

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

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

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
IN RESPONSE TO JOINT BOARD REQUEST FOR COMMENT**

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I. INTRODUCTION

Some 21 sets of comments were filed in response to the June 15, 2010, request of the Federal-State Joint Board on Universal Service (“Joint Board”) for public comment on “questions regarding eligibility, verification, and outreach rules for the universal service low-income programs” and on the “potential expansion of the low-income program to broadband, as recommended in the National Broadband Plan” that had been referred to the Joint Board by the Federal Communications Commission (“FCC” or “Commission”).¹ The National Association of State Utility Consumer Advocates (“NASUCA”) files these reply comments, chiefly to respond to objectionable positions taken by other parties, but also to acknowledge areas where NASUCA is in agreement with others’ comments.

In NASUCA’s initial comments, two issue areas were addressed that were not strictly speaking within the four corners of the Public Notice or the *Referral Order*. One was the general

¹ FCC 10J-2 (rel. June 15, 2010) (“Public Notice”), citing *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, FCC 10-72 (rel. May 4, 2010) (“*Referral Order*”). Unless specifically identified, further references should be understood to be to WC Docket No. 03-109.

need for federal minimum standards for the federal Lifeline program.² Some of the other comments support – either explicitly or implicitly – that theme.

NASUCA had also commented on the need to address the fundamentals of the Lifeline program beyond questions of eligibility, verification, and outreach. This was based on the “tremendous changes to telephone service since 2000, when the Commission last referred questions about Lifeline and Link Up to the Joint Board.”³ Those changes prompted NASUCA to adopt a broad-ranging resolution on Lifeline at its June 2010 meeting; the resolution was attached to NASUCA’s comments, and summarized in the body of the comments. Among the issues raised in the resolution were: asking the Commission to require carriers to offer discounted basic service while permitting Lifeline customers to purchase packages and bundles, and to require carriers to apply the full federal Lifeline discount and any applicable state Lifeline discount to basic local service and to the price of any service package containing basic local service that they offer⁴; asking the Commission to consider establishing minimum standards of service for prepaid wireless Lifeline service that would apply to all prepaid wireless Lifeline services, facilities-based or not, and satisfy the public interest by providing adequate value for Lifeline recipients and comply with the universal service mandates of the Act, including adopting a minimum standard to ensure adequate value to prepaid Lifeline wireless customers from the service (i.e., minimum number of monthly minutes, maximum price for additional minutes and maximum price for text messages, etc.); and asking the Commission to investigate whether the Lifeline discount should no longer be taken off the retail rate, but off some measure

² See NASUCA Initial Comments at 5-6. As in the initial comments, further reference to “Lifeline” should be understood to include, except where obviously not relevant, reference to Link Up as well.

³ *Referral Order*, ¶ 10.

⁴ NASUCA also asked the Commission to ensure that Lifeline customers with packages are not disconnected at a significantly greater frequency than Lifeline customers without packages.

of wholesale or forward-looking cost, especially where the carrier's services are not price-regulated.⁵ Some of the comments touch on these subjects.

Comments to the Joint Board were filed by some of the largest carriers in the country⁶; a national carrier association⁷; a competitive local exchange carrier ("CLEC")⁸ wireless carriers, both prepaid and otherwise⁹; state regulatory commissions¹⁰; and public interest organizations and consumer advocates.¹¹ Some of the comments contain good suggestions that should be considered by the Joint Board; others contain proposals that would harm the Lifeline program.

II. THE NEED TO ADDRESS THE FUNDAMENTALS OF THE LIFELINE AND LINK UP PROGRAMS

The Consumer Groups add another reason to NASUCA's argument for a fundamental reexamination of the Lifeline program, being the woeful undersubscription around the country to Lifeline.¹² Such a reexamination would better target and make the current funding more

⁵ NASUCA Initial Comments at 2-5.

⁶ AT&T Inc. ("AT&T"); Verizon and Verizon Wireless ("Verizon").

⁷ United States Telecom Association ("USTelecom").

⁸ YourTel America, Inc. ("YourTel")

⁹ Leap Wireless International, Inc. and Cricket Communications, Inc. ("Cricket"); Nexus Communications, Inc. ("Nexus"); PR Wireless, Inc. ("PRW"); Smith Bagley, Inc. ("Smith Bagley"); TracFone Wireless, Inc. ("TracFone").

¹⁰ California Public Utilities Commission and the People of the State of California ("CPUC"); Florida Public Service Commission ("FPSC"); Nebraska Public Service Commission ("NPSC"); Public Service Commission of the District of Columbia ("DCPSC"); Public Service Commission of the State of Missouri ("MoPSC"); Public Utilities Commission of Ohio ("PUCO").

¹¹ Advocates for Basic Legal Equality, Inc., et al. ("Consumer Groups"); Benton Foundation, et al. ("Benton, et al."); the Community Voice Mail National Office ("CVMN"); Media Action Grassroots Network ("MAG-Net"); National Hispanic Media Coalition ("NHMC"). CVNM was a signatory to the Consumer Groups' comments, as was The Utility Reform Network, a NASUCA member. Twin Cities Community Voice Mail is a signatory to both the Consumer Groups comments and the MAG-Net comments.

¹² Consumer Groups Comments at 7.

effective, without running the risks of bloating the low-income fund identified in NASUCA's initial comments.¹³

The Consumer Groups also specifically discuss at length the issues regarding prepaid wireless Lifeline that need to be resolved.¹⁴ NASUCA strongly endorses the sentiment that

the rationale for pre-paid wireless should not be, "Something is better than nothing." To say that the pre-paid Lifeline service is "free" to the consumer is only half the picture as the people holding the tab are those that contribute to the universal service fund in their monthly bills. The Commission has a duty to be a good steward of the public universal service funds.¹⁵

NASUCA must, however, disagree with Verizon's assertion that, with the approval of the prepaid wireless ETCs, Lifeline is becoming "more of a nationwide initiative...."¹⁶ In the first place, Lifeline was always supposed to have been a nationwide initiative. Second, the success of the prepaid wireless ETCs is not just a sign of their ability to meet consumer needs¹⁷; it is also a signal of the ILECs' inability to meet (and disinterest in meeting) the needs of low-income consumers. And finally, as discussed, the services offered by these "low-income ETCs" are not necessarily a good value, either for the customers who receive the service **or** for the customers who ultimately pay for the service.¹⁸

That is what makes the reality behind Nexus's statement almost ironic:

[P]eople living at or near the poverty line, which, generally speaking are the intended beneficiaries of the Lifeline program, find that wireless telephone service best meets their business and personal needs. ... Many of these consumers also opt, where available, for prepaying for the minutes of use for

¹³ Cite

¹⁴ Consumer Groups Comments at 36-44.

¹⁵ Id. at 37.

¹⁶ Verizon Comments at 2.

¹⁷ Id.

¹⁸ Indeed, it appears that, given the limits of the service compared to their receipts from the USF, these carriers are finding Lifeline to be a major profit center.

these services as a convenient budgeting mechanism or because they do not meet typical financial requirements for post-paid plans.¹⁹

Low-income customers cannot afford both a wireless and a wireline phone; it should not be surprising that many of them opt for the mobile phone. And, as far as Lifeline is concerned, there appear to be very few post-paid Lifeline carriers; the flood of heavily-advertised prepaid Lifeline carriers is clearly dominating the Lifeline market.

USTelecom supports allowing Lifeline customers to apply their discounts to bundles, including those that include broadband.²⁰ This position is consistent with the NASUCA resolution, which, however, also called for measures to ensure that Lifeline consumers with more expensive bundles are not disconnected at higher rates than those without bundles.²¹

Verizon proposes that the Joint Board recommend a pilot voucher program, where eligible customers receive a voucher “to spend, at their election, on specified services ... offered by registered providers.”²² It is not clear whether the use of such vouchers would be consistent with 47 U.S.C. § 254, but a pilot program or equipments

¹⁹ Nexus Comments at 2.

²⁰ USTelecom Comments at 10.

²¹ USTelecom asserts that “[s]ome states, like Ohio, currently refuse to apply Lifeline discounts to bundles that include services other than basic telephone service and call waiting.” *Id.*, n.21. The truth, as usual, is somewhat more complicated: First, this restriction applied only to the state’s Tier 3 “enhanced” Lifeline program for incumbent local exchange carriers (“ILECs”). Ohio Admin. Code 4901:1-5-06(B). Second, an enhanced Lifeline customer was able to subscribe to any service by stating a medical or safety need. *Id.* Third, only one company (AT&T) applied for, received, and used a waiver of this restriction; another (then-Embarq) applied for and received a waiver and never saw fit to use it. And finally, as implied by the “currently” in USTelecom’s statement, under a new Ohio law effective September 13, 2010, Ohio ILECs will be able to market any bundle or package to Lifeline customers and will apply the discount to those packages. Unfortunately, even the PUCO is not entirely accurate in its description of the new law, saying that under the new law the enhanced Lifeline program is “expanded for all” and has a higher discount. PUCO Comments at 2-3. The new statute expands the program to include some 40,000 access lines out of the 3.6 million access lines in the state.

²² Verizon Comments at 7. Verizon includes “or equipment” in its proposal. *Id.*; see also DCPSC Comments at 5. The current Lifeline program supports only services, not equipment. And, as NASUCA has commented (cite), the use of universal service funds even to support broadband equipment is problematic.

As noted above, NASUCA also recommended the examination of other Lifeline issues, regarding applying Lifeline discounts to packages and bundles,²³ and, given the increasing price-deregulation of bundles and even basic service, investigating whether the Lifeline discount should be taken off some measure of wholesale or forward-looking cost rather than the retail rate.²⁴ Nothing in others' comments diminishes the view that such an examination is needed.

III. THE FCC SHOULD ADOPT MINIMUM STANDARDS FOR LIFELINE PROGRAMS.

AT&T and a number of the other carrier parties "strongly recommend[] a consistent set of national eligibility and certification rules that would apply across all states."²⁵ This position coincides with NASUCA's view, although NASUCA does not necessarily agree with the carriers' bases for their position.²⁶

The Consumer Groups agree with federal floors for Lifeline certification and verification.²⁷ For example, the Consumer Groups point out that only 26 states have income-based eligibility as part of the Lifeline design.²⁸ There is no reason why income at the

²³ And protecting Lifeline customers with bundles from onerous disconnection practices.

²⁴ NASUCA Initial Comments at 2-5.

²⁵ AT&T Comments at 7; see also PRW Comments at 9; USTelecom Comments at 4; Verizon Comments at 2.

²⁶ For example, AT&T does this in looking to avoid any carrier responsibility for determining eligibility (as discussed in § IV.A. below), but it remains true that a more uniform national program would be easier (and less expensive) to administer. On the other hand, AT&T's assertion that the reason cable companies and multistate postpaid wireless companies have chosen not to become Lifeline providers is the lack of state standardization (*id.* at 6; see also USTelecom Comments at 5-6) is totally unsupported. (NASUCA suspects that a more likely reason is the carrier-of-last-resort obligations that accompany ETC status; it is not at all clear that uniform standards would prompt cable companies and multistate postpaid wireless companies to offer Lifeline.)

²⁷ Consumer Groups Comments at 5, 22-23.

²⁸ *Id.* at 10.

designated percentage of **federal** poverty level²⁹ should not qualify a customer for this **federal** program.³⁰

The CPUC opposes the proposal for uniform national criteria.³¹ But CPUC states, “If the Commission were to adopt such national standards, it should not preempt State adoption of additional or different criteria that would pertain to the State’s own low-income programs.”³² It is not clear whether the CPUC’s position is inconsistent with NASUCA’s proposal for a national **floor** for eligibility criteria, for example. Where a state contributes no money to the program, or contributes only the amount of the Tier 3 match,³³ the state clearly should not be able to limit the programs (or reduce the income level) that qualify a customer for the federal program.³⁴ If the state contributes more than that amount, it should be able to limit the number of customers to whom the state contribution is available.³⁵ But again, the **federal** program should still be available under the **federal** qualifications.

Cricket raises an interesting point regarding the new wireless Lifeline carriers: Many are excluded from state Lifeline programs.³⁶ Presumably this refers to state Tier 3 programs, where under state law the state-matching funds can go only to wireline ETCs. But this is another

²⁹ See Section IV.A., below.

³⁰ Nexus states that it “encourages the Commission to review its eligibility, verification and outreach rules as they pertain to new technologies, such as wireless and broadband, as well as market developments.” Nexus Comments at 2. With regard to these “new technologies,” there is no reason to have eligibility rules that vary by technology; little reason to have different verification requirements, and only slightly more reason to have different standards for outreach.

³¹ CPUC Comments at 3.

³² Id.

³³ See MoPSC Comments at 2.

³⁴ See id. at 3, n.8.

³⁵ See CPUC Comments at 11.

³⁶ Cricket Comments at 6.

reason to have federal standards for the ETCs (and their customers) that cannot participate in the state programs.³⁷

On the other hand, TracFone asserts that

rules which differ among ETCs and among their Lifeline customers based on technology (e.g., wireline vs. wireless) or based on service offerings (e.g., discounted rates on billed wireline services vs. bundles of free wireless services) have no place in a nationally-uniform Lifeline program funded by the federal Universal Service Fund and such discriminatory requirements should not be permissible.³⁸

Rules that differentiate among service offerings are necessary based on the differences among the offerings. For example, discounted rates on billed or prepaid services, whether wireline or wireless, allow consumers and regulators to know the cost of the service with and without the discount. But bundles of “free” services (whether wireless or wireline), where there is no retail equivalent, are much more problematic. This is especially true where there are limits on the “free” usage, such as the low limits typically imposed by TracFone, and high costs for additional usage, such as the high per-minute charges typically imposed by TracFone.³⁹

³⁷ NASUCA is not aware if any such program have been challenged on § 253 grounds.

³⁸ TracFone Comments at 3. See also Nexus Comments at 2-3 (referring to an alleged state “bias” against wireless carriers). Nexus cites the NASUCA resolution provided in the initial comments as its only support for this allegation. *Id.* at 3, n.6. NASUCA will leave it to the Commission to decide whether that resolution displays a bias against wireless rather than against the business model of certain wireless carriers.

³⁹ Looked at another way, such limited usage already violates the Commission rules requiring Lifeline local service usage for CETCs to comparable to that provided by the ILEC in whose territory they operate. See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005) (“*ETC Designation Order*”), ¶ 32.

IV. THE FCC SHOULD ADOPT NASUCA'S PREVIOUS RECOMMENDATIONS FOR THE LIFELINE PROGRAM.

A. ELIGIBILITY

AT&T argues that “states, not Lifeline providers, are **best** positioned to determine customer eligibility.”⁴⁰ NASUCA does not disagree. But AT&T’s assumption that all states have one or more agencies statutorily authorized to determine Lifeline eligibility⁴¹ assumes too much. Clearly the Commission cannot order the creation of such an agency, or changes in state law to allow current agencies to perform this function.⁴² Thus unless there is such an agency in a specific state, the carriers will remain the fallback for eligibility determinations. After all, it is the carriers who are receiving the federal Lifeline dollars.

Overall, NASUCA supports the development of a national eligibility database for the Lifeline program.⁴³ But NASUCA is cognizant of the practical difficulties involved.⁴⁴ Such a database would, of course, be made easier to implement by the adoption of nationwide eligibility standards, as recommended by NASUCA.⁴⁵ A national eligibility database would, of course, be larger than the individual state databases, but it is not clear whether the privacy issues of a single large database would, overall, be more substantial than those raised by multiple state databases. The privacy issues must be resolved before such a database can be implemented, however.⁴⁶

⁴⁰ AT&T Comments at 4 (emphasis added).

⁴¹ Id. at 5.

⁴² It would make little sense to deny federal funding for Lifeline to states that do not have such an agency.

⁴³ See id. at 9-11 and Verizon Comments at 5-6, citing *Referral Order* at ¶ 20. Such a database would relieve the carriers of a duty to resolve (among themselves) multiple Lifeline subscriptions for a single customer. See PRW Comments at 14; Verizon Comments at 4-5.

⁴⁴ Consumer Groups Comments at 19.

⁴⁵ Additional state eligibility options could be dealt with as exceptions in a nationwide database.

⁴⁶ FPSC Comments at 3.

The use of a national automated database would facilitate verification. It would also address much of the “double-dipping” problem: As YourTel notes, “there are no checks and balances available to any service provider in place to prevent a customer from obtaining support from two different carriers.”⁴⁷ As the FPSC notes, a national database would make it easier to detect fraud by both customers **and** ETCs.⁴⁸

Cricket opposes state programs that allow customers to self-certify their Lifeline eligibility, asserting that “such procedures can invite waste, fraud and abuse....”⁴⁹ But it appears that Cricket’s main concern is its own liability for regulatory enforcement, if it asks for more documentation.⁵⁰ Cricket seeks a “safe harbor” if it “implement[s] reasonable procedures that go beyond those mandated by applicable state rules – such as adhering to the documentation requirements found in federal default rules.”⁵¹ In the first place, it does not appear that Cricket’s concerns about abuse **by consumers** have substance in fact. But NASUCA agrees with Cricket that “[t]here is no reason for concern that carriers would unduly burden consumers or unfairly exclude eligible customers from participation; after all, a carrier would not seek designation as an ETC if it did not wish to take advantage of the available discounts.”⁵² NASUCA’s concern is that carriers may, in their own interest, try to take advantage of the available discounts.

⁴⁷ YourTel Comments at [5]; see also Smith Bagley Comments at 10. The CPUC recommends (at 19) that “the FCC require that LifeLine marketing and outreach efforts, by the carriers and by State entities, be required to include information clearly notifying consumers that a consumer may only sign-up for one LifeLine service per household.” To the extent this is not done now, the FCC should mandate this practice.

⁴⁸ FPSC Comments at 8.

⁴⁹ Cricket Comments at 6.

⁵⁰ Id.

⁵¹ Id. at 7.

⁵² Id.

As noted in the initial comments, NASUCA has long supported moving the income eligibility standard to 150% of the FPL.⁵³ Benton, et al. and the Consumer Groups agree.⁵⁴ The PUCO points out that the majority of programs qualifying customers for Lifeline have income standards that are higher than the FCC's current 135% of FPL.⁵⁵

On the other hand, USTelecom states that there “is no evidence that changes to federal default rules that expand Lifeline and Link-Up voice discount eligibility would materially improve low-income consumers’ access to telecommunications services.”⁵⁶ As the Consumer Groups point out, raising the income eligibility standard will automatically expand the population eligible for Lifeline.⁵⁷ USTelecom asserts that subscribership among households with incomes under \$20,000 stands at 90.4%⁵⁸; presumably it is acceptable to USTelecom to have one in ten low-

⁵³ NASUCA Initial Comments at 7, citing NASUCA Comments to Refresh the Record (August 24, 2007) and Reply Comments (September 10, 2007). NASUCA also recommended clarifying the definition of “income” for eligibility purposes. See NASUCA Comments on Further Notice of Proposed Rulemaking (August 20, 2004); Reply Comments (October 4, 2004); Comments to Refresh the Record (August 24, 2007). See also Consumer Groups Comments at 11-12.

⁵⁴ Benton, et al. Comments at 5-6; Consumer Groups Comments at 8-9; Smith Bagley Comments at 6-7. PRW also agrees with this expansion. PRW Comments at 3-4. MAG-Net supports 200% of FPL as a qualifier. MAG-Net Comments at 9. Benton, et al. also support increasing the number of programs for which participation would mean Lifeline eligibility (Benton, et al. Comments at 6), but do not identify any additional programs.

⁵⁵ PUCO Comments at 5-6.

⁵⁶ USTelecom Comments at 4; see also Verizon Comments at 8.

⁵⁷ Consumer Groups Comments at 8-9.

⁵⁸ USTelecom Comments at 4-5, citing “FCC, *Telephone Penetration by Income and State* (May 2010) at Table 2, page 8 available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297986A1.pdf (visited July 14, 2010).” A word about the use and misuse of statistics is necessary here. The numbers cited by USTelecom do not appear at the page referenced, because the numbers on page 8 are stated in 1984 dollars, and the 90.4% applies to households with incomes below \$9,999. At page 24 (in Table 4) of the document, we learn that today’s equivalent of \$10,000 in 1984 dollars is just over \$20,000. So USTelecom’s statement is fairly accurate. On the other hand, Verizon states (at 8) that “[e]ven among low income households with earnings of less than \$15,000 per year, telephone subscribership is now at 94 percent,” citing “*Telephone Subscribership in the United States (data through November 2009)*, FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296121A1.pdf, at 1 (Feb. 2010).” The disparity in these numbers is explainable. First, the page cited by Verizon states that, **as of November 2009**, “[t]he telephone penetration rate for households in income categories below \$15,000 was at **or below 94.0%....**” (Emphasis added.) As the tables reveal (Table 4, at page 35), in November 2009, the 94.0% penetration rate was for households with incomes of \$12,500 to \$14,999. The numbers for households with incomes less than \$15,000 per year ranged from an 85.5% penetration for households with incomes under \$5,000 to the 94.0% for the range from \$12,500 to \$14,999. Overall, USTelecom’s statement is far more accurate than Verizon’s. (By the way, the penetration number for \$12,500 to \$14,999 for the entire year 2009 was 93.3%. Table 4, at page 35.)

income households without service, when the average subscription rate is 96%⁵⁹ and household with incomes above \$50,000 in 2009 had a subscription rate of at least 98.5%.⁶⁰ USTelecom's position is both counter-intuitive and unsupported.⁶¹ The PUCO correctly points out that increasing the eligibility standard "would alleviate some economic burden to families choosing to qualify through income and who, for whatever reason, are not taking advantage of qualifying programs that allow others with higher incomes (albeit still low-income) access to Lifeline benefits."⁶²

Verizon proposed a study to determine why some households do not have phone service today.⁶³ NASUCA has no objection to such a study – indeed, it would be helpful in making the Commission's Lifeline rules more "data-driven" – but suggests that the principal reason for non-subscription is based on the economic principle that, the higher the price, the fewer people will buy the service, especially given the constraints of limited incomes.

Some propose that residents of group homes and homeless shelters should be automatically eligible for Lifeline.⁶⁴ It is highly likely that residents of such facilities will qualify under the current programmatic or income-based eligibility standards, but mere residence

⁵⁹ Verizon Comments at 1. Verizon states that this means that "virtually everyone who wants phone service – regardless of income – is now connected." Id. This is contradicted on its face by the low-income penetration numbers.

⁶⁰ *Telephone Subscribership in the United States (data through November 2009)*, FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296121A1.pdf, at 1 (Feb. 2010), Table 4, at page 35. PRW cites some of the variation in subscription among states. PRW Comments at 4-5.

⁶¹ USTelecom asserts, on the one hand, that increasing the income standard will not increase access to telephone service but, on the other, that increasing the income standard will strain the fund. USTelecom Comments at 4.; see also Verizon Comments at 8. The contradiction is lost on USTelecom and Verizon, unless the assumption is that making service cheaper for low-income consumers does not increase their access to the service.

⁶² PUCO Comments at 6-7.

⁶³ Verizon Comments at 8.

⁶⁴ Benton, et al. Comments at 6-7; MAG-Net Comments at 9-10; PRTC Comments at 7; Smith Bagley Comments at 8; TracFone Comments at 5.

should not be a qualifier.⁶⁵ It is also highly unlikely, however, that a person would choose to live in a homeless just to qualify for Lifeline.

The problem here is the “one Lifeline account per household” rule. Simplistically applied, the rule overlooks that numerous persons not part of a single household can reside at a single address.⁶⁶ As PRW states, “[R]esidents of homeless shelters and other multi-family dwellings should not be disqualified by application of a ‘one per household’ requirement that views a homeless shelter, subdivided multi-family dwelling, or other multi-unit residential or group living facility (such as a nursing home or assisted-living facility) as a single household.”⁶⁷ NASUCA supports the proposal of the Consumer Groups that the management of a shelter or group home should be able to certify the nature of the facility, such that multiple residents, constituting multiple families/households, should be able to separately qualify for and receive Lifeline service.⁶⁸ On the other hand, to allow Lifeline customers to receive discounts for both wireless and wireline service⁶⁹ goes well beyond the purpose of universal service.⁷⁰

B. VERIFICATION⁷¹

The Consumer Groups discuss the issues surrounding verification, including strengthening the audit process and the adoption of best practices.⁷² NASUCA agrees with these

⁶⁵ See Consumer Groups Comments at 14; FPSC Comments at 4; NPSC Comments at 3-4.

⁶⁶ Anecdotally, there have been instances where Lifeline applications for multiple apartments with a single street address have been rejected.

⁶⁷ PRW Comments at 7-8; see also Smith Bagley Comments at 4.

⁶⁸ Consumer Groups Comments at 13.

⁶⁹ MAG-Net Comments at 12; PRTC Comments at 13; see also PRTC Comments at 12, Smith Bagley Comments at 4, 5-6 (allowing each adult in a household to receive Lifeline benefits).

⁷⁰ This is consistent with NASUCA’s position that the high-cost fund should support only one connection per household.

⁷¹ See NASUCA Comments, § V.

⁷² Consumer Groups Comments at 23-26; see also Benton, et al. at 7.

eminently reasonable positions.

NASUCA also agrees with the many commenters who assert that more documentation is not needed for verification.⁷³ Requiring more documentation places a burden on the carrier and/or the state agency, but more importantly, it is a burden and barrier for the low-income consumer.

On the other hand, the NPSC supports requiring verification for all Lifeline recipients.⁷⁴ NPSC states, “With the resources available there is no reason that the eligibility of all recipients in the program cannot be verified.”⁷⁵ That is the entire problem: The resources available for verification – whether carrier⁷⁶ or governmental⁷⁷ – are limited. The question is whether the cost of 100% verification – from carrier, government and customer perspective – is worth the result: exclusion of some possibly ineligible consumers from the program.⁷⁸

From another perspective, however, the FPSC addresses the need for more comprehensive verification processes for the prepaid providers “who do not use monthly billing.”⁷⁹ The FPSC suggests that these carriers be required to contact any Lifeline customer with no phone activity after a sixty-day period to determine whether the consumer is still an active Lifeline customer, and notes that for one Florida provider, such a process saved the USF

⁷³ FPSC Comments at 4-5; Smith Bagley Comments at 8-9; TracFone Comments at 6-7; Verizon Comments at 9; YourTel Comments at [3].

⁷⁴ NPSC Comments at 6.

⁷⁵ Id.

⁷⁶ TracFone Comments at 10.

⁷⁷ NPSC pleads lack of governmental resources as a reason why automatic enrollment should not be required. NPSC Comments at 4.

⁷⁸ The Ohio experience has been that the cost of 100% verification exceeds the benefit of exclusion, especially where lack of resources causes consumer who are actually eligible to be excluded.

⁷⁹ FPSC Comments at 9.

\$8.6 million.⁸⁰ The Consumer Groups discuss the particular verification issues regarding prepaid wireless Lifeline service.⁸¹ Such requirements recognize the differences among services, and do not discriminate among providers.⁸²

Verizon states that

The Commission and the Joint Board should also recognize that ETCs are not enforcement agents of the Commission for purposes of verifying Lifeline eligibility of program participants, and it is bad policy to hold carriers liable for misrepresentations by participants at the time of enrollment or verification. Such a practice creates a situation where carriers must essentially underwrite all Lifeline funding, which discourages carriers from participating in the program and extending Lifeline benefits to low income individuals.⁸³

Verizon overlooks the fact that all ETCs must also offer Lifeline.⁸⁴ It is safe to presume that the benefits carriers receive from the high-cost fund substantially exceed the amounts that Verizon describes to be at risk under Lifeline. In addition, the alternative to making the carriers liable is to allow them to keep the money paid for the ineligible customers. And unless the retail rate of the service less the Lifeline discount is below the incremental cost of the service, under traditional economic theory the carrier is better off even if it has to return the amounts it has received from the USF.⁸⁵

C. OUTREACH

NASUCA agrees with Benton, et al., the Consumer Groups, MAG-Net and NHMC that outreach efforts need to be broadened, so that more eligible customers will be served by

⁸⁰ Id. at 9-10.

⁸¹ Consumer Groups Comments at 26-28.

⁸² See Section III., supra.

⁸³ Verizon Comments at 10. The vastly larger number of Lifeline recipients (and the much smaller per-recipient dollar amounts) makes Verizon's analogy to the e-rate program (id. at 10-11) entirely inapposite.

⁸⁴ And again, the idea that this risk discourages carriers from being ETCs substantially overinflates this aspect of the risk.

⁸⁵ It is possible that under current cost allocation, the Lifeline rate is below incremental cost. But, as NASUCA has discussed elsewhere, with proper allocation and separations, local service rates would be reduced.

Lifeline.⁸⁶ The CPUC describes its current outreach practices in detail.⁸⁷ This appears to be a reasonable list to use as a model.

PRW asserts that the current outreach guidelines are sufficient, and alleges that “[a]ny attempt to codify specific outreach requirements would create innumerable problems....”⁸⁸ NASUCA disagrees; the Commission should establish minimum requirements for outreach, which a carrier would be free to exceed.⁸⁹

AT&T would absolve the carriers of any outreach responsibility, and put it all on the states.⁹⁰ Calling this “an important government program”⁹¹ is not inaccurate, but overlooks the fact that the dollars flow to the carriers. The carriers should bear outreach responsibility.⁹² As NPSC states, “Carriers are in the best position to advertise as they already utilize advertisement in the normal course of business.”⁹³ Which is not to say that the states should bear no such responsibility; it should be a shared effort.⁹⁴

Placing the outreach obligation on states also overlooks the carrier obligation under 47 U.S.C. § 254(e)(1)(B). USTelecom’s attempt to distinguish Lifeline outreach from an ETC’s

⁸⁶ Benton, et al. Comments at 8; Consumer Groups Comments at 28-36; MAG-Net Comments at 15-16; NHMC Comments at 3-4.

⁸⁷ CPUC Comments at 22-25.

⁸⁸ PRW Comments at 14; see also Smith Bagley Comments at 11, TracFone Comments at 11-12.

⁸⁹ Some carriers actually appear enthusiastic about their outreach efforts. See Nexus Comments at 4.

⁹⁰ AT&T Comments at 16-17; see also USTelecom Comments at 2; Verizon Comments at 10-11.

⁹¹ AT&T Comments at 17; see also USTelecom Comments at 6.

⁹² FPSC Comments at 3.

⁹³ NPSC Comments at 7.

⁹⁴ See YourTel Comments at [6]. USTelecom’s statement at (7) that “[g]overnments, which has [sic] household income information, is well-positioned to know which consumers are most likely to qualify for the service...” is downright silly. And Verizon’s use of the California example, where the state uses a third-party outreach coordinator and has a large Lifeline subscribership (Verizon Comments at 12), shows little: California has one of the largest eligible populations, so it would be surprising if it did not have a large number of Lifeline subscribers.

obligation to advertise the availability of its services as “completely different”⁹⁵ is both short-sighted and inefficient.

CVNM points out another need:

Related to the outreach issue, ... it is important to require ETCs to make it easy for consumers to switch between Lifeline prepaid wireless carriers should they so choose. Until there is an established minimum for monthly minutes and costs for additional minutes, there will likely continue to be disparities between the service offerings of ETCs, and consumers who are made aware of the offerings of other providers should be able to easily access the information they need to switch, and the switching process itself should be transparent and error-free. ETCs should be required to include clear and transparent information about porting numbers to other vendors on their web sites and in other forums, and customer service representatives should be effectively trained to facilitate these switches when called upon to do so.⁹⁶

Just as with standard service, porting between carriers should be as seamless as possible for Lifeline customers.

NASUCA agrees with Benton, et al. that whatever outreach standards are adopted, there need to be consistent effort to enforce the standards.⁹⁷ This especially true for carrier outreach.

D. BROADBAND

NASUCA agrees with Benton, et al. and NHMC regarding the importance of providing broadband service to the nation’s low-income population.⁹⁸ AS USTelecom states,

The marginal value of broadband often is even higher to those in low-income households because many low-income consumers have a special need for technologies that lower geographic barriers (given that many low-income consumers cannot afford private transportation and/or reside in rural areas), connect people to job opportunities (since many low-income consumers would stand to benefit substantially from new employment), and expand channels for

⁹⁵ USTelecom Comments at 8.

⁹⁶ CVNM Comments at 4. CVNM also states, “For the homeless in particular, processes and procedures that require access to the Internet or a fax machine, receipt and return of postal mail, or multiple phone calls with a vendor are impediments to their consumer choice in this regard.” Id.

⁹⁷ Benton, et al. Comments at 8-9.

⁹⁸ Id. at 3; NHMC Comments at 4-6.; see also DCPSC Comments at 3-4. NASUCA also agrees with NHMC that “the integration of broadband into the Lifeline and Link Up programs not be done at the expense of the current voice programs, which remain of great value.” NHMC Comments at 6-7.

communication (especially channels offering educational and health care services that otherwise may not be readily available to low-income consumers).⁹⁹

NASUCA also agrees with the Consumer Groups that it is difficult to comment on “broadband Lifeline” because the details have not been fleshed out.¹⁰⁰ This is one reason why NASUCA agrees with Benton, et al. that how to do so is best explored through pilot programs.¹⁰¹

In any event, however, “Lifeline program administration would be more efficient if the eligibility, certification, verification and outreach requirements were the same or extremely similar for a Broadband Lifeline program.”¹⁰² The one area where some difference might be justified is outreach.

Cricket provides weak arguments on whether Lifeline support can be given to broadband service without reclassifying broadband as a Title II service.¹⁰³ The arguments for reclassification are far stronger, as demonstrated in NASUCA’s (and others’) comments in GN Docket No. 10-127; reclassification is needed in order to ensure the legality of broadband Lifeline support.

V. THE LIFELINE PROGRAM SHOULD INCLUDE INCENTIVES FOR STATES AND STATE AGENCIES TO ADOPT CAPABILITIES FOR AUTOMATIC ENROLLMENT OF LIFELINE CUSTOMERS.

The Consumer Groups and AT&T note the process in Florida, where a standardized public assistance application contains a checkbox where an applicant can indicate a desire to

⁹⁹ USTelecom Comments at 3.

¹⁰⁰ Consumer Groups Comments at 5; see also Verizon Comments at 13-14.

¹⁰¹ Benton, et al. Comments at 4-5; see also USTelecom Comments at 9.

¹⁰² Consumer Groups at 5; see also id. at 12. See also PRTC Comments at 6, Smith Bagley Comments at 8.

¹⁰³ Cricket Comments at 4-5.

receive Lifeline, which is followed by another checkbox designating the desired carrier.¹⁰⁴

Likewise, the process in Iowa uses the Low Income Home Energy Assistance Program enrollment process to see if the consumer would also like to enroll in Lifeline.¹⁰⁵ This process appropriately distinguishes between automatic **qualification** for Lifeline (as a result of eligibility for another program) and automatic **enrollment** (where the customer is signed up for Lifeline from a particular carrier without necessarily consenting to the sign-up).¹⁰⁶

NASUCA agrees with the Consumer Groups' statement that "[t]here is a continuum of coordinated enrollment strategies from the Texas model of computerized data matches to Florida's process for sharing lists of eligible consumers [with] the PSC to distribute to the ETCs, to Iowa's modification of one qualifying program's application process to create lists of Lifeline-eligible households for the ETC."¹⁰⁷ The incentives proposed by NASUCA – like those proposed by the Consumer Groups and Benton, et al.¹⁰⁸ -- would help states move to the more effective end of the continuum.

CPUC supports a federal mandate for automatic enrollment only if the federal government provided the money necessary.¹⁰⁹ Although NASUCA understands the economic pressures on state governments, those pressures also impact federal programs. That is why NASUCA proposed that matching grants be used to fund conversions of systems to allow

¹⁰⁴ Consumer Groups Comments at 16; AT&T Comments at 5, n.14. See also YourTel Comments at [4]. The FPSC comments describe the Florida process in more detail (at 6-7).

¹⁰⁵ Consumer Groups Comments at 15-16.

¹⁰⁶ See PRTC Comments at 10; NPSC Comments at 4-5; PUCO Comments at 8. NASUCA agrees with TracFone (at 6) and Smith Bagley (at 10) that automatic enrollment should give an advantage to the incumbent wireline carrier.

¹⁰⁷ Consumer Groups Comments at 17. The MoPSC (at 4-6) describes some of the difficulties caused by a lack of cooperation among government agencies.

¹⁰⁸ Consumer Groups Comments at 17-18, .Benton, et al. Comments at 9.

¹⁰⁹ CPUC Comments at 13. (CPUC also would require the systems to be designed to ensure privacy. Id. As stated above, NASUCA agrees with this requirement.)

automatic enrolment.¹¹⁰ Both the states and the federal programs will benefit from such system improvements.

As Smith Bagley states, however, automatic enrollment should not be the single means for enrolling in Lifeline.¹¹¹ Consumers who qualify based on their income, rather than on their participation in other low-income assistance programs, would not be able to be enrolled if automatic enrollment were the only mechanism.¹¹²

VI. CONCLUSION

NASUCA recommends that the Joint Board issue a Recommended Decision that includes the proposals laid out in NASUCA's comments, including those recommended in these reply comments.

Respectfully submitted,

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¹¹⁰ NASUCA Comments at 7-8.

¹¹¹ Smith Bagley Comments at 10.

¹¹² Id.