from 2008 to 2009 (*Id.* at 16).

6 **Q. IS GROWTH IN THE FUND UNDESIRABLE?**

7 A. I am not suggesting that growth in the fund itself is bad. In fact, it may  
8 demonstrate that the program is reaching more of those in need.  
9 However, when some of this growth is attributable to duplication, then  
10 procedures such as those identified in the Lifeline NPRM need to be  
11 implemented to prevent further waste, fraud and abuse.

12 **Q. YOU HAVE MENTIONED THE LIFELINE NPRM SEVERAL TIMES IN**  
13 **YOUR TESTIMONY. WHAT IS THE PURPOSE OF THE LIFELINE**  
14 **NPRM?**

15 A. The purpose of the Lifeline NPRM is to assist the FCC in making informed  
16 decisions that will improve the efficiency and effectiveness of the current  
17 program and extend support to promote broadband services. In doing so,  
18 the FCC is determining how to ensure universal service funds are  
19 primarily benefiting consumers, rather than the carriers that serve those  
20 consumers. (*Lifeline NPRM* at 77-78).

21 **Q. WHAT ARE THE IMPLICATIONS OF THE LIFELINE NPRM FOR THIS**  
22 **PROCEEDING?**

23

1 A. Another important question being addressed is whether the  
2 reimbursement mechanism should be different for wireless and wireline  
3 providers based on their potentially different costs (*Lifeline NPRM* at 78).  
4 The Lifeline NPRM explicitly notes that Lifeline support was never  
5 intended to provide a profit. *Id.* at 7. In this proceeding, because of  
6 TracFone's refusal to respond to data requests, we are not in a position to  
7 answer this question in the affirmative.

8 **Q. TRACFONE HAS REFUSED TO REPLY TO VARIOUS DATA**  
9 **REQUESTS FROM ITA AND CTC REGARDING TRACFONE'S**  
10 **BUSINESS MODEL AND COSTS OF DOING BUSINESS. WHY DO**  
11 **YOU BELIEVE THIS INFORMATION IS IMPORTANT FOR THIS**  
12 **COMMISSION TO CONSIDER IN THIS PROCEEDING.**

13 A. Without knowing TracFone's cost structure it is impossible to say what  
14 amount of free minutes should be used to reasonably match the low  
15 income support TracFone will receive. While wireless carriers are not rate  
16 regulated, I believe it is important for the Commission to know how much  
17 of the low income support is actually used for the cost of minutes, that  
18 benefit customers, versus the amount retained by TracFone as profit.

19 **Q. ANYTHING ELSE?**

20 A. At a tactical level, the FCC is addressing a myriad of issues such as  
21 avoiding duplicate payments by eliminating self – certification procedures,  
22 defining "household", specifying de-enrollment procedures for inactive and  
23

1 ineligible customers, and examining the benefits of wireless versus the  
2 growth in the fund.

3 Although no one can predict the outcome of the FCC's deliberations, what  
4 is certain is that there will be significant changes to the Lifeline program.  
5 Because of these potential changes, it may be in Idaho consumers' best  
6 interest for this Commission to defer a decision in this case until the issues  
7 in the Lifeline NPRM are resolved. Customer confusion could result from  
8 changes in support levels, modifications to existing service offerings,  
9 changes to eligibility procedures, etc.

10 **Q. ASSUMING ARGUENDO THAT THE COMMISSION DECIDES IT IS IN**  
11 **THE PUBLIC INTEREST TO GRANT ETC STATUS TO A NON-**  
12 **FACILITIES BASED ETC APPLICANT SUCH AS TRACFONE, CAN**  
13 **THE COMMISSION ADDRESS THE ISSUES ENUNCIATED IN THE**  
14 **LIFELINE/LINKUP NPRM TO AVOID EXACERBATING THE**  
15 **PROBLEM?**

16 A. If the Commission does decide to grant TracFone ETC status in Idaho, I  
17 believe there are a number of conditions and reporting requirements which  
18 should be implemented.

19 **Q. WHAT ARE SOME OF THOSE CONDITIONS AND REPORTING**  
20 **REQUIREMENTS?**

21 A. Within 30 days of conditional approval of its ETC application in Idaho and  
22 prior to offering Lifeline services, TracFone should be required to make a  
23 compliance filing for approval by the Commission containing the following:

1           a.     TracFone's Lifeline rate plans, terms and conditions. The  
2 rates, terms and conditions should include all provisions that apply to the  
3 Lifeline services offered by TracFone in Idaho, and detailed Idaho-specific  
4 procedures explaining how customers can participate in a particular  
5 Lifeline plan.

6           b.     TracFone's proposed language to be used in all advertising  
7 of Lifeline services in Idaho, including on its websites. The language  
8 should include information directing customers to contact the Commission  
9 or some other appropriate Idaho state agency for complaints regarding  
10 any Lifeline service issues.

11           c.     TracFone's Lifeline Customer Application Form for Idaho.

12           d.     Certification by TracFone that it will be fully compliant with all  
13 applicable federal and Idaho statutes and regulations upon initiation of its  
14 Lifeline service offering, including FULL compliance with the Idaho  
15 Emergency Communications Act.

16   **Q.   WHAT SHOULD HAPPEN WITH THIS INFORMATION ONCE**  
17   **PROVIDED?**

18   A.   Commission Staff should review TracFone's compliance filing and  
19 recommend to the Commission whether it should be approved or rejected.  
20 TracFone should not offer Lifeline services unless and until the  
21 Commission has approved its compliance filing.

22

23

1 Q. IF THE COMMISSION WERE TO APPROVE TRACFONE'S  
2 COMPLIANCE FILING, SHOULD THERE BE ANY ONGOING  
3 REPORTING REQUIREMENTS?

4 A. TracFone should be required to file with the Commission any future  
5 changes to its rates, terms, or conditions at least ten (10) days prior to the  
6 effective date of the change.

7 The information on TracFone's rates, terms and conditions should be  
8 provided in a welcome package sent to Lifeline customers after enrollment  
9 in TracFone's Lifeline program, as well as at TracFone's official Lifeline  
10 website(s) for Idaho.

11 Q. WHAT ABOUT CONCERNS REGARDING THE RECEIPT OF LIFELINE  
12 SUPPORT FOR HANDSETS THAT ARE NO LONGER ACTIVATED?

13 A. TracFone should be required to deactivate a SafeLink Wireless account if  
14 the customer has no usage for 60 consecutive days. TracFone should be  
15 required to send such customers written notice by mail about the potential  
16 deactivation and provide detailed information on ways to avoid unwanted  
17 deactivation.

18 Q. WHAT ABOUT DEACTIVATED CUSTOMERS THAT HAVE  
19 ACCUMULATED UNUSED MINUTES?

20 A. The customer should have a 30-day grace period from the deactivation  
21 date to reactivate the SafeLink Wireless account and restore the minutes  
22 accrued during the 60-day non-usage period and the 30-day grace period.

23 Q. ANY ADDITIONAL REPORTING REQUIREMENTS?

1 A. On a quarterly basis, TracFone should provide the number of Lifeline  
2 customers by service plan (68 minute plan, 125 minute plan, 250 minute  
3 plan) that it enrolled each month of the reporting quarter. TracFone  
4 should also report the number of deactivated Lifeline customers each  
5 month by service plan and the reasons for deactivation (e.g., no usage for  
6 60 consecutive days, annual verification unsuccessful, or voluntary exit).  
7 Quarterly reports should be filed with the Commission no later than 30  
8 days after the end of each quarter.

9 **Q. ANYTHING ELSE?**

10 A. TracFone should be required to respond within 30 days to Commission  
11 Staff's information requests on TracFone's Lifeline operations, including  
12 but not limited to Lifeline customers' usage patterns and Lifeline customer  
13 records. TracFone should also be required to collect and maintain  
14 necessary records and documentation to ensure its compliance with the  
15 applicable FCC and Commission requirements, including existing  
16 requirements and any future modifications. The records and  
17 documentation should be provided to Commission Staff upon request.  
18 TracFone should cooperate with the Commission and the Department of  
19 Health and Welfare ("DHW") to work out a procedure to verify TracFone  
20 Lifeline customers' eligibility. TracFone should then report these  
21 procedures to this Commission prior to offering Lifeline service. Staff  
22 should have at least thirty (30) days to review these procedures and  
23 advise the Commission as to the workability.

1 TracFone should also be required to file with the Commission its complete  
2 Lifeline customer records for the prior calendar year. The customer  
3 records should be subject to review by the Commission and DHW. The  
4 records should have all the necessary information and be in a format that  
5 is readily searchable.

6 **Q. WHAT IF THE COMMISSION OR THE DEPARTMENT OF HEALTH AND**  
7 **WELFARE (“DHW”) WERE TO DISCOVER AN ELIGIBILITY**  
8 **DISCREPANCY OR OTHER PROBLEM WITH THE DATA PROVIDED**  
9 **BY TRACFONE?**

10 A. After the Commission and/or DHW notifies TracFone of the results of the  
11 review, TracFone should be required to take appropriate measures to  
12 either correct the customer records or stop providing services to ineligible  
13 customers and report the resolution to both agencies within 30 days of the  
14 notice.

15 **Q. ANYTHING ELSE?**

16 A. TracFone should be required to provide the Commission a copy of its  
17 annual Lifeline Verification survey results that it files with the USAC by  
18 August 31 of each year.

19 **Q. WHAT ABOUT CUSTOMER SERVICE ISSUES?**

20 A. TracFone should be required to file an annual report with the Commission  
21 on the number of complaints, categorized by the different nature of  
22 complaints, that it received from Idaho Lifeline customers during the prior  
23 calendar year (e.g., billing disputes and service quality complaints). This

1 report should include complaints filed with TracFone, the Commission and  
2 the FCC.

3 **Q. AND WHAT IF TRACFONE WERE TO FAIL TO COMPLY WITH ANY OF**  
4 **THESE REPORTING REQUIREMENTS AND CONDITIONS?**

5 A. The Commission should reserve the right to revoke TracFone's ETC  
6 designation if TracFone fails to comply with any of these conditions.  
7 Receipt of USF support for the provision of Lifeline service is a privilege,  
8 not a right. TracFone should be required to demonstrate to the  
9 commission that it takes its responsibility seriously.

10 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

11 A. The facts in this case indicate that TracFone cannot meet all of the Idaho-  
12 specific requirements for ETC designation. Furthermore, even if TracFone  
13 does meet the minimum threshold requirements, TracFone's application is  
14 not in the public interest and should be denied, especially in any study  
15 area served by a rural telephone company. Alternatively, if the  
16 Commission determines the Application to be in the public interest, the  
17 Commission should consider conditional designation of ETC status for all  
18 non-facilities based ETC applicants.

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY AS OF MARCH 18, 2011?**

20 A. Yes.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18<sup>th</sup> day of March 2011, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Jean Jewell  
Idaho Public Utilities Commission  
472 West Washington Street  
Boise, ID 83702  
[jean.jewell@puc.idaho.gov](mailto:jean.jewell@puc.idaho.gov)

- U.S. Mail
- Overnight Mail
- Hand Delivery
- Fax
- Electronic Mail

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- U.S. Mail
- Overnight Mail
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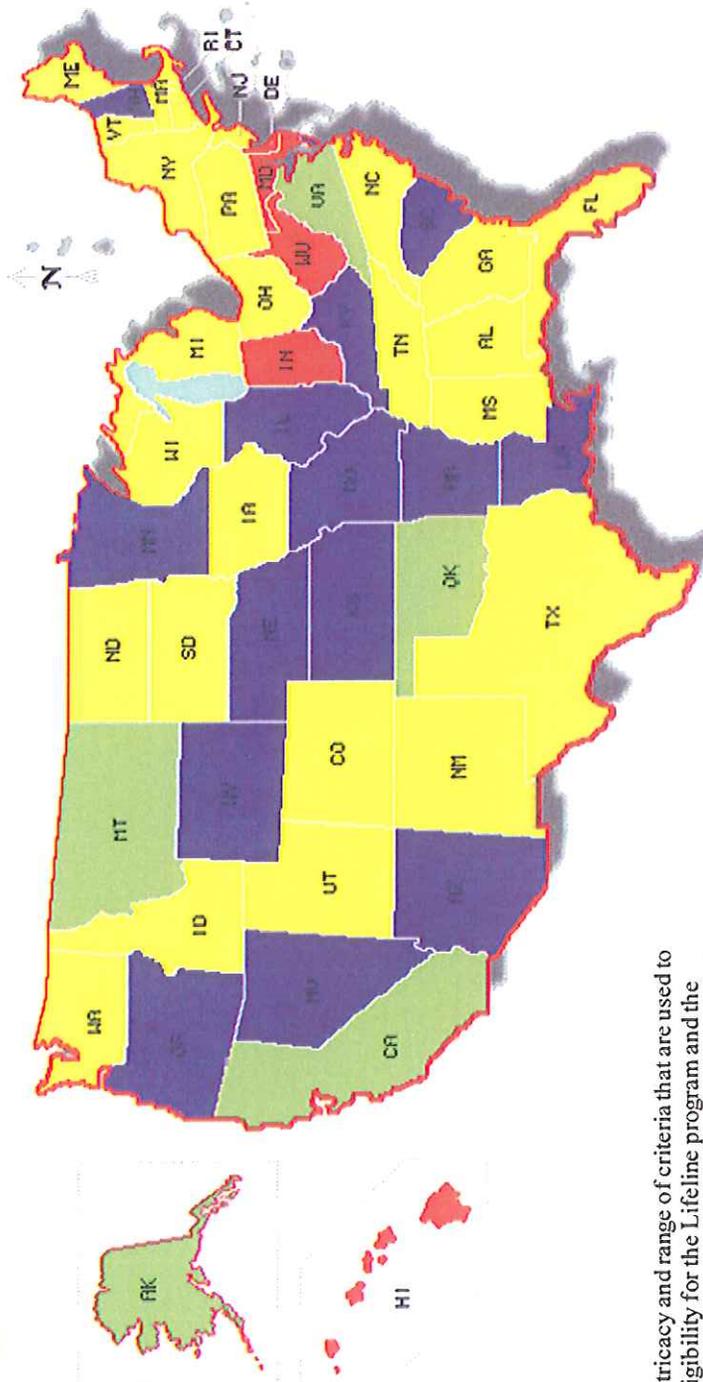
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- U.S. Mail
- Overnight Mail
- Hand Delivery
- Fax
- Electronic Mail

  
\_\_\_\_\_  
Cynthia A. Melillo

# 2009 Lifeline Participation Rates by State

- Below 10%
- 10% - 20%
- 20% - 50%
- Above 50%



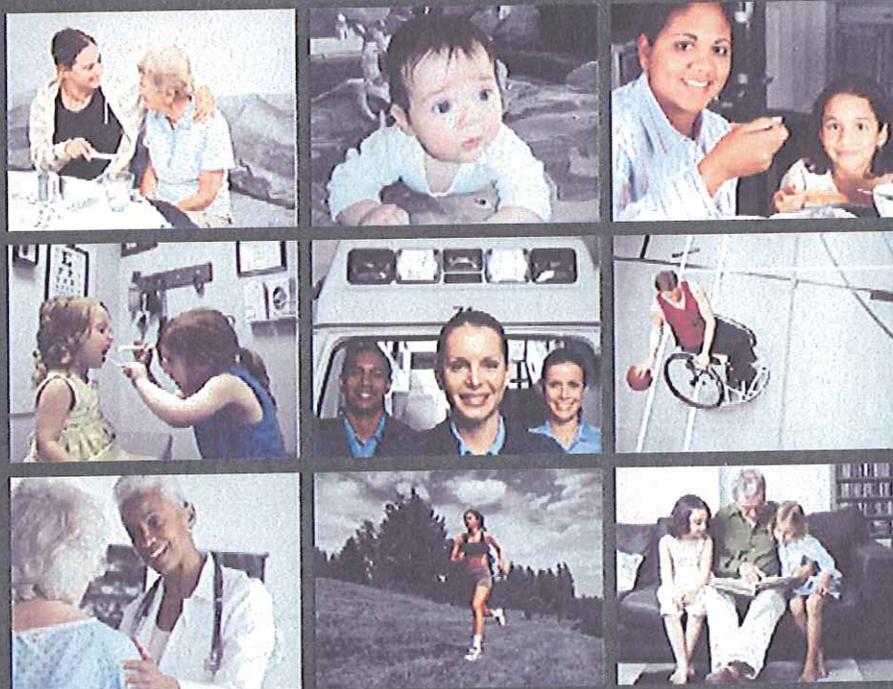
3-8-10

**Notes:**

Due to the intricacy and range of criteria that are used to determine eligibility for the Lifeline program and the limitations of the data used, the methodology employed to create this map involves several estimates, assumptions, simplifications, and omissions. Therefore, the rates generated on this map should be treated as estimates only.

District of Columbia = 10% - 20%

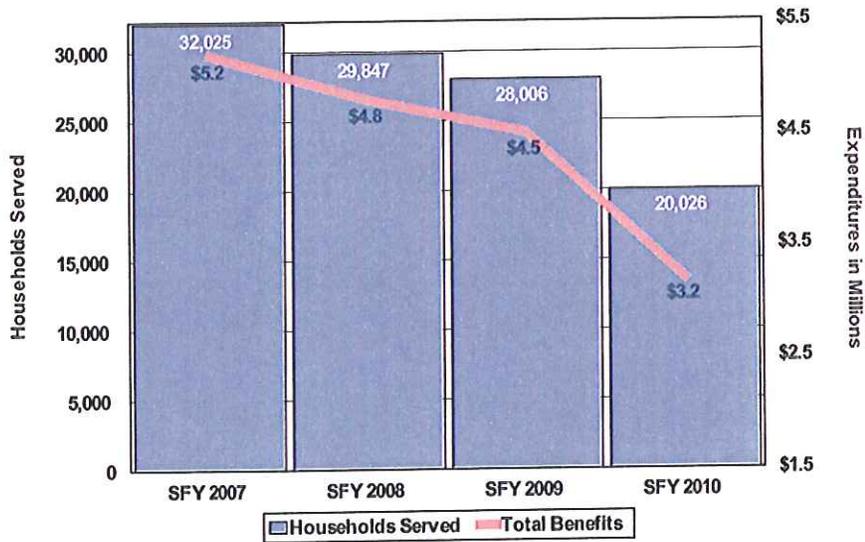
# Facts Figures Trends 2010-2011



IDAHO DEPARTMENT OF  
HEALTH & WELFARE

**The Telephone Service Assistance Program** pays a portion of telephone installation and/or monthly service fees for qualifying households. Benefits are funded by 21 telephone companies using monthly fees collected from service customers. During SFY 2010, the program served an average of 20,026 households per month, with a monthly benefit of approximately \$13.50. Benefits for the state fiscal year totaled approximately \$3.2 million.

**Telephone Service Assistance Program  
Avg. Monthly Households and Annual Expenses**



*Note: Benefits cannot be used to pay for wireless (cell phone) service. Participation is expected to decline around 6% each year as more people replace their landline phones with wireless.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Lifeline and Link Up Reform and Modernization
Federal-State Joint Board on Universal Service
Lifeline and Link Up
WC Docket No. 11-42
CC Docket No. 96-45
WC Docket No. 03-109

NOTICE OF PROPOSED RULEMAKING

Adopted: March 3, 2011

Released: March 4, 2011

Initial Comment Date: April 21, 2011

Reply Comment Date on Sections IV, V (Subsection A), VII (Subsection B & D): May 10, 2011

Reply Comment Date on the Remaining Sections: May 25, 2011

By the Commission: Chairman Genachowski and Commissioners Copps, McDowell, Clyburn and Baker issuing separate statements.

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## I. INTRODUCTION

1. Lifeline and Link Up are a critical part of the Commission's universal service mission, ensuring that we implement Congress's directive to ensure the availability of basic communications services to all Americans, including low-income consumers.<sup>1</sup> For more than two decades, Lifeline and Link Up (together, "Lifeline/Link Up" or "the program") have helped tens of millions of Americans afford basic phone service, providing a "lifeline" for essential daily communications as well as emergencies. But recent technological, market, and regulatory changes have put increasing strain on the program. Today, we begin to comprehensively reform and modernize the Lifeline and Link Up program. Building on proposals from the National Broadband Plan,<sup>2</sup> as well as recent recommendations from the Federal-State Joint Board on Universal Service ("Joint Board") and the Government Accountability Office (GAO),<sup>3</sup> the reforms proposed here will significantly bolster protections against waste, fraud, and abuse; control the size of the program; strengthen program administration and accountability; improve enrollment and outreach efforts; and support pilot projects that would assist the Commission in assessing strategies to increase broadband adoption, while not increasing overall program size.

2. Our effort is consistent with the Commission's ongoing commitment to re-examine and modernize all components of USF to increase accountability and efficiency, while supporting broadband deployment and adoption. The Commission has already made important strides in this area: We have modernized our E-rate program so schools and libraries can get faster Internet connections and access 21st century learning tools.<sup>4</sup> We have proposed changes to our rural health care program so patients at rural clinics can benefit from broadband-enabled care such as remote consultations with specialists anywhere in the country.<sup>5</sup> And we have proposed a Mobility Fund and a Connect America Fund to spur the build out of broadband networks, both mobile and fixed, in areas of the country that are uneconomic to serve.<sup>6</sup>

3. The Commission has not systematically re-examined Lifeline/Link Up since the passage

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<sup>1</sup> See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act); see also 47 U.S.C. § 254(b)(1), (3) (services should be available at "affordable" rates and "consumers in all regions of the nation, including low-income consumers, . . . should have access to telecommunications and information services").

<sup>2</sup> See FEDERAL COMMUNICATIONS COMMISSION, OMNIBUS BROADBAND INITIATIVE, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN (2010) (NATIONAL BROADBAND PLAN), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-296935A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296935A1.pdf).

<sup>3</sup> *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision, 25 FCC Rcd 15598 (Jt. Bd. 2010) (2010 Recommended Decision); U.S. GOVERNMENT ACCOUNTABILITY OFFICE, REPORT TO CONGRESSIONAL REQUESTERS, GAO 11-11, TELECOMMUNICATIONS: IMPROVED MANAGEMENT CAN ENHANCE FCC DECISION MAKING FOR THE UNIVERSAL SERVICE FUND LOW-INCOME PROGRAM (2010) (2010 GAO REPORT).

<sup>4</sup> *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762 (2010) (*E-rate Sixth Report and Order*).

<sup>5</sup> *Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-60, Notice of Proposed Rulemaking, 25 FCC Rcd 9371 (2010) (*Rural Health Care NPRM*).

<sup>6</sup> See *Connect America Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13, para. 487 (rel. Feb. 9, 2011) (*USF/ICC Transformation NPRM*); *Universal Service Reform, Mobility Fund*, WT Docket No. 10-208, Notice of Proposed Rulemaking, 25 FCC Rcd 14716 (2010).

of the 1996 Act.<sup>7</sup> During this period, consumers have increasingly turned to wireless service, and Lifeline/Link Up now provides many participants discounts on wireless phone service. In the last several years, Lifeline/Link Up has grown significantly, from an inflation-adjusted \$667 million in 2000<sup>8</sup> to \$1.3 billion in 2010,<sup>9</sup> with new participation by firms, such as pre-paid wireless providers, that focus on serving low-income consumers. The time has come to review the program holistically, address the risks and challenges it now presents, and ensure that it is on a firm footing to efficiently and effectively achieve its statutory purpose.

4. Accordingly, last year the Commission asked the Joint Board to recommend reforms focused on eliminating waste, fraud, and abuse; controlling costs; and improving program performance and accountability.<sup>10</sup> In response, the Joint Board recommended that the Commission: (1) encourage automatic enrollment as a best practice for all states; (2) adopt uniform minimum verification procedures and sampling criteria that would apply to all ETCs in all states; (3) allow states to utilize different and/or additional verification procedures so long as these procedures are at least as effective in detecting waste, fraud, and abuse as the uniform minimum required procedures; (4) require all ETCs in all states to submit the data results of their verification sampling to the Commission, the states, and the Universal Service Administrative Company and make the results publicly available; and (5) adopt mandatory outreach requirements for all ETCs that receive low-income support and maintain advisory guidelines for states with respect to performing low-income outreach.<sup>11</sup> We seek comment on the Joint Board's recommendations here. The Wireline Competition Bureau has also taken a number of steps to combat waste, fraud, and abuse, including requiring one provider to contact annually all of its Lifeline subscribers to ensure those customers are only receiving one benefit per household<sup>12</sup> and requiring another provider to remove customers from its Lifeline roster if they do not use their phones for sixty days.<sup>13</sup> And late last

<sup>7</sup> In 2000, the Commission established enhanced benefits for households on Tribal lands. *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12231-32, paras. 42-43 (2000) (*Tribal Order*). In 2004, the Commission made a number of discrete changes to the program, including changing eligibility criteria for qualifying households in certain states and adopting outreach guidelines for carriers, but did not examine the overall program structure. See *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004) (*2004 Lifeline and Link Up Order/FNPRM*).

<sup>8</sup> See Universal Service Administrative Company, Quarterly Administrative Filings for 2001, Second Quarter (2Q), Appendices at LI04 (filed Jan. 15, 2001) (USAC 2Q 2001 FILING), available at <http://usac.org/about/governance/fcc-filings/2001/quarter2/default.aspx>. Adjustments for inflation were calculated using the Bureau of Labor Statistics' Consumer Price Index Inflation Calendar. See [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm) (last visited Mar. 1, 2011).

<sup>9</sup> This figure is based on USAC disbursements in 2010, which may be adjusted by true-ups. See UNIVERSAL SERVICE ADMINISTRATIVE COMPANY, QUARTERLY ADMINISTRATIVE FILINGS FOR 2011, SECOND QUARTER (2Q), APPENDICES AT M04 (filed Jan. 31, 2011) (USAC 2Q 2011 FILING), available at <http://www.usac.org/about/governance/fcc-filings/2011/quarter-2.aspx>.

<sup>10</sup> See *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, 25 FCC Rcd 5079, 5079, para. 1 (2010) (*2010 Joint Board Referral Order*).

<sup>11</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15599, para. 2.

<sup>12</sup> *Federal-State Joint Board on Universal Service; TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) (*TracFone ETC Designation Order*).

<sup>13</sup> *Telecommunications Carriers Eligible for Universal Service Support; Virgin Mobile USA, L.P. Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, District of (continued....)*

year, the GAO issued a report with recommendations for program reforms,<sup>14</sup> which also inform our proposals here.

5. This Notice of Proposed Rulemaking (NPRM) puts forward a set of proposals to reform and modernize Lifeline/Link Up, including recommendations of the Joint Board, GAO, and the National Broadband Plan.

6. We begin by proposing specific performance goals for the program, and metrics to measure its performance in advancing the universal service objectives established by Congress. We then propose immediate steps to address waste, fraud, and abuse and to bolster mechanisms to detect and deter rule violations. In particular, we propose to strengthen our rules and improve the incentives of program participants to ensure that the program does not provide multiple, duplicative discounts to the same residential address. We also propose to eliminate reimbursement for certain services, including initiation fees that may be inflated or selectively applied only to low-income households. To reduce waste by ensuring that the program supports only communications services that consumers actually use, we propose to eliminate funding for services that go unused for more than sixty days. We seek comment on expanding oversight, including through more extensive audits. We also seek comment on a proposal to impose an annual funding cap on Lifeline/Link Up, either temporarily—until implementation of the reforms proposed in this Notice—or permanently.

7. This NPRM also addresses the unique situations facing residents on Tribal lands, who historically have had phone penetration substantially below the national average. We propose to clarify eligibility requirements for low-income Tribal households, and to permit Tribal enrollment based on participation in the Food Distribution Program on Indian Reservations.

8. This NPRM also seeks comment on a number of proposals to streamline and improve overall program administration. We ask whether the current system—in which responsibility for enrolling customers and ensuring their continued eligibility is split among carriers, state agencies, and third-party administrators—provides the right framework for prudent management of public resources and effective program administration. We propose to require all states to utilize the same baseline eligibility requirements that exist in our federal rules, which could streamline enrollment and facilitate verification of ongoing eligibility, and seek comment on allowing states to use eligibility standards that supplement the minimum federal uniform standards. Consistent with the recommendation of the Joint Board, we propose uniform national standards for the minimum verification of ongoing customer eligibility to stay enrolled in Lifeline and seek comment on whether states should be permitted to impose additional verification requirements beyond that federal standard. We also seek comment on a proposal to use an automated information management system to prevent duplicate claims for support, provide real-time electronic verification of consumer eligibility, and provide a means of ongoing verification of eligibility.

9. We also ask how the program should be modernized in light of significant marketplace changes in the last fifteen years. We seek to develop a record on what basic services the program should support, and we seek comment on whether the current framework for determining reimbursement levels remains appropriate in an environment when many service offerings are not rate regulated.

10. We also propose reforms to put Lifeline/Link Up on a more solid footing to achieve Congress's goal of addressing the 21st century challenge of helping low-income households adopt

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(Continued from previous page)

*Columbia, Delaware, New Hampshire*, WC Docket No. 09-197, Order, DA 10-2433, at para. 24 (rel. Dec. 29, 2010) (*Virgin Mobile 2010 ETC Order*)

<sup>14</sup> See 2010 GAO REPORT at 3.

broadband. Although access to affordable voice service remains vital to consumers,<sup>15</sup> supporting basic voice service alone may no longer be adequate to meet the basic communications needs of low-income Americans. Broadband is becoming an essential communications platform. Broadband can help working parents stay involved in their child's education, enroll in and complete a distance-learning class to improve professional skills, and complete everyday tasks like paying bills and shopping for necessities. Broadband can help children in inner-city neighborhoods and remote rural towns access high-quality online educational content that might not otherwise be available to them. Broadband can help the unemployed search for jobs and apply for job postings, many of which are simply not available offline.

11. But many low-income Americans cannot afford a home broadband connection. Our 2010 Broadband Consumer Survey found that while 93 percent of households with incomes greater than \$75,000 have broadband at home, only 40 percent of adults with household incomes less than \$20,000 have broadband at home.<sup>16</sup> And consumers cited cost as a primary obstacle to adoption.<sup>17</sup> This gap in broadband adoption is significantly greater than the gap in telephone penetration rates.<sup>18</sup> While Lifeline and Link Up have significantly narrowed the telephone subscribership gap between low-income households and the national average, a new divide has emerged for broadband.

12. Consistent with our statutory obligation to ensure access to quality, affordable communications, we seek comment on proposals to ensure Lifeline and Link Up meet the modern communications needs of low-income consumers. In particular, we propose that eligible households be permitted to use Lifeline discounts on bundled voice and broadband service offerings. We also seek comment on how best to design a broadband pilot program that will help inform the Commission's inquiry into meeting the 21st century communications needs of low-income consumers.

## II. BACKGROUND

13. *History.* Universal service has been a national objective since the Communications Act of 1934, in which Congress stated its intention to "make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."<sup>19</sup> In 1996, Congress codified the Commission's and the states' commitment to advancing the availability of telecommunications services to all

<sup>15</sup> See Letter from Mitchell F. Brecher, Greenberg Traurig, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109, Enclosure 2 (filed Dec. 7, 2010) (TracFone Dec. 7, 2010 *Ex Parte* Letter) (providing statements of Catholic Charities USA and the Hispanic Federation discussing the importance of the Lifeline program).

<sup>16</sup> See John B. Horrigan, PhD, *Broadband Adoption and Use in America* 13, Exhibit 1 (Fed. Comm. Comm'n, OBI Working Paper Series, Working Paper No. 1, 2010) (*Broadband Adoption and Use in America*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-296442A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296442A1.pdf).

<sup>17</sup> *Broadband Adoption and Use in America* at 5; see also U.S. DEP'T OF COMMERCE, NAT'L TELECOMM. & INFO. ADMIN., DIGITAL NATION: EXPANDING INTERNET USAGE 5 (2011) (NTIA DIGITAL NATION), available at [http://www.ntia.doc.gov/reports/2011/NTIA\\_Internet\\_Use\\_Report\\_February\\_2011.pdf](http://www.ntia.doc.gov/reports/2011/NTIA_Internet_Use_Report_February_2011.pdf) (presenting a more up-to-date, but less detailed, analysis of the reasons why consumers have not adopted broadband at home and finding cost to be the most important factor among Internet users who do not have broadband at home, but finding "don't need/not interested" the leading reason among consumers who do not use the Internet anywhere).

<sup>18</sup> As of March 2009, 90% of low-income households subscribed to telephone service in their home, compared to a national average of 96 percent. See *Universal Service Monitoring Report*, CC Docket No. 98-202, Prepared for the Federal-State Joint Board on Universal Service in CC Docket No. 96-45, Table 2-2 (2010) (*2010 Universal Service Monitoring Report*), available at [http://www.fcc.gov/Daily\\_Releases/Daily\\_Business/2010/db1230/DOC-303886A4.pdf](http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db1230/DOC-303886A4.pdf); see *infra* paras. 25-27 (trends).

<sup>19</sup> 47 U.S.C. § 151 (creating the Federal Communications Commission).

Americans, and established principles upon which the Commission shall base policies for the preservation and advancement of universal service.<sup>20</sup> Among other things, Congress articulated national goals that services should be available at “affordable” rates and that “consumers in all regions of the nation, including low-income consumers, . . . should have access to telecommunications and information services.”<sup>21</sup>

14. Lifeline was originally implemented in 1985 to ensure that the increase in local rates that occurred in the aftermath of the breakup of AT&T would not put local phone service out of reach for low-income households. Support for low-income households has long been a partnership between the states and the federal government, and the universal service program historically was administered in cooperation with state regulators through the ratemaking process.<sup>22</sup> The program originally was designed to allow companies to be made whole for foregone revenues associated with discounts provided to eligible Lifeline/Link Up consumers. The program was never intended to provide a profit for service providers.

15. The program was revised and expanded after passage of the Telecommunications Act of 1996, based on recommendations of the Joint Board.<sup>23</sup> After the 1996 Act, all states participated in the program, and the level of federal Lifeline/Link Up support increased. The Commission broadened participation to all Eligible Telecommunications Carriers (ETCs), making the provision of Lifeline service a condition of being an ETC.<sup>24</sup> The program is administered by the Universal Service Administrative Company (USAC) under Commission direction, although many key attributes of the program still are implemented at the state level.

16. Funding is not provided directly to the low-income consumers it benefits. Rather, ETCs provide discounts to eligible households and receive reimbursement from the Universal Service Fund for the provision of such discounts.<sup>25</sup> Today, Lifeline provides discounts of up to \$10 on monthly telephone

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<sup>20</sup> 47 U.S.C. § 254(b).

<sup>21</sup> See 47 U.S.C. § 254(b)(1),(3); see also 47 U.S.C. § 151.

<sup>22</sup> In particular, the Commission waived the federal subscriber line charge – which enabled telephone companies to increase local rates – in those states which provided some level of matching support. The Commission originally established the Lifeline and Link Up programs pursuant to its general authority under sections 1, 4(i), 201, and 205 of the Communications Act of 1934. See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8952-53, para. 329 (1997) (subsequent history omitted) (*Universal Service First Report and Order*).

<sup>23</sup> See *Universal Service First Report and Order*, 12 FCC Rcd at 8952, paras. 326-28. The Joint Board is comprised of FCC commissioners, state utility commissioners, and a consumer advocate representative. See 47 U.S.C. §§ 254(a)(1), 410(c).

<sup>24</sup> Section 214(e)(2) of the Act gives state commissions the primary responsibility for performing ETC designations. 47 U.S.C. § 214(e)(2); see *Tribal Order*, 15 FCC Rcd at 12255, para. 93. Section 214(e)(6) directs the Commission to, on request, designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.” 47 U.S.C. § 214(e)(6); see *Tribal Order*, 15 FCC Rcd at 12255, para. 92.

<sup>25</sup> Carriers file FCC Forms 497 to receive reimbursement for providing Lifeline/Link Up support to eligible subscribers. USAC, Low Income, Step 6: Submit Lifeline and Link Up Worksheet, <http://usac.org/li/telecom/step06/default.aspx> (last visited Mar. 1, 2011). ETCs may file their Forms 497 on either a monthly or quarterly basis, and are reimbursed by USAC on a monthly basis. *Id.*; USAC, Low Income, Step 7: Payment Process and Status, <http://usac.org/li/telecom/step07/default.aspx> (last visited Mar. 1, 2011).

charges,<sup>26</sup> and Link Up provides a discount of up to \$30 on the cost of commencing telephone service for qualifying low-income households.<sup>27</sup> These amounts may be supplemented by additional funding provided from state universal service funds in some states. Discounts are available for one telephone line, either fixed (typically wireline) or mobile (wireless), per eligible household.

17. *Characteristics of the Marketplace.* Much of the structure of the current program reflects its origins, even though the communications marketplace has changed dramatically in the last fifteen years. When the program was first established, mobile phones did not exist as a consumer product, only incumbent telephone companies provided local telephone service, and the program was designed for carriers whose rates were regulated. Today, consumers have various options for fixed or mobile voice services, many of which are not rate regulated. Mobile phone service is vastly more prominent than even a few years ago—more than 25 percent of adults in the general population live in households with only wireless phones, while 40 percent of 18-24 year olds have “cut the cord.”<sup>28</sup> Furthermore, consumers today often purchase packages of services that allow them to call anywhere in the country, with no additional charge for long distance calling.

18. *Bifurcated Federal and State Responsibilities.* The current federal-state structure of the program presents challenges in managing the program’s size and preventing waste, fraud, and abuse. Although Lifeline/Link Up is a federal program, its administration varies significantly among the states for such key questions as who is eligible for benefits, how eligible consumers are enrolled, what certifications of eligibility are required, and how ongoing eligibility is verified.

19. States that do not maintain their own low-income programs are known as federal default states. There currently are ten default states (eight states and two territories).<sup>29</sup> The remaining states do not follow all federal rules.

20. Discounts are available to households that qualify as “low-income,” but there is no uniform national definition for that term. Instead, when the Commission implemented the 1996 Act, it chose not to disturb the framework already in place under which states with their own programs determined qualifications for Lifeline. States must base eligibility criteria solely on income or factors directly related to income, but within that general rule states take varying approaches.<sup>30</sup> For instance, of the twenty-two states that allow participation based on income alone, some have established an income threshold that is higher than the Commission’s, which enables more low-income households to enroll,

<sup>26</sup> As discussed *infra*, Lifeline support amounts vary from state to state, depending on various factors affecting the tiers of support established in section 54.403 of the Commission’s rules. For eligible consumers living on tribal lands, the monthly discount is up to \$25. See *infra* Section IX.A.2.

<sup>27</sup> In addition, carriers may be reimbursed for their provision of Toll Limitation Service to eligible households, which enables those consumers to obtain toll blocking or toll control at no cost. 47 C.F.R. § 54.403(c).

<sup>28</sup> STEPHEN J. BLUMBERG AND JULIAN V. LUKE, CENTERS FOR DISEASE CONTROL AND PREVENTION, NATIONAL CENTER FOR HEALTH STATISTICS, WIRELESS SUBSTITUTION: EARLY RELEASE OF ESTIMATES FROM THE NATIONAL HEALTH INTERVIEW SURVEY, JANUARY - JUNE 2010 2-3 (2010) (WIRELESS SUBSTITUTION SURVEY), available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201012.pdf>.

<sup>29</sup> The current federal default states are Delaware, Hawaii, Indiana, Iowa, Louisiana, New Hampshire, North Dakota, South Dakota, American Samoa, and the Northern Mariana Islands. See Universal Service Administrative Company (USAC) website, Low Income, Frequently Asked Questions, <http://www.universalservice.org/li/tools/frequently-asked-questions/faq-lifeline-linkup-order.aspx#q1> (last visited Mar. 1, 2011).

<sup>30</sup> See 47 C.F.R. §§ 54.409 (consumer qualification for Lifeline), 54.410 (certification and verification of consumer qualification for Lifeline), 54.415 (consumer qualification for Link Up), 54.416 (certification of consumer qualification for Link Up). States must base eligibility criteria solely on income or factors directly related to income. 47 C.F.R. §§ 54.409(a), 54.415(a).

while others have established a lower threshold.<sup>31</sup>

21. The Commission's eligibility criteria encompass households at or below 135 percent of the federal poverty guidelines, and households that participate in various income-based public-assistance programs, such as Medicaid, Food Stamps, and Federal Public Housing Assistance.<sup>32</sup> As shown below in Chart 1, a family of three would be eligible to receive low-income benefits under the Commission's rules if total household income were less than \$25,016 per year.

Chart 1

Persons in Family or Household	Income Threshold
1	\$ 14,702
2	\$ 19,859
3	\$ 25,016
4	\$ 30,173

22. Practices also differ from state to state regarding how the program is administered. In the federal default states, and in many states that have their own low-income program, ETCs are responsible for processing applications, certifying that applicants are eligible for benefits, and verifying ongoing eligibility.<sup>34</sup> In other states, some or all of these functions may be performed by the state public utility commission, another state agency, or a third-party administrator.<sup>35</sup>

23. Administrative processes to mitigate waste, fraud and abuse are also inconsistent. For

<sup>31</sup> 2010 GAO REPORT at 50.

<sup>32</sup> 47 C.F.R. § 54.409(b). If a consumer's eligibility is based on income, the consumer must provide acceptable documentation of income eligibility including, among other things, the prior year's state, federal, or tribal tax return and a current income statement from an employer. 47 C.F.R. §§ 54.410(a)(2), 54.416.

<sup>33</sup> Annual Update of the U.S. Dep't. of Health and Human Servs. Poverty Guidelines, 76 Fed. Reg. 3,367, 3,637-38 (Jan. 20, 2011).

<sup>34</sup> See 47 C.F.R. §§ 54.409, 54.410, 54.415, 54.416. In contrast, consumers seeking social service benefits from other federal programs such as the Low Income Home Energy Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF), or the Supplemental Nutrition Assistance Program (SNAP) typically file an application with a state social services office, which then verifies the consumer's eligibility for the program. See, e.g., Nevada Division of Welfare, Energy Assistance Program – How to Apply, [https://dwss.nv.gov/index.php?option=com\\_content&task=view&id=120&Itemid=286](https://dwss.nv.gov/index.php?option=com_content&task=view&id=120&Itemid=286) (last visited Mar. 1, 2011); Virginia Department of Social Services, Temporary Assistance for Needy Families, <http://www.dss.virginia.gov/benefit/tanf/index.cgi> (last visited Mar. 1, 2011); Oregon Department of Human Services, SNAP Applicant and Recipient Information, <http://www.oregon.gov/DHS/assistance/foodstamps/snap-info.shtml#apply> (last visited Mar. 1, 2011).

<sup>35</sup> As of a 2006 survey conducted by the National Regulatory Research Institute, in twelve states the program was administered by the public utility commission, in twelve states the program was administered by another state agency, in eight states the program was administered by a third party, and in six states the program was administered by the telecommunications carrier. For instance, California, Oklahoma and Texas use a third party administrator to perform these functions. In Montana, the Department of Public Health and Human Services certifies and verifies eligibility, while the public utility commission sets the discount and approves tariff rates for Lifeline service. NATIONAL REGULATORY RESEARCH INSTITUTE (NRRI), STATE UNIVERSAL SERVICE FUNDING MECHANISMS: RESULTS OF NRRI'S 2005-2006 SURVEY 55, Table 34 (2006) (NRRI STUDY).

instance, while twenty-two states permit enrollment based on income, not all require documentation of income. Six states permit self-certification of income under penalty of perjury. Fourteen states conduct random audits of Lifeline recipients, while ten states conduct audits of ETCs.<sup>36</sup>

24. Carriers offering Lifeline services in the ten federal default states must verify annually the continued eligibility of a statistically valid random sample of their Lifeline subscribers.<sup>37</sup> According to GAO, seventeen of the other states require verification of a statistically valid sample of low-income households, and thirteen have an online verification system that uses databases from public assistance programs or income reports.<sup>38</sup> Only federal default states and a handful of other states require ETCs to submit the results of annual verifications to USAC,<sup>39</sup> providing the Commission with an incomplete picture of whether there is waste, fraud and abuse in the program.

25. *Trends.* There is significant variation among the states in the percentage of eligible households participating in the program, which may be due to state eligibility requirements, the extent of outreach, the process for enrolling customers, the number and type of ETCs in the state, support levels, and other factors.<sup>40</sup> In 2009, 8.6 million eligible households participated in Lifeline nationwide, which represented 33 percent of the 25.7 million low-income households at the time.<sup>41</sup> Chart 2 below illustrates the variation in estimated participation rates among the states.

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<sup>36</sup> 2010 GAO REPORT at 51, Table 6.

<sup>37</sup> 47 C.F.R. § 54.410(c)(2). In a February 2010 declaratory ruling, the Commission found that when a state commission mandates Lifeline support, but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default certification and verification requirements. *Lifeline and Link Up; Petitions for Declaratory Ruling and Requests for Waiver by US Cellular Corporation, et al.*, WC Docket No. 03-109, Order and Declaratory Ruling, 25 FCC Rcd 1641, 1645, para. 9 (2010).

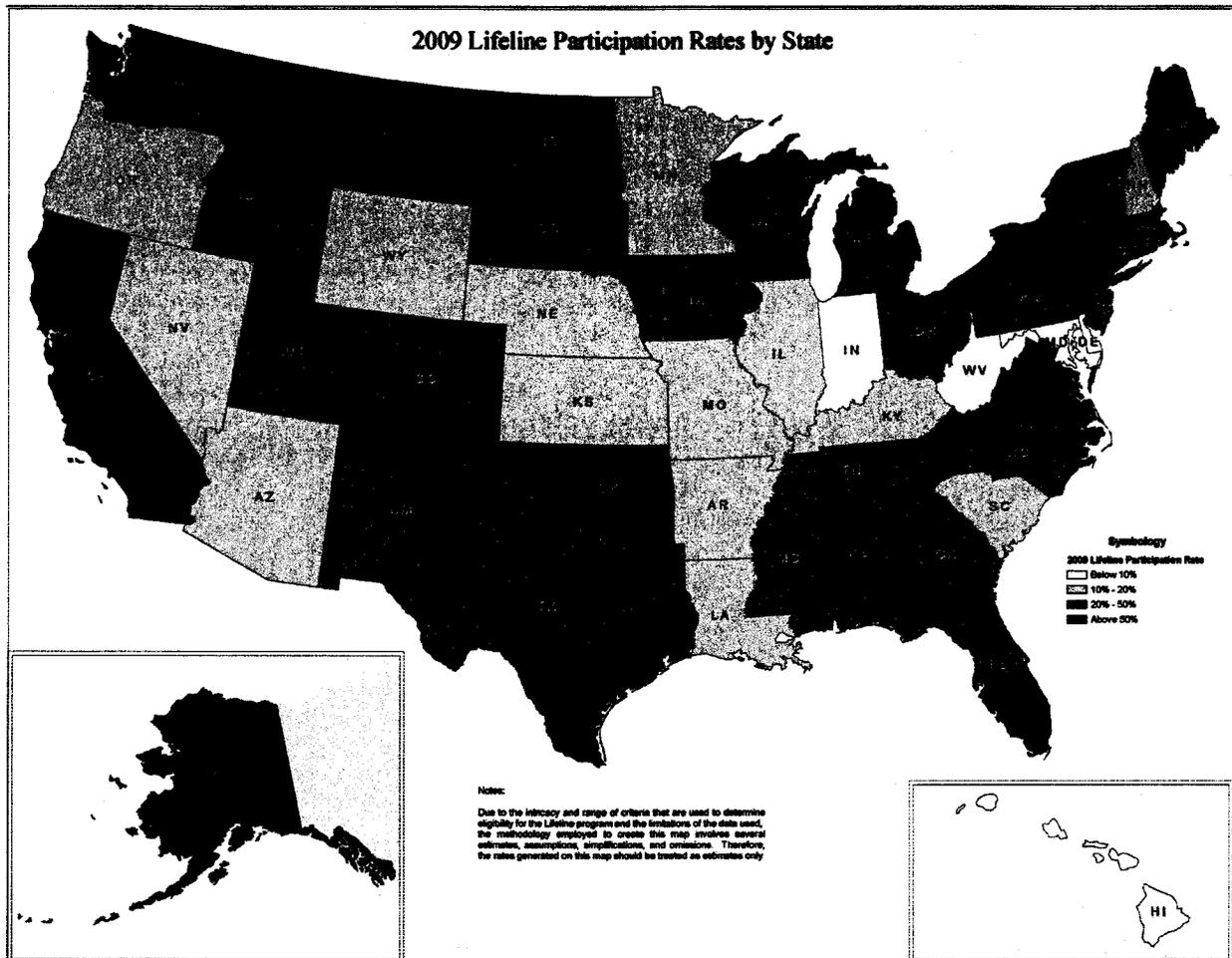
<sup>38</sup> 2010 GAO REPORT at 51.

<sup>39</sup> Non-default states that require ETCs to submit their verification results to USAC include Alabama, Arkansas, Arizona, New York, North Carolina, Pennsylvania, and West Virginia.

<sup>40</sup> See NATIONAL BROADBAND PLAN at 172 (citing Mark Burton et al., *Understanding Participation in Social Programs: Why Don't Households Pick up the Lifeline?*, 7 B.E. J. ECON. ANAL. & POL'Y 57 (2007), available at <http://faculty.msb.edu/jtm4/Papers/BEJEAP.2007.pdf>; Janice A. Hauge et al., *Whose Call Is It? Targeting Universal Service Programs to Low-Income Households' Telecommunications Preferences*, 33 TELECOMM. POL'Y 129, 136-38 (2009), available at [http://warrington.ufl.edu/purc/purcdocs/papers/0805\\_Hauge\\_Whose\\_Call\\_Is.pdf](http://warrington.ufl.edu/purc/purcdocs/papers/0805_Hauge_Whose_Call_Is.pdf)).

<sup>41</sup> See 2010 Universal Service Monitoring Report at Table 2.1; see also USAC 2009 Lifeline Participation Rate Data, <http://www.usac.org/li/about/participation-rate-information.aspx> (last visited Mar. 1, 2011).

Chart 2



26. Telephone subscribership among low-income Americans has grown significantly since 1984. Eighty percent of low-income households had telephone service in 1984, compared to a national average of 92 percent at that time. The gap has narrowed considerably since the inception of Lifeline/Link Up: As of March 2009, 90 percent of low-income households subscribed to telephone service in their home, compared to a national average of 96 percent.<sup>42</sup> Moreover, states with higher dollar amounts of Lifeline support exhibited higher growth in phone subscribership from 1997 to the

<sup>42</sup> 2010 *Universal Service Monitoring Report* at 2-2. The Commission's current telephone subscription penetration rate is based on the Census Bureau's Current Population Survey (CPS), which does not specifically break-out wireless, VoIP, or over-the-top voice options available to consumers. FEDERAL COMMUNICATIONS COMMISSION, WIRELINE COMPETITION BUREAU, INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, TELEPHONE SUBSCRIBERSHIP IN THE UNITED STATES 1 (2010) (WCB SUBSCRIBERSHIP REPORT). The specific questions asked in the CPS are: "Does this house, apartment, or mobile home have telephone service from which you can both make and receive calls? Please include cell phones, regular phones, and any other type of telephone." And, if the answer to the first question is "no," this is followed up with, "Is there a telephone elsewhere on which people in this household can be called?" If the answer to the first question is "yes," the household is counted as having a telephone "in unit." If the answer to either the first or second question is "yes," the household is counted as having a telephone "available." *Id.* at 3.

present.<sup>43</sup>

27. The amount of support has also grown significantly. The program provided \$1.3 billion in support in 2010,<sup>44</sup> compared to an inflation-adjusted \$221 million in support to low-income households in 1997.<sup>45</sup> The initial growth in Lifeline/Link Up after the implementation of the 1996 Act was due in large part to the expansion of the program to all fifty states and the increased level of support provided compared to levels prior to the 1996 Act.<sup>46</sup> In 2000, the Commission provided enhanced support to households on Tribal lands.<sup>47</sup> The program continued to grow between 2001 and 2004 due in part to increases in the federal subscriber line charge, which determines Lifeline support levels.<sup>48</sup> Meanwhile, over the years, wireless companies increasingly sought ETC designations, providing additional options for Lifeline service. In the last several years, a number of pre-paid wireless providers have become Lifeline-only ETCs,<sup>49</sup> fiercely competing for the business of low-income consumers by marketing “free”

<sup>43</sup> States that have provided a full or high level of Lifeline support for telephone service for low-income consumers experienced an average growth in telephone penetration rates for low-income households of 4.6% from March 1997 to March 2009. The states are divided into three groups: “Full or High Assistance” states providing at least \$3.00 of state support to get federal matching support of at least \$1.50 per line per month; “Intermediate Assistance” states providing between \$0.50 and \$3.00 of state support, and receiving between \$0.25 and \$1.50 federal matching support per line per month; “Basic or Low Assistance” states providing less than \$0.50 of state support, and receiving less than \$0.25 federal matching support per line per month. See *2010 Universal Service Monitoring Report* at 6-8. In contrast, during the same time period, states that provided a basic or low level of Lifeline support experienced an average increase in telephone penetration rates of only 2.9%.

<sup>44</sup> This figure is based on USAC estimates. See UNIVERSAL SERVICE ADMINISTRATIVE COMPANY, QUARTERLY ADMINISTRATIVE FILINGS FOR 2011, SECOND QUARTER (2Q), APPENDICES AT M04 (filed Jan. 31, 2011) (USAC 2Q 2011 FILING), available at <http://www.usac.org/about/governance/fcc-filings/2011/quarter-2.aspx>.

<sup>45</sup> See *2010 Universal Service Monitoring Report* at Chart 2-2. Adjustments for inflation were calculated using the Bureau of Labor Statistics’ Consumer Price Index Inflation Calendar. See [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm) (last visited Mar. 1, 2011).

<sup>46</sup> Support levels grew from an inflation-adjusted \$231 million in 1996 to \$621 million in 1998, the first year after implementation of section 254. See *2010 Universal Service Monitoring Report* at Chart 2-2.

<sup>47</sup> In 2010, \$101 million was provided to households on Tribal lands (estimated based on annualizing claims for the first 9 months of 2010). 2Q USAC filing appendix LI07 – Low Income Support Distributed by State in 2007 through 3Q2010, available at: <http://www.usac.org/about/governance/fcc-filings/2011/Q2/LI07%20%20Low%20Income%20Support%20Distributed%20by%20State%20in%202007%20and%20through%203Q2010.xls>.

<sup>48</sup> Support levels grew from an inflation-adjusted \$819 million in 2002 to \$927 million in 2004. See *2010 Universal Service Monitoring Report* at Chart 2-2.

<sup>49</sup> See, e.g., *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*); *TracFone ETC Designation Order*, 23 FCC Rcd at 6206; *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of New York*; *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*; *Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of North Carolina*; *Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (*Virgin Mobile Forbearance Order*); *Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support*; *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, Order, 25 FCC Rcd 8784 (2010) (*i-wireless Forbearance Order*); *Telecommunications Carriers Eligible for Universal Service Support*; *Federal-State Joint Board on Universal Service*; *Head Start Petition for Forbearance*; *Consumer Cellular Petition for Forbearance*; *Midwestern Telecommunications Inc. Petition for Forbearance*; *Line Up, LLC Petition for Forbearance*, WC Docket No. 09-197, CC Docket No. 96-45, Order, 25 FCC Rcd 10510 (2010) (*Global* (continued....))

phone service.<sup>50</sup> This development has expanded choices in many states for low-income consumers who may have been unlikely to subscribe to wireline voice service,<sup>51</sup> but it has also led to significant growth in the fund. Pre-paid wireless ETCs now account for one-third of all Lifeline reimbursements.<sup>52</sup>

### III. ESTABLISHING PROGRAM GOALS AND MEASURING PERFORMANCE

28. As we move forward to reform and modernize the Commission's low-income support mechanisms, we seek comment on the program's performance goals, consistent with our statutory obligations, and on how best to measure the program's performance in achieving those goals.

29. In establishing performance goals, we are guided in the first instance by the Act. Section 254(b) outlines the principles upon which the Commission and the Joint Board are to base policies for the "preservation and advancement of universal service." These principles include the notion that quality services should be available at "just, reasonable and affordable" rates, and that consumers in all regions of the nation, including low-income consumers, should have access to telecommunications and information services that are reasonably comparable to services in urban areas at reasonably comparable rates.<sup>53</sup> The statute specifies that there should be specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service. Section 254(c)(1) of the Act also sets forth certain criteria that we should consider when deciding what services are eligible for universal service support, including the extent to which those services are "essential to education, public health, or public safety;" and "consistent with the public interest, convenience, and necessity."<sup>54</sup>

30. Historically, the primary goal for the Lifeline/Link Up program has been to facilitate the availability of affordable phone service to low-income households. Over time, telephone penetration rates for low-income consumers have increased, although they still remain below the national average and a six percent gap has remained relatively stable in recent years.<sup>55</sup>

31. In 2007, the Commission took initial steps to improve the management of the low-income

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(Continued from previous page)  
*Forbearance Order*).

<sup>50</sup> For example, TracFone noted that the initial SafeLink Wireless offering was 68 free minutes per month until a competitor offered 200 free minutes, to which TracFone responded with its 250-minute offer. See TracFone Dec. 7, 2010 *Ex Parte* Letter, at 5.

<sup>51</sup> NATIONAL BROADBAND PLAN at 173. According to some, mobile phones are becoming more essential than landline phones for low-income consumers. See, e.g., Janice A. Hauge, Eric P. Chiang & Mark A. Jamison, *Whose Call is It? Targeting Universal Service Programs to Low-Income Households' Telecommunications Preferences*, 33 TELECOMM. POL'Y 129, available at <http://ssrn.com/abstract=1324281>. Pre-paid wireless offerings are often ideal for low-income or unemployed/under-employed consumers because they enable consumers to better manage expenses. See, e.g., Nexus TracFone Link Up Comments, at Attach. 1, 6 (Declaration of August Ankum and Olesya Denney, QSI Consulting).

<sup>52</sup> See USAC 2Q 2011 FILING, Appendices at LI04 (Quarterly Low Income Disbursement Amounts by Company (4Q2010)), available at <http://www.usac.org/about/governance/fcc-filings/2011/quarter-2.aspx>.

<sup>53</sup> See 47 U.S.C. § 254(b)(1)(3).

<sup>54</sup> See 47 U.S.C. § 254(c)(1)(A),(D).

<sup>55</sup> We note, however, that the disparity in penetration rates for low-income households living on Tribal lands compared to the national average has been significantly higher. See U.S. GOVERNMENT ACCOUNTABILITY OFFICE, REPORT TO CONGRESSIONAL REQUESTERS, GAO 06-189, TELECOMMUNICATIONS: CHALLENGES TO ASSESSING AND IMPROVING TELECOMMUNICATIONS FOR NATIVE AMERICANS ON TRIBAL LANDS 2 (2006) (2006 GAO REPORT), available at <http://www.gao.gov/new.items/d06189.pdf>.

program by adopting measures of efficiency and effectiveness.<sup>56</sup> At that time, however, the Commission concluded that it did not have sufficient data to determine appropriate performance goals.<sup>57</sup> In 2010, GAO noted that while the Commission had developed performance measures, it had not quantified its goal of increased telephone subscribership among low-income households.<sup>58</sup> GAO also noted the importance of developing baseline and trend data for past performance, and of identifying target performance levels for multi-year goals.

32. Clear performance goals and measures should enable the Commission to determine not just whether federal funding is used for intended purposes, but whether that funding is accomplishing the program's ultimate objectives.<sup>59</sup> We now propose to establish explicit performance goals in order to provide a basis for determining whether Lifeline/Link Up is successfully promoting and advancing the availability of quality services at just, reasonable, and affordable rates for low income consumers.<sup>60</sup>

33. Consistent with the Act and GAO's recommendations, we seek comment on three specific goals and related performance measures for the Lifeline/Link Up program.

34. We propose that our first performance goal be to preserve and advance the availability of voice service for low-income Americans.<sup>61</sup> We note the vital role that voice telephony continues to play for consumers, particularly for public safety and public health. We propose to define "availability" of voice service for purposes of Lifeline/Link Up to mean that low-income households have access to that service. We propose to adopt a goal of eliminating any difference in the availability of voice service for low-income consumers compared to non-low-income consumers.

35. We seek comment on how to measure availability of voice services for low-income

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<sup>56</sup> In 2007, the Commission noted the goal of increasing phone service subscribership among low-income households. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism; Lifeline and Link-Up, Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-6, 02-60, 03-109, CC Docket Nos. 96-45, 97-21, Report and Order, 22 FCC Rcd 16372, 16394-95, para. 50 (2007) (*2007 Comprehensive Review Order*).

<sup>57</sup> *2007 Comprehensive Review Order*, 22 FCC Rcd at 163955, para. 51. The Commission noted that it would continue to evaluate the effectiveness of the performance measures adopted for the low-income program by monitoring the number of program beneficiaries (carriers), the number of low-income customers for which each carrier receives low-income support, and the number of connections supported. The Commission committed to looking at other measurements as well, such as the time it takes USAC to process support payments and authorize disbursements, the average (mean) and median support amount awarded per carrier, and total amount of support disbursed. The Commission also required USAC to report annually to the Commission on the Lifeline annual verification results filed by Qwest, Verizon, and AT&T. *Id.* at 16395, para. 52.

<sup>58</sup> 2010 GAO REPORT at 24.

<sup>59</sup> The Government Performance and Results Act (GPRA) of 1993 established statutory requirements for federal agencies to engage in strategic planning and performance measurement. *See* Government Performance and Results Act of 1993, Public Law No. 103-62. GPRA is intended to improve efficiency and effectiveness of federal programs through the establishment of specific goals for program performance. *Id.* GPRA requires federal agencies to: (1) develop strategic plans with long-term, outcome-related goals and objectives; (2) develop annual goals linked to the long-term goals; and (3) measure progress toward the achievement of those goals in annual performance plans and report annually on their progress in program performance reports. *See* 5 U.S.C. § 306; 31 U.S.C. §§ 1115 – 1116.

<sup>60</sup> 47 U.S.C. §254(b)(1).

<sup>61</sup> *See* 47 U.S.C. § 254(b); *see also* Qwest Communications Comments, WC Docket No. 05-195 (filed Nov. 14, 2008).

households. The Commission has historically measured telephone penetration, which measures voice service subscriptions, as a proxy for availability.<sup>62</sup> We propose to establish as an outcome measure the difference between voice service subscribership rates for low-income households eligible for the Lifeline and Link Up program and voice service subscribership rates for the households in the next higher income level as defined in the CPS.<sup>63</sup> Based on the most recent information this would suggest a target subscribership rate for low-income households of 96.9 percent, which is the subscribership rate for households with incomes in the \$35,000-\$39,999 range.<sup>64</sup> We seek comment on whether we should use another measure of availability.<sup>65</sup> We seek comment on how we should define “low-income household” for the purpose of this performance goal in light of the differing eligibility standards that exist today from state to state. For instance, for simplicity, should we use 135% of the Federal Poverty Guidelines for a family of four as the threshold for monitoring program performance? We seek comment on whether we should instead compare subscribership rates for eligible low-income households with some other measure, such as the mean or median subscribership rate for all non-low income households.

36. We propose as our second performance goal to ensure that low-income consumers can access supported services at just, reasonable, and affordable rates.<sup>66</sup> We have concluded in the past that the concept of affordability has both an absolute and a relative component.<sup>67</sup> The absolute component takes into account whether an individual has enough money to pay for a service, and the relative component takes into account whether the cost of a service would require a consumer to spend a disproportionate amount of his or her income on that service.<sup>68</sup> Comparing subscribership or adoption rates among low-income households to nationwide subscribership and adoption rates may be useful in evaluating whether supported services are available to low-income households and affordable in absolute terms, but those comparisons may not be dispositive in evaluating whether low-income households can afford those services in relative terms.<sup>69</sup> We seek comment on whether an appropriate performance measure for this goal would be to compare the percentage of low-income household income spent on a voice service to the percentage of household income spent on voice service for the next highest income range as identified by the Bureau of Labor Statistics.

37. As our third performance goal, we propose to ensure that our universal service policies provide Lifeline/Link Up support that is sufficient but not excessive to achieve our goals.<sup>70</sup>

<sup>62</sup> See WCB SUBSCRIBERSHIP REPORT at 1-3.

<sup>63</sup> WCB SUBSCRIBERSHIP REPORT at Table 4.

<sup>64</sup> *Id.*

<sup>65</sup> See *Modernizing the FCC Form 477 Data Program, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Review of Wireline Competition Bureau Data Practices*, WC Docket Nos. 11-10, 07-38, 08-190, 10-132, Notice of Proposed Rulemaking, FCC 11-14, paras. 32-33, 77 (rel. Feb. 8, 2011) (*Broadband Data NPRM*).

<sup>66</sup> See 47 U.S.C. § 254(b)(1). When the Commission initially implemented the 1996 Act, it noted that a variety of factors may impact affordability of phone service, including non-rate factors such as income levels, cost of living, population density, and the size of the customer’s local calling area. *Universal Service First Report and Order*, 12 FCC Rcd at 8840-42, paras. 114-17.

<sup>67</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8837-38, para. 110.

<sup>68</sup> *Id.* at 8837-38, para. 110.

<sup>69</sup> *Id.* at 8839, para. 113.

<sup>70</sup> See 47 U.S.C. § 254(b)(5).

Administering USF requires balancing competing demands, recognizing that increased demand for funds imposes a greater contribution burden on consumers and businesses. As we have noted previously, the principles outlined in section 254 require us to ensure that quality services are affordable for all consumers but we must also be “mindful of the effects that expanded universal service mechanisms may have on consumers.”<sup>71</sup> This goal includes ensuring that the Lifeline/Link Up program is accountable and fiscally responsible, with support disbursed efficiently and effectively only to those who need it.

38. In the *Connect America Fund Notice*, we sought comment on measuring the relative contribution burden on consumers over time, defined as total inflation-adjusted expenditures of the Fund each year, divided by the number of American households.<sup>72</sup> We seek comment here on whether a similar measure would be appropriate for Lifeline/Link Up, specifically tracking whether the inflation-adjusted Lifeline/Link Up expenditure per American household is increasing or decreasing over time. In 2010, the contribution burden for Lifeline/Link Up was equivalent to approximately \$0.95 per U.S. household per month.<sup>73</sup>

39. We also recognize that a key component of achieving our goal of providing support that is sufficient but not excessive is to protect the universal service fund against waste, fraud, and abuse. That benefits consumers and keeps rates more affordable for all consumers by reducing the need to collect funds for the program that are not appropriately utilized. We propose a number of rule changes in this Notice that would reduce waste, fraud, and abuse in the program. We seek comment on whether we should establish as a performance measure keeping erroneous payments in the program below a specified level, for instance by reducing levels of ineligible recipients to a specified percentage.<sup>74</sup>

40. We also seek comment on appropriate efficiency metrics. For example, is there a way to measure increases in the percentage of low-income household subscribership relative to the amount of funding spent per household receiving Lifeline/Link Up? We seek comment on this and other measures of efficiency.

41. Although we are committed to taking all necessary steps to eliminate reduce waste, fraud, and abuse, we also recognize the potential negative impact of increased government regulatory burden, especially on small companies, of some of the measures that can assist in detecting and deterring waste, fraud and abuse. We seek comment on how best to balance these competing interests.

42. We seek comment on whether these three goals and associated performance measures are appropriate for the Lifeline/Link Up program and ask that commenters consider the reform proposals below in light of the proposed goals and performance measures outlined here. Are there additional or

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<sup>71</sup> See, e.g., *Universal Service First Report and Order*, 12 FCC Rcd at 8845-46, para. 125; see also *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order on Remand and Memorandum Opinion and Order, 25 FCC Rcd 4072, 4087, para. 28 (2010) (*Tenth Circuit Remand Order*) (stating that “if the universal service fund grows too large, it will jeopardize other statutory mandates, such as ensuring affordable rates in all parts of the country”).

<sup>72</sup> *USF/ICC Transformation NPRM*, FCC 11-13, at para. 487.

<sup>73</sup> This figure is derived by dividing the total projected disbursements for Lifeline/Link Up for 2010 (\$1.3 billion) by the total number of households with telephone service (113.6 million). See USAC 2Q 2011 FILING, Appendices at M04, available at <http://www.usac.org/about/governance/fcc-filings/2011/quarter-2.aspx>; see also WCB SUBSCRIBERSHIP REPORT at Table 1. We note that contributions to USF are assessed on services provided to businesses as well as residential households; this calculation includes business contributions to the USF, so the amount per month on the phone bills of individual households is less.

<sup>74</sup> See generally <http://paymentaccuracy.gov/> (showing the level of improper payments made by federal agencies for various programs since 2009) (last visited Mar. 1, 2011).

alternative goals and performance measures that we should consider? To the extent that these three goals and performance measures, or any others that the Commission may adopt, may be in tension with each other, commenters should suggest how we should prioritize among competing goals.

43. Last month we sought comment on whether broadband should be a supported service. If broadband becomes a supported service, should we adopt a performance goal of advancing the availability of broadband to low-income households? Analogous to our proposal in the voice context, we seek comment on whether the Commission should establish as an outcome measure the difference between the broadband penetration rates for low-income households and non-low-income households in the next higher income level as defined in the CPS, if broadband becomes a supported service. Should we consider broadband usage in addition to broadband adoption? Unlike voice service, there is a much larger gap in penetration rates for broadband between low-income households and the general population. Should we establish a specific numerical target for narrowing that gap over a particular time period?

44. If Lifeline is modernized to support broadband, how should we measure affordability for broadband? Should we measure affordability separately for voice, broadband, and bundled offerings? We seek comment on what data we would need to monitor the program's progress if we were to adopt such a performance measure, and the least burdensome means of obtaining such data.<sup>75</sup>

45. We invite commenters to propose additional or alternative goals and measures for the program. We also seek comment on how our performance measures should take into account the actions of other governmental agencies, such as state regulators, that may impact the Commission's ability to meet its universal service goals. We note that developing the record on these issues is consistent with GAO's suggestions.<sup>76</sup>

#### **IV. IMMEDIATE REFORMS TO ELIMINATE WASTE, FRAUD, AND ABUSE**

46. We are committed to eliminating waste, fraud, and abuse in Lifeline/Link Up, and to identifying and penalizing program violations when they occur. We recognize that the recent expansion in program demand, as well as marketplace developments, present increased concerns about potential waste and misconduct. We propose to strengthen our rules to more rigorously ensure that the program subsidizes no more than one subscription per eligible residential address, and to improve audits of the program. We also propose rule changes to ensure that carriers are reimbursed only for the provision of Lifeline services to current customers. Finally, we propose to modify our rules to the extent that they offer unnecessary reimbursement to carriers for expenses that may be inflated or unjustified. The continued success of Lifeline/Link Up depends on targeting support to those who qualify, and ensuring that support does not extend beyond the confines of our rules.

##### **A. Duplicate Claims**

###### **1. Background**

47. To achieve the statutory goal of providing telecommunications access to low-income subscribers, while at the same time controlling the growth of the universal service fund and preventing waste, fraud, and abuse, both the Commission and the Joint Board have consistently stated that Lifeline support is limited to a single line per residence.<sup>77</sup> In a series of orders granting wireless ETCs forbearance

<sup>75</sup> See *Broadband Data NPRM*, FCC 11-14, at para. 103.

<sup>76</sup> See 2010 GAO REPORT at 30.

<sup>77</sup> *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8306 para. 4 (2004) ("Lifeline provides low-income consumers with discounts of up to \$10.00 off the monthly cost of telephone service for a single telephone line in their principal residence."); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8957 para. 341 (1997) (continued....)

from other program rules, the Commission required those ETCs to take specific steps to further compliance with this requirement. Specifically, the Commission required each wireless ETC granted forbearance to obtain certifications from Lifeline customers at the time of service activation and annually thereafter that they receive Lifeline service from that ETC only, and to establish safeguards to prevent customers from receiving multiple Lifeline subsidies from that ETC at the same address.<sup>78</sup>

48. Recently, however, evidence has come to light suggesting that in many cases multiple ETCs are seeking reimbursement for Lifeline service provided to the same residence. For example, an audit by USAC found a significant duplication rate between certain ETCs in two states.<sup>79</sup> In response to that finding, on January 21, 2011, the Commission's Wireline Competition Bureau sent a letter to USAC providing direction for resolving duplicate Lifeline claims.<sup>80</sup> On February 22, 2011, a group of industry associations filed a petition for reconsideration and request for stay of the January 21<sup>st</sup> letter.<sup>81</sup>

49. In addition, parties have raised concerns about the scope and enforceability of the single line per residence rule. In 2009, TracFone Wireless filed a letter requesting that the Commission clarify the scope of the rule as applied to group living facilities, such as nursing homes, and the Commission sought comment on that request.<sup>82</sup> In their petition for reconsideration and request for stay of the Bureau's January 21, 2011 letter to USAC, the industry associations acknowledge evidence of duplicate claims,<sup>83</sup> but contend that the Commission has never promulgated a legally binding one line per household rule.<sup>84</sup>

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*(First Report and Order)* ("qualifying subscribers may receive assistance for a single telephone line in their principal residence"); *Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, CC Docket No. 96-45, WC Docket No. 03-109, 2010 WL 4390131, para. 34 (Joint Board 2010) ("the Joint Board agrees with commenters that suggest it is important to verify whether Lifeline recipients are receiving support in compliance with the Commission's one Lifeline-supported line per household rule"); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 18 FCC Rcd 6589, 6592 para. 4 (Joint Board 2003) ("Lifeline provides low-income consumers with monthly discounts on the cost of receiving telephone service for a single telephone line in their principal residence.").

<sup>78</sup> See *Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support; i-wireless Forbearance Order*, 25 FCC Rcd at 8790, para. 16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3387, 3392, paras. 12, 25; *TracFone Forbearance Order*, 20 FCC Rcd at 15099, 15103, paras. 6, 18.

<sup>79</sup> USAC Independent Auditor's Report, Audit No. LI2009BE006 (December 3, 2010) (TracFone Audit).

<sup>80</sup> Letter from Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, to Richard Belden, Chief Operating Officer, Universal Service Administration Company, DA 11-110 (Wireline Comp. Bur. 2011), available at [http://www.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db0209/DA-11-110A1.pdf](http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0209/DA-11-110A1.pdf).

<sup>81</sup> See *Petition for Reconsideration of the Wireline Competition Bureau's January 21, 2011 Letter to the Universal Service Administrative Company*, CC Docket No. 96-45, WC Docket No. 03-109 (Feb. 22, 2011) (*Petition for Reconsideration*); *Request for Stay of the Wireline Competition Bureau's January 21, 2011 Letter to the Universal Service Administrative Company*, CC Docket No. 96-45, WC Docket No. 03-109 (February 22, 2011) (*Request for Stay*).

<sup>82</sup> See *Comment Sought on TracFone Request for Clarification of Universal Service Lifeline Program "One-Per-Household" Rule As Applied to Group Living Facilities*, WC Docket No. 03-109, Public Notice, 24 FCC Rcd 12788 (Wireline Comp. Bur. 2009) (*One-Per-Household" Public Notice*).

<sup>83</sup> See *Request for Stay, Declaration of Dewey E. Alexander III, Director Product Marketing, AT&T Services*, at para. 3 (noting a USAC finding that in one state, more than 30,000 Lifeline subscribers were receiving support from both AT&T and another ETC) (AT&T Affidavit).

<sup>84</sup> See *Petition for Reconsideration* at 12-13.

50. The Lifeline/Link Up program provides support for “a single telephone line in a Lifeline subscriber’s principal residence.”<sup>85</sup> As previously noted, when the program rules were initially adopted, most customers had only one option for telephone service: their incumbent LEC’s wireline service. Today, most low-income households have a choice of voice service from one or more wireline providers and potentially multiple mobile wireless providers.<sup>86</sup> These expanded service offerings create greater risks that multiple Lifeline discounts may be provided to a single residence. Notwithstanding existing program protections, including verification and certification requirements,<sup>87</sup> a subscriber may apply for and obtain universal service support from more than one provider, either knowingly or unwittingly. The risk of consumers inadvertently obtaining duplicate supported services is aggravated by the fact that some Lifeline providers brand their program offerings with names that do not necessarily make clear that the offerings are supported by Lifeline, e.g., “Assurance” or “SafeLink Wireless.” As a result, consumers may not be aware that they are improperly obtaining duplicate benefits for a given residence. In addition, multiple carriers may seek reimbursement for services provided to a single subscriber, potentially unaware that a supported service is duplicative.

51. Competition among ETCs offering Lifeline-supported services in the same service territory has also exacerbated the potential for duplicative support. For example, with a pre-paid wireless service offering, the consumer pays for service in advance and does not receive a monthly bill at a fixed address. This may make it difficult to determine whether the Lifeline support for the pre-paid service is being provided to an address that is also receiving another Lifeline-subsidized service. Although the Commission has taken significant steps to mitigate this risk,<sup>88</sup> concerns remain about supporting multiple Lifeline services when the customer is not associated with a specific residential address.

## 2. Discussion

52. We propose rules that will reduce the likelihood that residents of a single address will

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<sup>85</sup> 2004 Lifeline and Link Up Order/FNPRM, 19 FCC Rcd at 8306, para. 4; see also *Universal Service First Report and Order*, 12 FCC Rcd at 8957, para. 341. A similar requirement applies to Link Up. See 47 C.F.R. § 54.411(a)(1).

<sup>86</sup> The Commission’s 2010 Telephone Trends Report indicates nearly 60% of households have both a landline and a wireless telephone. FEDERAL COMMUNICATIONS COMMISSION, WIRELINE COMPETITION BUREAU, INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, TRENDS IN TELEPHONE SERVICE at Table 7.4 (2010) (TRENDS IN TELEPHONE SERVICE), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-301823A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf). The Universal Service Monitoring Report also shows that telephone penetration rates for low-income households was 90.4% in March 2009 as compared with 88% in March 2004. *2010 Universal Service Monitoring Report at 2-2; Universal Service Monitoring Report*, CC Docket No. 98-202, Prepared for the Federal-State Joint Board on Universal Service in CC Docket No. 96-45, Table 2-2 (2005), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-262986A4.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-262986A4.pdf). CTIA reports that wireless penetration across the United States is approximately 93% in June 2010 as compared with 11% in June 1995. CTIA Media, Industry Info, U.S. Wireless Quick Facts, available at [http://www.ctia.org/media/industry\\_info/index.cfm/AID/10323](http://www.ctia.org/media/industry_info/index.cfm/AID/10323) (last visited Mar. 1, 2011) (CTIA Quick Facts).

<sup>87</sup> See 47 C.F.R. §§ 54.409, 54.410. For example, currently, certification rules applicable in federal default states require consumers that receive income-based support to provide certification under penalty of perjury as to their qualification to receive support and as to the number of individuals in their household. See 47 C.F.R. § 54.410(b).

<sup>88</sup> The Commission has conditioned forbearance from the facilities requirement for limited ETC designation upon the carrier requiring its customers to self-certify at time of service activation and annually thereafter that they are head of household and receive Lifeline-supported service only from that carrier. See *TracFone Forbearance Order*, 20 FCC Rcd at 15095; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3381.

receive more than one subsidized service through the program.<sup>89</sup> We understand that there may be reasons to create limited exceptions to the one-per-residential-address rule that we propose in Section V. In this proceeding, we plan to develop a full record to craft appropriately narrow exceptions to application of this proposed rule. We intend to consult with ETCs, Tribal communities, the states, and other interested parties to devise a rule that maximizes the number of Americans with access to communications services, but also protects the fund from waste, fraud, and abuse.

53. In addition, it may be necessary for the Commission to take action on an interim basis while this proceeding is pending to address immediately the harm done to the Fund by USAC reimbursing ETCs for duplicate claims.<sup>90</sup> The purpose of the Lifeline program is to provide telecommunications access to low-income subscribers. Recent audit results indicate there is a risk that a significant number of Lifeline consumers may be unnecessarily and improperly receiving support for more than one service per residential address.<sup>91</sup> To address the problem of wasteful, duplicate Lifeline support, it may soon be necessary to adopt interim rules in this area while the record develops on the issues on which we are seeking comment.

54. To ensure that Lifeline support is limited to the amount necessary to provide access to telecommunications service for low-income subscribers, we propose several approaches to address duplicative support. We propose to adopt a new section 54.408 and to adopt several amendments to sections 54.400, 54.405, and 54.410 that would facilitate the enforcement of a one-per-residential address limitation.<sup>92</sup> We also propose to amend section 54.410 to require ETCs to submit to USAC unique household-identifying information for every supported household to help determine whether two or more ETCs are providing Lifeline-supported service to the same residential address.<sup>93</sup> We also propose remedies to address situations in which a consumer has received duplicate support and to deter such abuses. These proposals are a first step in deterring waste, fraud, and abuse, and we recognize there may be other appropriate actions that would take longer to implement, such as the creation of a database.

55. With these proposed rules, we seek to create incentives for carriers to avoid requesting support for duplicative services, and to impose penalties for those who continue to do so. We also seek to ensure that our rules protect subscribers' privacy and service providers' proprietary business information.

56. *Measures To Assist in Detecting Duplicate Claims.* A unique household identifier may be helpful to ensure that a residential address does not receive more than one subscription that is subsidized by the program. Specifically, we seek comment on amending section 54.410 by requiring ETCs to provide such information as customer names, addresses, social security numbers (either the full number or the last four digits), birthdates, or other unique household-identifying information to USAC on their Forms 497.<sup>94</sup> Would the benefits of requiring subscribers to provide such information outweigh the burdens, including possibly deterring some households from applying for benefits?

57. We seek comment on the best way to accomplish this efficiently and effectively

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<sup>89</sup> See discussion *supra* Section IV.A (One-Per-Residence); discussion *infra* paras. 167-69 (One-per-residential address certification and verification); see also Appendix A.

<sup>90</sup> See discussion *supra* paras. 48-51.

<sup>91</sup> See TracFone Audit; AT&T Affidavit.

<sup>92</sup> See Appendix A, 47 C.F.R. §§ 54.400, 54.405, 54.408, 54.410.

<sup>93</sup> See Appendix A, 47 C.F.R. § 54.410; see also discussion of Tribal households at *infra* paras. 119-20.

<sup>94</sup> See Appendix A, 47 C.F.R. §§ 54.400, 54.405, 54.410.

consistent with privacy statutes, such as the Electronic Communications Privacy Act (ECPA)<sup>95</sup> and section 222 of the Communications Act.<sup>96</sup> For example, what information could an ETC be required to provide to USAC on its Form 497 that would ensure that a household is not receiving multiple subsidized subscriptions at the residence? What measures could USAC put in place to ensure compliance with ECPA or other applicable laws, such as requiring ETCs first to obtain subscriber consent to share information?<sup>97</sup> To the extent that use of customer proprietary network information (CPNI) is needed to ensure that a subscriber at a single residential address is not receiving multiple subsidized subscriptions, how do commenters suggest we ensure compliance with section 222 of the Communications Act and our implementing rules?<sup>98</sup> Are there other laws we need to consider and address? We also seek comment on how best to address any other concerns about privacy, security, or proprietary data issues resulting from collection of this data.<sup>99</sup> To streamline enforcement, we propose to require all ETCs to provide USAC with data in a consistent electronic format to facilitate USAC's detection of duplicate claims. We seek comment on the burdens this would impose on carriers participating in the program.

58. *Remedies To Address Duplicate Claims.* On January 21, 2011, the Wireline Competition Bureau provided guidance to USAC on how to resolve duplicate subsidies when more than one ETC seeks support from USAC for the same subscriber.<sup>100</sup> We propose to amend section 54.405 to codify this guidance.<sup>101</sup> We propose that when a duplicate subsidy is discovered, USAC is to notify the ETCs to discontinue including the duplicate subscriber in their list of subscribers for which the ETCs are claiming Lifeline support on the FCC Form 497.<sup>102</sup> ETCs must notify the subscriber by phone, and in writing where possible, and explain that the subscriber has 30 days to select one Lifeline provider or face de-enrollment from the program. Once the subscriber selects a single Lifeline provider for the household by signing a new certification, the chosen ETC must so notify USAC and the other ETC. The selected ETC may then seek reimbursement for the subscriber going forward, while the other ETC must de-enroll the household from its Lifeline service and may not seek reimbursement for that subscriber going forward.<sup>103</sup> We seek comment on this proposal.

<sup>95</sup> 18 U.S.C. § 2702(a)(3) (prohibiting a provider of “electronic communication service to the public” from divulging a “record or other information pertaining to a subscriber” to any governmental entity unless otherwise permitted by ECPA).

<sup>96</sup> 47 U.S.C. § 222.

<sup>97</sup> See 18 U.S.C. § 2702(c)(2) (permitting a provider to divulge a record or other information pertaining to a subscriber “with the lawful consent of the customer or subscriber”); 47 U.S.C. § 222(c)(1).

<sup>98</sup> 47 U.S.C. § 222(a) (imposing on every carrier a “duty to protect the confidentiality of proprietary information”), (c)(1) (restricting use or disclosure of CPNI “[e]xcept as required by law or with the approval of the customer”), (d)(2) (permitting a carrier’s use and disclosure of CPNI “to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services”).

<sup>99</sup> *Id.*; see also Sprint Joint Board Reply Comments at 5; Database discussion *infra* Section VII.D at paras. 220-21.

<sup>100</sup> Letter from Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, to Richard Belden, Chief Operating Officer, Universal Service Administration Company, DA 11-110 (Wireline Comp. Bur. Jan. 21, 2011), available at [http://www.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db0209/DA-11-110A1.pdf](http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0209/DA-11-110A1.pdf).

<sup>101</sup> See Appendix A, 47 C.F.R. § 54.405.

<sup>102</sup> *Id.*

<sup>103</sup> However, a customer may choose to re-enroll in the low-income program with the non-chosen ETC’s Lifeline program at a later point in time. See 47 C.F.R. § 54.405(c), (d) (requiring 60 days notice for termination).

59. Several ETCs and trade associations have suggested an alternative duplicate resolution process to the Commission.<sup>104</sup> Under their proposal, USAC would send written notification, approved by the Commission, to all subscribers it identifies as receiving duplicate Lifeline subsidies. Such notice would require them to select one Lifeline provider from a list of providers on a form, which the subscriber would send back to USAC within 30 days.<sup>105</sup> USAC would, in turn, notify the affected ETCs about the written notification to the subscriber, and the ETCs would continue to provide Lifeline-supported service to the subscriber and seek reimbursement from the Fund until the USAC resolution process is complete.<sup>106</sup> When USAC receives a completed form from the customer with its selection, it would notify only the ETC not selected by the subscriber, and that ETC would be required to de-enroll the subscriber from its Lifeline service. Under this proposal, if USAC does not receive a completed form from the customer, USAC would be instructed to either notify both ETCs to de-enroll the subscriber, or contact the subscriber by phone to determine the subscriber's provider selection.<sup>107</sup> We seek comment on this proposal. Specifically, we seek comment on the advantages and disadvantages of USAC notifying the subscribers receiving duplicate support, as opposed to requiring ETCs to do so. Would subscribers be more or less likely to respond to an inquiry from USAC (an entity they likely are unfamiliar with) as opposed to their service provider? Would the form that USAC sends to the subscriber include every ETC serving the area or just the two ETCs involved with the request for duplicative support? To what extent would implementation of such a proposal increase administrative costs for USAC, and thereby impact the size of the Fund?

60. In the alternative, we could adopt a rule that when duplicate payments are identified, ETCs must notify the customer that they have 30 days to select a single ETC to provide Lifeline service going forward. If the customer makes a timely selection, the carrier not selected will no longer receive Lifeline support for that customer. If the customer fails to make a timely selection, the carrier that has provided continuous Lifeline service to the customer for the longest period of time would continue to receive Lifeline support and the other carrier would no longer receive support for that customer. We seek comment on this proposal.

61. We also seek comment on whether consumers receiving duplicative support should be de-enrolled in Lifeline after violating the one-per-residential-address requirement one or more times. After more than one duplicate subsidy is discovered, should the consumer listed as the subscriber, or the entire household, be de-enrolled from Lifeline? If de-enrollment is temporary, for how long should the exclusion from the program last? If permanently, on what basis? Should we deny eligibility only if there is evidence of intent to violate the "single support per residential address" provision, or if this is not the subscriber or household's first such violation? Should we impose stricter penalties on a consumer or household with multiple violations? Should we impose stricter penalties on a household receiving more than two Lifeline/Link Up subsidies? Should we first provide an opportunity for the subscriber to demonstrate that the household's dual enrollment was due to an inadvertent mistake or misunderstanding of applicable requirements? What information would need to be collected and maintained by USAC in

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<sup>104</sup> Letter from United States Telecom Association, CTIA, Independent Telephone and Telecommunications Alliance, National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Rural Cellular Association, AT&T, Western Telecommunications Alliance, CenturyLink, Qwest, Tracfone Wireless, Inc, Windstream Communications, Inc and Verizon to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (February 15, 2011) (*ETC Duplicate Letter*).

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

order to ensure that certain subscribers are prohibited from participating in the program in the future? If we do not permanently or temporarily bar such subscribers, what would be an appropriate remedy? Finally, we seek comment the potential impact on the telephone penetration rate among low-income households if this proposal were adopted.

62. We also propose a mechanism for reimbursing the Universal Service Fund in the event of duplicate claims. Our rules currently direct USAC to suspend or delay discounts, offsets, and support amounts provided to a carrier if the carrier fails to provide adequate verification of those discounts, offsets, or support amounts upon reasonable request, or “if directed by the Commission to do so.”<sup>108</sup> We propose that USAC be required to seek recovery for funds from all ETCs with duplicates for the applicable period—*i.e.*, if one or more individual residing at the same address have been obtaining Lifeline support from two or more providers simultaneously, USAC would be required to seek recovery from all implicated providers for all support received during the period of duplicative service, which we propose to define as the period beginning at the time a duplicate is identified until the time at which it can be demonstrated that the consumer or household is no longer receiving duplicate benefits. This approach would create appropriately strong incentives for providers to take measures to ensure that they are not seeking excessive support. We note that in this situation support would have been provided in contravention of our “single support per residential address” rule, and thus, arguably, neither ETC should have received support during the period of duplicative support. Further, if the customer does not reply to the notice and is terminated from Lifeline by both ETCs, we propose that USAC recover all Lifeline support sought for that subscriber from both ETCs for the period of time between when the duplicate was first identified to the point at which the customer is terminated from the Lifeline program. We seek comment on this proposal. We also seek comment on, alternatively, requiring that USAC seek recovery only from the ETC that is not chosen by the consumer for the period of time over which duplicate Lifeline support was provided. We seek comment on this proposal. Further, we seek comment on whether we should enable ETCs to avoid reimbursement obligations if they demonstrate responsible efforts to avoid duplicative funding. What would those efforts be and how could they be shown? Should we establish certain minimum safeguards that could act as a safe harbor for ETCs? Should we restrict recovery only upon a showing of negligence by the ETC? Should the ETCs be permitted to seek reimbursement for any recovered funds from the subscriber? For all of the above proposals, and any other approaches suggested by commenters, we seek comment on how we should determine the period of duplicative coverage.

63. *Addresses.* Several stakeholders have noted that customers have not been permitted to obtain Lifeline or Link Up service when using a P.O. Box as their mailing address.<sup>109</sup> Rather, ETCs have required applicants seeking support to provide a unique residential address. This practice has been used to ensure that the subscriber is eligible for supported service and is not receiving more than one subsidized service. We note that the other information we propose to collect—such as name, birth date, and social security number—are unique to individuals but do not fully address concerns that different members of the same household are receiving subsidized service. In contrast, address information might be particularly suitable to prevent that situation. We seek comment on whether to codify as a rule the current practice of requiring unique residential addresses, in order to assist both ETCs and USAC in determining whether an applicant is already receiving Lifeline- or Link Up-supported services. Under such a rule, ETCs would be required to collect the residential addresses of their Lifeline and Link Up applicants before they provided discounted service. Even if a customer receives mail at a P.O. Box, the customer would have to provide a residential address to which its service would be tied.

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<sup>108</sup> 47 C.F.R. § 54.707.

<sup>109</sup> See, e.g., City of Cambridge TracFone One-Per-Household Clarification Comments at 2; NNEDV TracFone One-Per-Household Clarification Reply Comments at 2; SBI TracFone One-Per-Household Clarification Comments at 4-5; POTS TracFone One-Per-Household Clarification Comments at 2.

64. We seek comment on this proposal. Are there circumstances where a residential address could not be provided? Are there privacy concerns that we should take into account when requiring customers to provide a residential address? How should we treat transient applicants who do not have a fixed address, or consumers who use rural route addresses, for whom there may be no other U.S. Postal Service address?<sup>110</sup> Is there substitute information that we should require in the event that no residential address is available?

#### B. Pro Rata Reporting Requirements

65. *Background.* An ETC may receive Lifeline program support only for active subscribers. If a customer stops receiving service from the ETC, or if the customer no longer satisfies the eligibility criteria, the ETC is not eligible for support for that customer.<sup>111</sup> ETCs submit FCC Form 497 to USAC when seeking reimbursement for eligible consumers.<sup>112</sup> Form 497 includes a line for ETCs to report pro rata funds for Lifeline customers who enrolled or disconnected during the month. The instructions for Line 9 of FCC Form 497 currently state: "If claiming partial or pro-rata dollars, check the box on line 9. Enter the dollar amount (if applicable) for all partial or pro-rated subscribers."<sup>113</sup>

66. Some ETCs have asserted that these instructions are ambiguous. For example, some ETCs contend that they are permitted, but not required, to report, and seek pro rata recovery for, customers that did not subscribe for the full month. They claim that the phrasing in Form 497 ("If claiming partial or pro rata dollars") indicates that such submissions are optional, and does not require the ETC to report partial or prorated subscribers. Some ETCs, including Qwest and Verizon, argue that reporting partial-month subscription data would be overly burdensome.<sup>114</sup> USAC has sought Commission guidance on this issue.<sup>115</sup>

67. *Discussion.* We propose to codify the rule that all ETCs must report partial or pro rata dollars when claiming reimbursement for Lifeline customers who receive service for less than a month.

<sup>110</sup> See *infra* paras. 119-20 (application of the One-Per-Residence Rule in Tribal Communities).

<sup>111</sup> See, e.g., 47 C.F.R. § 54.405(c).

<sup>112</sup> See FCC Form 497, available at <http://www.universalservice.org/res/documents/li/pdf/Form-497-FCC-OMB-USAC-NO-calculations.pdf>.

<sup>113</sup> See FCC Form 497, available at <http://www.universalservice.org/res/documents/li/pdf/Form-497-FCC-OMB-USAC-NO-calculations.pdf>.

<sup>114</sup> See Qwest Communications Reply Comments, WC Docket No. 03-109 (filed April 23, 2010); see also Verizon and Verizon Wireless Comments, WC Docket No. 03-109 (filed April 9, 2010).

<sup>115</sup> See Letter from Richard A. Belden, Chief Operating Officer, Universal Service Administrative Company to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 03-109 (filed Feb. 23, 2010) (*USAC Letter*). Specifically, USAC notes that audits of the low-income program have identified carriers that have not prorated requests for Lifeline support amounts for customers whose Lifeline service is initiated or terminated mid-month, and asks the Commission what recovery action, if any, USAC should take against an ETC that has failed to pro-rate support claims for partial-month Lifeline customers. See USAC Letter at 1-2; see also *Comment Sought on AT&T Request for Review of a Decision of the Universal Service Administrative Company Concerning Audit Findings Relating to the Low-Income Program*, WC Docket No. 03-109, Public Notice, 24 FCC Rcd 7679 (2009); *Comment Sought on AT&T Request for Review of a Decision of the Universal Service Administrative Company Concerning Audit Findings Relating to the Low-Income Program*, WC Docket No. 03-109, Public Notice, 23 FCC Rcd 13497 (2008); *Comment Sought on Qwest Request for Review of a Decision of the Universal Service Administrative Company Concerning Audit Findings Relating to the Low-Income Program*, WC Docket No. 03-109, Public Notice, 23 FCC Rcd 7845 (2008); *Comment Sought on AT&T Request for Review of a Decision of the Universal Service Administrative Company Concerning FCC Form 497*, WC Docket No. 03-109, Public Notice, 23 FCC Rcd 6407 (2008).

Such a rule would ensure that all ETCs comply with the requirement that support may only be claimed for active subscribers, and thereby minimize waste of Lifeline funds. Carriers routinely bill customers for partial months, and should have the capacity in their billing systems to determine whether a customer is a Lifeline subscriber for the full billing period. We seek comment on our proposal.

**C. Eliminating Reimbursement for Toll Limitation Service**

68. *Background.* Toll limitation services (TLS) include both toll blocking, which prevents the placement of all long distance calls for which the subscriber would be charged, and toll control, which limits to a preset amount the long-distance charges a subscriber can incur during a billing period.<sup>116</sup> In the *Universal Service First Report and Order*, the Commission required ETCs to provide TLS to low-income subscribers. At the time, consumers typically purchased long distance service separately from local service, and rates for long distance were considerably higher than they are today.<sup>117</sup> The Commission was concerned at the time about studies demonstrating that the primary reason subscribers lost access to telephone service was failure to pay long distance bills.<sup>118</sup>

69. Our rules currently allow Lifeline support to compensate ETCs for the costs of offering toll limitation service at no charge to eligible low-income consumers.<sup>119</sup> ETCs' recovery of costs for providing TLS to Lifeline consumers is based on the costs that ETCs would otherwise not incur if they did not provide TLS to a given customer.<sup>120</sup>

70. *Discussion.* We propose amending our rules to eliminate Lifeline support for the costs of providing TLS to Lifeline customers. This rule, adopted more than a decade ago, may have outlived its usefulness, given reductions in long-distance calling rates. We also note that there is great variance in TLS costs claimed by ETCs seeking reimbursement, ranging from \$0 to \$36 per Lifeline customer per month.<sup>121</sup> Such variance may be due in part to the ambiguity of our rule governing TLS support, which states that support for TLS will be equal to the ETC's incremental costs, but does not define incremental TLS costs eligible for Lifeline reimbursement. It is unclear, however, whether providing TLS imposes *any* incremental costs on carriers, since a number of ETCs do not seek any reimbursement for TLS costs, despite providing TLS to their subscribers.<sup>122</sup> Moreover, the wide variance in support sought by ETCs suggests that some may be inflating their true costs. Elimination of Lifeline support for TLS could save the program roughly \$23 million in 2011,<sup>123</sup> which, in turn, could be used to conduct pilot programs to

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<sup>116</sup> 47 C.F.R. § 54.400(d).

<sup>117</sup> Section 271 of the Telecommunications Act of 1996 prohibited the regional Bell operating companies (RBOCs) from offering most long-distance services until the Commission found that they had opened their local market to competition. See 47 U.S.C. § 271. Between 1999 and 2003, the Commission found that each of the RBOCs had satisfied the statutory criteria and accordingly was eligible to compete in the long-distance market. See TRENDS IN TELEPHONE SERVICE at 9-3. Since then, "the distinctions between the two markets have become blurred as customers acquired the ability to select among competing carriers" for all markets. See *id.* at 9-2.

<sup>118</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8980, para. 385.

<sup>119</sup> 47 C.F.R. § 54.403(c).

<sup>120</sup> *Id.*

<sup>121</sup> See Letter from Karen Majcher, Vice President, Universal Service Administrative Company to Trent Harkrader, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 96-45 (filed Feb. 25, 2011).

<sup>122</sup> *Id.*

<sup>123</sup> USAC 2Q 2011 FILING, at 17.

provide broadband support or otherwise utilized to provide eligible households with Lifeline discounts.<sup>124</sup> We seek comment on this proposal. In the alternative, should we adopt a flat amount of reimbursement for TLS, and if so, what would be an appropriate amount?

#### D. Customary Charges Eligible for Link Up

71. *Background.* Link Up support reimburses wireline and wireless ETCs for the revenue they forgo in reducing their customary charge for commencing telecommunications service and in deferring charges assessed for commencing service.<sup>125</sup> Link Up provides qualifying consumers with discounts of up to \$30.00 of the initial costs of installing a single telecommunications connection at a consumer's principal place of residence;<sup>126</sup> qualifying residents of Tribal lands are eligible for additional Link Up support.<sup>127</sup> A consumer may not receive more than one Link Up discount and may be eligible for Link Up again only upon a change of his or her principal place of residence.<sup>128</sup>

72. Link Up disbursements vary across ETCs and are not proportionate to Lifeline reimbursements.<sup>129</sup> In December 2010, TracFone filed a Petition for Declaratory Ruling with the Commission seeking a ruling that ETCs are not eligible to receive Link Up reimbursements from the federal Universal Service Fund unless the ETC imposes on all of its customers a customary charge for commencing telecommunications service.<sup>130</sup> TracFone notes that providing Link Up subsidies for activation charges that are not routinely imposed on customers violates the purpose of the Link Up program and constitutes a waste of USF funds.<sup>131</sup> Several commenters agree, and suggest that the only charges eligible for Link Up reimbursement should be charges imposed on all customers, rather than charges fabricated by carriers for the purpose of receiving USF.<sup>132</sup>

73. *Defining Customary Charge.* We seek to eliminate any incentive or opportunity for carriers to impose charges on program participants in order to increase universal service support, as that would represent a waste of funds. We therefore propose to amend our rules to define "customary charge for commencing telecommunications service" as the ordinary initiation charge that an ETC routinely

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<sup>124</sup> See *infra* Section IX.B.3 (Broadband Pilot).

<sup>125</sup> 47 C.F.R. §§ 54.411, 54.413. Most pre-paid wireless ETCs do not receive Link Up support. See, e.g., *TracFone Forbearance Order*, 20 FCC Rcd at 15098, para. 6 (2005).

<sup>126</sup> 47 C.F.R. § 54.411.

<sup>127</sup> See 47 C.F.R. § 54.411(a)(3).

<sup>128</sup> 47 C.F.R. § 54.411(c).

<sup>129</sup> For example, some ETCs are receiving a significant amount of Link Up while other ETCs with similar Lifeline expenditures are not. See USAC 2Q 2011 FILING, Appendices at LI04 (Quarterly Low Income Disbursement Amounts by Company (4Q2010)), available at <http://www.usac.org/about/governance/fcc-filings/2011/quarter-2.aspx> (showing that Link Up disbursements vary significantly by ETCs and do not correspond with the amount of Lifeline support sought by the ETCs).

<sup>130</sup> *TracFone Wireless Inc. Petition for Declaratory Ruling*, WC Docket No. 09-197, CC Docket No. 96-45 (filed Dec. 1, 2010) (*TracFone Link Up Petition*) (arguing that at least one ETC is imposing a customary charge only on low income consumers but not other consumers).

<sup>131</sup> *Id* at 8-9.

<sup>132</sup> AT&T TracFone Link Up Petition Comments at 3 (agreeing that an ETC cannot impose a service activation fee on low-income consumers only); Budget PrePay, Inc and Great Call, Inc. TracFone Link Up Petition Comments at 3-4; Ohio TracFone Link Up Petition Comments at 3.

imposes on all customers within a state.<sup>133</sup> We seek comment on our proposed amendment.

74. We also propose that Link Up rules make clear that activation charges that are waived, reduced, or eliminated when activation is accompanied by purchase of additional products, services, or minutes are not customary charges eligible for universal service support. TracFone's petition indicates that it supports this proposal, but other ETCs disagree, arguing that there are legitimate reasons for an ETC to waive customary activation charges for low-income consumers, including compliance with some state requirements.<sup>134</sup> For instance, some commenters suggest we create an exception to the proposed rule in instances where a state commission has ordered ETCs to waive the remainder of the connection charge not reimbursed by USF.<sup>135</sup> We seek comment on whether, if we amend our rules as described, we should recognize exceptions for certain categories or types of fee waivers or reductions.

75. We also seek to develop a record regarding the prevalence of situations in which ETCs seek reimbursement for connecting the same customer more than one time, at the same location. For example, if a customer's service was disconnected for non-payment, do ETCs ever impose another connection charge to resume service to that address? Do they do so frequently, or as a matter of course? How would we evaluate whether such charges are reasonable? We seek comment on whether our rules should be clarified to prohibit ETCs from seeking more than one Link Up subsidy for the same customer at the same location.

76. We seek comment on whether our Link Up rules should be further amended to address concerns with waste, fraud and abuse in this area. For example, one commenter suggests that we require each ETC to certify that its activation charge is equally applicable to all customers.<sup>136</sup> We seek comment on whether such a certification process would effectively prevent waste, and how burdensome such a certification requirement would be. In addition, we seek comment on whether we should adopt a rule that prohibits resellers from imposing a connection charge on consumers when the underlying wholesale provider has not assessed a similar connection charge on the reseller.

77. *Link Up Support Amount.* Historically, incumbent telephone companies incurred costs in initiating service, such as the cost of visiting the housing unit to physically connect a telephone line to initiate service. In contrast, today, service initiation in virtually all instances for both wireless and wireline providers is done remotely via software, with the actual costs of installation likely to be significantly lower than several decades ago.

78. Our rules specifying Link Up amounts have not been updated to reflect the changes in the industry that have occurred relating to service initiation. We seek comment on what the typical service initiation fee is for non-Lifeline subscribers and ask whether we should reduce the current \$30 cap on Link Up support to some lower figure.

79. Our current rules specify that ETCs may receive Link Up support for the revenue they forgo in reducing their customary charge for commencing telecommunications service.<sup>137</sup> In order to receive Link Up support, ETCs are required to keep accurate records of the revenues they forgo in reducing their customary charge for commencing service.<sup>138</sup> The forgone revenues for which the ETCs

<sup>133</sup> See Appendix A at 47 C.F.R. § 54.400(e).

<sup>134</sup> *Id.*

<sup>135</sup> AT&T TracFone Link Up Petition Comments at 3; Competitive Eligible Telecommunications Carriers TracFone Link Up Petition Comments at 4.

<sup>136</sup> Budget PrePay, Inc. and GreatCall, Inc. TracFone Link Up Petition Comments at 4.

<sup>137</sup> 47 C.F.R. § 54.413.

<sup>138</sup> *Id.*

may receive reimbursement shall include only the difference between the carrier's customary connection and the charges actually assessed to the participating low-income consumer. Moreover, the reduction shall be half of the customary charge or \$30, whichever is less.<sup>139</sup> As discussed above, there is concern that some ETCs may be inflating connection charges in an effort to collect money from the Fund. In order to make Link Up reimbursement more transparent and limit potential waste of funds, we seek comment on whether we should require all ETCs seeking Link Up reimbursement to submit cost support to USAC for the revenues they forgo in reducing their customary charges. Since ETCs are required to keep accurate records of the revenues they forgo for Link Up, it may not be too burdensome to require the ETCs to submit such data to USAC. We seek comment on this proposal and whether there are alternative ways to ensure that Link Up reimbursement is based on actual revenues forgone as a result of connecting low-income consumers. We also seek comment on what underlying costs may be recovered through Link Up. For instance, should Link Up be provided for costs associated with marketing and customer acquisition, or limited to costs associated with activating a phone line or establishing a billing relationship?

## **E. Customer Usage of Lifeline-Supported Service**

### **1. Background**

80. ETCs receive Lifeline support on a per-subscriber basis. As discussed above, ETCs may therefore have incentives to delay notifying USAC promptly when a subscriber has discontinued service. Pre-paid wireless ETCs do not assess a monthly charge on customers and, therefore, do not bill their customers for Lifeline-supported service, even though they report such lines to USAC for reimbursement. The pre-paid wireless ETC thus could potentially continue to receive Lifeline support for a customer who abandoned the service months before.<sup>140</sup> Moreover, because the pre-paid wireless ETC does not receive monthly payment from the subscriber, it may not even be aware when the subscriber has discontinued service. Even carriers that assess monthly charges may also have disincentives to identify discontinued customers in a timely fashion.<sup>141</sup> The Universal Service Fund should not be used to provide Lifeline support to ETCs to subsidize customers who are not utilizing supported communications services.

81. Some states have imposed "non-usage" procedures on pre-paid wireless ETCs.<sup>142</sup> These

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<sup>139</sup> 47. C.F.R. § 54.411(a)(1).

<sup>140</sup> There are many reasons why a consumer may not use his or her Lifeline-supported service. For example, some customers may have lost or abandoned their wireless devices, or may lack a readily accessible source of electricity to charge the device. In other cases, the consumer may have given or sold the phone to another person, in violation of the ETCs' terms of service.

<sup>141</sup> For example, if a wireline ETC charges \$12 a month for Lifeline service, and receives \$10 from the USF and \$2 from the subscriber, if the universal service payment compensates the ETC for its costs of providing service to that subscriber, it still would be financially advantageous for the ETC to report the subscriber as active, even if the subscriber does not pay his bills.

<sup>142</sup> See, e.g., *Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Wisconsin*, 9385-TI-100, Wisconsin Public Service Commission Final Decision, May 21, 2009 (*Wisconsin Non-Usage Order*); *Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Georgia for the Limited Purpose of Offering Wireless Lifeline and Link Up Service to Qualified Households* (Docket No. 19664), *Application of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in Georgia for the Limited Purpose of Offering Lifeline Service to Qualified Households* (Docket No. 26282), Georgia Public Service Commission Order Amending ETC Designations, October 20, 2010 (*Georgia Non-Usage Order*); *Application of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Kansas for the Limited Purpose of Offering Lifeline Service to Qualified Households*, Docket No. 09-TFWZ-945-ETC, Kansas State Corporation Commission Order Granting in Part and (continued....)

procedures are designed to minimize payments from the Universal Service Fund for enrolled Lifeline customers who are no longer using the service.<sup>143</sup> Both TracFone and Virgin Mobile have implemented a policy of de-enrolling Lifeline customers who have not used their wireless phones for 60 days.<sup>144</sup>

## 2. Discussion

82. We want to ensure that Lifeline support is used for the benefit of low-income subscribers that are actually using the supported service,<sup>145</sup> and we propose to amend our rules to prevent ETCs from obtaining Lifeline support for inactive consumers. Specifically, we propose to prohibit ETCs from seeking reimbursement from the Universal Service Fund for any Lifeline customer who has failed to use his or her service for 60 consecutive days.<sup>146</sup> We seek comment on whether a customer's failure to use service for a specific period of time may reasonably demonstrate, or serve as a proxy for, service discontinuation. If so, we seek comment on whether 60 days is a reasonable period, or whether the period of inactivity should be shorter (e.g., 30 days) or longer (e.g., 90 days).

83. The proposed rule is intended to (1) prevent subsidies going to ETCs for customers that are not using the service; and (2) eliminate incentives that carriers might have to ignore or fail to report that a customer has (or appears to have) discontinued service. We do not seek to penalize subscribers for non-usage, and our proposed rule would not affect the terms or conditions of service that might exist between the ETC and the customer. Nor do we propose to require ETCs to disconnect subscribers for non-usage. We recognize that some customers may use their telephones sparingly, for emergencies or occasional communication. To protect consumers, we propose to require ETCs to alert customers if the ETC imposes any obligation to use service during a specified period of time in order to maintain subsidized service. We seek comment on how ETCs can best inform their Lifeline customers of any requirement to use the phone during a specified period of time. We also seek comment on whether our proposed rules could affect access to 911 services, and if so, how we can ensure that consumers maintain access to emergency services. We note that the Commission's rules require commercial mobile radio service (CMRS) providers subject to the Commission's 911 rules to transmit all wireless 911 calls, including those from non-service initialized phones, to Public Safety Answering Points (PSAPs).<sup>147</sup> We do not seek to modify this rule and our proposed rule would still require ETCs to transmit a Lifeline customer's wireless 911 calls, even if the ETC is no longer providing service to that customer.

84. Although the concern that ETCs may continue to count subscribers that have stopped using service appears greatest with respect to pre-paid wireless service, those concerns are not limited to pre-paid wireless service. We seek comment on whether the rules we propose in this subsection should be limited to particular types of service, or should apply to all types of service.

85. *Minimum Consumer Charges.* In the 2010 Recommended Decision, the Joint Board

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(Continued from previous page)

Denying in Part Amended Application of TracFone for Designation as ETC for Limited Purpose of Offering Lifeline Service to Qualified Households, December 14, 2010 (*Kansas Non-Usage Order*).

<sup>143</sup> See *Wisconsin Non-Usage Order*; *Georgia Non-Usage Order*; *Kansas Non-Usage Order*.

<sup>144</sup> *Virgin Mobile 2010 ETC Order*, DA 10-2433, at para. 24 (requiring Virgin Mobile to adopt a 60-day usage requirement); Letter from Mitchell F. Brecher, Counsel to TracFone, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45 (filed Oct. 22, 2010).

<sup>145</sup> *Wisconsin Non-Usage Order* at 8; *Georgia Non-Usage Order* at 2; *Kansas Non-Usage Order* at 6.

<sup>146</sup> GAO recognized this general approach as one step toward improving the integrity of the Lifeline program. 2010 GAO REPORT at 36.

<sup>147</sup> See 47 C.F.R. § 20.18(b).

expressed concern about consumers receiving Lifeline service offerings that are offered at no cost to the subscriber.<sup>148</sup> In particular, the Joint Board raised concerns about prepaid wireless ETCs, which do not provide a monthly bill and, in some cases, provide handsets and service at no charge to consumers.<sup>149</sup> The Joint Board recommended that, to guard against waste, fraud, and abuse in the Lifeline program, the Commission consider whether a minimum monthly rate should be paid by all Lifeline subscribers, including eligible Tribal subscribers.<sup>150</sup>

86. We seek comment on how best to prevent waste of universal service funds without creating unnecessary obstacles for low-income households to obtaining vital communications services. For instance, one option would be to adopt a rule requiring all ETCs in all states to collect some minimum monthly amount from participating households.<sup>151</sup> If we were to adopt such a rule, what should that monthly amount be—e.g., \$1 or some other amount? Alternatively, should we consider requiring ETCs to assess a monthly fee on all Lifeline consumers equivalent to half of the customary monthly Lifeline charges or half of the maximum subsidy provided for under our rules, whichever is less? Would either of these requirements, if adopted, appropriately balance the need to guard against waste, fraud, and abuse in the Lifeline program by ensuring that low-income households have the incentive to make appropriate use of their Lifeline-supported services, with the need to avoid deterring eligible consumers from participating in the program?

87. Another option would be to require ETCs to collect some amount, such as \$10 or \$15, on a one-time basis from each Lifeline household prior to commencing Lifeline service.<sup>152</sup> Such a rule could create appropriate incentives to ensure that Lifeline consumers genuinely want phone service and should deter situations in which Lifeline-supported service has been activated on a phone that is unused or improperly transferred to third parties.

88. Would either of these proposals create an unreasonable barrier to enrollment for households that need support but cannot afford to pay any fee? What would be the proper amount of financial contribution from low-income consumers that would appropriately balance our dual objectives of deterring waste, fraud, and abuse, while enabling those in need to obtain phone service? Should this amount vary based on the income of the qualifying low-income household?

89. We seek comment on the administrative burdens for ETCs of a requirement to collect a minimal amount, such as \$1 per month, from participating consumers. We acknowledge that in other, non-Lifeline contexts, carriers may choose not to bill their customers monthly, and it may not be cost-effective to send a bill to collect such a small amount. Should we allow ETCs to collect a monthly fee on a bi-monthly basis? If we were to adopt a program-wide monthly fee requirement, should we explicitly prohibit carriers from waiving the fee? How can we adopt an approach that is technologically neutral and can be implemented easily by ETCs with diverse business models?

90. *Application of Minimum Charge to Tribal Consumers.* The Commission's rules currently

<sup>148</sup> 2010 Recommended Decision, 25 FCC Rcd at 15626-27, para. 79.

<sup>149</sup> *Id.* See, e.g., Assurance Wireless Lifeline Program, Program Description, <http://www.assurancewireless.com/Public/MorePrograms.aspx> (last visited Mar. 1, 2011); SafeLink Wireless, Lifeline/SafeLink Fact Sheet, <https://www.safelinkwireless.com/EnrollmentPublic/benefits.aspx> (last visited Mar. 1, 2011).

<sup>150</sup> 2010 Recommended Decision, 25 FCC Rcd at 15626-27, para. 79.

<sup>151</sup> *See id.*

<sup>152</sup> We note that while a consumer may obtain Link-Up support for service installation, the fund only pays half of that charge, up to \$30. If, for instance, the carrier were to charge \$60 to initiate service, the consumer would be paying \$30 and the fund would be paying \$30.

require that the basic local residential rate for Tier 4 subscribers (*i.e.*, eligible low-income households residing on Tribal lands) may not fall below \$1 per month.<sup>153</sup> We have learned anecdotally that some carriers do not currently collect the \$1 from their Tribal customers. While the Commission's current rules specify what the carrier must charge the Tribal subscriber, they do not explicitly require the ETC to collect such amounts, thereby allowing ETCs to waive the \$1 per month fee.<sup>154</sup>

91. If we adopt a proposal to require all ETCs to collect a minimum monthly fee from subscribers, we seek comment on whether to amend section 54.403(a)(4)(i) of the Commission's rules to specifically require a \$1 monthly payment to be provided by each participating household to their ETC. Would this proposal, if adopted, adequately balance our objective of ensuring affordable service for eligible Tribal consumers while also guarding against waste, fraud, and abuse in the Lifeline program?

92. How would any of these proposals impact subscribership for low-income households on Tribal lands, which continue to lag significantly behind subscribership for the nation as a whole?

#### F. De-Enrollment Procedures

93. We propose rules requiring ETCs to de-enroll their Lifeline customers or households from the program under specified circumstances. Specifically, we propose to require ETCs to de-enroll their Lifeline subscribers when: (1) the subscriber is receiving duplicate support and fails to select one ETC in the allotted time after being notified of a duplicate claim; (2) the subscriber does not use his or her Lifeline-supported service for 60 days and fails to confirm continued desire to maintain the service; or (3) the customer does not respond to the eligibility verification survey. Under our proposed rules, the subscriber would receive notice that they could be de-enrolled from the program if they did not take action by a specified date. Should that time frame be 60 days?

94. Some ETCs have argued that section 54.405(d) of our rules requires that they give customers 60-days' notice prior to terminating their Lifeline benefits.<sup>155</sup> In addition, some state laws may require similar notice provisions.<sup>156</sup> The notice provisions currently set forth in section 54.405(d) of our rules are tied to consumer eligibility for Lifeline, and are not applicable to situations involving subscriber non-responsiveness as a result of a duplicate claim or non-usage of the Lifeline service. For administrative simplicity, should the same time frame be adopted for mandatory de-enrollment in the circumstances described above, or should we adopt a shorter period, such as de-enrollment within a 30-day period? We seek comment on our proposal to require ETCs to de-enroll Lifeline subscribers involved in the three scenarios described above. Would a shorter period be consistent with specific state notification requirements that may exist in non-default states? To the extent that commenters object to our proposal for mandatory de-enrollment, they should offer specific alternative solutions to protect the fund against waste, fraud, and abuse.

#### G. Audits

95. *Background.* Audits are an essential tool for the Commission and USAC to ensure program integrity and to detect and deter waste, fraud, and abuse. Commission rules authorize USAC to conduct audits of carriers that receive USF monies, and to suspend payments in situations where the carrier has failed to provide adequate verification for those discounts.<sup>157</sup> The 2008 FCC-USAC

<sup>153</sup> 47 C.F.R. § 54.403(a)(4)(i).

<sup>154</sup> See 47 C.F.R. § 54.403(a)(4).

<sup>155</sup> ETC Duplicate Letter at 5.

<sup>156</sup> *Id.*

<sup>157</sup> 47 C.F.R. § 54.707.

Memorandum of Understanding requires USAC to conduct audits, including audits of Fund beneficiaries,<sup>158</sup> in accordance with generally accepted government auditing standards, as required by section 54.702(n) of our rules.<sup>159</sup> USAC's audit program consists of audits by USAC's internal audit division staff as well as audits by independent auditors under contract with USAC.<sup>160</sup>

96. In a 2009 Executive Order regarding Improper Payments Information Act (IPIA) of 2002, President Obama stated that when making payments to program beneficiaries, federal government agencies "must make every effort to confirm the right recipient is receiving the right payment for the right reason at the right time."<sup>161</sup> Consistent with this directive and guidance from the Office of Management and Budget, in 2010 the Commission directed USAC to implement a new initiative, Payment Quality Assurance, to improve both the IPIA assessment program and compliance audit programs of the Universal Service Fund. For the low-income program alone, the FCC directed USAC to undertake 600 IPIA assessments (Payment Quality Assurance or PQA assessments) and 48 compliance audits (Beneficiary/Contributor Audit Program or BCAP audits).<sup>162</sup> USAC has already initiated 11 Lifeline and

<sup>158</sup> See Memorandum of Understanding Between the Federal Communications Commission and the Universal Service Administrative Company, at 7 (Sept. 9, 2008) (2008 FCC-USAC MOU), available at <http://www.fcc.gov/omd/usac-mou.pdf>; see also Letter from Dana R. Shaffer, Deputy Managing Director, Federal Communications Commission, to Scott Barash, Acting CEO, Universal Service Administrative Company (dated Oct. 13, 2010), available at <http://www.fcc.gov/omd/usac-letters/2010/101310CPA-USAC.pdf>.

<sup>159</sup> 47 C.F.R. § 54.702(n).

<sup>160</sup> In addition, in the past, the Commission's OIG has conducted audits of USF program beneficiaries. See Office of Inspector General, Semiannual Report to Congress, October 1, 2009 through March 31, 2010 at 17-20. In a February 12, 2010, letter to USAC, OMD directed USAC to separate its two audit objectives into distinct programs – one focused on Improper Payments Information Act ("IPIA") assessment and the second on auditing compliance with all four USF programs. Improper Payments Information Act of 2002, Pub. L. No. 107-300, 116 Stat. 2350 (2002). In addition to providing guidance on the implementation of the IPIA assessment program and compliance audit program, the letter informed USAC that OMD would assume responsibility for oversight of USAC's implementation of both programs. Letter from Steven Van Roekel, Managing Director, Federal Communications Commission, to Scott Barash, Acting CEO, Universal Service Administrative Company (dated Feb. 12, 2010), available at <http://www.fcc.gov/omd/usac-letters/2010/021210-ipia.pdf>.

<sup>161</sup> President Obama further emphasized that the federal government must intensify efforts to eliminate payment error while "continuing to ensure that Federal programs serve and provide access to their intended beneficiaries." Executive Order No. 13,520, 74 Fed. Reg. 62,201 (Nov. 20, 2009) (IPIA Executive Order); Letter from Steven Van Roekel, Managing Director, Federal Communications Commission, to Scott Barash, Acting CEO, Universal Service Administrative Company (dated Feb. 12, 2010) (FCC IPIA Letter), available at <http://www.fcc.gov/omd/usac-letters/2010/021210-ipia.pdf>; Letter from Steven Van Roekel, Managing Director, Federal Communications Commission, to Scott Barash, Acting CEO, Universal Service Administrative Company (dated Oct. 13, 2010), available at <http://www.fcc.gov/omd/usac-letters/2010/101310CPA-USAC.pdf>.

<sup>162</sup> FCC IPIA Letter; OFFICE OF MGMT. & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, OMB CIRCULAR A-123, MANAGEMENT'S RESPONSIBILITY FOR INTERNAL CONTROL (2004). The Compliance Audit program is known as Beneficiary/Contributor Compliance Audit Program. The IPIA assessment program was developed with the following objectives: (1) separately cover all four USF programs; (2) measure the accuracy of the Administrator's payments to program applicants; (3) evaluate the eligibility of program applicants who have received payments; (4) include high-level testing of information obtained from program participants; and (5) tailor scope of procedures to ensure reasonable cost while meeting IPIA requirements for sample size and precision. The compliance audit program was developed with the following objectives: (1) cover all four programs and contributors; (2) tailor audit type and scope to program risk elements, size of disbursement, audit timing and other specific factors; (3) keep costs reasonable in relation to overall program disbursements, amount disbursed to beneficiary being audited, and USF administrative costs; (4) spread audits throughout the year; and (5) retain capacity and capability for targeted and risk-based audits. See FCC IPIA Letter at 2, 4.

Link Up BCAP compliance audits in 2011.

97. *Discussion.* Waste, fraud, and abuse in the universal service program jeopardizes the availability of funds for supported services and imposes unjustifiable costs on carriers and ratepayers. We therefore seek to ensure there is a focused and effective system for identifying and deterring program abuse. We seek comment on ways to improve the current low-income audit program in light of growing concerns about such issues as duplicate payments and consumer ineligibility.<sup>163</sup> In particular, we seek comment on ways to improve the audit process to reduce improper payments and assess risks. In doing so, how can audits be targeted to better uncover the scope of errors associated with improper payments? What additional measures should be taken to mitigate the potential for program violations?<sup>164</sup> Are there additional measures or incentives, beyond those that currently exist, that we should implement to encourage people to report abuses? Should we impose additional penalties, beyond de-enrollment from the program, to discourage program abuse?

98. With the growth of newly designated ETCs in a number of states, there may be a need for a more rigorous audit program to provide assurance that new participants have established adequate internal controls to meet their obligations. For that reason, we propose that all new ETCs be audited after the first year of providing Lifeline-supported service. We seek comment on the appropriate geographic scope of the initial audit. How should such audits be designed to ensure that any problem areas are easily and thoroughly identified? Most audits examine an ETC's compliance with a wide variety of Commission requirements. Should initial audits focus on a smaller number of more important requirements, and if so, which ones? Although we seek comment on more rigorous, focused audits for new program participants, we note that we will also continue to direct USAC to conduct random audits to ensure ongoing compliance with our rules.<sup>165</sup>

99. We also seek comment on how to improve the Commission's directive to USAC to establish a systematic approach to assessing internal controls and learning from audit findings.<sup>166</sup> For example, we propose that negative audit findings above a specified dollar threshold, or impacting a specific percentage of an ETC's Lifeline customers, trigger shorter intervals between audits, an expanded audit for the company at issue, and/or an additional audit the following year in the relevant study area. What should that dollar threshold be? Would the cost associated with such audits outweigh the benefits that would accrue? What follow-up should the Commission require of USAC in light of negative Lifeline/Link Up audit findings?

100. We also seek comment on appropriate Commission responses to multiple findings of non-compliance, including repeated non-compliance above the specified thresholds or multiple findings

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<sup>163</sup> The 2010 GAO Report also expressed concern about the increased risk of waste, fraud, and abuse due to consumers simultaneously receiving Lifeline discounts on both a wireline and wireless phone. 2010 GAO REPORT at 35.

<sup>164</sup> Whistleblower Protection Act of 1989, Pub. L. No. 101-12, 103 Stat. 16 (codified at 5 U.S.C. §§ 1211-1219, 1221, 1222, 3352).

<sup>165</sup> See, e.g., 47 C.F.R. §§ 54.413(b), 54.417 (specifying recordkeeping requirements for ETCs seeking universal service Lifeline and Link Up reimbursement).

<sup>166</sup> Letter from Steven Van Roekel, Managing Director, Federal Communications Commission, to Scott Barash, Acting CEO, Universal Service Administrative Company (dated Jan. 25, 2011), available at [http://www.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db0210/DA-11-128A1.pdf](http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0210/DA-11-128A1.pdf); Letter from Steven Van Roekel, Managing Director, Federal Communications Commission, to Scott Barash, Acting CEO, Universal Service Administrative Company (dated Oct. 13, 2010), available at <http://www.fcc.gov/omd/usac-letters/2010/101310CPA-USAC.pdf>.

of non-compliance with Lifeline or Link Up requirements in a single audit.

101. The Commission's rules already direct USAC to "suspend or delay discounts, offsets and support amounts provided to a carrier if the carrier fails to provide adequate verification of discounts, offsets and support amounts provided upon reasonable request."<sup>167</sup> Should we establish a threshold (either aggregate dollar amount or percentage of support payments) that would automatically result in a freeze on future payments from the program until the carrier remediates identified issues? Under what circumstances should we consider revoking an ETC's grant of forbearance or designation as an ETC? We seek comment on other consequences that should result from negative audit findings.

102. In 2005, the Commission sought comment on subjecting all USF recipients to independent audits, but ultimately did not adopt any such requirement.<sup>168</sup> In light of increased concerns about potential waste, fraud, and abuse in the program, we again seek comment on whether to require some or all ETCs in the program to engage an independent firm to assess compliance with the program's requirements. If we were to impose such a requirement, how often should we require the review (*e.g.*, annually, or every few years)? Should all ETCs that participate in the program be subject to the requirement, or only some? If we were to limit this requirement to only certain ETCs, what would be the appropriate criteria for imposing such a requirement? For example, we might impose the requirement on ETCs that have been found to have committed violations in the past, that receive more than a particular amount of program support, or that have experienced significant increases in program support. Audits paid for by the ETCs could create a self-policing environment that would guard against waste, fraud, and abuse, but would also impose an expense on providers. We seek comment on the advantages and disadvantages of such a system, and on the burden of such a requirement on different carriers, including small ETCs. Commenters should discuss whether a lack of negative audit findings, or alternatively, proof of resolution of all negative findings, should impact the scope or frequency of future audits. We also seek comment on what type of audit engagements should be required, if we were to adopt such a requirement. If we were to adopt such a requirement, we propose to mandate that covered ETCs provide audit reports to the FCC, USAC, and relevant states, and that the FCC and USAC should be deemed authorized users of such reports.

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<sup>167</sup> 47 C.F.R. § 54.707.

<sup>168</sup> In the *2005 Program Management NPRM*, the Commission sought comment on whether recipients of funds from any or all of the support mechanisms should be subject to an independent audit requirement that would be paid for by the recipients, and, if so, whether only recipients above a set amount of USF support in a given fiscal year should be subject to this requirement. See *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism*, WC Docket No. 02-60, *Lifeline and Link-Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-6, 02-60, 03-109, CC Docket Nos. 96-45, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11340, para. 77 (2005) (*2005 Program Management NPRM*). The Commission also sought comment on the costs of such audits; the appropriate scope and methodology of targeted independent audits that would be performed at the recipients' expense; and whether, in the event that waste, fraud, or abuse was detected, recipients that were not required to pay for their audits should be required to reimburse USAC or the Commission for the cost of the audit, or to pay other penalties. See *id.* at 11340-41, para. 77. The Commission has previously required regulated entities to obtain an independent auditor to confirm compliance with statutory or regulatory obligations, such as our cost allocation rules and rules requiring the Bell Operating Companies to have separate affiliates upon entry into the long-distance marketplace.

## V. CLARIFYING CONSUMER ELIGIBILITY RULES

### A. One-Per-Residence

#### 1. Background

103. As previously noted, the Commission has stated that eligible consumers may receive universal service low-income support for “a single line in their principal residence.”<sup>169</sup> This requirement historically was intended to target support where it was needed most and to maximize the number of Americans with access to the telephone network. In practice, this requirement has been implemented by providing one Lifeline/Link Up discount per residential address. This practice reflects the fact that in the immediate wake of the 1996 Act, the program provided support predominantly for wireline service.

104. The Commission promulgated rules under the 1996 Act that enabled competitive wireless and wireline carriers to be designated as ETCs eligible for federal universal service support.<sup>170</sup> Since that time, the marketplace has changed significantly, with a wide array of wireline and wireless services that compete with traditional incumbent LECs. As of June 2010, 93 percent of Americans subscribed to wireless phone services,<sup>171</sup> and more than 25 percent of households were wireless-only.<sup>172</sup> This increase in wireless subscriptions comes in tandem with a rise in the telephone penetration rates among low-income consumers, many of whom use wireless service.<sup>173</sup> In recent years, the Commission and states have designated several wireless carriers as ETCs for the purpose of providing Lifeline support.<sup>174</sup> These designations have enabled carriers to provide a variety of competitive services to low-income consumers in several states. The emergence of competing carriers and multiple services has enhanced consumer choice, and led to an increase in the average number of monthly minutes included in a Lifeline wireless plan at no charge to the consumer, from about 60 minutes in 2008 to 250 minutes today.<sup>175</sup>

105. But the increasing availability of wireless Lifeline services has also made it more difficult to limit low-income support to a single line per residence. While a fixed wireline connection is often shared by all household residents, mobile service is more often used on an individual basis. It is now common for non-Lifeline consumers that can afford to do so to purchase both wireline and wireless telephone services, and each member of a residential household may have his or her own wireless phone.<sup>176</sup> With greater availability of services from wireless Lifeline providers comes increased

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<sup>169</sup> 2004 Lifeline and Link Up Order, 19 FCC Rcd at 8306, para. 4; *Universal Service First Report and Order*, 12 FCC Rcd at 8957, para. 341.

<sup>170</sup> See *Universal Service First Report and Order*, 12 FCC Rcd at 8969-73, paras. 364-72; *infra* section IX.C (Eligible Telecommunications Carrier Requirements).

<sup>171</sup> See CTIA Quick Facts, [http://www.ctia.org/media/industry\\_info/index.cfm/AID/10323](http://www.ctia.org/media/industry_info/index.cfm/AID/10323) (last visited Mar. 1, 2011).

<sup>172</sup> See WIRELESS SUBSTITUTION SURVEY at 1.

<sup>173</sup> See WCB SUBSCRIBERSHIP REPORT at 1, Chart 4, Table 4; see also *supra* note 86 and paras. 26-27 (providing background information illustrating the growth in wireless penetration, particularly in low-income households).

<sup>174</sup> See *infra* section IX.C (eligible telecommunications carrier requirements).

<sup>175</sup> Compare, e.g., *TracFone Wireless, Inc.'s Petition for Waiver of 47 C.F.R. § 54.403(a)(1)*, CC Docket No. 96-45, at 9 (filed May 4, 2009) (noting that TracFone's past offerings of between 55 and 68 free minutes per month to Lifeline customers), with Letter from F.J. Pollak, President and Chief Executive Officer, TracFone Wireless, Inc., to Hon. Julius Genachowski, Chairman, Federal Communications Commission, CC Docket No. 96-45, at 1 (filed Aug. 30, 2010) (noting that TracFone now offers 250 free minutes per month to Lifeline customers).

<sup>176</sup> See *supra* note 86 (stating that nearly 60% of households have both a wireless and a wireline telephone).

likelihood that a residence may receive Lifeline-supported telephone service from multiple sources.<sup>177</sup> And carrier practices of providing handsets to program participants at no cost and marketing Lifeline-supported services under different trade names increases the likelihood that a household and even a particular individual may sign up for multiple Lifeline services. New service features, such as calling plans that include additional handsets at no additional charge, also present challenges for the application of our existing requirements.

## 2. Discussion

106. In this NPRM, we propose to adopt a one-per-residential address requirement in section 54.408 of our rules.<sup>178</sup> We seek comment on whether codifying this requirement as "one-per-residence" would aid in administration of the requirement by providing a bright line that could be determined by reference to external sources. The Commission has not codified any definition of a "household" for purposes of Lifeline and Link Up, and various qualifying programs may utilize different definitions of households. We also note that in other contexts, consumers seeking benefits from state or other federal assistance programs may undergo a more robust process to qualify for benefits, such as an interview by social service agencies to determine eligibility, which may provide an additional level of assurance that the applicant in fact complies with relevant program criteria. We seek to adopt a rule that provides a bright line that is easy for USAC and ETCs to administer.

107. The one-per-residential address rule that we propose to adopt is consistent with our existing single-line per residence requirement.<sup>179</sup> But some ETCs dispute the validity of the single-line-per residence limitation,<sup>180</sup> which raises concern that they are not adhering to an existing requirement that is designed to minimize waste, fraud and abuse; target support where it is needed most; and maximize the number of Americans with access to communications services. As noted above, it may be necessary for the Commission to take action on an interim basis while this proceeding is pending to address concerns with USAC reimbursing ETCs for duplicate claims.<sup>181</sup>

108. We understand that there may be situations – such as residents of commercially zoned buildings, those living on Tribal lands, and group living facilities – where application of the one-per-residential address rule may produce unintended consequences that would deprive deserving low-income consumers of the support that they otherwise would be entitled to. We encourage ETCs, Tribal Communities, the states and other interested parties to provide input on a rule that maximizes the number of Americans with access to communications services, but also protects the fund from waste, fraud and abuse.

109. We seek comment on how best to achieve the purposes for which the single line per residence requirement was designed. We propose to maintain this longstanding requirement, which

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<sup>177</sup> In 2008, the Commission first designated a wireless reseller as a limited ETC for the purpose of receiving Lifeline support. See *TracFone ETC Designation Order*, 23 FCC Rcd at 6206. That reseller, TracFone, offers handsets and wireless service at no cost to qualifying low-income households. Other ETCs have followed suit, and low-income households now benefit from a number of competitive offerings. See, e.g., *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3381.

<sup>178</sup> Appendix A at 47 C.F.R. § 54.408.

<sup>179</sup> See *2004 Lifeline and Link Up Order*, 19 FCC Rcd at 8306, para. 4 (specifying that support for Lifeline subscribers is for "a single telephone line in their principal residence"); see also *Universal Service First Report and Order*, 12 FCC Rcd at 8957, para. 341.

<sup>180</sup> *Petition for Reconsideration* (arguing that the Commission has never adopted a generally-applicable one-per-household rule).

<sup>181</sup> See discussion *supra* paras. 48-51.

balances our statutory obligation to ensure that low-income consumers have access to phone service at reasonable rates and to ensure that support is sufficient, but not excessive.<sup>182</sup> We seek comment below on how to define a “residential address” for the purposes of the Lifeline and Link Up programs. We also seek comment on how best to interpret the one-per-residential address restriction in light of current service offerings and in the context of group living arrangements or other situations that may pose unique circumstances.”<sup>183</sup>

110. In addition, we seek input on whether a different approach would better serve the needs of low-income consumers in light of our statutory obligations, as well as the changing communications marketplace. We note that several commenters in the Joint Board proceeding suggested that the Lifeline/Link-Up program should provide support for one wireless service per eligible adult, rather than one service per residential address, with some suggesting that would be in keeping with the statutory principle that low-income consumers should have access to services that are reasonably comparable to the services enjoyed in urban areas.<sup>184</sup> This approach would take into account the fact that telephone use has changed since we first implemented the 1996 Act. Fifteen years ago, wireless service was not a mainstream consumer offering; today, 93 percent of the general population has wireless service.<sup>185</sup> At the same time, providing support to each low-income adult rather than to each residential address could significantly increase the size of the program. Would allowing support for one wireless subscription per eligible adult be inconsistent with our statutory obligation to ensure that support is sufficient, but not excessive?<sup>186</sup> We seek comment on whether the benefit that wireless service affords low-income consumers outweighs concerns associated with growth of the fund. If the funding dedicated to the program were capped, as discussed more fully below, a one-per-adult rule would likely mean that a much smaller benefit would be available to each program participant than under a one-per-residential address rule. We seek comment on these issues.

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<sup>182</sup> See 47 U.S.C. § 254(b)(1), (3), (5).

<sup>183</sup> In an October 2009 Public Notice, the Bureau sought comment on how to apply the one-per-household rule in the context of group living facilities, such as assisted-living centers, Tribal residences, and apartment buildings. See *One-Per-Household* Public Notice, 24 FCC Rcd at 12788; Letter from Mitchell F. Brecher, Counsel for TracFone, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (filed July 17, 2009). We seek to refresh the record on the issues raised in the *One-Per-Household Public Notice* and seek comment on other related issues.

<sup>184</sup> See, e.g., GCI TracFone One-Per-Household Clarification Comments at 7; SBI TracFone One-Per-Household Clarification Comments at 12 (stating that “[r]eplacing the one-per-household rule with eligibility standards that permit a single household to receive Lifeline assistance for more than one telephone, subject to appropriate certification requirements, would be more in keeping with the Commission’s commitment and more reflective of the choices and opportunities that consumers expect in today’s telecommunications marketplace”); MFY Legal Services TracFone One-Per-Household Clarification Comments at 2-3 (recommending that the Commission “change the identification of households within private apartment buildings so that each qualified household, including single individuals who may live with roommates, is able to apply for and receive Safelink service”); NASUCA TracFone One-Per-Household Clarification Comments at 2 (agreeing that the Commission “should revisit its position and clarify that a person or a family may constitute a household and need telecommunications service, without having a private home or apartment”); AT&T TracFone One-Per-Household Clarification Comments at 1-2 (stating that ETCs should be permitted to provide Lifeline services to any qualifying individual residing in a group living facility).

<sup>185</sup> See CTIA Quick Facts, [http://www.ctia.org/media/industry\\_info/index.cfm/AID/10323](http://www.ctia.org/media/industry_info/index.cfm/AID/10323) (last visited Mar. 1, 2011).

<sup>186</sup> See 47 U.S.C. § 254(b)(5).

a. Defining "Residence"

111. We propose a rule in section 54.408 to limit program support to a single subscription per U.S. Postal Service address, and seek comment on whether this approach would promote affordable access to telephone service consistent with the goals of section 254.<sup>187</sup> Under this proposal, where unrelated individuals and/or families share a U.S. Postal Service address, such individuals and/or families would be limited to one subscription for that "residence."<sup>188</sup> We seek comment on whether this approach best serves program goals. The program was established to ensure that all consumers, even those of limited means, would have a "lifeline"—a basic telephone service to connect them to the rest of society. Supporting one service at each residential address may effectively fulfill this goal, and may also help prevent waste and abuse of program resources. Moreover, this approach may be more administratively feasible than other options for defining who is eligible for support, such as family-based definitions that require an accurate determination of whether people living together are independent or related.

112. Pursuant to this proposal, upon receiving an application for Lifeline support, an ETC could use the U.S. Postal Service residential address as a proxy to determine whether the ETC is already providing Lifeline support to that address. If so, the ETC would reject the application for support. Additionally, as discussed *infra*, we propose to require that Lifeline subscribers initially certify when applying for service, and thereafter verify annually, that they are receiving support for only one line per residential address (defined for these purposes as all of the persons who reside at a unique U.S. Postal Service address).<sup>189</sup>

113. We recognize that there may be some residences for which there is no unique U.S. Postal Service address. For example, we understand that there are apartment buildings where the residents live separately, but their units lack distinct identifiers and mail is delivered to and distributed by a single point of contact such as the building manager. Similarly, when multiple persons or families share a residence, unique addresses may not be available. Customers in rural areas may share a rural route address. We seek comment on what actions could be taken in such situations to ensure that Lifeline and Link Up benefits are available to eligible consumers. Is there other information that a carrier could collect to verify that the residence does not already receive support from the program? Alternatively, if one subsidized service were available for such locations, would that satisfy the congressional goal of ensuring affordable access to telephone service?

114. As noted above, some customers rely on a P.O. Box rather than a U.S. Postal Service residential address. How should we determine eligibility in those situations? Should we require ETCs to collect additional verifying information, and if so, what?

115. Our rules also limit support to the subscriber's principal residence.<sup>190</sup> We seek comment on how to ensure that a subscriber does not obtain support at more than one location. We propose that each subscriber provide unique identifying information (as discussed in Section IV) to prevent the same subscriber from receiving support at multiple locations. We seek comment on this proposal. We also seek comment on whether we should require subscribers to certify that the address provided is their

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<sup>187</sup> See Appendix A, 47 C.F.R. § 54.408(a)(1).

<sup>188</sup> See *id.* To the extent that the Lifeline/Link Up provider could demonstrate that an applicant possesses a distinct unit number, as would be the case for individuals residing in an apartment building, for example, this would be sufficient to establish a unique address.

<sup>189</sup> See *infra* paras. 167-69 (One-per-residential address certification and verification).

<sup>190</sup> See Appendix A, 47 C.F.R. § 54.408(a)(2).

principal residence, in order to receive Lifeline and Link Up support.<sup>191</sup>

116. We seek comment on whether our U.S. Postal Service address-based proposal should be modified to accommodate different types of living situations, and if so, how. For example, should the proposed definition of “residential address” be modified to accommodate certain living arrangements? Should there be an exception for unrelated adult roommates or multiple families sharing a residence? Should we allow more than one discount per residence in the case of multi-generational families, for example if the low-income family includes an eligible adult child or elderly relative? Commenters that propose a different definition of “residence” from the one we propose above, or exceptions to that definition, should explain how the Commission could ensure, in administratively feasible ways, that support is being provided appropriately, however that term is defined.

**b. Application of the One-Per-Residence Rule to Commercially Zoned Buildings**

117. Although the Commission’s rules provide low income support for residential customers, the Commission has learned of instances where otherwise eligible applicants have been denied Lifeline and Link Up service because they live in facilities that are zoned for commercial, rather than residential use. This may occur, for example, when individuals reside in single-room occupancy buildings, lodging houses, rooming houses, shelters, and other group quarters.<sup>192</sup> This appears to be a particular problem in urban areas.<sup>193</sup>

118. We seek comment on how we can ensure that consumers have access to low-income support even if they reside in a commercially-zoned location. We note that commercial residences tend to be group living facilities rather than individual residences. If the Commission adopted special rules for group living facilities, would those rules resolve concerns about providing support to eligible subscribers who live in commercially-zoned areas? Are there additional steps we should take to verify that Lifeline and Link Up subsidies are not being provided to commercial entities?

**c. Application of the One-Per-Residence Rule in Tribal Communities**

119. On some Tribal lands, several households may occupy a single housing unit.<sup>194</sup> We seek comment on whether we should adopt a special definition of “residence” on Tribal lands that will ensure that Lifeline and Link Up service is provided to eligible consumers. For example, to the extent there are multi-generational families sharing a residence in Tribal communities, should there be an exception to our proposed one-per-residence rule? How can the Commission ensure that the program does not provide duplicative support to households on Tribal lands? In order to craft a rule that appropriately takes into account conditions on Tribal lands, we seek additional information about housing arrangements in Tribal areas.

120. Some commenters responding to the “*One-Per-Household*” Public Notice state that residents of Tribal Lands frequently lack unique U.S. Postal Service addresses, and instead receive mail at

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<sup>191</sup> See *id.*

<sup>192</sup> See, e.g., Manhattan Legal Services TracFone One-Per-Household Clarification Comments at 2; NCLC TracFone One-Per-Household Clarification Comments at 4-5; NNEDV TracFone One-Per-Household Clarification Reply Comments at 2; MDTC TracFone One-Per-Household Clarification Reply Comments at 3 n.9.

<sup>193</sup> See Manhattan Legal Services TracFone One-Per-Household Clarification Comments at 2; NCLC TracFone One-Per-Household Clarification Comments at 4-5.

<sup>194</sup> See, e.g., NCLC TracFone One-Per-Household Clarification Reply Comments at 6; SBI TracFone One-Per-Household Clarification Comments at 6, 10.



administratively feasible way to approach this challenge that also provides protections against waste, fraud, and abuse? For instance, should we require the administrator of group living facilities to certify to ETCs and/or USAC the number of separate and unrelated individuals or families in the facility? In that situation, the facility would be responsible for applying for Lifeline/Link Up support on behalf of its residents.<sup>199</sup> Under this approach, how could our rules ensure verification of the income eligibility of the subscribers for which a group facility is seeking support? Should the facility be required to provide the ETC documentation of the residents' eligibility?

124. Should we require that consumers residing in group facilities provide certification from facility staff that corroborates applicants' residence in a group living facility, as well as information about the number and types of persons served by the facility? Should the Commission set different eligibility criteria for permanent and temporary residents of group living facilities?<sup>200</sup>

125. We seek comment on the feasibility of making Lifeline funding available to agencies or non-profit organizations that are able to provide communications services to residents of group living facilities.<sup>201</sup> As the Joint Board acknowledged, such institutions do not qualify as ETCs eligible for support, and we therefore seek comment on the application of section 254(e) of the Act, which limits the recipients of universal service support to ETCs.<sup>202</sup> If funding were made available to such organizations, what if any additional measures would be needed to guard against waste, fraud, and abuse? For example, in a situation where the applicant lacks a residential or mailing address, how would the ETC verify the customer's initial and ongoing eligibility for Lifeline services?

#### **B. Tribal Lifeline Eligibility**

126. It is well established that federally recognized Tribes have sovereignty, and exercise jurisdiction over their members and territory with the obligation to "maintain peace and good order,

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Per-Household Clarification Reply Comments at 4; NASUCA TracFone One-Per-Household Clarification Comments at 2; NCLC TracFone One-Per-Household Clarification Comments at 8; NNEDV TracFone One-Per-Household Clarification Reply Comments at 2; TracFone TracFone One-Per-Household Clarification Reply Comments at 7; SBI TracFone One-Per-Household Clarification Comments at 12.

<sup>199</sup> See, e.g., City of Cambridge – CoC TracFone One-Per-Household Clarification Comments at 3 (proposing that a group living quarters would apply for a "waiver" of the one-per-household policy by filing a form with ETCs establishing its group facility status. Thereafter, "residents at the named facility would be entitled to receiving Lifeline telephone service, as if they had their own private residence."); cf. Ohio Commission TracFone One-Per-Household Clarification Comments at 10 (proposing that the FCC consider providing each group living facility with a phone with a specified number of minutes per month to be allocated between the residents of the facility).

<sup>200</sup> See, e.g., Benton Joint Board Comments at 6; Consumer Advisory Committee Joint Board Reply Comments at 9-10; Ohio Commission Joint Board Comments at 7; Smith Bagley Joint Board Comments at 4; Smith Bagley Joint Board Reply Comments at 8; TracFone Joint Board Comments at 4-5. Certain commenters acknowledged the unique challenges faced by residents of group housing. Benton, the Consumer Advisory Committee, and Consumer Groups assert that low-income support should be extended to residents of group housing, though not necessarily automatically. Benton Joint Board Comments at 6; Consumer Advisory Committee Joint Board Reply Comments at 9; Consumer Groups Joint Board Comments at 12-14; Consumer Groups Joint Board Reply Comments at 5; FPSC Joint Board Comments at 4.

<sup>201</sup> 2010 *Recommended Decision* at 15602, para. 12. Pursuant to section 254(e) of the Act, only eligible telecommunications carriers may receive universal service funding. 47 U.S.C. § 254(e). Thus, to the extent that we adopt a proposal permitting non-profit group living facilities to apply for Lifeline and Link Up discounts on their residents' behalf, Lifeline and Link Up support could be distributed to the eligible telecommunications carrier which, in turn, would provide billing discounts to the group living facility.

<sup>202</sup> See 47 U.S.C. § 254(e).

improve their condition, establish school systems, and aid their people” within their jurisdictions.<sup>203</sup> In 2000, the Commission formally recognized Tribal sovereignty in its *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*.<sup>204</sup> The federal government also has a trust relationship with Indian Tribes, as reflected in the Constitution of the United States, treaties, federal statutes, Executive orders, and numerous court decisions.<sup>205</sup> Consistent with this relationship, the Commission, in its June 2000 *Tribal Order*, adopted measures to promote telecommunications subscribership and infrastructure deployment within American Indian and Alaska Native Tribal communities.<sup>206</sup> Accordingly, in the *Tribal Order*, the Commission modified its rules to create enhanced Lifeline and Link Up programs intended to provide access to telecommunications services for low-income consumers living on Tribal lands.<sup>207</sup>

127. *Income-based eligibility.* The Commission’s current rules regarding Tribal eligibility for Lifeline support have been subject to differing interpretations. Specifically, ETCs, USAC, and Tribal groups have indicated there has been inconsistency and confusion among federal default and non-default states regarding whether residents of Tribal lands may qualify for participation in the program based on income, even though there is language in Commission orders so indicating.<sup>208</sup>

128. We propose to revise sections 54.409(a) and 54.409(c) to more clearly reflect that residents of Tribal lands are eligible for Lifeline and Link Up support based on: (1) income; (2) participation in any Tribal-specific federal assistance program identified in our rules; or (3) any other program identified in subsection 54.409(b) of our Lifeline and Link Up rules.<sup>209</sup> We seek comment on

<sup>203</sup> *Policies to Promote Rural Radio Service and to Streamline Allotments and Assignment Procedures*, MB Docket No. 09-52, First Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 1583, 1585 (2010) (*Rural Radio Order*) (internal citations omitted).

<sup>204</sup> *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, Policy Statement, 16 FCC Rcd 4078, 4080 (2000) (*Tribal Policy Statement*).

<sup>205</sup> See, e.g., *Seminole Nation v. United States*, 316 U.S. 286, 297 (1942) (citing *Cherokee Nation v. State of Georgia*, 30 U.S. 1 (1831)); *United States v. Kagama*, 118 U.S. 375 (1886); *Choctaw Nation v. United States*, 119 U.S. 1 (1886); *United States v. Pelican*, 232 U.S. 442 (1914); *United States v. Creek Nation*, 295 U.S. 103 (1935); *Tulee v. State of Washington*, 316 U.S. 681 (1942); The Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450 (2006).

<sup>206</sup> See generally *Tribal Order*.

<sup>207</sup> See *Tribal Order*, 15 FCC Rcd at 12219-12252, paras. 20-85. Enhanced Lifeline support, otherwise known as Tier 4 support, provides up to an additional \$25 per month in federal Lifeline support to eligible low-income consumers living on Tribal lands, as long as that amount does not bring the basic local residential telephone rate below one dollar. See 47 C.F.R. § 54.403(a)(4). Enhanced Link Up support provides up to an additional \$70 in federal Link Up support to eligible low-income consumers living on Tribal lands. See 47 C.F.R. § 54.411(a)(3).

<sup>208</sup> See Letter from Melissa E. Newman, Vice President Federal Regulatory, Qwest Communications International, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45, WC Docket No. 03-109 (filed Dec. 16, 2010) (Qwest Dec. 16, 2010 *Ex Parte* Letter); Letter from Darrell Gerlaugh, Board of Directors, Gila River Telecommunications, Inc., to Geoffrey Blackwell, Chief, Office of Native Affairs and Policy, Federal Communications Commission, WC Docket No. 03-109 (filed Feb. 24, 2011) (Gila River Feb. 24, 2011 *Ex Parte* Letter); Letter from Susie Allen, Member, Colville Business Council, The Confederated Tribes of the Colville Reservation, to Rebekah Bina, Attorney Advisor, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 03-109 (filed Feb. 25, 2011) (Colville Feb. 25, 2011 *Ex Parte* Letter). See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twenty-Fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rule Making, CC Docket No. 96-45, 18 FCC Rcd 10958, 10970-71, paras. 23-24 (2003) (*Second Tribal Order*).

<sup>209</sup> See Appendix A, 47 C.F.R. § 54.409.

this proposal.

129. *Program-based eligibility.* Under section 54.409 of the Commission's rules, participation in the federal Food Stamp Program (or the Supplemental Nutrition Assistance Program (SNAP) as it is currently named), qualifies residents of Tribal lands for Lifeline/Link Up support.<sup>210</sup> The Lifeline/Link Up rules do not, however, grant eligibility based on participation in the Food Distribution Program on Indian Reservations (FDPIR), a federal program that provides food to low-income households living on Indian reservations, and to Native American families residing in designated areas near reservations and in the State of Oklahoma.<sup>211</sup> As discussed more fully below, eligible residents of Tribal lands for the purposes of the Lifeline/Link Up program are qualifying low-income households on a reservation, where "reservation" is defined as any federally-recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, and Alaska Native regions.<sup>212</sup>

130. The service and eligibility criteria for FDPIR are similar to those of SNAP, and are based on income levels that must be recertified on a periodic basis.<sup>213</sup> A household may not participate in both FDPIR and SNAP, and any given reservation could have certain households participating in FDPIR and others participating in SNAP.<sup>214</sup> Approximately 276 tribes currently receive benefits under FDPIR,<sup>215</sup> suggesting that there are households on Tribal lands that are not be served by the Lifeline/Link Up program simply because they have chosen to receive FDPIR benefits instead of SNAP benefits. Further, we understand that Tribal elders, a particularly vulnerable population, often seek FDPIR benefits rather than SNAP benefits.<sup>216</sup> As such, allowing residents on Tribal lands to qualify for low-income support based on participation in FDPIR is consistent with the purpose of the current tribal eligibility criteria, furthers the goal of providing access to telecommunications services by low-income households on Tribal lands, and the goal of targeting those in the greatest need.

131. Accordingly, we propose to amend section 54.409(c) of the Commission's rules to allow program eligibility for residents of Tribal lands participating in FDPIR.<sup>217</sup> We seek comment on this proposal. We also seek comment on whether there are any other federally- or Tribally-administered, income-based assistance programs, such as those focused on the elderly, which should be included in our

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<sup>210</sup> See 47 C.F.R. § 54.409. See also United States Department of Agriculture, Supplemental Nutrition Assistance Program (SNAP), Eligibility Criteria, [http://www.fns.usda.gov/snap/applicant\\_recipients/eligibility.htm](http://www.fns.usda.gov/snap/applicant_recipients/eligibility.htm) (last visited Mar. 4, 2011).

<sup>211</sup> See United States Department of Agriculture, FD Programs, About FDPIR, [http://www.fns.usda.gov/fdd/programs/fdpir/about\\_fdpir.htm](http://www.fns.usda.gov/fdd/programs/fdpir/about_fdpir.htm) (last visited Dec. 20, 2010); see also Food Distribution Fact Sheet, October 2010, available at <http://www.fns.usda.gov/fdd/programs/fdpir/pfs-fdpir.pdf> (last visited Mar. 3, 2011).

<sup>212</sup> See 47 C.F.R. § 54.400(e); see also *supra* paras. 129 (discussing the definition of Tribal lands).

<sup>213</sup> Food Distribution Fact Sheet, October 2010, available at <http://www.fns.usda.gov/fdd/programs/fdpir/pfs-fdpir.pdf> (last visited Mar. 3, 2011); see also FOOD & NUTRITION SERV., U.S. DEP'T OF AGRIC., FOOD DISTRIBUTION ON INDIAN RESERVATIONS, NET MONTHLY INCOME STANDARDS, FNS HANDBOOK EXHIBIT M (2010), [http://www.fns.usda.gov/fdd/hdbks-instruct/FNS501-Changes/ExhibitM\\_FY2011.pdf](http://www.fns.usda.gov/fdd/hdbks-instruct/FNS501-Changes/ExhibitM_FY2011.pdf); see also United States Department of Agriculture, Food & Nutrition Service, Supplemental Nutrition Assistance Program, Eligibility, [http://www.fns.usda.gov/snap/applicant\\_recipients/eligibility.htm](http://www.fns.usda.gov/snap/applicant_recipients/eligibility.htm) (last visited Mar. 2, 2011).

<sup>214</sup> Gila River Feb. 24, 2011 *Ex Parte* Letter.

<sup>215</sup> See *supra* note 211 (Food Distribution Fact Sheet); see also U.S. Department of the Interior, Bureau of Indian Affairs, What We Do, <http://www.bia.gov/WhatWeDo/index.htm> (last visited Mar. 2, 2011).

<sup>216</sup> Colville Feb. 25, 2011 *Ex Parte* Letter.

<sup>217</sup> See Appendix A, 47 C.F.R. § 54.409.

program eligibility rules for residents of Tribal lands.

132. *Location-based conditions.* In the *Tribal Order*, the Commission defined the terms “Tribal lands,” “reservation,” and “near reservation” for the purposes of establishing eligibility for the Tribal Lifeline and Link-Up programs.<sup>218</sup> Specifically, the Commission modified its rules to provide support to individuals residing on “any federally recognized Indian [T]ribe’s reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims settlement Act (85 Stat. 688), and Indian allotments,”<sup>219</sup> as well as those residing in “those areas or communities adjacent or contiguous to reservations that are designated as such by the Department of Interior’s Commissioner of Indian Affairs, and whose designations are published in the Federal Register.”<sup>220</sup>

133. In its August 2000 *Tribal Stay Order and Further Notice*, however, the Commission stayed implementation of the Tribal Lifeline and Link Up programs as they applied to qualified low-income households “near reservations.”<sup>221</sup> The Commission noted that, after its adoption of the definition of “Tribal lands” in the *Tribal Order*, it learned that the term “near reservation,” as defined by the Bureau of Indian Affairs (BIA), might include “wide geographic areas that do not possess the characteristics that warranted the targeting of enhanced Lifeline and Link[-]Up support to reservations, such as geographic isolation, high rates of poverty, and low telephone subscribership.”<sup>222</sup> Accordingly, in its *Tribal Stay Order and Further Notice* and its May 2003 *Second Tribal Order*, the Commission sought comment on how to identify geographic areas adjacent to reservations that share similar characteristics with the reservations.<sup>223</sup> Since then, the Commission has not taken further action regarding the definition of “near reservation,” and currently provides enhanced low-income support only to those living on, not near, Tribal lands.

134. We now propose to amend section 54.400(e) of our rules to remove the term and definition of “near reservation,” as its inclusion in the rules creates confusion.<sup>224</sup> We also propose to adopt a new rule section 54.402 to adopt a designation process for those Tribal groups and communities seeking designation as Tribal lands under the Commission’s rules.<sup>225</sup> We seek comment on this proposal. The designation process we propose is consistent with the process recently proposed by the Commission in the *Rural Radio Service Second R&O*.<sup>226</sup> That Order addresses the definitions of “Tribal lands” and

<sup>218</sup> See *Tribal Order*, 15 FCC Rcd at 12217-19, paras. 16-19; see also 47 C.F.R. § 54.400(e).

<sup>219</sup> *Tribal Order*, 15 FCC Rcd at 12218, para. 17 (defining “reservation”).

<sup>220</sup> *Id.* (defining “near reservation”).

<sup>221</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 17112, 17112-13, para. 1 (2000) (*Tribal Stay Order and Further Notice*).

<sup>222</sup> *Id.* at 17113, para. 3.

<sup>223</sup> *Id.* at 17114-15, paras. 5-6; *Second Tribal Order*, 18 FCC Rcd at 10974-77, paras. 33-38. In the *Second Tribal Order*, the Commission also declined to adopt changes to the definition of “reservation” made by the BIA, noting that “[t]o alleviate the potential for ongoing administrative uncertainty . . . any future modifications to the definition of ‘reservation’ or ‘near reservation’ will take effect in the context of the universal service programs only upon specific action by the Commission.” *Second Tribal Order*, 18 FCC Rcd at 10967, para. 17.

<sup>224</sup> See Appendix A, 47 C.F.R. § 54.400(c).

<sup>225</sup> See Appendix A, 47 C.F.R. § 54.402.

<sup>226</sup> *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rule Making, MB Docket No. 09-52, FCC 11-28 at paras. 6-11 (rel. Mar. 3, 2011) (*Rural Radio Service Second R&O*). (continued....)

“near reservation areas” for the purpose of determining whether a radio station application seeking to serve a Tribal community of license is a “licensable community” that qualifies for special consideration.<sup>227</sup> The Commission adopted a process whereby an applicant seeking to establish eligibility may submit any probative evidence of a connection between a defined community or area and the Tribe itself.<sup>228</sup> We propose to adopt a similar process for Tribal groups and communities seeking to receive Lifeline and Link Up support, but whose land is not defined by section 54.400(e).<sup>229</sup> Use of such a process would serve the public interest by affording flexibility to Tribes in non-landed situations, particularly given that the circumstances of such Tribes are so varied.

135. We propose to delegate authority to resolve such designations to the Wireline Competition Bureau. We propose that such a request to designate an area as a Tribal land for purposes of Lifeline and Link Up should be formally requested by an official of a federally recognized Tribe who has proper jurisdiction. The request should explain why the communities or areas associated with the Tribe do not fit the definition of Tribal lands set forth in the Commission’s Lifeline/Link Up program rules, but which are regions so Native in their character or location, as to support the purpose of providing enhanced Tribal Lifeline/Link Up program support.<sup>230</sup> A showing should also detail how providing program support to the area would aid the Tribe in serving the needs and interests of its citizens in that community, and thus further the Commission’s goals of providing Tribal support. Most probative would be evidence that a Tribe delivers services to the area at issue. However, the Tribe could offer other evidence, including the federal government’s provision of services to Tribal members in the identified area. Probative evidence might also include a showing that the Census Bureau defines the area as a Tribal service area that is used by agencies like the Department of Housing and Urban Development.<sup>231</sup> Further, persuasive evidence of a nexus between a community and a Tribe might also include showings that a Tribal government has a defined seat, such as a headquarters or office, in the area, combined with evidence that Tribal citizens live and/or are served by the Tribal government in the area at issue. A Tribe might also provide evidence that a majority of members of the Tribal council or board live within a certain radius of the area. An applicant might also show that more than 50 percent of Tribal members live exclusively in the geographical area. Additionally, tribes might provide other indicia of a connection, such as Tribal institutions (*e.g.*, hospitals or clinics, museums, businesses) or activities (*e.g.*, conferences, festivals, fairs). We seek comment on any other factors that could help determine whether a geographical area is predominantly Tribal, such that low-income residents in the area should receive the benefits of enhanced Tribal program support.

136. In addition to the showing required, it is important that an applicant seeking to take advantage of enhanced Tribal program support set forth a clearly defined area to be covered. The need for such a demonstration is in line with the purposes of enabling Tribes to serve their citizens, to perpetuate Tribal culture, and to promote self-government. In evaluating such requests, we propose to delineate the “Tribal Lands” equivalents as narrowly as possible and view most favorably proposals that

(Continued from previous page)

<sup>227</sup> *Rural Radio Service Second R&O* at paras. 6 n. 13, 7 n.19. The Media Bureau’s decision to adopt a waiver process is informed by the comments of a few parties. *Id.* at para. 8; *see also* Koahnic Broadcast Corporation Comments, MB Docket No. 09-52 (filed May 4, 2010); Native Public Media & National Congress of American Indians Comments, MB Docket No. 09-52 (filed May 4, 2010) (NPM/NCAI Comments); Catholic Radio Association Comments, MB Docket No. 09-52 (filed May 4, 2010).

<sup>228</sup> *Rural Radio Service Second R&O* at paras. 9-10.

<sup>229</sup> See Appendix A, 47 C.F.R. § 54.400(c).

<sup>230</sup> See Appendix A, 47 C.F.R. §§ 54.403(a)(4), 54.409(c).

<sup>231</sup> See NPM/NCAI Comments at 8-10.

describe narrowly defined Tribal lands, to enable the provision of services to Tribal citizens rather than to non-Tribal members living in adjacent areas or communities. We seek comment on this proposal.

137. *ETC Designation on Tribal lands.* Additionally, we acknowledge that carriers serving households residing on Tribal lands could benefit from greater clarity regarding the ETC designation process for Tribal lands. However, as this issue has broader applicability beyond just the Lifeline/Link Up program, the corresponding issues and request for comment are addressed in the Office of Native Affairs and Policy's *Native Nations Notice of Inquiry*.<sup>232</sup> For example, the *Notice of Inquiry* seeks comment on how specific an ETC designation including Tribal lands should be, particularly for carriers seeking designation for the sole purpose of participating in the Lifeline program.<sup>233</sup> The *Notice of Inquiry* also seeks comment on the nature of consultation with Tribal governments that should be included in the ETC designation process and whether carriers and Tribal governments should be required to file a proposed plan to serve with the Tribal lands.<sup>234</sup> Finally, the *Notice of Inquiry* seeks comment on whether varying amounts of Lifeline support should be available on Tribal lands.<sup>235</sup> We also seek comment on these issues and on the Lifeline program proposals contained in the *Native Nations Notice of Inquiry*.

138. *Self-Certification of Tribal land residence.* Section 54.409(c) of the Commission's rules require that ETCs offering Lifeline services to residents of Tribal lands must obtain the consumer's signature on a document certifying that the consumer receives benefits from at least one of the qualifying programs and lives on a reservation.<sup>236</sup> On April 25, 2008, Qwest Communications International Inc. (Qwest) filed a request for review of certain USAC audit findings.<sup>237</sup> The USAC audit found that, among other things, Qwest provided Tier 4 support for subscribers who were not residing on eligible Tribal lands and did not provide Tier 4 support to subscribers who were eligible residents of Tribal lands.<sup>238</sup> Qwest asked the Commission to find that USAC erred when it concluded that Qwest is inappropriately seeking enhanced Lifeline support for customers that do not reside on Tribal lands.<sup>239</sup> Qwest argued that it has fulfilled its obligation to ascertain whether a customer lives on a reservation by obtaining a signed certifications stating that the customer lives on a reservation.<sup>240</sup> USAC responded that Qwest should establish additional controls.<sup>241</sup> The Commission sought comment on the Qwest Petition in 2008.<sup>242</sup>

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<sup>232</sup> See *Improving Communications Services for Native Nations*, CG Docket No. 11-41, Notice of Inquiry, FCC 11-30 at paras. 23-32 (rel. Mar. 4, 2011) (*Native Nations NOI*).

<sup>233</sup> *Native Nations NOI* at paras. 28-29.

<sup>234</sup> *Native Nations NOI* at paras. 30.

<sup>235</sup> *Native Nations NOI* at paras. 32.

<sup>236</sup> See 47 C.F.R. § 54.409(c).

<sup>237</sup> *Request for Review by Qwest Communications International, Inc. of the Decision of the Universal Service Administrator*, WC Docket No. 03-109 (filed Apr. 25, 2008) (*Qwest Petition*).

<sup>238</sup> See *Qwest Petition* at Attachment 3 (Results of Low Income Limited Review of Qwest Colorado, at 10-11, Finding 4) and Attachment 4 (Results of Low Income limited Review of Qwest Idaho, at 11-12, Finding 4).

<sup>239</sup> *Qwest Petition* at 6-9.

<sup>240</sup> *Id.*

<sup>241</sup> *Qwest Petition* at Attachment 3 (Results of USAC 2006 Low Income Limited Review of Qwest Colorado, Finding 4).

<sup>242</sup> See *Comment Sought on Qwest Request for Review of a Decision of the Universal Service Administrative Company*, WC Docket No. 03-109, Public Notice, 23 FCC Rcd 7845 (Wireline Comp. Bur. 2008) (*Qwest Public Notice*).

139. As discussed above, Tribal land addresses are often not straightforward.<sup>243</sup> AT&T and the US Telecom Association (USTelecom) filed comments supporting Qwest, stating that the Commission did not intend ETCs to take additional steps beyond obtaining a self-certification, to determine whether an applicant lives on Tribal lands.<sup>244</sup> Alltel Communications, LLC (Alltel, which subsequently was acquired by Verizon), Rural Cellular Corporation (Rural Cellular), and Smith Bagley, Inc. (SBI) also filed reply comments supporting Qwest.<sup>245</sup> Alltel acknowledged that Tribal lands are historically underserved areas in which residents and experience very low telephone penetration rates.<sup>246</sup> Alltel argued that an increased burden on ETCs to verify Tribal residency would not improve service on Tribal lands, but would only serve to discourage ETCs from serving these areas as conducting additional verification procedures is very challenging due to the unique living arrangements and identification practices of many Tribes.<sup>247</sup> For example, the Rosebud Sioux Tribe acknowledged that there are no physical addresses on the Rosebud Indian Reservation.<sup>248</sup> Additionally, the Spirit Lake Tribe stated that all mail sent to the reservation is addressed to P.O. Boxes or General Delivery.<sup>249</sup>

140. We propose to amend section 54.409(c) of the Commission's rules to disallow self-certification of income or program eligibility for residents of Tribal lands receiving Lifeline/Link Up support, consistent with our proposal below to require all Lifeline/Link Up recipients to provide proof of income or participation in a qualifying program.<sup>250</sup> We propose to require a consumer receiving low-income support and living on Tribal lands to show documented proof of participation in an eligible program or eligibility based on income, like all other low-income consumers as there do not appear to be unique reasons why Tribal households should be exempt from a general requirement to produce documentation of qualification for program support. We seek comment on this proposal.

141. We do, however, recognize there may be challenges in verifying Tribal residency due to unique living arrangements on Tribal lands, and therefore maintain the self-certification requirement as to Tribal land residence.<sup>251</sup> We propose to clarify that receipt of self-certification of residence on Tribal lands, along with documentation of income or participation in an eligible program, is sufficient documentation for an ETC to provide enhanced Lifeline support. The current rules do not require the ETC to establish further verification processes or controls to ascertain that the customer is a Tribal

<sup>243</sup> See Tribal Addresses discussion *supra* at paras. 119-20.

<sup>244</sup> See AT&T Comments, WC Docket No. 03-109, at 2-4 (filed Jun. 16, 2008); United States Telecom Association Comments, WC Docket No. 03-109, at 7-9 (filed Jun. 16, 2008).

<sup>245</sup> See Alltel Communications, LLC Reply Comments, WC Docket No. 03-109 (filed Jul. 1, 2008) (Alltel Reply Comments); Rural Cellular Corporation Reply Comments, WC Docket No. 03-109, at 2-3 (filed Jul. 1, 2008) (Rural Reply Comments); Smith Bagley Reply Comments, WC Docket No. 03-109, at 2-3 (filed Jul. 1, 2008) (SBI Reply Comments).

<sup>246</sup> See Alltel Reply Comments. As of 2006, the telephone penetration rate on Tribal lands in the lower 48 states was about 67.9% and in Alaska Native villages was about 87%. See 2006 GAO REPORT; see also FEDERAL COMMUNICATIONS COMMISSION, INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, TELEPHONE SUBSCRIBERSHIP ON AMERICAN INDIAN RESERVATIONS AND OFF-RESERVATION TRUST LANDS (2003).

<sup>247</sup> Alltel Reply Comments at 1, 3-4, Attachment (stating that multiple customers often identify a common billing address or P.O. Box which may be outside the reservation boundaries).

<sup>248</sup> See Alltel Reply Comments at Attachment.

<sup>249</sup> See Alltel Reply Comments at Attachment (this tribe also acknowledged that it does not have access to a 911 system).

<sup>250</sup> See Appendix A, 47 C.F.R. § 54.409(c).

<sup>251</sup> See Appendix A, 47 C.F.R. § 54.409(c)(2).

member or lives on Tribal lands before providing enhanced Lifeline support.<sup>252</sup> We seek comment on this proposed clarification.<sup>253</sup>

## VI. CONSTRAINING THE SIZE OF THE LOW-INCOME FUND

142. *Background.* The Commission has a statutory obligation to create specific, predictable, and sufficient universal service support mechanisms.<sup>254</sup> As noted in the National Broadband Plan, unconstrained growth of the Universal Service Fund would jeopardize universal service by increasing the contribution burden on American consumers and businesses, thereby discouraging adoption and use of communications services.<sup>255</sup> Certain USF programs are capped, including the schools and libraries and rural health care support mechanisms.<sup>256</sup> With the implementation of the interim competitive ETC cap for the high-cost program in 2008, the only major components of the fund that remain uncapped are the low-income program and the interstate common line support mechanism in the high-cost program, which provided \$1.7 billion in 2010 to rate-of-return carriers in rural, Tribal, and insular areas and has been growing. The *Connect America Fund Notice* sought comment on limiting the total size of the high-cost program and on capping interstate common line support.<sup>257</sup>

143. As noted above, the size of the low-income program has grown significantly in recent years, from a roughly inflation-adjusted \$667 million in 2000 to \$1.3 billion in 2010.<sup>258</sup> According to GAO's recent report, the low-income fund grew in 2009 primarily due to the emergence of pre-paid wireless, Lifeline-only ETCs.<sup>259</sup> USAC projects that the low-income program fund will be \$1.5 billion in 2011.<sup>260</sup> In its recent *2010 Recommended Decision*, the Joint Board recommended that the Commission develop a full record on the recent growth in low-income program support.<sup>261</sup>

144. *Discussion.* We are mindful of the impact of the growth in the program on the consumers and businesses that ultimately support USF through fees on their phone bills. As we undertake

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<sup>252</sup> However, the ETC is still required to adopt a process for verification of income or program eligibility. See Verification discussion *supra* Section VII.B.

<sup>253</sup> We note that should we adopt these proposals, there are other outstanding issues preventing the complete resolution of the *Qwest Petition* during this proceeding.

<sup>254</sup> See 47 U.S.C. §§ 254(b)(5).

<sup>255</sup> See NATIONAL BROADBAND PLAN at 149 (Recommendation 8.11); see also *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477, 20484, para. 25 (Jt. Bd. 2007) (*2007 Recommended Decision*).

<sup>256</sup> See, e.g., 47 C.F.R. § 32.9000 (defining mid-sized incumbent local exchange carrier with annual revenue indexed for inflation as measured by the Department of Commerce Gross Domestic Product Chain-type Price Index (GDPCPI)); *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18781, para. 36 (2010) (*E-Rate Sixth Report and Order*) (amending Commission rules to index the E-rate program funding cap to the rate of inflation on a going-forward basis).

<sup>257</sup> *USF/ICC Transformation NPRM*, FCC 11-13, at paras. 394-97.

<sup>258</sup> Adjustments for inflation were calculated using the Bureau of Labor Statistics' Consumer Price Index Inflation Calendar. See [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm) (last visited Mar. 2, 2011).

<sup>259</sup> 2010 GAO REPORT at Exec. Summary. As discussed above, pre-paid wireless Lifeline service now accounts for one-third of Lifeline support.

<sup>260</sup> See USAC 2Q 2011 FILING, at 16.

<sup>261</sup> See *Joint Board Recommended Decision*, 25 FCC Rcd at 15630, para. 91.

comprehensive reform and modernization of USF, we are committed to controlling costs and constraining the overall size of the Fund.<sup>262</sup> Many of the proposals contained herein to eliminate waste, fraud, and abuse and improve program administration could reduce expenditures and the size of the program. For example, eliminating duplicate claims and tightening our rules on customary charges eligible for Link Up support should result in reduced expenditures. We note that fund growth is not necessarily indicative of waste, fraud, and abuse.<sup>263</sup> We recognize that demand for low-income support fluctuates based on a number of factors, including changes in qualifying assistance programs and macroeconomic conditions. We also note that the program has an ultimate cap in that only a defined population of eligible low-income households may participate in the program, and support is limited to a maximum of \$10 per month per household (other than on Tribal lands). We seek comment generally on how to balance these principles, while retaining our commitment to enabling households in economic distress to obtain access to essential communications services.<sup>264</sup>

145. In light of concerns about the growth of Lifeline/Link Up, we seek comment on a proposal to cap the size of the Lifeline/Link Up program, for example at the 2010 disbursement level of \$1.3 billion.<sup>265</sup> We ask whether and how a capped fund could continue to ensure telephone access for low-income households<sup>266</sup> and support potential expansion for broadband as discussed below.<sup>267</sup> We seek comment on whether any cap should be permanent or temporary, perhaps lasting for a set period of years or until the implementation of structural reforms proposed in this Notice.

146. If the Commission were to cap the program, either as an interim measure or permanently, what would be an appropriate cap level? How should such a level be determined? For example, should it be higher or lower than the 2010 size of the program? Should a cap be indexed to inflation, similar to other USF program funds subject to caps, or adjusted based on unemployment rates?<sup>268</sup> We seek comment on whether there should be exceptions to a cap. For example, should low-income support for eligible residents of Tribal lands be exempt, given the very low telephone penetration rate on Tribal lands, as well as the unique circumstances and challenges faced by residents of Tribal lands?<sup>269</sup> If we were to

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<sup>262</sup> As we stated in the *USF/ICC Transformation NPRM*, the Commission “plans to be guided by the following four principles [including] . . . Control the size of USF as it transitions to support broadband, including by limiting waste and inefficiency.” See *USF/ICC Transformation NPRM*, FCC 11-13, para. 10.

<sup>263</sup> See *2010 Recommended Decision*, 25 FCC Rcd at 15647-48 (statement of Senior Assistant Attorney General ffitich).

<sup>264</sup> As the United States Court of Appeals for the Fifth Circuit held in *Alenco*, “[t]he agency’s broad discretion to provide sufficient universal service funding includes the decision to impose cost controls to avoid excessive expenditures that will detract from universal service.” *Alenco Commc’ns, Inc. v. FCC*, 201 F.3d 608, 620-21 (5th Cir. 2000) (*Alenco*). The *Alenco* court also found that “excessive funding may itself violate the sufficiency requirements.” *Id.* at 620. The United States Court of Appeals for the Tenth Circuit has stated that “excessive subsidization arguably may affect the affordability of telecommunications services, thus violating the principle in [section] 254(b)(1).” *Qwest Comm’ns Int’l Inc. v. FCC*, 398 F.3d 1222, 1234 (10<sup>th</sup> Cir. 2005).

<sup>265</sup> This figure is based on USAC estimates. See USAC 2Q 2011 FILING, Appendices at M04.

<sup>266</sup> The Commission has had a long-standing commitment to providing support that is sufficient but not excessive. See *Tenth Circuit Remand Order*, 25 FCC Rcd at 4088, para. 29 (concluding that a determining the sufficiency of support must also take into account the Commission’s generally applicable responsibility to be a prudent guardian of the public’s resources); see also discussion *supra* Section III (discussing the balancing of these objectives).

<sup>267</sup> See *infra* Section IX.B (The Transition to Broadband).

<sup>268</sup> See, e.g., 47 C.F.R. § 32.9000; *E-Rate Sixth Report and Order*, 25 FCC Rcd at 18781, para. 36.

adopt a cap, should that cap be adjusted, for instance, if national or local unemployment exceeded a specified level?

147. We also seek comment on the appropriate way to administer a cap. Is a national cap more efficient, or would a state-by-state cap be a more equitable way to administer the Low Income program fund? As noted above, the Act contemplates achieving reasonably comparable access in all regions of the country.<sup>270</sup> Should regional differences be accounted for under a cap?<sup>271</sup>

148. If the Commission were to cap the program, we may also need to implement methods for prioritizing support among potential recipients. Should current participants in the program receive priority funding within a capped system? Alternatively, should funding be available on a first-come, first-served basis after a specified date for re-enrollment in the program? If so, given that disbursements vary monthly, how could ETCs be notified when the cap had been reached? If a participant loses services for any reason, such as non-use, should that participant necessarily receive funding upon re-enrollment, or would that person potentially have to wait until the next funding year? Should monthly benefits be reduced to ensure that all eligible households that seek to participate in the program can do so, even if they would receive a smaller benefit than program participants currently receive? We seek comments on these issues and other practical and operational issues that would need to be addressed if the program were capped.

149. If the Commission adopts a rule capping the low-income fund, should that cap be maintained if the Commission decides to support broadband with program funds? Would the inclusion of broadband necessitate a different approach to prioritizing benefit allocations?

## VII. IMPROVING PROGRAM ADMINISTRATION

150. In this section, we seek comment on how to improve key aspects of the current administration of Lifeline/Link Up, consistent with our goals of reducing waste, fraud, and abuse and modernizing the program. As discussed above, the Commission has historically provided considerable discretion to the states to administer key aspects of the program, such as eligibility, enrollment, and ongoing verification of eligibility. In order to bolster oversight of this federal program, we propose a core set of federal eligibility, certification, and verification requirements that would apply in all states, while seeking comment on allowing states to adopt additional measures that could complement the federal standards. Specifically, we propose to eliminate the option of self-certifying eligibility and to require all consumers in all states to present documentation of program eligibility when enrolling. We propose to increase sample sizes for ongoing verification and to require ETCs in all states to submit verification data to USAC and the Commission.

151. We also seek comment on ways to reduce barriers to participation in the program by service providers and low-income households, specifically through the use of coordinated enrollment with other social service assistance programs and the development of a national database that could be used for enrollment and verification of ongoing eligibility. These proposals are intended to improve

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<sup>269</sup> In imposing an interim cap on one component of the high-cost fund, the Commission created an exception for competitive ETCs serving tribal lands. *In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service; Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, WC Docket No. 05-337, CC Docket 96-45, Order, 23 FCC Rcd 8834 (2008).

<sup>270</sup> See *supra* Section III (Establishing Program Goals and Measuring Performance) (citing 47 U.S.C. § 254(b)(1), (3)).

<sup>271</sup> See *supra* para. 36 (noting that affordability has both an absolute and a relative component).

administrative efficiency, improve service delivery, and protect and improve program access for eligible beneficiaries.<sup>272</sup>

#### A. Eligibility Criteria for Lifeline and Link Up

152. *Background.* As discussed, eligibility requirements for the Lifeline and Link Up programs vary from state to state. Currently, Lifeline and Link Up eligibility is based upon participation in certain means-tested programs and, in some states, upon income. The federal default Lifeline and Link Up eligibility criteria—which apply in eight states and two territories—require consumers to either: (1) have a household income at or below 135 percent of the Federal Poverty Guidelines;<sup>273</sup> or (2) participate in at least one of a number of federal assistance programs.<sup>274</sup> Our rules allow the 42 remaining states with their own Lifeline and Link Up programs flexibility in establishing their own eligibility criteria.

153. During its most recent deliberations, the Joint Board recommended that the Commission seek comment on whether to adopt for all states uniform minimum income- and program-based eligibility standards.<sup>275</sup> Although the Joint Board supports the concept of minimum uniform eligibility requirements, it acknowledges the need to explore more fully the potential burdens and benefits.<sup>276</sup>

154. *Discussion.* We propose to amend our rules to require all states to utilize, at a minimum, the program criteria currently utilized by federal default states.<sup>277</sup> We further propose to allow states to maintain existing state-specific eligibility criteria that supplement the federal criteria. Currently, some states' criteria are more permissive than the federal criteria.<sup>278</sup> For example, Georgia extends program eligibility to senior citizens participating in low-income discount plans offered by local power and gas

<sup>272</sup> We note that in other contexts, the federal government is working to improve the delivery of federal assistance programs administered through state and local governments or where federal-state cooperation is beneficial. See Partner4Solutions, The Partnership Fund for Program Integrity Innovation, <http://www.partner4solutions.gov/>. The Partnership Fund for Program Integrity Innovation was established by the Consolidated Appropriations Act of 2010, Pub. L. No. 111-117, 123 Stat. 3034 (to be codified as scattered statutes).

<sup>273</sup> 47 C.F.R. § 54.409(b). Based on the current federal poverty guidelines for the 48 contiguous states and Washington, DC, annual income of 135% of the guidelines is \$14,702 for a one-person household or family; \$19,859 for a two-person household or family; \$25,016 for a three-person household or family; and \$30,173 for a four-person household or family. Annual Update of the U.S. Dep't. of Health and Human Servs. Poverty Guidelines, 76 Fed. Reg. 3,367, 3,637-38 (Jan. 20, 2011).

<sup>274</sup> Federal programs qualifying consumers for the low-income program are: Medicaid; Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps; Supplemental Security Income (SSI); Federal Public Housing Assistance; Low-Income Home Energy Assistance Program (LIHEAP); National School Lunch Program's free lunch program; and Temporary Assistance for Needy Families (TANF). Low-income consumers living on Tribal lands may qualify by participation in one of several additional assistance programs: Bureau of Indian Affairs general assistance; Tribally-administered TANF; or Head Start (only those meeting its income-qualifying standards). See 47 C.F.R. § 54.409(c).

<sup>275</sup> 2010 Recommended Decision, 25 FCC Rcd at 15601, paras. 8-9.

<sup>276</sup> *Id.*

<sup>277</sup> See 47 C.F.R. § 54.409(a), (b).

<sup>278</sup> See Georgia Public Service Commission – Lifeline Assistance Program & Link-Up Georgia, [http://www.psc.state.ga.us/consumer\\_corner/cc\\_telecom/advisory/lifeline.asp](http://www.psc.state.ga.us/consumer_corner/cc_telecom/advisory/lifeline.asp) (last visited March 1, 2011); see also Florida Public Service Commission – Lifeline Assistance and Link-Up Florida Brochure, <http://www.floridapsc.com/utilities/telecomm/lifeline/engbrochure.aspx> (last visited March 1, 2011); Kansas Corporation Commission – Kansas Lifeline Program, <http://www.kcc.state.ks.us/pi/lifeline.htm> (last visited March 1, 2011).

companies.<sup>279</sup> If we were no longer to allow states to utilize these existing state-specific eligibility criteria, current subscribers would become ineligible for Lifeline benefits, which could result in considerable consumer disruption. We seek comment on whether, going forward, states should be able to impose additional permissive eligibility criteria they deem appropriate, so long as these additional eligibility criteria are reasonably tied to income and the state in question provides additional monetary support to supplement the federal support.<sup>280</sup> We recognize that more permissive eligibility criteria could increase the number of Lifeline subscribers, and seek comment on how to strike the right balance between national uniformity and state flexibility to address local circumstances. We further seek comment on the nature and magnitude of the potential impact, costs, and benefits of imposition of our proposed minimum eligibility requirements.<sup>281</sup>

155. Today, ETCs operating in multiple states have to develop state-specific policies and procedures to assure compliance with state-specific program eligibility requirements. More uniform eligibility requirements could potentially lead to more streamlined and effective enrollment of eligible consumers, while lessening regulatory burdens on service providers. Moreover, as we explore cost-effective ways to strengthen the process of certification and validation of household eligibility,<sup>282</sup> more uniform requirements could also lessen administrative costs for the program and facilitate more effective monitoring and auditing. We ask whether requiring all states to utilize the federal eligibility criteria would simplify ETC processes for enrolling eligible households and verifying ongoing eligibility.

156. Would establishing a federal baseline of eligibility criteria place any burdens upon the states? What administrative changes would be required in those states where enrollment and ongoing verification of eligibility functions are performed by a state governmental agency or third-party administrator? Would any such burdens be justified by the benefits of a minimum uniform system? From the perspective of states or service providers, what are the benefits or burdens of maintaining the current system in which requirements vary from state to state? We ask whether allowing states to maintain and add permissive eligibility criteria beyond any minimum uniform criteria would prevent existing eligible Lifeline customers from losing Lifeline support. Finally, we ask whether a federal baseline of eligibility criteria would increase program participation.

157. In its *2010 Recommended Decision*, the Joint Board also recommended that we seek comment on raising the program's income eligibility criteria of 135 percent or below of Federal Poverty Guidelines to 150 percent or below of the FPGs.<sup>283</sup> We seek comment on raising the federal income threshold for program participation to 150 percent or below of the Federal Poverty Guidelines. Some federal programs linked by the low-income program, such as LIHEAP, already have a 150 percent threshold.<sup>284</sup> A number of commenters in the Joint Board proceeding urged that the income eligibility standard be increased in 150 percent.<sup>285</sup> The FPG formula has been criticized as dated and inaccurate,

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<sup>279</sup> Georgia Public Service Commission – Lifeline Assistance Program & Link-Up Georgia, [http://www.psc.state.ga.us/consumer\\_corner/cc\\_telecom/advisory/lifeline.asp](http://www.psc.state.ga.us/consumer_corner/cc_telecom/advisory/lifeline.asp) (last visited March 1, 2011).

<sup>280</sup> See 47 C.F.R. § 54.409(a); see also *2010 Recommended Decision*, 25 FCC Rcd at 15601, paras. 8-9.

<sup>281</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15601, paras. 8-9; see *infra* Section VII.D (seeking comment on the development and implementation of a centralized database, including the costs of constructing and maintaining a database).

<sup>282</sup> See *infra* Section VII.D.2 (database).

<sup>283</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15601, para. 10.

<sup>284</sup> Benton Joint Board Comments at 5-6.

<sup>285</sup> See, e.g., NASUCA Joint Board Comments at 7.

with the Consumer Groups noting that some studies have suggested income levels for economic “self-sufficiency” at 161 percent of the poverty level.<sup>286</sup> In 2004, the Commission sought comment on whether the income-based criteria for federal default states should be increased to 150 percent of the Federal Poverty Guidelines. At that time, the Commission presented a staff analysis that concluded that raising the income threshold might only have minimal on telephone penetration rates, but could result in many new Lifeline subscribers, potentially resulting in an additional \$200 million in demand for Lifeline.<sup>287</sup> We seek to update the record on this issue. We also seek comment on lowering the threshold from the current level (135 percent of the FPG).

#### **B. Certification and Verification of Consumer Eligibility for Lifeline**

158. The applicability of federal and state rules governing initial certification and ongoing verification of consumers’ eligibility for support currently depends on whether the customer resides in a federal default state or non-federal default state.<sup>288</sup> Accordingly, ETCs providing service in multiple states may be required to comply with various state and/or federal certification and verification procedures.<sup>289</sup> “Certification” refers to the initial determination of eligibility for the program; “verification” refers to subsequent determinations of ongoing eligibility.<sup>290</sup>

159. We believe it is time to take a fresh look at these rules, taking into account both our experience with the program over the past 15 years and the many changes in service offerings since the program began. Our analysis is informed by the Joint Board’s Recommended Decision, and by the recent GAO review of the program.<sup>291</sup> According to GAO, some states find that consumers are deterred from enrolling by the difficulty of certification and verification procedures.<sup>292</sup> GAO also notes that there are risks associated with the self-certification of subscriber eligibility and the accuracy of amounts claimed by ETCs for reimbursement.<sup>293</sup> Our proposals are intended to improve the integrity of the program by improving federal requirements and introducing greater consistency throughout the country. We seek to balance the need to ensure that the program supports only intended beneficiaries, with the need for administratively workable requirements that do not impose excessive burdens or costs.

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<sup>286</sup> Consumer Groups Joint Board Comments at 7-8.

<sup>287</sup> 2004 Lifeline and Link Up Order, 19 FCC Rcd at 8332-8333, Appendix K.

<sup>288</sup> See generally 47 C.F.R. §§ 54.410(a), (c). As explained above, states with their own low-income programs may establish their own eligibility, certification, and verification requirements and are referred to as “non-federal default states.” States without their own low-income programs must follow the federal eligibility, certification, and verification requirements and are referred to as “federal default states.” See Eligibility discussion at *supra* paras. 152-53.

<sup>289</sup> See 47 C.F.R. § 54.410(c)(1),(2). A few states face even more complicated verification procedures due to the limitation of their jurisdiction over certain carriers. The Commission recently concluded that when a state commission mandates Lifeline support but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default criteria for certification and verification purposes. See *Lifeline and Link-Up*, WC Docket No. 03-109, Order and Declaratory Ruling, 25 FCC Rcd 1641, 1641, 1645, paras. 1, 9 (2010) (*Lifeline Declaratory Ruling*).

<sup>290</sup> See Verification discussion at *supra* paras. 160-66; see also 2010 Recommended Decision, 25 FCC Rcd at 15606-15611, paras. 23-34.

<sup>291</sup> See generally 2010 Recommended Decision, 25 FCC Rcd at 15606-11, paras. 23-34; 2010 GAO REPORT at Figure 2, Appendix II, Table 7 (Administrative Processes and Responsibilities).

<sup>292</sup> See 2010 GAO REPORT at 23, Figure 2.

<sup>293</sup> See 2010 GAO REPORT at 37.

## 1. Background

160. *Initial certification.* Currently, in order to qualify for service through the program, a consumer must first demonstrate that he or she meets eligibility criteria established under either federal or state rules. Pursuant to our rules, the eligibility criteria are based “solely on income or on factors directly related to income.”<sup>294</sup>

161. Section 54.409(d) of the Commission’s rules permits consumers in federal default states to prove eligibility for Lifeline by either: (1) self-certifying that they are eligible for Lifeline support based on participation in certain federal programs; or (2) providing documentation showing that they meet the income threshold requirements set forth in our rules.<sup>295</sup>

162. Certification practices vary among the non-federal-default states. According to GAO, 16 states permit self-certification under penalty of perjury, 25 states require documentation of enrollment in a qualifying program, and 9 states have in place automatic enrollment of eligible consumers.<sup>296</sup>

163. *Verification of continued eligibility.* Currently, in the federal default states, ETCs must annually verify the continued eligibility for a statistically valid random sample of their customers.<sup>297</sup> Specifically, those subscribers that are sampled must present or submit a copy of their Lifeline-qualifying public assistance card and self-certify under penalty of perjury that they continue to participate in that program. Subscribers qualifying based on income must present documentation of income, and self-certify the number of individuals in the household and that the documentation presented accurately represents their household income. ETCs are required to retain copies of the self-certifications (but not the underlying documentation of income).

164. Currently, each non-federal-default state may adopt its own method for verifying continued eligibility. According to GAO, 14 states conduct random audits of Lifeline recipients, 20 states require periodic submission of supporting documents, 13 states require an annual self-certification, 13 states use an online verification system using databases of public assistance participants or income reports, and 17 states conduct verification by confirming the continued eligibility of a statistically valid sample of Lifeline recipients.<sup>298</sup>

165. This variability across states is potentially problematic for consumers, ETCs, and the Commission. State-by-state differences can complicate ETC compliance and USAC auditing, confuse consumers who may be more transient in residence than the general population, and increase the potential for abuse. Additionally, as more fully described below, the Commission currently has access to verification results only from the federal default states and a handful of states that voluntarily offer their verification results,<sup>299</sup> giving the Commission an incomplete view of verification results and what improvements can be made to decrease the potential for waste, fraud, and abuse.

166. The Joint Board recommended that the Commission adopt a “floor,” or minimum set of

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<sup>294</sup> 47 C.F.R. § 54.409(a); *see also* 47 C.F.R. §§ 54.409(b), (c); 54.515.

<sup>295</sup> 47 C.F.R. § 54.409(d)(1), (2).

<sup>296</sup> 2010 GAO REPORT at 51.

<sup>297</sup> 47 C.F.R. § 54.410(c).

<sup>298</sup> 2010 GAO REPORT at 51.

<sup>299</sup> In addition to the federal default states, the following non-federal-default states require ETCs to submit their verification results to USAC: Alabama, Arkansas, Arizona, New York, North Carolina, Pennsylvania, and West Virginia.

requirements, for verification procedures, upon which the states may impose additional procedures.<sup>300</sup> The Joint Board noted that uniform, minimum verification procedures and sampling criteria could help resolve the current confusion and practical difficulties that have arisen from inconsistent methods.

## 2. Discussion

167. *One-per-residential address certification and verification.* We propose to amend section 54.410 of our rules to require that all ETCs obtain a certification when initially enrolling a subscriber in Lifeline that only one Lifeline service will be received at that address.<sup>301</sup> We also propose to amend section 54.410 of our rules to require that all ETCs obtain a certification from every subscriber verified during the annual verification process that the subscriber is receiving Lifeline support for only one line per residence.<sup>302</sup> Requiring “one-per-residence” certification initially at sign-up and then on an ongoing basis should highlight and remind the consumer that support is available for only one line per residence and reduce inadvertent program violations. We seek comment on these proposals.

168. The form used for such certification shall explain in clear and simple terms that this federal benefit is available for only one line per residence, and that consumers are not permitted to receive benefits from multiple providers. Further, the certification form shall contain language stating that violation of this requirement would constitute a violation of the Commission’s rules and may constitute the federal crime of fraud, which will be prosecuted to the fullest extent. We seek comment on this proposal and ask whether there is any other language that should be required on the form.

169. We propose that compliance with the one-per-residence rule shall be verified annually, using the same procedures and forms described above. Annual one-per-residence verification results should be reported along with the sampling data to USAC and the Commission, as discussed more fully below. Finally, any subscriber indicating they are receiving more than one subsidy per address shall be de-enrolled pursuant to the process for duplicates described above.<sup>303</sup> Any non-responders shall also be de-enrolled pursuant to the termination process identified in our rules.<sup>304</sup> We seek comment on these proposals.

170. *Modifying certification procedures.* We propose to amend section 54.409(d)(1) to eliminate the self-certification option and require all consumers in all states to present documents to establish eligibility for the program. We are concerned that the self-certification process does not provide adequate assurance that support is being provided only to qualifying customers. Self-certification offers minimal protection against those intentionally seeking to defraud the program and fails to exclude customers that are not eligible to participate but simply misunderstand the eligibility requirements. This proposal would reduce the number of ineligible consumers in the program and reduce opportunities for waste, fraud, and abuse.

171. We seek comment on this proposed rule change to eliminate self-certification for program eligibility. Will the rule change help identify and eliminate ineligible consumers from enrolling

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<sup>300</sup> 2010 Recommended Decision, 25 FCC Rcd at 15607, 15608, paras. 26, 28.

<sup>301</sup> See Appendix A, 47 C.F.R. § 54.410.

<sup>302</sup> See Appendix A, 47 C.F.R. § 54.410; see also 2010 Recommended Decision, 25 FCC Rcd at 15610-11, para. 34. Note that pre-paid wireless ETCs, such as TracFone and Virgin Mobile, are already subject to such a requirement. *TracFone ETC Designation Order*, 23 FCC Rcd at 6214-15, para. 21; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25; *i-Wireless Forbearance Order*, 25 FCC Rcd at 8790, para. 16; *Global Forbearance Order*, 25 FCC Rcd at 10517, para. 16

<sup>303</sup> See Duplicate Claims discussion at *supra* section IV.A.2.

<sup>304</sup> See 47 C.F.R. § 54.405(c), (d).

in the program? To the extent that any commenter opposes this proposed change, we encourage alternative suggestions that we could implement quickly to reduce opportunities for ineligible customers to participate in the program. We seek comment on whether this proposed change would present an undue burden on ETCs and/or consumers.

172. We also propose to amend section 54.409(d)(3) to require that a consumer notify the ETC within 30 days if the consumer has knowledge that he or she no longer qualifies for Lifeline program support.<sup>305</sup> A consumer would be required to notify its carrier upon knowledge that they no longer meet the income criteria, no longer participate in a qualifying program, are receiving duplicate support, or otherwise no longer qualify for program support. We seek comment on this proposal.

173. *Modifying annual verification procedures.* We are concerned that although the current sampling methodology for federal default states may provide some insights into the percentage of ineligible subscribers for a given ETC, we are concerned that it may not adequately protect the program from waste, fraud, and abuse as it does not result in de-enrollment of all ineligible subscribers.

174. We propose changes to our annual verification procedures in three areas. First, consistent with the Joint Board's recommendation, we propose to amend section 54.410 of the Commission's rules to adopt a uniform federal rule to serve as a minimum threshold for verification sampling. Second, we propose to require ETCs to de-enroll from the program consumers who decline to respond to an ETC's verification attempts. Third, consistent with the Joint Board recommendations, we propose uniform procedures for the collection and submission of verification data across all states. We seek comment on these proposals and ask whether there are other verification issues for which we should consider adopting a set of uniform procedures. We also seek comment how these proposals would impact existing ETC compliance plans for specific wireless providers.

175. We propose that these uniform minimum standards apply to all ETCs in all states regardless of any variances in state eligibility criteria. We recognize that individual states may have state-specific Lifeline programs, and therefore may have concerns that are not applicable to ETCs in all states. Therefore, we propose that states be allowed to implement additional verification procedures beyond the uniform minimum required procedures to accommodate those differences. We seek comment on this proposal. We also seek comment on whether there are any state verification processes that would be useful to adopt as a minimum uniform verification requirement to be applicable in all states.

176. The Joint Board also recommended that "states be allowed to utilize different and/or additional verification procedures so long as those procedures are at least as effective in detecting waste, fraud, and abuse as the uniform minimum required procedures."<sup>306</sup> We seek comment on this proposal. For commenters that support this option, how, if at all could the Commission monitor whether different state procedures are "at least as effective" as the federal standards? Would this proposal adequately address our concerns about the administrative burdens created by inconsistent standards among states?

177. *Uniform sampling methodology.* We propose to amend section 54.410 of the Commission's rules to establish a uniform methodology for conducting verification sampling that would apply to all ETCs in all states and provide additional protections against waste, fraud and abuse.<sup>307</sup>

178. As noted above, the Commission's rules require ETCs in federal default states to implement procedures to verify annually the continued eligibility of a statistically valid random sample of

<sup>305</sup> See Appendix A, 47 C.F.R. § 54.409(c)(3).

<sup>306</sup> 2010 Recommended Decision, 25 FCC Rcd at 15608, para. 28.

<sup>307</sup> See Appendix A, 47 C.F.R. § 54.410.

Lifeline consumers and provide findings to USAC.<sup>308</sup> The Commission has previously specified that the size of annual samples should be based on a number of factors, including the number of Lifeline subscribers served by the ETC and the previously estimated proportion of Lifeline subscribers served that are “inappropriately taking” Lifeline service.<sup>309</sup> The Joint Board recommended that the Commission reconsider the equation used to calculate acceptable sample sizes, suggesting that current samples are not large enough to reveal the percentage of ineligible consumers receiving support.<sup>310</sup> The Joint Board also stated that a uniform minimum standard for conducting the “statistically valid random sample” would help ensure accuracy, improve consistency among the sampling data, and assist in analyzing regional and national verification issues.<sup>311</sup>

179. There are several potential issues with our current sampling methodology. First, although our calculation method is designed so that poor results from prior years require an ETC to sample a larger number of customers in following years, the current methodology assumes that no more than six percent of customers would be found ineligible in any given year.<sup>312</sup> As such, the tables that many ETCs use to determine the number of customers they must survey do not contemplate a situation in which more than six percent of customers are found ineligible.<sup>313</sup> To illustrate the point, the minimum number of customers surveyed increases as the number found ineligible in the previous year increases from zero to fifty percent. However, because our instructions set a “cut off” of six percent ineligible, an ETC with 400,000 Lifeline subscribers (half of whom were estimated to be ineligible) would only need to survey 244 customers.<sup>314</sup> As such, some ETCs may be sampling too few customers for their annual verification survey results to be statistically valid.

180. Second, our current methodology creates little incentive for the ETCs to obtain responses from all consumers in the sample; the only consequence for non-response is to de-enroll an admittedly small number of consumers in the sample population. The penalties for non-response largely fall on the subscriber (who may lose service despite eligibility), while there is little incentive for the ETC to educate customers about the importance of a prompt response.

181. Third, a statistically valid sample by definition provides only a basis for estimating the total number of ineligible consumers for a particular ETC; it does not result in de-enrollment of *all* (or even most) ineligible subscribers for that ETC. A hypothetical example illustrates the problem: if the annual verification survey estimates that half of a large ETC’s customers are ineligible in one year, the ETC need only survey 0.27% of its customers the following year.<sup>315</sup> In other words, if an ETC has

<sup>308</sup> See 47 C.F.R. § 54.410(c)(2). The recent GAO Report states that 17 states conduct verification through a statistically valid sample of Lifeline support recipients. See 2010 GAO REPORT at Table 6 (the report does not identify the methodology used by the states); see also 2010 Recommended Decision, 25 FCC Rcd at 15609, para. 31 n.72.

<sup>309</sup> See Appendix B (Sample Size Table); see also 2004 Lifeline and Link Up Order, 19 FCC Rcd at 8365, Appendix J-1.

<sup>310</sup> 2010 Recommended Decision, 25 FCC Rcd at 15608-09, para. 30.

<sup>311</sup> 2010 Recommended Decision, 25 FCC Rcd at 15608-09, para. 30.

<sup>312</sup> See Appendix B (“In all instances, the estimated proportion P should never be less than .01 or more than .06.”).

<sup>313</sup> See Appendix B.

<sup>314</sup> *Id.*

<sup>315</sup> For illustrative purposes, we focus on ETCs with a large number of Lifeline subscribers (400,000 or more) in a state. For these ETCs, the minimum sample size is  $2.706 * P * (1 - P) / .000625$ , where P is the percentage of customers found ineligible in the previous survey. Because that formula may overestimate the statistically necessary sample size for smaller ETCs, the Commission also has provided another formula for these ETCs that adjusts for size.

(continued....)

400,000 Lifeline subscribers and half (or 200,000) were estimated to be ineligible, the ETC would only need to survey 1,082 Lifeline customers the following year for the sample to be statistically valid (and assuming the same ineligibility rate, would then de-enroll no more than half, or 541, of the sampled customers for ineligibility). In short, the current methodology fails to identify the ineligible who are not part of the sample.<sup>316</sup>

182. Given these potential issues, we propose to amend section 54.410 of the Commission's rules to establish a uniform methodology to be used by all states for determining minimum verification sample sizes to provide additional protections against waste, fraud and abuse.<sup>317</sup> Specifically, we set forth two alternative proposals for determining how many Lifeline customers an ETC must survey each year. The first alternative is a sample-and-census proposal, which would allow an ETC to sample its customers so long as the rate of ineligibility among responders to the survey is below a fixed threshold. If that ineligibility rate exceeds the threshold, however, the ETC would be required to take a census of all customers. The second alternative is to modify the current formula used in the federal default states and apply it uniformly to all states. Both alternative proposals are intended to address the three issues with our current sampling methodology, but in distinct ways. We describe each alternative below and invite comment on the relative advantages and disadvantages of these two alternatives.

183. We describe the possible implementation of the sample-and-census approach by providing an example using 5 percent as the threshold for a full census: Each year, ETCs would sample enough customers so that at least 300 customers respond to the verification survey; if the lower bound of the confidence interval for the estimate of ineligible subscribers is at or above 5 percent of total respondents, then the ETC would be required to take a census of all Lifeline customers that year and verify that each and every customer is eligible to participate in the Lifeline program. We seek comment on each component of the sample-and-census approach: (1) the minimum number of customers that must respond to the survey for each ETC, (2) the threshold rate that would determine when the number of ineligible respondents is unacceptably high, and (3) the census requirement to remove ineligible customers from Lifeline's rolls if that threshold is crossed.

184. First, we seek comment on the appropriate minimum number of respondents needed for an accurate sample. We note that under our current rules, an ETC with 400,000 Lifeline subscribers in a given state is required to sample no more than 244 customers, while an ETC with 10,000 subscribers is required to sample no more than 238 customers, and an ETC with 500 subscribers is required to sample no more than 164 customers. Our objective is to establish a minimum required number of respondents that would provide sufficient assurance that the results of the sample are indicative of the population at large, regardless of the expected margin of error. As set forth more fully in Appendix C, a sample size of 300 would have a margin of error no greater than 5.7 percent, regardless of the number of ineligible ultimately identified. Thus, for instance, if there were 300 respondents, and the survey identified a 10 percent ineligibility rate, that would suggest the actual eligibility rate in the entire subscriber base is somewhere between 6.6 percent and 13.4 percent. Should we consider a larger or smaller sample size based on the number of Lifeline customers an ETC has in a state? Reducing the required number of respondents for smaller ETCs could result, for example, in sizably larger margins of error. On the other

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Specifically, the minimum sample size for ETCs with fewer than 400,000 Lifeline customers per state is  $N/(1+\{[N-1]/(2.706*P*(1-P)/.000625)\})$ , where P is the percentage of customers found ineligible in the previous survey and N is the number of Lifeline customers the ETC currently has. *2004 Lifeline and Link Up Order/FNPRM*, 19 FCC Rcd at 8366, Appendix J-2 and J-3.

<sup>316</sup> However, the Commission does have the means to identify ineligible subscribers that are not part of statistical survey, including but not limited to the use of audits.

<sup>317</sup> See Appendix A, 47 C.F.R. § 54.410.

hand, a uniform number of respondents applicable to all ETCs could require smaller ETCs to survey all or most of their Lifeline customers each year, which could be burdensome. Such a requirement also could pose burdens to the extent that not all of the surveyed subscribers respond to the survey. Our goal is to establish a minimum number of respondents that is expansive enough to fully understand the scope of violations and de-enroll those who are ineligible, but that does not impose unnecessary costs on the program or on ETCs. We seek comment on how to appropriately balance the costs and benefits associated with implementing a standard minimum number of respondents, including the burdens that may be imposed on consumers as well as ETCs.

185. Next, we seek comment on the threshold rate that would be used to determine when the number of ineligible customers found in the survey warrants a full census. For these purposes, we distinguish between Lifeline subscribers that fail to respond to a verification attempt and those that are affirmatively found to be ineligible.<sup>318</sup> The example above set the threshold at 5% of respondents. Is this threshold appropriate? If not, what should be the triggering threshold? Should the threshold be higher in recognition of the fact that program rules allow a subscriber to remain in the program for a period of sixty days after becoming ineligible?<sup>319</sup> Should it be lower, in order to further reduce waste, fraud, and abuse?<sup>320</sup> In the same vein, should we establish an analogous threshold for the percentage of customers who do not respond to the ETC's verification survey? In other words, is there a level of non-responsiveness that should be deemed acceptable?<sup>321</sup> If so, how could the Commission determine that threshold? If non-response rates exceed a specified threshold, should that level of non-response also trigger a full census, or are less burdensome measures to verify subscriber eligibility more appropriate.

186. Finally, we seek comment on the census component, i.e. on the requirement that an ETC must verify the eligibility of all Lifeline customers in a state if the ineligibility rate of survey respondents exceeds the threshold. Should an ETC be required to conduct the census immediately, i.e., within a specified number of months of completing the survey, or the following year (in place of the annual verification sample)? If the number of ineligible respondents found during the census exceeds the threshold rate, should the ETC be required to conduct another census the following year in lieu of a statistically valid sample? Should an ETC whose ineligibility rate exceeds the threshold be required to perform a census of all Lifeline customers each year until the ETC can establish that fewer than 5 percent of respondents are ineligible?

187. Should we establish another, higher threshold of ineligibility that would trigger a proceeding to determine whether that ETC's ability to participate in the Lifeline program should be revoked? For example, if two censuses in a row show that more than 10% of a particular ETC's Lifeline customers are ineligible, would that be evidence that the ETC has failed to implement adequate internal controls to assure compliance with Commission rules to such degree that it would be appropriate to

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<sup>318</sup> In addition to non-responders, should we exclude Lifeline customers who are no longer eligible for the program, have received a notice of termination, and are within the 60-day termination window? See 47 C.F.R. § 54.405(d). If so, how should we treat such customers and how would an ETC determine when a particular customer lost eligibility?

<sup>319</sup> We note that a higher threshold may be appropriate in the context of the Lifeline program since Lifeline subscribers have 60 days to de-enroll if they lose eligibility (and the survey may occur during this 60-day window for some subscribers). See 47 C.F.R. § 54.405.

<sup>320</sup> Under the Improper Payments Information Act of 2002, that if more than 2.5% of payments for a given federal program are erroneous, then a program is deemed "at risk," and the federal government is required to take steps to reduce the level of improper payments. See Payment Accuracy, <http://paymentaccuracy.gov> (last visited Mar. 2, 2011).

<sup>321</sup> 2010 Recommended Decision, 25 FCC Rcd at 15609, para. 31.

revoke that ETC's designation to receive federal Lifeline and Link Up support? If so, what would be the effect on subscribers receiving service from the offending ETC? For example, should subscribers be offered an automatic transfer to a different ETC or be required to re-enroll?

188. In the alternative, we seek comment on how to modify the current formula used in federal default states and applying that revised formula in all states. We propose to eliminate the current cap on the estimated ineligibility rate of 6 percent. Should we require a larger sample size that would gradually increase the number of customers that an ETC must survey each year when a specified level of ineligibility is found? We recognize that a statistically valid sample is likely sufficient when the percentage of customers found ineligible is very low and the sample size is sufficiently large.<sup>322</sup> But if the number of ineligible subscribers (including those that do not respond to the verification survey) becomes significant, should ETCs be required to verify eligibility of a proportionately larger number of customers than necessary for a statistically valid sample, to provide increasing incentives for the ETC to root out any potential waste, fraud, and abuse? We seek comment on potential modifications to the existing formula to better comport with our goals for revising the annual verification sampling procedures of ETCs.

189. We seek comment on both alternative proposals. To what extent would each proposal address the potential issues with today's methodology? Each proposal would eliminate the 6 percent "cut-off" that may distort the statistical reliability of today's sampling methodology. Each could incentivize ETCs to educate their customers and increase the response rates of customers—the sample-and-census proposal would do so by putting the onus on ETCs to get a sufficient number of respondents, while a modified formula potentially could allow smaller verification surveys the following year if more customers respond to the verification survey. The first proposal includes a method for weeding out ineligible customers when one year's survey suggests that the number of ineligible customers is unacceptably high. Under the second approach, it could take several years to more fully identify ineligible subscribers for a given ETC and in the meanwhile, ineligible consumers would continue to receive support in contravention of our rules. We also acknowledge while our current statistical sampling methodology may work well for ETCs with a large number of subscribers, there is a risk of highly uncertain results for ETCs with small Lifeline subscriber populations.

190. We seek comment on these two proposals. We also seek comment on alternative proposals. Are there other ways to modify the current federal methodology to improve it as we seek to make that the uniform minimum federal standard in all states? We also seek comment on methods used by non-federal default states to select a sample of subscribers that might provide a model for a uniform federal standard. What sample size and confidence intervals are used by the various states that require statistical sampling?

191. *Procedures to be followed after sampling.* When an ETC samples its customers, there are three possible outcomes: (1) some subscribers will not respond; (2) some respondents are eligible; and (3) other respondents are ineligible.

192. We propose to require ETCs to de-enroll from the program consumers who decline to respond to the ETC's verification attempts. Our rules require ETCs in all states and territories to terminate Lifeline service if the carrier has a reasonable basis to believe that a subscriber no longer

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<sup>322</sup> See Appendix C (Verification Sample Size and Margin of Error). Under the Improper Payments Information Act of 2002, a program is "at risk" if the erroneous payment rate exceeds 2.5% and the total amount of erroneous payment is greater than \$10 million. Improper Payments Information Act of 2002, Pub. L. No. 107-300, 116 Stat. 2350.

satisfies the qualifying criteria.<sup>323</sup> Codifying the specific requirement that they be de-enrolled for non-response in our rules would further protect the program from waste, fraud, and abuse. ETCs conducting verification surveys typically receive responses from only some of the consumers surveyed. We note that ETCs already routinely de-enroll customers that do not respond to the ETC's verification efforts, so this rule would not impose significant burdens on ETCs. We seek comment on this proposal.

193. *Collection and submission of verification sampling data.* Under current rules, the Commission has access to verification results only from ETCs in federal default states and in a handful of states that require ETCs to submit information annually to USAC.<sup>324</sup> The Joint Board noted that gathering the same minimal data from all states would provide the Commission a more complete picture of how the Lifeline program is utilized, and would help identify regional and national verification issues.<sup>325</sup> A more comprehensive data set would also allow the Commission to continue refining its rules and policies to reduce waste, fraud, and abuse in the program. We propose to require all states to submit verification sampling data to USAC. We seek comment on this proposal.

194. Consistent with the Joint Board's recommendation, we seek comment on whether verification results submitted to USAC and the Commission should be shared with all states.<sup>326</sup> The Joint Board also points out that making aggregate verification results available to the public could better inform interested parties about whether universal service funds are being used for their intended purposes.<sup>327</sup> Accordingly, we seek comment on whether the Commission should periodically publish aggregated verification results. Finally, we seek comment on whether information relating to any other Lifeline or Link-Up eligibility criteria should be gathered by ETCs and submitted to USAC and the Commission during the certification and verification processes.

195. *Certification and verification best practices.* Consistent with the Joint Board's recommendation, we seek comment on states' certification and verification practices.<sup>328</sup> The Joint Board noted that it received limited information regarding state certification and verification practices.<sup>329</sup> More comprehensive data on states' practices would assist the Commission with establishing appropriate uniform minimum standards. Therefore, we seek to build the record regarding best practices for certifying and verifying household eligibility. We encourage states, ETCs, Tribal governments, consumer groups, and others to provide us with their experiences with different certification and verification procedures, and to identify those that could be adopted as uniform minimum standards for all states.

196. In particular, we seek data on how program eligibility is verified in particular states, how frequently verification is required, by whom verification is conducted, and the scope of the verification process (e.g., the proportion of subscribers that are sampled). We also seek data on whether states impose different verification responsibilities on different types of carriers. For example, we understand that in

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<sup>323</sup> 47 C.F.R. § 54.405(c),(d). This may also include non-responders. See Appendix B; *Deadline for Annual Lifeline Verification Surveys and Certifications*, WC Docket No. 03-109, Public Notice, 25 FCC Rcd 7272, 7277, para. 8 (Wireline Comp. Bur. 2010) (*Verification Public Notice*).

<sup>324</sup> The following non-federal-default states require ETCs to submit their verification results to USAC: Alabama, Arkansas, Arizona, New York, North Carolina, Pennsylvania, and West Virginia. Given that there are 10 federal-default states, this means USAC currently receives verification results for a total of 17 states and territories.

<sup>325</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15607-08, para. 27.

<sup>326</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15608, para. 29.

<sup>327</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15607-08, para. 27.

<sup>328</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15608, para. 29.

<sup>329</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15610, para. 33.

some states Lifeline-only pre-paid wireless carriers may be subject to verification requirements different from other types of carriers.<sup>330</sup>

197. *Certification and verification responsibilities and cost.* Consistent with the Joint Board's *2010 Recommended Decision*, we seek to develop a fuller record on who should be certifying and verifying continued eligibility.<sup>331</sup> In the federal default states ETCs perform these functions, while in other states, third-party administrators or social services agencies may perform them. Comprehensive data on certification and verification responsibilities and costs would assist the Commission in determining the most appropriate entity to certify and verify Lifeline consumers' eligibility. Specifically, as suggested by the Joint Board, we seek comment on the costs of requiring ETCs, states, or third-parties to undertake certification and verification procedures.<sup>332</sup>

198. Requiring ETCs to verify eligibility by interacting with consumers may present challenges, including consumers' hesitancy to provide personal information to ETCs.<sup>333</sup> We also note that to the extent an ETC is seeking to build a Lifeline customer base, it may not have the same incentives to verify continued eligibility for benefits as would a neutral third party or government agency. Additionally, federal, state, or Tribal agencies administering qualifying programs may be able to provide more reliable and more accurate information than consumers for verifying program or income eligibility.<sup>334</sup> Therefore, we seek comment on whether ETCs should continue to be responsible for conducting eligibility certification and verification directly with Lifeline consumers, and on how income-based eligibility can be verified if not directly through the consumer. Further, we seek comment on the relative merits of relying upon ETCs, state agencies, Tribal governments, or other third-party entities to conduct initial certification and subsequent verification of eligibility. We seek comparisons of state practices or procedures, including how various practices have impacted the number of ineligible subscribers and duplicates, and other forms of waste, fraud, and abuse.

### C. Coordinated Enrollment

#### 1. Background

199. Coordinated enrollment is a mechanism that allows consumers to enroll in the Lifeline and Link Up programs at the same time they enroll in a qualifying public assistance program. The Commission has encouraged coordinated enrollment as a best practice since the *2004 Lifeline and Link Up Order*. The National Broadband Plan recommended that the Commission encourage state agencies responsible for Lifeline and Link Up to streamline enrollment for benefits, and suggested the use of unified online applications for social services.<sup>335</sup> In its *2010 Recommended Decision*, the Joint Board affirmed that coordinated enrollment should be encouraged as a best practice.<sup>336</sup>

200. Several states use coordinated enrollment to allow ETCs to confirm in near real-time

<sup>330</sup> See NASUCA Joint Board Reply Comments at 14 (identifying that FL requires verification every 60 days for some pre-paid wireless carriers); see also generally *TracFone ETC Designation Order*; *TracFone Forbearance Order*; *Virgin Mobile Forbearance Order*; *i-Wireless Forbearance Order*; *Global Forbearance Order* (identifying the federal requirements imposed on pre-paid wireless carriers).

<sup>331</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15609-10, para. 32.

<sup>332</sup> *Id.*

<sup>333</sup> *Id.*

<sup>334</sup> See *id.*

<sup>335</sup> NATIONAL BROADBAND PLAN at 175.

<sup>336</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15604, para. 18.

whether a potential customer is eligible for support.<sup>337</sup> Coordinated enrollment is distinct from “automatic” or “automated” enrollment, in which a state automatically enrolls eligible consumers in the Lifeline program when such consumers subscribe to phone service.<sup>338</sup> Unlike automatic or automated enrollment, coordinated enrollment requires eligible consumers to affirmatively choose to enroll in the Lifeline program.

## 2. Discussion

201. We agree with the Joint Board’s recommendation that coordinated enrollment should be encouraged as a best practice by the states.<sup>339</sup> Coordinated enrollment can provide an important protection against fraud because eligibility is certified by the appropriate state or Tribal agency. We also agree with the Joint Board and many commenters that there are certain administrative, technological, and funding issues associated with coordinated enrollment. We seek comment on whether mandating coordinated enrollment would be appropriate, though we note that the record is not yet well developed on this issue. We seek further information about the costs and benefits of coordinated enrollment. We also seek to understand what if any steps the Commission might take to facilitate coordinated enrollment in all states.<sup>340</sup>

202. *Administrative issues.* We seek to build on the information we have collected from states and Tribal governments that are developing electronic interfaces to administer the Lifeline/Link Up program through coordinated enrollment. In the Joint Board proceeding, a few states provided detailed information regarding their coordinated enrollment best practices. For example, California explained that it moved from an automatic enrollment system to a system that pre-qualifies eligible consumers who must then affirmatively accept the service.<sup>341</sup> Additionally, the GAO Report noted that states in its survey found that using various types of automatic enrollment procedures has a positive impact on reaching and enrolling eligible consumers.<sup>342</sup> We seek comment on ways to ensure that coordinated enrollment provides fair and equivalent access to all providers of Lifeline service in a state,<sup>343</sup> how to provide prompt and accurate notification of customer eligibility to carriers,<sup>344</sup> and whether and how to ensure that a coordinated enrollment program would not prevent eligible consumers from qualifying under the income

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<sup>337</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 18 FCC Rcd 6589, 6608, para. 38 (Jt. Bd. 2003) (2003 Recommended Decision); see also LIFELINE ACROSS AMERICA WORKING GROUP, REPORT OF THE FCC/NARUC/NASUCA WORKING GROUP ON LIFELINE AND LINK-UP: “LIFELINE ACROSS AMERICA” 6 (2007), <http://www.lifeline.gov/LLLUReport.pdf> (WORKING GROUP REPORT). In its Report, the Working Group cited Iowa, New Mexico, New Jersey, New York, North Dakota, and Washington as states utilizing automatic enrollment in some fashion. WORKING GROUP REPORT at 6, 10; see also 2010 GAO REPORT at 19.

<sup>338</sup> Nebraska PSC Joint Board Comments at 4-5.

<sup>339</sup> *Id.*

<sup>340</sup> CPUC Joint Board Comments at 13-14; PRWI Joint Board Comments at 11, PRWI Joint Board Reply Comments at 15; Smith Bagley Joint Board Comments at iii and at 9-10; Smith Bagley Joint Board Reply Comments at 14 (suggesting that current economic conditions and state budgetary problems appear to make an automatic enrollment mandate impractical unless sources of federal funding could be identified).

<sup>341</sup> CPUC Joint Board Comments at 7.

<sup>342</sup> 2010 GAO REPORT at 19.

<sup>343</sup> TracFone Joint Board Comments at 7.

<sup>344</sup> *Id.* at 6.

criteria.<sup>345</sup> We also seek comment on how many and which states and Native Nations would require changes in state or Tribal laws to effectuate coordinated enrollment.

203. *Technological issues.* Individual states or Tribal governments may face unique technological circumstances and burdens that make it impractical or unduly burdensome to implement coordinated enrollment. For example, the ability of a state or Tribal government to implement coordinated enrollment may depend upon the capabilities of existing data processing equipment, software, and data communication networks. We seek comment on these burdens and seek detailed information on the technological hurdles that states or Tribal governments would face, and how these challenges can be overcome. How many states and Tribal governments would need to upgrade or add data processing equipment, software, data networks, or other technology solutions in order to implement coordinated enrollment?

204. *Funding issues.* We are aware that there could be significant costs associated with coordinated enrollment, including the costs of safeguarding consumers' privacy and security, administering the program, and developing and maintaining software and equipment.<sup>346</sup> How have states that have implemented coordinated enrollment funded associated costs? If the Commission were to mandate coordinated enrollment, should states and Tribal governments be required to provide all of the necessary funding, or should the Universal Service Fund bear some of those costs, and if so, what portion? We ask states that have developed or are developing coordinated enrollment programs to provide data on the associated costs. We also seek comment on the overall cost savings, if any, associated with coordinated enrollment, and on any other benefits that arise from coordinated enrollment. For example, have coordinated enrollment procedures helped states or Tribal governments better target benefits to intended beneficiaries? We ask for comment on the extent to which coordinated enrollment might lead to increased participation in the low income program. We seek comment on whether coordinated enrollment would reduce fraud if participants were required to use a coordinated enrollment process in order to obtain benefits. We encourage commenters to quantify, to the extent possible, the magnitude of any administrative costs and potential savings of coordinated enrollment.

#### **D. Database**

##### **1. Background**

205. The measures we propose above to reduce waste, fraud, and abuse could be implemented quickly to strengthen the program, but we are also interested in more comprehensive improvements. In particular, a national database or information management system could substantially reduce burdens on consumers, ETCs, states, and USAC; eliminate the need to certify eligibility on a state-by-state basis; and help identify program violations. Some argue that a national database may be the only effective method for protecting the program against waste, fraud, and abuse.<sup>347</sup>

206. The National Broadband Plan recommended that the Commission explore the steps necessary to implement a centralized database for online certification and verification of low-income

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<sup>345</sup> Commenters to the *Joint Board Referral Order* expressed concern that coordinated enrollment would capture only those eligible consumers participating in federal assistance programs, but not low-income households that do not participate either by choice or due to other factors. See PRWI Joint Board Comments at 10; Smith Bagley Joint Board Reply Comments at 14. MoPSC points out the need to attempt to avoid reluctance on the part of federal agencies to allow any parties direct access to their data bases. MoPSC Joint Board Comments at 5.

<sup>346</sup> Consumer Groups Joint Board Comments at 15; CPUC Joint Board Comments at 13-14; FL PSC Joint Board Comments at 4-5; PaPUC Joint Board Comments at 5; PaPUC Joint Board Reply Comments at 5-6.

<sup>347</sup> Letter from Alan Buzacott, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission (dated Dec. 14, 2010) (Verizon Dec. 14, 2010 *Ex Parte* Letter).

households based on numerous proposals in the record.<sup>348</sup> Similarly, the Joint Board encouraged the Commission to further explore the implications of creating or supporting some type of eligibility database.<sup>349</sup> Many ETCs, state commissions, and consumer advocates also support the implementation of a database.<sup>350</sup>

207. We propose to create a national database to verify consumer eligibility, track verification and check for duplicates to ensure greater program accountability. We seek to develop a robust record on the development and implementation of a centralized database, including comments on who should administer the database; whether there should be one national database or multiple regional or state databases; what functions the database should include; the costs of constructing and maintaining a database and what funding sources should be used to defray those costs; and how data security and privacy issues should be addressed.

## 2. Discussion

208. *Administration.* We seek comment on who should administer the program database. Should USAC be the primary administrator of a centralized system, or should the Commission select another third-party to administer the database? Is a governmental agency in a better position to safeguard consumers' highly sensitive information, such as household income, than a third-party?<sup>351</sup> Several commenters note that state social service agencies interact most closely with the program's target population, and may be most competent to deal with low-income households' sensitive documents.<sup>352</sup> What models or best practices are there in other contexts for social service programs?

209. *Functionality.* We have heard from several ETCs that a national database may be the

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<sup>348</sup> See NATIONAL BROADBAND PLAN at 173; see also Nebraska Public Service Commission Comments, GN Docket Nos. 09-47, 09-51, 09-137, at 9 (filed Dec. 7, 2009) (suggesting "the Commission should work with states to develop an accurate system that could be administered either at a central location or as a cooperative arrangement between states and the Universal Service Administrative Company for eligibility and verification of low-income participants"); NASUCA Comments, GN Docket Nos. 09-47, 09-51, 09-137, at 35 (filed Dec. 7, 2009) (suggesting that "a universal database could be created to trap 'double-dippers'" who seek to obtain Lifeline-supported service from two different providers).

<sup>349</sup> 2010 Recommended Decision, 25 FCC Rcd at 15611-12, para. 36.

<sup>350</sup> See, e.g., AT&T Joint Board Comments; CPUC Joint Board Comments; CTIA Joint Board Reply Comments; FPSC Joint Board Comments; MAG-Net Joint Board Comments; NASUCA Joint Board Comments; Nexus Joint Board Comments, NPSC Joint Board Comments; Ohio PUC Joint Board Comments; Qwest Joint Board Reply Comments; Smith Bagley Joint Board Comments; TracFone Joint Board Comments; US Telecom Joint Board Comments; Verizon Joint Board Comments; YourTel Joint Board Comments; see also Letter from Mitchell F. Brecher, Counsel, TracFone Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (filed Dec. 7, 2010) (TracFone Dec. 7, 2010 *Ex Parte* Letter); Verizon Dec. 14, 2010 *Ex Parte* Letter; Letter from Matt Connolly, Special Projects Manager, YourTel America, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (filed Dec. 10, 2010) (YourTel Dec. 10, 2010 *Ex Parte* Letter).

<sup>351</sup> Verizon, for example, noted that California and Texas already have state-contracted Lifeline administrators. See Verizon Dec. 14, 2010 *Ex Parte* Letter.

<sup>352</sup> Letter from Genevieve Morelli, Counsel, Emerios, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 03-109, dated December 16, 2010 (Emerios Dec. 16, 2010 *Ex Parte* Letter); Letter from Genevieve Morelli, Counsel, Emerios, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 03-109, dated December 16, 2010 (Emerios Jan. 4, 2011 *Ex Parte* Letter).

best means to protect against waste, fraud, and abuse.<sup>353</sup> We seek comment on how we can create and implement a database that would enable efficient enrollment by households in the program, but also guard against waste, fraud and abuse. For example, AT&T proposes a national PIN database that would answer two questions: 1) has a consumer been deemed eligible by the state; and 2) is the consumer already receiving Lifeline discounts? Under AT&T's proposal, states would assume responsibility for determining consumer eligibility and assigning a PIN that would be provided in blocks to various states by USAC. ETCs would access the database and be able to determine and change the status of a consumer.<sup>354</sup>

210. We seek comment on what functions should be served by a centralized database and the priorities for implementation. We are interested in understanding whether there are databases or systems used to facilitate other government-supported programs that can serve as models.

211. First, we seek comment on the functionality that should be included in any information system that facilitates enrollment certification, and ongoing verification of eligibility. For example, how could a system simplify the certification process and provide real-time electronic verification of consumer eligibility?<sup>355</sup> How can we ensure that the database provides ongoing verification of consumer eligibility?<sup>356</sup> In addition, we seek comment on the type of information that the database would need to contain regarding a consumer's current Lifeline enrollment status.<sup>357</sup> How would ETCs access eligibility information? CGM notes that Wisconsin provides real-time certification of customer eligibility at the time of enrollment.<sup>358</sup> Could Wisconsin's system provide a model for a nationwide database?

212. In addition, we seek comment on whether a nationwide database could efficiently and effectively facilitate ongoing verification of customer eligibility. We seek comment on how a database would receive updates on changes in consumers' eligibility from appropriate social service agencies so that eligibility for Lifeline could be monitored in a timely manner.<sup>359</sup> For example, if a database is linked to a federal or state system that contains information regarding customer enrollment in a qualifying program and the subscriber becomes ineligible in that qualifying program sometime after enrolling in Lifeline, how would the system notify the ETC that the subscriber is no longer eligible for Lifeline? Would the system alert the ETCs on a periodic basis or every time a subscriber drops out of the qualifying program? We seek comment on the procedures ETCs would follow when a subscriber becomes

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<sup>353</sup> Letter from Mary L. Henze, Assistant Vice President, Federal Regulatory, AT&T Services, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109, at 4 (filed Sept. 24, 2010) (AT&T Sept. 24, 2010 *Ex Parte* Letter); TracFone Dec. 7, 2010 *Ex Parte* Letter; Verizon Dec. 14, 2010 *Ex Parte* Letter.

<sup>354</sup> Letter from Mary L. Henze, AT&T, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 03-109 (filed Feb. 18, 2011) (AT&T Feb. 18, 2011 *Ex Parte* Letter).

<sup>355</sup> See *supra* Section VII.B (Certification and Verification of Consumer Eligibility for Lifeline).

<sup>356</sup> See *supra* Section VII.A (Eligibility Criteria for Lifeline and Link Up).

<sup>357</sup> PRWI Joint Board Comments at 10.

<sup>358</sup> Letter from Steven A. Augustino, Counsel, CGM, LLC, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 03-109, (filed Dec. 9, 2010) (CGM Dec. 9, 2010 *Ex Parte* Letter). CGM is a software development firm that designs, develops, and delivers software systems and outsourced solutions to service providers, including competitive and incumbent wireline providers and wireless providers.

<sup>359</sup> Stakeholders have reported on their experience using different state systems and processes, such as Texas, California, and Florida, that utilize different methods for updating consumer eligibility information. See Letter from David J. Redl, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45 (filed Jan. 13, 2011) (CTIA Jan. 13, 2011 *Ex Parte* Letter); Verizon Dec. 14, 2010 *Ex Parte* Letter.

ineligible. For example, would the subscriber be given a grace period to secure alternative service once de-enrolled in Lifeline? How, if at all, could a database be updated to reflect changes in income eligibility?<sup>360</sup>

213. We also seek comment on whether a national database would resolve the issue of annual verification by providing an effective means of verifying customer eligibility monthly, quarterly, or annually? How could a nationwide database accommodate the differences in state Lifeline practices, which include varying Lifeline eligibility criteria and verification mechanisms?<sup>361</sup> Additionally, we seek comment on the impact a national database would have on carriers' administrative burden.<sup>362</sup>

214. Second, we seek comment on the functionality required to eliminate duplicate claims for support<sup>363</sup> and generally guard against waste, fraud, and abuse.<sup>364</sup> Stakeholders have stated that a national database could eliminate fraudulent and duplicate claims for Lifeline support by performing a pre-qualification address verification.<sup>365</sup> Currently, only Texas has a database that can identify duplicate claims, but the database does not allow ETCs to determine immediately if a household is enrolled in another program.<sup>366</sup> Rather, ETCs must wait to hear from the system administrator whether the potential household is being served by another ETC. Because the Texas database is not updated in real-time, stakeholders report that there is significant lag-time in signing up customers.<sup>367</sup> Is it necessary or desirable to update the database on a real-time basis?

215. Third, we seek comment on how the database would be populated and by whom. Some commenters have pointed out that a national database populated by the states as well as ETCs could simplify the certification process by providing accurate and up-to-date information on eligibility.<sup>368</sup> Other commenters explain that state social service agencies are best situated to provide these inputs.<sup>369</sup> We seek comment on what authority the Commission has to require state social service agencies to provide inputs in the database. We seek comment on who should be charged with populating the database.

216. A national database would need to have the ability to normalize or standardize data into a common format in order to account for variations in consumer- or ETC-provided data fields, especially addresses. What entity or entities would be responsible for populating a national database with the necessary customer eligibility information? Would ETCs populate the database for all customer data, and if that is the responsibility of ETCs, should we impose different deadlines for completion depending on the number of Lifeline subscribers for each ETC. Would a phased implementation schedule be an appropriate way to populate such a national database? If we were to adopt such an approach, what

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<sup>360</sup> AT&T Joint Board Reply Comments at 3-4; Nebraska PSC Joint Board Comments at 6.

<sup>361</sup> AT&T Joint Board Comments at 3.

<sup>362</sup> CPUC Joint Board Comments at 17; Smith Bagley Joint Board Reply Comments at 10.

<sup>363</sup> See *supra* Section IV.A (Duplicate Claims).

<sup>364</sup> See *supra* Section IV (Immediate Measures to Eliminate Waste, Fraud, and Abuse).

<sup>365</sup> See, e.g. AT&T Joint Board Comments at 14; FL PSC Joint Board Comments at 3; Leap Joint Board Comments at 6; Sprint Joint Board Reply Comments at 5; see also Emerios Dec. 16, 2010 *Ex Parte* Meeting.

<sup>366</sup> TracFone Dec. 7, 2010 *Ex Parte* Letter.

<sup>367</sup> *Id.*

<sup>368</sup> CGM Dec. 9, 2010 *Ex Parte* Letter; Emerios Dec. 16, 2010 *Ex Parte* Letter; Emerios Jan. 4, 2011 *Ex Parte* Letter.

<sup>369</sup> Emerios Dec. 16, 2010 *Ex Parte* Letter; Emerios Jan. 4, 2011 *Ex Parte* Letter.

threshold should we establish to determine when different providers are required to participate, and should that be based on the size of the ETC (total subscribers) or the number of low-income subscribers it has?

217. Fourth, we seek comment on the system requirements of a national database. For example, Emerios noted that a database must be flexible enough to allow for consumers to easily switch between providers,<sup>370</sup> and CTIA points out that a database should include enough fields so that if the fund supports other services in the future that the database would remain relevant and useful.<sup>371</sup> We seek comment on these issues as well as other matters implicated by a national database.

218. *Costs and Funding.* We seek comment on the best way to fund and maintain a national database. Should database administration be funded completely or partially from the Universal Service Fund?<sup>372</sup> Alternatively, if fees are assessed on ETCs to fund a national database, should fees be assessed on a per Lifeline-applicant basis, per instance of accessing the database (per “dip” into the database), or both? Emerios estimates that a centralized database would cost approximately \$1 per application to administer.<sup>373</sup> CGM and YourTel suggest that ETCs pay \$.05 - \$.10 per dip.<sup>374</sup> How many “dips” would be expected per year? Is there some other ETC assessment mechanism that would be more appropriate, such as a one-time flat fee? Verizon suggests that California’s model of funding a third-party administrator using a customer-billed surcharge is an effective strategy.<sup>375</sup> Are there examples of funding for program participation databases in other contexts that could serve as a model?<sup>376</sup>

219. We seek comment on what costs the states might incur if a national database were established. For example, what costs would be associated with set-up, continuous operation, and updating of appropriate state databases that may be used for state low-income programs, as well as establishing appropriate telecommunications and information links and electronic data interfaces (EDIs) with a national database. Additionally, would existing state databases need to be modified in order to be compatible with a national database and at what cost? Could a national database have the inherent capability to perform seamless data protocol conversions while interacting with the state databases? The existing proposals have not addressed how the related non-recurring and recurring costs would be allocated among the individual states, the national/federal level, and ETCs.<sup>377</sup> However, as Emerios points out, states could be incentivized to connect to an existing national database because of the reduced costs of interfacing with a single database rather than potentially interacting with numerous providers.<sup>378</sup> Thus, even in the absence of a state mandate to interface with a national database, states may find moving towards automation to be fiscally sound. Alternatively, are there federal agencies with which we could partner to populate consumer eligibility data?

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<sup>370</sup> Emerios Dec. 16, 2010 *Ex Parte* Letter; Emerios Jan. 4, 2011 *Ex Parte* Letter.

<sup>371</sup> CTIA Jan. 13, 2011 *Ex Parte* Letter.

<sup>372</sup> AT&T Joint Board Comments at 9-10; AT&T Joint Board Reply Comments at 3-4.

<sup>373</sup> See Emerios Jan. 4, 2011 *Ex Parte* Letter, at 4.

<sup>374</sup> CGM Dec. 9, 2010 *Ex Parte* Letter.

<sup>375</sup> Verizon Dec. 14, 2010 *Ex Parte* Letter.

<sup>376</sup> For example, we note that Medicaid utilizes the Medicaid Management Information System (MMIS) which encompasses one criteria for eligibility for Lifeline and Link Up. See Medicaid Management Information Systems (MMIS) Overview, <https://www.cms.gov/MMIS>; see also 47 C.F.R. § 54.409(b).

<sup>377</sup> PaPUC Joint Board Reply Comments at 6-7.

<sup>378</sup> Emerios Dec. 16, 2010 *Ex Parte* Letter; Emerios Jan. 4, 2011 *Ex Parte* Letter.

220. *Data Security and Privacy Issues.* We note that the privacy-based limitations on the government's access to customer information in Title II of Electronic Communications Privacy Act (ECPA), section 222 of the Communications Act, and our implementing rules and the privacy provisions of the Cable Act, may be implicated by collection of the data discussed here.<sup>379</sup> We seek comment on whether any of these pre-existing regulatory or statutory requirements would impose any restrictions on the storage by a database administrator of customer eligibility, certification, and verification data. We seek comment on how best to address these concerns. We ask commenters to suggest ways in which a database could comply with any such requirements, and how could it be set up both to get useful data and to minimize the burden on consumers and reporting entities? Are the concerns alleviated if consumers provide information directly to the Commission, or if the ETC obtains consumer consent through a waiver at the time of enrollment? If the latter, what steps could the Commission take to ensure that consumers have provided consent? How could the Commission address any other privacy issues, and any other legal impediments to the creation and maintenance of such a database? Are there other databases that have been constructed that could serve as a model for developing a database for Lifeline/Link Up? Specifically, we seek input from the states that have developed similar databases on how best to achieve our goal of allowing ETCs to access relevant data while protecting consumers' privacy.

221. We note that different states have different laws governing privacy of consumer data. We seek comment to better understand the differences in state privacy and security laws concerning the program eligibility data. We also seek comment to explore how to construct an IT platform that could ensure data security while enabling convenient access for all Lifeline providers across the country. Emerios points out that having a single platform, populated by ETCs, which all states can access, decreases the risk of security breaches by reducing the number of portals for inputting sensitive information.<sup>380</sup> Would a national database be a more effective way to ensure consumer privacy than requiring individual ETCs to gather documentation establishing household eligibility?<sup>381</sup>

222. *State/Regional Database.* We also seek comment regarding the feasibility and potential advantages and disadvantages of regional and state databases as opposed to, or in addition to, a national database. We seek comment on several key factors that parallel the critical issues outlined above for a national database, such as administration, cost and funding, privacy, and data security issues. We are interested in the advantages and disadvantages of these possible models.<sup>382</sup> Consistent with the goal of preventing waste, fraud, and abuse, where a state has taken steps to automate the process to streamline or enhance eligibility and certification procedures and/or to prevent duplicate claims, we propose to require all ETCs operating in that state to utilize that state-managed process. We seek comment on this proposal.

#### **E. Electronic Signature.**

223. Section 54.409(d) requires carriers to "obtain [a] consumer's signature on a document certifying under penalty of perjury" that the consumer meets certain Lifeline eligibility requirements.<sup>383</sup> Section 54.410 requires carriers to verify continued eligibility by surveying consumers who must prove their continued eligibility and "self-certify under penalty of perjury" to certain requirements relevant to

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<sup>379</sup> See, e.g., 18 U.S.C. § 2510; Electronic Communications Act (ECPA), tit. II (Stored Communications Act (SCA)), 18 U.S.C. § 2701 et seq. (2006); Cable Communications Policy Act of 1984 (the Cable Act), 47 U.S.C. § 551 et seq. (2006); 47 U.S.C. § 222.

<sup>380</sup> Emerios Dec. 16, 2010 *Ex Parte* Letter; Emerios Jan. 4, 2011 *Ex Parte* Letter.

<sup>381</sup> See, e.g., AT&T Joint Board Reply Comments at 10-11; TracFone Joint Board Comments at 7.

<sup>382</sup> See AT&T Joint Board Reply Comments at 10-11; TracFone Joint Board Comments at 7.

<sup>383</sup> 47 C.F.R. § 54.409(d).

continued eligibility.<sup>384</sup> Virgin Mobile has requested to enroll Lifeline consumers online by allowing applicants to electronically sign the application and to enroll customers by telephone using an Interactive Voice Response (IVR) system, which records and saves by phone an applicant's certification of eligibility.<sup>385</sup>

224. The Electronic Signatures in Global and National Commerce Act (E-Sign Act)<sup>386</sup> and Government Paperwork Elimination Act<sup>387</sup> make clear that electronic signatures have the same legal effect as written signatures. We propose to allow consumers to electronically sign the "penalty of perjury" requirements of sections 54.409(d) and 54.410 of the Commission's rules. Because there is no general Commission rule on use of electronic signatures, we seek comment on the rules defining and guidelines for accepting electronic signatures for Lifeline enrollment, certification, and verification. For example, should sections 54.409(d) and 54.410 be amended to make clear that electronic signature is an acceptable "signature on a document" as required by the rules? We seek comment on how we can ensure that ETCs maintain copies of the household certifications in the event of duplicates or other questions concerning compliance with our rules.

225. We seek comment on whether an IVR telephone system is an acceptable method to verify a consumer's signature under sections 54.409(d) and 54.410 of the Commission's rules.<sup>388</sup> Unlike section 54.410, section 54.409(d) specifically requires a signature by an eligible consumer, and we seek comment on whether an interactive voice response (IVR) telephone system satisfies the signature requirement of the rules. We note that the Commission has allowed the use of automated processes in other instances requiring verification by adopting rules specifically authorizing the use of such automated processes.<sup>389</sup> How would ETCs satisfy the recordkeeping requirements of section 54.417 using an IVR telephone system?<sup>390</sup>

## VIII. CONSUMER OUTREACH & MARKETING

226. Section 214(e)(1)(B) of the Act requires ETCs to advertise the availability of services supported by universal service funds "using media of general distribution."<sup>391</sup> Over the years, the Commission has highlighted the importance of outreach to low-income consumers,<sup>392</sup> including by adopting outreach guidelines in its *2004 Lifeline and Link Up Order*.<sup>393</sup>

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<sup>384</sup> 47 C.F.R. § 54.510.

<sup>385</sup> Letter from Peter Lurie, Virgin Mobile USA, L.P., to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 09-197 (filed March 4, 2010).

<sup>386</sup> 15 U.S.C. §§ 7001-7004 (2006).

<sup>387</sup> 44 U.S.C. § 3501-20 (2006).

<sup>388</sup> 47 C.F.R. §§ 54.409(d), 54.410.

<sup>389</sup> See, e.g., 47 C.F.R. § 64.1120 (allowing automated third party verification of a subscriber's preferred carrier change).

<sup>390</sup> 47 C.F.R. § 54.417 (requiring ETCs to maintain the documentation required in §§ 54.409(d) and 54.410(b)(3) for as long as the consumer receives Lifeline service from that ETC.).

<sup>391</sup> 47 U.S.C. § 214(e)(1)(B).

<sup>392</sup> *Tribal Order*, 15 FCC Rcd at 12250, para 78.

<sup>393</sup> These outreach guidelines are: (1) States and carriers should utilize outreach materials and methods designed to reach households that do not currently have telephone service; (2) states and carriers should develop outreach advertising that can be read or accessed by any sizeable non-English speaking populations within a carrier's service area; and (3) states and carriers should coordinate their outreach efforts with governmental agencies/tribes that (continued....)

227. Advertising the availability of discounted services available to low-income households falls into two related categories: outreach and marketing. Outreach entails increasing public awareness of the program, while marketing relates to how ETCs describe and sell their USF-supported products to consumers. The Commission wants to ensure that eligible consumers are made aware of the availability of Lifeline and Link Up and seeks comment below on effective outreach methods to low-income households. Moreover, as discussed below, some ETCs are energetically marketing Lifeline- and Link Up-supported products. We seek comment on whether we should impose marketing guidelines on ETCs to ensure that consumers fully understand the benefit being offered, which may help prevent the problem of duplicate support.

228. In its *2010 Recommended Decision*, the Joint Board looked at both outreach and marketing and urged the Commission to adopt mandatory outreach requirements for all ETCs that receive low-income support from the Universal Service Fund.<sup>394</sup> In support, the Joint Board cited USAC data showing that, in 2009, only 36 percent of eligible consumers participated in Lifeline.<sup>395</sup> Based on this statistic, the Joint Board expressed concern that current outreach is ineffective or that some ETCs are neglecting low-income outreach altogether.<sup>396</sup> The Joint Board also recommended that the Commission review carrier best practices on community-based outreach;<sup>397</sup> clarify the role of the states in performing low-income outreach,<sup>398</sup> including working with ETCs to formulate methods to reach households that do not currently have telephone and/or broadband service;<sup>399</sup> and monitor ETCs' outreach efforts.<sup>400</sup> With respect to marketing, the Joint Board encouraged the Commission to provide ETCs with the flexibility to market their service offerings to eligible consumers in accordance with their respective business models, and recommended that the Commission seek comment on whether ETCs should be required to submit a marketing plan to the state or Commission describing outreach efforts.<sup>401</sup>

229. *Outreach to Households Without Telephone Service.* In 2004, the Commission adopted an outreach guideline recommended by the Joint Board that states and carriers utilize materials and methods designed to reach low-income households that do not currently have telephone service. In its *2010 Recommended Decision*, the Joint Board recommended that states should assist ETCs in two primary ways in formulating methods to reach households that do not currently have telephone and/or broadband service.<sup>402</sup> First, states can identify appropriate community institutions to participate in public-private partnerships.<sup>403</sup> Second, states can assist ETC outreach efforts by identifying unserved and

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administer any of the relevant government assistance programs. *2004 Lifeline and Link Up Order*, 19 FCC Rcd. at 8326-28, paras. 45-48.

<sup>394</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15619, para. 60.

<sup>395</sup> *Id.* at 15618-19, para. 59 n.152.

<sup>396</sup> *Id.* at 15618-19, paras. 59-60.

<sup>397</sup> *Id.* at 15621, para. 64.

<sup>398</sup> *Id.* at 15622, para. 67.

<sup>399</sup> *Id.* at 15622, para. 68.

<sup>400</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15623, para. 70.

<sup>401</sup> *Id.* at 15620-21, paras. 62-63.

<sup>402</sup> *Id.* at 15622, para. 68.

<sup>403</sup> *Id.*

underserved populations for whom outreach would be beneficial.<sup>404</sup>

230. We seek comment on the efficacy of current efforts by states and ETCs to reach low-income consumers without phone service, and what more can be done to improve outreach, particularly in states where adoption of phone service is below the national average. We seek examples of public-private partnerships that have been effective in reaching low-income households without phone service. In addition, we would like to better understand how state social service agencies or public utility commissions identify unserved populations in their states, and whether and how they could share such information with ETCs operating within their states. We also seek comment on the role of Tribal governments and organizations in identifying and reaching out to members of their communities who lack telephone service and could benefit from Lifeline and Link Up. Moreover, we are interested in any data regarding whether outreach to low-income households results in increased telephone penetration rates.

231. *Outreach to Non-English Speaking Populations.* The Commission has encouraged states and carriers to use advertising that can be read or accessed by any sizable non-English speaking populations within the ETC's service area.<sup>405</sup> The Joint Board also emphasized the importance of outreach to non-English speaking communities in its *2010 Recommended Decision*.<sup>406</sup> We seek comment on whether current outreach efforts to non-English speaking communities by states and ETCs are effective, or whether more should be done in this area. As discussed in more detail below, we seek information on community-based partnerships or initiatives that have been effective in educating non-English speaking populations about the Lifeline/Link Up program.

232. *Role of the States and Outreach with Government Assistance Programs.* Since 2004, the Commission has urged states and carriers to coordinate their outreach efforts with governmental agencies that administer any of the relevant government assistance programs.<sup>407</sup> The Commission's 2004 outreach guidelines make clear that states play an important role in working with ETCs to advertise the availability of Lifeline supported services.<sup>408</sup> Recently, the National Broadband Plan noted that requiring ETCs to conduct Lifeline outreach may not be the most effective way to reach underserved, low-income populations.<sup>409</sup> Rather, the Broadband Plan suggested that state social service agencies should take a more active role in consumer outreach by making Lifeline and Link-Up applications routinely available when the agencies discuss other assistance programs with consumers.<sup>410</sup> A few ETCs have pointed out that social service agencies are in a much better position than ETCs to approach potential consumers with information about Lifeline-assisted programs.<sup>411</sup>

233. We seek comment on what steps this Commission could take to encourage state and Tribal social service agencies to take a more active role in reaching potential Lifeline-eligible consumers going forward. For example, should we encourage the states to distribute to low income consumers comparative guides detailing the competitive Lifeline offerings available in their states?<sup>412</sup> We seek

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<sup>404</sup> *Id.*

<sup>405</sup> *Id.* at 15618, para 57.

<sup>406</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15620-21, para. 63.

<sup>407</sup> *2004 Lifeline and Link Up Order*, 19 FCC Rcd. at 8328, para 48.

<sup>408</sup> *2004 Lifeline and Link Up Order*, 19 FCC Rcd. at 8326-8327, para. 45-46.

<sup>409</sup> NATIONAL BROADBAND PLAN at 172-173.

<sup>410</sup> *Id.*

<sup>411</sup> Qwest Dec. 16, 2010 *Ex Parte* Letter; Verizon Dec. 14, 2010 *Ex Parte* Letter.

<sup>412</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15631-32 (statement of Commissioner Clyburn).

comment on who should bear the cost associated with state outreach efforts, and whether outreach costs should come out of the Universal Service Fund. And we ask commenters to identify any best practices in the area of state outreach. We also inquire whether coordinating outreach with government assistance programs should be the preferred method of outreach, as opposed to imposing mandatory outreach requirements on ETCs.

234. *Outreach by ETCs.* As noted above, the Commission has not imposed mandatory outreach obligations on ETCs, but rather adopted outreach guidelines in 2004 designed to encourage states and carriers to work together to educate consumers about Lifeline-assisted programs.<sup>413</sup> The Joint Board's *2010 Recommended Decision* recommended that the Commission adopt mandatory outreach requirements for all ETCs that receive low-income support from the Universal Service Fund.<sup>414</sup> Looking at the current Lifeline participation rate, the Joint Board expressed concern that ETCs may not be doing enough to promote their Lifeline offerings to low-income households.<sup>415</sup> The Joint Board also recommended that the Commission seek comment on whether ETCs should be required to submit a marketing plan to the state or Commission outlining their outreach efforts.

235. We seek comment on whether we should impose specific outreach requirements on ETCs, as recommended by the Joint Board. If the Commission were to adopt mandatory requirements, what should those requirements be? Would a uniform national rule be effective in achieving program goals, and what burdens would such a rule place on ETCs? In response to the *Recommended Decision*, Qwest argues that ETC advertisements do not necessarily result in more customers enrolling in the program, and that the better approach is for the state or social services agencies to promote the program.<sup>416</sup> TracFone notes that it spent \$41 million on advertising in 2010 to promote its Lifeline-supported SafeLink product, which included targeted marketing and advertisements in community newspapers.<sup>417</sup> We seek to develop a fuller record on this issue, as suggested by the Joint Board. We are interested in understanding what are the most effective outreach methods to reach consumers, and how the Commission could evaluate the impact of outreach methods over time.

236. *Community-Based Outreach.* In its *2010 Recommended Decision*, the Joint Board noted that community-based outreach may be an effective means to reach low-income households and encouraged the Commission to collect data on best practices in this area.<sup>418</sup> We ask ETCs, community-based organizations, and other interested parties to highlight community-based outreach that has been successful in educating low-income households about the Lifeline program. For example, we seek comment on the role of Tribal governments and other Tribal organizations in reaching low-income households on Tribal lands.

237. *Marketing and Uniform Language to Describe Lifeline.* Some ETCs market their Lifeline-supported products under a trade name. For example, TracFone offers Lifeline-supported service under the name SAFELINK WIRELESS®, while Virgin Mobile's competing offering is Assurance Wireless. Some eligible consumers may not understand that these products are Lifeline-supported offerings, and therefore may not realize they are violating our prohibition against having more than one Lifeline-supported service per household. To prevent consumer confusion and reduce the number of

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<sup>413</sup> *2004 Lifeline and Link Up Order*, 19 FCC Rcd. at 8326-8329, paras. 45-49.

<sup>414</sup> *2010 Recommended Decision* at 15619, para. 60.

<sup>415</sup> *Id.* at 15618-19, para. 59.

<sup>416</sup> Qwest Dec. 16, 2010 *Ex Parte* Letter

<sup>417</sup> TracFone Dec. 7, 2010 *Ex Parte* Letter, at 6.

<sup>418</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15621, para. 64.

consumers receiving duplicate support, we seek comment on whether we should require all ETCs to include language in the name of their service offering or in description of the service to make clear that the offering is supported by Lifeline. Should ETCs be required to expressly identify the service as a Lifeline-supported product in all advertising and outreach to consumers? Would it inhibit effective marketing by ETCs to require such language on the product name, potentially reducing competition for Lifeline-supported services? We seek comment on whether the other actions we propose in this Notice to eliminate waste, fraud, and abuse alleviate the need to set policies related to the marketing of Lifeline services to consumers.

238. We also seek comment on whether ETCs should be required to include in all marketing and advertising materials for Lifeline-supported offerings clear and prominent language explaining that consumers are entitled to only one Lifeline subsidy per household. Should the Commission develop model language that would be required for ETCs to use, or that would be a safe harbor for ETCs to use? If so, what should that language be? We request that ETCs provide us with the language they currently use to describe their Lifeline and Link Up service offerings.

## **IX. MODERNIZING THE LOW INCOME PROGRAM TO ALIGN WITH CHANGES IN TECHNOLOGY AND MARKET DYNAMICS**

### **A. The Current Lifeline Program**

#### **1. Voice Services Eligible for Discounts**

239. *Background.* The telecommunications marketplace has changed dramatically since the Commission created the current Lifeline program in 1997. In contrast to 1997, today incumbent telephone companies typically offer consumers packages that combine both local and long distance calling into a single plan. Some of these plans are structured so that a consumer pays a single rate regardless of whether their call is to a local or long distance number. Over the last decade, the wireless industry has migrated to packages that offer a bucket of minutes for a set price, with no distinction between local and long distance calling. Indeed, many wireless ETCs offer plans eligible for the Lifeline discount that also include nationwide calling.<sup>419</sup> From the consumer's perspective, distinctions between local and long distance calling are increasingly disappearing.

240. Currently, all ETCs must make available to qualifying low-income households certain enumerated services as part of their Lifeline service offerings, as defined by section 54.401.<sup>420</sup> These Lifeline supported services consist of a "retail local service offering" with specific functionalities including, for example, access to public switched networks, emergency services, operator services, and directory assistance.<sup>421</sup> Additionally, according to the definitions of "universal service" and "Lifeline"

<sup>419</sup> See, e.g., Assurance Wireless, <http://www.assurancewireless.com/Public/MorePrograms.aspx> (stating that Assurance Wireless offers "[s]ervice within [a] nationwide coverage area reaching more than 275 million people") (last visited Mar. 1, 2011); Cellular One, Lifeline and Link Up, <http://www.cellonenation.com/lifeline.php> (offering free in-state long distance for calls completed within the home calling area) (last visited Mar. 1, 2011); U.S. Cellular, Lifeline Plans, <http://www.uscellular.com/plans/lifeline/index.html> (offering free nationwide calling to subscribers purchasing the Lifeline Tribal lands/Oklahoma Calling Plan) (last visited Mar. 1, 2011).

<sup>420</sup> 47 C.F.R. § 54.405(a).

<sup>421</sup> 47 C.F.R. §§ 54.101, 54.401(a). Our rules require Lifeline-supported services to offer the following functionalities:

- (a) Voice grade access to the public switched network;
- (b) Local usage;
- (c) Dual tone multi-frequency signaling or its functional equivalent;
- (d) Single-party service or its functional equivalent;

(continued....)

adopted in the 1997 *Universal Service First Report and Order*, an ETC providing program support to a customer is currently reimbursed only for discounts provided on the costs of monthly basic, local telephone service.<sup>422</sup>

241. On February 8, 2011, the Commission released the *USF/ICC Transformation Notice*, which, among other things, sought comment on modifying the definition of the supported services in section 54.101.<sup>423</sup> As the Notice explains, the Commission originally chose to define supported services in functional terms, rather than as tariffed services, in order to promote competitive neutrality and provide greater flexibility.<sup>424</sup> However, due to marketplace changes, the *USF/ICC Transformation Notice* sought comment on simplifying how we describe the core functionalities and on defining them by a single term: “voice telephony service.”<sup>425</sup>

242. *Discussion.* In light of the marketplace changes noted above, it is also an appropriate time to evaluate the definition of “Lifeline” to ensure it is keeping pace with the basic connectivity needs of low-income consumers. We question whether Lifeline should continue to be defined as “basic local service.” As noted above, distinctions between local and long distance calling are becoming irrelevant in light of flat rate service offerings that do not distinguish between local and toll calls. Is the “local” qualifier outdated in light of marketplace changes? How should we define “basic” voice telephony for purposes of the Lifeline and Link Up programs?

243. We propose, consistent with the *USF/ICC Transformation Notice*, to amend the definition of “Lifeline” in section 54.401 to provide support for a set of defined functionalities known as “voice telephony service.”<sup>426</sup> This amended definition may provide simplicity for ETCs who provide and advertise Lifeline services, and will ensure consistency across universal service support mechanisms.

244. We seek comment on this proposal. Should this definition of voice telephony service encompass the nine functionalities currently specified in section 54.401? Is there any reason to modify the functionalities to be provided to ensure quality service for low-income customers? As noted by the Commission in the *USF/ICC Transformation Notice*, with respect to the performance characteristics for voice telephony service, “voice grade access” to the public switched network is defined in section 54.101 of the Commission’s rules as “a functionality that enables a user of telecommunications services to

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- (e) Access to emergency services;
- (f) Access to operator services;
- (g) Access to interexchange service;
- (h) Access to directory assistance; and
- (i) Access to toll limitation.

<sup>422</sup> See 47 C.F.R. § 54.401(a) (defining “Lifeline” as “a retail local offering” providing specified functionalities to eligible low-income consumers); see also *Universal Service First Report and Order*, 12 FCC Rcd at 8780, 8952, paras. 2, 328 (stating that, in implementing the universal service program, the Commission’s goals include a commitment to “maintain rates for basic residential service at affordable levels” and that “that Lifeline consumers should have the benefit of certain basic services and policies”).

<sup>423</sup> See *USF/ICC Transformation NPRM*, FCC 11-13, at paras. 95-97 (citing 47 C.F.R. § 54.101(a)).

<sup>424</sup> *Id.* at para. 95.

<sup>425</sup> See *id.* at paras. 96-97.

<sup>426</sup> See Appendix A, 47 C.F.R. § 54.401(a)(3). Because we are merely proposing to consolidate all currently supported services for the Lifeline program under one new term, “voice telephony service,” we need not consider whether these consolidated services should be part of the definition of supported services. 47 U.S.C. § 254(c)(1)(A)-(D).

transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz.<sup>427</sup> Is this definition appropriate for Lifeline households? How should we define services supported by Lifeline in a way that is technologically neutral and can evolve over time as technologies used to deliver voice service change in the years ahead?

## 2. Support Amounts for Voice Service

### a. Background

245. The benefit from the federal Lifeline program can vary by household depending on a number of factors. As noted above, the amount of federal Lifeline support that a household receives depends in part on the state and (if applicable) Tribal land in which the household is located. Moreover, the amount the household actually pays for phone service depends on the price charged by the carrier for offering the service and the type of service plan the carrier offers to which the discount is applied. The net result is that households end up paying significantly different amounts for their Lifeline-supported service depending on their chosen carrier and the state in which they reside, and in some cases do not pay for that service at all.

246. Under the current rules, there are four tiers of federal Lifeline support, each of which must be passed directly from the ETC to the qualifying low-income consumer in the form of discounts on the consumer's monthly bill.<sup>428</sup> All eligible subscribers receive Tier 1 support, which provides a monthly discount equal to the incumbent local exchange carrier's Subscriber Line Charge, which today is capped at \$6.50.<sup>429</sup> Tier 2 support provides an additional \$1.75 per month in federal support, available in all states.<sup>430</sup> Tier 3 support provides one-half of the subscriber's state Lifeline support amount, up to a maximum of \$1.75 per month.<sup>431</sup> Only subscribers residing in a state that has established its own Lifeline program may receive Tier 3 support, assuming that the ETC has all necessary approvals to pass on the full amount of this total support in discounts to subscribers.<sup>432</sup> Finally, Tier 4 support provides eligible subscribers living on Tribal lands up to an additional \$25 per month towards reducing basic local service rates, but the rules specify that the discount cannot bring the subscriber's rate for basic local service below \$1.<sup>433</sup>

<sup>427</sup> *USF/ICC Transformation NPRM*, FCC 11-13, at para. 86 (citing 47 C.F.R. § 54.101(a)(1)).

<sup>428</sup> See 47 C.F.R. § 54.403; see also *Universal Service First Report and Order*, 12 FCC Rcd at 8971, para. 368.

<sup>429</sup> See 47 C.F.R. § 54.403(a)(1). The SLC is a flat, monthly charge that incumbent local exchange carriers assess directly on end users of telecommunications service to recover a portion of their revenue assigned to the interstate jurisdiction. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd. 3752, 3767, para. 35 n. 81 (2002). USAC, Step 1: Lifeline Support, <http://usac.org/li/telecom/step01/lifeline.aspx> (last visited Mar. 1, 2011).

<sup>430</sup> 47 C.F.R. § 54.403(a)(2). When adopting Tier 2 support in 1997, the Commission sought to increase subscribership in those states that previously did not participate in the program. See *Universal Service First Report and Order*, 12 FCC Rcd at 8962-64, paras. 350-53.

<sup>431</sup> 47 C.F.R. § 54.403(a)(3). When adopting Tier 3 support in 1997, the Commission sought to increase subscribership and encourage states to provide matching discounts to eligible consumers. See *Universal Service First Report and Order*, 12 FCC Rcd at 8963-64, para. 353. We are aware that some states do not actually provide matching state discounts through explicit support, but rather mandate that the carrier reduce its rates by such amounts to qualify for Tier 3 support.

<sup>432</sup> See 47 C.F.R. § 54.403(a)(3).

<sup>433</sup> 47 C.F.R. § 54.403(a)(4).

247. Significant marketplace changes have occurred since the Commission adopted the Lifeline support tiers. Notably, most non-ILEC ETCs do not assess SLCs on their subscribers, and their rates are not regulated by the Commission and/or the states.<sup>434</sup> Therefore, it is unclear whether an ILEC's SLC continues to be an appropriate metric for determining the amount of support that should be provided to a non-ILEC ETC that serves a low-income household. Moreover, to varying degrees, local rates for incumbent wireline telephony companies have been deregulated.<sup>435</sup> Finally, the fact that numerous carriers are seeking designation as Lifeline-only ETCs, including prepaid wireless carriers and prepaid wireline carriers, suggests that the current structure of the program may present an attractive business opportunity for firms that employ different business models than traditional wireline carriers. As a result, it is unclear whether the aggregate amount of support or the tiered structure of support provided to an ETC for serving a low-income household and for the provision of Lifeline support should remain the same as they were in the past and whether they should remain the same for all types of carriers. Rather than just offsetting the rates paid by consumers, subsidies in an unregulated marketplace could reduce price competition and benefit providers more than consumers.<sup>436</sup> Similarly, providing the same level of support for services offered over different technology platforms may result in over-subsidizing some technologies and under-subsidizing others.

**b. Discussion**

248. We seek comment on whether there is a more appropriate reimbursement framework than the current four-tier system for determining federal support amounts for the program that will provide support for low-income households that is sufficient, but not excessive, consistent with section 254.<sup>437</sup> Should the low-income tiers of support be modified in light of the marketplace changes that have occurred since the *Universal Service First Report and Order*? Such a change could be an important step toward reducing waste in the Lifeline program. How can the Commission ensure that low-income households can continue to benefit from the expanded array of service offerings, including pre-paid

<sup>434</sup> See 47 C.F.R. §§ 69.104, 69.152(d)(1), 69.152(q). The Commission acknowledged this in the *Universal Service First Report and Order*, but ultimately opted to require that all ETCs pass Lifeline discounts in the amount of the SLC through to eligible consumers. See *Universal Service First Report and Order*, 12 FCC Rcd at 8970-71, paras. 366-67. The Commission "acknowledge[d] that the distribution of support to non-ILEC carriers cannot be achieved simply by waiving the SLC, as [c]arriers other than ILECs do not participate in the formal separations process that our rules mandate for ILECs and hence do not charge SLCs nor distinguish between the interstate and intrastate portion of their charges and costs." *Id.* at 8970, para. 366. The Commission concluded, however, that "[t]he interstate portion of ILECs' rates to recover loop costs is, almost without exception, greater than the amount of the SLC cap for residential subscribers; we are therefore confident that this amount is a reasonable proxy for the interstate portion of other eligible telecommunications carriers' costs." *Id.* at 8970-71, para. 367.

<sup>435</sup> See, e.g., KAN. STAT. ANN. § 66-2005 (2009); Texas Util. Code Ann. § 52.201 (Vernon 2007); Ohio Substitute Senate Bill No. 162 (Sept. 2010), available at [http://www.legislature.state.oh.us/bills.cfm?ID=128\\_SB\\_162](http://www.legislature.state.oh.us/bills.cfm?ID=128_SB_162); Press Release, Virginia State Corporation Commission, SCC Approves Partial Deregulation of Verizon Local Telephone Services (Dec. 14, 2007), [http://www.scc.virginia.gov/puc/comp/v\\_exch/c\\_verdereg\\_07.aspx](http://www.scc.virginia.gov/puc/comp/v_exch/c_verdereg_07.aspx); Phillip Rawls, *Alabama Phone Deregulation Increases Jan. 1 as PSC Loses Control over 4 Companies*, BIRMINGHAM NEWS, Dec. 31, 2010, [http://blog.al.com/wire/2010/12/alabama\\_phone\\_deregulation\\_inc.html](http://blog.al.com/wire/2010/12/alabama_phone_deregulation_inc.html).

<sup>436</sup> See, e.g., Scott Wallsten, Technology Policy Institute, *The DTV Coupon Program: A Boon to Retailers, not Consumers*, Sept. 15, 2008, [http://www.techpolicyinstitute.org/files/the\\_dtv\\_coupon\\_program.pdf](http://www.techpolicyinstitute.org/files/the_dtv_coupon_program.pdf) (*DTV Coupon Program Paper*) ("Because consumers pay \$0 with the coupon for any box priced \$40 or less, retailers have little incentive to reduce the price below \$40. An analysis of converter box prices at retailers around the country suggests that the coupon program has increased the price of converter boxes by \$21 - \$34.").

<sup>437</sup> See 47 U.S.C. § 254(b)(5) (universal service support should be "sufficient" to preserve and advance universal service); see also *Alenco Commc'ns., Inc. v. FCC*, 201 F.3d 608, 620 (5<sup>th</sup> Cir. 2000) ("excessive funding may itself violate the sufficiency requirements of the Act.").

wireless service, while ensuring that universal service funds are primarily benefiting consumers, rather than the carriers that serve those consumers?

249. Given the growth of the program in recent years, it is vital that the Commission ensure that funds are distributed in a targeted and meaningful way. In particular, we seek comment on whether it makes sense to continue to tie Lifeline support amounts to the federal subscriber line charge, which may not be the appropriate metric of whether service is affordable to a low-income household. Should we adopt a different framework for carriers that do not charge a subscriber line charge, or that do not allocate their costs between the intrastate and interstate jurisdictions?<sup>438</sup> Is there an amount that would better ensure affordable service for eligible households? What might be the appropriate reimbursement structure be in the future, when voice service is provided as an application over broadband networks, potentially at no additional cost to the consumers?

250. We also seek comment on whether to maintain Tiers 2 and 3 of Lifeline support as currently set forth in the Commission's rules. Should consumers be entitled to a higher or lower baseline federal support amount, justifying a change in the amount of available Tier 2 support? Similarly, should the Commission raise or lower the amount of federal matching support that is available under Tier 3? Finally, does \$25 remain a reasonable additional reimbursement rate for consumers receiving enhanced Tribal support pursuant to Tier 4? Does providing such a flat amount effectively create a price floor for carriers serving Tribal lands, even though it may be possible in some instances to serve eligible households at a lower cost (*i.e.*, for less than \$25 per month)?<sup>439</sup> We emphasize that in asking this question we are not seeking to limit benefits for low-income households, but rather looking at ways to restructure support levels to create incentives for carrier efficiency.

251. If the Commission were to create a new reimbursement structure for carriers providing Lifeline service to low-income households, should the reimbursement mechanism be different for wireless and wireline ETCs, based on their potentially divergent costs for providing service? Would there be any reason to adopt a different framework for pre-paid wireless providers as opposed to post-paid? Should the Commission maintain a tiered reimbursement structure? If so, what costs should be used as the basis for setting a support amount? Would adoption of a single, uniform flat discount amount without

<sup>438</sup> We note that TracFone filed a petition for rulemaking and a waiver request in 2009 that raised some of these issues. In its petition for rulemaking, TracFone sought to amend the definition of Tier One Lifeline support as defined in section 54.403(a)(1). *TracFone Wireless, Inc.'s Petition for Waiver of 47 C.F.R. § 54.403(a)(1)*, CC Docket No. 96-45, Petition (filed May 4, 2009) (*TracFone Tier 1 Petition*). On March 30, 2009, the Commission released a public notice seeking comment on TracFone's petition for rulemaking. Public Notice, Report No. 2885, RM-11526 (rel. March 30, 2009), <http://fjallfoss.fcc.gov/ecfs/document/view?id=6520204555>. TracFone requested that the Commission detach Tier One support from the SLC in effect for the ILEC and allow all ETCs to receive the maximum available (\$6.50 per household) in all service areas. *TracFone Tier 1 Petition* at 7-10. Additionally, TracFone requested that the Commission require ETCs claiming the maximum Tier One amount because of the rule amendment to provide an additional, unreimbursed \$3.50 in Lifeline benefits per month. *Id.* Two parties commented on the proceeding. YourTel, a small carrier based in Missouri and a participant in the Lifeline program, concurred with TracFone that Tier One support should be disconnected from the SLC. *See YourTel TracFone Tier One Petition Comments* at 1. YourTel contended that the current Tier One support system is "no longer valid in today's wireline environment where niche carriers have higher costs." *Id.* The Independent Telephone & Telecommunications Alliance (ITTA) disagreed, and stated that the Tier One support "is intended to be a proxy for interstate loop costs, and relies upon the determination that the SLC represents a fair approximation of that amount." ITTA *TracFone Tier One Petition Comments* at 4. We hereby incorporate TracFone's petition into our instant proceeding and seek further comment on these issues.

<sup>439</sup> *Cf. DTV Coupon Program Paper*, at 1.

tiers be appropriate?<sup>440</sup> Would a percentage discount rate, subject to an overall dollar cap, better assist low-income households in securing the best retail rates offered by their chosen ETC? In the alternative, should we establish national parameters of a basic Lifeline service, and require ETCs to specify the minimum price per household they would accept to provide such service? We seek comment on these alternatives.

### 3. Minimum Service Requirements for Voice Service

252. *Background.* As part of the ETC designation process, a carrier applying for designation must show that it offers local usage comparable to that offered by the incumbent ILEC.<sup>441</sup> In June 2010, the National Association of State Utility Consumer Advocates (NASUCA) adopted a resolution that raised concerns about “free” Lifeline calling plans offered by various wireless ETCs. In particular, NASUCA identified three areas of concern: First, that such plans have resulted in substantial growth of the Lifeline program, without a “necessary assurance of adequate value provided to the Lifeline customer,” or a demonstration that these plans make efficient use of Lifeline funds; second, that such plans include limited usage minutes and require subscribers needing additional minutes to purchase those minutes from the carrier; and third, that it is not evident whether such calling plans offer local usage comparable to available ILEC Lifeline calling plans.<sup>442</sup> The NASUCA resolution recommended that the Commission consider establishing minimum standards of service for pre-paid wireless Lifeline service to ensure value for Lifeline consumers, as well as efficient use of universal service dollars.<sup>443</sup> The Joint Board, in its *2010 Recommended Decision*, urged the Commission to investigate the impact of designation of prepaid wireless providers on the program, noting that several commenters have suggested that minimum service requirements should be imposed upon prepaid wireless ETCs.<sup>444</sup>

253. *Discussion.* We seek comment on the advantages and disadvantages of adopting minimum standards for all ETCs offering Lifeline service. In the section above, we asked whether we should establish national parameters for a basic Lifeline service. Accordingly, if we were to adopt minimum service requirements for Lifeline-only ETCs, what should those requirements be? Should we establish a set minimum number of monthly minutes to be included in ETCs’ Lifeline service offerings, and if so, what would be an appropriate number of minutes?<sup>445</sup> Should we establish a minimum number

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<sup>440</sup> See, e.g., Letter from Jamie M. Tan, Director, Federal Regulatory, AT&T Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (filed Dec. 9, 2010) (AT&T Dec. 9, 2010 *Ex Parte* Letter) (recommending that the Commission simplify the current rules for providing Lifeline support payments by providing a reimbursement mechanism that is not tied to ILECs’ SLC charges); AT&T’s ETC Proposal, *infra* note 533.

<sup>441</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371, 6380, para. 20 (2005) (*ETC Designation Order*).

<sup>442</sup> National Association of State Utility Consumer Advocates, Resolution 2010-02, Calling for Reform of the Lifeline Program, Including Reform for Prepaid Wireless Lifeline Services, at 2-3 (June 15, 2010) (*NASUCA Resolution*).

<sup>443</sup> *NASUCA Resolution* at 4.

<sup>444</sup> *2010 Recommended Decision*, 25 FCC Rcd at 15627, para. 80 (citing Consumer Groups Joint Board Comments at 37).

<sup>445</sup> We note that several pre-paid wireless, Lifeline-only ETCs, such as TracFone and Virgin Mobile, include several hundred minutes per month in their Lifeline service offerings. See SafeLink Wireless, <http://www.safelinkwireless.com> (last visited Mar. 2, 2011) (showing that TracFone, through its Lifeline service SafeLink Wireless, provides 68 minutes at a minimum, with options for 125 and 250 minutes); see also Assurance Wireless, <http://www.assurancewireless.com> (last visited Mar. 2, 2011) (showing that Virgin Mobile, through its (continued....))

of free long-distance calls? Is there a need for service quality standards when consumers often have the choice of several Lifeline providers? We seek comment on whether the Commission should impose minimum service requirements on all ETCs, as opposed to just wireless ETCs, and how we could impose standards that are technologically neutral. We note that wireless providers offer the benefits of mobility and often additional features and functionality, such as voicemail, caller ID, and call waiting, at no extra charge. Similarly, low-income households that select Lifeline offerings from wireless providers may have the ability to call distant family members and friends without incurring toll charges. Can uniform minimum standards be developed for all technologies, or is there a benefit to having standards tailored to different technologies? What are the relevant attributes or features that should be standardized across Lifeline offerings?

254. We also seek comment on the relevant costs and benefits associated with setting minimum standards of service. We note that minimum standards of service could increase the costs of Lifeline service to ETCs and could thus provide a disincentive for additional carriers to seek ETC status for the program. Would minimum standards deter companies from seeking ETC designation? Would high minimum standards make Lifeline offerings more attractive to low-income households, and thereby increase demand for the program?

#### 4. Support for Bundled Services

255. *Background.* As noted above, our rules provide for Lifeline discounts on “basic, local service,” but do not address whether such discounts may be applied to bundled offerings that include basic local voice service. As noted above, section 54.401 of the Commission’s rules provides that Lifeline supported services consist of a “retail local service offering” with specified functionalities.<sup>446</sup> It is not clear from the rule, however, whether the consumer may apply his or her Lifeline discount to reduce the cost of calling plans that include additional service components in addition to basic, local calling. Similarly, section 54.403(b) of the Commission’s rules sets out how Lifeline support discounts are passed through to consumers.<sup>447</sup> Pursuant to that rule, ETCs that charge federal SLCs or equivalent federal charges apply Tier 1 federal Lifeline support to waive the federal SLC for Lifeline consumers.<sup>448</sup> Any additional support received (*i.e.*, from Tiers 2 through 4) is then applied to reduce the consumer’s intrastate rate.<sup>449</sup> ETCs that do not charge federal SLCs or equivalent federal charges must “apply the Tier [1] federal Lifeline support amount, plus any additional support amount, to reduce their lowest tariffed (or otherwise generally available) residential rate” for the services they provide.<sup>450</sup> Our rules, however, do not define the parameters of a lowest-cost plan or specify the types of service plans that are eligible for Lifeline support.

256. Some states have enacted policies to clarify whether Lifeline support may be used to reduce the cost of expanded service voice offerings that include optional features or bundled combinations of other services. Among these states, however, there is no uniform approach.<sup>451</sup> Several

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(Continued from previous page)

Lifeline service Assurance Wireless, provides 250 minutes per month at a minimum, with options for 500 and 1000 minutes).

<sup>446</sup> 47 C.F.R. § 54.401(a).

<sup>447</sup> See 47 C.F.R. § 54.403(b).

<sup>448</sup> *Id.*

<sup>449</sup> *Id.*

<sup>450</sup> *Id.*

<sup>451</sup> See NRRI STUDY at 49, Table 30.

states permit consumers to apply their monthly discounts to the basic voice plan of their choice, including enhanced service plans. Oregon and Texas, for example, have policies mandating that ETCs offer Lifeline discounts on all service plans that include a basic voice component.<sup>452</sup> On the other hand, according to an October 2010 GAO report, ETCs in 14 states do not currently permit consumers to apply the Lifeline discount to a bundled service offering or package that includes telephone service.<sup>453</sup>

257. The National Broadband Plan observed a wide variance in statewide Lifeline participation rates.<sup>454</sup> Among other things, the Plan attributed the varied participation rates to differing “restrictions on consumers’ ability to apply the Lifeline discount to certain types of services.”<sup>455</sup> The Plan recommended that the Commission and states should permit Lifeline customers to apply their Lifeline discounts on all calling plans with a local voice component, including bundled service packages.<sup>456</sup> By so doing, the Plan stated, the Commission would make bundled offerings, including those that include broadband, more affordable for low-income households.<sup>457</sup>

258. *Discussion.* We seek comment on amending the Commission’s rules to adopt a uniform federal requirement that Lifeline and Link Up discounts may be used on any Lifeline calling plan offered by an ETC with a voice component, including bundled service packages combining voice and broadband, or packages containing optional calling features. We note that section 254(f) of the Act bars states from adopting regulations that are inconsistent with the rules established by the Commission to preserve and advance universal service.<sup>458</sup>

259. In a number of states where ETCs are not precluded by state requirements from allowing consumers to apply their Lifeline discounts to the purchase of bundled packages or optional services, many carriers – including large carriers like Sprint Nextel, Verizon Wireless, and AT&T Mobility – limit Lifeline offerings to basic voice service.<sup>459</sup> We seek comment on whether to adopt a national rule that would require all ETCs to offer Lifeline and Link Up discounts on all of their service plans with a voice component. Under such a rule, ETCs could be required to apply federal Lifeline support to reduce the cost of any calling plan or package selected by an eligible low-income household that allows local calling, rather than offering a discount only on the carrier’s lowest tariffed or otherwise generally available residential rate plan. However, each eligible household’s Lifeline discount would be capped at the

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<sup>452</sup> Or. Admin. R. 860-033-0010 (2009); Tex. Admin. Code tit. 16, § 26.412(e)(6)-(7); see also *Petition of Sprint Spectrum L.P. for a Declaratory Ruling that the Kansas Corporation Commission’s October 2, 2006 Order in Docket 06-GIMT-446-GIT, Violates Federal Law*, WC Docket Nos. 03-109 and 07-138 (filed June 8, 2007) (challenging an order of the Corporation Commission of the State of Kansas, which modified the state’s Lifeline rules to require that ETCs allow Lifeline customers to choose a calling plan and apply the Lifeline discount to the plan selected by the customer).

<sup>453</sup> 2010 GAO REPORT at 13.

<sup>454</sup> See NBP at 172 (Recommendation 9.1) (noting that “some states have participation rates of more than 75% and others have rates less than 10%”).

<sup>455</sup> *Id.*

<sup>456</sup> *Id.*

<sup>457</sup> *Id.*

<sup>458</sup> See 47 U.S.C. § 254(f). States may, however, choose to supplement the federal Lifeline rules by establishing their own state low-income universal service programs and requirements that do not conflict with federal universal service regulations. *Id.*

<sup>459</sup> See Lifelinesupport.org, [www.lifelinesupport.org](http://www.lifelinesupport.org) (last visited Mar. 2, 2011) (searchable database listing Lifeline and Link Up services available by each ETC in a state).

amount the subscriber would have received if it had selected a basic voice plan. Additionally, we seek comment on requiring all ETCs to permit eligible households to apply the Link Up discount amounts set forth in section 54.411(a) of the Commission's rules to any service plan with a voice component. As with the Lifeline program, each eligible household's Link Up discount could be capped at the amount the household would have received pursuant to the Commission's rules if it had selected a basic voice plan.

260. We seek comment on whether amending our rules in this way would further the statutory principle that consumers have access to quality services at "just, reasonable, and affordable rates."<sup>460</sup> Restrictions on use of Lifeline discounts, whether imposed under state law or by an ETC, may preclude a significant number of eligible low-income households from the expanded service options available in the marketplace, such as packages that include broadband or data service. Further, as compared to carriers' basic plans, bundled packages of services may offer better value for Lifeline and Link Up consumers.<sup>461</sup>

261. We seek to develop a fuller record on current ETC practices regarding the provision of Lifeline discounts on bundled offerings. To what extent do ETCs currently offer Lifeline and/or Link Up discounts on plans that include bundles of services or optional calling features? If so, what services are Lifeline and Link Up consumers permitted to purchase? We also seek comment on the extent to which specific states mandate that ETCs allow the application of Lifeline and/or Link Up discounts to expanded service plans. Is there any evidence that Lifeline and Link Up participation rates have been positively affected by policies requiring the extension of program discounts to the purchase of bundled packages and optional services? Where available, commenters are encouraged to submit supporting documentation of ETC or state practices along with any written submissions.

262. We seek comment on the potential administrative and practical consequences of amending our rules in this fashion. What changes to internal back office systems (e.g., for ordering service and billing) would be required to implement such a rule, and what costs would that impose on ETCs? How long would it take to implement such a change? If we were to adopt such a rule, should ETCs be obligated to offer a Lifeline discount on all of their service plans, including premium plans and packages? Conversely, are there certain service plans or packages that ETCs should not be required to make available to consumers seeking to apply Lifeline discounts? Should consumers be prohibited from applying a Lifeline discount to bundled offerings that contain a video component?

263. Would allowing consumers to choose from an array of expanded packages create a greater likelihood that Lifeline and Link Up consumers may be unable to pay for the remaining portion of their chosen calling plan and therefore risk termination of voice service? What are the options for reducing that risk? If we were to adopt such a rule, one option would be to require ETCs to offer methods of managing usage (whether minutes of use or data) that otherwise would yield higher monthly charges beyond the monthly fee. For instance, Lifeline consumers could elect to set maximum usage amounts for themselves that may not be exceeded per billing cycle.<sup>462</sup> We seek comment on the feasibility of this

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<sup>460</sup> 47 U.S.C. § 254(b)(1).

<sup>461</sup> For example, a recent Commission study found that consumers who receive broadband bundled with other services pay an average of \$8.55 less per month than those customers who purchase stand-alone broadband service. See *Broadband Adoption and Use in America* at 15.

<sup>462</sup> In October 2010, the Commission issued a Notice of Proposed Rulemaking proposing rules that would require mobile service providers to provide usage alerts and information to consumers in avoiding unexpected charges on their bills. See *Empowering Consumers to Avoid Bill Shock, Consumer Information and Disclosure*, CG Docket No. 10-207, CG Docket No. 09-158, Notice of Proposed Rulemaking, 25 FCC Rcd 14625 (2010) (*Bill Shock Notice*). The Commission noted that approximately 10% of all wireless billing rate complaints filed at the Commission relate to voice, text, or data overages, along with overages due to roaming. In addition, the U.S. Government Accountability Office (GAO) found that 34% of wireless subscribers had experienced unexpected charges on their wireless bills. *Bill Shock Notice*, 25 FCC Rcd at 14626, para. 2.

proposal. What capabilities exist today, or are anticipated in the near term, for carriers to assist Lifeline consumers in managing their service usage?<sup>463</sup> What would be the administrative burdens and costs for a carrier if it were required to offer this to Lifeline subscribers?<sup>464</sup>

264. We seek comment on how we can identify and measure the potential benefits of this proposal. As residential broadband usage becomes more common, many companies have begun offering consumers the option to purchase broadband as part of a “bundled package” that provides a combination of voice, data, and video services to the customer, delivered over a shared infrastructure.<sup>465</sup> As noted above, compared to carriers’ basic plans, bundled packages of services may offer better value for consumers.<sup>466</sup> Would this proposal, if adopted, be likely to make broadband more affordable for low-income households and stimulate broadband adoption by low-income households?

265. We also seek comment on how we can identify and measure the potential costs of this proposal. For example, would this proposed rule change be likely to have an impact on the size of the universal service fund? What are the potential costs to carriers (e.g., administrative costs) in complying with the proposed rule? Finally, are there any potential costs to consumers associated with the proposed rule? To the extent that it is available, commenters are encouraged to submit supporting data along with any written submissions.

## **B. The Transition to Broadband**

### **1. Background**

266. Over the last decade, the communications landscape has been transformed by the advent of broadband. Access to broadband is increasingly important for all Americans to actively participate in our economy and our society. Broadband can serve as a platform for educational, economic and social opportunities. It can also minimize socioeconomic disparities. However, despite the potential opportunities available through broadband, many low-income Americans simply cannot afford a home broadband connection. There is a broadband adoption gap in the United States, with low-income households among those being left behind.<sup>467</sup> Our 2010 Broadband Consumer Survey found that 93 percent of households with incomes greater than \$75,000 have broadband at home, only 40 percent of adults with household incomes less than \$20,000 have broadband at home, and non-adopters cite cost as the primary obstacle to adoption.<sup>468</sup>

267. Research suggests that increasing broadband adoption could significantly increase national productivity and growth.<sup>469</sup> Nearly 100 million Americans have not adopted broadband, and there is evidence that adoption is growing slowly.<sup>470</sup> Cost appears to be the leading obstacle to low-

<sup>463</sup> See *Bill Shock Notice*, 25 FCC Rcd at 14634-35, para. 20.

<sup>464</sup> 47 C.F.R. § 54.403(c).

<sup>465</sup> See NATIONAL BROADBAND PLAN at 149.

<sup>466</sup> See *supra* note 463 (citing *Broadband Adoption and Use in America*).

<sup>467</sup> NATIONAL BROADBAND PLAN at 167.

<sup>468</sup> NATIONAL BROADBAND PLAN at 172; *Broadband Adoption and Use in America* at 7; see *supra* para. 21, Chart 1 (detailing the household income levels, based on the Federal Poverty Guidelines, sufficient to establish eligibility for the Lifeline program); see also NTIA DIGITAL NATION at 5 (presenting a more up-to-date, but less detailed, analysis of the reasons that consumers have not adopted broadband at home and finding cost to be the most important factor as to why consumers do not have broadband at home).

<sup>469</sup> NTIA DIGITAL NATION at 5.

<sup>470</sup> The Pew Internet Home Broadband 2010 Report finds that the broadband adoption in the United States has (continued....)

income Americans adopting broadband;<sup>471</sup> the lack of digital literacy is another major factor.<sup>472</sup> Closing the adoption gap and accelerating broadband adoption, particularly among low-income Americans, will require significant effort, primarily by the private sector. But the Lifeline/Link Up program may be able to play an important if limited role in this effort, by enabling public-private partnerships to help tackle our national adoption challenge. Utilizing Lifeline/Link Up to reduce the cost of broadband for low-income Americans could help increase broadband adoption.

268. Closing the broadband adoption gap may be more difficult than closing the gap in telephone penetration because the barriers to broadband adoption are more complex. In addition to the cost of service and the cost of acquiring a computer or other Internet-access device, which some research suggests may be the leading barrier to adoption, the National Broadband Plan noted that almost two-thirds of non-adopters cite another reason, such as lack of digital skills, as the main reason for not adopting broadband at home.<sup>473</sup> In contrast, consumers generally do not need any special skills to understand how to make a phone call; a telephone is often much less expensive than a computer, laptop, or other Internet access device; and monthly subscription fees for basic telephone service may be less than the fees for broadband.

269. The National Broadband Plan suggested that creating the conditions necessary to promote broadband adoption and increase utilization would require a range of activities conducted by a variety of stakeholders. Among other things, the Plan recognized the need to form partnerships across stakeholder groups to increase broadband adoption and utilization.<sup>474</sup>

270. There are some ongoing efforts to address the broadband adoption gap at the federal, state, and local level.<sup>475</sup> As part of the Broadband Technology Opportunities Program (BTOP), the National Telecommunications and Information Administration provided approximately \$450 million in one-time grants to help develop sustainable broadband adoption initiatives and public computing centers across the country.<sup>476</sup> Several private corporations and non-profits are also engaged in broadband adoption efforts, either on their own or in partnership with other stakeholders. For example, in 2001, Hewlett-Packard provided grant funding and other resources to the Southern California Tribal Chairman's

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slowed dramatically in the last year. See PEW RESEARCH CENTER, PEW INTERNET AND AMERICAN LIFE PROJECT, HOME BROADBAND 2010 REPORT 2 (2010) (HOME BROADBAND 2010 REPORT) available at <http://www.pewinternet.org/Reports/2010/Home-Broadband-2010.aspx>.

<sup>471</sup> NATIONAL BROADBAND PLAN AT 168; see also HOME BROADBAND 2010 REPORT at 10 (noting that a fifth of non-adopters cite cost as a barrier).

<sup>472</sup> NATIONAL BROADBAND PLAN at 168.

<sup>473</sup> NATIONAL BROADBAND PLAN at 170; see also *Broadband Adoption and Use in America* at 5.

<sup>474</sup> NATIONAL BROADBAND PLAN at 171.

<sup>475</sup> See *Roundtable Discussion to Explore Broadband Pilot Programs for Low-Income Consumers*, Public Notice, WC Docket No. 03-109, 25 FCC Rcd 7305 (Wireline Comp. Bur. 2010) (announcing roundtable); see also *Details for Low-Income Pilot Program Roundtable Discussion*, Public Notice, WC Docket No. 03-109, 25 FCC Rcd 7947 (Wireline Comp. Bur. 2010) (providing agenda) (*Roundtable Agenda Public Notice*); Webcast of Wireline Competition Bureau, Low-Income Pilot Program Roundtable Discussion (Jun. 23, 2010), <http://reboot.fcc.gov/video-archives> (Roundtable Discussion) (identifying getconnectedtoday.com, the Cox Santa Barbara program, and initiatives by LEAP/Cricket, Charter, and others).

<sup>476</sup> As of February 2011, NTIA had awarded approximately \$200 million in one-time grants to support public computing centers, and \$250 million to help develop sustainable broadband adoption initiatives. See Grants Awarded: Broadband USA – NTIA, <http://www2.ntia.doc.gov/awards> (last visited Mar. 2, 2011).

Association (SCTCA) to help launch the Tribal Digital Village (TDV). The Tribal Digital Village provides infrastructure as well as training and online content to 15 American Indian Reservations in San Diego and southern Riverside counties.<sup>477</sup> A BTOP grant awarded to ZeroDivide in 2010 provided funding for additional equipment and support for community anchor institutions as well as computer skills and awareness training.<sup>478</sup> We also note that, as a voluntary commitment in its recent transaction involving NBC Universal, Inc., Comcast Corporation agreed to make broadband available to low-income households for less than \$10 per month, and making personal computers, netbooks, and other computer equipment available at a purchase price below \$150.<sup>479</sup>

271. To help address the cost barrier faced by many low-income households unable to afford broadband, the National Broadband Plan recommended that Lifeline/Link Up be modernized to support broadband.<sup>480</sup> The Joint Board also recognized the importance of broadband to low-income households in its *2010 Recommended Decision*.<sup>481</sup> The Joint Board proposed that the Commission adopt an additional universal service principle pursuant to its authority under section 254(b)(7) of the Act, that “universal service support should be directed where possible to networks that provide advanced services, as well as voice services.”<sup>482</sup> In the *USF/ICC Transformation Notice*, the Commission proposed to adopt the Joint Board’s recommended principle and sought comment on whether to expand the definition of “universal service” to make broadband a supported service.<sup>483</sup>

272. The National Broadband Plan and the Joint Board also identified several practical issues that the Commission should consider when assessing whether and how to include broadband as a supported service under the program, including, among other things, how “broadband” should be defined and measured for universal service purposes, how best to ensure broadband availability in unserved and underserved areas, and how to structure a Lifeline discount for broadband services.<sup>484</sup> The *USF/ICC Transformation Connect America Fund Notice* sought comment on how to define broadband for purposes of the high-cost program, but expressly reserved the right to adopt different performance requirements for Lifeline/Link Up.

273. Recognizing the complexities of modernizing the low-income support mechanisms for broadband while ensuring that universal service funds are used efficiently, the National Broadband Plan

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<sup>477</sup> Tribal Digital Village Broadband Adoption Program, Executive Summary, *available at* [http://www.zerodivide.org/sites/default/files/5507\\_TDV.pdf](http://www.zerodivide.org/sites/default/files/5507_TDV.pdf) (last visited Mar. 3, 2011); *see also* Tribal Digital Village, <http://www.sctdv.net/> (last visited Mar. 2, 2011).

<sup>478</sup> *See* BroadbandUSA, Connecting America’s Communities, ZeroDivide Fact Sheet, *available at* [http://www2.ntia.doc.gov/files/grantees/fact\\_sheet\\_-\\_zerodivide\\_tribal.pdf](http://www2.ntia.doc.gov/files/grantees/fact_sheet_-_zerodivide_tribal.pdf) (last visited Mar. 3, 2011); Press Release, ZeroDivide, ZeroDivide Receives Stimulus Funding to Increase Broadband in Native American Communities (Aug. 18, 2010), *available at* [http://www.zerodivide.org/ntia/zerodivide\\_funding\\_native\\_american\\_tribal\\_communities](http://www.zerodivide.org/ntia/zerodivide_funding_native_american_tribal_communities) (last visited Mar. 3, 2011).

<sup>479</sup> *See Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc.; For Consent to Assign Licenses and Transfer Control of Licensees*, MB Docket No. 10-56, Memorandum Opinion and Order, FCC 11-4, at para. 233 (rel. Jan. 18, 2011).

<sup>480</sup> NATIONAL BROADBAND PLAN at 172.

<sup>481</sup> *See* NATIONAL BROADBAND PLAN at 169, Box 9.1 (“Broadband Means Opportunity”); *2010 Recommended Decision* at 15624-25, paras. 74-75.

<sup>482</sup> *See 2010 Recommended Decision* at 15625, para. 75; *see also 2007 Recommended Decision*, 22 FCC Rcd at 20477 (discussing the redefinition of supported services to include broadband and mobility services).

<sup>483</sup> *See USF/ICC Transformation NPRM*, FCC 11-13, at paras. 63, 65.

<sup>484</sup> *2010 Recommended Decision* at 15625-26, para. 77.

recommended that the Commission begin transitioning Lifeline to support broadband by facilitating pilot programs to test different program design elements.<sup>485</sup> More recently, in its review of the Lifeline and Link Up program, the GAO highlighted the importance of developing a needs assessment for the design of any new programs and to determine whether existing programs are meeting the needs of the targeted population.<sup>486</sup> The GAO also noted that agencies should develop implementation and evaluation plans when conducting pilot programs to increase confidence in the results of such programs.<sup>487</sup>

274. The Commission hosted a roundtable discussion last summer to solicit input on pilot programs to integrate broadband as a supported service under the program.<sup>488</sup> Participants discussed a number of critical issues, including goals for supporting broadband through the low-income program, the importance of addressing barriers in addition to the cost of service, what existing data and information is available on broadband service and adoption for low-income individuals, and pilot program mechanics and operation.<sup>489</sup> Participants in the roundtable discussion and other stakeholders have suggested that they are exploring ways to conduct low-income broadband pilot projects.<sup>490</sup>

## 2. Support for Broadband

275. The Commission seeks comment on revising the definition of “Lifeline” to ensure it is keeping pace with the needs of low-income households, consistent with the statutory principle that “consumers in all regions of the country, including low-income consumers . . . should have access to telecommunications and information services.”<sup>491</sup> Lifeline/Link Up does not currently support broadband. We seek comment on whether the Commission should amend the definition of Lifeline to explicitly allow support for broadband.

276. As noted above, the Commission has sought comment in the *USF/ICC Transformation Notice* on whether to make broadband a supported service and has sought comment on extending universal service support to broadband. If the Commission does not make broadband a supported service, what would be the legal basis for our authority to support broadband in the Lifeline and Link Up program? If the Commission makes broadband a supported service, what are the associated practical and operational challenges that we would need to address when expanding Lifeline support to broadband? For example, how should a broadband Lifeline service be defined and measured? Should Lifeline support be available on services that do not meet whatever speed threshold the Commission ultimately adopts for

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<sup>485</sup> NATIONAL BROADBAND PLAN at 173.

<sup>486</sup> 2010 GAO REPORT at 30. See Letter from Julius Genachowski, Chairman, Federal Communications Commission to the Honorable Joseph I. Lieberman, Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate (Feb. 2, 2011) (agreeing with the GAO recommendation to conduct a needs assessment)(Commission Senate Letter).

<sup>487</sup> 2010 GAO REPORT at 30-31.

<sup>488</sup> See Roundtable Discussion.

<sup>489</sup> See *Roundtable Agenda Public Notice*; Roundtable Discussion.

<sup>490</sup> See Letter from Jonathan Banks, Senior Vice President, Law and Policy, United States Telecom Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket Nos. 09-47, 09-51, 09-137 (filed Jan. 25, 2010) (USTA Jan. 25, 2010 *Ex Parte* Letter); Letter from Kelley Dunne, CEO, One Economy Corporation, and Ken Eisner, Managing Director, OE Ventures, to Hon. Julius Genachowski, Chairman, Federal Communications Commission, Docket No. 03-109 (filed Feb. 10, 2011) (One Economy Broadband Pilot Proposal); see also North Carolina Economic Development Center, E-NC Lite-Up Program, [http://www.e-nc.org/public/nc\\_lite\\_up](http://www.e-nc.org/public/nc_lite_up) (last visited Mar. 2, 2011).

<sup>491</sup> See 47 U.S.C. § 254(b)(1),(3); see also 47 U.S.C. § 151.

purposes of setting infrastructure deployment requirements under the Connect America Fund? For instance, some parties have suggested that for purposes of Lifeline, consumers should be free to choose to use discounts on services that provide 768 kbps or 1.5 Mbps downstream, rather than being forced to use the discount only on higher-speed offerings.<sup>492</sup> Should there be any minimum performance requirements for Lifeline broadband offerings?

277. What would be the appropriate framework for determining support levels for broadband services, given that the price of the retail service is not regulated at either the federal or state level? We are mindful of the need to ensure that contributions to our universal service support mechanisms do not jeopardize our ability to promote quality services at affordable rates for all consumers. How should we balance these competing goals as we consider modernizing Lifeline and Linkup to support broadband?

278. If broadband is made a supported service, should we impose any terms and conditions on the Lifeline support that is available for broadband? For example, should there be any limitations on the types of services that are offered as part of a Lifeline plan? We sought comment above on whether low-income households should be able to use their Lifeline discounts on any plan with a voice component; should ETCs similarly be required to offer Lifeline discounts on all broadband plans, or just some? We note that several wireless ETCs currently offer text messaging services as part of their Lifeline calling plans.<sup>493</sup> Should consumers be permitted to select "data only" Lifeline plans? Is there a risk that low-income households might incur excessive charges for data plans, absent some form of data or usage cap? We note that some Lifeline consumers already subscribe to broadband services.<sup>494</sup> We ask that ETCs provide any data they may have regarding broadband subscribership among current Lifeline recipients. We also recognize that our analysis of these questions may depend, in part, on what we learn from the broadband pilots described below.

### 3. Broadband Pilot

279. We propose to set aside a discrete amount of universal service funds reclaimed from eliminating inefficiencies and/or waste, fraud, and abuse to create a pilot program to evaluate whether and how Lifeline/LinkUp can effectively support broadband adoption by low-income households. A broadband pilot program could help us gather comprehensive and statistically significant data about the effectiveness of different approaches in making broadband more affordable for low-income Americans and providing support that is sufficient but not excessive.<sup>495</sup> This data could assist the Commission in considering the costs and benefits of various approaches prior to using Lifeline to support broadband on a permanent basis. We recognize that the ultimate success of using Lifeline funds to support broadband may hinge on the sufficiency and effectiveness of preliminary testing conducted through a pilot program. As identified by the GAO, the Commission has recognized the importance of developing an assessment

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<sup>492</sup> See, e.g., Cox Communications Comments, GN Docket Nos. 09-47, 09-51, 09-137, at 12 (filed Dec. 7, 2009); AT&T's ETC proposal, *infra* note 533; Hughes Network Systems, LLC and WildBlue Communications, Inc., Joint Reply Comments, GN Docket No. 09-51, at 7 (filed July 21, 2009).

<sup>493</sup> See, e.g., GCI, Lifeline Rural Wireless Service, <http://wireless.gci.com/catalog/lifeline-rural-p-154.html> (offers unlimited text messaging with all calling plans) (last visited Mar. 2, 2011); SafeLink Wireless Raises the Lifeline Offering: New York, <http://www.cell-phone-plans.net/blog/cell-phones/safelink-wireless-raises-the-lifeline-offering-new-york/> (detailing TracFone's new Lifeline plans that include one text message in exchange for one minute of provided voice service) (last visited Mar. 2, 2011).

<sup>494</sup> Cf. *Broadband Adoption and Use in America* at 7 (stating that 40 percent of low-income Americans with annual household incomes at \$20,000 or below have broadband).

<sup>495</sup> See *supra* paras. 37-41 (proposing, as a performance goal, to ensure that Lifeline/Link Up provides support that is sufficient, but not excessive).

of the telecommunications needs of low-income households to inform the design and implementation of broadband pilot programs.<sup>496</sup>

280. *Scope of the Pilot Program.* We propose using the pilot program to fund a series of projects that would test different approaches to providing support for broadband to low-income consumers across different geographic areas. The projects could also try to take into account unique barriers faced by certain groups of low-income non-adopters such as Tribal communities or Americans for whom English may be a second language. While individual projects might involve only one type of provider or technology, the overall objective would be to design a pilot program that would be competitively and technologically neutral.

281. We propose structuring the pilot program as a joint effort among the Commission, one or more broadband providers, and/or one or more non-profit institutions or independent researchers with experience in program design and evaluation.<sup>497</sup> The pilot also could include participation from other stakeholders such as private foundations; non-profits experienced in outreach and digital literacy training; desktop computer, laptop, or mobile device manufacturers or retailers; and state social service or economic development agencies. We seek comment on these proposals to structure the pilot program as a joint effort among a variety of stakeholders focused on conducting a series of projects to test different approaches to providing support. We expect that the projects would test several variations on program design, including experimenting with different techniques to combine discounts on service and/or hardware with efforts to address other barriers to broadband adoption such as digital literacy.

282. Consistent with our historic role in providing support for services and not equipment,<sup>498</sup> we seek comment on funding projects that would test variations in the monthly discount for broadband services, including variations on the discount amount, the duration of the discount (limited or unlimited, phased-down over time or constant), and the treatment of bundled services. We also propose to test variations in Linkup-like discounts to reduce or eliminate installation fees, activation fees, or similar upfront charges associated with the initiation of service. We seek comment on these proposals.

283. We propose to require at least some pilot participants to either offer hardware directly or partner with other entities to provide the necessary devices as a condition of participating in the pilot program. The cost of customer equipment necessary to access the Internet (including computers or other devices) has been shown to be a major barrier to adoption, particularly for low-income households.<sup>499</sup> Some stakeholders have suggested that the cost of Internet-enabled devices poses a significant burden on an ETC's ability to provide affordable broadband to low-income consumers.<sup>500</sup> It would be valuable for pilot projects to test variations in discounts to reduce the cost of hardware, including discounts for air cards or modems. Because we intend to evaluate the impact of ETCs' providing different types of discounts on hardware versus not providing any discount, some consumers would not be offered

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<sup>496</sup> Commission Senate Letter.

<sup>497</sup> The National Broadband Plan highlighted the importance of forming partnerships across multiple stakeholder groups and simultaneously addressing multiple barriers to adoption which may include cost of service, cost of hardware, digital literacy and many others. NATIONAL BROADBAND PLAN at 170-71.

<sup>498</sup> See 47 C.F.R. §§ 54.101(a), 54.401(a)(3).

<sup>499</sup> See Robert D. Atkinson, The Information Technology and Innovation Foundation, *Policies to Increase Broadband Adoption at Home* (Nov. 2009), available at <http://www.itif.org/files/2009-demand-side-policies.pdf> (*Broadband Adoption Report*).

<sup>500</sup> Letter from David Cohen, Vice President, Policy, US Telecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45, WC Docket No. 03-109, at 2 (February 23, 2011) (US Telecom Broadband Pilot Proposal).

discounted hardware. If we require some applicants for pilot program funding to offer discounted hardware, should all applicants be required to agree to do so even though we do not expect all consumers to receive discounts? We seek comment on these proposals.

284. We propose that applicants for pilot program funding should be prepared to experiment with different approaches to overcoming digital literacy barriers, other non-cost barriers to adoption, and variations in other program design elements that may help the Commission implement a permanent support mechanism. The National Broadband Plan and subsequent research identified the lack of digital literacy among low-income Americans as a major barrier to broadband adoption.<sup>501</sup> Skills such as being able to use a computer or other Internet-enabled device to retrieve and interpret information or to communicate and collaborate with other users, and even such fundamental steps as navigating a website and creating a username and password, may pose significant difficulties for many consumers. Any program seeking to effectively increase adoption of broadband may need to address this barrier. We specifically seek comment on what subset of the following additional program design elements should be tested:

- Training methods;
- Outreach methods;
- Contract terms;
- Product offerings/service restrictions or requirements (such as establishing minimum or maximum speed offerings for consumers participating in the pilot); and/or
- Administration/enrollment methods such as automated enrollment through low-income housing facilities or other social service entities.

We also seek comment on how the Commission should take into account elements beyond its control, such as programs or services provided by the private sector, other governmental agencies, or non-profits in conjunction with support provided as part of a broadband Lifeline and Link Up program.

285. We intend for the pilot program as a whole to test the impact of these varying factors; we are not suggesting that each project funded through the pilot test every variable of interest to the Commission. We seek comment on this proposal. We also ask commenters to consider how many settings of key variables should be tested for each program design element (e.g. discount amount, duration of the discount). How many households should participate to test each element and variation in a way suitable for generalizing to a large scale program? Should all elements be tested simultaneously, or should they be sequenced in some manner?

286. We note that the goal of the pilot program is to conduct experiments to collect information that would help inform future policy decisions. The pilot is not intended to have an immediate impact on low-income consumers on a large-scale. Similarly, the structure and rules governing pilot projects may differ in important ways from rules that the Commission may ultimately adopt to expand Lifeline to support broadband.

287. *Pilot Program Funding.* We seek comment on how much money should be allocated to support discounts on broadband and administrative costs associated with the pilot projects. Because the goal of the pilot program is to conduct test projects that would produce meaningful data by experimenting with different program design elements, we believe that only a relatively small sample size is needed to

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<sup>501</sup> NATIONAL BROADBAND PLAN at 174; see NTIA DIGITAL NATION, at 9 (noting that level of education is a strong predictor of broadband use among adults).

develop statistically valid results.<sup>502</sup> Depending on the parameters assessed by different pilot programs, the program may be able to gather statistically valid data from a smaller number of participating households.

288. Consistent with our over-arching objective of ensuring fiscal responsibility, we propose to fund the pilot projects by utilizing at least some of the savings from the proposal to eliminate reimbursement for Toll Limitation Services, as well as some of the savings realized by eliminating waste, fraud, and abuse from the program.<sup>503</sup> USAC's most recent projections forecast total annual 2011 TLS support of approximately \$23 million.<sup>504</sup> Are there other funding sources available that we should consider in implementing these pilot programs? Should we require entities applying for pilot program funding to contribute some sort of matching funds or in-kind contribution?

289. *Duration of Pilot Program.* Commenters have recommended pilot programs ranging from six months to multiple years.<sup>505</sup> USTelecom suggested, for instance, that a period of 18 to 24 months would be needed to produce "meaningful data that would permit the Commission to thoughtfully design a permanent program."<sup>506</sup> We seek comment on the appropriate duration of a pilot program. Commenters who suggest schedules should explain the relative advantages and disadvantages of specific lengths of time.<sup>507</sup>

290. At the Commission's broadband pilot roundtable, several parties suggested that it might be appropriate to provide subsidies only for a limited period of time to address the initial adoption hurdle of realizing the benefit of broadband.<sup>508</sup> If some of the variables tested include variations on the length of time that a subsidy is available or a reduction in the amount of subsidy over time, for how long would researchers need to follow subscribers after the reduction to test whether adoption outcomes stay the same, or whether consumers drop service when the subsidy is eliminated or reduced?

291. *Role of the States.* We seek comment on the role that states should play in any pilot program integrating broadband service into the low-income program. For instance, could states assist in identifying target populations or assist in administration? Are there services or funding support that states are uniquely situated to provide in a broadband pilot program? How should low-income universal service support for broadband be integrated into other federal, state, regional, private, or non-profit programs that help address barriers to broadband adoption?

292. *Consumer Eligibility To Participate in Pilot Projects.* We propose using the Lifeline

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<sup>502</sup> See US Telecom Broadband Pilot Proposal at 3; see also e-NC Authority, [http://www.e-nc.org/public/nc\\_lite\\_up](http://www.e-nc.org/public/nc_lite_up) (describing pilot program targeting only 270 households).

<sup>503</sup> See *supra* Section IV (Immediate Reforms to Eliminate Waste, Fraud, and Abuse).

<sup>504</sup> USAC 2Q 2011 FILING, at 17.

<sup>505</sup> See, e.g., Letter from Christopher Savage, Counsel, Nexus Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket 03-109; CC 96-45 at 2 (Nexus Communications Broadband Pilot Proposal) (proposing a 6 month pilot); Michigan Public Service Commission Comments, WC Docket No. 03-109, at 5 (filed Nov. 26, 2008) (encouraging the Commission to extend by 2 years a pilot program originally proposed for 3 years if the pilot is successful).

<sup>506</sup> USTelecom Broadband Pilot Proposal at 1.

<sup>507</sup> Some stakeholders have expressed concern about delaying a wide-scale launch of a low-income support mechanism for broadband while the Commission conducts further analysis by facilitating pilot programs or through other means. At the same time, others have warned about the dangers of impatience and suggested that it would take at least two to three years to evaluate the results of a well-run pilot. See Roundtable Discussion.

<sup>508</sup> See Roundtable Discussion.

eligibility rules currently in effect in federal default states as a uniform set of consumer eligibility requirements to be used in all pilot projects. We believe uniform eligibility rules will lower administrative costs associated with the pilots and help the Commission more easily compare results from different pilot projects. Is there any reason to allow some pilot projects to deviate from the federal default rules? For example, should the Commission consider funding a pilot project that tested the impact of more stringent or more lenient eligibility requirements to help assess the potential impact such requirements might have? Alternatively, are there reasons that the Commission should consider pilot projects that limit eligibility to a more narrowly defined group of households currently eligible under the federal default rules, such as households with children participating in the National School Lunch Program?<sup>509</sup>

293. *Eligibility To Apply for Funding for Proposed Pilot Projects.* We seek comment on whether funding for the pilot program should be limited to ETCs or whether non-ETCs could be eligible to receive funding during the pilot. Several commenters have suggested eligibility for funding for broadband pilots, or any broadband Lifeline support, should be independent from the traditional ETC requirements established under section 214 of the Act.<sup>510</sup> Could we forbear from our current ETC requirements to allow non-ETCs (e.g. broadband providers who are not ETCs or non-providers) to participate in the pilot? Forbearance from our ETC requirements may encourage participation by a greater number of broadband providers. What are the advantages and disadvantages of having a larger number of providers seek funding for pilot projects?

294. We propose to allow non-ETCs (e.g., non-providers) to submit applications for pilot funding provided they have identified ETCs, which would receive the support disbursements, as partners. We believe allowing non-ETCs to apply for funding may increase participation by allowing ETCs to rely on other entities to help with pilot program administration. This approach may also encourage more multi-stakeholder partnerships designed to simultaneously address multiple barriers to adoption. We seek comment on this proposal.

295. We also seek comment on limiting program participation to ETCs that partner with entities approved by the NTIA's State Broadband Data & Development (SBDD) Program. The SBDD program, led by state entities or non-profit organizations working at their direction, facilitates the integration of broadband and information technology into state and local economies.<sup>511</sup> The program awarded a total of \$293 million to 56 grantees or their designees and the grantees use this funding to support the use of broadband technology.<sup>512</sup> Among other objectives, these state-created projects use the grants to research and investigate barriers to broadband adoption and created state and local task forces to expand broadband access and adoption. ETCs could work with the SBDD grantees and other stakeholders to develop pilot projects that integrate federal universal service support into a state's existing or planned adoption efforts. The potential benefits of encouraging ETCs to partner with these SBDD grantees to participate in this pilot program are numerous: Each of the grantees was selected by a state

<sup>509</sup> Letter from Steven F. Morris, National Cable & Telecommunications Association, GN Docket No. 09-51, WC Docket No. 05-337, CC Docket No. 96-45 (filed Dec. 4, 2009).

<sup>510</sup> See, e.g., AT&T's ETC Proposal, *infra* note 533; *Supporting Broadband Access for Users of Video and IP-Based Communications who are Deaf, Hard of Hearing, Late-Deafened, or Deaf-Blind, or who have a Speech Disability*, WC Docket No. 03-109, CC Docket No. 96-45, at 23 (filed Oct. 30, 2008); AT&T Comments, WC Docket No. 96-45, WC Docket No. 03-109, at 53 (filed Nov. 26, 2008); Qwest Communications Comments, GN Docket Nos. 09-47, 09-51, 09-137, at ii-iii (filed Dec. 7, 2009).

<sup>511</sup> State Broadband Data & Development Program: BroadbandUSA – NTIA, <http://www2.ntia.doc.gov/SBDD> (last visited February 28, 2011).

<sup>512</sup> *Id.*

government that may be well positioned to develop targeted, state-specific adoption approaches; many of the grantees have experience with training, outreach, and surmounting barriers to adoption; and such a pilot could leverage the work already conducted by NTIA, such as the due diligence it performed on the grantees and ongoing program oversight over those grantees. We seek comment on limiting eligibility in the pilot program only to ETCs that are partnering with SBDD grantees. Is there another group of federal or state program grantees that we should consider including in the pilot?

296. *Proposals.* We propose to require entities interested in applying for pilot program funding to submit specific information about the proposed project, such as applicant information, including any and all private or corporate partners or investors; a detailed description of the program, including length of operation; product offerings and service restrictions; discount or discounts provided, the duration of the discounts; treatment of bundled services; whether discounts would reduce or eliminate installation fees, activation fees, or other upfront costs; how to address (if at all) the cost of hardware, including aircards, modems, laptops, desktops, or other mobile devices;<sup>513</sup> training and outreach; testing; identification of costs associated with implementing the program, including equipment and training costs; how the project complies with relevant program rules, adequately protects against waste, fraud, and abuse, and achieves the goals of the program discussed above. We also propose to require applicants to provide a brief description of how their program would help inform the Commission's future decision-making related to providing low-income support to broadband on a nationwide basis. We seek comment on this process for submission of pilot proposals.

297. *Pilot Evaluation.* We seek comment on how to evaluate the results of pilot projects and what reporting requirements should be adopted for pilot participants. How could the Commission evaluate whether approaches tested during the pilot program further the proposed goal of providing affordable broadband service? Should one goal of the pilot be to test the impact of the project's approach on increasing adoption? For instance, should we assess the total number of new adopters; new adopters as a percentage of eligible program participants; the number of program participants as a percentage of eligible participants; average percentage of participants' discretionary income spent on discounted broadband service through the pilot relative to the national average percentage of household discretionary income spent on broadband? How could we evaluate the relative impact of the service discount compared to other potential factors that may be tested, such as the provision of training or equipment? We propose that the Commission also seek to develop information about the cost per participant and cost per new adopter through the pilot program. This information could assist the Commission in assessing the costs and benefits of particular approaches to whether broadband should be supported, and if so, how. We seek comment on this proposal and whether there are other types of data that the Commission should review to evaluate whether a given approach would provide support that is sufficient but not excessive.

298. We seek comment on other types of information the Commission should consider when assessing projects funded through the pilot program. For instance, how best can the Commission evaluate program administration costs and the feasibility of expanding any given test project to a national scale?

299. *Delegation of Authority.* We propose to delegate authority to the Wireline Competition Bureau to select pilot participants and take other necessary steps to implement the proposed program. We seek comment on this proposal.

300. *Previously Submitted Proposals.* A number of entities have developed and submitted ideas for different types of broadband low-income pilots.<sup>514</sup> For instance, US Telecom explains that an efficient broadband pilot program design should include three components: research; program design and

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<sup>513</sup> See Roundtable Discussion.

<sup>514</sup> US Telecom Broadband Pilot Proposal; Nexus Communications Broadband Pilot Proposal; One Economy Broadband Pilot Proposal.

implementation; and evaluation.<sup>515</sup> Nexus Communications proposes that a broadband pilot be conducted in four different cities using “smart phones” that would enable the Commission to obtain real-world data with regard to community response to four different pricing and service arrangements.<sup>516</sup> One Economy proposes two distinct pilot programs, one involving a 4G public private partnership and another one involving a reverse auction design.<sup>517</sup>

301. We seek comment on these proposals. We ask commenters to identify how these proposals could be improved or altered and to explain how any measures that they suggest are consistent with our proposed goals of ensuring just, reasonable, and affordable service and providing support that is sufficient but not excessive.

302. Finally, as discussed above, a number of other broadband adoption programs are currently underway, and other stakeholders have suggested that they may conduct their own projects on these issues. We are interested in learning more about the status of these projects and what data we can gather from those efforts. Is there information or data that the Commission is uniquely positioned to gather? What data can the Commission rely on outside sources to collect, and how could it design pilots to complement any private sector research efforts? Can the Commission gather sufficient information from existing adoption programs to inform its policies sufficiently to implement a long-term low-income support for broadband program without launching Lifeline and Link Up pilots? We welcome information from industry, academic institutions, governmental agencies, and other stakeholders that could assist in our evaluation of strategies to extend Lifeline to broadband.

### C. Eligible Telecommunications Carrier Requirements

303. *Background.* Section 254(e) of the Act limits universal service support, including Lifeline and Link Up support, to ETCs designated under section 214(e) of the Act.<sup>518</sup> Section 214 of the Act, in turn, requires that ETCs use their own facilities, at least in part, to provide services supported by universal service and requires carriers to engage in a two-stage “redefinition” process before carriers may serve certain rural service areas.<sup>519</sup> When Congress first adopted—and the Commission first interpreted—these requirements, the focus was on participation by ETCs in the Commission’s high-cost program and the need to encourage ETCs to invest in infrastructure to cover new areas and reduce the risk of cream skimming.<sup>520</sup> In this section, we seek comment on whether those requirements remain necessary and in the public interest for participants in the Commission’s program. We also consider whether these requirements should be modified if we modernize the program to support broadband.

304. Since 2005, the Commission has granted forbearance eight times to carriers seeking to participate in the Lifeline program without using their own facilities to provide service.<sup>521</sup> In each case,

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<sup>515</sup> US Telecom Broadband Pilot Proposal.

<sup>516</sup> Nexus Communications Broadband Pilot Proposal.

<sup>517</sup> One Economy Broadband Pilot Proposal.

<sup>518</sup> 47 U.S.C. § 254(e).

<sup>519</sup> 47 U.S.C. § 214(e)(1)(A) (requiring an ETC to “offer the services that are supported by Federal universal service support mechanisms . . . either using its own facilities or a combination of its own facilities and resale of another carrier’s services”), 214 (e)(5) (defining service areas for ETCs); 47 C.F.R. § 54.207 (establishing the process carriers must use to redefine a rural service area).

<sup>520</sup> See, e.g., *Universal Service First Report and Order*, 12 FCC Rcd at 8861–76, 8880–83, paras. 150–80, 186–91.

<sup>521</sup> See *TracFone Forbearance Order*; *Virgin Mobile Forbearance Order*; *i-wireless Forbearance Order*; *Global Forbearance Order*; *Telecommunications Carriers Eligible for Universal Service Support*; *Federal-State Joint* (continued....)

the Commission has concluded that the use of a carrier's own facilities when participating in the Lifeline program is not necessary to ensure just and reasonable rates or to protect consumers and is in the public interest so long as the carrier granted forbearance fulfills certain conditions.<sup>522</sup> And in each case, the reseller seeking to participate in the Commission's Lifeline program has gone through the same process: filing a forbearance petition with the Commission and responding to comments and concerns about that petition; filing a compliance plan with the Wireline Competition Bureau and responding to comments and concerns about that plan; and filing ETC designation petitions with the Commission or the states and responding to another round of comments and concerns. This multi-stage process may take years to complete, costing companies time and money and placing a not insignificant burden on Commission resources.

305. The National Broadband Plan recommended that any broadband provider meeting criteria established by the Commission – whether wired or wireless, fixed or mobile, terrestrial or satellite – should be eligible to participate in Lifeline/Link Up.<sup>523</sup> In the *Connect America Fund Notice*, we sought comment on whether the Commission should establish Lifeline-only ETCs, in the event it extends support to broadband.

306. *Discussion.* We seek comment on whether the Commission should forbear from applying the Act's facilities requirement to all carriers that seek limited ETC designation to participate in the Lifeline program.<sup>524</sup> Should every wireless reseller be eligible to become an ETC so long as it fulfills the conditions we have previously imposed as conditions of forbearance?<sup>525</sup> If so, should the Commission adopt rules codifying the conditions rather than imposing them on a case-by-case basis?

307. Some of those conditions previously imposed on resellers may have some benefit even if applied to facilities-based carriers that participate in the Lifeline program, such as the condition that carriers directly deal with their customers (rather than use a third-party intermediary, like a retailer).<sup>526</sup> Should the Commission adopt any of these conditions as rules that would apply to all ETCs that participate in the Lifeline program? Other conditions—such as the requirement to provide appropriate

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(Continued from previous page)

*Board on Universal Service; Conexions Petition for Forbearance*, WC Docket No. 09-197, CC Docket No. 96-45, Order, 25 FCC Rcd 13866 (2010) (*Conexions Forbearance Order*).

<sup>522</sup> See, e.g., *Conexions Forbearance Order*, 25 FCC Rcd at 13868–72, paras. 8-20.

<sup>523</sup> NATIONAL BROADBAND PLAN at 173.

<sup>524</sup> 47 U.S.C. § 160(a) (“[T]he Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier . . . or class of telecommunications carriers” in certain circumstances.”).

<sup>525</sup> See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8788, 8790, paras. 11, 16 (conditioning forbearance on i-wireless (1) providing its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (2) providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (3) complying with conditions (1) and (2) as of the date it provides Lifeline service; (4) obtaining a certification from each public safety answering point (PSAP) where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (5) requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier; (6) establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address; (7) dealing directly with the customer to certify and verify the customer's Lifeline eligibility; and (8) submitting to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement these conditions).

<sup>526</sup> See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8790, para. 16.

access to 911 and E911—may be applicable to facilities-based carriers that use their own facilities only in part.<sup>527</sup> Should the Commission adopt such conditions as rules that would apply to ETCs that use other carriers' facilities to offer access to emergency services? In short, what rules should the Commission adopt if it forbears from the facilities requirement for a class of carriers?<sup>528</sup>

308. More broadly, should the Commission consider issuing blanket forbearance for other purposes? For example, several carriers have requested forbearance from the facilities requirement for purposes of participating in the Commission's Link Up program, but the Commission has thus far found that no carrier has shown that such forbearance would be in the public interest.<sup>529</sup> Would blanket forbearance from the facilities requirement for this purpose, taking into account the differences between the Lifeline and Link Up programs, be in the public interest? What rules would be necessary to ensure that any such forbearance protects consumers, is in the public interest, and would not encourage waste, fraud, and abuse of universal service funds?

309. Other carriers have requested forbearance from the Act's redefinition process as applied to low-income-only ETCs.<sup>530</sup> Should the Commission consider forbearing from this process for a class of carriers, and if so, what rules and conditions would be necessary to protect the public interest?

310. AT&T has proposed that the Commission adopt an entirely new ETC regulatory framework. Specifically, AT&T argues that we should allow all providers of voice and broadband services to provide Lifeline discounts on a competitively neutral basis where they offer service.<sup>531</sup> Under this proposal, we would establish a "Lifeline Provider" registration process whereby provider participation is not tied to the existing section 214 requirements or ETC designations, and not necessarily mandatory. Under this framework, each provider of eligible voice and broadband Internet access service, including resellers and wireless providers, would be eligible to provide Lifeline discounts to qualifying households in the areas where the provider offers the service.<sup>532</sup>

311. Consistent with this alternative approach, AT&T proposes that the Commission abolish the current Lifeline tier support structure set forth in section 54.403 of our rules and replace it with a flat, fixed-dollar discount amount that could be applied to the retail price of one eligible voice service and one eligible broadband service.<sup>533</sup> Similarly, AT&T proposes a flat discount approach to Link-Up. AT&T's ETC proposal also includes a recommendation that we automate program eligibility and verification processes and procedures, which is discussed in more detail above in the Database section of this Notice.

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<sup>527</sup> See, e.g., *id.* at 8788, para. 11.

<sup>528</sup> For example, the Wireline Competition Bureau recently conditioned Virgin Mobile's designation as a Lifeline-only ETC in certain states on voluntary commitments Virgin Mobile made to implement procedures to guard against waste, fraud, and abuse of its Lifeline service. See *Virgin Mobile 2010 ETC Order*, 25 FCC Rcd at 17805, para. 24. Should any of the conditions imposed in that order become rules for all carriers that receive forbearance?

<sup>529</sup> See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8791-92, para. 21.

<sup>530</sup> See, e.g., *NTCH, Inc. Petition for Forbearance from 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b)*, WC Docket No. 09-197 (filed Mar. 5, 2010); *Cricket Communications, Inc. Petition for Forbearance*, WC Docket No. 09-197 (filed Jun. 21, 2010).

<sup>531</sup> Letter from Jamie M. Tan, AT&T, to Marlene Dortch, Secretary, FCC, WC Docket No. 03-109, GN Docket Nos. 09-51, 09-47, 09-137 (filed Dec. 22, 2009) (AT&T's ETC Proposal).

<sup>532</sup> *Id.*

<sup>533</sup> *Id.* See *supra* paras. 245-47 for a discussion on lifeline support amounts and the current tiered Lifeline support structure.

312. We seek comment on AT&T's proposal, which would enable all providers of voice and broadband services to offer Lifeline discounts to eligible low-income households. In particular, we ask commenters to address: (1) Whether the current ETC designation process should be revised for Lifeline providers and, if so, how; (2) whether current ETCs should be able to opt out of providing Lifeline services; (3) whether it should be mandatory or optional for ETCs to participate in the Lifeline program; (4) whether consumers should be entitled to a single discount off of a single service or whether consumers should be allowed to receive multiple Lifeline discounts on multiple services, (e.g. voice and broadband); (5) how this new regulatory framework would be administered; (6) what processes and procedures would be necessary to support this new framework; (7) what additional steps the Commission should take to guard against waste, fraud, and abuse in the program if additional providers offering multiple services were to participate in the program; (8) the legal basis for adopting such a proposal; (9) whether there are any issues we would need to account for in terms of transition to this type of model, such as service contracts; and (10) how this proposal would impact the states, including their current roles associated with granting ETCs authority to operate in their states and overseeing their performance.

## X. OTHER MATTERS

313. We propose to eliminate section 54.418 of our rules, which required ETCs to notify low-income consumers of the DTV transition. This rule is now obsolete given the completion of the DTV transition. We seek comment on this proposal.

## XI. PROCEDURAL MATTERS

314. The proposed rules are attached as Appendix A. In addition to the changes discussed above, the proposed rules include non-substantive changes to the rules applicable to the program. We seek comment on such changes.

### A. Paperwork Reduction Act Analysis

315. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995.<sup>534</sup> In addition, pursuant to the Small Business Paperwork Relief Act of 2002,<sup>535</sup> we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."<sup>536</sup>

### B. Initial Regulatory Flexibility Analysis

316. As required by the Regulatory Flexibility Act of 1980, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document.<sup>537</sup> The IRFA is set forth in Appendix E. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided on or before the dates indicated on the first page of this Notice. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.<sup>538</sup> In addition, the

<sup>534</sup> Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (1995).

<sup>535</sup> Small Business Paperwork Relief Act of 2002, Pub. L. No. 107-198, 116 Stat. 729 (2002).

<sup>536</sup> See 44 U.S.C. § 3506(c)(4).

<sup>537</sup> See 5 U.S.C. § 603.

<sup>538</sup> See 5 U.S.C. § 603(a).

Notice and IRFA (or summaries thereof) will be published in the Federal Register.<sup>539</sup>

**C. Ex Parte Presentations**

317. The rulemaking this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>540</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.<sup>541</sup> Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission’s rules.<sup>542</sup>

**D. Comment Filing Procedures**

318. Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

319. In addition, one copy of each paper filing must be sent to each of the following: (i) The Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-

<sup>539</sup> *Id.*

<sup>540</sup> 47 C.F.R. §§ 1.1200-1.1216.

<sup>541</sup> 47 C.F.R. § 1.1206(b)(2).

<sup>542</sup> 47 C.F.R. § 1.1206(b).

B402, Washington, DC 20554; Web site: [www.bcpiweb.com](http://www.bcpiweb.com); phone: 1-800-378-3160; (ii) Kimberly Scardino, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-B448, Washington, DC 20554; e-mail: [Kimberly.Scardino@fcc.gov](mailto:Kimberly.Scardino@fcc.gov); and (iii) Charles Tyler, Telecommunications, Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A452, Washington, DC 20554, e-mail: [Charles.Tyler@fcc.gov](mailto:Charles.Tyler@fcc.gov).

320. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

321. Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C., 20554. Copies may also be purchased from the Commission's duplicating contractor, BCPI, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its website: [www.bcpiweb.com](http://www.bcpiweb.com), by e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com), by telephone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563.

322. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules.<sup>543</sup> We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the NPRM in order to facilitate our internal review process.

323. For further information, contact Kimberly Scardino at (202) 418-1442 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

## XII. ORDERING CLAUSES

324. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 201-205, 214, 254, 403, and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 201-205, 214, 254, 403, 410(c), this Notice of Proposed Rulemaking IS ADOPTED.

325. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

## FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>543</sup> See 47 C.F.R. § 1.49.

## APPENDIX A

## Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 C.F.R. Part 54 as follows:

**PART 54 - UNIVERSAL SERVICE**

1. The authority citation for Part 54 continues to read as follows:

Authority: 47 U.S.C. §§ 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Amend § 54.101 by removing subsection (a)(9), to read as follows:

**§ 54.101 Supported services for rural, insular and high cost areas.**

(a) Services designated for support. The following services or functionalities shall be supported by federal universal support mechanisms:

(1) \*\*\*\*\*

(2) \*\*\*\*\*

(3) \*\*\*\*\*

(4) \*\*\*\*\*

(5) \*\*\*\*\*

(6) \*\*\*\*\*

(7) \*\*\*\*\*

(8) \*\*\*\*\*

(9) [Reserved]

3. Amend § 54.400 by revising subsection (e), adding new subsections (b) and (e), eliminating subsections (b), (c), and (d), and re-designating (b), (c), (d), and (e), to read as follows:

**§ 54.400 Terms and Definitions.**

(a) *Qualifying low-income consumer.* A “qualifying low-income consumer” is a consumer who meets the qualifications for Lifeline, as specified in § 54.409, and complies with the one-per-residence limitation, as specified in § 54.402.

(b) *Duplicate support.* Duplicate support exists when (1) two or more ETCs are receiving Lifeline or Link Up support for the same residential address at the same time; or (2) an ETC is receiving two or more Lifeline or Link Up support reimbursements for the same residence at the same time.

(c) *Eligible resident of Tribal lands.* An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in paragraph (a) of this section, living on a reservation or on Tribal lands designated as such by the Commission. A “reservation” is defined as any federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. “Tribal lands” also shall mean any land designated as Tribal lands by the Commission for purposes of this subpart pursuant to the designation process in §54.402.

(d) *Income.* \*\*\*\*\*

(e) *Customary charge for commencing telecommunications service.* A “customary charge for commencing telecommunications service” is the ordinary charge an ETC routinely imposes on all customers within a state to initiate service. Such a charge is limited to an actual charge assessed on all customers to initiate service with that ETC. A charge imposed only on Lifeline and/or Link Up customers to initiate service is not a customary charge for commencing telecommunications service. Activation charges waived, reduced, or eliminated with the purchase of additional products, services, or minutes are not customary charges eligible for universal service support.

4. Amend § 54.401 by removing subsection (c), revising subsections (a)(3), to read as follows:

**§ 54.401 Lifeline defined.**

(a) As used in this subpart, Lifeline means a retail local service offering:

(1) \*\*\*\*\*

(2) \*\*\*\*\*

(3) That provides voice telephony service as specified in § 54.101(a);

(b) [Reserved]

(c) [Reserved]

(d) \*\*\*\*\*

(e) \*\*\*\*\*

5. Add new § 54.402, to read as follows:

**§ 54.402 Tribal lands designation process.** The Commission may designate specific areas as Tribal lands for purposes of this subpart for areas or communities that fall outside the boundaries of a designated reservation, but which maintain the same characteristics as those defined. A request for designation must be formally requested by an official of a federally recognized Tribe who has proper jurisdiction and must be filed pursuant to the Commission's rules. Good cause for the designation may be shown by: (1) providing evidence of a nexus between the area or community and the Tribe, such as identifying an area in which the federal government delivers services to Tribal citizens; (2) detailing how program support to the area would aid the Tribe in serving the needs and interests of its citizens in that community and further the Commission's goals of providing Tribal support. The region or community areas associated with the Tribe, as outlined and described in a grant of designation request, shall be considered Tribal lands for the purposes of this Subpart.

6. Amend Section 54.403 by removing subsection (c), revising subsections (a) and (b), and adding a new subsection (c), to read as follows:

**§ 54.403 Lifeline support amount.**

(a) The federal Lifeline support amount for all eligible telecommunications carriers shall equal:

(1) \*\*\*\*\*

(2) \*\*\*\*\*

(3) \*\*\*\*\*

(4) *Tier Four.* Additional federal Lifeline support of up to \$25 per month will be made available to an eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400(c), to the extent that the eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tier-Four amount to qualifying eligible residents of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required

rate reduction, to the extent that: \*\*\*\*\*

\*\*\*\*\*

**(b) *Maximum Lifeline Support Amount.***

(1) For a qualifying low-income consumer who is not an eligible resident of Tribal lands, as defined in §54.400(c), the federal Lifeline support amount shall not exceed \$3.50 plus the tariffed rate in effect for the primary residential End User Common Line charge of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service, as determined in accordance with §69.104 or §69.152(d) and (q) of this chapter, whichever is applicable.

(2) For an eligible resident of Tribal lands, the federal Lifeline support amount shall not exceed \$28.50 plus that same End User Common Line charge.

(3) For a qualifying low-income consumer who purchases a bundled service package or a service plan that includes optional calling features, the federal Lifeline support amount shall not exceed the maximum Lifeline support amount as determined in accordance with § 54.403(b)(1) or (b)(2) of this subpart, whichever is applicable.

**(c) *Application of Discount Amount.*** Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges shall apply Tier-One federal Lifeline support to waive the federal End-User Common Line charges for Lifeline consumers. Such carriers shall apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers shall apply the Tier-One federal Lifeline support amount, plus any additional support amount, to reduce the cost of any eligible residential Lifeline service plan or package selected by a qualified low-income consumer that provides voice telephony service with the performance characteristics listed in § 54.101(a), and charge Lifeline consumers the resulting amount.

7. Amend § 54.405 by adding subsections (e), and revising subsection (c), to read as follows:

**§ 54.405 Carrier obligation to offer Lifeline.**

\*\*\*\*\*

(c) *Termination for Ineligibility.* \*\*\*\*\*

\*\*\*\*\*

(e) *De-enroll for disqualification.* Notwithstanding § 54.405(c) of this section, notify Lifeline subscribers of impending termination of Lifeline service if the subscriber fails (1) to respond to notifications regarding duplicate support; (2) to respond to ETC verification attempts made pursuant to § 54.410(d) or (3) to use the supported service during a 60-day period. ETCs shall provide the subscriber 30 days following the date of the impending termination letter in which to demonstrate that Lifeline service shall not be terminated. ETCs shall terminate the Lifeline service if the subscriber fails to demonstrate that Lifeline service shall not be terminated. ETCs shall not seek Lifeline reimbursement for the subscriber during the 30-day period.

8. Amend § 54.407 by revising subsection (b) and (d), to read as follows:

**§ 54.407 Reimbursement for offering Lifeline.**

(a) \*\*\*\*\*

(b) The eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer who has used the supported service to initiate or receive a voice call within the last 60 days.

(c) \*\*\*\*\*

(d) The eligible telecommunications carrier seeking support must report partial or pro rata dollars when claiming reimbursement for discounted services to low-income consumers who receive service for less than a month.

9. Add new § 54.408, to read as follows:

**§ 54.408 One-per-residence.**

(a) Lifeline and Link Up support is limited to one Lifeline discount and/or one Link Up discount per billing residential address.

(1) *Billing Residential address.* For purposes of the Lifeline and Link Up programs, a “billing residential address” is a unique residential address recognized by the U.S. Postal Service address.

(2) Lifeline and Link Up support is available only to establish service at the qualifying low-income consumer's primary residential address. The consumer must initially certify at enrollment that the consumer's billing residential address of record is his or her primary residential address.

(b) To be considered an eligible consumer for the purposes of Lifeline and Link Up support, a consumer must meet the criteria set forth in section §54.409 of the rules.

10. Amend § 54.409 by adding subsection (c)(3) and (d), revising subsections (a), (c) and (d), eliminating subsections (b) and (d), and re-designating subsections (b), (c), (c)(3) and (d), to read as follows:

**§ 54.409 Consumer qualification for Lifeline.**

(a) To qualify to receive Lifeline service, a consumer's household income, as defined in § 54.400(d), must be at or below 135% of the Federal Poverty Guidelines, or a consumer must participate in one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families.

(b) A consumer that is an eligible resident of Tribal lands, as defined by § 54.400(c) or § 54.402, shall be a "qualifying low-income consumer," as defined by 54.400(a), and shall qualify to receive Tiers One, Two, and Four Lifeline support if the consumer's residence: (1) has income that meets the threshold established in § 54.409(a) or participates in one of the federal assistance programs identified in § 54.409(a); or (2) participates in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance, Tribally administered Temporary Assistance for Need Families (TANF); Head Start (but only those households meeting its income qualifying standard); or Food Distribution Program on Indian Reservations (FDPIR). Such qualifying low-income consumer shall also qualify for Tier Three Lifeline support if the carrier offering the Lifeline service is not subject to the regulations of the state and provides carrier-matching funds, as described in § 54.403(a)(3).

(c) Each eligible telecommunications carrier providing Lifeline service to a qualifying low-income

consumer pursuant to paragraphs (a) or (b) of this section must obtain that consumer's signature on a document certifying under penalty of perjury that:

- (1) The consumer's residence receives benefits from one of the programs listed in § 54.409 (a) or (b) of this section, and that the consumer presented documentation of program participation, as described in 54.410(b), which accurately represents the program participation of the consumer's residence; or the consumer's residence meets the income requirement of § 54.409 (a) of this section, and that the consumer presented documentation of income, as described in §§ 54.400(f), 54.410(a), which accurately represents the consumer's income; and
- (2) If an eligible resident of Tribal lands, that the consumer lives on a reservation or Tribal lands, as defined in §54.400(c) and § 54.402; and
- (3) The consumer will notify the carrier within 30 days if that consumer ceases to participate in the program or programs, if the consumer's income exceeds 135% of the Federal Poverty Guidelines, or if the consumer otherwise ceases to meet the criteria for receiving program support.

11. Amend § 54.410 by revising subsections (a) and (c), adding new subsections (b), (d), and (e), eliminating subsections (a)(1), (a)(2), (c)(1), and (c)(2), and re-designating subsections (b), (c), (c)(1) and (c)(2), to read as follows:

**§ 54.410 Certification and Verification of Consumer Qualification for Lifeline.**

(a) *Certification of income qualification.* Prior to enrollment in Lifeline, consumers qualifying for Lifeline under an income-based criterion must present documentation of their income and certify that they will be receiving support for only one Lifeline discount per residence. By six months from the effective date of these rules, eligible telecommunications carriers in all states must implement certification procedures to document consumer-income-based eligibility for Lifeline prior to a consumer's enrollment if the consumer is qualifying under the income-based criterion specified in §54.409(a). Acceptable documentation of income eligibility includes the prior year's state or federal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veterans Administration statement of benefits, a retirement/pension statement of benefits, an

Unemployment/Workers' Compensation statement of benefits, federal notice letter of participation in General Assistance, a divorce decree, child support, or other official document. If the consumer presents documentation of income that does not cover a full year, such as current pay stubs, the consumer must present the same type of documentation covering three consecutive months within that calendar year.

States that mandate state Lifeline support may impose additional standards on eligible telecommunications carriers operating in their states to ensure compliance with the state Lifeline program.

**(b) Certification of program qualification.** Consumers qualifying for Lifeline under a program-based criterion must present documentation of their household participation in a qualifying program and certify that they will be receiving support for only one Lifeline discount per residence prior to enrollment in Lifeline. By six months from the effective date of these rules, eligible telecommunications carriers in all states must implement certification procedures to document consumer-program-based eligibility for Lifeline prior to a consumer's enrollment if the consumer is qualifying under the program-based criterion specified in §54.409(a) and (b). Acceptable documentation of program eligibility includes the prior year's statement of benefits from the program, program participation documents, federal notice letter of participation in the program, or other official document. If the consumer presents documentation of program participation that does not cover a full year, such as current program benefits, the consumer must present the same type of documentation covering three consecutive months within that calendar year.

States that mandate state Lifeline support may impose additional standards on eligible telecommunications carriers operating in their states to ensure compliance with the state Lifeline program.

**(c) Self-certifications.** After income and program based certification procedures are implemented, eligible telecommunications carriers are required to make and obtain certain self-certifications, under penalty of perjury, related to the Lifeline program. Eligible telecommunications carriers must retain records of all self-certifications.

**(1)** An officer of the eligible telecommunications carrier must certify that the eligible telecommunications carrier has procedures in place to review income and program documentation and that, to the best of his or her knowledge, the carrier was presented with documentation of the consumer's income qualification

or program participation.

(2) Lifeline and Link Up subscribers must initially certify at enrollment and during continued verification that they are receiving support for only one line per residence, consistent with the one-per-residence limitation as specified in § 54.408.

(3) Consumers qualifying for Lifeline under an income-based criterion must certify the number of individuals in their residence on the document required in § 54.409(c).

(d) *Verification of Continued Eligibility.* Consumers qualifying for Lifeline shall be required to verify continued eligibility on an annual basis. By six months from the effective date of these rules, eligible telecommunications carriers in all states shall implement procedures to verify annually the continued eligibility of a statistically valid sample [TBD] of their Lifeline subscribers for continued eligibility.

(1) Eligible telecommunications carriers shall require each customer to certify that they are receiving support for only one line per residence. Eligible telecommunications carriers may verify directly with a state that particular customers continue to be eligible by virtue of participation in a qualifying program or income level. To the extent eligible telecommunications carriers cannot obtain the necessary information from the state, they may verify directly with the customers.

(2) All eligible telecommunications carriers will be required to provide the results of their verification efforts to the Commission and the Administrator on the Annual Lifeline Certification and Verification Form (currently OMB 3060-0819) by August 31 each year. Eligible telecommunications carriers shall submit data to the Commission and Administrator regarding consumer qualifications for eligibility, including program-based and income-based eligibility, the number of customers that qualify based on income and program participation, the number of subscribers that qualify for each eligible program, the number of non-responders, and the number of customers de-enrolled and in the process of being terminated or de-enrolled. Eligible telecommunications carriers shall submit each customer name, address, and number of individuals in the customer's residence for those customers qualifying based on income criterion.

(e) *Preventing and Resolving Duplicate Support.* ETCs shall provide the Administrator with their Lifeline

and Link Up customer names, addresses, social security numbers, and/or other unique residence-identifying information as specified in the form and format requested on the Form 497 for the purpose of preventing and resolving situations involving duplicate support.

12. Amend Section 54.413 by revising subsection (b), to read as follows:

**§ 54.413 Reimbursement for revenue forgone in offering a Link Up program.**

(a) \*\*\*\*\*

(b) In order to receive universal service support reimbursement for providing Link Up, eligible telecommunications carriers must keep accurate records of the revenues they forgo in reducing their customary charge for commencing telecommunications service, as defined in § 54.400(e), and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with § 54.411. \*\*\*\*\*

13. Amend Section 54.415 by revising subsections (a) and (c), eliminating subsection (b), and redesignating subsections (a) and (b), to read as follows:

**§ 54.415 Consumer qualification for Link Up.**

(a) The consumer qualification criteria for Link Up shall be the criteria set forth in § 54.409(a).

(b) Notwithstanding paragraph (a) of this section, the consumer qualification criteria for an eligible resident of Tribal lands, as defined in § 54.400(c) and § 54.402, shall qualify to receive Link Up support.

14. Amend Section 54.416 to read as follows:

**§ 54.416 Certification of consumer qualification for Link Up.**

Consumers qualifying under income-based or program-based criteria must present documentation of their qualification prior to enrollment in Link Up consistent with the requirements set forth in §§ 54.410(a) and

(b).

15. Amend Section 54.417 by revising subsections (a) and (b), to read as follows:

**§ 54.417 Recordkeeping requirements.**

(a) \*\*\*\*\* eligible telecommunications carriers must maintain the documentation required in §§ 54.409(c) and 54.410(c) for as long as the consumer receives Lifeline service \*\*\*\*\*

(b) \*\*\*\*\* To the extent such a reseller provides discounted services to low-income consumers, it is obligated to comply with the eligible telecommunications carrier requirements listed in this Subpart.

16. Amend Section 54.418 by eliminating this subsection as moot.

**§ 54.418 [Reserved]**

## APPENDIX B

### Current Verification Methodology

#### Statistically Valid Sample

Eligible Telecommunications Carriers (ETCs) subject to the federal default criterion will be required to verify the continued eligibility of a statistically valid sample of their Lifeline customers. The size of a statistically valid sample, however, varies based upon many factors, including the number of Lifeline subscribers (N) and the previously estimated proportion of Lifeline subscribers inappropriately taking Lifeline service (P).

For the first year that ETCs verify subscribers' continued eligibility, all ETCs should assume that the proportion P of subscribers inappropriately taking Lifeline service is .01, if there is no evidence to assume a different proportion. In subsequent years, ETCs should use the results of samples from previous years to determine this estimated proportion. In all instances, the estimated proportion P should never be less than .01 or more than .06.

For ETCs with large numbers of Lifeline subscribers (more than 400,000), a statistically valid sample size must be calculated pursuant to the following formula:<sup>1</sup>

$$\text{Sample Size} = 2.706 * P * (1 - P) / .000625.$$

For ETCs with 400,000 Lifeline subscribers or less, the above formula could yield a sample size that is larger than needed to be statistically valid.<sup>2</sup> To simplify the calculation of a statistically valid sample, a table of sample sizes based on two variables N (number of Lifeline subscribers) and P (previously estimated proportion of Lifeline subscribers inappropriately taking Lifeline service) is provided below. Various numbers of Lifeline subscribers N are listed in the left-most column. Various previously estimated proportions P are listed on the first row. To determine the sample size, find the box that matches your number of Lifeline subscribers N and proportion P.

If the number of Lifeline subscribers is not listed and/or the proportion is not listed, ETCs should use the next higher number for N and/or P that is in the table, i.e. always round up to the next higher value for N and/or P. For example, if 3.8 percent of 9,500 Lifeline subscribers inappropriately took Lifeline service, the ETC would use a sample size of 164 (value using 10,000 customers and proportion .04). Because the adjustment for the number of Lifeline subscribers is *de minimus* above 400,000 Lifeline subscribers, ETCs with more than 400,000 Lifeline subscribers must use the above formula to calculate the sample size.

All ETCs must provide the estimated proportion for their samples to the Administrator, i.e., the proportion of sampled subscribers inappropriately taking Lifeline service.

<sup>1</sup> The values 2.706 and .000625 in this formula are mandated by OMB. See Office of Management and Budget, Memorandum M-03-13 (May 21, 2003).

<sup>2</sup> Sample sizes for ETCs with 400,000 Lifeline subscribers or less are calculated pursuant to the following formula: sample size =  $N / (1 + \{[N-1]/n\})$ . N is the number of Lifeline subscribers and  $n = 2.706 * P * (1 - P) / .000625$ , where P is the previously estimated proportion of Lifeline subscribers inappropriately taking Lifeline service. ETCs may choose to calculate their sample sizes using these formulas.

**Sample Size Table**  
**Previously Estimated Proportion of Subscribers**  
**Inappropriately Taking Lifeline Service (P)<sup>3</sup>**

(N) Number of Lifeline Subscribers	0.01	0.015	0.02	0.025	0.03	0.035	0.04	0.045	0.05	0.055	0.06
400,000	43	64	85	106	126	146	166	186	206	225	244
100,000 <sup>4</sup>	43	64	85	105	126	146	166	186	206	225	244
90,000	43	64	85	105	126	146	166	186	205	224	244
70,000	43	64	85	105	126	146	166	186	205	224	243
60,000	43	64	85	105	126	146	166	185	205	224	243
30,000	43	64	85	105	125	146	165	185	204	223	242
20,000	43	64	85	105	125	145	165	184	204	223	241
15,000	43	64	84	105	125	145	164	184	203	222	240
10,000	43	64	84	104	124	144	164	183	202	220	238
9,000	43	64	84	104	124	144	163	182	201	220	238
8,000	43	63	84	104	124	144	163	182	201	219	237
7,000	43	63	84	104	124	143	162	181	200	218	236
6,000	43	63	84	104	123	143	162	180	199	217	235
5,000	43	63	83	103	123	142	161	179	198	215	233
4,000	42	63	83	103	122	141	160	178	196	213	230
3,000	42	63	83	102	121	139	158	175	193	209	226
2,000	42	62	81	100	119	136	154	170	187	202	218
1,500	42	61	80	99	116	133	150	166	181	196	210
1,000	41	60	78	96	112	128	142	157	171	184	196
900	41	60	78	95	111	126	140	154	168	180	192
800	41	59	77	94	109	124	138	151	164	176	187
700	41	59	76	92	107	121	134	147	159	170	181
600	40	58	74	90	104	118	130	142	154	164	174
500	40	57	73	88	101	113	125	136	146	155	164
400	39	55	70	84	96	107	118	127	136	144	152

<sup>3</sup> For the first year of verification, ETCs should assume that this percentage is .01, if there is no evidence to assume a different percentage. In subsequent years, ETCs should use the results of samples from previous years to determine this estimated percentage.

<sup>4</sup> Sample sizes for ETCs with less than 400,000 Lifeline subscribers are calculated pursuant to the following formula:  $\text{sample size} = N / (1 + \{[N-1]/n\})$ . N is the number of Lifeline subscribers; n is  $(2.706 * P * (1 - P)) / .000625$ , where P is the estimated percentage of Lifeline subscribers inappropriately taking Lifeline service. ETCs may choose to calculate their sample sizes using these formulas.

(N) Number of Lifeline Subscribers (cont'd)	0.01	0.015	0.02	0.025	0.03	0.035	0.04	0.045	0.05	0.055	0.06
300	38	53	66	79	89	98	107	115	122	129	135
200	36	49	60	70	78	85	91	97	102	106	110
150	34	45	54	62	69	74	79	83	87	90	93
120	32	42	50	57	62	66	70	73	76	78	81
100	30	39	46	52	56	60	63	65	68	69	71
90	29	38	44	49	53	56	59	61	63	64	66
80	28	36	41	46	49	52	54	56	58	59	60
70	27	34	39	42	45	48	49	51	52	54	55
60	25	31	35	39	41	43	44	46	47	48	48
50	23	28	32	34	36	37	39	40	40	41	42
40	21	25	27	29	31	32	32	33	34	34	34
35	20	23	25	27	28	28	29	30	30	30	31
30	18	21	22	24	24	25	26	26	26	27	27
25	16	18	19	20	21	21	22	22	22	23	23
20	14	15	16	17	17	18	18	18	18	18	19
17	12	14	14	15	15	15	16	16	16	16	16
15	11	12	13	13	13	14	14	14	14	14	14
13	10	11	11	12	12	12	12	12	12	12	12
11	9	10	10	10	10	10	10	10	10	11	11
10	8	9	9	9	9	9	9	10	10	10	10
9	8	8	8	8	8	9	9	9	9	9	9
8	7	7	7	8	8	8	8	8	8	8	8
7	6	6	7	7	7	7	7	7	7	7	7
6	5	6	6	6	6	6	6	6	6	6	6
5	5	5	5	5	5	5	5	5	5	5	5
4	4	4	4	4	4	4	4	4	4	4	4
3	3	3	3	3	3	3	3	3	3	3	3
2	2	2	2	2	2	2	2	2	2	2	2
1	1	1	1	1	1	1	1	1	1	1	1

**APPENDIX C**

**Proposed Verification Methodology**

The following charts identify the number of responders and margins of error based on an estimated ineligibility percentage (e.g. of the previous year). The charts have been calculated using a 95% confidence interval. The white portions of the table identify our proposed threshold rule and the shaded portions of the tables provide the information for alternative thresholds, on which we seek comment.

**SAMPLE SIZE<sup>1</sup>**

Given the Margin of Error and Estimated Ineligibility Percentage											
		Ineligibility Percentage									
		5%	10%	15%	20%	25%	30%	35%	40%	45%	50%
Margin of Error	1%	1825	3458	4899	6147	7203	8068	8740	9220	9508	9604
	2%	457	865	1225	1537	1801	2017	2185	2305	2377	2401
	3%	203	385	545	683	801	897	972	1025	1057	1068
	4%	115	217	307	385	451	505	547	577	595	601
	5%	73	139	196	246	289	323	350	369	381	385

**MARGIN OF ERROR<sup>3</sup>**

Given the Minimum Number of Responders and Estimated Ineligibility Percentage											
		Ineligibility Percentage									
		5%	10%	15%	20%	25%	30%	35%	40%	45%	50%
Minimum Number Of Responders	100	4.3%	5.9%	7.0%	7.8%	8.5%	9.0%	9.3%	9.6%	9.8%	9.8%
	200	3.0%	4.2%	4.9%	5.5%	6.0%	6.4%	6.6%	6.8%	6.9%	6.9%
	300	2.5%	3.4%	4.0%	4.5%	4.9%	5.2%	5.4%	5.5%	5.6%	5.7%
	400	2.1%	2.9%	3.5%	3.9%	4.2%	4.5%	4.7%	4.8%	4.9%	4.9%
	500	1.9%	2.6%	3.1%	3.5%	3.8%	4.0%	4.2%	4.3%	4.4%	4.4%

<sup>1</sup> This chart provides the number of responders required based on a designated ineligibility percentage and margin of error. For example, if the Commission wanted to ensure that the ineligibility rate does not exceed 5%, with the margin of error no more than 1%, the ETC would need to obtain 1,825 eligible responders.

<sup>2</sup> We note that these charts are based on the number of actual responders during verification and not the number surveyed. If the number surveyed does not result in the number of actual responders shown in the chart, more customers would need to be surveyed until the correct number of responders was reached.

<sup>3</sup> This chart provides the margin of error that would exist based on a designated ineligibility percentage and the number of responders. For example, if an ETC had an estimated ineligibility percentage of 5%, and received 300 responders from a survey, this would represent a 2.5% margin of error in its verification survey.

## APPENDIX D

## List of Commenters

**Comments and Reply Comments in Response to the  
TracFone Petition for Declaratory Ruling on Universal Service Issues**  
WC Docket Nos. 09-197, 03-109  
(TracFone Link Up Petition)

<b>Commenter</b>	<b>Abbreviation</b>
AT&T, Inc.	AT&T
Budget Prepay, Inc. and GreatCall, Inc.	Budget PrePay GreatCall
Competitive Eligible Telecommunications Carriers	CETCs
Nexus Communications, Inc.	Nexus
Ohio Public Utilities Commission of Ohio	Ohio
<b>Reply Commenter</b>	<b>Abbreviation</b>
National Association of State Utility Consumer Advocates	NASUCA
Nexus Communications Inc.	Nexus Communications
TracFone Wireless, Inc.	TracFone

**Comments and Reply Comments in Response to the  
Federal-State Joint Board on Universal Service, Lifeline and Link Up Referral Order**  
CC Docket No. 96-45; WC Docket No. 03-109  
(Joint Board)

<b>Commenter</b>	<b>Abbreviation</b>
Advocates for Basic Legal Equality, Inc., Community Voice Mail National Crossroads Urban Center Disability Rights Advocates The Low Income Utility Advocacy Project Minnesota Legal Services Advocacy Project The National Consumer Law Center, On Behalf of Our Low-Income Clients New Jersey Shares Ohio Poverty Law Center Pro Seniors Salt Lake Community Action Program Texas Legal Services Center The Utility Reform Network Twin Cities Community Voicemail	Consumer Groups
AT&T Services, Inc.	AT&T
Benton Foundation, et al.	Benton
California Public Utilities Commission	CPUC
Community Voice Mail National Office	CVMN
Public Service Commission of the District of Columbia	DCPSC
Florida Public Service Commission	FPSC
Leap Wireless International, Inc. and Cricket Communications, Inc.	Cricket
Media Action Grassroots Network	MAG-Net
Missouri Public Service Commission	MoPSC

National Association of State Utility Consumer Advocates  
 National Hispanic Media Coalition  
 Nebraska Public Service Commission  
 Nexus Communications, Inc.  
 Public Utilities Commission of Ohio  
 PR Wireless, Inc.  
 Smith Bagley, Inc.  
 TracFone Wireless, Inc.  
 United States Telecom Association  
 Verizon and Verizon Wireless  
 YourTel America, Inc.

NASUCA  
 NHMC  
 NPSC  
 Nexus  
 Ohio PUC  
 PR Wireless  
 Smith Bagley  
 TracFone  
 USTelecom  
 Verizon  
 YourTel

**Reply Commenter**

Advocates for Basic Legal Equality, Inc.,  
 Community Voice Mail National Crossroads Urban Center  
 Disability Rights Advocates  
 The Low Income Utility Advocacy Project  
 Minnesota Legal Services Advocacy Project  
 The National Consumer Law Center, On Behalf of Our  
 Low-Income Clients  
 New Jersey Shares  
 Ohio Poverty Law Center  
 Pro Seniors  
 Salt Lake Community Action Program  
 Texas Legal Services Center  
 The Utility Reform Network  
 Twin Cities Community Voicemail  
 AT&T, Inc.  
 CTIA—The Wireless Association  
 Consumer Advisory Committee  
 GCI Communication, Inc.  
 Leadership Conference on Civil and Human Rights  
 Massachusetts Department of Telecommunications and Cable  
 National Association of State Utility Consumer Advocates  
 National Hispanic Media Coalition  
 Media Action Grassroots Network  
 Office of Communication of the United Church of Christ, Inc.,  
 Benton Foundation, and Access Humboldt  
 Nexus Communications, Inc.  
 Norma J. Torres  
 Pennsylvania Public Utility Commission  
 PR Wireless, Inc.  
 Qwest Communications International Inc.  
 Smith Bagley, Inc.  
 Sprint Nextel Corporation  
 TracFone Wireless, Inc.  
 Verizon and Verizon Wireless  
 YourTel America, Inc.

**Abbreviation**

Consumer Groups  
 AT&T  
 CTIA

GCI

MDTC  
 NASUCA

Public Interest Commenters  
 Nexus

PaPUC  
 PR Wireless  
 Qwest  
 Smith Bagley  
 Sprint  
 TracFone  
 Verizon Companies  
 YourTel

**Comments and Reply Comments in Response to the  
TracFone Wireless, Inc.'s Petition for Waiver of 47 C.F.R. § 54.403(a)(i)  
CC Docket No. 96-45  
(TracFone Tier 1 Petition)**

**Commenter**

Independent Telephone & Telecommunications Alliance  
National Assn. of State Utility Consumer Advocates  
Oregon Public Utility Commission  
Sprint Nextel Corporation  
YourTel America, Inc.

**Abbreviation**

ITTA  
NASUCA  
Oregon PUC  
Sprint  
Yourtel

**Reply Commenter**

National Association of State Utility Consumer  
Advocates  
Pennsylvania Public Utility Commission  
TracFone Wireless, Inc.

**Abbreviation**

NASUCA  
PaPUC  
TracFone

**Comments and Reply Comments in Response to the  
TracFone Request for Clarification of Universal Service Lifeline Program "One-Per-Household" Rule  
as Applied to Group Living Facilities  
WC Docket No. 03-109  
(TracFone One-Per-Household Clarification)**

**Commenter**

American Public Communications Council  
AT&T Inc.  
City of Cambridge, MA & Cambridge Continuum of Care  
East Side SRO Legal Services Project  
Florida Public Service Commission and Florida  
Office of Public Counsel  
General Communication, Inc.  
Homeless Advocacy Project  
Manhattan Legal Services NYC  
Miriam's Kitchen  
MFY Legal Services  
National Assn. of State Utility consumer Advocates  
National Consumer Law Center  
Part of the Solution, Inc.  
Public Utilities Commission of Ohio  
Smith Bagley, Inc.  
Washington Legal Clinic for the Homeless, Inc.

**Abbreviation**

APCC  
AT&T  
City of Cambridge - CoC  
  
Florida PSC & OPC  
GCI  
HAP  
  
NASUCA  
NCLC  
POTS  
Ohio Commission  
SBI

**Reply Commenter**

GCI Communication, Inc. d/b/a  
GCI Communication Corp and GCI  
Massachusetts Department of Telecommunications and Cable  
National Consumer Law Center and  
Greater Boston Legal Services  
National Network to End Domestic Violence

**Abbreviation**

GCI  
MDTC  
  
NCLC/GBLS  
NNEDV

**Public Utility Commission of Oregon  
TracFone Wireless, Inc.**

**OPUC  
TracFone**

## APPENDIX E

## Initial Regulatory Flexibility Analysis

1. Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking.<sup>1</sup> Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed on or before the dates indicated on the first page of this NPRM. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.<sup>2</sup> In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

**A. Need for, and Objectives of, the Notice of Proposed Rulemaking:**

2. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254.<sup>4</sup> On May 8, 1997, the Commission adopted rules that reformed its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition.<sup>5</sup> Among other programs, the Commission adopted a program to provide discounts that make basic, local telephone service affordable for low-income consumers.<sup>6</sup>

3. This *Notice of Proposed Rulemaking* (NPRM) is one in a series of rulemaking proceedings designed to implement the National Broadband Plan's (NBP) vision of improving and modernizing the universal service programs.<sup>7</sup> In this NPRM, we propose and seek comment on comprehensive reforms to the universal service low-income support mechanism. We propose and seek comment on a package of reforms that address each of the major recommendations by the Universal Service Joint Board regarding the low-income program.<sup>8</sup> We also propose a series of recommendations in accordance with a report on the program by the Government Accountability Office (GAO).<sup>9</sup>

4. Specifically, we propose and seek comment on the following reforms and modernizations that may be implemented in funding year 2011 (January 1, 2011 to December 31, 2011): (1) strengthening the Commission's rules to ensure that the low-income program subsidizes no more than one service per eligible residential address; (2) reducing waste, fraud, and abuse by addressing duplicate claims, subscriber reporting, and de-enrollment procedures; (3) streamlining and improving program

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<sup>1</sup> 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612 has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

<sup>2</sup> 5 U.S.C. § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> 47 U.S.C. § 254.

<sup>5</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, paras. 326-328 (1997).

<sup>6</sup> *See id.*

<sup>7</sup> *See* NATIONAL BROADBAND PLAN.

<sup>8</sup> *2010 Recommended Decision*.

<sup>9</sup> *See* U.S. GOVERNMENT ACCOUNTABILITY OFFICE, REPORT TO CONGRESSIONAL REQUESTERS, GAO 11-11, TELECOMMUNICATIONS: IMPROVED MANAGEMENT CAN ENHANCE FCC DECISION MAKING FOR THE UNIVERSAL SERVICE FUND LOW-INCOME PROGRAM (2010).

administration through the establishment of uniform eligibility, verification, and certification requirements; and (4) establishing a centralized database for reporting.

**B. Legal Basis:**

5. This *Notice of Proposed Rulemaking*, including publication of proposed rules, is authorized under sections 1, 2, 4(i)-(j), 201(b), 254, 257, 303(r), and 503 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. §§ 151, 152, 154(i)-(j), 201(b), 254, 257, 303(r), 503, 1302.<sup>10</sup>

**C. Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply:**

6. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>11</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>12</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>13</sup> A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>14</sup> Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.<sup>15</sup> A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>16</sup> Nationwide, as of 2002, there were approximately 1.6 million small organizations.<sup>17</sup> The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>18</sup> Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.<sup>19</sup> We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.”<sup>20</sup> Thus, we estimate that most governmental jurisdictions are small.

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<sup>10</sup> 47 U.S.C. §§ 151, 152, 154(i)-(j), 201(b), 254, 257, 303(r), 503, 1302.

<sup>11</sup> 5 U.S.C. § 603(b)(3).

<sup>12</sup> 5 U.S.C. § 601(6).

<sup>13</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3).

<sup>14</sup> Small Business Act, 15 U.S.C. § 632.

<sup>15</sup> See Small Business Administration, Office of Advocacy, Frequently Asked Questions, <http://www.sba.gov/advocacy/7495> (last visited March 2, 2011).

<sup>16</sup> 5 U.S.C. § 601(4).

<sup>17</sup> Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

<sup>18</sup> 5 U.S.C. § 601(5).

<sup>19</sup> U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Section 8, page 272, Table 415.

<sup>20</sup> We assume that the villages, school districts, and special districts are small, and total 48,558. See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, page 273, Table 417. For 2002, Census Bureau (continued....)

## 1. Wireline Providers

7. *Incumbent Local Exchange Carriers (Incumbent LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>21</sup> Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.<sup>22</sup> Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.<sup>23</sup> Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.<sup>24</sup>

8. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers*. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>25</sup> Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities.<sup>26</sup> According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.<sup>27</sup> Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer

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(Continued from previous page)

data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

<sup>21</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>22</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>23</sup> See *id.*

<sup>24</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517110 in the left column for “Wired telecommunications carriers”) (last visited March 2, 2011).

<sup>25</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>26</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517110 in the left column for “Wired telecommunications carriers”) (last visited March 2, 2011).

<sup>27</sup> See *Trends in Telephone Service* at Table 5.3.

employees and 186 have more than 1,500 employees.<sup>28</sup> In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.<sup>29</sup> In addition, 72 carriers have reported that they are Other Local Service Providers.<sup>30</sup> Seventy of which have 1,500 or fewer employees and two have more than 1,500 employees.<sup>31</sup> Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

9. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>32</sup> Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities.<sup>33</sup> According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>34</sup> Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.<sup>35</sup> Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the Notice.

10. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>36</sup> Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>37</sup> Census Bureau data for 2007, which now supersede 2002 Census data, show that there were 3,188 firms in this category that operated for the entire year. Of the total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more.<sup>38</sup> Thus

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<sup>28</sup> See *id.*

<sup>29</sup> *Id.*

<sup>30</sup> See *id.*

<sup>31</sup> See *id.*

<sup>32</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>33</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector..." choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

<sup>34</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>35</sup> See *id.*

<sup>36</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>37</sup> *Id.*

<sup>38</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector..." choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." (continued...))

under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities.<sup>39</sup> According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees.<sup>40</sup> Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

11. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>41</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>42</sup> Thus under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.<sup>43</sup> Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.<sup>44</sup> Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

12. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>45</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>46</sup> Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data,<sup>47</sup> 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

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(Continued from previous page)

Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

<sup>39</sup> *Id.*

<sup>40</sup> *Trends in Telephone Service* at Table 5.3.

<sup>41</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>42</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...", choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

<sup>43</sup> *See Trends in Telephone Service* at Table 5.3.

<sup>44</sup> *Id.*

<sup>45</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>46</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...", choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

<sup>47</sup> *See Trends in Telephone Service* at Table 5.3.

13. *Pre-paid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for pre-paid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>48</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>49</sup> Thus under this category and the associated small business size standard, the majority of these pre-paid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of pre-paid calling cards.<sup>50</sup> Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees.<sup>51</sup> Consequently, the Commission estimates that the majority of pre-paid calling card providers are small entities that may be affected by rules adopted pursuant to the Notice.

14. *800 and 800-Like Service Subscribers.*<sup>52</sup> Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (“toll free”) subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>53</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.<sup>54</sup> Thus under this category and the associated small business size standard, the majority of resellers in this classification can be considered small entities. To focus specifically on the number of subscribers than on those firms which make subscription service available, the most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use.<sup>55</sup> According to our data, at of September 2009, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,888,687; the number of 877 numbers assigned was 4,721,866; and the number of 866 numbers assigned was 7,867,736. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,860,000 or fewer small entity 800 subscribers; 5,888,687 or fewer small entity 888 subscribers; 4,721,866 or fewer small entity 877 subscribers; and 7,867,736 or

<sup>48</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>49</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517911 in the left column for “Telecommunications Resellers”) (last visited March 2, 2011).

<sup>50</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>51</sup> See *id.*

<sup>52</sup> We include all toll-free number subscribers in this category, including those for 888 numbers.

<sup>53</sup> 13 C.F.R. § 121.201, NAICS code 517911.

<sup>54</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517911 in the left column for “Telecommunications Resellers”) (last visited March 2, 2011).

<sup>55</sup> *Trends in Telephone Service* at Tables 18.4, 18.5, 18.6, 18.7.

fewer small entity 866 subscribers. We do not believe 800 and 800-Like Service Subscribers will be effected by our proposed rules, however we choose to include this category and seek comment on whether there will be an effect on small entities within this category.

## 2. Wireless Carriers and Service Providers

15. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

16. *Wireless Telecommunications Carriers (except Satellite)*. Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.<sup>56</sup> Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications.<sup>57</sup> Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.<sup>58</sup> For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.<sup>59</sup> Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services.<sup>60</sup> Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.<sup>61</sup> Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

17. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business” as an entity with average gross revenues of \$15 million for each of the three preceding years.<sup>62</sup> The SBA has approved these

<sup>56</sup> U.S. Census Bureau, 2007 NAICS Definitions: Wireless Telecommunications Categories (except Satellite), <http://www.census.gov/naics/2007/def/ND517210.HTM> (last visited March 2, 2011).

<sup>57</sup> U.S. Census Bureau, 2002 NAICS Definitions: Paging, <http://www.census.gov/epcd/naics02/def/NDEF517.HTM> (last visited March 2, 2011); U.S. Census Bureau, 2002 NAICS Definitions: Other Wireless Telecommunications, <http://www.census.gov/epcd/naics02/def/NDEF517.HTM> (last visited March 2, 2011).

<sup>58</sup> 13 C.F.R. § 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 C.F.R. citations were 13 C.F.R. § 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

<sup>59</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517210 in the left column for “Wireless Telecommunications Carriers (except Satellite)”) (last visited March 2, 2011).

<sup>60</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>61</sup> See *id.*

<sup>62</sup> *Amendment of the Commission’s Rules to Establish Part 27, the Wireless Communications Service*, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, 10879, para. 194 (1997).

definitions.<sup>63</sup> The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

18. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of \$15 million or less in average annual receipts, under SBA rules.<sup>64</sup> The second has a size standard of \$25 million or less in annual receipts.<sup>65</sup>

19. The category of Satellite Telecommunications “comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”<sup>66</sup> Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year.<sup>67</sup> Of this total, 464 firms had annual receipts of under \$10 million, and 18 firms had receipts of \$10 million to \$24,999,999.<sup>68</sup> Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

20. The second category, i.e., All Other Telecommunications, comprises “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.”<sup>69</sup> For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year.<sup>70</sup> Of this total, 2,347 firms had annual receipts of under \$25

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<sup>63</sup> See Letter from Aida Alvarez, Administrator, SBA, to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC (filed Dec. 2, 1998) (*Alvarez Letter 1998*).

<sup>64</sup> 13 C.F.R. § 121.201, NAICS code 517410.

<sup>65</sup> 13 C.F.R. § 121.201, NAICS code 517919.

<sup>66</sup> U.S. Census Bureau, 2007 NAICS Definitions, Satellite Telecommunications, <http://www.census.gov/naics/2007/def/ND517410.HTM> (last visited March 2, 2011).

<sup>67</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ4: Receipts Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517210 in the left column for “Satellite Telecommunications”) (last visited March 2, 2011).

<sup>68</sup> *Id.*

<sup>69</sup> U.S. Census Bureau, 2007 NAICS Definitions, All Other Telecommunications, <http://www.census.gov/naics/2007/def/ND517919.HTM> (last visited March 2, 2011).

<sup>70</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ4: Receipts Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517919 in the left column for “All Other Telecommunications”) (last visited March 2, 2011).

million and 12 firms had annual receipts of \$25 million to \$49,999,999.<sup>71</sup> Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

21. *Common Carrier Paging.* The SBA considers paging to be a wireless telecommunications service and classifies it under the industry classification Wireless Telecommunications Carriers (except satellite). Under that classification, the applicable size standard is that a business is small if it has 1,500 or fewer employees. For the general category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.<sup>72</sup> Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small.<sup>73</sup> The 2007 census also contains data for the specific category of Paging “that is classified under the seven-number North American Industry Classification System (NAICS) code 5172101.”<sup>74</sup> According to Commission data, 291 carriers have reported that they are engaged in paging or messaging service. Of these, an estimated 289 have 1,500 or fewer employees, and 2 have more than 1,500 employees.<sup>75</sup> Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the Paging Third Report and Order, the Commission developed a small business size standard for “small businesses” and “very small businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.<sup>76</sup> A “small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a “very small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.<sup>77</sup> The SBA has approved these small business size

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<sup>71</sup> *Id.*

<sup>72</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517210 in the left column for “Wireless Telecommunications Carriers (except Satellite)”) (last visited March 2, 2011).

<sup>73</sup> 13 C.F.R. § 121.201, NAICS code 517210.

<sup>74</sup> U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector...,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 5172101 in the left column for “Paging”) (last visited March 2, 2011). In this specific category, there were 248 firms that operated for the entire year in 2007. Of that number 247 operated with fewer than 100 employees and one operated with more than 1000 employees. Based on this classification and the associated size standard, the majority of paging firms must be considered small.

<sup>75</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>76</sup> *Amendment of Part 90 of the Commission’s Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service*, PR Docket No. 89-552, GN Docket No. 93-252, PP Docket No. 93-253, Third Report and Order and Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068-70, paras. 291-295 (1997).

<sup>77</sup> See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from A. Alvarez, Administrator, Small Business Administration (Dec. 2, 1998).

standards.<sup>78</sup> An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000.<sup>79</sup> Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

22. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite).<sup>80</sup> Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees.<sup>81</sup> According to the 2008 Trends Report, 434 carriers reported that they were engaged in wireless telephony.<sup>82</sup> Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees.<sup>83</sup> We have estimated that 222 of these are small under the SBA small business size standard.

### 3. Internet Service Providers

23. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (e.g., cable and DSL ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers,<sup>84</sup> which has an SBA small business size standard of 1,500 or fewer employees.<sup>85</sup> The latter are within the category of All Other Telecommunications,<sup>86</sup> which has a size standard of annual receipts of \$25 million or less.<sup>87</sup> The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers.<sup>88</sup> That category had a small business size standard of \$21 million or less in annual receipts, which was revised in late 2005 to \$23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year.<sup>89</sup> Of those, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999.<sup>90</sup> Consequently, we estimate that the

<sup>78</sup> *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems*, WT Docket No. 96-18, PR Docket No. 93-253, Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, paras. 98-107 (1999).

<sup>79</sup> *Id.* at 10085, para. 98.

<sup>80</sup> 13 C.F.R. § 121.201, NAICS code 517210.

<sup>81</sup> *Id.*

<sup>82</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>83</sup> *Id.*

<sup>84</sup> U.S. Census Bureau, 2007 NAICS Definitions: Wired Telecommunications Carriers, <http://www.census.gov/naics/2007/def/ND517110.HTM> (last visited March 2, 2011).

<sup>85</sup> 13 C.F.R. § 121.201, NAICS code 517110 (updated for inflation in 2008).

<sup>86</sup> U.S. Census Bureau, 2007 NAICS Definitions: All Other Telecommunications, <http://www.census.gov/naics/2007/def/ND517919.HTM> (last visited March 2, 2011).

<sup>87</sup> 13 C.F.R. § 121.201, NAICS code 517919 (updated for inflation in 2008).

<sup>88</sup> U.S. Census Bureau, 2002 NAICS Definitions: Internet Service Providers, Web Search Portals, and Data Processing Services, <http://www.census.gov/epcd/naics02/def/NDEF518.HTM> (last visited March 2, 2011).

<sup>89</sup> U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," at Table 4, NAICS code 518111 (issued Nov. 2005).

<sup>90</sup> An additional 45 firms had receipts of \$25 million or more.

majority of ISP firms are small entities.

**D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

24. The reporting and recordkeeping requirements in this NPRM could have an impact on both small and large entities. Though the impact may be more financially burdensome for smaller entities, we believe the impact of such requirements is outweighed by their corresponding benefits to entities and consumers. Further, these requirements are necessary to ensure that the statutory goals of section 254 of the Telecommunications Act of 1996 are met without waste, fraud, or abuse.

25. The Commission proposes several reporting, recordkeeping, and compliance requirements for the low-income program. We propose that Eligible Telecommunications Carriers (ETCs) seeking support would extend their reporting to the Universal Service Administrative Company (USAC) to include reporting of subscribers' partial participation. Further, we propose de-enrollment procedures to reduce waste in the program. We also propose to retain the existing verification requirements for federal default states and extend these requirements to the remainder of states.

26. *Duplicate Claims and One-Per-Residential Address.* The Commission proposes several reporting and recordkeeping requirements to reduce the likelihood that a residential address will receive more than one subsidized service through the low-income program. Specifically, we propose an information solicitation and submission process to enable USAC to identify duplicate claims of support and violations of the proposed rules, which, if adopted, will help USAC determine whether two or more ETCs are providing Lifeline-supported service to the same residential address.<sup>91</sup> ETCs would be required to solicit identifying residential address information and certification from Lifeline subscribers. ETCs would then submit this data to USAC. Under the proposal, USAC would then notify ETCs of any duplicate claims of support. ETCs would also be required to notify customers with duplicate Lifeline service by phone and in writing when possible that the subscriber must select one Lifeline provider or face termination from the program. The selected ETC would then notify USAC as well as any other ETC providing Lifeline service to the customer.

27. *Line 9 Reporting.* To help ensure that ETCs seek reimbursement only for active Lifeline subscribers, the Commission proposes to require ETCs to report partial or pro rata dollars when claiming reimbursement on Form 497. Compliance with the proposed rule would require ETCs to report the number of subscribers beginning or terminating Lifeline service mid-month as well as the length of service provided during that month to each partial-month subscriber, which is similar to ETCs' billing of partial-month service to non-Lifeline consumers.

28. *De-Enrollment Procedures and Customer Usage Requirements.* As part of the effort to reduce waste in the program, and in accordance with the proposed one-per-residential address codification, the Commission proposes to require ETCs to de-enroll their Lifeline subscribers who: (1) select another ETC after being notified of a duplicate claim; and (2) subscribers who do not use their phone for 60 days. Compliance with the proposed de-enrollment procedures would require ETCs to monitor whether a Lifeline phone was used during any 60-day period. After de-enrollment, the ETC would need to notify USAC of the de-enrollment. USAC could then pursue recovery actions against the ETC for past inappropriate support.

29. *Verification.* The Commission's rules currently require ETCs in federal default states to implement procedures to verify annually the continued eligibility of a statistically-valid random sample of Lifeline subscribers and to provide the results to USAC. We propose to extend these standards to all

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<sup>91</sup> See Appendix A for Proposed Rules.

states. Furthermore, in accordance with the proposed one-per-residential address requirement, we propose to require ETCs to verify consumer certifications upon enrollment and annually thereafter.

30. *Service Deposit or Minimum Service Fee.* Though we do not propose any rules on a service deposit for commencing Lifeline service or a minimum service fee for maintaining service, we seek comment on whether such rules would balance the competing needs of program efficacy with program efficiency. Specifically, we seek comment as to whether requiring ETCs to bill consumers would pose a disproportionate burden upon small entities, especially those, like pre-paid wireless resellers, that do not currently bill their consumers on a monthly basis.

31. *Database.* We propose a comprehensive reform to the low-income program: we recommend the creation of a centralized database for online certification and verification of low-income subscribers. In the NPRM, we seek comment on which entity or entities would be best suited to create and maintain such a database. Compliance with requirements associated with a centralized database would include reporting of information solicited from Lifeline subscribers for the purposes of certifying and verifying their eligibility.

#### **E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

32. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>92</sup>

33. In this NPRM, we make a number of proposals that may have an economic impact on small entities that participate in the universal service low-income support mechanism. Specifically, as addressed above, we seek comment on: (1) mitigating duplicate claims of service through increased reporting to USAC, in accordance with the proposed one-per-residential address rule; (2) requiring the reporting of consumers' partial-month Lifeline participation; (3) establishing clear de-enrollment procedures; and (4) establishing a uniform verification regime. If adopted, these proposals will help USAC and ETCs reduce waste, fraud, and abuse in the low-income support mechanism.

34. In seeking to minimize the burdens imposed on small entities where doing so does not compromise the goals of the universal service mechanism, we have invited comment on how these proposals might be made less burdensome for small entities.<sup>93</sup> We again invite commenters to discuss the benefits of such changes on small entities and whether these benefits are outweighed by resulting costs to ETCs that might also be small entities. We anticipate that the record will reflect whether the overall benefits of such programmatic changes would outweigh the burdens on small entities, and if so, commenters will suggest alternative ways in which the Commission could lessen the overall burdens on small entities. We encourage small entities to comment.

35. We have taken the following steps to minimize the impact on small entities. First, to ease the administrative burden on applicants, we propose an approach that minimizes reporting requirements by appropriating Form 497 for further information collection rather than creating an additional form. In accordance with the E-Sign Act,<sup>94</sup> we propose to allow consumers to sign their certifications

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<sup>92</sup> 5 U.S.C. § 603.

<sup>93</sup> See *supra* para. 315.

<sup>94</sup> 15 U.S.C. §§ 7001-7004 (2006).

electronically, eliminating significant reporting and mailing burdens currently placed on all entities. In order to minimize the impact on ETCs, including small entities, we have placed the burden of checking addresses for duplicate claims upon USAC, rather than ETCs. Furthermore, in an effort to make verification simpler for all ETCs, we have proposed uniform rules of eligibility and verification. Most significantly, however, we contemplate a phased structure for reporting to a centralized database: large entities would begin populating the proposed database initially, with small entities following suit after a period of time during which the process will be made less burdensome when possible.

**F. Federal Rules that May Duplicate, or Conflict with Proposed Rules:**

36. None.

**STATEMENT OF  
CHAIRMAN JULIUS GENACHOWSKI**

Re: *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-18*

Today we propose to reform and modernize the Lifeline/Link-Up program – to make it more efficient and effective, and to determine how best to meet our national goal of broadband adoption by all Americans.

Since Lifeline was created in 1985 and Congress codified it in the Telecommunications Act of 1996, the program has drawn broad bipartisan support and helped millions of low-income households afford phone service.

But the world has changed considerably since then, and the Lifeline/Link-Up program has not kept pace. Major technological, market, and regulatory changes – including the Commission’s decision in 2005 to allow prepaid wireless resellers to offer Lifeline service – have created new challenges and pressures on the program, as well as new opportunities for consumers.

Yet the Commission has not comprehensively reexamined the program, or implemented clear performance goals or sufficiently robust protections against waste, fraud, and abuse. Every Lifeline/Link-Up dollar that today gets spent on duplicate service, ineligible participants, or other waste or inefficiencies is a dollar that could go to helping more low-income Americans connect.

And Lifeline/Link-Up has grown more rapidly over the past few years, increasing the contribution burden on consumers and businesses throughout the country, which can undermine our universal service goals. Increases in the contribution burden are particularly concerning for the tens of millions of Americans at or near the poverty line who pay for phone service but don’t participate in Lifeline.

That’s why we asked the Federal-State Joint Board on Universal Service to examine the Lifeline/Link-Up program and evaluate a host of issues related to the program’s performance and administration. Late last year, the Joint Board reported back with a series of important and thoughtful recommendations for reform and modernization.

The NPRM we adopt today puts forward these recommendations, as well as proposals from the Government Accountability Office, from the National Broadband Plan, and from a number of private-sector stakeholders.

The NPRM proposes three main types of reforms:

*First*, we propose immediate reforms to eliminate waste, fraud, abuse, and other misspending in the program – including proposals to eliminate duplicate support to a single household and preventing carriers from obtaining support for consumers that haven’t used their service in months. We also propose to establish a National Accountability Database, administered by an independent third party, to ensure that multiple carriers are not getting Lifeline/Link-Up support to serve the same household, and that only eligible households are participating in the program.

*Second*, we propose to make the program more accountable – that means accountability for consumers who benefit from the program, carriers that receive support, and government. To do this, we propose reforms like establishing concrete performance goals for the program, and stepping up oversight.

*Third*, we seek comment on measures – including capping the size of the program – to prevent over-burdening the consumers and businesses that contribute to the Universal Service Fund.

These reforms will provide Lifeline/Link-Up clear goals and robust safeguards, and put the program on a sound footing.

And in the interim, while we're seeking comment on these reforms, we will work to ensure that consumers are not misusing the program and that the companies that receive Lifeline/Link-Up support are living up to their responsibilities to combat waste, fraud, and abuse, including taking adequate precautions to prevent duplicate support.

As we reform Lifeline/Link-Up to be a leaner, more efficient, and more effective program, we're also making sure the program meets consumer needs in the broadband age. Broadband is at least as crucial to full participation in our economy and society in the 21st century as telephone service was in the 20th. We know that increasing broadband adoption is essential for generating economic growth and improving our global competitiveness; a 2009 McKinsey study suggests that a 10% increase in broadband penetration could increase annual GDP by more than \$200 billion in a country with an economy the size of ours in the United States.

Broadband is also crucial for advancing national priorities like education – think of online courses and digital textbooks, and health care – think of two-way video consultations with medical specialists. It's crucial for finding a job, as job postings have moved online, and for landing a job, as companies increasingly require basic digital skills.

Despite the importance of broadband for everyone, more than half of low-income Americans – about 60% – don't have broadband in their homes. Fewer than half of African Americans, Latinos, and Americans without a high school diploma have broadband. And as we heard this morning, fewer than 10% of Native Americans households are online. Especially at a time when countries like South Korea boast broadband adoption rates higher than 90 percent, that's simply not good enough.

Accelerating broadband adoption is one of our great national challenges. But it's not an easy problem to solve. The National Broadband Plan identified a number of major barriers. Many non-adopters lack the digital literacy needed to adopt and use broadband – they don't know how to use a computer or how to navigate a webpage. Many non-adopters don't think broadband is relevant to them or can improve their lives. And affordability is a core obstacle, particularly for low-income Americans. The FCC has been working on a number of initiatives to overcome these barriers and increase broadband adoption and use.

Today, we propose an important step toward this goal: Pilot programs, funded with savings from reforms, to determine how Lifeline/Link-Up can best be used to increase broadband adoption and use among low-income consumers. We'll be looking broadly for the best ideas for accountable, efficient, metrics-based initiatives that will move the needle on broadband adoption.

As we move forward, we should be realistic. Lifeline/Link-Up won't solve the adoption challenge by itself. We need to harness e-government, and think creatively about how different parts of the public sector – federal, state, and local – can be part of the solution.

Government cannot, and should not, meet this challenge alone. Success is going to require sustained attention and effort from broadband providers, technology companies, nonprofit groups, educators, and parents, as well as policymakers.

I'd like to acknowledge and praise existing private efforts and challenge companies to do more in this area. This is as much a win-win as anything I've seen. Every new broadband subscriber helps that subscriber, the company offering service, and our economy and global competitiveness. I look forward to working with a broad range of stakeholders to meet our broadband adoption challenge.

I'd like to thank my fellow Commissioners, who worked together to improve and shape the Notice. I also want to thank the staff, particularly the staff of the Wireline Competition Bureau, for their outstanding work preparing this item.

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

Re: *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-18*

Connecting low income consumers is a central pillar of this Commission's Universal Service mission. All our people need access to the wonders of communications—and I always underline that word “all.” We can no longer afford to have digital divides between the haves and have-nots. Until each and every citizen of this great country is connected—urban or rural, living on tribal lands or in distressed inner cities, whether they are rich or poor, whether or not they are members of our disabilities communities—our work remains unfinished.

Our Lifeline and Linkup programs help ensure that Americans who need it most have affordable access to the nation's communications networks. Today, that has to mean support for affordable broadband access. The Commission has rightly begun to transition our Universal Service focus across all our programs to the advanced communications services that the digital age requires. Whether it's applying for a job or accessing a public assistance program, doing homework or caring for our health, broadband becomes with each passing day more essential—a basic prerequisite for participation in the social and economic life our nation. Low-income consumers simply cannot afford to wait for the benefits of broadband. As this item points out, only 40% of households earning less than \$20,000 a year have broadband – compared to a 93% adoption rate for households making more than \$75,000 annually. And we know that cost is a primary barrier to broadband adoption. Disparities that dramatic cry out for immediate action.

At the same time, we must acknowledge that there is still work to be done to ensure that all Americans have access to basic voice service. Almost 10% of low-income households nationally lack telephone service. And I would hazard that many of our distinguished guests from Indian country today could tell us first-hand how much remains to be done on this score. The low-income programs have been historically underutilized and although there has been recent growth in the program, in 2009 only 36% of eligible consumers participated in Lifeline. So I'm pleased that this item builds on the recommendations of the Federal-State Joint Board on Universal Service with regard to outreach and coordinated enrollment when consumers are signing up for other assistance programs. These proposals can potentially expand the reach of the low-income support programs, which is critical as long as telephone penetration rates for low-income households consistently lag behind the rest of the nation.

I certainly support looking for program savings and action to ensure that carriers that are receiving support are doing so in compliance with our rules to prevent waste, fraud and abuse. This item also identifies areas where the program needs to be modernized, such as by updating the rules on toll limitation services reimbursement. I appreciate that as we ask how to enforce the one-per-household rule designed to prevent duplicative support, we acknowledge that some low-income consumers have living situations where a residential address is not a good proxy for a household. I hope any duplicative support or outdated support we do recover is used to expand the benefits of advanced communications to low-income consumers. These savings should be used to provide funding for the proposed broadband pilot programs, which can be an important first step on what I hope is an accelerated transition to a low-income program that helps all Americans reach our national broadband goals.

Our challenge is to close the stubborn and persistent gap of low-income Americans who remain without even basic voice service while transforming the program to provide support for the advanced telecommunications services that all Americans need in order to compete in the 21<sup>st</sup> century economy. That's a tall order—and that is why I am concerned that this item contemplates capping low-income

support. As we tee up proposals about how to provide support for broadband, capping today's program would be at best imprecise. How can we intelligently cap a program when we don't know how much meeting the challenge is going to cost? At worst, we risk compromising the future of low-income Americans who may never be connected without Lifeline.

My thanks to all the staff in the Bureau whose efforts went into today's item. I also want to acknowledge the Federal-State Joint Board members and staff whose work informed this NPRM. I look forward to working with all these good folks, with my colleagues here, and with all stakeholders in the months ahead.

**STATEMENT OF  
COMMISSIONER ROBERT M. McDOWELL**

RE: *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-18*

If I've learned one thing in my nearly five years on the Commission, it is that our work on universal service reform is a bit like painting the Golden Gate Bridge: a project that is always underway and never seems to end. During my time here, I have advocated for a comprehensive review of all of the programs with a primary goal being curbing the growth of expenditures. As such, today's initiation to revamp the Lifeline/Linkup program is a critical part of our overall reform efforts, and I commend the Chairman for launching this Notice of Proposed Rulemaking.

The original goal of the Lifeline/Linkup program was a noble one: to provide an opportunity for Americans with limited means to stay connected to the rest of the world through basic phone service. This program has improved many lives by not only allowing for everyday communications, but it has also helped save lives by allowing consumers to place emergency calls.

Nonetheless, we cannot ignore the fact that the size of the Lifeline/Linkup program has steadily and dramatically increased. In 1997, the total support for the program was \$162 million, and in 2010 it had risen to \$1.3 billion. This trend is unsustainable. It is encouraging to see that this proceeding attempts to examine and address waste, fraud and abuse within this program. It seems that policymakers often speak of "waste, fraud and abuse" when attempting to create efficiencies in government programs to the point where that term has become hackneyed and virtually meaningless. Today, however, the FCC is actually doing something specific to reverse some troubling trends. For instance, the Notice: seeks comment on ways to ensure duplicate support is not provided; explores ways to prevent companies from receiving funds for inactive customers; and asks for the public's advice on possibly imposing a uniform federal standard as a minimum threshold for verifying continued eligibility. Also, regarding duplicate claims, I am supportive of efforts the Chairman may have to find ways to curb excess and inappropriate spending.

I thank the hard-working staff in the Wireline Competition Bureau for their dedication to this Notice, and I look forward to discussing these issues with all of my colleagues and the various stakeholders. It is my hope that we can move forward in a fiscally prudent and thoughtful way.

**STATEMENT OF  
COMMISSIONER MIGNON L. CLYBURN**

RE: *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-18*

For many years, fulfilling the basic communications needs of low-income consumers has been a priority for our nation. Since 1985, the Lifeline and Link Up programs have ensured millions of low-income Americans access to affordable telephone service. This not only permits these consumers the means to stay connected to friends and family, it also offers them the ability to make doctor's appointments, and call 911 in an emergency. By ensuring that low-income consumers have access to a phone in their homes, our nation has provided every American—no matter their financial circumstance—the lifeline they need to communicate with the rest of the world. For those consumers who are struggling to meet basic needs, such as food and shelter, these programs truly are making a difference. Many would go without phone service, but for these programs. And given the economic downturn over the last several years, it is not surprising that the fund has grown.

We have seen numerous changes in the marketplace since the implementation of the Lifeline and Link Up programs. Notably, mobile wireless service has grown significantly, and competitive Lifeline products are now available, allowing low-income consumers the ability to choose from various phone options. Today, access to high-speed Internet service has become essential for Americans to communicate with one another. As a result, it is appropriate for the Commission to revisit the current structure of the Lifeline and Link Up programs. We must ensure that they are efficient, effective, and address the modern communications needs of our nation's low-income citizens.

While these programs have helped many consumers afford telephone service, not all needs have been addressed. As my friends from the Tribal Nations are fully aware, basic phone service still lags significantly on Tribal Lands as compared to the rest of the country. Today's NPRM builds upon the recommendations made by the Federal-State Joint Board on Universal Service last November, as well as the National Broadband Plan last March. The Commission's consideration of these recommendations is essential for modernizing and improving the programs. By ensuring that only eligible consumers participate in the programs, that the annual verification requirements are effective, and that we minimize duplicative services to households, we likely can extract some efficiencies in the programs that could be used to further address the voice and broadband needs of low-income consumers.

I am encouraged by our full exploration in this Notice of the use of an electronic database that would permit real-time checks on consumer eligibility and participation in the Lifeline and Link Up programs. Such a database has the potential to offer us savings in the long run—savings that could be used to further address the needs of low-income consumers. It is very appropriate that this Commission work towards a broadband-based solution that all Lifeline and Link Up providers could rely upon to make these programs more efficient and effective.

I am also pleased that we are asking some very basic questions in this Notice, such as how much support truly is required for both the initiation of voice service through Link Up, and the monthly benefit that Lifeline provides. Where we can identify savings, those funds could be used to begin addressing and supporting the broadband needs of low-income consumers which we know are significant. Less than half of low-income Americans have subscribed to broadband, and one-third of Americans who have not purchased broadband, say they have not done so due to the expense of obtaining such service.

We also know that for those consumers who are struggling to pay for their basic needs, there is very little discretionary income left to afford broadband service. One analyst recently noted that 40% of

U.S. households have just \$100 of disposable income, after paying for their food, shelter, and transportation. Yet broadband service is just as much a necessity today, as phone service was when the Commission established the Lifeline and Link Up programs 26 years ago. Without broadband at home, it is more difficult for citizens to look for a new job and interact with government services. Indeed, some government agencies only offer their services to consumers via the Internet.

For these reasons, over the last year, I have repeatedly stated that we must fully focus on our nation's broadband adoption gap. I believe that we will not successfully bridge this gap for low-income consumers if we don't address the affordability issue. Given the expansive modern communications needs of low-income Americans, we would be on a fool's errand if we think that we can address both voice and broadband requirements, while simultaneously capping the fund. To be clear, I don't subscribe to the belief that the Fund will meet all of these needs, even if it is not capped. I believe it will take both the public and private sectors to address these issues. I am hopeful that with the discounts providers already offer to low-income consumers, along with the broadband pilot projects proposed herein, and with the flexibility of consumers to use their Lifeline discount for bundled voice and broadband services, we can find effective solutions to bridge the digital divide for most low-income Americans.

This is not an easy task, but I challenge every Lifeline and Link Up provider, every broadband provider, and all other interested stakeholders, including Congress, the states, consumer advocates, and public interest groups, to help us find the most effective solutions for improving the current Lifeline and Link Up programs for voice service, and to stretch the programs' dollars even further, so that we can cover broadband services. I also wish to praise those broadband providers that have recognized the significant need of low-income consumers and have started their own adoption programs, and I hope that they continue to share their work with us. By learning what has and has not been successful, we can better address the modern communications needs of *all* Americans.

**STATEMENT OF  
COMMISSIONER MEREDITH ATTWELL BAKER**

**RE:** *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-18*

The Commission's low-income programs provide the means for 8.6 million Americans to afford basic telephone service, and the ability to reach public safety, schools, and employers. I support our effort to reform these important programs to ensure their long-term sustainability. This item is an appropriate and timely follow-up to last month's review of our high-cost programs, and an important step forward in implementing the Joint Board's November Recommended Decision.

The themes here mirror closely the challenges and opportunities we face with the high-cost fund. To put these programs on a stronger foundation both operationally and financially, we need to take a comprehensive look at these programs to evaluate whether they are effective, fiscally responsible, as well as whether they properly reflect today's consumer demands and market realities.

Operationally, I believe the Commission has let critical questions about program eligibility linger too long, and I am happy to see us take affirmative steps to update these programs and curb waste, fraud, and abuse. As we work together collectively on reform, we need carriers receiving low-income support today to act as responsible partners in the interim minimizing any wasteful or duplicative expenditures.

Our reforms must also reflect the need for greater fiscal discipline in accomplishing our mission. Much like the high-cost fund, the low-income programs have grown significantly. In the past ten years, these programs have more than doubled from \$577 million to over \$1.3 billion today. I support our efforts to address the need for real cost containment, and to recognize that—in difficult economic times—escalating contribution burdens on consumers can create their own affordability challenges undermining our efforts.

We are also beginning our dialogue on how to update these programs to support broadband. I appreciate that we are looking before leaping on broadband funding. By all metrics, adoption of broadband for low-income Americans lies well below the national average, and this poses an important challenge for all of us. The promising news is that the gap is beginning to shrink. Broadband adoption for those making between \$15,000 and \$25,000 a year has jumped from 24 percent in October 2007 to over 42 percent last year. There is obviously still much to do, and our low-income programs are a potentially untapped resource to help. Moving forward with broadband pilot programs appears to be the right next step. Adoption is not a one-size-fits-all challenge and affordability is but one of the core challenges we must face. Indeed, those making between \$15,000 and \$25,000 a year identify relevance as the primary impediment to adoption (44.3 percent), affordability is a distant second (27 percent). More money alone will not solve this problem.



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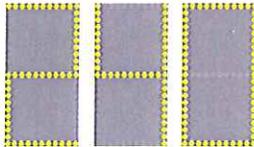
# Tracfone

## Customer Service Ratings and Comments

Submit Your Comments & Ratings For This Listing!

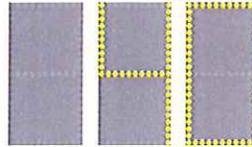
Tracfone is ranked #146 out of the 381 companies that have a CustomerServiceScoreboard.com rating with an overall score of 45.09 out of a possible 200. This score rates Tracfone customer service and customer support as Disappointing.

### NEGATIVE Comments



240 Negative Comments out of 280 Total Comments is 85.71%.

### POSITIVE Comments



40 Positive Comments out of 280 Total Comments is 14.29%.

### Contact Information

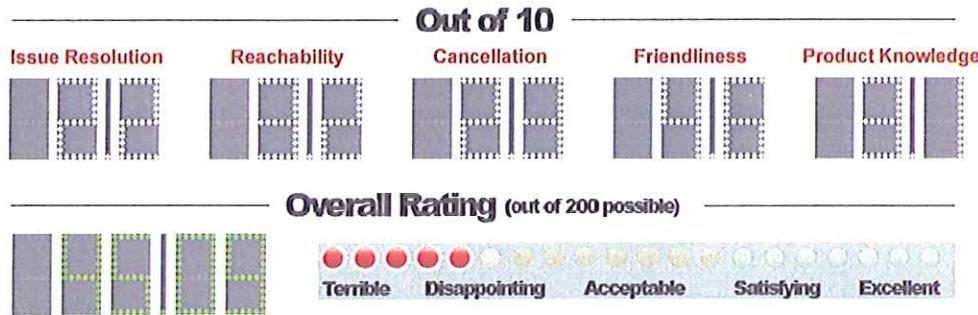
Customer Service  
800-323-2366

Customer Support  
888-442-5096

Direct Sales  
800-323-2366

Headquarters  
800-876-5753

Complete Tracfone customer service contact information including steps to reach representatives, hours of operation, customer support links and more from ContactHelp.com.



### Get Help Online

Get immediate support for your Tracfone questions from HelpOwl.com.



### Boycott Company

View all boycotts of Tracfone and join a boycott today! You can also organize your own Tracfone boycott with many tools for promoting and managing the boycott.



- [Ask Tech Support Now](#) 18 Tech Support Reps Are Online. Ask a Question, Get an Answer ASAP. AOL JustAnswer.com
- [Best Cell Phone Plans](#) Consumer Cellular offers Doro - plans low as \$10/month. Call today. www.ConsumerCellular.com/doro
- [Boost Mobile](#) Find Info On Boost Mobile. Learn To Shop Wise & Save Today! wiseshop.com

Ads by Google

Negative Comments (240)    Positive Comments (40)    Employee Comments (1)

Submit your comment >>

Tracfone service doesn't exist. First they can ably speak english. Second they don't get the job done even after you expalin it to the 10 times. What a bunch of dumb asses!

REPORT ABUSE

decaturswag 3/15/11 11:44AM

I hate calling India even when I call a DIRECT FLORIDA CORPORATE NUMBER.

REPORT ABUSE

And even if I get someone in the Florida (Tampa??) office--- it's a bilingual hispanic, which BTW ENGLISH IS NOT THEIR FIRST LANGUAGE EITHER.

No one in this company speaks English as A first language and they will screw you royally, all the while reading off a script off their computer screen: "Thank you for being a loyal customer for 9 years."

Well, honestly I wish I wasn't.

I SPENT literally 3 hours on the phone with some rude jerk who would not reimburse me units for text messages that wouldn't go thru. He acted like he owned the company himself and that if he reimbursed me 30 lousy units he would lose money from his paycheck. Then he threatened me saying, my "account" has had too many reimbursements for the year and they might have to do an "audit" on my "account". WTFK???

BTW- The CS Rep asked me to "test" the phone by sending out about 20 texts, and then tried saying those were not eligible to be reimbursed. OMFG!!!!

I called back 10 minutes later and told them to give me 50 UNITS for wasting my time and for the loss I LEGITIMATELY SUFFERED-- and the new guy did.

### Company News

TracFone Wireless Brings Affordable Communications to Low Income ...  
TracFone Wireless Brings Affordable Communications to Low Income ...TMCnet... services for more than one million low-income households in Florida. Stefania Viscusi is an assignment editor for TMCnet, covering VoIP, CRM, call center and wireless technologies. To read more of Stefania's articles, please visit her columnist page.

tracfone Offers Delightfully Competent Customer Service Or it could be that tracfone's customer service has improved quite a bit since we posted their executive

After 9 years, and COUNTLESS BURNER PHONES THAT CAN'T HOLD A CHARGE I really am leaving them. GOOD F@#\$#ING RIDDANCE!!!!

**Zebbicat** 3/12/11 10:31PM

The tech support service is awful. I think I am going to take the to the store.

**Anonymous** 3/12/11 10:12PM

You are correct; Customer Service is TERRIBLE

**Anonymous** 3/8/11 3:23PM

They lost my phone number of many years. After 4 days 10 calls and my own foot work I am working to get it back. Verizon helped me and I'm not even their customer!

**Anonymous** 3/8/11 2:00PM

DO NOT USE TRACFONE EVEN IF YOUR LIFE DEPENDS ON IT I have a Tracfone, and the voice-mail does not work. I have called them 10 times and spent upwards of 12 hours on the phone with them with absolutely no progress whatsoever. They will not even replace my telephone (a \$20 device retail). These people are the bottom of the bottom of the barrel as far as cell phones go.

**Anonymous** 3/7/11 5:45PM

I have had nothing but problems with my Tracfone while on vacation...no service for a month. Several calls to customer service and put on hold for hours and not one service representative ever expressed a simple " I am sorry you are having a problem with your phone" or offered to make any compensation.

**Still stewing** 3/5/11 8:21AM

I placed an order for a phone online. I printed the order confirmation sheet and everything was correct. When I received the e mail confirmation the shipping address was wrong. I called customer service( three reps later, and no resolution) AND the corporate office and was told that when I receive the phone send it back, how can I when they shipped it to the wrong address?! My main issues are: 1)was told if phone ships then once returned, in 72 hrs I will receive a refund. if not shipped I have to wait 5-7 days for a refund. 2) if phone is not returned I get no refund even though its there mistake! 3) When calling corporate the only response I got was " thats our policy" really?! They make the mistake and basicy blame ME for the mess! I will never use this company again!

**holly** 3/4/11 7:02AM

Ignore the annoying company texts and don't use the internet purchasing sight. The one will talk to you about "Your double minute benefit" and the purchasing sight won't tell you if you have double minutes. After you buy, ignoring what they said in the text, you can talk to 4 company reps who say you don't have double minute benefits and we won't refund your purchase.

**Pastor** 2/26/11 8:17AM

Every time I have tried to get support I had to call 2to3 times. Iam starting to think this phone is not worth having especially since I have also been hung up during these calls. I do feel these coments will not make any difference which is why there is no need to include my email address.

**Anonymous** 2/22/11 6:48PM

BEWARE of Family Value Plan! Since initiating 5 months ago, we have yet to receive contracted minutes/service days for the second phone. Tracfone is very prompt in letting us know by email that they have billed our credit card for the monthly charge but they have no clue on how to give both phones the minutes. We literally spend HOURS each month on the phone punching in numbers etc etc, talking to numerous friendly, polite but clueless people. It's an ongoing nightmare. We plan on canceling and signing up with a wireless company that at least has warm bodies in a building in our area. We wonder how many phone calls/hours it will take to cancel service and get them to stop billing our credit card every month.

**jane** 2/22/11 2:05PM

i got a new sim card, then i called a rep. and she sent my new number to the phone, i can call that number and the phone rings, but it shows no mins. on the phone, i gave the lady the pin number on the card and she said that would give me an extra 16mins, well none of the mins. shows up on my phone. someone with tracfone wants me to pay \$15 for info on how to fix the problem when the lady i talked to should have fixed it then, iam not going to pay someone to fix something tracfone should have fixed to start with,

**Anonymous** 2/19/11 8:00AM

I have been on hold waiting for tech service for over 2 1/2 hours. I was told wait time was ten minutes!! I had been trying to add minutes for two weeks to my phone. Last week when I finally got someone to do this, they lost all my old minutes when they inadvertently gave me a new number that I did not want. Of course she was unable to put

customer service number a little over a year ago. ...

NET10, TracFone Among Leaders in Wireless Prepaid Survey  
... initial activation (12%); offerings and promotions (12%); and customer service (7%). Overall satisfaction improved by 16 index points from 2009. ...

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the minutes back on my phone and I needed to call tech support Monday. Could not get through Monday so I am on hold for hours Tuesday! I guess they will close and I will have to call tomorrow. What gives?

**frustrated customer** 2/15/11 3:54PM

I was on the phone for technical support about 4:15 pm on 2/14/11 I wanted to change my phone number the lady told me no problem asked me how many minutes were on my phone I told her 247.50 she then had me push in some codes and erased all my minutes without telling me this was what we were doing when she told me after it was done I told her I needed my phone she said they were going to exchange it but I could not have no cell phone for the night so she said ok then we were disconnected it was maybe 4:45 I called right back with the same process I have been and I still am ON hold since 4:45 and it is now 6:30pm I really need some assistance with someone taking care of this matter I have been a long time customer of tracfone and at this moment I am very frustrated that I am still on hold my home phone # is 315-474-3520 My cell number was 315-247-4099 someone please call me now

 REPORT ABUSE

**hillaryfuller** 2/14/11 4:34PM

I have called the Tracfone customer service number and told me I needed me to call them on a landline just to get minutes added to my phone that were purchased yesterday. They did not seem to care and wanted to just use every excuse to not give me what I had purchased. They just wanted me to use my airtime minutes and I continued to explain that the cell phone was the only phone I had to use and would have to wait until Monday to get to work to use a landline. What idiots do they have at that company?

 REPORT ABUSE

**macro1** 2/13/11 12:27PM

very poor tec support and customer service. i amsurprised that no one has complained to the fl attorney general

 REPORT ABUSE

**Anonymous** 2/12/11 5:21AM

I can't get through to tech support. I have 3 phones on a soon to be cancelled family plan because the minutes don't come through to the phones. Usually I have to spend 45 minutes to get the issue resolve and get my minutes which I've already paid for... and again this month I have to call but the service gets better because yesterday I waited on hold for an hour and finally gave up and today I waited on hold until my call was transferred and nobody answered. I'm done with TracFone. Cheap ain't worth this aggravation!

 REPORT ABUSE

**Annoyed in NH** 2/11/11 6:06PM

Purchased phone online, recieved in good time. Tried to activate, bad SIM. After 1 week received new SIM in mail. OK, installed and activated. Worked for 1 month, then no service, unregistered SIM. Called to fix but message says too busy to fix your problem call back again. Call next day, on hold for 30 mins (paying in airtime on another Tracfone - what a racket!). /Still on hold, hope they get to me this week....Wish I could rate the friendliness as I have yet to actually talk to someone!

 REPORT ABUSE

**Pissed@home** 2/10/11 5:52PM

I have been trying for two weeks to add minutes to my phone. The online service doesn't work, buying them from the phone doesn't work, and I have been on hold for the last two hours with customer service and cannot get anyone to answer the phone. I have had my phone for a year and have had no problems until the last month. Have they gone bankrupt, or sold out, or what?????

 REPORT ABUSE

**chuckrobbins@charter.net** 2/10/11 5:12PM

I have a trac phone with service prepaid up till May of 2011, however trac phone allowed some unauthorized individual to have my service cancelled upon them reporting my phone lost. I was able to call the service number with my phone though. When I called the company they kept me on hold for a lengthy time while units kept being deducted on my phone. They did not resolve my matter and told me to call the next morning. When I attempted to call the next morning I got a new recording telling me my service was disconnected and my call would not go through to the service center.

 REPORT ABUSE

**Anybody can cut your service** 2/10/11 1:14PM

Have to wait on the land line for way too long

 REPORT ABUSE

**rustefer** 2/10/11 12:00AM

Purchased LG420G as emergency phone and to access AOL email accounts. Worked okay at first. Phone still works, as do all other email and internet things, but AOL appears to have blocked the IP address, and I cannot access my email. Several phone calls, reactivated tech "tickets" and no resolution. Will not exchange phone with different IP address. Fortunately, I'm on a small pay as you go monthly plan, and will burn the minutes and service time and stop using Tracfone. All tech and customer service people were polite and fairly easy to understand, but no resolution. It's AOL's problem, and therefore, mine.

 REPORT ABUSE

**Anonymous** 2/4/11 3:59PM

We have been trying to get our old landline number switched to Tracfone. We have spoken with several customer service representatives regarding this issue. They told us we needed a new sim card and that they would send one out. That was almost two weeks ago. Yesterday, my wife spoke with another representative who told us that the sim card had never been sent. When pressed as to why, the representative could not give a good answer. We also discovered that the customer service call center is in Guatemala City. That presents a whole different problem since the calltakers speak very broken English and we were never sure that they understood what we were asking. And on the flip side, we were unable to understand them 70 percent of the time. Tracfone service is AWFUL!!!

 REPORT ABUSE

**blazebuster 20507** 2/4/11 11:34AM

coplain

no responce, earase avable minutes,they deside fore you wilch fone unacceptable,cancle with no reason,have doctor appointment,important coversalson ,no matter no responce, the worse cell fone ,that i know, with my experience do not add your minute you did not used.plz anybody read this plz say to the other abe

 REPORT ABUSE

**abe** 2/4/11 8:27AM

Tracfones suck. i emailed them about the fact that when i tried to add time to my phone the money was taken out of my bank 3 times! they took forever to get back to me, and asked me to email them again! i did and two days later no email back. i called but was on hold for an hour before giving up. tracfones belong in the trash along with "support"

 REPORT ABUSE

**osar** 2/3/11 5:37PM

I touted the praises of Tracfone to my brother for 2 years and finally managed to talk him into getting one. He's had the phone for less than one month and has had numerous problems - Phone stopped working, airtime not added, etc.

 REPORT ABUSE

I tried to contact Tracfone through the 800-867-7183 number yesterday. The beginning of the hold message stated that my expected hold time would be 15 minutes; I waited 50 minutes then had to hang up because I was already late for work.

I am sitting here on hold again today. Again, I was told in the beginning that the expected wait time would be 15 minutes. I have been on hold since 9:35AM and it is now 10:30AM - That's 55 minutes with nothing but "Your call is very important to us. Please continue to hold until the next customer service representative is able to take your call. Remember, having your battery charged and your phone's serial number available will help us serve you better."

I have never had any issue with my phone or service. However, how am I suppose to continue to recommend Tracfone under these circumstances? It's bad enough that my brother has had all the problems, but not being able to reach customer service and being on hold for more than an hour is outrageous.

I was going to try to send an email; but they require the phone & serial number - Mine isn't applicable and he's had two; what do they want? AAaarrrrggghhhh!

**twinklehunter** 2/2/11 11:31AM

have been trying to phone or use online one and a half days impossible to reach u terrible service

 REPORT ABUSE

**Anonymous** 2/1/11 4:33PM

I have been unable to purchase additional minutes on line or through customer support. After repeatedly giving the required information I was told that the computers were not working properly and to try again in two hours. Again I was unable to buy minutes on line and when speaking with "Michelle", I was assured that she would be able to complete my transaction. My call was dropped.

 REPORT ABUSE

**Anonymous** 1/30/11 8:02PM

What idiots. I was on the phone with them for over an hour. All I wanted to do is add some minutes. They are so stupid. I hate talking like this but since we outsourced everything, we have to deal with the people that are so incredible stupid. I still dont have it resolved. But, I do feel better venting.

 REPORT ABUSE

**ukeyboy12** 1/30/11 7:17PM

we bought a tracfone for my mom when my dad was sick so she could be contacted at all times in case of an emergency. she didnt know that if the time ran out that they would give her phone number to someone else.we got on line and added 60 minutes to her number, someone else got her minutes and they refused to give her \$20 back or add minutes to her new number. we will never use another tracfone or any of thier affiliates.do you call this customer service? when we couldnt understand the person we were talking to they acted offended. on behalf of Carol Marker, this is Kandy Womelsdorf saying screw you tracfone!!!!!!!!!!!!!!!!!!!!

 REPORT ABUSE

**carol marker** 1/21/11 7:15AM

THIS IS THE MOST FRUSTRATING AND PAINFUL EXPERIENCE I HAVE HAD WITH ANY TELEPHONE COMPANY IN 50 YEARS!!! I HAVE WORKED FOR THE PHONE COMPANY, OWNED HOME PHONES, CEL PHONES, PORTABLE PHONES...THIS WAS THE WORST. I HAVE SPOKEN TO THE PHILLIPINES, GUYANA, AND SEVERAL OTHER COUNTRIES. THE PERSONNEL WERE POLITE BUT USELESS. THEY GAVE CONTRADICTORY ANSWERS AND THE PHONE CONNECTION WAS PAINFUL TO THE EAR. WHAT IS GOOD ABOUT TRACFONE?

 REPORT ABUSE

**LONNH@AOL.COM** 1/20/11 4:40PM

I would like to find out who is the ceo or upper management (someone who can answer my questions we have only wasted a total of 5 hours and 55 minutes trying to resolve a problem on our trac phone. We have talked to 6 different reps who have not been able to do a damn thing for us - the customer!!! They havce taken off 1529 minutes from our phone after we had renewed our contract for an additional 800 minutes. We should have 2329 minutes and we have 0. Our credit card has been charged and we have 0 minutes!!! What can we do???? Trac phone needs to train their people! I am hopping mad as you can tell. I am not finished with this yet... You can contact me through e-mail... if you are smart enough to help...

 REPORT ABUSE

**Anonymous** 1/20/11 3:36PM

I purchased a tracfone and a years service plus 1000 minutes. Six months into my year I received a error message and the phone or the 2 replacement phones they sent will not send or receive calls. The foreigners who run call center are idiots .n Two months later and many hours on the phone with the monkeys and still no phone service,

 REPORT ABUSE

**ccouncil** 1/18/11 7:00AM

Called TracFone and used automated technology, #7 is the prompt for 60 min. Used debit card. Automatically sent to Customer Service..yeah right...The person on the other end of line spoke in very broken english... To'd him I just went through the steps to pay for min. forwarded to him, I asked him when my minutes would be available and said I'd also like to use my promo code. After about 15 min. received promo of 20 min.,and still no 60/120 min on my phone...Sent to another rep...(Another round of lack of language)he kept saying "The trasaction did not go through...Bull! My bank was immediately debited! Then he said I'd have to do it again and they would refund the first transaction within 24 hours...Sound familiar... Due to the fact that the service contract was due to expire tomorrow I was left with little choice. Purchase the second round...funny, that went through just fine.. Do they have anyone working in customer service who can clearly speak english? Most of the conversation had to be repeated by both parties,..Good Grief!

 REPORT ABUSE

**disgusted** 1/15/11 8:07PM

At least 3 times now, Tracfone has stolen from me.

1. 100 units because they would not correct an error they could not rectify.Kept promising to fix the problem in 12/24 hours. Never happened.
2. After a year passed, I tried again using my paid for tracfone by purchasing a minutes card for which I was charged roaming charges.

Again, they would not(or could not) rectify.

3. ( I never learn) Purchased another card from WalMart could not call out, could not call in and again no correction could be made.

I requested a refund for my card expense. After many agents and supervisors and being hung up on.each time no resolutions. Finally today, an agent requested my 60 min card to be returned along with the receipt. Get this,,, thru FEDEX. ANOTHER EXPENSE.

 REPORT ABUSE

Also, I must let you know that WalMart is selling a Straight Talk phone with card and minutes. Guess what. Connected with Tracfone,

Where's our government's protection from co.s that steal from us?

**Snail** 1/14/11 9:05AM

This is sort of an update to a complaint I posted awhile ago. Tracfone discontinued service in our area in Sep. We were told the most refund we could get for our 450 min. was 50.00. However, I still have not gotten the refund. I call and they say it was approved on 10-31-10. Then they say they will "research" and call me back the next day. I have not heard from them.

 REPORT ABUSE

Do not buy tracfone, you have no protection from them cancelling your service and leaving you with no service or refund.

If anyone knows how to get a refund, please post.

**Anonymous** 1/13/11 3:27PM

Horrible, horrible experience with a new phone trying to get it to work. I think the Tracfone reps get paid for how long a customer is on the phone. Over a three day period, I spent over 6 - yes, six hours with no resolution, lost minutes, lost phone number. Some of the stories I've read here and elsewhere are some of the exact same experiences I've had. Keeping you on hold, asking the same questions over and over again, transferring you to a "Tier X", whatever that is, telling you they don't have the capability to handle your problem, endless codes that don't work, etc. What a horrible experience, dealing with folks that have bad phone connections, and even poorer English.

 REPORT ABUSE

**galley\_queen** 1/11/11 3:47PM

My phone registers "Emergency Only!" when I try to make a call.

I spent hours on a land line trying to rectify the problem.

The problem is never fixed.

This has happened twice in a month.

The most recent problem was losing minutes overnight even though the phone was not used.

While on the land line with technical support, after holding for half an hour they hung up.

Tracfone does not even rate as a good paperweight.

 REPORT ABUSE

**te464** 1/9/11 1:24PM

Hello I have a complain regarding a refund that it was my right to receive but from the start all the information that I received was wrong wrong address, wrong info everything went wrong and at the end I lost what was rightfully my right, I was unable to receive a refund because of the miss communications that I received from the Representatives for two months I got the run around and every time I called I got a different answers so I ended up being angry and dissatisfied and I don't know about you but I don't think that was the best way the Handel the situation not only I lost the phone I also lost my pride and I didn't receive my refund I don't know how you guys work but everything went wrong at the same time. I though you should know about it because the rate you are going you will lose your business and one more thing I got hanged up on and the info that they were giving me was absolutely wrong no one wanted to find out how they could help me starting form supervisors to the Representatives well you guys have to do a lot of trainings because the people that are helping the customers don't have all the right information in my case she didn't give me the right address and neglected to tell me that no refund would be done without the actual receipt and then no one else ever bothered to ask me if I ever sent the receipt to you guys then I would have sent you the receipt.

 REPORT ABUSE

sincerely yours

Roza b.

**rosa** 1/7/11 10:15PM

I also found it frustrating trying to deal with customer support.. They don't have a handle on speaking the English language.. I had to ask the support person to repeat what he said several times.. Tracfone reps. do not mention that their airtime prices are out of line and that everytime someone calls you, a half minute is deducted-when you respond to the call that is made another half min. is deducted, if you do anything on your phone minutes are deducted-thus your minutes are eaten up rather quickly. I'm going to allow my minutes to expire then 86 the phone.. Anyone want a phone cheap? Your in control! I imagine all of these companies have their gimmicks--it's up to you which one hoses you less than the other.. Oh yeah if you buy an air time card from a store maybe you should have the person waiting on you scratch off the hidden number under the strip in order to activate it, i had trouble with that also.. one big hassle.

REPORT ABUSE

**Anonymous** 1/7/11 2:17PM

The first time I called trying to activate my phone I had to speak to 18 reps and 3 supervisors. I recieved 5 sim cards and it took 6 weeks to activate my phone (a total of 20+ hours on hold/speaking to tech support) Now I try to add minutes, won't do it and I have the double minutes for life plan. Called tech support and give my information, I'm told that I'm being tranferred, I'm transferred and give the same information and then they tell me I'm being transferred and the cycle continued till my landline went dead (2 hours). The term technical support is a complete misrepresentation as far as this company is concerned, cutting my losses and disposing of this phone.

REPORT ABUSE

**Anonymous** 1/6/11 7:54PM

Horrible! I called customer service to activate the phone the next day when my verizon service ended, but they activated it that day. Now I have to pay verizon \$75 for an early termination fee! The customer service kept saying "yes, your phone is activated." Customer service reminds me of the commercial "This is Peggy."

REPORT ABUSE

**jsm0109** 1/5/11 10:52AM

They will not let you deactivate a phone. Both times I tried calling they said I had the wrong information. They also refused me an American and a supervisor when I asked for one.

REPORT ABUSE

**Anonymous** 1/4/11 7:17PM

I just purchased a LG420G and have been trying for 3 day's and hours on the phone and I still can't use the phone. I've followed all the instructons 24 hrs. here and 1 hr., 48 hrs there still no results. My first tracfone was bought at Family Dollar and shortly after I could use my phone. I will return the phone. This has been a bad experience. Unhappy in CS.

REPORT ABUSE

**Anonymous** 1/2/11 2:14PM

I have an old tracfone /w109 mins that will only make emergency calls. those mins. will expire tommorrow. a new tracfone was given to me that they say wasn't activated by the store. this was 2 weeks ago. it has since been taken back to the store and today iwas told that it still wasn't activated by the store. result: 2 tracfones that do not work with no help from the company. dec. 31, 201 les

REPORT ABUSE

**Anonymous** 12/31/10 4:58PM

I recently purchased my third tracfone. I felt ready for a phone with more up to date fetures. I called four days before Christmas to activate it. The agent was hard to follow, poor english. I was given a ticket # and told that after three days I was to go to their web site and activate my new phone. It didn't work. I tried three more times over several days. None worked.

REPORT ABUSE

One week later I called the service number and thought everything worked. When I checked my phone I had only 10 minutes and had only 45 service days left - I should have had 2000 minutes transfered and 200 service days left. Since this is all computerized they should be able to tell me every numjber I called and how many minutes were purchased and deducted. What is wrong with this company?

**bob1mor** 12/31/10 3:21PM

Tracfone's customer service is unacceptable at best. Trying to get a new phone activated takes hours. The representatives are robotic and have very strong accents that are difficult to understand. Also, the phone connection was horrible and I kept getting disconnected. This made it necessary to start the painful process all over again.

REPORT ABUSE

**FAV** 12/30/10 6:08PM

My experience with Tracfone customer service has been negative. The people are very polite and I feel sorry for the individuals trying to just make a living in a system devoid of compassion for the people it supposedly serves. Time and again I have found that what should take a couple of minutes consumes hours--as in my most recent go -round trying to add a 'value plan' to my account. The first call (12/23/10) lasted just short of 2 1/2 hours with the promise of a return call within 24-48 hours (it didn't come!). The second call (today) lasted about the same amount of time with a promise of a return call within 4 hours and expidated service (call didn't come). The third call (also today) lasted just over another hour and I supposedly have the matter settled.

REPORT ABUSE

All of this and I get lousy reception, too!!!!

**Judith42** 12/30/10 4:30AM

Tracfone advertises that you can transfer your current tracfone number to a new tracfone. After over 5 cummulative hours on the phone with Tracfone techs, and after a promise that in 72 hours my number would be transferred, it never happened. Never! Sugestion: Do NOT try and transfer any number from one tracfone to another unless you are okay with losing that number.

[REPORT ABUSE](#)

**Forget about transferring #** 12/29/10 11:04PM

no response to problem of phone not holding charge. had to get new phone twice!!! lost minutes each time & they denied reissue. could barely understand customer service rep. got rid of tracphone and repeatedly clicked on unsubscribe for them to stop sending me e-mails. three months later i'm still receiving them. would not deal with them again. i'm sending info to bbb. phone was ok for a couple of years but customer service, when there was a problem, very sub par.

[REPORT ABUSE](#)

**Anonymous** 12/29/10 6:49AM

tracfone must have the dumbest people working for them worst service ever stay away.

[REPORT ABUSE](#)

**Anonymous** 12/28/10 7:06PM

Although friendly, but robotic, very difficult to understand customer support technicians. Spent 3.5 hours getting new phone activated and able to make/receive calls.

[REPORT ABUSE](#)

**Anonymous** 12/27/10 12:21PM

We purchase a LG420G upgrade phone from TracFone. It was sent with the wrong SIMMS Card. Spent a total of 9-hours on the phone for two days being transferred, hung-up on, and punching in silly code numbers that didn't do anything to correct the problem. Not to mention that we lost 210.00 in minutes. The end result was I had to file a consumer complaint to the Washington State & Florida State Attorney General Office of Consumer Affairs. As for the phone, we sent it back by USPS Priority Mail with a Tracking Number. Then we called VISA to CHARGEBACK our payment, and recover our funds from this very dishonest company. Their service department is a scam with call centers scattered throughout the world. They never let you talk to their corporate office in Florida. Save your money and buy from anybody else! Just don't buy from TracFone! Just keep your money and run from this dishonest company!

[REPORT ABUSE](#)

**captainfuture** 12/22/10 3:06AM

Worse than bad. Wasted 45 minutes on a bad connection with some gerbil in Bangladesh who was unable to solve the problem. Gave me a work order number and promised a replacement phone immediately if the "techs" were unable to solve the problem in four days. Nothing was done. Called again on the sixth day and spent a SOLID HOUR on a bad connection with some gerbil in Bangladesh, repeating everything tried before and more, as though the first call had never happened. No new phone, but they would send me a new SIM card to see if that worked. Bye-bye, Tracfone. My time is too valuable to screw with your problems.

[REPORT ABUSE](#)

**LBP** 12/20/10 3:36PM

Incredibly inept customer service. Best example: I got an email in response to a problem I was having that said they tried to call me, but I wasn't available and that I could call them. I called within the time period that they said they would receive calls and got a recording telling me to email my question and then the line hung up! I could go on and on with the problems I have had: all that keeps me with TracFone is the price.

[REPORT ABUSE](#)

**LindaAnnie** 12/20/10 2:30PM

I am a new Tracfone customer well not really because the samsung phone I recieved has never worked.I was on the phone with their customer service for 5 whole hours trying to get a repalcemnet phone or my money back on 16 2010 well today is DDec 20 2010 and no phone or money. Im beginning to wonder if this company is a legitmit company. When I asked to be transfered to a "manager" I can never seem to talk to one anda when I asked to speak to the legal departmnet so they could explain to me legally why I have to wait 10 to 15 days for my refund or phone becuae none of these is in the disclaimer agreement I signed on line suffice to say I am yet to be contacted by there legal department. I also was lied to by 2 represenatives who promised I would have a phone overnighted to be because of my inconvienc once again this was on Dec 16 and its Dec 20 and I stiiil dont have a phone. So watch out people when dealing with Tracfone they are a lot of liars and thieves.

[REPORT ABUSE](#)

**I hateTracfone** 12/20/10 11:10AM

I am a new Tracfone user and have a problem with my phone. I called their 800 number for support on my land line. After a few operations on my cell phone, the service rep said they would try to call my cell phone. After those words, my land line connection was terminated and there was no other contact with Tracfone. No call to my cell phone. No return call to my land line (they have my land line phone number on file). No e-mail (they have my e-mail on file). Worst kind of customer service I have experienced in a long time.

[REPORT ABUSE](#)

**Anonymous** 12/18/10 5:13PM

I have used Tracfone in the past and keep one for emergency use, however, I was buying one as a gift and it's been a nightmare. I don't know if it's because it's a refurbished LG phone or not; the Samsung ones seemed to work fine.

[REPORT ABUSE](#)

Anyway, trying to get it activated has been a nightmare, the website gave me an error and then I spent about 4 hours on the line with customer service. No one spoke passable English, most had trouble reading their script, much less understanding what I was trying to say. Then I thought it was fixed, and bought airttime online. It didn't go through to my phone. I've spent 3 hours today trying to talk to customer service, to no avail. No one can speak English, I've just been on hold a lot. I am so frustrated I almost want to cul my losses and just throw out the phone and find a different provider.

**amy** 12/17/10 11:36AM

Paid for a phone on a credit card [a good one] received two phones and billed for two. returned one [ fedex] with tracking # and was delivered 6 day ago. tried customer no-service service get nothing but a run around said only credit Dept. can activate the phone that I have keep, I sent a casher check for another \$124.91 with all the papers and serial#, activation # to get this damn thing to work still no service spent over five hours with customer no-service service.

[REPORT ABUSE](#)

**Parter** 12/14/10 4:00PM

My TracFone's sole purpose is to call AAA for emergencies. Perfect at \$5.95 a month, or I thought so for until my first AAA calls used up my minutes and I discovered I couldn't buy more from my phone. A solid week of many phone calls and e-mails and it seemed to be resolved: a new password to use from my phone. Just weeks later I neglected to leave my phone on for my Family Plan's monthly renewal, thanked my stars for that new password and bought new minutes. The Add Minutes date changed from 11-17 to 12-17 and that was that. Until my second emergency in a year warranted dialing the damn thing again. But...NO AIR TIME. Even though the screen date was weeks away. That was a week ago and I'm going through that same hell again. An hour with some techie who said he was going to get his supervisor to help me. She apparently didn't know how. I'm back to e-mails. Finally got a response. They very friendly suggest I speak with someone at the tech # aaaaaaargh

[REPORT ABUSE](#)

**brillo** 12/9/10 9:31AM

i have trouble with my tracfone receiving and phoning out, cannot reach anything from my house, called 3 times each time dissapointment same procedure they sent me a new sim card didn't work, now its frustrating , case #1025310423, they issue me, i know its in the phone, but these tech people "thats what there called" run threw these tests, i need a new phone, but its falling on deaf ears

[REPORT ABUSE](#)

**Anonymous** 12/8/10 1:01PM

Very BAD Customer Service , they don't even know how to speak english. Call 14 times in 4days for adding minutes ,still no resolution .

[REPORT ABUSE](#)

**mike smith** 12/7/10 4:02PM

I had no problem with the phone untill i tried to add more minutes. My not used minutes dissappeared without a trace.

[REPORT ABUSE](#)

I tried to call the customer service at 611 only to have my new minutes exosted. I am on fixed income and cannot afford a land line. Tracphone was my only phone.

**Anonimous2** 12/4/10 10:20PM

on Nov.25,2010 we contacted tracfone to add 200 minutes to the account with an added coupon to double the minutes with an another promotional coupon for 45 more minutes which is a total of 450 minutes at the cost of \$40.00. The transaction was confirmed by the woman on the other end so I believed we were done. After approximately 15 minutes passed and no minutes appeared on the phone we used a different phone to contact tracfone to inquire about the minutes. We were informed that there was no transaction recorded! We had discarded the receipt and tracfone card since we were told the transaction was complete. So after a total of 8 phone calls between that night and the next day we are out 450 minutes and \$40.00!!! We are on a fixed income and do not have \$40.00 to just loose because someone was incompeten and poorly trained at their job!!

[REPORT ABUSE](#)

**Anonymous** 12/2/10 12:41PM

this is the second tracphone I have purchased both time when I have called for connection after a bunch of questions, I have been told the sim number will not allow connection in the 806 area code. so I have to wait a week or more for another card to be sent. why do you sell a phone in this area that is not compatable it has now been a week since the card was ordered. and I was told it may take 10 days or more. I bought your phone to have in the event of an emergency on the road. I will not be buying another. your operators could at least check for compatability at the beginning so we will have the option of buying another phone.

[REPORT ABUSE](#)

**pat** 11/29/10 11:15AM

The employees claim to be located in Belieze and Columbia. Was on the phone waiting for 15 minutes to talk to a supervisor and then was told there wasn't any.

[REPORT ABUSE](#)

I believe the company is committing wire fraud for turning off my phone and requiring me to purchase additional airtime to reactivate it. Will be contacting the FBI. This company may be a front for the drug cartel.

**Willy** 11/26/10 5:56PM

Been waiting since mid-October for a new SIM card to change my phone number and area code. Got the new number - FINALLY - but not the SIM card. TracFone then proceeded to shut off my phone with 1289 minutes and 1039 service days remaining. Believe TracFone needs to hire some English speaking Americans to work there, and send the rest back where they came from.

[REPORT ABUSE](#)

**JayR75** 11/25/10 12:41PM

TracFone: I am still waiting for the new SIM card to change my telephone number and Area Code. I've only been waiting since October 18th. After TWENTY-EIGHT e-mails, you were "smart" enough to give me a new number; but the phone doesn't work at all because you cut off my working number! I NEED A SIM CARD! Ask somebody if you don't know what that is!

[REPORT ABUSE](#)

**Red Naxela** 11/25/10 12:29PM

I have had a number of cell phones with this outfit. My latest problem comes from my move from one Area Code to another. I notified TracFone in advance; giving new address and Area Code. Letter was ignored. Began sending e-mails; NOW totalling TWENTY-EIGHT. These idiots have given me a new phone number; but apparently don't know I need a SIM card for the phone to operate. They have now shut down my phone with 1289 minutes and 1039 days by their ignorance. I now have NO way to call for help should my invalid wife need assistance or an ambulance. TracFone can take a hike! This ends our "relationship"! Just wish they could understand English; would be a start.

[REPORT ABUSE](#)

**Red Naxela** 11/25/10 10:56AM

TracFone has some of the WORST "Customer Service" in the Service industry! I've been trying to change my phone number because I moved to a different Area Code. This has been going on for over FIVE weeks. TracFone has assigned me a new phone number; but fails to understand I need the SIM card in the phone. Their e-mails prove their foreign born employees cannot write or understand the English language. TracFone needs to get out of the business; especially a business involving American people!

[REPORT ABUSE](#)

**JayR@75** 11/25/10 8:39AM

I couldnt believe how many people had the same nightmare we had. I turned mine into the better bussiness beaur they did nothing! why dont all of you complain maybe we can shut them down!!!! I just bought 800 Minutes and 90%of the time I dont have a screen I dont dare call them I cant afford to loose those minutes.Linda

[REPORT ABUSE](#)

**Linda** 11/22/10 3:44PM

This is BS you get live perswon then they hang up on you when you try and give a number of airtime card. FCC needs to investigate this company

[REPORT ABUSE](#)

**themhjr** 11/21/10 2:21PM

I've had tracfone service for a week now and it sucks. Customer service reps can't speak clear understandable english and in order to resolve a problem, it wastes my prepaid minutes. What a disappointment.

[REPORT ABUSE](#)

**angie** 11/19/10 2:38PM

Lousy company that lies to your face. I will be looking into a lawsuit against them due to outright lies of service and non support. 2 weeks to get a phone activated only to see NOT ALLOWED on screen whenever I try to make any call.

[REPORT ABUSE](#)

**NotHappy** 11/19/10 1:42PM

I think they call it PASS THE BUCK !! Because they are sure good at it !!!

[REPORT ABUSE](#)

**gumba691** 11/18/10 6:02PM

I have had a trac phone for a while now and they are at the bottom of my list of good phones and service. Most of the people I talk to I cannot understand because they are foreign. I am ready to stop service soon. They have no \$10.00 cards in many stores. That is all I need for a 13 year old girl. I have just had it.

[REPORT ABUSE](#)

**Anonymous** 11/17/10 7:07AM

I am going to agree with all of the comments below. I have been told my phone number and minutes were transferred back to my original phone. Unfortunately that is not the case. Stupidly, I tried to upgrade and when that phone stopped working after 3 days, I tried to get my old phone working again. Customer service is an oxymoron at Tracfone. Hours on the phone is standard with no relief.

[REPORT ABUSE](#)

**Anonymous** 11/16/10 6:04PM

After spending 7 hours this week to correct problems with my Tracfone, I can honestly say that I have never dealt with such a group of total self serving dingbats in my life.

[REPORT ABUSE](#)

Why don't they just give those jobs to Americans who we can understand what they are saying? For the most part, I had to deal with people who could really give a damn what I wanted and needed done. I'll be happy to supply their names and, for the most part - again - let you know where they told me they were working out of.

Yes, Tracfone is a convenient way to have a portable phone, but their support service is way beyond outrageously, ridiculously nerve-racking.

**susanmaynes@bellsouth.net** 11/12/10 7:36PM

You cannot even expect a minute of peace if you try to activate your Tracfone or add minutes by calling their 1-800 number. Absolutely nobody speaks English at even a minimally competent level. Call the corporate office at 1-800-876-5733. What a joy to be able to have a meaningful conversation. If I were Tracfone corporate officers I would ensure the easy availability of English-speaking customer service people and advertise the phone number. I would pay more TO BE ASSURED I COULD TALK TO SOMEONE WHO SPEAKS ENGLISH! Forget grammar--just English will do!

[REPORT ABUSE](#)

**Jody** 11/11/10 12:14PM

TRACFONE IS A SCAM...STAY AWAY FOM THESE PROFESSIONAL THEIVES

[REPORT ABUSE](#)

**knr1222** 11/8/10 2:11PM

ive been trying to reach you people for months regarding a stolen phone i believe this is ridiculis i know the phones and everything thing is free but geez there is such a thing as customer service

 REPORT ABUSE

**latonyacabbagestalk** 11/1/10 8:28AM

Now Tracfone has a new service called Straighttalk... You will find these phones at Walmart in certain cities. You either pay \$30 a month for 1000 minutes and 1000 text or \$45 a month for unlimited minutes and text... We thought it would be good for my sister who is 16 and we don't want to do a contract... BIG MISTAKE... They are liars and thieves... Now we are fighting Walmart to take the phone back but they say it is not their problem... HORRIBLE...

 REPORT ABUSE

**FedUpOregonDuck** 11/1/10 2:12AM

Have three Tracfones - The first one went down with almost 11 months of service remaining (they gave my phone number to someone else)- have invested 12 hours of time with customer service - now have 8 months of service left and no phone. The other two have worked fine until Oct. '10 when one was shut off with seven months of service left. The last phone is up for renewal - what do you think?????

 REPORT ABUSE

**Sandi** 10/31/10 8:53AM

Have been a tracfone cust. for about 7 years this is the first time they have talked between 5 different people and not been able to resolve the prob. of transferring No to a new phone which if the battery didnt cost double of the old samsung none of this would have happened, it has been 24hrs and I am still waiting for phone svc. Maybe the Co. has gotten to big to care and time to move on. By the other comments I am not the only one. Little comfort.

 REPORT ABUSE

**Anonymous** 10/31/10 5:09AM

tracfone is a considerable ripoff.I have been on the phone with them for a total of about 10-12 hours.I have no phone because I sent it back for a refund.That was back in august.They told me now that the phone was not recieved.It was recieved on 8-10-10 by a person named vazquez and signed for by himself.This company is such a sham.I pretty much figure that I wont get my 50.00\$ back but I also spent another 16.00\$ to send it back because thats what I was told on the phone to do.I guess I'll chalk it that some higher ceo at tracfone just made an extra 66.00\$ to their retirement fund.I work hard for my money so its a shame when a company like this just takes it and wastes hours of my time. sincerely scott smits greenbay wisconsin

 REPORT ABUSE

**scott** 10/30/10 11:34AM

We have 2 tracfones. On Sep. 23 we got a text that service for one phone would end on Sep. 25. The phone has 455 minutes of talk time and 6 months of service left. After much frustration and calling the corp. office the most they can refund is 50.00. If I had not called before Oct. 31 we would not get any refund. This is theft. The last 400 minute card was 100.00.

 REPORT ABUSE

Our other phone is fine. She said it was because one phone was a Verizon number (no more service) and the other is a US Cellular number. There is no way to switch or pick providers when purchasing a tracfone.

They will never get another cent from us.

**Anonymous** 10/28/10 10:53AM

On October 12, I attempted to activate a phone and get a number. I purchased the required phone and paid the required fees and still have not receive a number. Everytime I call I am promised a new number and total use of my phone. Every rep places me on hold and says, "Let me verify this information with my supervisor". Every 3 minutes the rep returns and places me on hold for 3 more minutes. This continues for up to one hour.

 REPORT ABUSE

My advise to all current customers and potential new customers,: DO NOT GIVE them your business. They are LAIRS and cannot be trusted. I called 10/26/10 and the rep disconnected the call. They always thank you for your business then make empty promises of corrected service.

**james brown** 10/27/10 6:35PM

I am sure this will be disregarded, however, I will have at least felt I have been heard! I was advised by a technician that I would have to buy another tracfone after I have already paid for minutes and multiple calls to techs for help, new sim card and a lot of wasted time and effort. Every tech that I have talked to had a different story. I sure hope you record your calls, as that would be proof, however, I am sure that would be cancelled also, as it would only prove the run around that was given me. I will not be using tracfone ever again and I will make it known to who ever I can of the trouble I have had with it. I am sure you will not miss my business, however if I can get just one more person to give up tracfone, then my time will not have been wasted. I will make that my mission!

 REPORT ABUSE

**Anonymous** 10/21/10 7:52AM

I spent 1-1/2 hrs. on my landline lasgt night(no, I never call TracFone from my cell -- I know better than to burn cell minutes with them) trying to get one ringtone to download. Their website sez that after you purchase (either by deducting minutes or paying \$2.99), you will get a text message instructing you how to complete the download. Except I never got a text. (Funny, I got a spam text from some sleazeball payday loan co. last week, with no problem.) I called CS, and this poor schmuck had me doing all sorts of things to get the download to work (including opening my phone's web browser, which is s-l-o-w-e-r than my old AOL dial-up and sucked up about 15 minutes). He kept putting me on hold saying he had to check with a supervisor. (Couldn't he just put the supervisor on the phone?) Finally he had to escalate me to the next tech level. That rep was much smarter (and spoke much better English), and he finally figured out that the TracFone website had a problem, and suggested I wait 24 hours to try downloading again. I did, and it still isn't working. (To his credit, he did give me 20 minutes as compensation for my inconvenience ... which involved reading my e-mail and going through the gyrations of typing in a 25-digit code.)

 REPORT ABUSE

I'm very torn at this point about keeping TracFone as a provider. (I have 2 phones w/ them; mine and hubby's.) In my area (STL) their cell coverage is extremely good; we both have Motorola phones that function pretty well. I got double minutes for life on both and am on a Family Value Plan, which is much more reasonable cost-wise than my old AT&T plan would've been w/ 2 phones. Trying to get my minutes to download to my phone (which is the 'primary' on the account) automatically each month, however, has been a struggle. Hubby gets his with no problem, but I keep having to call and go through a 30-minute exercise each month of putting in umpteen 25-digit codes to get my 100 minutes! They don't have any problem deducting the charge from my credit card each month, however.

**st loolie woman** 10/9/10 7:25PM

I too had a horrible experience with tracfone customer service. After 2 1/2 hours with them, trying to activate, I was frustrated not to mention angry. When I was about to leave a negative comment, I noticed a comment from an employee named Elston Lombillo, saying he worked for the company and to contact him with any problem. I e mailed him right away, and he got back with me the next day and made sure the problem was fixed and compensated me for the problems I had experienced which changed my views. So trust me, as one frustrated customer to another contact Elston at elombillo@tracfone.com he will help you.

[REPORT ABUSE](#)

**Anonymous** 10/8/10 7:09PM

I had a horrible experience with customer service at tracfone. Spent 2 1/2 hrs. on the phone and I was more than mad. I then came across Elston's comment on a page and contacted him by e mail. He is truly helpful, and cares about making sure customers are happy. So I totally recommend contacting him with any problem. He changed my views on the company, and it didn't even take that long. Thanks again Elston!!

[REPORT ABUSE](#)

**Anonymous** 10/8/10 7:01PM

i bought new card to add air time and 1yr to my tracfone. after 2 hrs after entering new time, it still did not show up, so i called customer service. i was on the phone for 1 hr with someone across the world that i could not understand nor hear. this is ridiculous, you should at least have americans serving americans, so we can understand each other. the young man was very nice and eventually had to call customer service himself. my phone got fixed but i do not know what was wrong as i could not understand this young man

[REPORT ABUSE](#)

**Anonymous** 10/5/10 4:38PM

I bought a Tracfone in June and 800 minutes. As soon as I used the phone the first time I was sorry I had bought so many minutes. The phone would not work. To make a long story short, I made 4 calls for 2 hours each to their customer service over the next two months. They never did get the phone fixed. The service people who worked with me were in some other country and could not speak good enough English to communicate. I mailed the phone back to return it (the paper says you can return it within a year for an exchange) They didn't believe me and didn't want to send me another one. Finally they did but after my threats to throw the phone away and go to another company and many hours on the phone with different agents.

[REPORT ABUSE](#)

**boliviagirl** 9/28/10 8:37PM

I have been a tracfone customer for a few years. As long you don't need customer service, your fine. But when you do, it is always a long drawn out frustrating experience. I have spent hours on the phone with them to get missing minutes added (from a value plan). Or to get a new phone activated when the website activation didn't work. Or to get the double minutes I was supposed to get with the new phone. Now I am trying to return a new phone I just purchased (Somehow I ordered the wrong one - my mistake I think). And what should be a simple straightforward process to get a return authorization has taken 3 phone calls with still no resolution - I've just been told again to call back in 48 hours! The only reason I put up with this is that the price seems to be the best value around - for someone who just needs a fairly small amount of minutes a month. But I don't know how much more of this incredibly inept customer service I can put up with!

[REPORT ABUSE](#)

**Anonymous** 9/28/10 12:03PM

I've been using tracfone for years now. I just transferred one of my numbers and minutes over to a new tracfone. Well I LOST 310 minutes by transferring. I am pissed off. My old phone clearly said 1,290 minutes but I was told that their computer said I only had 980. So if I wanted to still change minutes over to the new phone I would have to accept the 980 minutes. That is total bull. Do you realize how much 310 minutes cost? I lost a lot of money. I'll never transfer again. I will change carriers.

[REPORT ABUSE](#)

**Anonymous** 9/24/10 8:33PM

I'm impressed that some of you have actually spoken to human beings, albeit for hours on end. I cannot get past the automated voice that ultimately hangs up on me, because I don't have an airtime card PIN to punch in. I'm not buying an airtime card, because I bought 1,000 minutes online two days ago and they still haven't shown up on the phone. Oh, and the service has been cut off. I also bought a year's airtime, but that hasn't made a difference either. My account information on the website says the phone has service until April of 2012, which means they shut off the service seven months before it actually expired. An e-mail to these yahoos was answered with "sorry, your phone needs to be re-activated. Call our 800 number for help." Uh, been doing that and no one's answering, not even the New Delhi office.

[REPORT ABUSE](#)

We have two Tracfones, and if I can manage to use up the minutes on them we'll be leaving this company so fast their heads will spin. Two tins cans and a piece of string have more reliable phone service than Tracfone.

**Kayrom1** 9/23/10 7:59PM

Terrible, terrible, terrible customer service! Can't get any worse! Even after you get one they don't know what they are doing and you end up on hold hrs at a time. If you are lucky you might understand what your rep. is saying....Terrible!!!!

[REPORT ABUSE](#)

**unhappy** 9/23/10 3:44PM

I have been a Tracfone customer for several years and yesterday I received a text message the service was going to be discontinued in my area. I have over 2700 minutes that are still on my phone and they offered me a refund of 50.00. I rejected the offer and made several phone calls until I finally accessed the exec secretary to the CEO. They called me today with an offer to reimburse me for only half of the minutes, I rejected that also and am pursuing to recover the complete amount. I have several phone numbers if any one is interested also interested in in any info of a class action suit.

 REPORT ABUSE

**ufocity** 9/23/10 10:05AM

After years of using Tracfone they send me a text msg that tells me they are dumping my service and I need to find another provider? No offers to pay for the year of service and remaining 800 minutes I just bought. They had to of known this was coming when they allowed me to buy my last contract with them. I was happy with them up to this point but now I hope someone instigates a class action law suit.

 REPORT ABUSE

**dan** 9/22/10 4:26AM

Although this is surely an exercise in futility, I decided that instead of just generally complaining, I would try to document the actual times and contacts with Tracfone, (I had problems before). When people talk about 4 or 5 hours, it often sounds like an exaggeration. For what it's worth here's a full accounting of extended correspondence. (placed on a website instead of taking up space here.)  
http://goo.gl/wctq

 REPORT ABUSE

I have not heard back, and don't expect to.

Strange to me that Tracfone would accept 3 or 4 hours of payroll just to save a few dollars, but that's their decision. Advice? Don't go there.

**itstarted** 9/20/10 10:55AM

you suck!!! my husbands phone was in his pocket and it must have pushed a # accidently and it ate 130 minutes!! and you won't reimburse us for any of these unused minutes. This is the second problem I have had with tracfone, I think your customer service bites.

 REPORT ABUSE

**teeteeme** 9/20/10 10:03AM

I just had the most awful customer service experience with Tracfone that I've ever had with a customer service organization. After talking to 2 customer service reps and about six email exchanges, I am convinced their customer service has fallen to an all time low. My guess is that they are too concerned with making their quota's in service calls vs. really listening to the customer. Empathy? They have none...they just spew their robotic messages both through their call center AND through their email responses. They are unwilling to acknowledge any fault on their side and unwilling to attempt to make things right in any way for their customers. I've been a customer for over 5 years -- 4 phones -- it means nothing to them. They'd rather lose a customer over a \$20 phone than to suck it up and admit they blew it. Unbelievable!

 REPORT ABUSE

**marsha** 9/18/10 4:25PM

I received a text today that tracfone is ending service in my area at the end of September(13 days). I have 271 days remaining and 1828 minutes. I also just purchased a new phone. After spending time with so called customer service I was told "sorry no refunds and you will need to find a new wireless service, thanks for being a tracfone customer". I don't know what is going on but I have had tracfone service for many years without problems. Now they want to keep my money and stop service. DO NOT PURCHASE A TRACFONE OR SERVICE, THEY WILL CUT OFF YOU SERVICE AT ANY TIME AND KEEP YOUR MONEY! If anyone is planning legal action I want to be made aware of it. My email address is hjclover@yahoo.com

 REPORT ABUSE

**Hjclover** 9/17/10 7:03AM

Had the most horrible experience with TracFone--SIM Card wouldn't work--spent 5 hours on the phone with their idiotic non-English speaking morons--I finally gave up. I'm out \$60 but that is better than the hundreds that I have read that some other people are out of. They are a FRAUD and should be shut down.

 REPORT ABUSE

**ssmith** 9/13/10 2:00PM

Tracfone's customer service is virtually non-existent. I have a family plan with them and after waiting for 1 week without getting the air-time for the month, I sent them an email. Their computer sent back a reply saying that they've received the request and will get back to me in 48 hours. A week later and having not heard from them, I called the company and reached a person. He told me that he'll compensate me for my trouble and will give me an additional 20 minutes, he then put me on hold for 15 minutes and hanged up on me. I called back and finally reached another person, she gave me the code to enter to claim the monthly air-time and put me on hold to get me the additional 20 minutes. Another 15 minutes of waiting later, all I heard was background noise and no human. It's just the worst company in customer service.

 REPORT ABUSE

**TracfoneWorst** 9/11/10 11:31AM

Tracfone coverage in my area looks good on a map but bad in the real world; the coverage drops out a lot and waste my minutes. Tracfone cell phones are cheap as in how they are made. The LG 420 cell phone for Tracfone takes over 3 hours to turn on and load; I don't even have a lot of stuff on there. Tracfone customer service representatives are not helpful and give me the run around to fix my phone problems. I paid for something; it better work and if not I want my money back.

 REPORT ABUSE

**Zachary** 9/9/10 11:27AM

i received a LG from safelink i have activated then the sim card has ben rejected after trying to cotact the techsuport section they unavalable on off hours or they are over welmed with costumer problems what can i do this is the second of lost minutes

 REPORT ABUSE

**vs2b me** 9/4/10 4:26PM

Customer Service ( by telephone)had a long wait time. The Customer Service rep I had had a very strong accent and was difficult to understand. I had purchased a prepaid 60 minute card and when I went to scratch off the PIN, some of the numbers had been scratched off as well. Instead of the 15 digits I needed for a PIN, I only had 10. I emailed for help and obviously whoever read my email did not understand for the response was totally inane. So now I am going to have to suck the price of the card and go buy another one. I really don't appreciate throwing \$20 out the window. [REPORT ABUSE](#)

**Anonymous** 9/4/10 11:56AM

I can't get through to their 800 number, I added my card pin for minutes on their website. Phone hasn't gotten minutes yet and now I've been on hold for 3 hours. [REPORT ABUSE](#)

**Anonymous** 9/4/10 11:04AM

I used tracfone as an additional line for incoming business calls. Unfortunately the phone was damaged so I purchased another phone and called customer service to have my number transferred to the new phone. For some odd reason the reps had a problem transferring my number but assured me that all issues would be resolved in 2 to 3 days. Three weeks have gone by, I've talked to several reps and they all tell me the same thing. One rep even told me they were going to send me another sim card. Never got it. This has been one of the worst experiences I've had with any tech support. I'm actually on hold waiting on speaker phone to see how long it going to take for someone from tech support to pickup. The system is stating hold time was 15 min, it's now been 46 minutes. Terrible!!! [REPORT ABUSE](#)

**Anonymous** 9/3/10 8:56AM

I feel just about the way everyone does with Tracfone's customer service. I think everyone who has had problems with this company should get together and sue. If we had enough complaints sent to the right person then we can bring this company to its knees. Anyone who agree's email me at DATA80211N@GMAIL.COM [REPORT ABUSE](#)

If I get enough people who are complaining,I will start the process myself of getting the right persons attention.

**DATA80211N** 9/3/10 8:56AM

Oh Tracfone is great if you can do-it-yourself: that is, buy the phone online, add the minutes yourself online. But the minute you have to do something "fancy" like swap minutes from one old phone to a new one...FUGEDDABOUTIT! [REPORT ABUSE](#)

I was a happy (but wary) Tracfone customer for several years, but this last time I thought I'd try to transfer my service days and minutes to a new phone. BIG MISTAKE. I won't begin to bore you with the details but suffice it to say the experience caused at least one ulcer and probably took years off my life!

Now I have two paperweights which cost me a total of well over \$150. Nice.

**tracfone222** 9/1/10 1:11PM

I began calling tracFone on Sat 08/21. I wanted to have my area code changed. Since then I have been unable to use my phone, have been on tech support, at great expense to me, for over 2 hours on 4 different days, and my problem has not been resolved. When TracFone tried to change my area code, there was an error on their end, which made my phone no longer usable (unregistered SIM message)and my minutes are lost--and TracFone has been unwilling and unable to replace my phone or help me at all. [REPORT ABUSE](#)

So far. Customer service has been a dreary and dismal affair--based on my experience TracFone Customer Service could not be worse.

Thank you

**nophone** 8/26/10 8:52AM

Worst customer support I have ever experienced. I'm on my 5th call with them. Still no resolution. My patience is waning. [REPORT ABUSE](#)

**kozpa** 8/21/10 6:43AM

I agree with all the negative comments here. My experience with the customer service agents was that they would repeat back something completely difference from what I said; tell me that I had to call my service provider to port my phone number to them; and refuse to transfer me to a supervisor by repeatedly (4 times) telling me how she can assist me with my new Tracfone. I finally did speak to that supervisor and told her to forget the whole thing. I informed her that Tracfone's was the WORST service I've ever received! [REPORT ABUSE](#)

**Situation** 8/19/10 1:04PM

Tracfone has the WORST customer service I've ever experienced. I have spent two days, and a total of 5.5 hours now trying to get my old tracfone number and minutes moved to a new Tracfone I bought after the old tracfone (only 4 months old) died. They've sent me a new Sim card. but they now can't activate it with my old number. [REPORT ABUSE](#)

**Anonymous** 8/18/10 2:50PM

While trying to reactivate my father's phone yesterday, I was redirected countless times and on hold for 40 minutes. My father was on hold for 30 today. I was given a number twice that proved to be fake. I am very disappointed with the service we were provided with. [REPORT ABUSE](#)

**Kristiana** 8/13/10 5:58PM

What a terrible company with terrible customer service. Spent 3 1/2 hrs. trying to add minutes to my mother's phone with several phone calls and long waits and the problem is still not resolved. Something really stinks with this company. As of today we are dumping two TracFones and finding a different carrier. I don't trust this company and wonder what is really going on with them. They assured my mother that her transaction was cancelled but she still called her credit card company to stop payment on the charges. Time will tell what kind of mess they caused. I repeat the warning given in an earlier post don't give out your credit card number. [REPORT ABUSE](#)

**ihatetracfone** 8/10/10 6:53PM

I have just spent 1:11 on the line with TracFone Customer Service. They had added my airtime to another phone and so mine had run out. I think I got the person who knew the least on the phone. It ends up that they will credit my Visa and I will still have to go back online and add airtime (and hope they get it on the right phone this time) Over an hour spend and still no phone! [REPORT ABUSE](#)

**Anonymous** 8/10/10 3:21PM

After years of good service and a simple procedure for adding minutes, my "outdated" phone stopped adding minutes on the prepaid feature. Called a couple of times to avoid holding too long, got the minutes added and was assured it was a fluke. The next time, same problem, again, assured that the problem was fixed. In good faith, I purchased a double minute card. Went to add it, and, surprise! I still couldn't add minutes. One incompetent service person later, I'm told I need a new phone! When I demanded to speak someone, I was put on hold for 15 minutes. My husband got on another line and THEN my phone call was picked up. 5+ code entries later, still no minutes. I then told her that I simply wanted my money back and was told that I couldn't get my double minutes money back. Tried to explain that the double minutes DO ME NO GOOD if I can't GET MINUTES INTO THE PHONE! They've just lost at least 2 longtime good customers. It may not mean a lot to them, but I do talk to a lot of people and will tell each and every one of them. [REPORT ABUSE](#)

**Dusty Bottle** 8/8/10 5:39PM

I bought a card to add minutes to my phone and could not get it to scratch off without destroying the numbers underneath. I took it back to Walmart and ended up waiting over one hour while they spoke to Tracphone to get the situation straightened out. The Walmart manager eventually got on the phone and by the time he was off the phone, he was as frustrated as I was with Tracphone. I tried calling Tracphone when I got home but gave up after 55 minutes on hold. I suspect this is their plan. I will be getting rid of this phone soon and looking for another pay as you go phone. This time I will research it before I choose a company. Tracfone obviously has no real customer service. [REPORT ABUSE](#)

**reptile1** 8/8/10 10:25AM

I have had a trac phone for years. Never a problem..just go out and get your minutes and phone them in. Now..a new phone...problem...been round and round with them (at least 4 times) sent me a new phone and still can't call out. Everything said above goes...I am ready to give up on a cell phone and just keep a land line. Not worth the aggravation and time spent trying to deal with these people. [REPORT ABUSE](#)

**Mooky** 8/7/10 5:18PM

there is no such thing as tracfone customer service. after one and a half hours of holding I hang us. and they keep telling me how VERY important I am to them. this is such a joke. [REPORT ABUSE](#)

there has to be a better way but what is it.  
I am sorry I bought the phone in the first place.

**peggyb** 8/5/10 2:00PM

I have been a customer of Tracfone for many years and I am very disappointed with their service. They doesn't honor their value plans. They make many mistakes delivering the minutes each month, however they have taken the cash out of your bank account. They will tell you that they have straighten out the error after you have to type in many numbers on your phone while you are on the line with them. They removed the service from my phone and refused to add it back on without my buying an anytime card to reactive the phone. If I had done this I would have been charged \$29 to add double minutes back to this phone as it is considered a closed phone even though you purchased it withing double minutes. I lost 368 minutes with an expiration date of 6/8/13. This is a long story concerning this malady, but you get the picture. THEY STINK, THEIR SERVICE STINKS, AND I NEVER WANT ANOTHER ONE. [REPORT ABUSE](#)

EMR

**makey** 7/24/10 7:44PM

-5 Stars Don't Buy rating, what a mistake I made changing from my (Big Cell Phone Provider) to Tracfone. Heard thier TV ad and believed all their claims so I went and bought a cell phone with double minutes and after five days I still have no minutes. I bought my phone in the afternoon Thursday pacific standard time, but when I went to activate it, they close at 8:00 Eastern Standard Time . Friday morning I called and started the process and they call me back a couple of hours later saying they need more information, so I gave it them, but was difficult to convey this information because they appeared to be off-shore and hard to understand. Saturday my big cell provider stopped my service, and no Tracfone service. Could not call Tracfone because they are closed after 8PM EST and on weekends. So I was out of cell phone service over the weekend. Monday morning I called and after about an hour of answering more questions and told every two minutes to please stay on the line while they put me on hold time and time again, they finally they told me all would be well in 24 hours. 24 hrs later my Tracfone phone is on network with my old number but can not call out. I called Customer Service again and got the same story except this time I asked to talk to a supervisor and was put on a longer wait and told the same story, wait another 24 hours. After an hour my phone gets calls in but I can not answer because I have no minutes and I can't add minutes to my phone because the systems says I have an invalid number. All I keep hearing from Tracfone is wait another 24 hours and please wait while I put you on hold. [REPORT ABUSE](#)

My recommendation is don't believe their claims like I did, this is a definitely a Don't Buy. Also, after calling Tracfone Corporate office (800-876-5753) I got the same story and response to wait another 24 hours.

Jaime 7/20/10 3:21PM

I've had a Tracfone for about 6 years & been very happy with it. Never called customer service for anything... just did all the adding minutes/airtime myself (which is probably why I've been happy). We decided to finally get a new phone & when it came I called customer service to have my #, minutes, and airtime transferred to the new phone. The first night I called I was on the phone for 45 min entering codes, giving serial numbers, etc & she said she kept getting an error message. She wanted me to talk to her supervisor & I had to do the same thing with her. Still error message. She made up a ticket # & told me someone would call in 24 hours. No one did so I called back today. Even though I gave the CS rep the ticket # I had to go through everything with him again including entering codes into my phone that came up as invalid. He was constantly talking to his supervisor & then trying to transfer me to someone who could help. He said my old phone is "defective" & that's why the codes won't work. Defective after 6 years?! He finally got me through to "tech support" who also tried to get me to enter the codes (which didn't work) and she created ANOTHER case # which I'm supposed to call back about in 24 hours. I was on the phone today for an hour and a half. Seriously people...how hard can it really be?! **REPORT ABUSE**

wilemimom1 7/15/10 1:08PM

Bought the \$20 double minute phone from Walmart...tried to transfer my AT&T phone number which was printed on business cards and resumes...they mishandled the porting and my old number which I have had since 1994 was given to someone else! Try and get a cell phone in Dallas these days with a 214 area code! **REPORT ABUSE**

Provasek 7/14/10 4:09PM

WOW ALL COMMENTS BELOW ARE CORRECT. I AM NOW UP TO ABOUT 6 HOURS OF COMMUNICATION WITH TRACFONE SIMPLY TO GET A NEW PHONE WORKING. THERE HAS TO BE SOME SCAM GOING ON HERE. I AM ALMOST 50 YEARS OLD AND HAVE NEVER EXPERIENCED CUSTOMER SERVICE THIS BAD. HUMAN BEINGS CAN NOT OPERATE THIS POORLY WITHOUT BEING SPECIFICALLY TRAINED TO. THERE MUST BE A DIRECTIVE TO NOT RESOLVE CUSTOMER ISSUES OR THIS WOULD NOT BE HAPPENING. I AM FINDING AN EMAIL FOR WALMART AND LETTING THEM KNOW WHAT IS GOING ON AS WELL. I AM SURE THEY ARE A MAJOR DISTRIBUTOR. **REPORT ABUSE**

Anonymous 7/13/10 6:15PM

Has to be the worst company in the world. Have had my TracFone for 5 days and still cannot get voice mail to work after 6+ calls to their customer service and hours of waiting. Avoid this outfit! A total rip-off! Jeff, Houston **REPORT ABUSE**

Anonymous 7/13/10 3:53AM

IT TOOK ME FOUR TRIED TO GET MY OLD PHONE SWITCHED TO MY NEW ONE AND THE CUSTOMER YESTERDAY PUT DOWN I REPORTED THE PHONE STOLEN WHICH WAS A LIE. I TOLD THEM I HAD BOTH PHONES AND JUST WANTED MY NUMBER SWITCHED. THIS MADE IT ALMOST IMPOSSIBLE FOR ANYONE TO ACTIVATE IT. THEN I AM FURIOUS BECAUSE THEY GAVE ME A NEW NUMBER JUST BEFORE VACATION AND NOW NOONE WILL HAVE IT AND I WILL BE LOSING BUSINESS BECAUSE OF IT. I ALSO EMAILED YOU PEOPLE LAST NIGHT AND NEVER GOT A RESPONSE. WORSE SERVICE I HAVE RECEIVED ANYWHERE. PLEASE TRAIN YOUR HELP AND GET PEOPLE THAT I CAN UNDERSTAND AND SPEAK BETTER ENGLISH. **REPORT ABUSE**

Anonymous 7/12/10 1:42PM

I have been a tracfone customer for 3 years and never had any trouble until this week. My original phone was damaged and I bought a new one. I tried to get my number and minutes switched to the new phone, which I have done before with no trouble. In short after 4 days of calls and 2 e-mail attempts, I was told that my number had been given to someone else and that I had lost 230 minutes. They were willing to give me 18 minutes. They have stolen over \$75 of my money. I now have a phone with no minutes. **REPORT ABUSE**

Anonymous 7/11/10 9:44AM

This company is the most incompetent bunch of thieving morons I have ever encountered. I tried to upgrade my phone - what a mistake. **REPORT ABUSE**

After disabling my old phone the idiot rep informs me I will be without a phone because it takes 72 hours to transfer my remaining minutes and phone number.

Of course after the 72 hours passed they couldn't activate either the new or old phone. They then said that I needed a new SIM card for my area because the one I had been using for a year was no good in my home zip code.

When I called to activate the original phone with the new SIM card my remaining 350 minutes were gone.

Needless to say, I now have zero reason to keep my service with these idiots.

Anonymous 7/9/10 4:41PM

I seriously think something is up... I reach a dead end online and can't get through on the phone. I just want to switch my phone number to a new phone!! What is going on!!!!?? **REPORT ABUSE**

mh 7/1/10 11:14AM

My voice mail would not allow me to retrieve messages, tracfone had to reset the voice mail which took 4 tries. Then I was not able to set up another voice mail even while on a land line with their support. Used up a lot of my minutes trying and after 5 days I still can not set up voice mail and they want me to stay on my cell phone for 15 min. to wait for the next tech. NO WAY **REPORT ABUSE**

**oldgal** 6/26/10 3:29PM

Have tracfone for over two years, three days ago they changed my phone number, making it impossible for people to contact me, and to make it worse I am traveling for two months. Have been on land line phone for over 5 hours to resolve issue, told number expired given new number, I informed some friends of new number, next day another new number appeared on phone, now phone shows old original number but no one can call on the number. Can not understand most of the people that are to help, so far have reached people in four different countries, none US help. How can it be fine for two years and now when I need it the most can't be used. Bought two new phones, one the battery was dead after got off plane, so bought new phone number transferred with almost year of service left, that worked for 1 week then had problem, called for help, told bad sim card, they were to send new one, never received, I was traveling to new State so bought another phone and transferred number and minutes again, phone worked about two-three weeks, then mid day my old number did not work and another number appeared on phone, next day another new number appeared on phone, on the phone for two hours last night trying to resolve, my old number now appears on phone but no one can contact me on that number. Tried to make contact for help again this morning but contact I need is not available they say for two hours or so. Will be traveling to new location tomorrow and will not have land line phone to try and correct problem. Will try again shortly, so beware of this company. **REPORT ABUSE**

**Anonymous** 6/26/10 6:50AM

Spent over 40 hours trying to get my Tracfone to work. The last 2 tracfones did not work either ...could not receive or make calls. Customer service is appalling!!!! They are clueless as to any solutions, have you hold repeatedly for 2-3 minute while they get technical help who are also clueless. Finally after your land line battery is about to give out they tell you the problem is solved and to dial a code within 5 minutes of hanging up...The code is found to be unacceptable and you're back to square one. They keep trying to sell me more minutes while I have over 1000 minutes from my previous Tracfone...maybe that is why they won't solve the problem. In the course of the last 4 weeks, calling daily for hours, they have given me several new phone numbers which are not accepted and one number that belongs to another person. Their politeness and promises are totally idle. BUYER BEWARE...stay away from Tracfone! **REPORT ABUSE**

**horrors** 6/22/10 2:00PM

I would chuckle at some of these horror stories because I have a really bad example to relate, but I more sympathize. I bet if you contacted 99% of TracFone users who needed help, they would have a customer service horror story. And then I bet we would all have a great collective chuckle if we found out that for some nasty legal reason we couldn't raise a class action lawsuit against them for failure to provide service. I burnt out a fully-charged cordless phone battery one day speaking to these multiglots only to find out the next week they hadn't delivered my cell phone because their system couldn't discriminate between FEDEX GROUND only with FEDEX delivering the entire way, and FEDEX lied to USPS delivery. Try being eight hours on the phone, about a phone... Don't put yourself through this misery; if you don't buy the phone, you won't have to try to call them. **REPORT ABUSE**

**anon** 6/22/10 7:28AM

Customer service: nil! The best you can say is that they eventually answer the phone (but you need to call from a phone other than Tracfone as they deduct all of your waiting minutes from your service usage). I wasted more than 1-1/2 hours of time and several minutes without ever being able to get a single call through to Panama. Horrible phone; horrible service. **REPORT ABUSE**

**Anonymous** 6/19/10 7:39AM

My 2 week old Motorola phone went faulty so i figured it would be easy to transfer my number and minutes to a new phone. Not so, in the end the company said my number was not available and neither were my over 130 minutes of airtime. After much arguing and over an hour on the phone i finally had my minutes returned but was forced to get a new number. Like others i had great difficulty in understanding the customer service agent although i realise she was doing her best for me. **REPORT ABUSE**

**fbatkin** 6/18/10 5:39AM

i just tried purchasing a ringtone online then called tracphone cause it never went through what i am getting fed up with is nobody speaks english at tracphone anymore so i am thinking of going back to net 10 we still have 1 phone activated and do not get me started on straighttalk which is a big part of tracphone there customer service is the worst ever i signed up on may 4th still can not activate email made several calls to straighttalk and the person i spoke to last night said this is embarrassing all the ticket numbers i have had in less then 2 months and he promised to have problem with web browser fixed in 4 hours well that never happened so i think net10 is the way to go drop straighttalk and tracphone. i even called corporate headquarters on straighttalk a jonathathan promised to check my account every hour to i was able to have the web browser well that was another lie he closed the account i was told real bunch of idiots working for straighttalk and tracphone and i hate being lied to. **REPORT ABUSE**

**louiejon1@aol.com** 6/16/10 11:46AM

I just tried to use my tracfone and found that my min. bank was empty again!!!!!! I lost almost 300 min's. This is not the first time this has happened to me. In fact it is the 4th time. I am going to try to get them backd, but I also know that I am going to get the run around, and will not get all of them back. I should have learned from the first, but I am hard headed. After I "TRY" to get this worked out, I am going to smash the phone with a hammer and go out and get a real phone. TAKE MY ADVISE, DO NOT EVER BUY A TRACFONE!!!!!! THEY ARE AS WORTHLESS AS A 3 DOLLAR BILL!!!! **REPORT ABUSE**

**yoboats** 6/16/10 7:32AM

Just spent 3 hours, a couple of disconnections, some really hard to understand "customer service reps" and a lot of time and frustration to get the right Voicemail phone number for this phone -- THE VERY FIRST QUESTION I ASKED EVERYONE I TALKED TO. **REPORT ABUSE**

**Anonymous** 6/15/10 6:06PM

Hello, I've had a tracfone for over 3 yrs. and just received a birthday card with a promo code for 20 free minutes. **REPORT ABUSE**  
 BUT..... DO YOU THINK I COULD GET THEM??????? NO!!!!  
 I called on my tracfone and talked to someone??( which I couldn't understand) for over 15 minutes, she was from East Asia,,, until she said she couldr't help me. The 2nd. call I made was from home, another 15mins... HE COULDN'T HELP!!! THIS TIME I ASKED TO SPEAK TO SOMEONE IN CHARGE... gave her all my info. for another 15-20mins. AND THEN I WAS HUNG UP ON!!!!!! WHAT'S GOING ON??????????

**Anonymous** 6/12/10 3:41PM

my tracfone went dead after many years of service. i bought a new phone. i called them asking for my old number,unused minutes[more than 1,000] and my old service date. after a week of phone calls and emails my phone was activated but with no service days and no airtime. after trying for two weeks to get my airtime i was told that they could not give me my time because my old phone had been deactivated. so i bought air time and attempted to add it to the new phone. no luck. called in still no luck. phone quality at the service center is really bad and many operators speak very bad english. if your phone works without a hitch its fine but if you have problems forget it. **REPORT ABUSE**

**mike** 6/8/10 3:14PM

I am having the same problem with another carrier. I have filed a complaint with the Better Businss Bureau & the FCC. Both agencies have been in contact with me to try to resolve my complaint. I don't know how it will turn out but I am tired of sitting back and letting these people take advantage of their customers. Give it a try - what have you got to lose? Maybe if enough complaints are received, something will be done, but it is going to take more than one complaint for something to be done. **REPORT ABUSE**

**anonymous** 6/3/10 11:19AM

BOUGHT MINUTES AT RADIO SHACK YESTERDAY. THEY ENTERED IT ONLINE . THE SHEET THEY GAVE ME SAID MY MINUTES WOULD BE ACTIVATED WITHIN 24HRS. IT IS NOW WAY OVER THE 24HRS. TRIED TO CALL CUSTOMER SERVICE AND WAS TOLD LINES WERE BUSY, TO TRY ONLINE. CALLED A DIFFERENT CUST.SERV. NUMBER AND GOT A LADY WITH A VERY HEAVY ACCENT( I THINK SHE WAS SPEAKING FROM INDIA. ALSO, HER VOICE WAS NOT CLEAR ON THE LINE. FINALLY, HUNG UP IN DISGUST. THIS HAPPENS EVERYTIME I TRY TO BUY MINUTES. I WILL GO BACK TO RADIO SHACK AND SEE IF THEY CAN HELP ME. YOUR CUST. SERVICE IS AWFUL!!!!!!!!!!!! **REPORT ABUSE**

**Anonymous** 5/28/10 2:52PM

I have been trying to resolve my tracfone issues for 6 weeks now and in the process they actually even gave away my phone number. I have wasted hours and hours with people that don't have a clue what to do and I still cannot make calls without going out into the middle of the street, a very handy feature. I have answered the same questions probably 50 times now and what they do with that information is beyond me. And, because they could not reach me at home after I gave them my work number, they closed my ticket. I have never seen so much stupidity in one business. **REPORT ABUSE**

**totally disgusted** 5/25/10 10:55AM

I received the phone and the voicemail feature doesn't work. They keep me on the phone for one hour each time I call. They just keep asking me to verify different information over and over. Then they tell me to wait 48 hours and call back. When I call back it all starts over again as if they never heard anything about me or the problem before. I'm currently in the middle of one of the "48 hour" periods. They claim they will work on it during these periods but it seems they don't work on it, and it's just a way to get me off the phone. I have nothing left to do but return the phone and lose my minutes if this is just an endless loop. If you can find another carrier for a good price and no contract, run away from Tracfone. It's a nightmare if you must deal with them. **REPORT ABUSE**

**anonymous** 5/21/10 4:37PM

I tried to update my tracfone and got straiighttalk who said they are tracfone. They are not really, they charge monly. I feel tracfone should have different phone numbers at least for tracfone and straighttalk, I feel scamed. **REPORT ABUSE**

**Anonymous** 5/18/10 7:59PM

I purchased a tracfone from walmart for \$29.99. When I tried to activate it, I was told it wouldn't work in my zip code and I would be sent a new phone. The package arrived and contained 1.) the envelope in which I was to send them the first phone and 2.)the new phone. The new phone was also at Walmart's, was \$19.99, and did not include the double minutes for the life of the phone. I've since complained to Walmart's (they are "looking into it") and Tracfone. Tracfone's response? They gave me the double minutes, but it took me almost 2 hours to get them. What a scam!! **REPORT ABUSE**

**Holly1** 5/16/10 9:02AM

1 week of phone calls and the last call took an hour and 20 minutes just to get a new tracfone activated and the minutes from my old tracfone transferred over. Each person you talk to asks for different information and none of them seem able to do what should be a simple task performed hundreds of times a day. Can't understand most of the people I talked to. **REPORT ABUSE**

**tracfonefedup** 5/15/10 5:25PM

customer service is terrible--you wait and wait--they say 48 hrs. It would be nice if thats all the time you had to wait. am thinking of disposing of phone and getting a different service.

REPORT ABUSE

sandi 5/13/10 4:34PM

PLEASE stay away from this company. No one knows about real technical issues. Everyone I was transferred to sounded like it was their first day on the job. None of the CSR's know about the phones. They claim they will transfer you to a supervisor but it's just another CSR trying the same solutions to fix your phone issue.

REPORT ABUSE

They will also not reimburse you if you have to send \*test\* text msgs or \*test\* phone calls. Again, stay away...they reel in the customers buy making everything look so easy and inexpensive (which it is) but when you have problems...good luck! You're on your own.

I'm looking into other Prepaid providers, but Tracfone is the cheapest, \*sigh\*

Duped Tracfone User 5/7/10 10:25AM

Attempted to contact customer service to stop service on my phone, as I believed it was lost. I WAITED for someone to answer the phone for 45 minutes. The prompts kept requiring me to re-enter the same questions, as "for English, press 1," etc --but there was no prompt for lost or stolen phones. After listening to prompts and a recording claiming my call was important and the next available representative would take my call for 45 minutes, I was DISCONNECTED. I called back and held for another 30 minutes before a representative came to the phone. He took all of my information -- the told me he WAS UNABLE TO HELP ME and had to PLACE ME ON HOLD to speak to a different person to place a hold on my service. By now I was furious! I told him I didn't want to hold for another 45 minutes. He assured me it would be just a few minutes. I WAS ON HOLD FOR ANOTHER HOUR. I finally hung up. There is NO CUSTOMER SERVICE with this company. There should be regulations against a company selling you a phone and not providing customer service.

REPORT ABUSE

outdoor lady 5/7/10 9:36AM

been on the phone 2 hrs trying to transfer minutes to new phone and then the minutes i have on my phone 2177 mins. is not what they have (1100 mins). customer service is terrible....i am still holding for a total count as of now 14 min more... still can not get my minutes owed to me transfered, keep telling me to hold. (ok after 3 hrs on this damn phone i got disconnected) This is a piss poor way to run a business!!! I GUESS IF THEY DON'T WANT TO HELP YOU OR CANT HELP YOU THEY JUST HANG UP ON YOU!!!!!! I HAVE TRIED CALLING BACK 3 TIMES TODAY AND THEY STILL CANT GET IT RIGHT. GUESS I DON'T GET THE MINUTES I PAID FOR....WHAT A SCAM

REPORT ABUSE

OUTDOORGIRL 5/5/10 3:00PM

I really don't know what the deal is. I purchased 3 Tracfone for business use purpose, and I had a heck of a time trying to get it activated. All I need is a 15 digit code to activate it. But the morons that I dealt with, extremely hard to understand and they really don't know what they were doing. For the last phone, I asked them for a code so I can enter into the phone- "code entry mode". They just refused to do that. I still had to take the battery out, pull the sim card out, rehook and went through hell to finally get to the final step get the damn code. I have not met any smart service rep yet with the Tracfone service. All you need is the code to activate the phone- in order to be able to call out and receive call. But, no they have to put you through hell to go to that step. I might try another phone company to see if the service support is as dumb as the Tracfone's.

REPORT ABUSE

Loco Motion 4/27/10 12:44PM

Customer services is located in brease a Latin American county. Most operates hard to understand. Never resolved issues.

REPORT ABUSE

Anonymous 4/27/10 11:36AM

transferred from a tracfone to a newer model and wanted to get minutes transferred they gave me a runaround for almost two months until i just gave up and got a carrier. They gave me after about 45 minutes a ticket number then started off each day for 45 minutes more explaining the same story over and over again. i had 9 different ticket numbers and never got a resolution.

REPORT ABUSE

Anonymous 4/27/10 11:33AM

Tracfone customer service is very diasppointing and frustrating. Today, I tried to add airtime using one of the company's many promotions, and none worked. Each promo code/ad had some specific item(requirement) that could not be found even in the small print. When none of the offers could be used as it appeared I asked to cancel the tranaction (which had not been completed)...the rep informed me that she could not make a "refund." I didn't ask for a refund; the order had not been completed. Also a previous promotion, double minutes on all future purchases, could not be or was not applied to this purchase. The rep said it had expired even though I had the same phone and the same number. The fact is that I found the ads/promotions to be misleading, and buying airtime to be a very frustrating experience. I telephoned CS because the online system did not accept the (valid) promo codes.

REPORT ABUSE

Fadunmade 4/22/10 7:46AM

I had almost 400 minutes on my old phone...lime was almost up so i purchased another 365 day 400 minute card which was added to my existing minutes. Also bought a new phone and had a hard time getting it activated and the number switched. Are these reps in India too? I was told it may take three days for the minutes to be added to the new phone. It's now five days and nada! I'll not pay for the new minutes and will return the phone but I still lost the existing time I had - due to Tracfone's error.

REPORT ABUSE

Anonymous 4/19/10 10:07AM

Don't even think of porting a number from T-Mobile to Tracfone. After trying for two weeks and endless endless calls to Tracfone speaking with people who not only don't speak English well, but are not able to think, I gave up

REPORT ABUSE

and went back to a real carrier, T-Mobile with fluent English speakers who can think. If you use Tracfone's phone numbers the system works, but the customer service is absolutely awful.

**Anonymous** 4/16/10 1:07PM

Recently purchased a phone for my son who has learning disabilities. The phone # I was told was recycled and the former owner was called and the minutes were deducted from his phone. I changed the phone # but Tracfone would not restore the 90 minutes lost because of the former owner of the #. I've had my own Tracfone for about 5 Years and never had a problem till now with this new phone. Tracfone must be profiting in situations like this. I have to spend more money on minutes and whos to say this new # might also be recycled and I might lose more minutes to people I don't care to talk to.

[REPORT ABUSE](#)

**Anonymous** 4/15/10 7:00PM

This Tracfone service is a joke, I have never been able to get a signal at my house. My friends have all brands of cell companies, Nextel, Verizon, Cingular, Alltel, Carolina West the list goes on and on. All my friends with the above mentioned companies get at least a 3 bar signal. I have to drive at least 8 miles just to get a signal. We all need to pull together and start a class action lawsuit against Tracfone. Also don't give Tracfone your credit card or debit card number, the people you talk to are Colombians from SOUTH AMERICA, the only American that you talk to is when you first buy and activate the phone. This company should be "CLOSED DOWN AND FINED" by the FCC.

[REPORT ABUSE](#)

**George** 4/8/10 2:17AM

Extremely difficult to get through to, and when you do the agent speaks poor English and is badly trained. I purchased a phone from Tracfone online, and it arrived without a SIM card. Twice I struggled through to customer service, twice I was promised a SIM card in the mail, never did it arrive. I returned the phone in the end. At least the US end of the operation refunded me promptly. Definitely need to improve the standard of service.

[REPORT ABUSE](#)

**Anonymous** 4/6/10 1:56PM

Over the years I have used several tracfones with a minimum of problems. Recently I have tried to get minutes (over 4,000) and a one year of service transferred to a new phone. This finally showed on the main screen but the phone will neither make nor receive calls, despite frequent E-mails and phone calls. My promised new SIM card has not arrived. Any help out there from someone who can speak English? I would like to maintain service but am totally frustrated with the service at this time and would not recommend this type of phone to others. LaNell

[REPORT ABUSE](#)

**Anonymous** 3/28/10 3:54PM

They suck at Tech support. Cannot get my number transferred, although I was told I could. Then they send a new SIM card and tell me I will have to buy new minutes, NO, that's not going to happen. Now for 7 days they cannot get my message box working, it's like they just want you off the phone now.

[REPORT ABUSE](#)

**Weasle94** 3/28/10 8:35AM

How do you get through????????????? been trying for 6 weeks!!

[REPORT ABUSE](#)

**Anonymous** 3/25/10 9:41AM

Took days to finally locate that actually listed an actual phone number to talk to an actual LIVE customer Service Representative.

[REPORT ABUSE](#)

None of the paperwork that came with the phone or when you sign up for the monthly plans have a phone number for customer service. The phone number (1 800 867 7183) given at time of sign up is nothing but an automated machine. Phoning that number does nothing but take you on an endless loop back to the beginning.

It was only thru a GOOGLE internet search that I was able to finally locate an actual phone number connecting to a live representative.

**specter** 3/24/10 1:39PM

Tried to obtain tracfone support info by landline phone. This system stinks!! was told I had a 5 minute wait that lasted for over 45 minutes finally hung up. Tracfone really needs to get it together for this service. If this is a reflection on how they run their business I think I will go back to ATT.

[REPORT ABUSE](#)

**Still waiting** 3/23/10 5:38PM

bought phone Oct 19, 2009. tried to add minutes, couldn't. had to call for them to add minutes and went through long process. next time to add minutes, couldn't. called again and had to go through long process again. did this everytime to add minutes. Since day one, got phone calls from companies all over US. complained about this. NEVER did Tracfone want to exchange or replace phone (knew there was a problem). Turns out, Tracfone sells refurbished phones. information from OLD service was never cleared. so tracfone was never registered under my name even when I "supposedly" registered it when I bought it (tracfone can't change information). so after 3 months, or after warranty, tracfone supposedly disconnects phone. well, I was still able to use it but kept having to call in for minutes to be added. supposedly, they even sent me a NEW phone. it went to OLD registered user, who tracfone had listed, because I never got phone even though they kept saying I did. They even told me that they could see that my minutes had been transferred to another phone. keep in mind, I am still using phone. After 5 months, I had HAD ENOUGH OF TRACFONE!!!! After NUMEROUS calls and e-mails SINCE DAY ONE, they disconnect my phone. Now they won't give me a refund AFTER I FAX THEM A COPY OF THE RECEIPT that has the serial number of phone on the receipt. I have also lost the minutes that were on the phone. And NOW, ALL OF A SUDDEN, they CAN replace the phone, that I asked them to do 3 months ago when still under warranty. I told them to send me the dang phone. It is the least I can get out of them. I have a sledge hammer waiting to smash the junk when it shows up because I will NEVER USE OR TRUST Tracfone again!!!! Has ANYONE ever contacted tracfone and talked to someone you can ACTUALLY understand ??? Spread the word to NEVER use or deal with tracfone EVER !!!

[REPORT ABUSE](#)

**tbake** 3/21/10 5:09PM

Worthless customer support. Account still broken after two weeks and 15 calls. They keep transferring calls between departments for hours, the so called supervisors are either unhelpful, incapable or both. Stay far away!

[REPORT ABUSE](#)

**ex tracfone** 3/20/10 9:46PM

I have been a subscriber to TracFone prepaid cellular phone service for five years with no problems. On Sunday last (14 March), I realized that I had allowed the minutes to expire (the expiration date was the 13th). First I tried to reactivate the phone on TracFone's website, to no avail. I called their "Customer Service" number and after being on hold for NEARLY AN HOUR I finally got a person whose first language was obviously not English because every time she turned to speak to her co-worker they spoke what sounded like Chinese. I had to give her my information THREE TIMES only to be told that I could not purchase airtime with a credit card and that it would take them 48 hours to fix the problem and to call back. So I did. 48 hours later I call back only to discover that I CANNOT PURCHASE AIRTIME OVER THE PHONE, BUT MUST GO TO THE STORE AND BUY AN AIRTIME CARD. Now I not only have AIDS, but at the moment I have no car and I live three miles from the nearest store so the task of buying the card fell to my husband. Call Number Three, Day Four: I call with the Airtime Card PIN code and after spending ANOTHER HOUR ON THE PHONE WITH THESE MORONS I AM TOLD TO CALL BACK IN 24 HOURS BECAUSE THERE IS ANOTHER ERROR THAT HAS TO BE FIXED. The irony here is that I actually allowed the phone to expire by mistake once before; the only consequence that time was that I ended up with a different phone number; otherwise reactivating the phone took only about fifteen minutes. They have 24 hours.

[REPORT ABUSE](#)

**Scottsteaux63** 3/18/10 3:59PM

I tried to add minutes on-line. Their website took my credit card info and said minutes would automatically post to my phone. They never did. I called Tracfone, and after talking to 4 people, I was finally told that it would take 48-72 hours to figure out how they could add minutes to my phone. They said they would call me back, but gave me a long distance (not toll-free) number to call when I didn't hear back.

[REPORT ABUSE](#)

**Anonymous** 3/16/10 10:42PM

It took me 2 1/2 hours to activate 2 new phones over the phone and then my minutes were not carried over, they did not want to give me the promotional minutes that replaced the accessory kit I was supposed to receive when I ordered on line and when the phones were activated only 1 was the other was days getting activated, same old phones and same identical new phones.

[REPORT ABUSE](#)

**Anonymous** 3/16/10 10:09AM

I have safelink which is a part of tracfone and I continue to have problems with my minutes appearing each month. I would not recommend tracfone to anyone.

[REPORT ABUSE](#)

**Crystal** 3/15/10 6:37PM

I see it is not just me having tracfone problems maybe they just don't want customers any more or possibly just in India cause I think everyone in customer service speaks that as their first language and English about fifth not happy with the decline in service

[REPORT ABUSE](#)

**Anonymous** 3/13/10 6:46AM

It is unbelievable how INCOMPETENT this company and its agents are. I recently purchased a phone online after being assured that transferring my services and phone number would be no problem. Of course, that's not what happened. When my new phone was finally activated, it had a different phone number! I have called in 5 times within the last 3 weeks to try to get my number back. The first 3 times I was assured it would be fixed. The fourth time the agent pretended to be working on this issue and HUNG UP ON ME. The 5th time I insisted on a Supervisor. I'm sure they did not give me one, and the agent just gave the line to her colleague who pretended to be one. Now I am told that MY NEW PHONE is incompatible with my old phone number??? WTF? How can a phone be incompatible with a phone number?????

[REPORT ABUSE](#)

It does not help that absolutely everyone speaks English as a second language. I cannot understand half of the things the agent says to me because they do not pronounce it clearly and distinctly.

**srowles** 3/12/10 9:27AM

I have used Tracfone for several years without a problem. Then I ordered a new phone online. It arrived without a SIM card, so is useless. After spending inordinate amounts of time trying to reach Customer Service I finally reached a representative who spoke heavily accented English, clearly didn't know what he was doing, and whose computer wasn't working. Eventually I was promised that a Sim card would be sent to me. That was two weeks ago. I am about to return the phone, because neither I nor my husband have been able to get through to Customer Service. Perhaps should move its Customer Support back to the US and create a few jobs here.

[REPORT ABUSE](#)

**Anonymous** 3/11/10 1:09PM

OK- more than one customer is frustrated with the new tracfones we have switched to. The new phones have Verizon sim cards. Is Verizon accountable and/or tracfone? Motorola is usually a reliable phone. The older tracfones we have used never experienced problems. Is your contract with verizon worth losing customers and putting people on the road with no recourse than to call 911? There are no snow issues - power is back on in NJ - are Verizon stations operating? Your online gives genl IT questions but no space to spell out real details/problems. Calls not allowed in or out with full power is not acceptable. Getting message on web - ck your power when there is full power is not acceptable. Using minutes to get recording - "if this is an emergency call 911" is not acceptable. Think of a loved one on the road - being at risk for not being able to communicate- 911 cannot be used to let someone know not to worry- So glad I am not working in your call center- give your operators permission to give honest answers - IT - I will pray for you - you got dumped on too - So when are the new phones getting back to service? Mine has been non-operable for days.

[REPORT ABUSE](#)

**Anonymous** 3/4/10 6:25PM

I tried 4 times to have my old number ported to a new phone--and both were TracFones! Each time, it was the wrong number, they needed to send a new SIM card, wait for it and then call back. Then the port didn't work, let's do that again, wait for the next new SIM card. By the 4th time, and the phone re-activated with its previous number again, I gave up, asked for a supervisor to give me some minutes and I would try to be happy. This person asked for a lot of information in order to give me anything--okay, so they don't want to dole out free minutes to just anybody, fine--but then the system hung up on me (or maybe it was him--I don't know). Here's what annoys me: he has my land line, my old and new tracfone numbers, and he ain't calling me. I get the feeling they do not care at all. [REPORT ABUSE](#)

I don't think it was ever the fault of the people who answer--foreign they may be, but they were all going by a script. If it takes 4 tries to FAIL to do this simple thing, though, it ain't their fault--it's the fault of the script writer and the system architect, who are supposed to be the smart ones.

**gaphemind** 3/1/10 3:38PM

plain and simple tracfone customer service is the worth . not ot mention no one there speaks clear english or even understands it they really mess up on the true meaning of what they are trying to say and do not understand you. pointless to even try explaining your problem to them. never get a resolve from them. [REPORT ABUSE](#)

**dissatisfied customer** 2/28/10 3:00PM

My issue with TracFone is still not resolved!! After two months..... [REPORT ABUSE](#)

**Anonymous** 2/27/10 6:09PM

For me to add my comments seems like over kill. But I feel that it isn't. We have a house in an area of the mountains where there is only CDMA service. Well, CDMA service is something that Tracfone offers but trying to get it from them is like swimming up a stream of maple syrup. My wife and I have explained that the GSM phone that we could buy in the store did not work near Arnold, CA, and even demoed this to the person on the phone. They finally promise to send us a CDMA phone and then send another GSM phone. We finally got one CDMA phone but getting another one for security reasons has been even harder. I finally hung up with, "I not playing your D\_\_\_ game" when the person wanted to go through the whole procedure of verifying that the GSM phone did not obtain a network. [REPORT ABUSE](#)

One supervisor told me that he was penalized if he gave me a CDMA phone when it was not necessary.

**Mal** 2/23/10 10:29AM

I see I'm not alone. I have had a tracfone over 6 years. I get good service until I try to transfer to a new phone . In the last 2 weeks I have spent hours trying to get my phone working. More things went wrong than I could have dreamed of and I gave up tonight. I still have no phone service and am convinced it is a lost cause. I've waited and waited, talked with customer service, techs, and supervisors many times. My phone number is a 440 area code. My phone wings on a 989 area code number. They were sending a new SIM card. I waited days and called to see where it was. It has never been sent. I could go on and on but you get the picture. If you read this and get a tracfone you have been forwarned so remember that "I TOLD YOU SO!!!!!!!!!!!" Ken [REPORT ABUSE](#)

**Ken** 2/19/10 8:22PM

Seriously get more people on the customer service number, ones that speak english without a heavy accent and know what the hell they are doing! All I need is a return authorization number for crípes sake! And they cant even do that! I am sadyly disappointed with TracFone and will not use them again. [REPORT ABUSE](#)

**Anonymous** 2/19/10 12:31PM

I'm getting angrier by the minute!!!! I waited for 40 minutes to speak to a human being and a half hour explaining my problem to someone that can't speak English! This for the tenth time only to be transferred to wait another 45 minutes when my phone battery died! I HATE THIS COMPANY! I've never been so frustrated with a company in my life! I have been charged \$70.00 on my CC and I'm calling for a fraud investigation! I was told I wasn't getting my money back! I'll get it back one way or another! This will cost this company a thousand times what it screwed me for! I won't stop until TF goes out of business! I HATE TRAC FONE with a passion! [REPORT ABUSE](#)

**Anonymous** 2/16/10 6:20PM

I have spent over 12 hours on the phone trying to get my problem resolved! I'm out \$69.99 for air time that won't register on my phone! I hate trac fone and I'm going to tell everyone I know what a rip off this company is! No one I have talked to can speak English! I have never been so angry about an issue in my life! When the minutes are gone I'm going to take this thing out and burn it! [REPORT ABUSE](#)

**Anonymous** 2/16/10 5:49PM

I'm getting ticked off to every time i call to speak to a customer representative i get this "call back later due to high call volume" come on now every day? that message it's freaking ridiculous It's Pissing me off some im trying to change my number and they act like our calls aren't important! [REPORT ABUSE](#)

**Anonymous** 2/10/10 12:46PM

Bought minutes, still not appearing on phone (2 weeks later). They're not processing emails ("error occurred") and not taking calls ("call back later due to high call volume"). I'm without a phone and really ticked off. [REPORT ABUSE](#)

**Anonymous** 2/10/10 8:30AM

On 2/4/2010 I tried to buy some minutes for my trackfone on my computer. The procedure failed and I tried again and it too failed and then I tried using a line phone and the procedure also failed. Then I found out that I have three 20.63 charges on my visa card. I spent 2 and 1/2 hours on the phone calling the customer center but with no results. I wrote to them and I called again next day without any success. I hope that Visa people can dispute the amount with some success.  
George

 REPORT ABUSE

**disillusioned** 2/6/10 10:16AM

Clearly, this company has the worst customer service in the world! It is almost impossible to communicate with them and you can spend hours - yes that is hours - trying to resolve a problem. Apparently, this company has gone on the cheap and has no regard for its customers. Try something else and don't waste your time with this infuriating people.

 REPORT ABUSE

**MainelyPhones** 2/5/10 11:38AM

Did not get my minutes. Called five times already and they say they have too many people calling to complain. They refused to take my call.

 REPORT ABUSE

**Stranded\_without\_Minutes** 2/4/10 1:37PM

Your customer service # is useless. Two hours on hold and still no connection. Other times, it's a HANG UP due to "EXTREMELY HIGH CALL VOLUME". How about putting more than one agent on the phones at one time. This is just ridiculous.  
I just want to cancel and reverse my cc charge for Feb. I don't want the minutes.

 REPORT ABUSE

**nonnanuch** 2/4/10 11:17AM

I have been trying since 1/29 to contact Tracfone because I did not get my minutes (they did, however, charge my credit card!) all I get is a message saying that due to high call volume, call back later. Are they going out of business???? I have sent 2 e-mail with nothing but an automated response.

 REPORT ABUSE

**Anonymous** 2/1/10 4:08PM

Tracfone has the absolute worse customer service I have encountered. When I tried to transfer my number from an old phone to my new one, it took several weeks. My dad is having problems now. His service time expired and when he added minutes his phone number was changed. His Tracfone account still shows the old number, his phone shows the new number and he can't make calls. To date, we have emailed twice and completed 2 trouble tickets. I will NOT call them--having spent hours on the phone with them. When my minutes expire, I will go with another company, and I feel like my dad will, too. Very frustrating.

 REPORT ABUSE

**Ginya55** 2/1/10 8:37AM

SAVE YOUR SANITY AND DO NOT BUY A TRACFONE! They are not inexpensive, if you value your own time. If you are lucky enough to get through to their so called customer service, you'll want to strangle them when they say "I'm sorry" for the 1000 time. They should not be allowed to keep operating.  
DO NOT SIGN UP FOR THE AUTO PAY PLAN - YOU'LL HAVE TO WORK WITH YOUR BANK TO CANCEL!

 REPORT ABUSE

**dcjohns2** 1/23/10 8:31AM

The worst absolutely the worst customer service I have ever expericed. Four days (and counting)and about 5 hours (mostly on hold)to resolve an issue. Reporting to BBB.

 REPORT ABUSE

**iamsodonewiththem** 1/21/10 4:56PM

Long time customer and very dissapointed about service, spent 4 hours on the phone, didn't get much help. Can't sign into account online.

 REPORT ABUSE

**VandJ** 1/19/10 3:13PM

Good luck trying to cancel Tracfone. It took me over a month of emailing (every other day or so) and three phone calls. They assured me on the phone my service was cancelled but then charged me for another month 2 days later. In every email they told me to call them but the next phone call to them was 75 minutes long and accomplished nothing. I finally wore them down over the month of emailing (maybe 30 all together?) and disputed the extra charge with my credit card company (and I won). Good bye Tracfone, forever!  
Also while I had the phone, they'd call me on my landline with an automated call "This is an important message from tracfone. If you no longer wish to receive these calls, press 1" which I did and sure enough the next week, they'd call again. Ridiculous.

 REPORT ABUSE

**squid** 1/18/10 12:50PM

Tried to add min. with a tracfone card for 2 days now with NO LUCK! I've been on Hold (as I type this) now for 2 1/2 HOURS! Still have not been able to add min. to my phone. Current phone time expires tonight so I will lose all of my old min. (710 of them) & my doubling of my new min. If you haven't bought or don't have a bunch of min. to carry over, DON'T BUY A TRAC FONE!!!

 REPORT ABUSE

**Anonymous** 1/11/10 6:05PM

I really agree with the preceeding items . The people do not understand English. And they are rude in the process. Tracfone is a ripoff.

 REPORT ABUSE

**Anonymous** 1/8/10 3:12AM

negative, terrible customer service

 REPORT ABUSE

**cuZ** 1/7/10 8:04AM

i have never dealt with such idiots in all my life!!!. Trackfone should pay us for blood medication as your clients are going to have heart attacks from high stress levels. What an absolute joke, please dont call what you offer customer service

 REPORT ABUSE

**Anonymous** 1/6/10 5:12PM

Ditto to all I have read.. 8.5 hours over two weeks, 3 sim cards, and now they decide to replace the NEW LG phone..What are the odds they can't make the replacement work????

 REPORT ABUSE

**Anonymous** 1/6/10 12:27PM

My son got a tracfone for his birthday, I have called their non english speaking customer service trying to get minutes added to his phone and cant get it done. I tried the online purchase at the tracfone website and it apparently cant speak english either...I have tried several times to get in touch with the people to purchase them from a landline and have waited and waited and waited, still no minutes I think I will just try for a refund and forget about cell phones VERY POOR SERVICE, also the phone came with 10 minutes and everytime you turn the dang thing on it goes to browser and uses 50 seconds, so far from everything I am seeing this company is a scam and should be avoided, This company needs to do some serious rethinking about the way it does business, I cant say anything about the quality or lack of for the phone itself as we have NEVER been able to use it...

 REPORT ABUSE

**Tracfone bites** 1/2/10 3:34AM

they are very good at accepting your money not so good at correcting any issues they even have difficulty at connecting a new phone at start up

 REPORT ABUSE

**Anonymous** 12/25/09 9:34AM

Tracfone is a company out to make money and not service their customers. I spent 5 hours and then 4 hours with their people attempting to receive a signal. They promised 2 times they would send new phone and correct the problem. I can see the tower out of my window. My son comes home and has 5 bar with an another service. When I called to check delivery, I was told a supervisor had cancelled the order, because we should have service. The supervisor should look at the records of conversation and honor the agreement to send new phones. Tracfone needs to teach their supervisors the business. Or is their business to service the customer the same as a farmer services his cows.

 REPORT ABUSE

**GENEO** 12/23/09 6:04PM

tried to talk to them, and can't unstand a word they say, tried for one hour, had to ask them 3 to 4 times "what you say", I am with them now, but this is it, I am not going to renew with them, when i got it, didn't get my bonus min's like I was suppose to,, even tried to change my phone no. to my old number with no luck, they save money by getting people from india, and they can't speak english, so they are going to lose me, I am NOT going to renew with them anyone knows a good no-contract phone let me know!

 REPORT ABUSE

**bud** 12/23/09 1:37PM

VERY POOR CUSTOMER SERVICE!!!  
THEY NEED A ENGLISH TEACHER CUZ THESE DUDES CANT SPEAK ENGLISH AT ALL!!!

 REPORT ABUSE

**Anonymous** 12/22/09 2:44PM

Tried to help an elderly friend give Tracfone to a relative. Took a while to get an 800 number and real person to talk to.

 REPORT ABUSE

The real person did not give (was not allowed to give) information about the carrier etc.) This is important here in Maine since there is limited or no reception on some carriers.

**Anonymous** 12/14/09 12:50PM

On 4 calls to their customer service to india, I spent approx 3 hrs total and issue's still unresolved. This has been the most frustrating "cust service" experience I've ever encountered. They lack simple common sense and if an issue's not in their script, good luck. I'm dropping the service.

 REPORT ABUSE

**Anonymous** 12/10/09 9:17AM

Worst cell phone company I've ever dealt with. Every couple of months, my phone fails to register updates. I go to the web site, enter the codes they give me, nothing happens. I call technical support and some guy who barely speaks English has me enter codes for an hour until the problem is resolved. And invariably they credit me with maybe half the minutes I should have. Awful, awful, awful company. [REPORT ABUSE](#)

And don't even bother trying to get your number transferred to a new phone. Just bite the bullet, get a different phone from a different company, and start over.

**Anonymous** 12/8/09 9:54AM

Tracfone offers very cheap service and non existent customer service. When you eventually have a problem you will spend approximately 6 hours on the phone being told how sorry Tracfone is, entering codes and relaying codes and then being told you have no complaint that the phone is working. I have had Tracfone for 2 years now and I'm switching ASAP, I paid for service, the phone was not updated and Tracfone continues to tell me the minutes were added, I've finally given up. I'm switching to Verizon, I can't take it anymore. [REPORT ABUSE](#)

**raj201** 12/8/09 6:08AM

They are the worst company to deal with. Six, yes six phone calls and still no resolution to my problem. I need to have them transfer my original phone number and transfer my units. Seven, yes seven, sim cards later...NO SUCH LUCK. Still waiting for another Sim. I haven't had my phone for over 3 weeks. If I just didn't buy the One year service card, they would be gone. When it's up, I'm gone.... Tracfone, you suck! [REPORT ABUSE](#)

**POdcustomer** 12/7/09 12:08PM

Bought a 376 camera phone. No signal or drops signal, but usually no signal. Called "customer service" and got the scripted fixes. Didn't work. Called again, same thing. Called again same thing. (Wait 24 hrs for reprogramming after their fixes, call back if it doesn't work). Called again, got a replacement phone. Cheap lg200c, didn't open it after seeing less than half the talk time on battery and no camera or features. Called again, said 376 wouldn't work in area. Logged on to website, it said it would. Said an equal phone was not in stock. I said I would wait, they said they would send an equal value phone when they were in stock and to hold on to the junk one. No phone, called again. Said a new SIM card would fix, it didn't. Called again, said they would send a replacement phone. No phone. Called again. Said I should have got one, would send a replacement. Asked if it would be equal to 376, said yes. Sent another lg200c. Every time they spend about a half and hour "updating system" or "my system is updating". They just want you to give in and buy another phone instead of fixing the problem. Spent 1/2 to 1 hour on about 8 calls. [REPORT ABUSE](#)

**Anonymous** 12/3/09 8:59PM

I had my mother-in-law a phone activated three weeks ago. We ported a number from Verizon. We later decided we needed to change the Tracfone number. We called in on 4 separate occasions spending over 30 minutes with each call to have the number changed. Each time they assured me the number would be changed within 24 hours. The ported number was taken off and the account showed new number pending. The next day the same phone number was put BACK ON! This was on four separate occasions. Do they not know what DIFFERENT means? I would advise anyone thinking of a pay as you go service to go with another service and check them out first. [REPORT ABUSE](#)

**robert1048** 11/30/09 1:24PM

I wish that they would hire people you could understand. It's enough to make you switch to carolina west or verizon! Every time i call I,m on the phone for 30 or more minutes. [REPORT ABUSE](#)

**Anonymous** 11/21/09 4:09PM

My problem is with a Net 10 phone ( Net 10 is operated by same corporation as Tracfone). Question. How is it possible that they could activate the phone, but not assign a phone number upon activation? Spent an hour of my time with customer service, entering numerous codes, etc. Was told that problem will be rectified within the hour. It was'nt. Anyone else have this problem? Now I have an apparently working phone that calls out, but no one can call me. Very useful.( yeah,right!!!)  
Rating zero. [REPORT ABUSE](#)

**scooterboy457** 11/20/09 10:59AM

Worst customer service ever. If you are consider buying a Tracfone, do not do it. You will only regret it. [REPORT ABUSE](#)

**Tracfone stinks** 11/20/09 7:59AM

I have never dealt with a company that don't know how to solve their own problem. spent 30 minutes 2 different days on the phone with customer service and still same problem. This is very troublesome. [REPORT ABUSE](#)

**Anonymous** 11/13/09 12:31PM

Very frustrated with cust service dept (which is obviously outsourced overseas). I'm sure the rep was trying to help, but the level of training and COMPETENCE of the employees that represent TracPhone is very poor. I've been waiting 35 hours for some resolution, but have not received ANY correspondence that they are working on my new activation problem (unable to x-fer old number - so I have a new phone that doesn't work). So I wait and can only hope there is a fix (reps don't have an extension, so there is no going to the same person to check on your issue)... Fantastic price, but you better hope there's no need for support - because you won't hang up smiling. [REPORT ABUSE](#)

**ETphoneHOME** 11/7/09 8:30PM

I really wish I had had time to research Tracfone before I bought one. We've had VirginMobile for years, but they don't have coverage where we need it now that my daughter is looking at colleges that happen to be in rural areas. So we went to Walmart and bought a phone last night with the intent of having it working and with enough minutes for my daughter to visit a college for the weekend and have some means for getting in touch with us. The phone activated easily via the Internet, but when I purchased the prepaid airtime minutes on the Internet, the update of the minutes failed. I called last night and twice today, probably a total of 60 minutes on the phone. Last night I was told (or so I thought) that it was a credit card problem. Now it turns out to be the phone. I've got to have the phone in hand to get codes and so on... Everything I have experienced was written right here... I will be sure to contact my credit card company and dispute the purchase if Tracfone doesn't come through... in fact I may do that right away.

[REPORT ABUSE](#)

**Anonymous** 11/5/09 6:03PM

I added minutes to my daughter phone and they authorized it twice. I spend all day on the phone with customer support only to be lied to. They blamed it on my bank. That was a lie. Then there system went down, was told to call back in a hour. No one apologize for their mistake. then i was told I did it. Wow been paying bills for twenty five years and never doubled paid nothing. My daughter will be getting a different. Never dealwith comny the rips you off then makes it seem like you did something wrong.

[REPORT ABUSE](#)

**ucacollector** 11/5/09 5:17PM

Customer and Service don't belong in the same sentence when it come to Tracfone

[REPORT ABUSE](#)

**ikeymoto** 10/16/09 12:21PM

Customer service? Not with Tracfone. This company is the WORST when it comes to customer service. I have spent hour after hour on hold or listening to the same questions over and over.

[REPORT ABUSE](#)

**rick** 10/12/09 5:15PM

Tracfone customer service is completely worthless. The service people can barely speak English, and they don't seem to understand the problems. My son, my wife, and I each have tracfones, and all of us have problems adding airtime through the website, through the phone, and with the prepaid cards.

[REPORT ABUSE](#)

**rick** 10/12/09 5:00PM

I could not add airtime on my tracfone threw there website. I have called twice, the first time I wasted 20 minutes with menus and going around in circles. The second time I got to talk to someone "Real" But they kept transferring me from one person to another. I wasted 52 minutes and got nowhere. My credit card was charged though. There wasn't any problem there. So Now I'm \$177.00 poorer and still have the same amount of minutes that I started with. I'm going to try once more getting my money back. I can't believe they let companies operate like this.

[REPORT ABUSE](#)

**jeepram** 10/7/09 3:33PM

Not using profanity, as you request, is a challenge, considering the level of customer abuse (NOT service) I received from the Tracfone representative  
He appeared to: 1. Waste as much of my time as possible. 2. Repeat excessively, and incorrectly repeat numbers multiple times, 3. Ask for and demand excessive information -- private information, including passwords.  
He insisted on the account number for my Verizon account. He insisted that he must have my Verizon PASSWORD for my Verizon number to be ported to Tracfone. (That is NOT correct per a subsequent conversation with Verizon!) He also asked for my email address, my home address, my home telephone number and my social security number!!! He gave me a case number and then changed it TWICE. Then he hung up on me!  
I rate you a ZERO -- not a 1.

[REPORT ABUSE](#)

**BMPAJOR** 10/6/09 3:21PM

so i was calling just to reset my daughters pin number. i got rude costomer service and cut off 3 times.. they never called me back or apologized. I was very upset waiting for 3 hours for a damm pin number... ridiculous.....

[REPORT ABUSE](#)

**Anonymous** 9/29/09 9:39AM

Speaking to someone that you can understand is a rarity with Tracfone.  
I have spent hour after hour with tracfone trying to get them to fix my phone. I can't call out from our local grocery store that is only a mile away from me. Time and time again trying to call home from an area in my town it says call failed. Tracfone says they can't find a problem with my phone.  
I have also been trying to download ringtones from their website but the website constantly says page timed out. Tracfone tells me that they have never heard of this problem but if you search "shopping timed out, tracfone" you will find others have this problem too. I am looking into new options for a phone..I don't need this BS.

[REPORT ABUSE](#)

**dasha10** 8/23/09 7:38AM

Poor management leads to poor customer service. Tracfone people ask your vendor how much they are paying your employee in the Philippines. Check if they are giving them enough so that they have the motivation to perform well.

[REPORT ABUSE](#)

**John OM - Philippines** 8/5/09 10:21AM

I was on the phone for more than an hour today simply trying to have somebody help me add air time. Adding it via the internet did not work, trying to do it over the tracfone did not work and it appears that the "tech support"

[REPORT ABUSE](#)

hat no clue either.

At this point I am at the end of my rope and I do not know what to do now. Needless to say I am extremely irritated and dissatisfied with the product and the company

**Anonymous** 7/26/09 3:37PM

Received e-mail about special promotion on Tracfone. Renew for a year and get 250 bonus minutes (also the phone I have qualifies for free double minutes) that would be 400 units + 400 free double minutes + 250 bonus for a total of 1050. This is what the screen said I would receive. My credit card was charged \$99.99 for this. The phone never did update the minutes or the new expiration date. I called and they had me enter some numbers and the exp. date finally went one year ahead but no 1050 units added. Rep. said call back if units not added in the next hour. I called back an hour later. Told the story from the last call. They asked me how many units were on my phone, over 1300, the exact number that was there prior to adding the years service and units. They told me that they didn't believe me. I was a "liar". After an hour they did generate an investigative # to have someone check this out. So far no new units added to the phone. I am to call them 3 days after the investigative # was issued to see if they have a resolution. (somehow I doubt it). I can't understand the reps. They have to repeat each thing 2 to 4 times and I try to piece a word together and attempt to understand what they are saying. I have had Tracfone since 2005. I don't use very many units a year (yep, I'm an old duffer and just don't use the phone much). I will probably never use the 1300+ units that are on the phone for the next year, but it's a bummer when you don't even get what you paid for on units. Very frustrating. Have had other issues with the company. If they don't resolve this issue, then when the expiration runs out or minutes run out, I'm done with Tracfone & Net10 (yes, it's run by the same outfit, a company in Mexico has controlling interest in both prepaid companies. Hope this helps someone else prior to them buying the pre-paid from these two outfits.

**REPORT ABUSE**

**LeeB** 5/1/09 11:32AM

Terrible service.  
Poor business practices.  
Below standard equipment.  
Incompetent Technical Support.  
---And, I live in AMERICA!

**REPORT ABUSE**

Could someone please connect me to someone who speaks English..No, english..What, no I said.....E N G L I S H Geez.

I first bought these phone for my children, the phones that I bought from Walmart would not work in my area...3 weeks for Tracfone to send out replacement phones. Drove cross country and added time..missed 1 1/2 hours of a business meeting because Tracfone didn't know how to load minutes properly (long story I broke my Verizon phone, so I was using my son's phone!) Even with the 'new, better phones' we were still getting shoddy reception ON BOTH so I didn't buy more airtime.

Today I spent 3 hours w/ customer service. Issue:

Cannot load airtime.

Phone not accepting airtime.

Phone takes 24hrs to activate.(I didn't see THAT in the paperwork anywhere)

One of the phones took the airtime after an hour of programming BUT it doesn't even have a phone number!

--Now, I can't get the \$40.00 back that I put on these phone this morning..I STILL can't use the phones AND I WONT use them!

Tracfone, good job. I am impressed and will be purchasing Verizon phones for my children. Tracfone, you are a ripoff and I will tell

everyone that I know how much I deplore your company.

Q. Anyway that I could sue for the monetary damages Tracfone cost me..not to mention the mental anguish that I have suffered due to this company?

**kathleensb** 3/13/09 5:54PM

I purchased a tracfone. I bought minutes for the dam phone and the dam thing nevers works. their customer service is doesn,t exist!

**REPORT ABUSE**

**Anonymous** 2/21/09 3:11PM

I so totally agree with the past comments. I have been dealing with TracFone for a year now and CAN NOT get any resoulution to my problem. This is a joke. Will probably be filing a lawsuit in the near future about this company. I have had 5 phones and none of them work...so I am now out 215 minutes and the phone that I have paid for. Can I get those minutes refunded? Of course not. Everyone claims to TRY and take care of the problem but does nothing. If you BUY a TracFone and need it replaced, all they send are re-furbished phones...probably ones that didn't work in the first place. They are a piece of junk and the service is disgusting. They lie, and lie and then lie some more about what they will do for you and then blow you off. Called again today 2/6/09 to question why I did not get the email and the corporate phone that was promised to me last Friday. Idiot that I talked to Ian #52803 said he was writing everything down and would email me my file but guess what! Do I have it!...Of course not. Here's a number ....800-876-5753...I was given this number saying it was the number to corporate in Miami, Florida...guess what! NOBODY answers...not even a recording. Going to the Attorney General's office and the BBB in Michigan to start with. These people are ripping us off BIGTIME!

**REPORT ABUSE**

**JW** 2/6/09 9:28AM

After almost two weeks of attempting to speak to a human voice that speaks English, I did a search for a direct Tracfone operator and found the 18003232366 number. FINALLY, a rep that could help me. The rep Katherine, in the Philippines spoke clear English & was very professional. Suggested they add this Uf # to speak to an operator on their automated messages, which just keeps repeating its messages. It took me over 12hrs of calls within two weeks,to have a rep/Supt tend to prob. The 800 8677183 is a WASTE OF TIME and has one so frustrated you want to SCREAM AND CANCEL/FORGET Tracfone. SUPTS should have their wives attempt their customer service so they can KNOW how bad and frustrating it is and the message , YOU DONT MATTER" because they do not answer emails and you cannot personally contact them. JL

**REPORT ABUSE**

**Anonymous** 1/25/09 6:35PM

I keep getting a message on my cell phone FR then three numbers and then it says that .30 minutes have been deducted from my time. it then says to use a certain number to leave a message. For one thing I DO NOT have an answering message on my phone and I DO NOT receive messages because I DO NOT know how to set that up on my phone. This happens about three times a week so I am losing .90 minutes a week an I DO NOT EVEN use the phone. I have had the phone about one year and this has been going on since that time and I want it stopped and I want my minutes put back on my phone, I WILL NOT CALL THE CALL CENTER BECAUSE I WILL NOT TALK TO NON ENGLISH SPEAKING OR UNDESTANTABLE PEOPLE. Just put the minutes back on my phone and quit deducting them when I DO NOT use that service!

**REPORT ABUSE**

**Anonymous** 11/18/08 11:07AM

So I just bought a Tracfone alittle less then a month ago. My screen just went out on it, without me ever dropping it or ever being handled without care. It is my first tracfone and I'm really dissapointed that I can't reach anyone to help me with this. Does this happen often, should I switch to a different company so it doesn't happen again, or will I ever get through to a human that may or may not have answers for me.

 [REPORT ABUSE](#)

**Anonymous** 9/14/08 1:26PM

I have done everything that i was asked to do to repair my cell phone. Nothing will work. I ak for a new phone and pay the difference. I was on the phone for over a helf hour trying to get thei cell phone to work. So far no such luck. why cannot you get me a new one as i have time on it to Feb 2010 and now i will losr it. I have to have one as i have other emergence to use it for.

 [REPORT ABUSE](#)

**Anonymous** 9/13/08 7:25AM



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\*Phone is reconditioned. See offer for details.

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**Safelink Wireless Complaints**

Sort by Destination

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**Safelink Wireless - Florida, Miami**

Posted: 2009-09-11 by [Rosalba G. Suarez](#)

**Rosie Suarez**

Complaint Rating:

My mother has been waiting for a free phone from Safelink Wireless for nearly two months. She has never received it. I have an application number and when I call to follow up on the phone a recording comes on with choices not including a real customer service representative.

Thank...

[Comments](#) [United States](#) [Consumer Electronics](#)

**Safelink Wireless**

Posted: 2009-11-05 by [JanK86](#)

**Scam**

Complaint Rating:

I got a new safelink phone it has been reactivated with the same phone number but I am unable to retrieve my pending minutes even

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**Top Five Trial Running Shoes**

**Worst rating**

1. **Ram survey** (-17)
2. **Ram survey** (-14)
3. **RAMSURVEY** (-12)
4. **Ram Survey in Punjab, Chandigarh** (-11)
5. **Ram survey** (-6)
6. **Ram Survey in Haryana** (-6)
7. **Safe Touch Security** (-4)
8. **Santander Consumer USA** (-4)
9. **Signet Financial Group** (-4)
10. **HIT Web Design** (-4)



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1. **LOSERS on this website!** (125)  
LOSERS on this website bothering serious users!
2. **Mormon church** (72)  
Harassment
3. **Border parole portagal/spain** (63)  
lieing
4. **Lankland regional hospital** (59)  
Sexual abuse, absceine strip shearches, staff sexually abusing minors boys and girls
5. **AMWAY** (55)  
Amway Tool Scam
6. **Domino's** (54)  
poor service
7. **Michael Jackson** (51)  
Michael Jackson Did it- We know it
8. **Cyber-bullying by: (Brenda, 123321, Zachary S., I Like Cookies 2, NormanBates, S.O.L)** (46)  
This group are posting nasty comments on my board and I am just tired of the insults.

after they supposedly reprogramed my phone I did not sign up for this I am sick and tired of every single company I sign up for giving me problems I call and call...

Comments United States Telecommunications

**Safelink Wireless - Virginia, Miami**

Posted: 2009-11-19 by Janine P Vandenberg

**No help on replacement phone**

Complaint Rating:

I have tried to help this elderly woman with getting her Safelink cellphone replaced. I have been on the phone from 11:55 am to 2:17 PM only to get nowhere. They promised Mary ann a new phone last week and it should have been here this week. Well it is Nov. 19, 2009 and she still has no phone....

Comments United States Employees

**Safelink Wireless**

Posted: 2010-08-04 by phunter

**free minutes**

Complaint Rating:

I did'nt receive my free 60 minutes for the month of August. I spent two days trying to get ahold of the company and when I finally did, I spent about an hour and a half on the phone only to be told that according to their system I received the minutes on July 29. I kept telling them I...

Comments United States Mobile & Cell Phones

**Safelink Wireless - Connecticut**

Posted: 2010-06-18 by Hillary5678

**Today's Mess-Up Photo**

**Please Lock Door While Using Restroom**



More Mess-ups

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  - Gas Stations
  - Car Driving Schools
  - Towing
  - Motorcycles & Scooters
- Clothing, Shoes & Acc

9. **Cyberbullying on this site** (40)  
 (Brenda, 123321, Zachary S., I Like Cookies 2, NormanBates, S.O.L) Some of the comments are the same people that created a new user name.

10. **Help** (40)  
 How do i delete a complaint i made?

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5. **Burger King** (11)
6. **AT&T** (26)
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9. **Davids Bridal** (2)
10. **Verizon** (9)

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**Being untruthful to disabled people**

Complaint Rating:

Safelink advertises this phone service is free, when in fact you have to pay for minutes. I contacted the Attorney Generals office, and he agreed, and will be looking into this matter. I want them to cancel my account now, the # is 3787396 Gail L. Redman gail.carmichael@sbcglobal.net....

[Comments](#) [United States](#) [Mobile/Cellular Service Providers](#)

**Safelink Wireless**

Posted: 2010-01-05 by revrafa

**Theft of Service**

Complaint Rating:

Safelink Wireless is guilty of taking tax dollars and stealing paid for service. ERGO, THEFT OF SERVICE. Customers can get a replacement phone if it stops working but not if it is lost. Seniors, mentally challenged customers, poor and otherwise disabled are not allowed to lose a phone, but allowed...

[Comments](#) [United States](#) [Mobile & Cell Phones](#)

**Safelink Wireless - Pennsylvania**

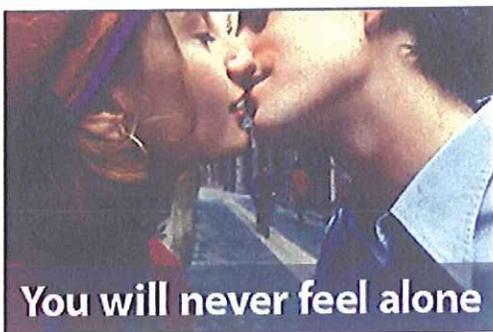
Posted: 2010-05-25 by atomicspitfyre

**waste of money**

Complaint Rating:

Safelink is a complete rip-off... we low-income folks cannot afford to pay for minutes for a phone that takes an entire minute off of your account for 2 seconds. I will be purchasing (which i can't really afford, but monthly after the initial purchase is a better deal) a phone from BOOSTMOBILE,...

- Dry Cleaners & Laundry
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  - Drug Stores
  - Hair and Beauty Salons
  - Weight Loss Products and Programs
  - Beauty & Day Spas



Comments
 United States
 Mobile & Cell Phones

### Safelink Wireless - Florida, Panama City

Posted: 2011-02-13 by bee\_me817

**awful customer service**  
Complaint Rating:

I have contacted safelink wireless approx. 5 times on 2/12/2011 concerning changing my phone number but have gotten no resolve to change my phone number. In addition, I keep getting put on hold and continuously asked the same questions over and over again. not only that, but now I can neither...

Comments
 United States
 Mobile/Cellular Service Providers

### Safelink Wireless

Posted: 2011-02-15 by Prob

**Didn't get no minutes on my cell phone**  
Complaint Rating:

Didn't get minutes on my cell phone first of month it's a trac phone lg i want to know why it's safelink and it's robert's it's a trac phone and model number is lg320g from janury 3 that's only time he got his free minutes after that nothing at all it's...

Comments
 United States
 Telecommunications

### Safelink Wireless - Wisconsin

Posted: 2010-12-11 by carsonmichaelsmom

**Never Received Phone**  
Complaint Rating:

I applied for a safelink wireless phone back on October 12, 2010. I was told would receive the phone

- Doctors
- Rehabilitation Centers
- o Home & Garden
  - Pool & Bath Services
  - Security Services
  - Appliances
  - Utility Services
  - Plumbing Services
- o Hotels
- o Internet Services
  - Hosting & Web Design
  - Internet Providers
- o Jewelry & Watches
- o Job & Career
  - Bullying and Harassment at Work
  - Work at Home
  - Employment, Staffing, Recru Agencies
  - Employers
  - Employees
  - Model & Talent Agencies
- o Kids & Baby
- o Law & Civil Rights
  - Lawyers and Attorneys
  - Solicitors
- o Magazines & Newspapers
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- o Nature & Environment
- o News & Media
- o Online Scams
  - Lottery Scams
  - Ebay Scams
  - Alibaba Scams
  - Phishing
  - Online Surveys
  - Sweepstakes
  - PTC/PTR Sites
- o Other
- o Pets & Animals
  - Animal/Pet Hospitals
  - Cat Breeders
  - Dog Breeders
- o Products & Services
  - Flowers Delivery
  - Photo Services
  - Department Stores

in 5 - 10 business days. I have called every tenth business day to find out were my phone is and get no where with the company. The barely speak english and keep promising me that my phone will...

 [Comments](#)  [United States](#)  [Mobile & Cell Phones](#)

### Safelink Wireless

Posted: 2010-10-20 by  Snoopy21

#### Scammers, beware!

Complaint Rating:

Safelink you sorry bastards ... this is the second time i have not gotten my minutes ... i have tried all of your contacts methods and NOTHING !!! I have tried the "555" trick and it never ever works. And all i get when i call your toll free numbers is a dance partner ... i enter the...

 [Comments](#)  [United States](#)  [Telecommunications](#)

### Safelink Wireless

Posted: 2011-02-23 by  Deva64

#### Awful customer service

Complaint Rating:

I have contacted safelink wireless approx. 5 times on 2/12/2011 concerning changing my phone number but have gotten no resolve to change my phone number. In addition, I keep getting put on hold and continuously asked the same questions over and over again. not only that, but now I can neither...

 [Comments](#)  [United States](#)  [Telecommunications](#)

### Safelink Wireless - Tennessee, Jasper

Posted: 2011-02-16 by  lebron

#### monthly minutes

- Cleaning Services / Laundry
  - Tobacco Products
  - Retail Stores
  - ◊ Public Transportation & Tax
    - Traffic Problems
  - ◊ Real Estate
    - Mortgage Companies
    - Apartments Rental
    - Home Insurance / Warranty
    - Timeshares / Vacation Renta
    - Condo and Home Owners Associations
    - Landlords
  - ◊ Restaurants & Bars
    - Fast Food Restaurants
  - ◊ Scam Contests
    - SMS Scam Contests
  - ◊ Society & Culture
    - Psychics & Mediums
    - Religion and Spirituality
  - ◊ Software & Games
    - Antivirus Software
  - ◊ Sports & Recreation
    - Fitness Centers
    - Fitness / Exercise Equipment
  - ◊ Telecommunications
    - Mobile/Cellular Service Providers
    - International Calling Cards
    - Landline & Home Phone Providers
  - ◊ Telemarketing
  - ◊ Travel & Vacations
    - Travel Agencies
    - Vacation Clubs
    - Cruise Lines
  - ◊ TV, Music & Video
    - Satellite & Cable TV
    - DVD Order & Rental
    - Annoying Commercials
    - Movies
  - ◊ Unauthorized Charges
    - Unauthorized Mobile Charge
  - ◊ Unsolicited Phone Calls
  - ◊ Wedding Services
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Complaint Rating:

Smile upon Life :)

safelink wireless is a scam they are saying that they have put minutes on a trac phone that i had received from them . i had asked them that they were a scam and they told me quote unquote yes.the question is witch of the employees are getting the minutes that i was supost to get. not only scaming...

Smith goes to see his supervis in the front office...



Comments United States Mobile & Cell Phones

### Safelink Wireless

Posted: 2011-01-25 by 216004

#### Phone won't work

Complaint Rating:

My phone was stolen out of my \*\*\*.we called safe link they gave us a new phone they put minutes back on the phone. when we call out all we get is the office. we cant call anybody else.now i have 150 minutes left. still we cant call 911 in case my husband needs help he is disabled.so i wrote...

Comments United States Telecommunications

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If you have any constructive thoughts, creative ideas, or reasonable offers, please, contact us immediately via E-mail



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## MEMORANDUM

**To:** TracFone Wireless, Inc.  
**From:** USAC Internal Audit Division  
**Date:** February 1, 2011  
**Re:** Independent Auditor's Report

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Please see attached the final Independent Auditor's Report on TracFone Wireless, Inc.'s compliance with Low Income Support Mechanism rules for study areas 219003 and 299011. The report has been approved by the USAC Board of Directors.

Please note the following revisions were made to the draft findings to accurately reflect the Low Income Support Mechanism rules. These revisions do not impact the nature or intent of the findings.

- Duplicate Claims – Wireless and Wireline and Duplicate Telephone Numbers/Addresses

*Original criteria:* Pursuant to the *Universal Service Order*, only one Lifeline connection per household is permitted under FCC rules. *Federal-State Joint Board on Universal Service*, FCC 97-157, 12 FCC Rcd 8977, ¶ 380 (1997), (*Universal Service Order*).

*Revised criteria:* "Support shall be available only for the primary residential connection." *Federal-State Joint Board on Universal Service*, FCC 97-157, 12 FCC Rcd 8977, ¶ 380 (1997) (*Universal Service Order*).

USAC Low Income management will contact you regarding any required actions or recovery.



**To:** Karen Majcher, Vice President, High Cost and Low Income Division

**From:** Wayne Scott, Vice President, Internal Audit Division

**Date:** December 3, 2010

**Re:** **Independent Auditor's Report on TracFone Wireless, Inc.'s Compliance with Low Income Support Mechanism Rules (USAC Audit No. LI2009BE006)**

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### **Introduction**

The Universal Service Administrative Company (USAC) Internal Audit Division (IAD) performed an audit of TracFone Wireless, Inc. (Beneficiary), study area codes 219003 and 299011, located in Florida and Tennessee, respectively, for compliance with the regulations and orders governing the Low Income Support Mechanism, set forth in 47 C.F.R. Part 54, as well as other program requirements (collectively, the Rules). Compliance with the Rules is the responsibility of the Beneficiary's management. USAC IAD's responsibility is to express a conclusion on the Beneficiary's compliance with the Rules based on our audit.

### **Purpose and Scope**

The purpose of our audit was to determine whether the Beneficiary complied with the Rules. We conducted this audit in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States (2007 Revision, as amended). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. Our audit included examining, on a test basis, evidence supporting the data used to calculate support as well as performing other procedures we considered necessary to form a conclusion. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

The following chart summarizes the support the Beneficiary received based on its FCC Form 497 (Form 497) for June 2009 and January 2010 (audit periods):

June 2009			
Study Area	Low Income Support	Number of Subscribers	Amount of Support
Florida	Lifeline	393,036	\$3,926,430
	Link Up	0	\$0
	Toll Limitation	0	\$0
Tennessee	Lifeline	145,634	\$1,435,952
	Link Up	0	\$0
	Toll Limitation	0	\$0
<b>Total</b>			<b>\$5,362,382</b>

January 2010			
Study Area	Low Income Support	Number of Subscribers	Amount of Support
Florida	Lifeline	431,560	\$4,294,022
	Link Up	0	\$0
	Toll Limitation	0	\$0
Tennessee	Lifeline	176,520	\$1,740,487
	Link Up	0	\$0
	Toll Limitation	0	\$0
<b>Total</b>			<b>\$6,034,509</b>

Our procedures were performed to determine whether the Beneficiary complied with the Rules. For the purposes of this report, a finding is a condition that shows evidence of noncompliance with the Rules. An "other matter" is a condition that does not necessarily constitute a rule violation but warrants the Beneficiary and USAC management's attention.

### **Conclusion**

USAC IAD concludes that the Beneficiary was compliant with the Rules for the period examined. Our examination disclosed two audit findings and five other matters. A summary of the results and procedures are included below.

### **Findings**

- Duplicate claims – wireless and wireline.
- Duplicate telephone numbers/addresses.

---

**Other Matters**

- Online certifications and verifications.
- Tribal subscribers.
- Authentication of applicants.
- Form 497 completion – subject to state regulation.
- Improper income documentation retention.

**Exceptions Taken and Recovery Action**

<b>Findings</b>	<b>Monetary Effect of Finding</b>	<b>USAC Management Recovery Action</b>
#1 – Duplicate Claims – Wireless and Wireline	\$1,109,536	\$0
#2 – Duplicate Telephone Numbers/Addresses	\$3,013	\$3,013
<b>Total Net Monetary Effect</b>	<b>\$1,112,549</b>	<b>\$3,013</b>

**Audit Procedures, Findings, and Responses**

**A. General Procedures**

We obtained and reviewed the Eligible Telecommunications Carrier (ETC) designation order to ensure the Beneficiary was designated as an ETC in the study areas prior to receiving support.

**B. Certification Process**

We obtained an understanding of the Beneficiary’s enrollment and certification processes relating to the Low Income Support Mechanism. Florida and Tennessee are states that mandate Lifeline support. Therefore, we researched the states’ requirements to ensure the Beneficiary complied with applicable rules.

**C. Verification Process**

We obtained an understanding of the Beneficiary’s verification process relating to the Low Income Support Mechanism. Florida and Tennessee are states that mandate Lifeline support. Therefore, we researched the states’ requirements to ensure the Beneficiary complied with applicable rules.

**D. Advertising**

We obtained and examined the Beneficiary’s evidence of advertising to ensure it publicized the availability of Lifeline in a manner reasonably designed to reach those likely to qualify for the service.

**E. Form 497**

We obtained and examined the Beneficiary’s Form 497 for accuracy by comparing the amounts reported against the Beneficiary’s data files and related tariffs.

---

**F. Subscriber Listing**

We obtained and examined the Beneficiary's subscriber listings and used computer assisted auditing techniques to analyze the data files and perform the following procedures:

- Compared the total number of subscribers to what was reported on the Form 497.
- Verified that the data file did not contain duplicate telephone numbers/addresses.
- Verified that the data file did not contain blank telephone numbers/addresses or business names/addresses.
- Verified that no subscriber lines were disconnected before or activated after the audit period.

**G. Subscriber Discounts**

We examined 250 subscriber accounts to ensure that the Low Income program support received by the Beneficiary was passed on to the subscribers.

**H. Subscriber Eligibility**

We examined 250 subscriber certifications to ensure that the subscribers were eligible to receive low-income discounts.

**I. Duplicate Claims**

We obtained and examined the subscriber listings of the Beneficiary, AT&T, Verizon and CenturyLink (formerly known as Embarq), the incumbent ETCs operating in the same geographic area during the same period. We utilized computer assisted auditing techniques to analyze the data files to ensure the beneficiaries did not receive federal universal service support for providing low-income discounts to the same principal residence.

Our audit findings and other matters as well as the responses to the findings and other matters are provided below. We have evaluated the validity of the Beneficiary's responses to our findings and other matters, and our position on the issues remains unchanged.

**Finding #1**  
**Duplicate Claims – Wireless and Wireline**

**Criteria**

“Support shall be available only for the primary residential connection.”  
*Federal-State Joint Board on Universal Service, FCC 97-157, 12 FCC Rcd 8977, ¶ 380 (1997), (Universal Service Order).*

“Lifeline provides low-income consumers with discounts of up to \$10.00 off of the monthly cost of telephone service for a single telephone line in their principal residence.” *In the Matter of Lifeline and Link Up, FCC 04-87, 19 FCC Rcd 8306, ¶ 4 (2004).*

**Condition**

We examined TracFone subscriber listings and those of three incumbent carriers (AT&T, Verizon, and Embarq) to support the total number of Lifeline subscribers reported on each carrier’s June 2009 and January 2010 Form 497s for the same geographic area assigned to each carrier’s Study Area Code (SAC). We utilized computer assisted auditing techniques to identify the same subscriber addresses noted on subscriber listings for both TracFone and an incumbent carrier operating in the same geographic area. We noted 111,682 subscribers claimed by both TracFone and one of the three incumbent carriers on the Form 497s. Only one carrier should have claimed these subscribers.

The table below provides a summary of TracFone and other carriers claiming support for the same subscriber in the period audited.

<b>Subscribers Claimed by Both TracFone and Incumbent Carriers</b>						
	<b>TracFone and AT&amp;T (A)</b>	<b>TracFone and Verizon (B)</b>	<b>TracFone and Embarq (C)</b>	<b>Total Duplicate Claims (A+B+C=D)</b>	<b>TracFone Claim Amount (E)</b>	<b>Total Monetary Effect (D * E)</b>
<b>Florida – June 2009</b>	29,700	2,147	4,358	36,205	\$9.99	\$361,688
<b>Tennessee – June 2009</b>	13,180	N/A*	666	13,846	\$9.86	\$136,522
<b>Florida – January 2010</b>	31,483	2,449	6,556	40,488	\$9.95	\$402,856
<b>Tennessee – January 2010</b>	20,181	N/A*	962	21,143	\$9.86	\$208,470
				<b>111,682</b>		<b>\$1,109,536</b>

\* Verizon did not claim low-income subscribers in Tennessee for June 2009 or January 2010.

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**Cause**

Subscribers have obtained low-income discounts on both their wireless and wireline telephones. While TracFone appears to have a process in place to notify subscribers that they may only obtain low-income discounts from only one carrier, this process has not been effective in preventing TracFone from providing low-income discounts and claiming a subscriber on the Form 497 where that same subscriber has also obtained low-income discounts from another carrier.

**Effect**

The monetary effect of this finding is a \$1,109,536 overpayment of support for the two study areas and months noted above. Projecting the same duplicate claim error rate identified in the two study areas (10%) to all the claims TracFone filed in each state where it was designated as an eligible telecommunication carrier (ETC), the resulting duplicate claim monetary effect would be \$1,453,619 and \$2,769,418 for June 2009 and January 2010, respectively.

We are unable to determine which carrier, TracFone or the incumbent, established service to the subscriber's principal residence and, therefore, the appropriate carrier to claim reimbursement for these discounts on the Form 497. Thus, we are unable to determine which carrier improperly claimed the subscribers on the Form 497.

**Recommendation**

We recommend USAC management seek guidance from the FCC as to which carrier is entitled to receive the low-income support for these subscribers and from which carrier USAC should seek recovery.

**Beneficiary Response**

TracFone has complied with all applicable FCC and USAC requirements as part of its process for enrolling customers in its Lifeline program. Specifically, TracFone requires, among other things, that each applicant self-certify under penalty of perjury that he/she does not obtain Lifeline-supported service from any other provider. In addition, TracFone complies with a condition of regulatory forbearance imposed on it by the FCC that it require Lifeline customers to self-certify at the time of service activation and annually thereafter that the applicant is head of household and only receives Lifeline-supported service from TracFone.

Since TracFone enrolls customers in its Lifeline program only upon receipt of certifications from those customers that TracFone is their only provider of Lifeline-supported service, it would be inappropriate, unfair and unlawful to deny reimbursement for Lifeline service provided to those customers. If USAC has concerns about the effectiveness of the current Lifeline enrollment eligibility certification requirements, it may seek to communicate those concerns to the FCC. In fact, the Federal-State Joint Board

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on Universal Service recently has submitted recommendations to the FCC to reform certain aspects of the Lifeline enrollment certification and verification procedures. See Federal-State Joint Board on Universal Service/Lifeline and Link Up (Recommended Decision), FCC 10J-3, released November 4, 2010. The FCC is required to review and act on that Joint Board recommendation. Indeed, TracFone has raised with the Joint Board and with the FCC the limitations on the ability of any ETC to prevent duplicate enrollment given the current procedures, and has advocated national or state data bases to be made available to all ETCs so that they can confirm whether Lifeline applicants currently are enrolled in other providers' Lifeline programs.

USAC may seek to enforce applicable perjury laws against those enrolled Lifeline customers who have misrepresented that they are only enrolled in one provider's Lifeline program. It may seek reimbursement against those consumers who have misrepresented their eligibility and defrauded the Universal Service Fund. However, it may not deny reimbursement or seek to recover amounts already paid to Eligible Telecommunications Carriers who have complied with the applicable rules governing certification of customer eligibility for Lifeline benefits, and who have incurred costs and provided Lifeline service to customers in reliance upon those customers' self-certifications of eligibility.

#### **USAC Management Response**

USAC management will not seek recovery at this time. This issue is currently under appeal before the Commission<sup>1</sup> and is also being considered by the Federal-State Joint Board on Universal Service.<sup>2</sup> USAC will seek guidance from the Commission as to which carrier should claim the line as the primary residential connection and whether to seek recovery of funds previously disbursed for duplicate subscribers. In addition to seeking guidance, USAC will also notify the Commission of the potential financial impact to the Universal Service Fund. USAC reserves the right to take additional administrative action, if required.

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<sup>1</sup> Request for Review by Verizon/Alltel Management Trust of Decision of Universal Service Administrator, CC Docket No. 96-45; CC Docket No. 03-109, (filed October 5, 2009).

<sup>2</sup> See *In the Matter of Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision, FCC 10J-3, ¶ 34.

**Finding #2**  
**Duplicate Telephone Numbers/Addresses**

**Criteria**

“Support shall be available only for the primary residential connection.”  
*Universal Service Order* at ¶ 380.

“In order to receive universal service support reimbursement, the eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline in conformity with §54.401.” 47 C.F.R. § 54.407(c).

“Lifeline provides low-income consumers with discounts of up to \$10.00 off of the monthly cost of telephone service for a single telephone line in their principal residence.” *In the Matter of Lifeline and Link Up*, FCC 04-87, 19 FCC Rcd 8306, ¶ 4 (2004).

“In sum, this grant is conditional on TracFone...establishing safeguards to prevent its customers from receiving multiple TracFone Lifeline subsidies at the same address.” *Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, FCC 05-165, 20 FCC Rcd 15098-99, ¶ 6 (2005).

**Condition**

We examined the Beneficiary’s subscriber listings to verify the total number of Lifeline subscribers noted on the June 2009 and January 2010 Form 497s. Utilizing our auditing software, we noted 272 duplicate addresses and 30 duplicate telephone numbers in June 2009. We noted one duplicate address in January 2010. Only one Lifeline connection per household is permitted under FCC rules. The table below provides a summary of the overpayment of Low Income Program support received due to TracFone claiming support for duplicate addresses and telephone numbers.

	<b>Duplicate Addresses (A)</b>	<b>Duplicate Telephone Numbers (B)</b>	<b>Total (A+B=C)</b>	<b>Claim Amount (D)</b>	<b>Monetary Effect (C * D)</b>
<b>Florida – June 2009</b>	166	27	193	\$9.99	\$1,928
<b>Tennessee – June 2009</b>	106	3	109	\$9.86	\$1,075
<b>Florida – January 2010</b>	1	0	1	\$9.95	\$10
<b>Total</b>	<b>273</b>	<b>30</b>	<b>303</b>		<b>\$3,013</b>

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**Cause**

While the Beneficiary has a system in place for collecting, reporting, or monitoring data, the Beneficiary's system did not detect duplicate phone numbers or addresses, causing the Beneficiary to seek reimbursement of low-income discounts for an improper amount.

**Effect**

The monetary effect of this finding is a \$3,013 overpayment of support.

**Recommendation**

We recommend USAC management seek recovery of \$3,013. We also recommend the Beneficiary maintain accurate records of revenues it forgoes and ensure that low-income discounts are only provided once to eligible subscribers.

**Beneficiary Response**

The results of USAC's examination indicate TracFone has taken all necessary steps to avoid billing for duplicate addresses.

The results revealed negligible billing of duplicate addresses and telephone numbers for TracFone subscribers, which represented .0005% and .000055% respectively, of the total subscriber sample size of 538,670. For January 2010, only 1 duplicate was identified.

TracFone has implemented additional processes to minimize duplicate addresses and will reflect accordingly on FORM 497 Revision to be E-File by 03/31/2011.

As for duplicate phone numbers, TracFone does not agree with this finding since it is not possible for 2 subscribers to share the same phone number and therefore it is believed to be a reporting discrepancy, which will be researched accordingly.

**USAC IAD Response**

While it may not be possible for two subscribers to share the same phone number, our testing of the Beneficiary provided subscriber listings (which were provided to support the number of Lifeline subscribers claimed on the Form 497) identified 30 duplicate telephone numbers. Further, these subscriber listings agreed in quantity to the number of subscribers claimed by the Beneficiary on its Form 497s. Therefore, our position on this finding remains unchanged.

**USAC Management Response**

USAC management concurs with the finding. USAC will recover the Lifeline support attributed to this finding.

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**Other Matter #1**  
**Online Certifications and Verifications**

**Criteria**

“...To receive Lifeline support under this paragraph for the eligible resident of Tribal lands, the eligible telecommunications carrier offering the Lifeline service to such consumer must obtain the consumer’s signature on a document certifying under penalty of perjury that the consumer receives benefits from at least one of the programs mentioned in this paragraph or paragraph (b) of this section, and lives on or near a reservation, as defined in § 54.400(e).” 47 C.F.R. § 54.409(c).

“In a state that does not mandate state Lifeline support, each eligible telecommunications carrier providing Lifeline service to a qualifying low-income consumer pursuant to paragraphs (b) or (c) of this section must obtain that consumer’s signature on a document certifying under penalty of perjury that:

(1) The consumer receives benefits from one of the programs listed in paragraphs (b) or (c) of this section, and identifying the program or programs from which that consumer receives benefits, or

(2) The consumer's household meets the income requirement of paragraph (b) of this section, and that the presented documentation of income, as described in §§ 54.400(f), 54.410(a)(ii), accurately represents the consumer's household income; and

(3) The consumer will notify the carrier if that consumer ceases to participate in the program or programs or if the consumer's income exceeds 135% of the Federal Poverty Guidelines.” 47 C.F.R. § 54.409(d).

“Consumers qualifying for Lifeline under an income-based criterion must certify the number of individuals in their households on the document required in §54.409(d).” 47 C.F.R. § 54.410(b)(3).

“...Subscribers who are subject to this verification and qualify under program-based eligibility criteria must prove their continued eligibility by presenting in person or sending a copy of their Lifeline-qualifying public assistance card and self-certifying, under penalty of perjury, that they continue to participate in the Lifeline-qualifying public assistance program. Subscribers who are subject to this verification and qualify under the income-based eligibility criteria must prove their continued eligibility by presenting current income documentation consistent with the income-certification process in §54.410(a)(2). These subscribers must also self-certify, under penalty of perjury, the number of individuals in their household and that the documentation presented accurately represents their annual household income.” 47 C.F.R. § 54.410(c)(2).

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**Condition**

We noted 166 of 250 low-income subscribers sampled enrolled online. We also noted 10 of a sample of 50 subscribers verified their continued eligibility to receive low-income discounts online. In these instances, the beneficiary did not have the consumer's signature on a document certifying under penalty of perjury that the consumer receives benefits from at least one of the qualifying programs. While FCC rules indicate a signature on a document is required for certain certifications (e.g., tribal subscribers, carriers operating in federal default states), the rules do not specify whether electronic signatures are an acceptable substitute for hand-written signatures on a document for other circumstances.

**Cause**

The FCC rules do not specify whether the use of electronic signatures for online certifications and verifications is an acceptable method for subscribers to indicate their eligibility to receive low-income discounts.

**Effect**

We will not quantify a monetary effect for this other matter.

**Recommendation**

We recommend USAC management seek guidance from the FCC as to whether the Beneficiary may utilize online certifications and verifications for low-income subscribers to self-certify their eligibility.

**Beneficiary Response**

TracFone is not aware of any FCC or USAC prohibition on using online or electronic certifications and verifications for low-income subscribers to self-certify their eligibility. Under federal law, an electronic signature is a legal and binding form of signature. TracFone has informally advised both the FCC and USAC regarding its practice of allowing Lifeline customers to utilize online certifications and verifications and has not received any objections to this practice.

**USAC Management Response**

USAC management will notify the FCC of the auditors' finding. USAC reserves the right to take further action, if required.

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**Other Matter #2  
Tribal Subscribers**

**Criteria**

“Based on the foregoing, we hereby designate TracFone as a limited ETC, eligible only for Lifeline support, in its licensed service areas in New York, Virginia, Connecticut, Massachusetts, Alabama, North Carolina, Tennessee, Delaware, New Hampshire, Pennsylvania, and the District of Columbia. In designating TracFone as a limited ETC, we clarify that TracFone’s designated service areas do not encompass federally-recognized tribally-owned lands.” *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier, FCC 08-100, 23 FCC Rcd 6213, ¶ 17 (2008).*

“TracFone expressly states that it does not request ETC designation for tribal lands.” FCC 08-100, n. 49.

“...[W]e hereby grant TracFone limited ETC status in Florida to provide Lifeline services only.” *Before the Florida Public Service Commission, Application for designation as an eligible telecommunications carrier (ETC) by TracFone Wireless, Inc. for limited purpose of offering lifeline service to qualified households. PSC-08-0418-PAA-TP (2008).*

**Condition**

The Beneficiary identified 149 subscribers claimed on its Florida June 2009 Form 497 who qualified solely under the tribal eligibility criteria. The Beneficiary did not claim support for any tribal subscribers in Tennessee. The FCC-issued Eligible Telecommunications Carrier (ETC) designation order (FCC order), which applies to Tennessee, notes that the Beneficiary’s study areas do not include tribal lands. The Florida Public Service Commission ETC designation order does not explicitly establish designation on tribal lands. It is unclear whether the Beneficiary is permitted to serve tribal areas and, therefore, claim Lifeline support (Tiers 1-3) for subscribers who are eligible based on a tribal eligibility criterion (TracFone did not claim Tier 4 support for these tribal subscribers).

In addition, TracFone claimed Lifeline support (Tiers 1-3) for 149 subscribers in Florida, but no other ETC in Florida claimed tribal support in 2009 even though there are no prohibitions against the other ETCs claiming Tier 4 support for serving tribal lands in Florida.

**Cause**

The Beneficiary’s ETC designation orders do not indicate whether the Beneficiary is entitled to claim tribal subscribers on its Form 497. No other ETCs claim tribal support in Florida. Therefore, it is unclear whether the Beneficiary serves individuals that qualify under the tribal eligibility criteria.

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**Effect**

We will not quantify a monetary effect for this other matter. However, the possibility exists that in areas where TracFone may not be designated, the Beneficiary may have claimed Lifeline support (Tiers 1-3) for consumers who are ineligible under the appropriate (non-tribal) eligibility criteria.

**Recommendation**

We recommend USAC management seek guidance from the FCC as to whether the Beneficiary is entitled to claim Lifeline (Tiers 1-3) support for tribal customers. In addition, we recommend that the Beneficiary verify the accuracy of the certification of the 149 Lifeline customers in Florida who indicate that they qualify based on a tribal eligibility criterion.

**Beneficiary Response**

TracFone has been designated as an ETC by the Florida Public Service Commission ("PSC") to provide Lifeline service throughout the State of Florida. Nothing in the order issued by the Florida PSC designating TracFone as an ETC precludes or limits TracFone from offering Lifeline service to customers who reside on tribal lands in that state. In fact, the FL PSC's order states that an applicant may qualify for enrollment in the Lifeline service if they participate in any Bureau of Indian Affairs assistance programs, including, without limitation, Tribal Temporary Assistance For Needy Families, etc.

When the FCC designated TracFone as an ETC to provide Lifeline service in ten states and the District of Columbia, it stated that TracFone's designated service areas in those states do not encompass federally-recognized tribally-owned lands. However, that limitation in the FCC's order (Federal-State Joint Board on Universal Service; TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier, 23 FCC Rcd 6213 (2008)) is only applicable to those FCC-designated states. It is not applicable to other states, including, Florida, that exercises its authority to designate ETCs pursuant to Section 214(e)(2) of the Communications Act.

Whether or not to designate TracFone as an ETC in all or some portions of a state, including those portions of a state which encompass federally-recognized tribal lands, resides with the state commissions. In the absence of any action by the Florida PSC, limiting or precluding TracFone from providing Lifeline service to residents of tribal lands in Florida, TracFone may provide its Lifeline service to such residents and is entitled to reimbursement from the Universal Service Fund for Lifeline service, which it provides to such residents.

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**USAC Management Response**

USAC management agrees that neither the TracFone *Forbearance Order*<sup>1</sup> nor the *Florida ETC Designation Order*<sup>2</sup> designating TracFone as an ETC in Florida preclude it from offering Lifeline to eligible consumers residing on federally recognized tribal lands in Florida. The Florida Public Service Commission designated TracFone as an ETC throughout the state, meaning that TracFone must offer Lifeline to all eligible applicants within its service area. USAC management will notify the FCC of the auditors' finding. USAC reserves the right to take further action, if required.

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<sup>1</sup> In the Matter of Federal-State Joint Board on Universal Service Petition of TracFone Wireless, Inc. from Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i) FCC 05-165 (2005).

<sup>2</sup> PSC-08-0418-PAA-TP (2008).

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**Other Matter #3**  
**Authentication of Applicants**

**Criteria**

“In performance audits, a deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, detect, or correct (1) impairments of effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations, on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective is not met. A deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.” *Government Auditing Standards*, ¶ 7.21 (2007 Revision, as amended).

**Condition**

We examined the Beneficiary’s online system to assess the operating effectiveness of the authentication program designed to ensure a subscriber’s name, address, Social Security number, and birth date all relate to the same person. We entered correct and incorrect subscriber data into the system in 15 different scenarios to determine whether the authentication program identified incorrect subscriber data as invalid. In eight of 15 test cases, we noted the authentication program improperly confirmed a subscriber as valid even if the test data entered for that subscriber was incorrect. For example, in one of the scenarios, the subscriber’s correct name and address were entered, along with an incorrect Social Security number and birth date. In another scenario, the subscriber’s correct name and Social Security number were entered, along with an incorrect address and birth date.

**Cause**

The Beneficiary does not have an effective system in place for collecting, reporting, or monitoring data. Specifically, the third-party system utilized by the Beneficiary to authenticate applicant data fails to identify invalid information submitted by the applicant.

**Effect**

There is no monetary effect for this other matter. However, the possibility exists that the system as designed will not prevent the Beneficiary from providing Low Income Program discounts, and consequently seek reimbursements of those costs via the Form 497, for subscribers who have not been properly validated against the personally identifiable information that was submitted.

---

**Recommendation**

We recommend the Beneficiary improve its system for authenticating applicants.

**Beneficiary Response**

TracFone is mandated by the FCC to accept all applications from all persons that “self-certify” eligibility. Notwithstanding, TracFone uses various internal controls and purchases the services of a 3rd party vendor at significant cost in order to validate the information of applicants that “self-certify” their eligibility to the LifeLine program, in an effort to prevent fraud. TracFone uses these controls even though there is absolutely no FCC requirement that TracFone must validate the identity of applicants. The recommendations noted by USAC will be considered in future improvements to our current controls.

**USAC Management Response**

USAC management concurs with the Other Matter. TracFone should ensure that it has internal controls in place to mitigate fraud.

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**Other Matter #4**  
**Form 497 Completion – Subject to State Regulation**

**Criteria**

“With the enactment of Section 364.01-1, Florida Statutes, the legislature has granted this Commission limited authority over CMRS providers to those matters specifically authorized by federal law. Because pursuant to § 214(e)(2) of the Act, states are authorized to designate ETC status on CMRS providers, we hereby find that this Commission has authority to consider applications by CMRS providers for ETC designation.” *Before The Florida Public Service Commission, Petition Of Alltel Communications, Inc. For Designation As Eligible Telecommunications Carrier (ETC) In Certain Rural Telephone Company Study Areas Located Partially In Alltel’s Licensed Area And For Redefinition Of Those Study Areas, PSC-07-0288-PAA-TP (2007).*

“[P]ursuant to § 214(e)(2) of the Telecommunications Act of 1996, which authorizes states to designate ETC carriers, this Commission has jurisdiction over CMRS providers for the purpose of considering ETC petitions.” *Before The Florida Public Service Commission, Application For Designation As An Eligible Telecommunications Carrier (ETC) By Tracfone Wireless, Inc. For Limited Purpose Of Offering Lifeline Service To Qualified Households, PSC-08-0418-PAA-TP (2008).*

**Condition**

On its June 2009 Form 497 for Florida, the Beneficiary indicated that it was not subject to state regulation. However, in Order PSC-07-0288-PAA-TP, the Florida Public Service Commission (PSC) determined it had authority to consider Commercial Mobile Radio Service (CMRS) providers for ETC designation. The Florida PSC reiterated this position in the Beneficiary’s Florida ETC designation order. Therefore, the Beneficiary should have indicated on its Florida Form 497 that it is subject to state regulation.

**Cause**

The Beneficiary was not aware that it should indicate that it is subject to state regulation on the Form 497 for study areas in which a state commission designated it as an ETC.

**Effect**

There is no monetary effect for this other matter.

**Recommendation**

We recommend the Beneficiary indicate that it is subject to state regulation when completing the Form 497 for study areas in which a state commission designated it as an ETC.

**Beneficiary Response**

TracFone addressed USAC’s concern when identified in May 2010 and continues to E-File accordingly.

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**USAC Management Response**

USAC management concurs with the Other Matter. TracFone should ensure that it completes its FCC Form 497 accurately.

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**Other Matter #5**  
**Improper Income Documentation Retention**

**Criteria**

“Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Lifeline.” 47 C.F.R. § 54.410(a).

“After income certification procedures are implemented, eligible telecommunications carriers and consumers are required to make certain self-certifications, under penalty of perjury, relating to the Lifeline program. Eligible telecommunications carriers must retain records of their self-certifications and those made by consumers.” 47 C.F.R. § 54.410(b).

“...Moreover, our rules do not require ETCs to retain the consumer’s corroborating documentation. ETCs need only retain records of their self-certifications and those made by the applicant.” *In the Matter of Lifeline and Link Up*, FCC 04-87, 19 FCC Red 8321, ¶ 31 (2004).

**Condition**

The Beneficiary retained its subscribers’ personally identifiable information (PII) (e.g., tax returns, etc.). The Beneficiary may request (i.e., ask the subscriber to present) that type of information to prove income eligibility, but should not retain such documentation. The Beneficiary must retain its subscribers’ self-certification forms.

**Cause**

While the Beneficiary appears to have a process in place to review subscribers’ evidence of income eligibility, this process is not adequate as it does not involve properly disposing of or returning evidence of income eligibility to the subscriber.

**Effect**

There is no monetary effect for this other matter. However, the possibility exists that subscribers’ PII could be misused

**Recommendation**

We recommend the Beneficiary continue to retain its subscriber’s self-certification forms. However, we recommend the Beneficiary review its subscriber’s evidence of income eligibility but not maintain PII that corroborates the subscriber’s eligibility.

**Beneficiary Response**

We agree with your recommendation and will implement processes to comply accordingly.

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**USAC Management Response**

USAC management concurs with the finding. USAC Management will remind the carrier about the Commission's guidance on how ETCs should treat consumer information provided as proof of income.

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This concludes the results of our audit. Certain information may have been omitted from this report concerning communications with USAC management or other officials and/or details about internal operating processes or investigations. This report is intended solely for the use of USAC, the Beneficiary, and the FCC and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of those procedures for their purposes. However, this report is a matter of public record and its distribution is not limited.

cc: Mr. D. Scott Barash, USAC Acting Chief Executive Officer  
Mr. David Capozzi, USAC Acting General Counsel

October 2010

TELECOMMUNICATIONS

Improved  
Management Can  
Enhance FCC  
Decision Making for  
the Universal Service  
Fund Low-Income  
Program



G A O

Accountability \* Integrity \* Reliability



Highlights of GAO-11-11, a report to congressional requesters

## TELECOMMUNICATIONS

### Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program

#### Why GAO Did This Study

The Federal Communications Commission's (FCC) Low-Income Program, administered by the Universal Service Administrative Company (USAC) and supported by the Universal Service Fund (USF), provides low-income households with discounts on installation costs for new telephone service and monthly charges for basic telephone service. In this requested report, GAO examined (1) how program participation and support payments have changed over the last 5 years (2005-2009), and factors that may have affected participation; (2) the extent to which goals and measures are used to manage the program; and (3) the extent to which mechanisms are in place to evaluate program risks and monitor controls over compliance with program rules. GAO surveyed state public utility commissions; reviewed key policies, procedures, and rules; and interviewed agency officials and stakeholders.

#### What GAO Recommends

FCC should (1) clearly define performance goals and develop quantifiable measures that can be used to determine the program's success, (2) conduct a needs assessment and develop implementation and evaluation plans for the proposed low-income pilot programs, (3) conduct a robust risk assessment, and (4) implement a systematic process to consider audit results. FCC agreed with GAO's recommendations.

View GAO-11-11 or key components. View the results of the GAO survey online at GAO-11-13SP. For more information, contact Lorelei St. James, (214) 777-5719, St.JamesL@gao.gov.

Low-Income Program participation and support payments have increased since 2005 due to many factors. Program participation was stable from 2005 to 2008, from 6.9 million to 7.1 million participants, but increased to 8.6 million in 2009. Likewise, support payments were relatively stable from 2005 to 2008, from \$802 million to \$823 million annually, before increasing to approximately \$1 billion in 2009. The increases in 2009 were primarily due to the addition of a prepaid wireless service option in certain states, which allows program participants to obtain a free wireless handset and an allotment of free minutes each month. The Low-Income Program has no funding cap and USAC officials project its support payments to reach \$1.4 billion in 2010. They said participation and payments will likely continue to increase beyond 2010 as prepaid wireless service options become available in additional states.

FCC has taken limited steps to develop performance goals and measures for the Low-Income Program, however, these steps do not fully align with useful practices for developing successful goals and measures. While performance goals and measures specific to the Low-Income Program would enable FCC to more effectively manage the program and determine its success, FCC has not made developing such measures a priority and, as a result, has limited insight on the intent of the program and what it is accomplishing. FCC might conduct pilot programs as it considers expanding the Low-Income Program to include broadband service (high-speed Internet access), as proposed by the National Broadband Plan. For the broadband pilot programs, if conducted, it is important that FCC develop a needs assessment and implementation and evaluation plans to increase confidence in the results. If implemented properly, the pilot programs would enable FCC to improve its data collection for low-income households and could help facilitate program and policy decisions for the Low-Income Program in the future.

Although FCC and USAC have some mechanisms in place to identify and evaluate risks and monitor compliance with program rules, the Low-Income Program lacks key features of effective internal controls. FCC and USAC primarily use audit findings to monitor compliance with program rules. However, the number and scope of USAC's audits have been limited and there is no systematic process in place to review the findings of those audits that are conducted. Further, FCC and USAC have not conducted a risk assessment specific to the Low-Income Program that includes consideration of all program vulnerabilities, such as the possibility that multiple carriers may claim support for the same telephone line and that households may receive more than one discount, contrary to program rules. According to GAO standards, FCC should identify all risks to meeting the program's goals and objectives and have a process to systematically consider audit findings when assessing the effectiveness of its internal controls. Without these mechanisms, FCC and USAC may not be capturing and addressing programmatic risks and collecting information that could be leveraged to assess compliance with program rules and strengthen internal controls.

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Figure 6: Estimated Lifeline Participation Rates Among Eligible Households by State in 2009

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**Abbreviations**

1996 Act	Telecommunications Act of 1996
APA	Administrative Procedure Act
Commission	Federal Communications Commission
E911	Enhanced 911
ETC	eligible telecommunications carrier
FCC	Federal Communications Commission
FFMIA	Federal Managers' Financial Integrity Act of 1982
IPIA	Improper Payments Information Act of 2002
Joint Board	Federal-State Joint Board on Universal Service
OMB	Office of Management and Budget
PSAP	Public Safety Answering Point
TLS	Toll Limitation Service
USAC	Universal Service Administrative Company
USF	Universal Service Fund

***Telecommunications: Survey of State Public Utility Commissions (GAO-11-13SP), an e-supplement to GAO-11-11***

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Washington, DC 20548**

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October 28, 2010

**The Honorable Henry A. Waxman  
Chairman  
The Honorable John D. Dingell  
Chairman Emeritus  
The Honorable Joe Barton  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives**

**The Honorable Bart Stupak  
Chairman  
The Honorable Michael Burgess  
Ranking Member  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
House of Representatives**

**The Honorable Greg Walden  
House of Representatives**

For many decades, federal policy has called for making affordable residential telephone service available to the greatest possible number of Americans—a policy known as “universal service.” This policy is carried out through the Federal Communication Commission’s (FCC or the Commission) universal service programs which are funded through the Universal Service Fund (USF), and include the Low-Income Program.<sup>1</sup> This program was created in the mid-1980s to promote telephone

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<sup>1</sup>The other programs supported by the USF are: (1) the High-Cost Program, which assists customers living in high-cost, rural, or remote areas through financial support to telecommunications carriers that operate in such areas; (2) the Schools and Libraries Program (commonly referred to as “E-rate”), which assists eligible schools and libraries in procuring telecommunications and Internet services, as well as internal connections and basic maintenance for such services; and (3) the Rural Health Care Program, which assists health care providers located in rural areas through discounts for telecommunications and Internet access services. Combined, the four USF programs provided about \$7 billion in support payments in 2009. While this report focuses on the Low-Income Program, we also have an ongoing review of the Rural Health Care Program. See related GAO products at the end of the report.

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subscribership among low-income households. In 2009, the Low-Income Program provided approximately \$1 billion in support payments.

Traditionally, universal service policy and access to telecommunications services for low-income subscribers has centered on landline residential telephone service throughout the United States. However, telecommunications technology has advanced and new ways to access telecommunications services have been developed. For example, consumers today have more options to access telephone service than in the past, including cable, wireless, and broadband.<sup>2</sup> To expand the availability of Lifeline, which discounts local service, and to provide additional consumer choice, FCC has allowed certain prepaid wireless providers,<sup>3</sup> to be granted limited designation as eligible telecommunications carriers (ETC)<sup>4</sup> for the Low-Income Program in their licensed service areas. As new technologies continue to develop, the universal service policy will be challenged to define “access” to telecommunications services for low-income consumers. In particular, in 2009, FCC was mandated to develop a broadband plan that would “ensure that all people of the United States have access to broadband capability...”<sup>5</sup> An FCC task force issued the plan in March 2010, with recommendations, among many other things, on how to reform the USF and modify the Low-Income Program to support broadband service.<sup>6</sup> FCC

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<sup>2</sup>The term “broadband” commonly refers to high-speed Internet access. Broadband enables consumers to receive information much faster than a dial-up connection and provides an “always on” connection to the Internet. Consumers can receive a broadband connection through a variety of technologies such as cable modem, digital subscriber line service, fiber, and satellite.

<sup>3</sup>Prepaid wireless service is any wireless telecommunications service that is activated in advance by payment for a finite dollar amount of service or for a finite number of minutes that terminate either upon use by any person or within a certain period of time following the initial purchase or activation, unless an additional payment is made.

<sup>4</sup>The Communications Act of 1934, as amended, provides that only an entity designated as an ETC shall be eligible for universal service low-income support. An ETC is a telecommunications carrier that is eligible to receive universal service support throughout the service area for which the designation is received. ETCs must offer the services supported by universal service using their own facilities or a combination of their own facilities and resale of another carrier’s services to each customer in its designated service area. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1).

<sup>5</sup>American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, § 6001(k) (codified at 47 U.S.C. § 1305(k)).

<sup>6</sup>Federal Communications Commission, *Connecting America: The National Broadband Plan* (rel. Mar. 16, 2010) (National Broadband Plan).

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has also initiated efforts to identify the legal approach that will best support its efforts to ensure universal access to affordable, high quality broadband services.<sup>7</sup>

We have previously reported on oversight and internal control mechanisms used by FCC to oversee other USF programs. For example, in our reviews of the USF E-rate program, we found weaknesses in the administration and operational framework and have recommended corrective actions to reduce fraud, waste, and abuse in the program.<sup>8</sup> To begin addressing these and other concerns, FCC has taken preliminary steps, such as initiating a Universal Service Working Group, to assist in FCC's efforts to modernize and reform all universal service programs.

Given the importance of the USF to the nation's telecommunications policy, significant advances in telecommunications technology, and potential USF reform efforts, you asked us to review issues surrounding all the USF programs. This report focuses on the Low-Income Program and our objectives were to review (1) how program participation and support payments have changed in the last 5 calendar years (2005-2009) and what factors may have affected program participation, (2) the extent to which FCC uses performance goals and measures to manage the program, and (3) the extent to which the program has mechanisms in place to evaluate program risks and monitor controls over compliance with program rules.

To respond to these objectives, we reviewed key orders, reports, and program assessments from FCC and the Universal Service Administrative Company (USAC), the not-for-profit corporation that administers the Low-Income Program under a Memorandum of Understanding with FCC,<sup>9</sup> and interviewed officials from both organizations and other stakeholders with knowledge of the program. The stakeholders were identified from a variety of sources and include academicians and think tanks,

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<sup>7</sup>See *Framework for Broadband Internet Service*, Notice of Inquiry, 25 FCC Rcd 7866 (2010).

<sup>8</sup>See GAO, *Telecommunications: Greater Involvement Needed by FCC in the Management and Oversight of the E-Rate Program*, GAO-05-151 (Washington, D.C.: Feb. 9, 2005); GAO, *Telecommunications: Long-Term Strategic Vision Would Help Ensure Targeting of E-rate Funds to Highest-Priority Uses*, GAO-09-253 (Washington, D.C.: Mar. 27, 2009); and GAO, *Telecommunications: FCC Should Assess the Design of E-Rate Program's Internal Control Structure*, GAO-10-908 (Washington, D.C.: Sept. 29, 2010).

<sup>9</sup>Memorandum of Understanding Between the Federal Communications Commission and the Universal Service Administrative Company, (September 2008).

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telecommunications providers, third parties contracted to administer the program and related committees, and trade and industry groups. To develop an understanding of how the program works in specific locations, we conducted site visits in California, the District of Columbia, Florida, and Iowa. We chose these locations based on criteria such as the telephone subscribership rate of low-income households and the participation rate of eligible low-income households. During the visits, we interviewed officials from state public utility commissions, ETCs (wireline and wireless), consumer advocates, and other entities as applicable, as well as obtained pertinent documentation. In addition, we analyzed participation and disbursement data from USAC and identified key trends. We conducted testing to ensure the reliability of the data and reviewed the methodology used by USAC to estimate program participation rates. As a result, we determined that the data were sufficiently reliable for the purposes of this report. We also conducted a Web-based survey to gather information from state public utility commissions on how, if at all, roles and responsibilities vary by state; barriers to program participation, if any; advertising and outreach activities by state public utility commissions and ETCs; and internal control procedures. The survey was available online to officials in the 50 states and the District of Columbia on a secure Web site and our response rate was 100 percent. This report does not contain all the results from the survey. The survey and a more complete tabulation of the results can be viewed at GAO-11-13SP.

Finally, we reviewed the program's performance goals and measures and the mechanisms used by FCC and USAC to evaluate risk and monitor compliance with program rules. We compared this information against our guidance on useful practices for developing successful goals and measures and our standards for internal controls in the federal government, as well as Office of Management and Budget (OMB) guidance on internal controls.<sup>10</sup>

We conducted this performance audit from October 2009 through October 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for

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<sup>10</sup>GAO, *Agency Performance Plans: Examples of Practices That Can Improve Usefulness to Decisionmakers*, GGD/AIMD-99-69 (Washington, D.C.: Feb. 26, 1999); GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999); and Office of Management and Budget, *Management's Responsibility for Internal Control*, Circular No. A-123 (Washington, D.C., Dec. 21, 2004).

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our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. See appendix I for more information about our scope and methodology.

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## Background

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### The Nation's Universal Service Policy and the Low-Income Program Developed Over Time

The idea that communication services should be available “so far as possible, to all the people of the United States,”— has been a goal of telecommunications regulation since Congress enacted the Communications Act of 1934.<sup>11</sup> Efforts by FCC, state regulators, and industry to promote universal service generally began in the 1950s. Traditionally, universal service has meant providing residential customers with affordable access nationwide to basic telephone service.

In the mid-1980s, FCC changed the way local telephone companies recovered fixed costs and implemented a federal fee for telephone service paid by the subscriber. Though FCC found no evidence this fee would cause low-income consumers to cancel telephone service, it was nevertheless concerned about the below-average telephone subscribership rates of low-income households—80 percent compared to 92 percent for all households in 1984—and their ability to afford telephone service.<sup>12</sup> As a result, FCC initiated two programs to make telephone service affordable for low-income households: Lifeline, which discounts monthly service, and Link Up, which discounts the connection charges associated with telephone service installation.

Congress codified the nation's commitment to universal service and made significant changes to universal service policy through the telecommunications Act of 1996 (1996 Act).<sup>13</sup> The 1996 Act provided

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<sup>11</sup>47 U.S.C. § 151.

<sup>12</sup>The first Lifeline program was instituted because of the concern that the new fee might drive low-income subscribers to cancel service. However, the focus of the program soon changed to an emphasis on active expansion, rather than mere preservation, of telephone service among low-income households. See Common Carrier Bureau, FCC, *Preparation for Addressing Universal Service Issues: A Review of Current Interstate Support Mechanisms* (1996).

<sup>13</sup>Pub. L. No. 104-104, 110 Stat. 56 (1996).

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explicit statutory support for federal universal service policy and directed FCC to establish a Federal-State Joint Board on Universal Service (Joint Board) to make recommendations to FCC on implementing universal service provisions of the 1996 Act.<sup>14</sup> The 1996 Act also described universal service as an evolving level of telecommunications services the Commission should periodically review, taking into account advances in telecommunications and information technologies and services.<sup>15</sup> In accordance with its definition of universal service, FCC found that basic telephone service must include, among other things, local usage, access to emergency service such as 911, access to operator services, access to long distance service, access to directory assistance, and toll limitation for qualifying low-income consumers.<sup>16</sup>

Further, the 1996 Act stated that every telecommunications carrier providing interstate telecommunications services was required to contribute to federal universal service, unless exempted by FCC. The contributions were to be equitable, nondiscriminatory, and explicit. In addition, FCC was authorized to require any other providers of interstate telecommunications to contribute if the public interest so required.<sup>17</sup> Contributions are deposited into the USF, which was established by FCC in 1997 to meet the specific objectives and principles contained in the 1996 Act.<sup>18</sup> Each quarter, FCC calculates a contribution rate for all contributors based on the needs of the universal service programs and assesses it as a percentage of the carriers' interstate revenue. In the second quarter of 2010,<sup>19</sup> the contribution rate was a historically high 15.3 percent of

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<sup>14</sup>47 U.S.C. § 254.

<sup>15</sup>47 U.S.C. § 254(c).

<sup>16</sup>See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 (1997) (1997 Universal Service Order); 47 C.F.R. § 54.101(a).

<sup>17</sup>47 U.S.C. § 254 (d).

<sup>18</sup>FCC had originally created a Universal Service Fund in 1983 to help keep telephone rates reasonable in high-cost areas. See *MTS and WATS Market Structure*, Third Report and Order, 93 FCC 2d 241 (1983).

<sup>19</sup>In the third quarter of 2010, the contribution rate was 13.6 percent and it is projected to be 12.9 percent in the fourth quarter of 2010. See *Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2010*, available at <http://www.universalservice.org/overview/filings> (filed April 30, 2010) (USAC Filing for Third Quarter 2010 Projections) and *Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2010*, available at <http://www.universalservice.org/overview/filings> (filed August 2, 2010) (USAC Filing for Fourth Quarter 2010 Projections).

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carriers' interstate end user revenue. Carriers generally pass the cost of the USF contribution on to their customers, typically in the form of a line item on the monthly telephone bill. The Low-Income Program is one of two significant parts of the USF that remains uncapped, meaning that there is no limit to its growth.

Specific to the Low-Income Program, the 1996 Act expressed the principle that telephone rates should be affordable and that access should be provided to "low-income consumers" in all regions of the nation.<sup>20</sup> As a result, in its 1997 Universal Service Order, FCC made Lifeline and Link Up available in all states regardless of whether the states provided matching funds, required all ETCs to offer Lifeline service, and included toll limitation service.<sup>21</sup>

Since the passage of the 1996 Act, FCC has taken actions aimed at increasing participation in the Low-Income Program.

- In June 2000, FCC released the Tribal Order, which enhanced the federal Lifeline and Link Up programs to better serve residents living on or near federally recognized tribal lands and reservations.<sup>22</sup>
- With its April 2004 order, and consistent with the Joint Board's recommendations, FCC aimed to increase participation in the Low-Income Program by expanding the federal default eligibility to include an income-based criterion of 135 percent of the federal poverty guidelines and

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<sup>20</sup>In the 1996 Act, Congress articulated a national goal that consumers in all regions of the nation, including low-income consumers, should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas. 47 U.S.C. § 254 (b)(2), (3). See also *1997 Universal Service Order*, 12 FCC Rcd 8776, 8955, para. 335 (1997).

<sup>21</sup>Prior to 1996, the Lifeline discount was only available to residents of states that provided an intrastate discount that was then matched by a federally administered discount. Toll limitation was added to address the Joint Board observation that studies demonstrated that a primary reason subscribers lose access to telecommunications services is failure to pay long distance bills. See *1997 Universal Service Order*, 12 FCC Rcd 8776, 8980, para. 385 (1997). The U.S. Court of Appeals for the Fifth Circuit found that the Commission lacked jurisdiction to prohibit ETCs from disconnecting Lifeline customers for failure to pay toll charges. *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 421-25 (5th Cir. 1999).

<sup>22</sup>See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Mem. Op. and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208 (2000) (*Tribal Order*).

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additional means tested programs.<sup>23</sup> According to FCC, at that time only one-third of eligible households were enrolled in Lifeline. In a staff analysis, included as an appendix to the order, FCC estimated that adding the income-based criterion could increase participation in Lifeline by approximately 1.2 million to 1.3 million households. The order also included outreach guidelines and revised verification and certification procedures.<sup>24</sup>

- In 2005, FCC granted TracFone forbearance from the facilities requirement for ETC designation for Lifeline support only.<sup>25</sup> TracFone is a nonfacilities based, commercial mobile radio services (wireless) provider offering prepaid service. While FCC found that TracFone's universal service Lifeline offering (known as SafeLink Wireless) would provide a variety of benefits to Lifeline-eligible consumers including increased consumer choice, program participation, high-quality service offerings, and mobility, FCC did not quantify or estimate potential increases in participation and support payments for the Low-Income Program.<sup>26</sup>

The Commission required TracFone to meet several conditions regarding access to 911 and enhanced 911 (E911). In addition, TracFone had to require its customers to self-certify at the time of service activation and annually thereafter that they are the head of household and receive Lifeline-supported service only from TracFone; establish safeguards to prevent its customers from receiving multiple TracFone Lifeline subsidies

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<sup>23</sup>See *Lifeline and Link Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004).

<sup>24</sup>The order required all consumers in all states qualifying under an income-based eligibility to provide supporting documentation and self-certify by signing a statement, under penalty of perjury, the number of individuals in the household and that the presented documentation accurately represents their annual household income. Eligible consumers in federal default states are required to self-certify by signing a statement, under penalty of perjury, that they are eligible for the Lifeline and Link Up programs based on their participation in a qualifying public assistance program. States that provide intrastate support for the Lifeline program are allowed to devise stricter measures as they deem appropriate. See 19 FCC Rcd at 8317, 8319-8322, paras. 23, 27-31 (2004).

<sup>25</sup>Forbearance is relief from a provision of the 1996 Act or a commission rule if certain statutory criteria are met. See 47 U.S.C. § 160(c). Section 214(e) of the 1996 Act requires that ETCs offer service using its own facilities or a combination of its own facilities and resale of another carrier's services.

<sup>26</sup>See *Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*).

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at the same address; and file with the Commission a plan outlining the measures TracFone would take to implement these conditions.<sup>27</sup>

- In 2008, TracFone submitted its plan to meet the conditions for ETC designation status and was approved by FCC as an ETC in its licensed service areas for the purpose of receiving Lifeline support.<sup>28</sup> FCC later modified a condition imposed on TracFone regarding certification requirements to confirm that it provides customers with access to basic and E911 service.<sup>29</sup>
- In a May 2010 order, the Commission asked the Joint Board to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs, given among other things, the

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<sup>27</sup>Specifically, FCC required TracFone to: (1) provide its Lifeline customers with 911 and E911 access regardless of activation status and availability of minutes; (2) provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (3) comply with conditions (1) and (2) as of the date it provides Lifeline service; (4) obtain a certification from each public-safety answering point (PSAP) where the carrier provides Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certify that it does so if certain conditions are met; (5) require each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier; (6) establish safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address; (7) deal directly with the customer to certify and verify the customer's Lifeline eligibility; and (8) submit to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement these conditions. See *TracFone Forbearance Order*, 20 FCC Rcd at 15098-99, 15104, paras. 6, 19.

<sup>28</sup>The service areas were Alabama, Connecticut, Delaware, the District of Columbia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, and Virginia. According to FCC, the relevant state commissions in these states lacked the jurisdiction to designate TracFone as an ETC. See *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al., Order*, 23 FCC Rcd 6206 (2008) (*TracFone ETC Designation Order*). In states that have the jurisdiction to designate TracFone as an ETC, TracFone must file petitions for ETC designation with the relevant state commissions and is required to meet any of their conditions.

<sup>29</sup>In March 2009, FCC modified a forbearance condition imposed on TracFone. Specifically, TracFone must request a certification from each PSAP where it provides Lifeline service confirming that TracFone provides its customers with access to basic and E911 service; however, if, within 90 days of TracFone's request a PSAP has not provided the certification and the PSAP has not made an affirmative finding that TracFone does not provide its customers with access to 911 and E911 service within the PSAP's service area, TracFone may self-certify that it meets the basic and E911 requirements. See *TracFone Forebearance Modification Order*, 24 FCC Rcd 3375 (2009).

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potential expansion of the Low-Income Program to broadband, as recommended in the National Broadband Plan.<sup>30</sup>

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### Low-Income Program is Implemented Through Three Mechanisms

The Low-Income Program provides support for low-income consumers through three mechanisms: (1) Lifeline, (2) Link Up, and (3) Toll Limitation Service.

- Lifeline reimburses ETCs for discounting eligible customers' monthly bill for basic telephone service. The discount is available for only one telephone connection per household.<sup>31</sup> Lifeline support is distributed in four tiers with varying discounts.<sup>32</sup> According to our survey responses, in 2010, the maximum monthly Lifeline discount available to consumers—federal and intrastate discount combined—ranged from \$7 to \$38.50 per month; the average maximum discount was \$14.43 per month.<sup>33</sup>
- Link Up reimburses ETCs for discounting either wireline or wireless service connection charges incurred when an eligible consumer starts service for the first time or at a new address.<sup>34</sup> An eligible consumer may

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<sup>30</sup>See *Federal-State Joint Board on Universal Service Lifeline and Link Up*, Order, 25 FCC Rcd 5079 (2010) (*Referral Order*). The Joint Board has sought comments on the questions presented in the Referral Order. See *Federal-State Joint Board on Universal Service Seeks Comments on Lifeline and Link Up Eligibility Verification, and Outreach Issued Referred to Joint Board*, Public Notice, 25 FCC Rcd 7551(2010).

<sup>31</sup>See 47 C.F.R. § 54.403; see also *Lifeline and Link Up*, 19 FCC Rcd at 8306, para. 4 (2004) (specifying that support for Lifeline subscribers is for “a single telephone line in their principal residence”); *1997 Universal Service Order*, 12 FCC Rcd at 8957, para. 341.

<sup>32</sup>Tier 1 support is available to all eligible Lifeline subscribers and is equal to the incumbent ETC's actual federal tariffed subscriber line charge. The subscriber line charge and, therefore, Tier 1 support, is capped at \$6.50. Tier 2 support is equal to \$1.75 per month and is available if the carrier certifies that it will pass the full amount to its qualifying low-income consumers and if the carrier has received any nonfederal regulatory approvals necessary to implement the required rate reduction. Tier 3 support is equal to one-half the amount of any intrastate provided support or one-half the amount of any support provided by the carrier. Tier 3 support is capped at \$1.75 per month. Tier 4 support is available to eligible residents of tribal lands and may not exceed \$25 or bring the local residential telephone rate below \$1 per month. 47 C.F.R. § 54.403.

<sup>33</sup>States with tribal populations included the tribal subsidy when reporting for this question. At the same time, some states provide more than the \$3.50, which would maximize the Tier 3 “matched” portion of the discount.

<sup>34</sup>Link Up discounts cannot be applied to the cost of purchasing a wireless phone, prepaid wireless phone, or wiring inside a home.

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only receive the Link Up discount once, unless that consumer moves to a new residence; consecutive discounts at the same address are not allowed. Eligible consumers pay one-half of the customary telephone connection charge with a maximum discount amount of \$30; an additional discount is available to eligible residents of tribal lands. Further, all eligible consumers can pay the balance of the connection fee on a deferred payment schedule.<sup>35</sup>

- Toll Limitation Service (TLS) reimburses ETCs for providing toll blocking or toll control to eligible consumers at no cost to the customer. Toll blocking allows consumers to order a service that prevents the completion of outgoing toll calls. Toll control allows consumers to specify a limit on the amount of toll charges that can be incurred per billing cycle.<sup>36</sup>

To provide Lifeline and Link Up, carriers must be designated as ETCs by their state commissions or FCC.<sup>37</sup> States have the primary responsibility for designating ETCs. In a situation where the telecommunications carrier is not subject to the jurisdiction of a state commission, FCC may designate the carrier as an ETC. In the states that do not have or choose not to assert jurisdiction over wireless carriers, FCC has the authority to designate wireless carriers as ETCs.

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## Low-Income Program Administration and Eligibility

FCC, USAC, state public utility commissions, and ETCs all have responsibilities in the administration of the Low-Income Program. Table 1 summarizes the general responsibility of each entity.

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<sup>35</sup>47 C.F.R. § 54.411.

<sup>36</sup>47 C.F.R. § 54.403(c).

<sup>37</sup>See 47 U.S.C. § 214(e); 47 C.F.R. § 54.201.

**Table 1: General Responsibilities of Entities Involved in Low-Income Program Administration**

Entity	Description
FCC	Set policy Make and interpret rules Provide oversight and outreach for the program Conduct and oversee audits of companies receiving money from the USF In the states with no intrastate Lifeline support, set eligibility criteria and develop certification and verification procedures Designate carriers as ETC
USAC	Day-to-day administration of the federal USF Bill and collect contributions from carriers Disburse payments Conduct audits of contributors and recipients Report to FCC at regular intervals with financial and programmatic information
State public utility commission	Designate carriers as ETCs In the states that provide intrastate Lifeline support, set eligibility criteria and develop certification and verification procedures
ETC	Submit forms for reimbursement of discounts offered to Low-Income Program recipients Advertise the availability of the program Certify applicant eligibility in some states Verify the continued eligibility of Lifeline subscribers

Source: GAO analysis of FCC and USAC information.

States that choose not to provide intrastate Lifeline support must adhere to eligibility criteria and administrative processes developed by FCC and are referred to as “federal default states.”<sup>38</sup> FCC authorized states that provide intrastate support to develop their own eligibility criteria and administrative processes—including reviewing applications, certifying eligibility, and verifying recipients’ continued eligibility for the Lifeline program.<sup>39</sup> As a result, eligibility criteria and the entity responsible for handling the administrative processes vary across states. (See app. II for more detail on Lifeline eligibility criteria and administrative processes and responsibilities.)

<sup>38</sup>States that provide intrastate Lifeline support but choose to use the eligibility criteria and administrative processes developed by FCC are also referred to as “federal default states.”

<sup>39</sup>See e.g., 47 C.F.R. §§ 54.409 (consumer qualification for Lifeline), 54.410 (certification and verification of consumer qualification for Lifeline), 54.415 (consumer qualification for Link Up), 54.416 (certification of consumer qualification for Link Up). States must base eligibility criteria solely on income or factors directly related to income. 47 C.F.R. §§ 54.409(a), 54.415(a).

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## **Lifeline Service Options and Restrictions**

**Lifeline service options for low-income households vary across states. According to our survey, as of June 2010, wireless ETCs were eligible to offer Lifeline discounts in 48 states. However, in 13 of the 48 states with wireless ETCs, the state only provides the intrastate funded benefit to wireline customers, meaning that wireless customers in those states may receive a smaller discount than wireline customers. Additionally, at least one prepaid Lifeline option is available in 25 of the 48 states where wireless ETCs are eligible to participate in Lifeline.**

**Restrictions regarding the application of the Lifeline discount also vary across states. For instance, in some states, recipients of Lifeline support may not purchase additional telecommunications features, such as call-waiting or voicemail service, and continue to receive the Lifeline discounts. In addition, according to our survey, Lifeline recipients in 14 states may not apply the Lifeline discount to a bundled service offering<sup>40</sup> or other package that includes telephone service.**

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## **Program Participation and Support Payments Have Increased Primarily Due to the Addition of Prepaid Wireless as an Eligible Service, but Barriers to Participation Remain**

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<sup>40</sup>For the purposes of this report, a bundled service offering is one that allows consumers to subscribe to packages that combine telephone service with internet access and/or television service.

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**While Program Participation and Payments Were Relatively Stable from 2005 to 2008, both Increased in 2009**

Both participation in Lifeline (which we used as an indicator of overall participation in the Low-Income Program),<sup>41</sup> and support payments to ETCs increased in 2009. As shown in figure 1, from calendar years 2005 through 2008, the total number of Lifeline participants was relatively stable—between 6.9 and 7.1 million annually—but increased to 8.6 million in 2009.<sup>42</sup> Likewise, Low-Income support payments to ETCs were relatively stable from 2005 to 2008—between approximately \$802 and \$823 million annually.<sup>43</sup> However, due to increased program participation, support payments in 2009 increased to approximately \$1.025 billion, or 25 percent more than 2008 (see fig.1). USAC projects Low-Income support payments to reach approximately \$1.4 billion in 2010; this would result in a single-year 36 percent increase.<sup>44</sup> According to USAC, the Low-Income Program is currently the fastest growing universal service support program.

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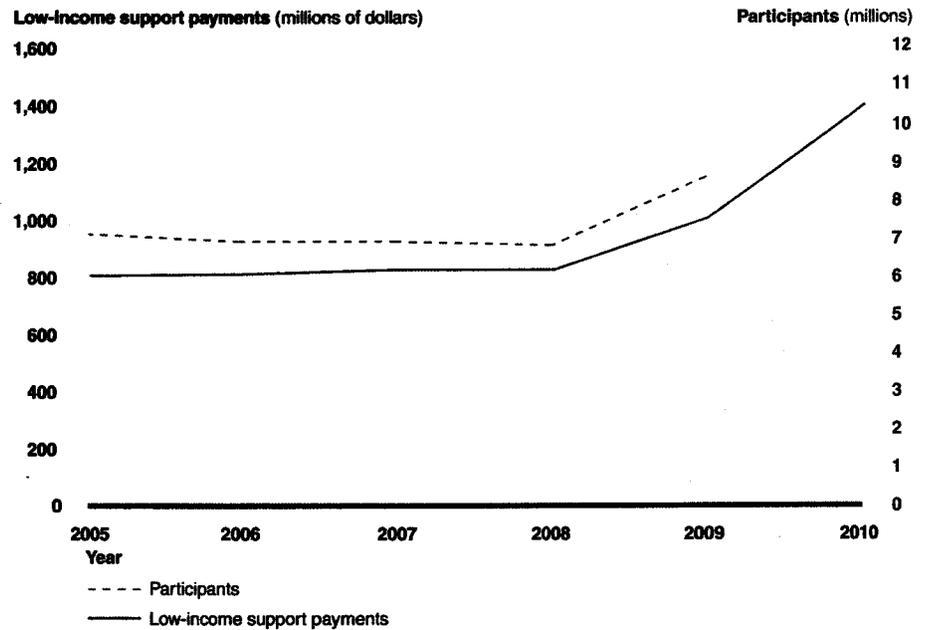
<sup>41</sup>We used Lifeline as an indicator of overall participation because it is the largest of the three Low-Income Program mechanisms and recurs on a monthly basis.

<sup>42</sup>For program participation data for years 2005-2008, see *Universal Service Monitoring Report*, prepared for the Federal-State Joint Board on Universal (Data through August 2009), (Washington, D.C., 2009). Available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-295442A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-295442A1.pdf) (Sept. 10, 2010). For 2009 data, see Universal Service Administrative Company, *FCC Filings 2010, Third Quarter Appendices, LI08 - Lifeline Subscribership by State or Jurisdiction*.

<sup>43</sup>For support payments for years 2005-2006, see *Universal Service Monitoring Report*, Prepared for the Federal-State Joint Board on Universal (Data through August 2009), (Washington, D.C., 2009). Available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-295442A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-295442A1.pdf). (Sept. 10, 2010) For years 2007-2008, see Universal Service Administrative Company, *FCC Filings 2010, Fourth Quarter Appendices, LI07 - Low-Income Support Distributed by State*.

<sup>44</sup>For 2009 support payments, see Universal Service Administrative Company, *FCC Filings 2010, Fourth Quarter Appendices, LI07 - Low-Income Support Distributed by State*. For the 2010 projection, see Universal Service Administrative Company, *First Quarter, Second Quarter, Third Quarter, and Fourth Quarter Appendices, LI01 - Low-Income Support Projected by State by Study Area 4Q2010*.

**Figure 1: Total Number of Low-Income Support Payments and Lifeline Participants, Calendar Years 2005 – 2010\***



Source: GAO analysis of USAC data.

\*Support payments projected by USAC for 2010; participation data were not available for 2010.

The estimated participation rate, or the percentage of eligible households believed to be receiving Lifeline support,<sup>45</sup> also increased from 28.6 percent in 2008 to 31.9 percent in 2009.<sup>46</sup> During that year, the estimated participation rate increased in 31 states and the District of Columbia. The following 11 states and the District of Columbia had increases of greater than 10 percent: Alabama, Alaska, Florida, Georgia, Louisiana, Massachusetts, Michigan, New Jersey, North Carolina, Tennessee, and Virginia.<sup>47</sup>

<sup>45</sup>USAC uses census data and other publicly available data to estimate the number of eligible households in each state, based on the state's eligibility criteria.

<sup>46</sup>Historically, participation rates have varied across states. See app. III for participation rates across states in 2009.

<sup>47</sup>Conversely, estimated participation rates declined in 19 states.

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## The Addition of Prepaid Wireless as an Eligible Service Was the Primary Factor to Increased Participation and Payments in 2009

According to USAC and FCC officials and other stakeholders, such as the Florida Public Service Commission, increases in Lifeline in 2009 were primarily due to the addition of free, prepaid wireless cell service by TracFone. Instead of discounting a monthly telephone bill for Lifeline service, TracFone's Lifeline service (SafeLink Wireless) converts the total amount of the USF subsidy into an allotment of free minutes each month. The company provides a free handset and offers an option of three calling plans that provide from 68 to 250 usage minutes per month with no contracts, recurring fees, or monthly charges.<sup>48</sup> Consumers may purchase additional usage minutes for \$0.20 per minute.<sup>49</sup>

In 2009, TracFone provided Lifeline service in 19 states and the District of Columbia, all of which experienced an increase in their estimated Lifeline participation rate. In addition, TracFone served 9 of the 12 states (including the District of Columbia) that had a more than 10 percent increase in their estimated Lifeline participation rate. During 2009, TracFone received \$189.7 million in Low-Income support payments, accounting for approximately 18 percent of total Low-Income support payments and more than 90 percent of the increase in disbursements from 2008 to 2009.<sup>50</sup> According to TracFone officials, the company has always considered low-income consumers its customer base and, thus, has experience advertising and marketing to this population. They also told us that while other ETCs may advertise the availability of Lifeline services to comply with the program's requirements, TracFone's participation in the Lifeline program is an integral part of the company's business model and

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<sup>48</sup>TracFone's SafeLink program offers eligible consumers a choice of three monthly plans: (1) 68 minutes per month with carryover, short message service, and international long distance to more than 80 countries; (2) 125 minutes with carryover, short message service, and no international long distance; or (3) 250 minutes, short message service, no carryover and no international long distance. Some stakeholders said prepaid wireless offerings for Lifeline provide a viable option for eligible low-income households. Other stakeholders expressed concerns that because prepaid wireless offerings for Lifeline have a finite number of minutes, they do not provide the same quality of service as wireline and other wireless Lifeline offerings with unlimited minutes.

<sup>49</sup>TracFone has committed to provide additional minutes for \$0.10 per minute to SafeLink customers in South Carolina and Washington D.C., when service is launched in those states. The number of additional minutes purchased by SafeLink Wireless customers is not tracked by FCC or USAC.

<sup>50</sup>Universal Service Administrative Company, *FCC Filing 2010, Fourth Quarter Appendix, LI05-Annual Low-Income Support Amounts by State and Company-2007 through 1Q 2010*.

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enrolling low-income customers is in the company's interest.<sup>51</sup> Therefore, the company aggressively advertises SafeLink Wireless. According to TracFone officials, the company spent approximately \$2.4 million to advertise its Lifeline service in January 2010.

Overall, USAC officials expect Low-Income Program participation and support payments to continue to increase beyond 2010 because (1) TracFone is actively seeking ETC designation in additional states<sup>52</sup> and (2) other companies, such as Virgin Mobile Wireless, are following the TracFone model and seeking regulatory authority from FCC and states to become eligible to participate in the Low-Income Program.<sup>53</sup>

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### State Officials Attributed Some Participation Increases to Targeted Advertising and Outreach Efforts

State officials attributed some of the increase in program participation to their state's targeted advertising and outreach. Of the locations we visited, the state public utility commissions in California, Washington, D.C., and Florida take an active role in advertising and conducting outreach activities for the program. California officials attributed the state's high Lifeline participation, in part, to targeted outreach to low-income households. According to Florida officials, its outreach efforts are having a positive impact on program participation. Table 2 lists selected activities in each state we visited.

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<sup>51</sup>FCC requires carriers to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. See 47 C.F.R. §§ 54.405(b); 54.411(d). See also 47 U.S.C. § 214(e)(1)(B).

<sup>52</sup>As of July 2010, TracFone had obtained ETC status to provide Lifeline in 25 states.

<sup>53</sup>In 2009 FCC forbore from applying the facilities requirement to Virgin Mobile and granted Virgin Mobile limited designation as an ETC to receive universal service Lifeline support in its licensed areas in New York, North Carolina, Tennessee, and Virginia. See *Virgin Mobile Forebearance and Limited ETC Designation Order*, 24 FCC Rcd 3381 (2009). In 2010, FCC forbore from applying the facilities requirement to i-wireless; Head Start Telecom; Consumer Cellular, Inc.; Line Up, LLC; and Midwestern Telecommunications (FCC denied Midwestern's request to extend forbearance to Link Up). See, *i-wireless Forebearance Order*, 25 FCC Rcd 8784 (2010); *Head Start Telecom; Consumer Cellular, Inc.; Line Up, LLC; and Midwestern Telecommunications Forebearance Order*, 25 FCC Rcd 10510 (2010); *Conexions Forebearance Order*, FCC 10-178, 2010 FCC LEXIS 5963 (rel. Oct. 1, 2010) (FCC denied Conexions request to extend forbearance to Link-Up).

**Table 2: Selected Advertising and Outreach Activities by States We Visited**

State	Selected advertising and outreach activities
California	California requires ETCs to send all customers an annual notice that contains information about Lifeline. Since 2006, the state has hired a contractor to do marketing and outreach for the Lifeline program, which includes print, radio, and television advertisements for the program.
District of Columbia	District of Columbia requires ETCs to provide outreach information. In addition, the D.C. Department of the Environment is given a total of \$40,000 from the D.C. Universal Service Trust Fund to advertise the availability of Lifeline and three other utility discount programs.
Florida	Florida requires ETCs to advertise Lifeline in telephone directories and an annual bill supplement. In addition, ETCs must provide brochures, pamphlets, or other materials to each state and federal agency providing benefits to persons eligible for Lifeline.
Iowa	As a state that does not provide matching support (federal default state), Iowa is not heavily involved in advertising or outreach for the program.

Source: GAO analysis of state program information.

According to our survey of state public utility commissions, states and ETCs advertise in various ways, as shown in table 3.

**Table 3: Advertising and Outreach Methods Used by States and ETCs**

Advertising and outreach method	Number of states that reported using the advertising or outreach method	Number of states that reported ETCs using the advertising or outreach method
Print advertisements (pamphlets, bill inserts, posters, billboards)	28	44
Press releases	26	24
Outreach to community groups	25	32
Partnerships with nonprofit organizations	19	26
Newspaper	12	36
Radio	9	28
Television	7	25
Other	11	8

Source: GAO survey.

In addition to the efforts of states and ETCs, FCC and USAC also provide advertising and outreach assistance for the Low-Income Program. FCC developed outreach guidelines for states and ETCs to help improve program participation. To further address low estimated participation rates, USAC developed outreach activities that are targeted to states and ETCs and include speaking and exhibiting at industry events; information

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in Web site postings; training sessions for ETCs; newsletters, brochures, outreach letters, and e-mail updates; and site visits to states.

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**Some Program Characteristics, Such as Automatic Enrollment, Expanded Eligibility Criteria, and Higher Discounts May Have Increased Participation**

Some states and other stakeholders reported that automatic enrollment increases participation in Lifeline. Automatic enrollment uses an electronic interface between a state agency and a carrier to automatically enroll low-income individuals in Lifeline following enrollment in a qualifying public assistance program such as Medicaid or Supplemental Security Income. According to the research of one stakeholder we interviewed, automatic enrollment procedures are effective ways to increase program participation.<sup>54</sup> Through our survey, nine states reported using automatic enrollment for their Lifeline programs and two reported that plans were under way to develop an automatic enrollment system. According to Florida officials, implementation of the automatic enrollment process has had a significant impact on increased enrollment and provides the potential to reach greater numbers of eligible customers. In its 2004 order, FCC declined to require states to adopt automatic enrollment, in part, because of potential administrative, technological, and financial burdens on states and ETCs.<sup>55</sup> FCC is revisiting this issue and has asked the Joint Board whether automatic enrollment should be required in all states.<sup>56</sup> Further, the National Broadband Plan recommends FCC should encourage state agencies responsible for Lifeline and Link Up programs to coordinate with other low-income support programs to streamline enrollment for benefits using processes such as automatic enrollment.

Further, expanded eligibility criteria for Lifeline can potentially increase participation. For example, The Patient Protection and Affordable Care Act expands Medicaid in 2014 to a new nationwide eligibility threshold of 133 percent of the poverty level.<sup>57</sup> This is likely to expand the number of eligible consumers in some states, such as Montana, that have more restrictive criteria and use Medicaid as a qualifying program. In all states,

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<sup>54</sup>Daniel Ackerman, Michael Riordan, Gregory Rosston, Bradley Wimmer, *Low-Income Demand for Local Telephone Service: Effects of Lifeline and Link Up*, August 2009.

<sup>55</sup>See *Lifeline and Link Up, Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd at 8318-8319, paras. 25-26 (2004).

<sup>56</sup>See *Federal-State Joint Board on Universal Service Lifeline and Link Up, Order*, 25 FCC Rcd at 5086, para. 19 (2010) (*Referral Order*).

<sup>57</sup>Pub. L. No. 111-148, 124 Stat. 119 (2010).

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eligibility is linked to participation in one or more programs, such as Medicaid or the Supplemental Nutrition Assistance Program. Some researchers found that states that use a higher number of qualifying programs—meaning they provide more options for consumers to qualify for the program—have higher participation in Lifeline.<sup>58</sup> FCC has asked the Joint Board to review and recommend any necessary changes to the combination of federal and state rules that govern which consumers are eligible to receive Lifeline and Link Up discounts.<sup>59</sup>

Higher discounts may also increase participation in the Lifeline program. According to FCC, states that have provided a relatively high level of Lifeline support<sup>60</sup> for telephone service for low-income consumers experienced an average increase in subscribership of 4.6 percentage points for low-income households from March 1997 to March 2009.<sup>61</sup> In contrast, states that provided a relatively low level of Lifeline support experienced an average increase of 2.9 percentage points in telephone subscribership rates for low-income households over the same time period.<sup>62</sup> Additionally, the Public Utility Research Center at the University of Florida found that greater Lifeline support led to higher participation rates.<sup>63</sup>

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<sup>58</sup>Mark Burton, Jeffrey Macher, and John Mayo, "Understanding Participation in Social Programs: Why Don't Households Pick up the Lifeline?" *The B.E. Journal of Economic Analysis and Policy*, vol. 7, no. 1, (2007).

<sup>59</sup>See 25 FCC Rcd 5079 (2010) (*Referral Order*).

<sup>60</sup>FCC defined "full or high assistance" states as those that provided at least \$3.00 of state support to get federal matching support of at least \$1.50 per line per month. "Intermediate assistance" states were defined as those that provided between \$0.50 and \$3.00 of state support and receiving between \$0.25 and \$1.50 federal matching support per line per month. Finally, "basic or low assistance" states were defined as those that provided less than \$0.50 of state support, and receiving less than \$0.25 federal matching support per line per month.

<sup>61</sup>See Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *Telephone Penetration By Income By State (Data through March 2009)*, (Washington, D.C., 2010).

<sup>62</sup>See Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *Telephone Penetration By Income By State (Data through March 2009)*, (Washington, D.C., 2010).

<sup>63</sup>Lynne Holt and Mark Jamison, *Making Telephone Service Affordable for Low-Income Households: An Analysis of Lifeline and Link Up Telephone Programs in Florida*, University of Florida, Department of Economics, Public Utility Research Center Working Paper, (2006).

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## FCC's Proposed Addition of Broadband Service Could Increase Future Participation and Payments

### Advantages and Disadvantages to FCC's Proposed Addition of Broadband Service to the Low-Income Program

Most states responding to our survey indicated that providing low-income consumers access to broadband would provide such benefits as improved access to the following:

- educational opportunities;
- employment opportunities; and
- social services.

However, states responding to our survey and other stakeholders we interviewed also indicated that there were disadvantages associated with adding broadband to the Low-Income Program. For instance, most states and other stakeholders responded that the following additional costs to the program or consumers would be a disadvantage.

- Carrier contributions to the USF, which are generally passed on to consumers, are likely to increase.
- Monthly service charges to consumers for broadband are higher compared to phone.
- The cost of obtaining hardware would remain a barrier for some low-income households.
- Program costs can grow indefinitely because there is no funding cap.

Further, some states indicated that adding broadband service to the Low-Income Program might present more potential for fraud, waste, and abuse in the program. One state reported that many states have limited oversight of broadband service which could increase the potential for the misuse of funds by ETCs. Another state reported that the inclusion of broadband service could provide customers with increased opportunities to abuse Lifeline discounts. The Joint Board also collected comments from interested parties regarding potential recommendations related to program eligibility, verification, and outreach for the Lifeline and Link Up programs and how the potential expansion of these programs to broadband would affect any of its potential recommendations. See *Federal-State Joint Board on Universal Service Lifeline and Link Up Order*, 25 FCC Rod 5079, (2010) (*Referral Order*).

If broadband service were added to the Low-Income Program, participation and support payments might increase further. An FCC task force, through the National Broadband Plan, recommended extending low-income universal service support to broadband. Most states and other stakeholders, such as trade and industry groups, that we interviewed told us that the proposed addition of discounted broadband to the Low-Income Program may increase participation by making broadband more affordable for low-income households. However, an important consideration is that with no funding cap, Low-Income Program support payments can grow indefinitely.

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## FCC, USAC, and States Also Identified Factors That May Have Created Barriers to Participation

Despite the advertising and outreach efforts in place, according to FCC, USAC, and states, some eligible households may not be aware of the Low-Income Program. According to FCC officials, this is in part due to the transitory lifestyle of some of the target population and the lack of specific advertising rules for ETCs to follow. While ETCs are required to advertise the program, FCC, as recommended by the Joint Board, elected not to require specific advertising and outreach procedures so states and ETCs could adopt specific standards and engage in outreach as they see fit. USAC officials told us that they are aware of instances in which some ETCs do not comply with FCC's general requirement to advertise the program.<sup>64</sup> In response to our survey of 51 state public utility commissions, 39 commissions reported lack of awareness as a barrier to enrolling eligible households in the program. California officials told us that even though information about the program is available in seven languages, the state has difficulty reaching and engaging some non-English-speaking populations.

Further, while FCC developed advertising guidelines for states and ETCs, the guidelines are not always aligned with our key practices for consumer education (see app. IV for more detail). For example, the guidelines do not address defining the goals and objectives of outreach efforts or establishing process and outcome metrics to measure the success of the effort. FCC has recognized the importance of effectively publicizing the programs and issued an order in 2010 asking the Joint Board to review Lifeline and Link Up, including the appropriateness of various outreach and enrollment programs.<sup>65</sup> However, the extent to which further FCC guidelines would have an effect on the program is unclear because while ETCs are required to comply with FCC's general requirement to advertise the program, states and ETCs are not required to follow FCC's advertising guidelines and the degree to which they use the guidelines is unknown.

In addition to the lack of program awareness, in response to our survey the state public utility commissions also reported other barriers, though the extent varied, as shown in figure 2. Overall, the other stakeholders we

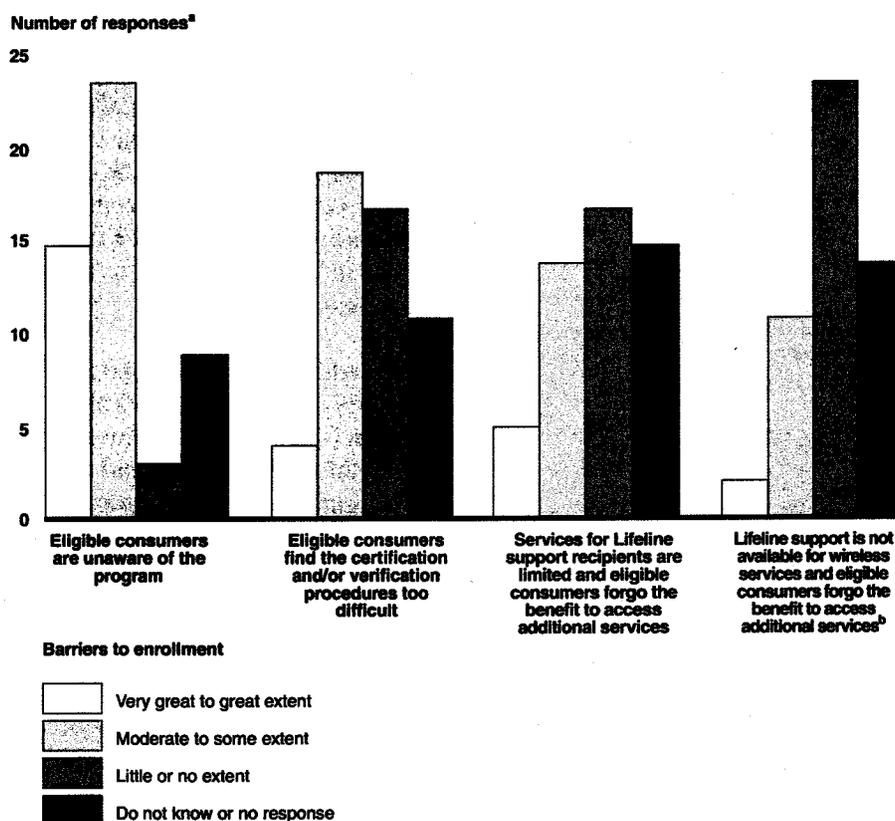
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<sup>64</sup>According to FCC officials, when USAC learns that carriers are not advertising the program, it generally contacts the carrier to remind it of FCC's advertising requirement and includes an article in a monthly newsletter to try and reinforce to all ETCs the requirement for carriers to advertise the Lifeline and Link Up programs.

<sup>65</sup>See 25 FCC Rcd 5079, (2010) (*Referral Order*).

interviewed generally cited the same barriers as the state public utility commissions.

**Figure 2: State Public Utility Commission Views on the Barriers to Enrolling Eligible Households in Lifeline**



Source: GAO analysis of survey responses.

<sup>a</sup>Additional responses under "other" included pride and stigma with receiving government assistance.

<sup>b</sup>Wireless and prepaid wireless services are eligible for Lifeline support in some states, but not in others.

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**FCC Lacks  
Performance Data to  
Manage the Program,  
but Pilot Programs, if  
Properly  
Implemented, Could  
Provide Improved  
Data to Make Critical  
Program and Policy  
Decisions in the  
Future**

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**FCC Has Taken Limited  
Steps to Develop  
Performance Goals and  
Measures for the Low-  
Income Program**

FCC's overarching goal for the Low-Income Program is to increase telephone subscribership among low-income consumers, but it has not quantified this goal.<sup>66</sup> As discussed in the following, FCC has taken some limited steps toward developing performance measures for its overarching goal and the program.

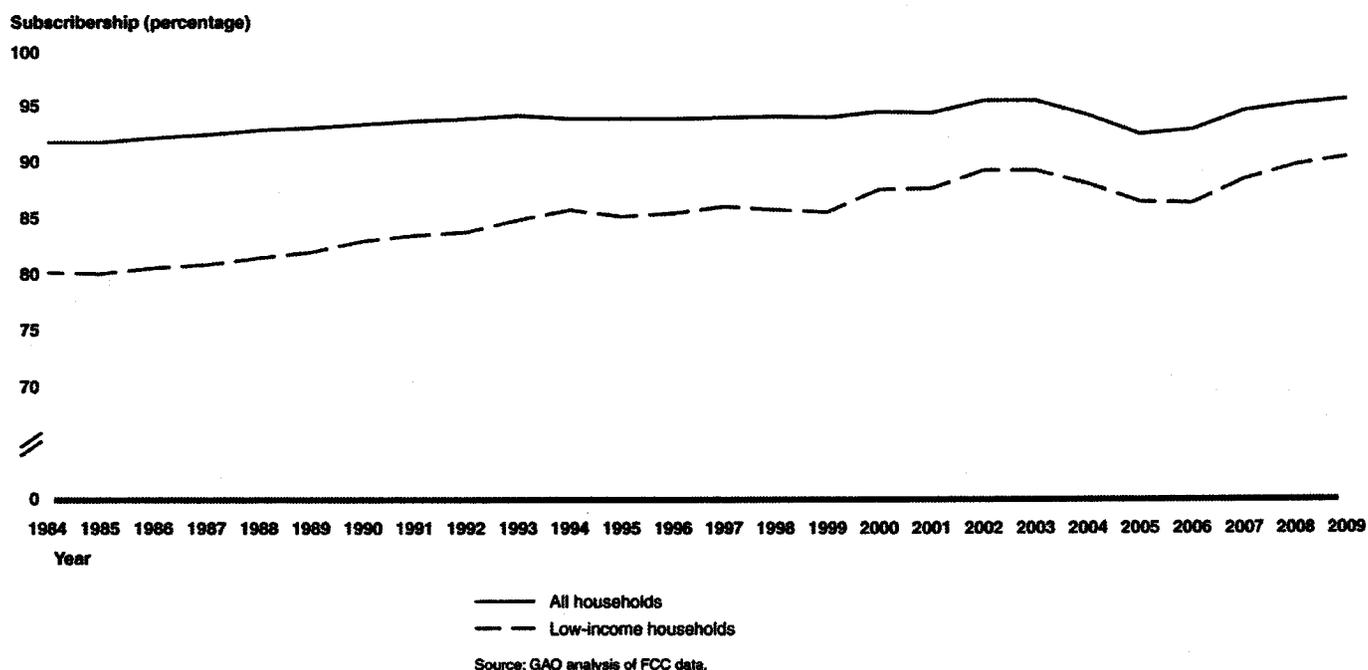
- FCC's annual report on telephone penetration by income, by state, which was first issued in 1998, also includes a related performance measure. To help evaluate the effects of federal and state Lifeline support mechanisms, the report includes telephone subscribership levels on a state-by-state basis for various income categories. The report is based on data from the Current Population Survey, which is conducted by the United States Commerce Department's Bureau of the Census. According to FCC, subscribership among low-income households has grown from approximately 80 percent in 1984, the year before FCC first established

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<sup>66</sup>See *Federal-State Joint Board on Universal Service, Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, Report and Order, 22 FCC Rcd. 16372, 16394-16395, para. 50. (2007 Comprehensive Review Order).

Lifeline, to 90 percent in 2009, as shown in figure 3.<sup>67</sup> However, this measure is not linked to a quantitative goal regarding low-income subscribership and there is no understanding of how the Low-Income Program has contributed to the increase.

**Figure 3: Telephone Subscribership of Low-Income Households Compared to All Households, 1984 – 2009**



- In June 2005, FCC issued a Notice of Proposed Rulemaking in which it sought comment on establishing useful outcome, output, and efficiency measures for each of the universal service programs, including the Low-Income Program.<sup>68</sup> In the August 2007 Report and Order, FCC developed

<sup>67</sup>Low-income households were defined as those households with an income below \$10,000 in March 1984 dollars. See Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *Telephone Penetration By Income By State (Data through March 2009)*, (Washington, D.C., 2010). In addition, one research report estimated that low-income telephone subscribership would be 4.1 percentage points lower without Lifeline and Link Up. See Ackerberg, Riordan, Rosston, and Wimmer.

<sup>68</sup>See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, 20 FCC Rcd. 11308 (2005).

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output and efficiency measures for the program which it collects from USAC on a quarterly basis, such as the number of connections supported (program participation).<sup>69</sup> FCC officials reported that it would continue to review this area and evaluate the effectiveness of the measures adopted. However, as of August 2010, FCC had not developed outcome measures or taken any action to review and evaluate the effectiveness of the output and efficiency measures because it noted that it did not have sufficient historical data from the measures to establish goals for them.

- FCC's *Fiscal Year 2009 Annual Performance Report*<sup>70</sup> and *Fiscal Year 2009 Summary of Performance and Financial Results*<sup>71</sup> include accomplishments, such as taking steps to reduce improper payments, related to improving the administration and operation of the fund. Nevertheless, these accomplishments do not specifically address the Low-Income Program or how they have impacted the provision of universal service.

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### FCC's Efforts Provide Limited Insight to the Low-Income Program's Performance

Although FCC has a single overarching goal and has made efforts to develop measures, it has not developed and implemented specific outcome-based performance goals and measures for the program. Such performance goals and measures would be very beneficial to FCC in that they would enable FCC to assess changes, such as the addition of prepaid wireless, and more effectively manage the current and future direction of the program. FCC's Chairman says modernizing universal service programs to bring the benefits of broadband to all Americans is one of FCC's top priorities, but developing clear performance goals and measures for the Low-Income Program does not appear to be a priority. Furthermore, table 4 demonstrates that, to date, FCC's efforts generally do not align with useful practices we have identified for developing successful performance goals and measures.

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<sup>69</sup>The output and efficiency measures include number of program beneficiaries (ETC); number of low-income customers for each ETC receiving low-income support; number of connections supported; time to process support payments and authorize disbursements; average dollar amount awarded and median dollar amount awarded, per carrier; Low-Income Program data, on a quarterly basis, in Excel format, with total amounts rolled up; and total amount disbursed. See *2007 Comprehensive Review Order*, 22 FCC Rcd. 16372 (2007).

<sup>70</sup>FCC, *Fiscal Year 2009 Annual Performance Report (October 1, 2008 – September 30, 2009)*, (Washington, D.C., 2010).

<sup>71</sup>FCC, *Fiscal Year 2009 Summary of Performance and Financial Results*, (Washington, D.C., 2010).

**Table 4: Alignment of FCC Efforts with Useful Practices for Developing Successful Performance Goals and Measures**

<b>Practices to enhance performance goals</b>	<b>FCC's efforts</b>	<b>How FCC's efforts align with practice</b>
Create a set of performance goals and measures that address important dimensions of a program's performance and balance competing priorities.	An overarching goal for the Low-Income Program exists—to increase subscribership among low-income consumers—but explicit performance goals and measures for how this is to be achieved and measured have not been established.	FCC's efforts do not align with this practice.
Use intermediate goals and measures to show progress or contribution to intended results.	FCC has begun to collect output data to develop performance measures for the Low-Income Program, such as the number of connections supported (program participation) and total amounts disbursed, but it has not yet determined the specific outcome-based goals of the program. Therefore, it is unclear how these output data will illustrate progress in meeting performance goals.	FCC's efforts do not align with this practice.
Include explanatory information on the goals and measures.	No effort reported.	FCC's efforts do not align with this practice.
Develop performance goals to address mission-critical management problems.	FCC issued a Report and Order in August 2007 which adopted measures to improve the management, administration, and oversight of the USF, including actions specific to the Low-Income Program, such as the number of connections supported (program participation) and total amounts disbursed. However, no performance goals were developed.	FCC's efforts somewhat align with this practice.
Show baseline and trend data for past performance.	While FCC began collecting quarterly data in August 2007, to establish a baseline for performance measures, because the Low-Income Program is in its 25th year, it is unclear if this data collection will adequately demonstrate past performance trends.	FCC's efforts somewhat align with this practice.
Identify projected target levels of performance for multiyear goals.	No targets reported.	FCC's efforts do not align with this practice.
Link the goals of component organizations to departmental strategic goals.	FCC's <i>Fiscal Year 2009 Annual Performance Report</i> and <i>Fiscal Year 2009 Summary of Performance and Financial Results</i> include accomplishments related to enhancing universal service, such as taking steps to reduce improper payments, but does not specifically address the Low-Income Program, or how it has impacted the provision of universal service.	FCC's effort somewhat align with this practice.

Source: GAO analysis of FCC efforts measured against key practices we have previously identified (GAO/GGD/AIMD-99-69).

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FCC is considering restructuring the USF and expanding the Low-Income Program to include broadband service, as recommended by the National Broadband Plan. In the plan, the FCC task force acknowledged that “there is a lack of adequate data to make critical policy decisions regarding how to better utilize funding to promote universal service objectives...as it moves forward on reforms in the plan, it should enhance its data collection [regarding universal service objectives] and reporting to ensure that the nation’s funds are being used effectively to advance defined programmatic goals.”<sup>72</sup> Further, FCC has acknowledged that as changes such as expanding the Low-Income Program to include broadband service are made to the USF, it may be necessary to develop new metrics for measuring the success of universal service policies.<sup>73</sup> Clearly articulated performance goals and measures are important to help ensure the Low-Income Program meets the guiding principles set forth by the Congress. These guiding principles include access to telecommunications and information services for all consumers. Outcome-based performance goals and measures will help illustrate to what extent, if any, the Low-Income Program is fulfilling the guiding principles set forth by the Congress.

Because there is limited information available on what the Low-Income Program in its current form is intended to accomplish, what it is accomplishing, and how well it is doing so, it remains unclear how FCC will be able to make informed decisions about the future of the program without this information. Moreover, as new technologies are developed and “access and strategies for affordability” are continually redefined, the performance and effectiveness of existing programs is important so that decision makers can design and target future programs to effectively incorporate new technologies, if appropriate.

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<sup>72</sup>FCC, *Connecting America: The National Broadband Plan*, (Washington, D.C., 2010), p. 144.

<sup>73</sup>See Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *Telephone Penetration By Income By State (Data through March 2009)*, (Washington, D.C., 2010) p. 2.

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## FCC Might Conduct Broadband Pilot Programs to Help Facilitate Future Decisions

The National Broadband Plan recommended extending low-income universal service support to broadband.<sup>74</sup> The plan also recommended that FCC facilitate pilot programs for low-income consumers that will “produce actionable information to implement the most efficient and effective long-term broadband support mechanism.”<sup>75</sup> The plan suggested that upon completion of the pilot programs, FCC should “report to Congress on such issues as whether hardware [such as computers] subsidies are a cost-effective way to increase adoption. After evaluating the results by looking at outputs such as total cost per subscriber, subscriber increases, and subscriber churn rate, FCC should begin full-scale implementation of a Low-Income Program for broadband.”<sup>76</sup>

FCC’s efforts to develop the proposed pilot programs are in the beginning stages.

- In support of the National Broadband Plan, an FCC task force conducted a survey of 5,005 Americans in October and November 2009 in an effort to understand the state of broadband adoption and use, as well as barriers facing those who do not have broadband at home.<sup>77</sup> The subsequent report includes results and analysis specific to nonadopters among low-income households. This information was used in the National Broadband Plan to help support the recommendation to extend low-income universal service support to broadband.
- In June 2010, FCC’s Wireline Competition Bureau hosted a roundtable discussion to enable interested parties to discuss the design of pilot programs that would provide subsidies for broadband access to low-income consumers. Discussion topics included long-term goals for Lifeline

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<sup>74</sup>FCC, *Connecting America: The National Broadband Plan*, Recommendation 9.1 (Washington, D.C., 2010) p. 172. Some interested parties have questioned the need to subsidize broadband. For example the Pew Research Center’s Internet & American Life Project reported that by a 53 percent to 41 percent margin, Americans do not believe that the spread of affordable broadband should be a major priority and that non-Internet users are less likely than current users to say that the government should place a high priority on the spread of high-speed connections. See Aaron Smith, *Home Broadband 2010*, Pew Internet & American Life Project, (Washington, D.C., August, 2010).

<sup>75</sup>FCC, *Connecting America: The National Broadband Plan*, Recommendation 9.1 (Washington, D.C., 2010). p. 172.

<sup>76</sup> FCC, *Connecting America: The National Broadband Plan* (Washington, D.C., 2010) p. 173.

<sup>77</sup>John Horrigan, *Broadband Adoption and Use in America (OBI Working Paper Series No. 1)*.

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and Link Up for broadband, existing data and information sources, and scope and duration of the pilot programs.

- FCC asked the Joint Board to consider how the potential expansion of the Low-Income Program to broadband would affect any of its potential recommendations regarding program eligibility, verification, and outreach.<sup>78</sup> The review is to be completed by November 2010.

It is too early to assess FCC's efforts to develop the proposed pilot programs for low-income consumers. However, it is not too early to focus on two fundamental tools related to leading practices that we and others have identified as key to developing successful programs.

First, a needs assessment is important to both the design of new programs and the assessment of existing programs.<sup>79</sup> A primary purpose of a needs assessment is to identify services that may be lacking relative to some generally accepted standard. By establishing measures of comparison, program administrators can more accurately determine how well their programs are doing in meeting the needs of the targeted population of the program. We have previously reported that needs assessments should include the following characteristics:

- benchmarks to determine whether needs have changed or emerged,
- a framework to interpret the meaning of the needs assessment results,
- a plan to determine how needs assessment results will be prioritized in supporting resource allocation decisions, and
- integration of information on other resources available to help address the need.<sup>80</sup>

Second, when conducting pilot programs, our past work has shown that agencies should develop sound implementation and evaluation plans. These plans should include data needs as part of the design of the pilot

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<sup>78</sup>See 25 FCC Rcd 5079 (2010) (*Referral Order*).

<sup>79</sup>P.H. Rossi, M.W. Lipsey, and H.E. Freeman, *Evaluation: A Systematic Approach*, (Thousand Oaks, Calif., 2004).

<sup>80</sup>GAO, *Military Personnel: Actions Needed to Achieve Greater Results from Air Force Family Needs Assessments*, GAO-01-80, (Washington, D.C.: Mar. 8, 2001).

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itself and before implementation to increase confidence in results and facilitate decision making about broader application of the pilot program.<sup>81</sup> Specifically, we have reported that well-developed implementation and evaluation plans include, at a minimum, the following key features

- identification of the necessary resources, including the responsible parties;
- well-defined, clear, and measurable objectives;
- criteria or standards for determining pilot program performance;
- clearly articulated methodology and a strategy for comparing the pilot results with other efforts;
- a clear plan that details the type and source of data necessary to evaluate the pilot, methods for data collection, and the timing and frequency of data collection;
- benchmarks to assess pilot success;
- detailed evaluation time frames, roles and responsibilities, and report planning;
- a detailed data-analysis plan to track the program's performance and evaluate the final results of the program; and
- data reliability plan to ensure the integrity of data collection, entry, and storage.<sup>82</sup>

The broadband pilot programs, if conducted, provide FCC with an opportunity to improve its information on the telecommunication needs of and data collection for low-income households. Data on cost-effectiveness, such as cost per subscriber, will be especially important as

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<sup>81</sup>GAO, *Limitations in DOD's Evaluation Plan for EEO Complaint Pilot Program Hinder Determination of Pilot Results*, GAO-08-387R (Washington, D.C.: February 2008).

<sup>82</sup>See GAO, *Equal Employment Opportunity Commission, Sharing Promising Practices and Fully Implementing Strategic Human Capital Planning Can Improve Management of Growing Workload*, GAO-08-589 (Washington, D.C.: June 23, 2008), GAO, *Equal Employment Opportunity: DOD's EEO Pilot Program Under Way, but Improvements Needed to DOD's Evaluation Plan*, GAO-06-538, (Washington, D.C.: May 5, 2006), and GAO-08-387R.

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the Low-Income Program is not capped and program participation and support payments are expected to continue to increase. A well-developed and documented evaluation plan would help FCC evaluate the telecommunication needs of low-income households and ensure that its evaluations will yield methodologically sound results to support effective program and policy decisions as FCC considers transitioning the program to broadband.

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**The Low-Income Program Has Established Some Mechanisms to Identify and Evaluate Risks and Monitor Compliance; However the Program Lacks Two Key Features of Effective Internal Controls**

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**The Low-Income Program Has Some Mechanisms to Identify and Evaluate Risks and Monitor Compliance**

USAC has assessed some of the risks and monitors compliance with some of the internal controls of the USF's four programs, including the Low-Income Program. These efforts are for the purposes of providing FCC and USAC management with information on the design and effectiveness of internal controls related to the balances and activities reported in its annual financial statements and include consideration of controls over programmatic operations and regulatory reporting and compliance. The risk assessments that have been performed and other control processes, such as reviews of each claim for reimbursement before payment is made, provide important information on vulnerabilities that exist in the internal control over program activities as well as opportunities for designing and implementing countermeasures to the identified risk.

In 2008, USAC hired an independent public accounting firm to review its internal control processes to comply with FCC's directive that it

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implement an internal control structure consistent with the standards and guidance contained in OMB Circular A-123, Management Responsibility for Internal Control.<sup>83</sup> The review focused primarily on USAC's internal controls related to financial reporting for the USF. In September 2010, USAC officials told us that an internal team recently completed a review of key controls with respect to the Low-Income Program. These officials stated that a report on the results of this work was expected to be provided to management for review in the fall of 2010. In addition, since 2007, as part of their annual financial statement audit process, FCC and USAC have completed an annual risk assessment to identify areas of vulnerability to financial statement misstatement due to fraud and consider whether additional fraud countermeasures are required. In 2010, FCC identified 17 control measures to address the following risk categories related to the Low-Income Program: beneficiary fraud and disbursement and invoicing errors.

According to FCC officials, program risks are also identified and assessed through the rulemaking process under the Administrative Procedure Act.<sup>84</sup> When developing, modifying, or deleting a rule, FCC relies on public input collected during the rulemaking process. According to FCC officials, it was through this process that FCC identified and addressed the program risks associated with ETCs' failure to collect and preserve certification documents for Lifeline support recipients.

USAC also monitors program risks through various other processes and control activities, including review of each ETC claim submission and analysis of monthly payment data. For example, USAC reviews each ETC

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<sup>83</sup>The OMB Circular No. A-123 provides guidance to executive agencies on evaluating and reporting on their systems of internal controls, consistent with the requirements of section 3512(c), (d) of title 31, U.S. Code (commonly referred to as the Federal Managers' Financial Integrity Act of 1982 (FFMIA), which requires agencies to establish and maintain effective internal control. The agency head must annually evaluate and report on the control and financial systems that protect the integrity of its federal program. Circular No. A-123 relies on GAO's standards for internal control in the federal government, which are promulgated pursuant to FFMIA. Office of Management and Budget, *Management's Responsibility for Internal Control*, Circular No. A-123 (Washington, D.C., Dec. 21, 2004).

<sup>84</sup>FCC implements policy initiatives through the rule making process, a governmentwide process for creating rules or regulations that implement, interpret, or prescribe law or policy. The Administrative Procedure Act (APA) is the principal law governing how agencies make rules. Most federal rules are promulgated under the APA-established informal rule making process, which requires agencies to provide public notice of proposed rule changes, as well as to provide a period for interested parties to comment on the notices. 5 U.S.C. § 551 et seq.

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claim submission and compares the information submitted to information provided with previous claims to identify possible errors that impact the claim payment. USAC also prepares memoranda each month from processed claim submissions that summarize and analyze payment data to, among other things, identify ETCs with substantial month-over-month changes in the amount of reimbursement requested.<sup>85</sup>

In addition, USAC relies on audits as a key management tool to review carrier processes for compliance with program rules and to review the data underlying the carrier's reimbursement claims to test whether the carrier claimed the correct amount.<sup>86</sup> For example, through audits, USAC identified instances where ETCs were claiming the incorrect amount for providing toll limitation services. From 2003 to 2008, 41 performance audits were completed specific to the Low-Income Program.<sup>87</sup> Also, 60 audits were conducted in 2006 and 2007<sup>88</sup> that were used to develop a statistical estimate of error rates under the Improper Payments Information Act of 2002 (IPIA).<sup>89</sup>

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<sup>85</sup>In its October 14, 2010, response to a draft of this report, USAC stated that it also conducts data validations of ETC's receiving program support in which staff obtain and review supporting documentation for amounts paid to selected carriers. In our subsequent discussions with USAC, we were told that this process was first completed in 2005 and is continuing in 2010—with 30 reviews under way; however, no reviews were conducted in 2007 or 2008.

<sup>86</sup>In the September 2008 Memorandum of Understanding between FCC and USAC, FCC directed USAC to implement a comprehensive audit program (1) to ensure that USF monies were used for their intended purpose; (2) to verify that all USF contributors made the appropriate contributions; and (3) to detect and deter waste, fraud, and abuse. To this end, with regard to the Low-Income Program, USAC conducts performance audits of ETCs that receive monies from the Low-Income Program. Audits are conducted by USAC's Internal Audit Division.

<sup>87</sup>These audits exclude four that were limited scope audits and three that assessed the ETC's compliance with FCC's Hurricane Katrina Order, *Federal-State Joint Board on Universal Service*, Order, 20 FCC Rcd 16883 (2005).

<sup>88</sup>These audits exclude one audit where the auditor was unable to reach a conclusion on the ETC's compliance with program rules.

<sup>89</sup>Pub. L. No. 107-300; 116 Stat. 2350 (Nov. 26, 2002), as amended by the Improper Payments Elimination and Recovery Act of 2010, Pub. L. No. 111-204, 124 Stat. 2224 (July 22, 2010). The IPIA requires federal agencies to review programs and activities they administer and identify those that may be susceptible to significant improper payments. For those programs or activities determined to be susceptible to significant improper payments, the agency must conduct an estimate, report the estimate to Congress, and, for programs and activities with estimated improper payments exceeding \$10 million, report on corrective actions taken to address the improper payments.

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**The Low-Income Program Lacks a Risk Assessment that Considers All Program Vulnerabilities and a Systematic Process for Considering Audit Results When Assessing Internal Controls**

Although the assessments and activities described above provided mechanisms to identify some risks related to the Low-Income Program, FCC and USAC have not conducted a risk assessment specific to the Low-Income Program that includes consideration of all program vulnerabilities and associated consequences that could help identify opportunities to mitigate those risks. For example, FCC has not addressed a number of risks to the Low-Income Program, four of which are described below.

- In comments to FCC, USAC has stated that the current version of the form used by ETCs to make reimbursement claims from the USF does not provide USAC with enough information to perform validations crucial to preventing mistakes and abuse.<sup>90</sup> In raising this issue, it cited instances where both the wholesaler and reseller of a telephone connection made a claim for reimbursement from the USF, at which point, the USF is paying two companies for the same customer. Currently, USAC considers the existing program safeguards as insufficient to identify duplicate reimbursements. Consequently, to determine if this is occurring, USAC would have to audit the records of the two companies.
- Another risk is that consumers may be simultaneously receiving Lifeline discounts on a wireline and wireless phone, which is contrary to the program rules that specify one discount per household.<sup>91</sup> In 2008, during a Low-Income Program-related performance audit of a wireless company, USAC for the first time compared the wireless carrier's subscriber list to the major wireline ETCs serving the area. USAC found several hundred instances of consumers receiving Lifeline support for both wireless and wireline accounts. USAC has sought guidance from FCC regarding how to recover the related disbursements and handle these findings. However, as of September 2010, FCC has not provided guidance on this issue.<sup>92</sup> To determine the extent to which this is occurring on an ongoing basis, USAC would have to audit the records of the two companies because the ETCs do not have such information. According to our survey, 8 states have access to information that could help ensure that the household is receiving only one Lifeline subsidy. Representatives from 21 states

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<sup>90</sup>See Comments of the Universal Service Administrative Company in WC Docket No. 05-195 (*Comprehensive Review of the Universal Service Fund Management Administration*, Notice of Inquiry, 20 FCC 13583 (dated Nov. 13, 2008)), pp. 106-107.

<sup>91</sup>See 1997 *Universal Service Order*, 12 FCC Rcd at 8957, para. 341.

<sup>92</sup>FCC referred the issue of duplicate claims for support to the Joint Board in May 2010, and will await recommendations from the Joint Board before deciding how best to address the issue. See 25 FCC Rcd 5079 (2010) (*Referral Order*).

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indicated that they were somewhat or very concerned about consumer fraud in the Lifeline program. In comments, several states indicated that there were limited controls in place to enforce the program requirement that households only receive one Lifeline discount.

FCC has asked the Joint Board to recommend changes regarding effective and efficient verification of customer eligibility, both at initial sign-up and periodically thereafter.<sup>93</sup> Further, The National Broadband Plan recommended that FCC consider the creation of a national centralized database as a mechanism to minimize fraud, waste, and abuse in the Low-Income Program. Five of the 8 states in which the entity that verifies consumers' continued eligibility have access to information to help ensure that the household is only receiving one Lifeline discount use a database.

- In comments to the FCC, the Florida Public Service Commission reported that the inclusion of prepaid wireless options in the Lifeline program presents the risk that these companies, which do not bill their customers monthly, can claim support for all subscribers without confirming that the person is still in possession of and is using the phone.<sup>94</sup> For example, in June 2010, there were several postings on Craigslist, the electronic bulletin board known for free local classified listings, advertising the sale of SafeLink products—the Lifeline service offered by TracFone. One state we visited is attempting to address this risk. In Florida, the state commission instituted a 60-day inactivity policy in which the prepaid wireless carrier in the state must contact the customer, via text message, voicemail, or letter, to confirm that the customer is still active and eligible for Lifeline support. If no response is received, the account must be deactivated. In the third quarter of 2009, one year after the prepaid wireless company was certified as an ETC in the state, approximately 8 percent or 33,000 customer accounts were deactivated due to 60-day inactivity. While a good first step, this mechanism still does not prevent the phone or minute allotment from being sold to ineligible consumers. As previously mentioned, FCC has asked the Joint Board to recommend changes regarding effective and efficient verification of customer eligibility.<sup>95</sup>

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<sup>93</sup>See *Federal-State Joint Board on Universal Service; Lifeline and Link Up*, Order, 25 FCC Rcd 5079, (2010) (*Referral Order*).

<sup>94</sup>See Comments of the Florida Public Service Commission in CC Docket No. 96-45 and WC Docket No. 03-109 (*Federal-State Joint Board on Universal Service*, Public Notice, 25 FCC Rcd 7551 (2010)), (dated July 15, 2010).

<sup>95</sup>See *Federal-State Joint Board on Universal Service; Lifeline and Link Up*, Order, 25 FCC Rcd 5079, (2010) (*Referral Order*) p. 9.

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- Another risk is that the results of ETC audits may not be adequately considered in assessing internal controls. FCC officials told us that completion in 2008 of the initial OMB Circular A-123 based internal control review of USAC's controls of the USF's four programs, including the Low-Income Program, was the equivalent to a comprehensive risk assessment. The 2008 review was focused primarily on financial reporting controls, and considered some aspects of programmatic operations and regulatory reporting and compliance of the four USF programs. However, the initial review was not specific to the Low-Income Program and was not designed to identify all risks to meeting the program's objectives. The update that is expected to be reported on in the fall of 2010 was also not designed to consider all aspects of the program's internal controls. For example, the report on the results of the 2008 review acknowledged that there are program risks associated with ETCs' self-certification of key information, such as subscriber eligibility and the accuracy of amounts claimed for reimbursement that were not addressed in the internal control review. The report also stated that ETC audits were the mechanism used by the USF programs, including the Low-Income Program, to mitigate these risks. Further, USAC's update of the 2008 review did not, among other things, consider the nature, scope, and extent of ETC audits or the results from these audits in assessing internal control.

According to our standards for internal control, FCC should identify all risks to meeting the program's objectives and should consider all significant interactions between itself and other parties as well as internal factors at both the entity and activity level.<sup>96</sup> Without a risk assessment specific to the Low-Income Program that considers all vulnerabilities and consequences, some programmatic risks may not be identified, analyzed, and addressed. Moreover, managing risks can help target limited resources. We have previously described the purpose of risk management as identifying potential problems before they occur to mitigate adverse impacts.<sup>97</sup> Figure 4 depicts a risk management cycle representing a series of analytical and managerial steps, which are sequential, that can be used to assess risk, assess alternatives for reducing risks, choose among those alternatives, implement the alternatives, monitor their implementation, and continually use new information to adjust and revise the assessments

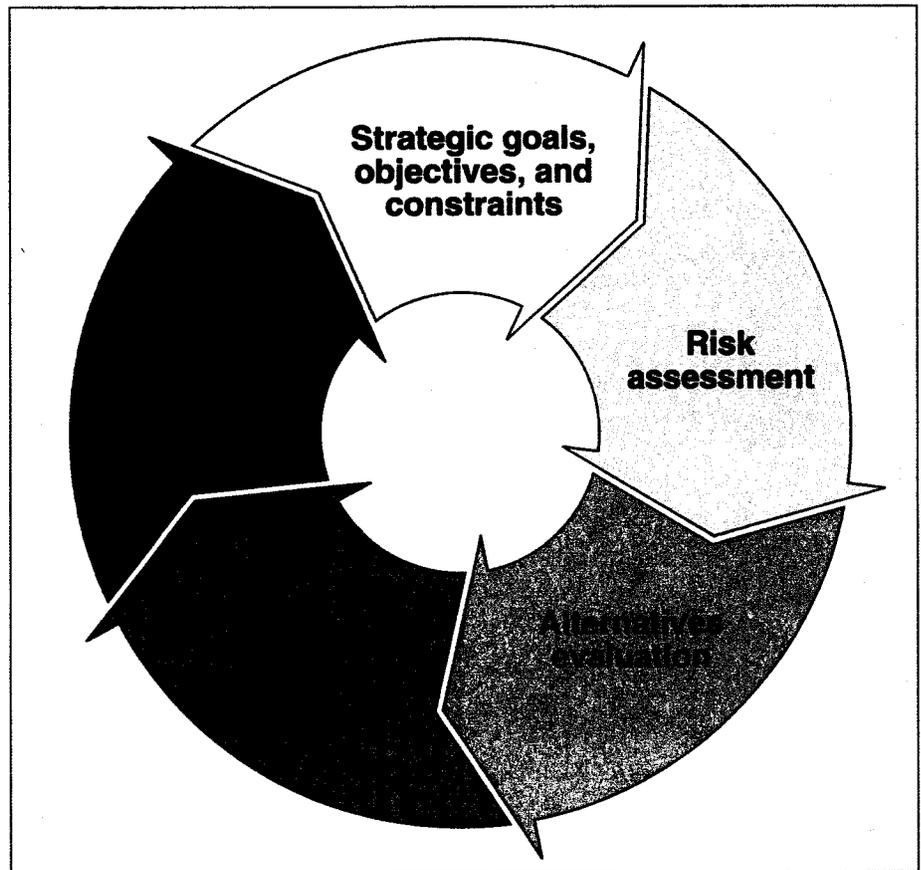
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<sup>96</sup>GAO/AIMD-00-21.3.1.

<sup>97</sup>GAO, *Digital Television Transition: Increased Federal Planning and Risk Management Could Further Facilitate the DTV Transition*, GAO-08-43 (Washington, D.C.: Nov. 19, 2007).

and actions, as needed. The approach is dynamic and can be applied at various organizational levels.

**Figure 4: Risk Management Framework**



Source: GAO.

The limitations identified above increase the importance of the periodic audits of ETCs to provide after-the-fact detection information on ETC compliance with program rules and the effectiveness of USAC's internal controls. Audits conducted on ETCs have identified instances of noncompliance with program rules, including improper payments when ETCs sought reimbursement for discounts that were either calculated incorrectly, could not be adequately supported, or were provided to potentially ineligible subscribers. For example, we found that 76 percent

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of the 41 performance audits reported findings of more than one claim for low-income support per household, which is contrary to program rules.

We analyzed reported audit findings and identified instances of repeat audit findings at ETCs that had been audited more than once from 2003 through 2008. According to USAC officials, each audit report is reviewed and the extent and causes of audit findings are analyzed.<sup>98</sup> However, USAC officials stated that they do not have a systematic process for considering the results of ETC audits when assessing the program's internal controls. As described above, each of the internal control reviews performed have, by design, excluded consideration of ETC audits in assessing internal control. A systematic process that considers ETC audits could help identify opportunities for improving internal controls. For example, improvements to controls could include modifications to the process used to identify questionable support claims; modifications to the nature, extent, or scope of ETC audits; and changes to the information required from ETCs for review prior to payment of claims.

We also analyzed payment data by state/territory and ETC to determine the scope of audit coverage accomplished by the audits performed<sup>99</sup> (see Figure 5). For our analysis we used support payments claimed by ETCs from 2002 to 2007—the period covered by the ETC audits that were performed.<sup>100</sup> We found that, considering the reliance placed on ETC audits and the results of those audits conducted to date, the number and scope of the ETC audits has been limited. For example, the 97 ETCs that have been audited represent approximately 5 percent of the more than 1,800 ETCs that participated in the Low-Income Program from 2002 to 2007.<sup>101</sup> Further, the payments that were audited represented about 10 percent of the \$4.6 billion in payments during this 6-year period. In fact, more than 90 percent of the payments audited were made to only 14 of the

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<sup>98</sup>USAC summarized and analyzed the results of the 60 audits conducted in 2006 and 2007 that were used to develop a statistical estimate of error rates under the Improper Payments Information Act of 2002, but did not do the same for the other 41 performance audits conducted from 2003 through 2008.

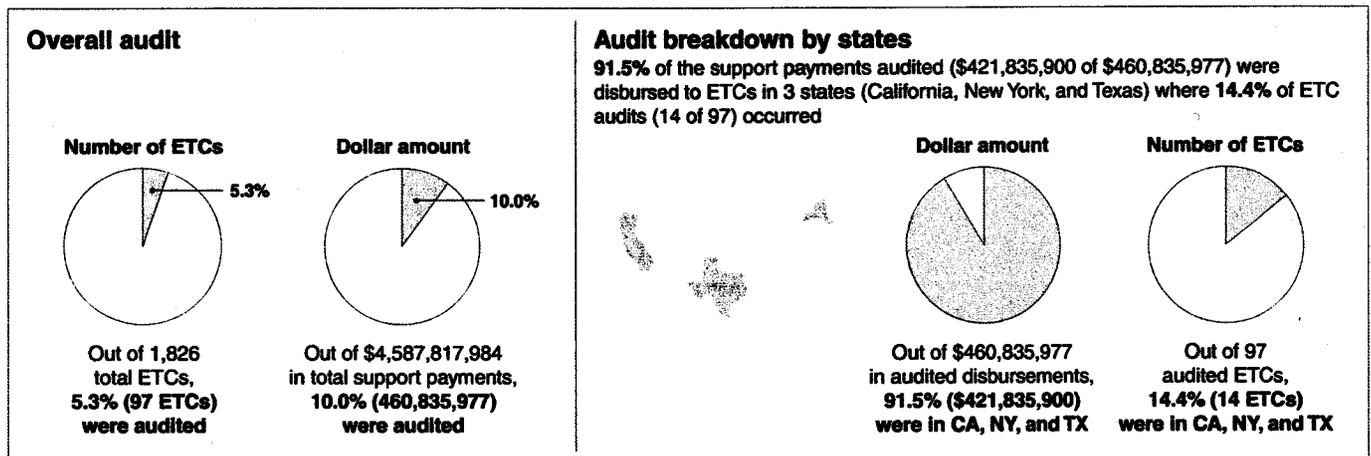
<sup>99</sup>Included in our state-by-state analysis are the following U.S. territories: American Samoa, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

<sup>100</sup>USAC performed 101 audits on 97 ETCs from 2003 to 2008.

<sup>101</sup>The number of unique ETCs that participated in the Low-Income Program between 2002 and 2007 was 1,826; the number of ETCs participating in any single year during this period ranged from 1,418 to 1,804.

97 ETCs audited.<sup>102</sup> Moreover, 19 states and territories with approximately 220 ETCs have never been audited.<sup>103</sup>

**Figure 5: Analysis of ETC Support Payments and Audit Coverage, 2002 - 2007**



Source: GAO analysis of USAC data.

According to our internal control standards, audit findings should be considered when assessing the effectiveness of internal controls, including: determining the extent to which the continued effectiveness of the internal control is being monitored; assessing if appropriate policies and procedures exist; and assessing if they are properly maintained and periodically updated. Further, consideration should be given to potential program risks when establishing the scope and frequency of audits. Without a systematic process to analyze findings from audits that are of sufficient quantity and scope and appropriately targeted based on risk, FCC and USAC may not have information that could be leveraged to adequately assess compliance with program rules and strengthen the program's internal controls. As described in this report, there are vulnerabilities at the ETC, state, and program level for which a systematic process for conducting audits and considering audit results could help to identify.

<sup>102</sup>These 14 ETCs were in the three states with the largest amount of support payments for this period—California, New York, and Texas.

<sup>103</sup>These ETCs received payments totaling approximately 8 percent of total Low-Income support payments during this period.

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As of July 2010, USAC was in the process of implementing a new audit and improper payment assessment approach for all of the USF programs. The new approach is designed to include separate programs for compliance audits and improper payment assessments. According to USAC officials, the compliance audits will be designed solely to evaluate USF beneficiary compliance with FCC rules and a separate process will be implemented for improper payment assessments to estimate the rate of improper payment associated with each of the USF programs. While we have not assessed the new approach, according to FCC officials, it will continue to enable FCC and USAC to identify program risks based on random selections of beneficiaries and payments stratified based on the amount of payments. However, it will be important for USAC to have a process for considering the results of these audits and assessments to identify opportunities for modifying the program's internal controls, including modifying the nature, extent, and scope of audits and improper payment assessments.

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## Conclusions

Clear and consistent program goals and performance measures, risk assessments, and the systemic consideration of audit results are key management tools to effectively manage any program, including the Low-Income Program. These tools help ensure that collective program funds are effectively targeted to meet the needs of the intended recipients. In the case of the Low-Income Program, effective use of the funds is particularly important given the rapid increases in technology that are redefining the options that consumers have to access telecommunication services. Not identifying the most cost-effective option may leave less funding that could be used to increase access for other low-income consumers, which is the underlying intent of universal service. Moreover, without key management information, FCC may be making current and future policy decisions without being fully informed on the performance of current programs and without information on the potential performance of broadband and future technologies as they become available. Lacking information on performance goals and measures may also limit FCC's ability to demonstrate that the program is helping to provide access to affordable telecommunication and information services to low-income consumers in all regions of the nation, one of the principles for universal service articulated in the 1996 Act. Furthermore, without setting performance goals and measures, particularly as new technologies are developed to access telephone services, FCC will not have information to judge the impact of these options on telephone subscribership rates for low-income households.

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The National Broadband Plan recommended the addition of broadband as an eligible service for the Low-Income Program. FCC has initiated a Universal Service Working Group to assist in its efforts to modernize and reform all universal service programs to better support broadband and has taken initial steps to develop potential low-income pilot programs. A needs assessment and implementation and evaluation plans are critical elements for the proper development of pilot programs. Such assessments and plans will provide information on the telecommunication needs of low-income households, identify the most cost-effective options for low-income consumers, and help FCC effectively target funds based on data-driven information. The Low-Income Program has no funding cap and the addition of broadband and other future telecommunications technology without key management information and evaluation tools has the potential to further increase the cost to consumers who pay for the program through their telecommunications bills.

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## Recommendations for Executive Action

To improve the management and oversight of the Low-Income Program, we recommend that the Chairman of the FCC take the following three actions:

- clearly define specific performance goals of the program and subsequently develop quantifiable measures that can be used by Congress and FCC in determining the program's success in meeting its goals,
- conduct a robust risk assessment of the Low-Income Program, and
- implement a systematic process for considering the results of ETC audits and improper payment assessments in evaluating internal controls of the Low-Income Program.

If FCC conducts pilot programs as it considers adding broadband to the Low-Income Program, we recommend that the Chairman of the FCC take the following two actions:

- conduct an assessment of the telecommunication needs of low-income households to inform the design and implementation of the pilot programs, and
- develop implementation and evaluation plans for the pilot programs.

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## Agency Comments and Our Evaluation

We provided a draft of this report to FCC and USAC for their review and comment. Their full comments are reprinted in appendix V and appendix VI, respectively. In its written comments, FCC agreed with our recommendations. Specifically, FCC agreed that more work is needed to define specific performance goals of the program and develop quantifiable measures that can be used in determining the program's success. FCC recognized that the potential modification of the Low-Income Program to include broadband would be a significant change to the existing program and stated that the 2008 Performance Measures Notice of Inquiry<sup>104</sup> record may need to be updated so that quantifiable performance measures related to broadband-supported services under the Low-Income Program could be examined consistent with practices for developing successful performance goals and measures. With respect to the proposed Low-Income pilot programs, FCC recognized the importance of conducting an appropriate needs assessment accompanied by a sound implementation and evaluation plan consistent with the criteria we identified. FCC also stated that the Low-Income Program's internal controls would benefit from a risk assessment in which all vulnerabilities and consequences are considered and that it is committed to developing a systematic approach for considering the results of ETC audits and improper payment assessments in evaluating the program's internal controls. FCC stated that it intends to work closely with USAC to implement a risk assessment, as we recommended, and ensure that clear policies and procedures addressing a systematic review of internal controls based on audit findings are incorporated into USAC's written audit policies, procedures, and procurement.

In its written comments, USAC noted that it appreciated our recognition of the internal controls it has in place and that it will work with FCC to implement any orders or directives it may issue to implement our recommendations. USAC also provided additional information—that we reflected in our report—on processes used to validate, on a test basis, certain information provided by selected carriers.

USAC did not fully concur with our conclusion that FCC and USAC have not conducted a risk assessment specific to the Low-Income Program that considers all vulnerabilities. Among other things, USAC stated that the

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<sup>104</sup> *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, Notice of Inquiry, 23 FCC Rcd 13583 (2008) (2008 Performance Measures NOI).

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review performed by an independent public accounting firm in 2008 did assess and test specific internal controls for the Low-Income Program. We agree that some Low-Income Program internal controls were, in fact, assessed and tested; however, we determined that the review focused on the risks associated with financial reporting and not the Low-Income Program or its programmatic aspects. With respect to the internal control assessment that is being conducted by USAC's own staff and is in process as of October 2010, as stated in our report, this assessment also was not designed to identify and address specific Low-Income Program risks and vulnerabilities. No risk assessment that USAC has undertaken to date has been the type of risk assessment that we envision under the related recommendation we make in this report. Such an assessment would consider the existing design of the Low-Income program as a whole, including the roles of FCC, USAC, beneficiaries, and service providers; whether the design and mix of preventive and detective controls already in place for the Low-Income Program are appropriate; and whether there may be internal controls that are needed but not currently in place.

USAC also stated that it does not believe that the facts viewed in their full context support the conclusion that audit findings have not been used effectively by FCC and USAC to assess and modify internal controls used by USAC in administering the Low-Income Program. We disagree; and as stated in our report, we found that USAC does not have a formal systemic process in place to consider the results of audits when assessing the program's internal controls. We continue to believe that there are vulnerabilities at the ETC, state, and program level for which a systematic process for conducting audits and considering audit results could help identify. A systematic process to consider audit results is consistent with the objectives of internal controls in the federal government and FCC's and USAC's responsibilities to establish and maintain internal controls that appropriately safeguard program funding and resources. It will be important that efforts to implement the new audit approach that is now under way include processes for systematically considering the results of audits and assessments to identify opportunities for modifying the program's internal controls, including modifying the nature, extent, or scope of audits.

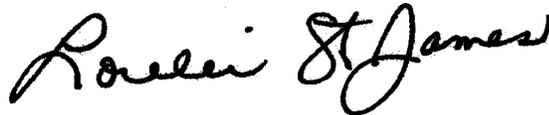
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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Chairman of the Federal Communications Commission, and the Acting Chief Executive Officer of the Universal

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Service Administrative Company. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you have any questions about this report, please contact me at 214-777-5719 or [stjamesl@gao.gov](mailto:stjamesl@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Major contributors to this report are listed in appendix VII.



Lorelei St. James  
Acting Director, Physical Infrastructure Issues

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# Appendix I: Scope and Methodology

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To obtain background information on the administration of the program, we reviewed key orders, reports, and program assessments from the Federal Communications Commission (FCC) and the program's administrator, the Universal Service Administrative Company (USAC), and interviewed officials from both organizations regarding program and operational procedures; conducted a Web-based survey to gather information from each state public utility commission, including the District of Columbia; interviewed other stakeholders; and conducted site visits. The survey was available online to officials in the 50 states and the District of Columbia on a secure Web site and our response rate was 100 percent. This report does not contain all the results from the survey. The survey and a more complete tabulation of the results can be viewed at GAO-11-13SP. The stakeholders, listed in table 5, were identified from a variety of sources, including our previous work and by other experts in telecommunications. The site visits—to California, the District of Columbia, Florida, and Iowa—were chosen to provide detailed analyses of programs with varying characteristics. We chose these locations based on criteria such as the telephone subscribership rate of low-income households and the participation rate of eligible low-income households. During the site visits, we interviewed officials from the state public utility commission, the state consumer advocate, ETCs (wireline and wireless), and other entities as applicable. We also obtained pertinent supporting documentation.

Because this was not a sample survey, it has no sampling errors. However, the practical difficulties of conducting any survey may introduce errors, commonly referred to as nonsampling errors. For example, difficulties in interpreting a particular question, sources of information available to respondents, or data entry and analysis can introduce unwanted variability into the survey results. We took steps in developing the questionnaire, collecting data, and analyzing these data to minimize such nonsampling errors. For example, prior to administering the survey, a GAO survey specialist designed the questionnaire in collaboration with GAO subject matter experts. We also pretested the questionnaire with members of the Public Utilities Commission of three states and the District of Columbia. On the basis of the findings from pretests, we modified our questionnaire to ensure that the questions were relevant, clearly stated, and easy to comprehend. To ensure adequate response rates, we sent e-mail reminders and conducted follow-up telephone calls with nonrespondents. When the data were analyzed, a second independent data analyst checked all computer programs for accuracy. Since this was a Web-based survey, respondents entered their answers directly into the electronic

questionnaires, eliminating the need to key data into a database, thereby minimizing errors.

To determine the extent to which program participation and expenditures have changed in the last 5 years and what factors may have affected program participation and support payments, we analyzed participation and disbursement data from USAC and identified key trends including projections for 2010. We conducted testing to ensure the reliability of the data and reviewed the methodology used by USAC to estimate program participation rates. As a result, we determined that the data were sufficiently reliable for the purposes of this report. In addition, we interviewed FCC and USAC officials, as well as other stakeholders. We conducted site visits, as described above, to obtain opinions regarding program elements associated with participation and barriers to participation, if any. We also obtained opinions regarding the effect, if any, of prepaid wireless options on program participation. In addition, we conducted a Web-based survey of state public utility commissions, as described above, to gather information about barriers to program participation, if any, and advertising and marketing activities by state commissions and ETCs. Finally, we compared FCC's guidelines for advertising the program and assessed them against our key practices for consumer education planning.

To determine FCC's performance goals and measures used to manage the program, we reviewed the Telecommunications Act of 1996 and other relevant legislation as well as FCC documentation, including rules, orders, strategic plans, performance and accountability reports, and FCC's Memorandum of Understanding with USAC. In addition, we interviewed FCC and USAC officials to determine how these goals and measures were developed. Finally, we reviewed FCC's performance goals and measures for the program and compared them with our guidance on key attributes of successful performance goals and measures.

To identify the mechanisms FCC and USAC used to identify and evaluate risk and monitor compliance with program rules, we reviewed relevant FCC and USAC documents, including comments for the record, fraud risk assessments, and audit reports, and interviewed officials from both entities. During our site visits and through our Web-based survey, we identified related program risks and processes used at the state level to certify and verify consumer eligibility and concerns. Finally, we compared FCC's and USAC's mechanisms to assess and evaluate risk and monitoring compliance with program rules against our internal control standards and Office of Management and Budget guidance on internal controls.

We conducted this performance audit from October 2009 through October 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**Table 5: Individuals and Organizations Interviewed**

Category	Name
Academicians and think tanks	John Mayo, Professor of Economics, Business and Public Policy
	Public Utility Research Center, University of Florida
	Stanford Institute for Economic Policy Research
	Technology Policy Institute
Federal and state entities	California Division of Ratepayer Advocate
	California Public Utilities Commission
	D.C. Department of the Environment, Energy Office
	D.C. Office of People's Counsel
	D.C. Public Service Commission
	Federal Communications Commission
	Florida Department of Children and Families
	Florida Office of Public Counsel
	Florida Public Service Commission
	Iowa Office of Public Counsel
	Iowa Public Utility Commission
Telecommunication providers	AT&T
	AT&T – California
	Fort Mojave Telecommunications, Inc.
	Gila River Telecommunications, Inc.
	Iowa Telecom (Windstream)
	Mescalero Apache Telecommunications, Inc.
	Qwest Communications
	Sebastian Corporation (holding company for Kerman Telephone and Forest Hill Telephone companies in California)
	South Slope Cooperative Communications Company
	Sprint/Nextel
	TracFone Wireless
Verizon Communications	

**Appendix I: Scope and Methodology**

<b>Category</b>	<b>Name</b>
	Verizon Communications Florida—Regulatory Affairs
Third party administrators and related committees	Rolka Loube Saltzer Associates
	Solix (previously known as NECA)
	Universal Service Administrative Company
	USAC High Cost and Low Income Committee, Low Income Representative (Ellis Jacobs)
	USAC High Cost and Low Income Committee, State Consumer Advocates (Wayne Jortner)
	USAC High Cost and Low Income Committee, State Telecommunications Regulators Representative (Anne C. Boyle)
Trade and industry groups	CTIA - The Wireless Association
	National Association of Regulatory Utility Commissions
	National Telecommunications Cooperative Association
	National Tribal Telecommunications Association
	Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)

Source: GAO.

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# Appendix II: Lifeline Eligibility Criteria and Administrative Processes and Responsibilities

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FCC authorized states that provide intrastate Lifeline support to develop their own eligibility criteria and administrative processes for the program—including reviewing applications, certifying eligibility, and verifying recipients' continued eligibility for the Lifeline program. As a result, eligibility and administrative processes vary across states that provide intrastate Lifeline support.<sup>1</sup>

Of the 39 states that provide intrastate Lifeline support, 36 allow consumers to qualify for the Lifeline program based on participation in a low-income assistance program; the number of programs that confer eligibility for the Lifeline program varies by state. For instance, in Montana, the only program that confers eligibility for the Lifeline program is Medicaid. In Alaska, 10 programs confer eligibility, including Federal Public Housing Assistance, Supplemental Nutrition Assistance Program (formerly Food Stamps), Low Income Home Energy Assistance Program, Alaska Adult Public Assistance, and Head Start (under the income qualifying provision).

States that provide intrastate Lifeline support can also set the income eligibility threshold. Twenty-two of the 39 states that provide intrastate Lifeline support allow consumers to qualify for the program based on income alone.<sup>2</sup> In 8 states, households may earn up to 135 percent of the federal poverty guideline and be eligible for the Lifeline program.<sup>3</sup> In 2 states the income eligibility threshold is less than 135 percent of the federal poverty guidelines, and in 11 states it is greater.<sup>4</sup>

Further, FCC determined that states that provide intrastate support also have the discretion to determine their own administrative processes, which also vary across states (see table 6).

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<sup>1</sup>See e.g., 47 C.F.R. §§ 54.409 (consumer qualification for Lifeline), 54.410 (certification and verification of consumer qualification for Lifeline), 54.415 (consumer qualification for Link Up), 54.416 (certification of consumer qualification for Link Up). States must base eligibility criteria solely on income or factors directly related to income. 47 C.F.R. §§ 54.409(a), 54.415(a).

<sup>2</sup>In New Jersey, only consumers 65 or over may qualify for the program based on income alone.

<sup>3</sup>In 2009, the federal poverty guideline for a family of three was \$18,310.

<sup>4</sup>One state reported that it did not know the income eligibility threshold.

**Appendix II: Lifeline Eligibility Criteria and  
Administrative Processes and Responsibilities**

**Table 6: Lifeline Administrative Processes in States that Provide Intrastate Lifeline Support**

<b>Administrative process</b>	<b>Number of states<sup>a</sup></b>
<i>Process in place to certify eligibility based on program participation</i>	32
Self-certification under penalty of perjury	16
Presentation of documentation of enrollment in a qualifying low-income assistance program	25
Automatic enrollment of eligible consumers	9
<i>Process in place to certify eligibility based on income</i>	19
Self-certification under penalty of perjury	6
Presentation of documentation of income	19
Automatic enrollment of eligible consumers	3
<i>Verifying continued eligibility of Lifeline support recipients</i>	
Random audits of Lifeline support recipients	14
Periodic submission of supporting documents (annual recertification or reverification)	20
Annual self-certification	12
Online verification system using databases of public assistance program participants or income reports	13
Verification of a statistically valid sample of Lifeline support recipients	17
<i>Conduct Lifeline-related audits of eligible telecommunications carriers (ETC)</i>	10

Source: GAO survey.

<sup>a</sup>Numbers do not sum to 39 because some states do not have a process in place and some states have more than one process in place.

In addition, for the same reason, the entity responsible for executing the process also varies across states as seen in table 7.

**Table 7: Lifeline Program Administrative Responsibilities in States that Provide Intrastate Lifeline Support**

<b>Administrative process</b>	<b>Responsible entity<sup>a</sup></b>			
	<b>State Public Utility Commission</b>	<b>ETC</b>	<b>Other state agency</b>	<b>Third-party administrator<sup>b</sup></b>
Processing Lifeline applications	7	23	12	4
Certifying applicants' eligibility on the basis of program participation	6	13	13	2
Certifying applicants' eligibility on the basis of income	2	10	7	4
Verifying that recipients continue to be eligible for the Lifeline program	4	26	10	4

Source: GAO survey.

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**Appendix II: Lifeline Eligibility Criteria and Administrative Processes and Responsibilities**

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<sup>5</sup>Numbers do not sum to 39 because some states do not have a process in place and some states have more than one entity responsible for a given process.

<sup>6</sup>Some states contract with third-party administrators to perform certain administrative processes of the program.

For those states that choose not to provide intrastate Lifeline support, FCC developed eligibility criteria and administrative processes for the Lifeline program to which these states must adhere. These states are referred to as “federal default states.”<sup>5</sup> To be eligible for the Lifeline program in these states, consumers must participate in one of seven low-income assistance programs—Federal Public Housing Assistance, Supplemental Nutrition Assistance Program (formerly Food Stamps), Low Income Home Energy Assistance Program, Medicaid, National School Lunch Program’s free lunch program, Supplemental Security Income, and Temporary Assistance for Needy Families—or have household income at or below 135 percent of the federal poverty guidelines.<sup>6</sup> Households living in tribal areas have an expanded list of tribal-based programs that also confer eligibility for the Lifeline program.

In federal default states, the ETC is responsible for processing applications, certifying applicants’ eligibility for the program based on program and income criteria, and verifying the recipients’ continued eligibility for the program.

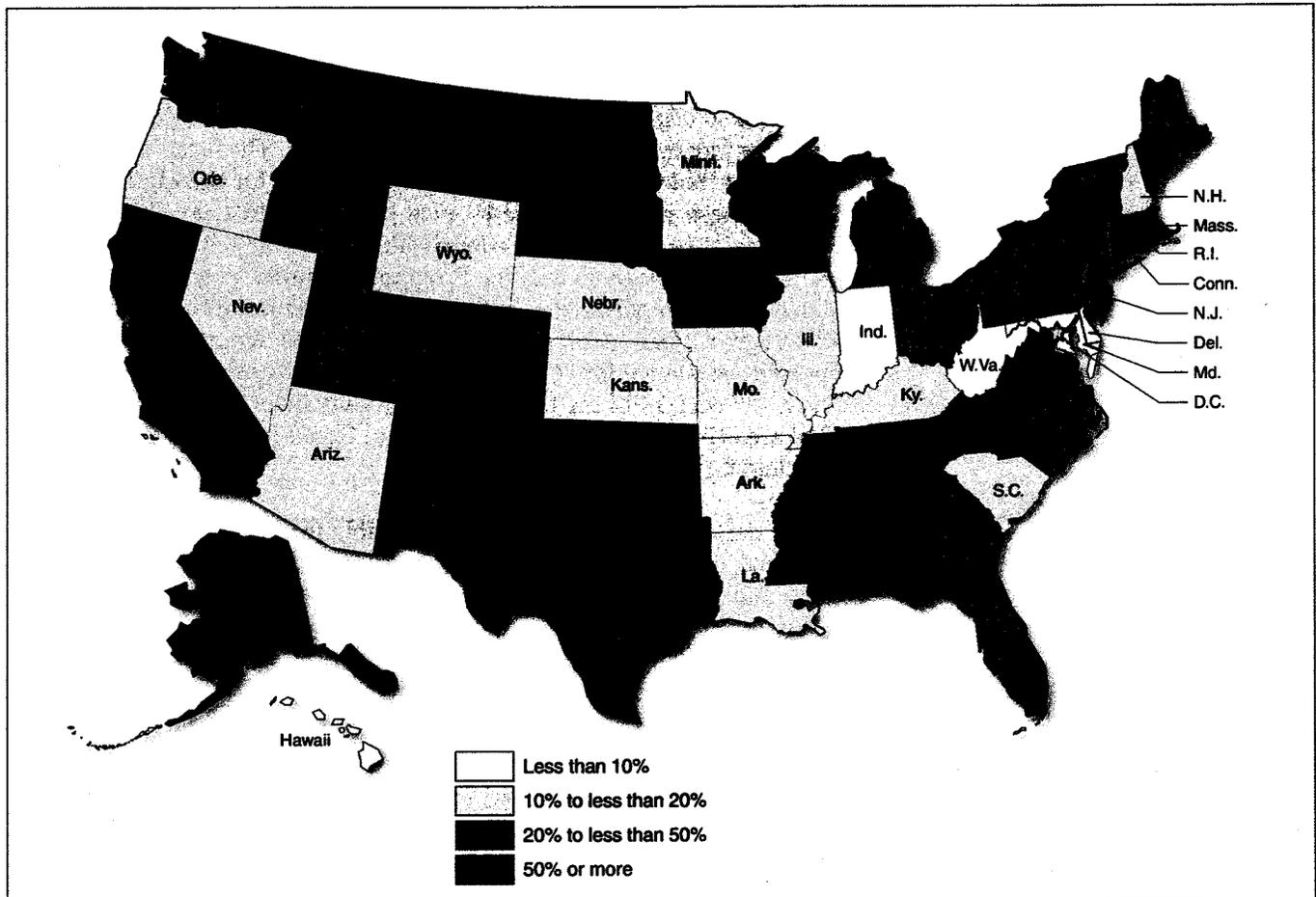
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<sup>5</sup>States that provide intrastate Lifeline support but choose to use the eligibility criteria and administrative processes developed by FCC are also referred to as “federal default states.”

<sup>6</sup>See 47 C.F.R. § 54.409.

# Appendix III: Estimated Lifeline Participation Rates Among Eligible Households by State in 2009

Figure 6: Estimated Lifeline Participation Rates Among Eligible Households by State in 2009



Source: USAC, Map Resources (map).

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# Appendix IV: Alignment of FCC Outreach Guidelines with Our Key Practices for Consumer Education

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FCC requires ETCs to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. In its 2004 Order, FCC adopted a recommendation from the Federal-State Joint Board on Universal Service<sup>1</sup> to provide outreach guidelines to states and ETCs to help improve program participation. Below is a summary of the guidelines:

- states and ETCs should utilize outreach materials and methods designed to reach households that do not currently have telephone service;
- states and ETCs should develop outreach advertising that can be read or accessed by any sizeable non-English speaking population within a carrier's service area; and
- states and ETCs should coordinate their outreach efforts with government agencies/tribes that administer any of the relevant government assistance programs.

While FCC has developed advertising guidelines for states and ETCs, the guidelines are not always aligned with our key practices for consumer education, as shown in table 8.

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<sup>1</sup>See Lifeline and Link Up, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 8302 (2004) (2004 Lifeline and Link Up Order); Federal-State Joint Board on Universal Service, *Recommended Decision*, 18 FCC Rcd 6589 (2003) (*Recommended Decision*).

**Appendix IV: Alignment of FCC Outreach Guidelines with Our Key Practices for Consumer Education**

**Table 8: Alignment of FCC Outreach Guidelines with Key Practices for Consumer Education**

<b>Key practice</b>	<b>Description</b>	<b>How FCC's guidelines align with practice</b>
Define goals and objectives	Define the goals of the communication campaign, e.g., to increase awareness or motivate a change in behavior. Define the objective that will help the campaign meet those goals.	FCC's guidelines do not align with this practice. FCC's guidelines do not address defining the goals and objectives of outreach efforts of states and ETCs.
Analyze the situation	Analyze the situation, including any competing voices or messages, related market conditions, and key dates or timing constraints. Review relevant past experiences and examples to identify applicable "lessons learned" that may help guide efforts.	FCC's guidelines somewhat align with this practice. The guidelines are based on and include lessons learned that were identified by the Joint Board when it sought comment on whether more extensive consumer education and outreach efforts were necessary to increase participation in Lifeline/Link Up. However the guidelines do not suggest that states and ETCs analyze the situation, including any competing voices or messages, related market conditions, and key dates or timing constraints.
Identify stakeholders	Identify and engage all the key stakeholders who will be involved in communications efforts. Clarify the roles and responsibilities of each stakeholder, including which entities will lead overall efforts.	FCC's guidelines somewhat align with this practice. At the time FCC established its outreach guidelines, it identified several entities with which state commissions and ETCs should coordinate their outreach efforts, including social service agencies, community centers, public schools, and private organizations that may serve low-income individuals. However, the guidelines do not address clarifying the roles and responsibilities of each stakeholder, including which entities will lead overall efforts.
Identify resources	Identify available short- and long-term budgetary and other resources.	FCC's guidelines do not align with this practice. In its guidelines, FCC did not direct state commissions or ETCs to identify available short- and long-term budgetary and other resources available for outreach efforts.

**Appendix IV: Alignment of FCC Outreach Guidelines with Our Key Practices for Consumer Education**

Key practice	Description	How FCC's guidelines align with practice
Research target audiences	Conduct audience research, such as dividing the audience into smaller groups of people who have relevant needs, preferences, and characteristics, as well as measuring audience awareness, beliefs, competing behaviors, and motivators. Also, identify any potential audience-specific obstacles, such as access to information.	<p>FCC's guidelines somewhat align with the practice.</p> <p>FCC recommended that states and ETCs develop outreach materials that can be accessed by a sizeable non-English speaking population within the carrier's service areas and establish a toll-free call center where questions could be answers in the consumers' native language. It also recommended that these materials and other outreach efforts be accessible to consumers with sight, hearing, and speech disabilities. However, in its guidelines, FCC did not suggest that state commissions or ETCs to undertake efforts to measure the target population's awareness of the program or to identify the beliefs, competing behaviors, or motivators of the target population.</p>
Develop consistent, clear messages	Determine what messages to develop based on budget, goals, and audience research findings. Develop clear and consistent audience messages; test and refine them.	<p>FCC's guidelines do not align with this practice.</p> <p>The guidelines do not address the development of clear and consistent messages based on budget, goals, and audience research findings nor testing and refining of the messages.</p>
Identify credible messenger(s)	Identify who will be delivering the messages and ensure that the source is credible with audiences.	<p>FCC's efforts align with this practice.</p> <p>FCC's guidelines suggest that states and ETCs coordinate their outreach efforts with governmental agencies/tribes that administer any of the relevant government assistance programs. Further, the guidelines state that cooperative outreach among those most likely to have influential contact with low-income individuals will help target messages about the program to the low-income community.</p>
Design media mix	Plan the media mix to optimize earned media (such as news stories or opinion editorials) and paid media (such as broadcast, print, or Internet advertising). Identify through which methods (e.g., advertising in newsprint ads), how often (e.g., weekly or monthly), and over what duration (e.g., 1 year) messages will reach audiences.	<p>FCC's efforts somewhat align with this practice.</p> <p>In its guidelines, FCC identified the various outreach methods and materials that could be used to reach households that do not currently have phone service. However, FCC did not suggest designing a plan of the appropriate media mix over any given period of time that would dictate when and how these methods would be used.</p>

**Appendix IV: Alignment of FCC Outreach Guidelines with Our Key Practices for Consumer Education**

<b>Key practice</b>	<b>Description</b>	<b>How FCC's guidelines align with practice</b>
Establish metrics to measure success	Establish both process and outcome metrics to measure success in achieving objectives of the outreach campaign. Process metrics assure the quality, quantity, and timeliness of the contractor's work. Outcome metrics evaluate how well the campaign influenced the attitudes and behaviors of the target audience(s) that it set out to influence.	FCC's efforts do not align with this practice. FCC's guidelines do not address establishing process and outcome metrics to measure success in achieving objectives of an outreach campaign.

Source: GAO analysis of FCC's outreach guidelines measured against key practices we have previously identified.(GAO-08-43).

# Appendix V: Comments from the Federal Communications Commission



Federal Communications Commission  
Washington, D.C. 20554

October 14, 2010

Lorelei St. James  
Acting Director, Physical Infrastructure  
U.S. Government Accountability Office  
Dallas Field Office  
1999 Bryan Street, Suite 2200  
Dallas, TX 75201

Dear Ms. St. James:

Thank you for the opportunity to review the draft Government Accountability Office (GAO) Report regarding assessment of the management of the Universal Service Fund Low-Income program. The Low-Income program is designed to promote the goals of section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), that telephone service be affordable to low-income consumers by providing universal service funds to reduce the price consumers pay for basic telephone service.<sup>1</sup> The Low-Income program accomplishes this in primarily two ways. First, the Commission's Lifeline program lowers the cost of monthly service for eligible consumers by providing support directly to service providers on behalf of consumer households.<sup>2</sup> Second, the Link Up program provides a one-time discount on the initial installation fee for telephone service.<sup>3</sup> As a result of this funding, the Low-Income program has helped increase low-income telephone subscribership from 80.1 percent in 1984 to 89.7 percent in 2008.<sup>4</sup> The Low-Income program continues to improve in reaching and assisting consumers who are unable to afford access to telephone service. In particular, the Commission expects to distribute approximately \$1.29 billion in low-income support during calendar year 2010, which will assist over 9.5 million low-income consumers - an increase of almost 3 million in three years - in obtaining access to telephone service.<sup>5</sup>

The Commission is dedicated to achieving the universal service goals of section 254 of the Act, and therefore welcomes suggestions on making additional improvements to the Low-Income program. In its draft report, the GAO offers four recommendations to improve the Low-Income program. First, the GAO recommends that the Commission clearly define specific performance goals of the program and subsequently develop quantifiable measures that can be used in determining the program's success in meeting its goals.<sup>6</sup> Next, the GAO recommends the Commission conduct a robust risk assessment of the

<sup>1</sup> See 47 U.S.C. § 254(b)(1) ("Quality services should be available at just, reasonable and affordable rates").

<sup>2</sup> Generally, the Lifeline program provides eligible consumers with a discount on monthly charges for basic local landline or wireless telephone service. See 47 C.F.R. § 54.401.

<sup>3</sup> Generally, the Link Up program provides a reduction in the charge for initiating telecommunications service at a consumer's principal place of residence. See 47 C.F.R. § 54.411.

<sup>4</sup> See *Federal-State Joint Board on Universal Service, 2009 Universal Service Monitoring Report*, CC Docket Nos. 96-45, 98-62, at 2-2, available at [http://www.fcc.gov/Daily\\_Releases/Daily\\_Business/2010/db0830/DOC-295442A4.pdf](http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db0830/DOC-295442A4.pdf).

<sup>5</sup> See *Universal Service Administrative Company, Low-Income Receipt and Disbursement Report* (Sept. 2010); *Universal Service Administrative Company, Universal Service Fund Performance Measurements* (July 30, 2010).

<sup>6</sup> Government Accountability Office, *Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program*, at 40 (Oct. 2010) (GAO Draft Report).

**Appendix V: Comments from the Federal Communications Commission**

Low-Income program.<sup>7</sup> Third, the GAO recommends that the Commission implement a systematic process for considering the results of eligible telecommunications carrier (ETC) audits and improper payment assessments in evaluating internal controls of the Low-Income program.<sup>8</sup> In addition to these recommendations, the GAO also recommends that, if the Commission establishes any pilot programs to examine funding broadband under the Low-Income program, the Commission first conduct a needs assessment and develop implementation and evaluation plans.<sup>9</sup>

We appreciate GAO's recognition of the Commission's efforts to date in developing performance measures for the Low-Income program and agree more work is needed to define specific performance goals of the program and develop quantifiable measures that can be used in determining the program's success.<sup>10</sup> To build upon its efforts, in 2008, the Commission released a Notice of Inquiry (*2008 Performance Measures NOI*) seeking comment on whether the Commission should take steps to more clearly define the goals of the USF programs, including the Low-Income program.<sup>11</sup> In so doing, the Commission sought comment on whether it should develop specific quantifiable goals beyond the policies enumerated in section 254 of the Act.<sup>12</sup> In addition, the Commission sought comment on establishing long-term performance goals and whether such measures should be tied to implicit social welfare objectives.<sup>13</sup>

Since the record closed in response to the *2008 Performance Measures NOI*, other developments have occurred concerning potential changes in the policies and rules for the Low-Income program, which may warrant updating this proceeding. Specifically, in 2009, Congress directed the Commission to develop a National Broadband Plan to ensure every American has "access to broadband capability."<sup>14</sup> Congress also required that this plan include a detailed strategy for achieving affordability and maximizing use of broadband to advance "consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes."<sup>15</sup> The National Broadband Plan, released in March 2010, makes a variety of recommendations to change the Low-Income program, including modifying the Low-

<sup>7</sup> GAO Draft Report at 40.

<sup>8</sup> *Id.* at 41.

<sup>9</sup> *Id.*

<sup>10</sup> See *id.* at 24-27. For example, in the Commission's Memorandum of Understanding with the Universal Service Administrative Company (USAC), greater clarity in administration and management of the USF were established. See Memorandum of Understanding Between the Federal Communications Commission and the Universal Service Administrative Company, at 1 (Sept. 2008) (*FCC/USAC MOU*). As part of this, the Commission established performance measures and goals for the USF and USAC. For example, USAC is required to submit quarterly data concerning the number of Low-Income program beneficiaries, number of connections supported, average time it takes to process support payments, and average (mean) monthly dollar amount disbursed per eligible carrier. *FCC/USAC MOU* at 53.

<sup>11</sup> *In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, Notice of Inquiry*, WC Dkt. No. 05-195, 23 FCC Rcd 13583, 13590, para. 22 (*2008 Performance Measures NOI*).

<sup>12</sup> *2008 Performance Measures NOI*, 23 FCC Rcd at 13590, para. 22.

<sup>13</sup> *2008 Performance Measures NOI*, 23 FCC Rcd at 13591, para. 25.

<sup>14</sup> See *Connecting America: The National Broadband Plan*, at xi (rel. Mar. 16, 2010) (National Broadband Plan), available at, <http://www.broadband.gov/download-plan/>.

<sup>15</sup> See *id.*

**Appendix V: Comments from the Federal Communications Commission**

Income program to fund broadband services in order to make these services more affordable for low-income households.<sup>16</sup>

Recognizing, among other things, that the potential modification of the Low-Income program to include broadband would be a significant change to the existing program, in May 2010, the Commission asked the Federal-State Joint Board on Universal Service (Joint Board) to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs.<sup>17</sup> Specifically, the Commission asked the Joint Board to recommend any changes to these aspects of the Lifeline and Link Up programs that may be necessary, given significant technological and marketplace changes since the current rules were adopted, based on consideration of: (1) the combination of federal and state rules that govern which customers are eligible to receive discounts through the Lifeline and Link Up programs; (2) best practices among states for effective and efficient verification of customer eligibility, both at initial customer sign-up and periodically thereafter; (3) appropriateness of various outreach and enrollment programs; and (4) the potential modification of the Low-Income program to support broadband, as recommended in the National Broadband Plan.<sup>18</sup> In its May 2010 *Referral Order*, the Commission also asked the Joint Board to consider how the potential modification of the low-income program to support broadband would affect any of its recommendations regarding changes to the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs. The Commission asked the Joint Board to submit its recommended decision within 6 months, by November 4, 2010.<sup>19</sup>

Accordingly, we believe the *2008 Performance Measures NOI* record may need to be refreshed in response to any future modification of the Low-Income programs to include broadband; the Joint Board's forthcoming recommendations to the Commission; and the Commission's actions in response to the Joint Board's recommendations. In doing so, quantifiable performance measures related to broadband supported services under the Low-Income program should be examined consistent with the "practices to enhance performance goals," as provided by GAO.<sup>20</sup>

We also welcome GAO's recognition of the Commission's conscientious efforts to date in developing internal control structures to safeguard the integrity of the Low-Income program.<sup>21</sup> Specifically, as GAO states, progress has been made in assessing risk in the program related to financial reporting pursuant to Office of Management and Budget Circular No. A-123, compliance with program rules, key program controls related to disbursement and invoicing, and Low-Income certification documents.<sup>22</sup> Despite these efforts, GAO has recognized that the internal control structure of the Low-Income program can be further improved. We agree. In particular, as GAO's recommendation suggests, the Low-Income program's internal controls would benefit from a holistic risk assessment in which the

<sup>16</sup> *Id.* at 172-173.

<sup>17</sup> See *Federal-State Joint Board on Universal Service Lifeline and Link Up*, CC Dkt. No. 96-45, Order, 25 FCC Rcd 5079, 5080, para. 39 (*Referral Order*); National Broadband Plan at 172-173.

<sup>18</sup> *Id.*

<sup>19</sup> The Federal-State Joint Board on Universal Service, established pursuant to the 1996 Act, provided recommendations to implement the universal service provisions and continues to provide recommendations regarding universal service at the Commission's discretion. The Joint Board is comprised of FCC Commissioners, State Utility Commissioners, and a consumer advocate representative. See 47 U.S.C. § 410(c), 254(a)(1).

<sup>20</sup> GAO Draft Report at 40.

<sup>21</sup> See *id.* at 18-19.

<sup>22</sup> See *id.* at 31-32.

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**Appendix V: Comments from the Federal  
Communications Commission**

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Commission considers all vulnerabilities and consequences.<sup>23</sup> Such a risk assessment should be designed to provide a critical examination of the entire Low-Income program to determine if modifications to business practices and internal controls are necessary to cost-effectively address programmatic risks.<sup>24</sup> As in the past, the Commission intends to work closely with the Universal Service Administrative Company (USAC) and provide the appropriate directives concerning the implementation of this risk assessment. Further, the Commission is committed to use this risk assessment to examine ways to improve the Low-Income disbursement and invoicing processes. For example, a robust risk assessment will provide the opportunity to ensure USAC is disbursing one discount per low-income household, as required under program rules.<sup>25</sup> The assessment could also provide an opportunity to improve program forms to ensure that both a wholeseller and reseller do not make dual claims for reimbursement for the same supported customer.<sup>26</sup>

As GAO recommends, the Commission is also committed to developing a systematic approach for considering the results of eligible telecommunications carrier (ETC) audits and improper payment assessments in evaluating internal controls of the Low-Income program.<sup>27</sup> Consistent with this recommendation, the Office of Managing Director (OMD) regularly reviews beneficiary audit findings per guidance set forth in the Office of Management and Budget Circular A-50 and the Commission's own internal directive.<sup>28</sup> This process includes: (1) reviewing USAC's management response to an audit; (2) reviewing USAC's planned corrective action and implementation plan; and (3) providing an OMD response and Wireline Competition Bureau response where necessary.<sup>29</sup> Also, in order for OMD to consider a finding closed, USAC provides OMD with supporting documentation to prove action has been taken. The corrective actions are summarized and monitored on a monthly basis and USAC provides OMD with a status update of all open findings and recommendations. Going forward, GAO's recommendations will support the Commission's efforts to make additional improvements in this area and to provide opportunities for modifying the program's internal control structures, including modifying the nature, extent, and scope of audits and improper payments.<sup>30</sup> OMD will work with USAC to ensure that clear policies and procedures addressing a systematic review of internal controls based on beneficiary audit findings are incorporated into USAC's written audit policies, procedures, and procurement. Further, OMD will renew its efforts to see that meaningful performance measures are developed for USAC's senior executives that reflect USAC leadership's responsibility for effectively and efficiently targeting and addressing risks in the Low-Income and other programs.

Finally, the National Broadband Plan recommended that the Commission facilitate Low-Income pilot programs to determine which parameters most effectively increase broadband adoption among low-income consumers.<sup>31</sup> As identified by GAO, the Commission is still contemplating this

<sup>23</sup> See *id.* at 36.

<sup>24</sup> Office of Management and Budget, *Management's Responsibility for Internal Control*, Circular No. A-123 (Dec. 21, 2004).

<sup>25</sup> See *Federal-State Joint Board on Universal Service*, Dkt. No. 96-45, Report and Order, 12 FCC Rcd 8776, at 8947, para. 341 (1997) (*Universal Service First Report and Order*); GAO Draft Report at 33.

<sup>26</sup> See GAO Draft Report at 33.

<sup>27</sup> See *id.* at 41.

<sup>28</sup> See Office of Management and Budget, *Audit Follow-up*, Circular A-50 (Sept. 29, 1982); FCC Directive, *FCCINT*, 1013.1C.

<sup>29</sup> See *id.*

<sup>30</sup> See GAO Draft Report at 39.

<sup>31</sup> See National Broadband Plan at 173.

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**Appendix V: Comments from the Federal  
Communications Commission**

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recommendation.<sup>32</sup> As consideration of the recommendation evolves, the Commission recognizes the importance of conducting an appropriate needs assessment accompanied by a sound implementation and evaluation plan consistent with the criteria identified by GAO.<sup>33</sup>

Once again, we appreciate GAO's recommendations and look forward to working with you on this in the future.

Sincerely,



Steven VanRoekel  
Managing Director

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<sup>32</sup> See GAO Draft Report at 28.

<sup>33</sup> See *id.* at 28-29.

# Appendix VI: Comments from the Universal Service Administrative Company

**USAC**  
Universal Service Administrative Company

Karen Majcher  
Vice President  
High Cost and Low Income Division

*Via Electronic Mail*

October 14, 2010

Lorelei St. James  
Acting Director, Physical Infrastructure Issues  
U.S. Government Accountability Office  
Dallas Field Office  
1999 Bryan Street, Suite 2200  
Dallas, TX 75201

Re: Response to Draft Report to Congressional Requestors on Management of the Universal Service Fund Low Income Program

Dear Ms. St. James:

This letter responds to the draft Government Accountability Office's (GAO's) Report, dated September 23, 2010, to Congressional Requestors, titled: "Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program." The Universal Service Administrative Company (USAC) would like to recognize the professional work of the GAO staff on this project. USAC submits this response to the GAO draft report.

The federal Universal Service Low Income Program is administered by USAC. The Federal Communications Commission (FCC or the Commission) is responsible for the overall management, oversight and administration of the Low Income Program and the Universal Service Fund (USF), including all policy decisions.<sup>1</sup> The GAO's draft report focuses on the following issues: (1) the need for performance goals and measures for the Low Income Program; (2) a needs assessment and implementation plans for Low Income broadband pilot programs; (3) a robust risk assessment for the Low Income Program; and (4) a systematic process for evaluating Low Income Program audit results. The GAO found that its recommendations were necessary to ensure the integrity of the Low Income Program.

#### ***Low Income Program Performance Goals and Measures***

GAO's first recommendation is that the Commission should clearly define performance goals for the Low income Program and develop quantifiable measures that can be used by Congress and the FCC to determine the program's success in meeting its goals. USAC.

<sup>1</sup> See 47 C.F.R. § 54.702.

as the administrator of the Low Income Program, will work with the FCC to implement any orders or directives it may issue concerning Low Income Program performance goals and measures.

***Low Income Broadband Pilot Programs***

GAO's second recommendation is that the Commission should conduct a needs assessment of the telecommunications needs of low income households to utilize in the design and implementation of any broadband pilot programs focused toward low income households. The GAO also recommends the FCC develop implementation and evaluation plans for such proposed pilot programs that may be used to develop future policy decisions for the Low Income Program. USAC, as the administrator of the Low Income Program, will work with the FCC to implement any orders or directives it may issue concerning Low Income broadband pilot program(s).

***Risk Assessment for the Low Income Program***

GAO's third recommendation is that the Commission should conduct a robust risk assessment specific to the Low Income Program that considers all program vulnerabilities. The GAO's draft report states that the Commission and USAC have not conducted such a risk assessment and explains that such an assessment could help identify risks to the Low Income Program and provide opportunities for mitigating those risks. USAC partially concurs with this conclusion. USAC, as the administrator of the Low Income Program, will work with the FCC to implement to implement any orders or directives it may issue for a formal risk assessment of the Low Income Program.

USAC appreciates the GAO's recognition of the internal controls USAC has in place. USAC operates consistent with an extensive set of internal controls that are designed to safeguard the Low Income Program and the USF, promote administrative efficiency, and reduce the possibility of errors that could result in waste, fraud or abuse in the Low Income Program or the USF. It is important to note that USAC's internal controls primarily govern the internal procedures used by USAC to administer the Low Income Program. For example, USAC reviews each Low Income Program support claim filed on the FCC Form 497. USAC compares an ETC's current support claim to the information the company previously submitted to identify possible errors and substantial changes in the ETC's monthly support claims. USAC staff follows its internal procedures in reviewing and processing Low Income Program support claims. However, given the limited amount of data collected from ETCs on the current FCC Form 497, USAC's internal procedures cannot determine whether the ETC has claimed support for the appropriate number of Lifeline subscribers, or whether multiple ETCs have concurrently claimed Low Income Program support for the same subscriber. One way to verify this information would be to revise the FCC Form 497 to authorize USAC to collect additional information from ETCs.

USAC also believes that the GAO's conclusion that USAC has not conducted any risk assessments specific to the Low Income Program is too narrow. In 2008, the independent

public accounting firm Grant Thornton, LLP (Grant Thornton) completed an extensive review of USAC's internal controls. Grant Thornton reviewed USAC's financial reporting internal controls to ensure compliance with OMB Circular A-123, Management Responsibility for Internal Control, and assessed and tested specific Low Income Program controls associated with the administration of the program. Grant Thornton identified only one control deficiency in USAC administration of the Low Income Program.<sup>2</sup> USAC's internal controls team recently completed (in 2010) an assessment of Low Income Program internal controls. The draft report is almost finalized and identifies no major control deficiencies in the Low Income Program.

USAC's role as administrator and auditor of the Low Income Program make it uniquely situated to identify significant risks, such as those cited in the GAO's draft report (e.g., duplicate support claims made by wholesale and resale ETCs, duplicate support claims made by wireline and wireless ETCs), which were revealed as the result of USAC-conducted beneficiary audits. USAC has also conducted risk assessments to target risk factors associated with beneficiary compliance with Low Income Program rules. USAC and the FCC will work together to continue to identify and mitigate risks to the Low Income Program. As noted above, USAC will work with the FCC to implement any orders or directives it may issue for conducting a formal risk assessment for the Low Income Program.

#### *Systematic Audit Review*

The GAO's final recommendation is that the Commission should implement a systematic process for considering the results of ETC audits and improper payment assessments in evaluating internal controls of the Low Income Program. USAC partially concurs with this recommendation. USAC, as the administrator of the Low Income Program, will work with the FCC to implement any orders or directives it may issue for conducting a systematic review of audit findings and results.

USAC does not believe that the facts viewed in their full context support the conclusion that audit findings have not been used effectively by FCC and USAC to assess and modify internal controls used by USAC in administering the Low Income Program. USAC carefully reviewed and analyzed the audit findings after the conclusion of Round 1 of the FCC Office of Inspector General (OIG) USF audit program. The results of the analysis of the 60 FCC OIG USF audit program Round 1 Low Income Program beneficiary audits demonstrated that most of the non-compliant auditee findings were not the result of deficiencies in USAC's internal controls.

While the Low Income Program was not included in Rounds 2 or 3 of the FCC OIG USF audit program, USAC's Internal Audit Division (IAD) has continued to conduct targeted audits of Low Income Program beneficiaries, as it has done since 2003. Beginning in 2011, Low Income Program beneficiaries are scheduled to be included in USAC's new

<sup>2</sup> Grant Thornton found that there was no evidence of review of the quarterly High Cost and Low Income projections. USAC has rectified this by creating a checklist that shows that the projections have been reviewed.

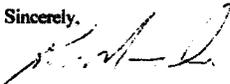
**Appendix VI: Comments from the Universal  
Service Administrative Company**

Beneficiary Compliance Audit Program (BCAP). BCAP, developed in conjunction with the FCC, will be the next large scale audit initiative of beneficiaries receiving Low Income Program support. To complement BCAP, USAC also developed in conjunction with the Commission's Office of Managing Director a new Payment Quality Assurance (PQA) program. PQA is designed to review the accuracy of recent USF disbursements. This review identifies improper payments and is completed more expeditiously than the prior FCC OIG USF program audits. In addition, USAC regularly conducts in-depth data validations (IDVs) of ETCs receiving Low Income Program support in which staff obtains and reviews a carrier's underlying documentation to validate support claims submitted on the FCC Form 497.

Since 2006, all audit findings and follow-up actions (such as monetary recovery, admonishment, referral to the Commission, or appeal) are recorded in USAC's internal audit tracking system. USAC provides the Commission with reports on a regular basis so that the Commission is aware of audit findings and the action USAC took in response to the findings. USAC also carefully reviews findings identified in audits and the IDVs to determine common issues related to beneficiary compliance with the Commission's rules. USAC uses this information to target its education and outreach efforts. For example, USAC regularly addresses Low Income Program common audit findings in its monthly *High Cost and Low Income Newsletter*, its quarterly High Cost and Low Income regional training sessions, in webinars, and on USAC's website. In this manner, USAC attempts to make ETCs aware of the common errors and compliance issues that are identified through audits and IDVs and provides best practices and other tips to assist ETCs in avoiding these audit findings. Once the first year of BCAP audits are completed, USAC will conduct an assessment of the audit findings similar to the assessment performed on the FCC OIG USF audit program rounds and will use the data to further target its education and outreach efforts addressing beneficiary compliance.

USAC appreciates the opportunity to submit its response to GAO's draft report on the Low Income Program.

Sincerely,



Karen Majcher  
Vice President, High Cost and Low Income Division

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# Appendix VII: GAO Contact and Staff Acknowledgments

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## GAO Contact

Lorelei St. James, (214)777-5719 or [stjamesl@gao.gov](mailto:stjamesl@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Sally Moino and Robert Owens (Assistant Directors), Joanna Chan, Derrick Collins, Benjamin Gant, Natasha Guerra, Stuart Kaufman, Scott McNulty, Sara Ann Moessbauer, Josh Ormond, Amy Rosewarne, Mindi Weisenbloom, and Jessica Wintfeld made key contributions to this report.

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# Related GAO Products

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*Telecommunications: FCC Should Assess the Design of the E-Rate Program's Internal Control Structure.* GAO-10-908. Washington, D.C.: September 29, 2010.

*Telecommunications: Long-Term Strategic Vision Would Help Ensure Targeting of E-rate Funds to Highest-Priority Uses.* GAO-09-253. Washington, D.C.: March 27, 2009.

*Telecommunications: FCC Needs to Improve Performance Management and Strengthen Oversight of the High-Cost Program.* GAO-08-633. Washington, D.C.: June 13, 2008.

*Telecommunications: Greater Involvement Needed by FCC in the Management and Oversight of the E-Rate Program.* GAO-05-515. Washington, D.C.: February 9, 2005.

*Telecommunications: Federal and State Universal Service Programs and Challenges to Funding.* GAO-02-187. Washington, D.C.: February 4, 2002.

*Schools and Libraries Corporation: Actions Needed to Strengthen Program Integrity Operations before Committing Funds.* GAO/T-RCED-98-243. Washington, D.C.: July 16, 1998.

*Telecommunications: Court Challenges to FCC's Universal Service Order and Federal Support for Telecommunications for Schools and Libraries.* GAO/RCED/OGC-98-172R. Washington, D.C.: May 7, 1998.

*Telecommunications: FCC Lacked Authority to Create Corporations to Administer Universal Service Programs.* GAO/T-RCED/OGC-98-84. Washington, D.C.: March 31, 1998.

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