

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

In the Matter of Federal-State Joint Board ) On Universal Service Lifeline and Link Up ) Reform and Modernization )	WC Docket No. 11-42
Telecommunications Carriers Eligible for ) Universal Service Support )	WC Docket No. 09-197
Connect America Fund )	WC Docket No. 10-90

**COMMENTS OF  
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES  
TO REFRESH THE RECORD AND SUPPORT NASUCA’S PETITION  
FOR RECONSIDERATION**

The National Association of State Utility Consumer Advocates (NASUCA)<sup>1</sup> provides these comments in response to the Wireline Competition Bureau’s June 1, 2021 Public Notice which invited the public to refresh the record regarding NASUCA’s 2016 Petition for Reconsideration (Petition). NASUCA appreciates the opportunity to provide comments and observations in support of the 2016 NASUCA Petition. NASUCA encourages the Federal Communications Commission (Commission or FCC) to make the reforms and policy changes

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<sup>1</sup> NASUCA is a voluntary association of 59 consumer advocate offices. NASUCA members represent the interests of utility consumers in 44 states, the District of Columbia, Puerto Rico, Barbados and Jamaica. NASUCA is incorporated in Florida as a non-profit corporation. NASUCA’s full members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). NASUCA’s associate and affiliate members also represent the interests of utility consumers but are not created by state law or do not have statewide authority. Some NASUCA member offices advocate in states whose respective state commissions do not have jurisdiction over certain telecommunications issues.

raised by the NASUCA Petition, as described in these Comments and supported by the accompanying declaration of Susan M. Baldwin of SMBaldwin Consulting.

## SUMMARY

The NASUCA Petition for Reconsideration asked the Commission to reconsider and address four aspects of the 2016 *Lifeline Modernization Order*:<sup>2</sup>

1. The decision to remove Lifeline support for stand-alone voice services which NASUCA believes will force Lifeline customers onto more expensive bundles;<sup>3</sup>
2. The failure to adopt regulations so that customers who cannot afford bundled service will be able to maintain basic voice service;<sup>4</sup>
3. The failure to require that payment arrangements be offered for back-up power for Lifeline customers;<sup>5</sup> and
4. The failure to act now to reform the universal service contribution mechanism to require contribution from broadband services, especially with all Lifeline customers being forcibly migrated to broadband.<sup>6</sup>

In the time since NASUCA petitioned for reconsideration, events and experience – some predicted and some unexpected – have shown that there is still a vital need for the FCC to reconsider and address these NASUCA concerns regarding the *Lifeline Modernization Order* and go even further to improve the Lifeline program for the benefit of all eligible consumers and the public. The release of the Wireline Competition Bureau’s Report on the *State of the Lifeline*

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<sup>2</sup> Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-42, Third Report and Order, Further Report and Order, Order on Reconsideration, 31 FCC Rcd 3962 (2016) (*Lifeline Modernization Order*).

<sup>3</sup> Id., ¶ 117.

<sup>4</sup> Id.

<sup>5</sup> See, e.g., ¶ 282.

<sup>6</sup> Id., ¶ 395.

*Marketplace* and this “record refresh” phase should help provide the Commission with needed information to continue the important work of improving the Lifeline program.

While the *Lifeline Modernization Order* established a budget framework for the Lifeline program, the NASUCA Petition emphasized the need for reform of the universal services contribution base, with particular consideration for Lifeline consumers.

## I. COMMENTS

### A. NASUCA Supports Improvements to the Lifeline Program to Ensure that Eligible Households Have Access to the Services That They Need on Affordable Terms

The NASUCA Petition is just one part of NASUCA’s advocacy to ensure that the Lifeline program meets the needs of low-income consumers for access to modern telecommunications services as well as broadband internet access on affordable terms, consistent with the statutory goals of Section 254(b).<sup>7</sup> Sound management of the Universal Service Fund and the fairness of how the USF is supported are other concerns for NASUCA. NASUCA’s interests are reflected in Resolutions,<sup>8</sup> as well as comments in rulemakings and other matters.

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<sup>7</sup> 47 U.S.C. § 254(b).

<sup>8</sup> See, e.g. NASUCA Resolution 2017-05, Lifeline Broadband Resolution (available at <https://www.nasuca.org/2017-05-nasuca-lifeline-broadband-resolution/>); NASUCA Resolution 2018-01, Affordable Lifeline Support Resolution (available at <https://www.nasuca.org/2018-01-nasuca-affordable-lifeline-support-resolution/>); NASUCA Resolution 2019-02, Urging the FCC to Preserve Lifeline Support for Voice Service and to Stay and Study the Scheduled Changes in Lifeline Minimum Standards (available at <https://www.nasuca.org/2019-02-nasuca-resolution-lifeline-support-for-voice-services-and-to-study-lifeline-minimum-services/>); NASUCA Resolution 2019-04, Urging the FCC to Refrain from Adopting a Cap on the USF (available: <https://www.nasuca.org/2019-04-nasuca-resolution-urging-fcc-to-refrain-from-adopting-a-cap-on-the-usf/>).

B. The FCC Should Allow Lifeline Eligible Households to Select the Type of Service and Offering which Is Most Valued and Affordable for that Household

The NASUCA Petition raised two concerns specific to the “Support for Voice-only Service” provisions of the *Lifeline Modernization Order*. The NASUCA Petition asked the Commission to reconsider the phase-down and planned removal of Lifeline support for stand-alone voice services. The NASUCA Petition expressed concern that these directives would force Lifeline customers to buy more expensive bundled services and that there was a lack of regulations adequate to protect those Lifeline consumers and assure the affordability of the bundled services.

In early 2018, NASUCA recommended that the Commission halt the December 1, 2019 scheduled phase down of support for Lifeline voice service in all areas, based upon the importance of affordable voice service to Lifeline consumers and upon consideration of the uneven availability of Lifeline broadband services as an alternative.<sup>9</sup> Voice service is classified as an essential service and should be fully supported through the Lifeline program. Voice service provides Lifeline consumers with access to 911, whether by call or text (where supported). NASUCA opposed the scheduled decreases to the amount of monthly support for Lifeline voice service, concerned that the decreases would make the service less affordable for Lifeline consumers who prefer voice service or who have no Lifeline broadband alternative. As noted in the NASUCA 2018 comments, the expansion of fixed and mobile broadband networks and service availability has proceeded at a slower pace than anticipated. Additionally, some ETCs have chosen to relinquish their ETC designation, while other ETCs are not obligated to

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<sup>9</sup> Bridging the Digital Divide for Low-Income Consumers, WC Docket No. 17-287, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FCC Rcd 10475, (*Bridging the Digital Divide for Low-Income Consumers NPRM*) (appellate history omitted), NASUCA Comments at 20-21 (filed Feb. 21, 2018), NASUCA Reply Comments at 6, 7-8 (filed Mar. 23, 2018).

offer broadband internet access service as an alternative to voice service throughout their service area.

NASUCA next filed comments in 2019 in support of petitions which asked the FCC to stay the December 2019 scheduled decrease to Lifeline support for voice-only service.<sup>10</sup> Through NASUCA Resolution 2019-02, NASUCA reaffirmed its position that Lifeline support for voice services should not continue to be phased out as otherwise scheduled by regulation.<sup>11</sup> As noted in the NASUCA 2019 comments, the Universal Service Administrative Company (USAC) 2018 Annual Report showed that the USF distributed \$312.3 million in support for Lifeline voice services, another \$293.7 million for Lifeline support for bundled voice and data services, and \$526.4 million for Lifeline broadband service.<sup>12</sup>

Despite advocacy by NASUCA and other public interest and industry groups, the Commission did not alter the course of the phase-down of Lifeline support for voice-only service through mid-2021. NASUCA acknowledges that the *Lifeline Modernization Order* directed the Wireline Competition Bureau to compile the *Report on the State of the Lifeline Marketplace*. The *Lifeline Marketplace Report* assembles information about how Lifeline subscribership to different categories of service has changed, both as voice support has decreased and concurrent changes in demand for wireless data and fixed broadband services have occurred.

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<sup>10</sup> Bridging the Digital Divide for Low-Income Consumers, WC Docket No. 17-187, Federal-State Joint Board on Universal Service Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, NASUCA Comments (filed Jul. 31, 2019) (NASUCA 2019 Comments).

<sup>11</sup> NASUCA Resolution 2019-02, Urging the FCC to Preserve Lifeline Support for Voice Service and to Stay and Study the Scheduled Changes in Lifeline Minimum Standards. Available: <https://www.nasuca.org/nwp/wp-content/uploads/2019/07/2019-02-NASUCA-Telecom-Resolution-re-Lifeline-for-Voice-Service-Min-Standards.pdf>.

<sup>12</sup> NASUCA 2019 Comments at 3.

NASUCA urges the Commission to restore full Lifeline support for voice services in all areas. As assessed by Ms. Baldwin in Section III of her Declaration, the phase-down of support for Lifeline voice-only services has impacted eligible households in different ways. In particular, Ms. Baldwin notes that of the general population, older adults are less likely to have smartphones and so, disproportionately rely on voice-only services, whether through a land-line provider or “no-frills” cell phone service. Based upon her review of available data regarding wireless substitution, landline subscriber characteristics, and related information, Ms. Baldwin determined that older persons likely represent a disproportionate percentage of the 30% percent of residential fixed voice connections in 2019 that are switched access based. Further, data from the Pew Center shows that older adults are more likely to subscribe to wireless voice without broadband. April 2021 comments filed by USTelecom described the purchasing preferences of older adults who are Lifeline subscribers of USTelecom members. Of those older, Lifeline subscribers 50% to 80% favor voice-only service. USTelecom stated its support for a delay of the phase-out of Lifeline support for voice-only services, to avoid removal of Lifeline support for these customers. Just to avoid treating older Lifeline eligible subscribers differently than other groups, NASUCA recommends that the Commission should restore full Lifeline support for voice-only services.

The *Lifeline Modernization Order* envisioned that the phase out of Lifeline support for voice-only services, except in limited areas with only one ETC, would be an exercise of prudent guardianship of the public Universal Service Fund resources.<sup>13</sup> As supported by Ms. Baldwin’s Declaration, NASUCA encourages the Commission to rethink this approach. While the phase-down of Lifeline support for voice-only services appears to have resulted in the movement of some Lifeline consumers to bundled services of voice and data or broadband, the *Lifeline*

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<sup>13</sup> *Lifeline Modernization Order*, ¶ 119.

*Marketplace Report* was not able to provide a robust analysis of the affordability of these bundled Lifeline offerings, even with the full \$9.25 support. Time and experience has not diminished NASUCA's concern that the *Lifeline Modernization Order's* planned transition of Lifeline support to bundled services or stand-alone broadband may result in higher out-of-pocket costs to Lifeline eligible households, even to the point of unaffordability. As supported by Ms. Baldwin's Declaration, NASUCA submits that the better regulatory path is to put all Lifeline service options on the same footing and allow Lifeline eligible household to choose which service or mix of services meets their needs and budget, with comparable Lifeline support.

NASUCA supports the Commission's ongoing efforts to improve the availability of robust, high speed broadband services in all areas, for the benefit of consumers including Lifeline eligible households.<sup>14</sup> As Ms. Baldwin identified, there are variations in the rate of broadband adoption between rural and urban areas, race or ethnic groups, and age which the Commission should consider as it evaluates the Lifeline program's reach to make broadband service more affordable for eligible households. NASUCA shares the *Lifeline Marketplace Report's* expectation that the results of the current Emergency Broadband Benefit program will provide additional insight into what level of support is needed to make broadband services both accessible and affordable for Lifeline eligible households.

### C. Public Safety / Continuity of Connections

The NASUCA Petition asked for reconsideration, concerned that the *Lifeline Modernization Order* did not adequately address the need for Lifeline eligible households to have access to voice service which is both affordable and reliable. As the Petition noted, the

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<sup>14</sup> See, e.g. NASUCA Resolution 2017-05, Lifeline Broadband Resolution (available at <https://www.nasuca.org/2017-05-nasuca-lifeline-broadband-resolution/> ).

*Lifeline Modernization Order* instructed prospective providers of Lifeline broadband service of the need to have networks resilient in emergencies.<sup>15</sup> Yet, the *Lifeline Modernization Order* did not address the need for Lifeline households to have affordable access to a back-up power supply to ensure continuity of voice or broadband services. As noted in Ms. Baldwin's Declaration, in August 2016 the NTCA expressed concern that the phase-down of support for stand-alone voice service would harm Lifeline consumers and their need to be able to call 911 and other emergency services. The NTCA referenced the Commission's separate decision regarding back-up power as an important consideration as consumers transitioned from wireline line-powered voice service to other forms of voice service, including VOIP and the need for a broadband connection. NTCA requested reconsideration of the phase-out of voice support for Lifeline.

In August 2016, the FCC affirmed its 2015 decision regarding the availability of back-up power.<sup>16</sup> The Commission affirmed that providers of facilities-based fixed residential voice services would only be required to offer for purchase a back-up power option. Today, pursuant to the Commission's 2015 *Back-Up Power Order*, these providers of residential VOIP and other not-line powered voice services do have an obligation to provide consumers with the offer of a 24-hour back-up power supply and annual notices to educate their consumer about the limitations of the service during a power outage and other information.<sup>17</sup>

Accordingly, NASUCA notes that in one respect the Commission has addressed part of the NASUCA Petition for Reconsideration. Yet, NASUCA still supports a return to full Lifeline

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<sup>15</sup> *Lifeline Modernization Order*, ¶ 282.

<sup>16</sup> In the Matter of Ensuring Continuity of 911 Communications, PS Docket No. 14-174, Order on Reconsideration (Aug. 24, 2016) (FCC affirmed that it would not require all providers of fixed facilities-based residential services to supply to each customer a back-up power source).

<sup>17</sup> Public Safety and Homeland Security Bureau Reminds Providers of Facilities-Based Fixed Residential Voice Services that Are Not Line-Powered of Upcoming Requirements to Offer Subscribers 24-Hours of Back-Up Power for Customer Premises Equipment, PS Docket No. 14-174, Public Notice (Nov. 27, 2018).



support for stand-alone voice services. Whether the services are a fixed line service with line power or over fiber or otherwise IP-enabled, eligible Lifeline households should be able to choose between voice and/or broadband services with comparable levels of support, as further described in Ms. Baldwin's Declaration.

Further, NASUCA supports the Commission's on-going commitment to assure that all consumers have access to reliable service over resilient networks, even during emergencies such as power outages, fires, or extreme cold.

#### D. USF Contributions Reform

The NASUCA Petition took exception to the *Lifeline Modernization Order's* planned phase-out of support for stand-alone Lifeline services, without also addressing the need to reform and broaden the contributions base for the Universal Service Fund (USF). NASUCA appreciates that this part of the NASUCA Petition is within the scope of the Wireline Competition Bureau's record refresh, as there is still a compelling need for reform of the USF contributions base. NASUCA has supported such contributions base reform in comments in other proceedings.<sup>18</sup> Further, Ms. Baldwin has described the unfairness of the current contributions mechanism which has led to the imposition of surcharges of over 30% against charges for interstate telecommunications services on bills for wireline, wireless, and some VOIP services.

NASUCA encourages the Commission to reinvigorate this long-running discussion of how to reform the USF contributions and set a goal of a final resolution.

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<sup>18</sup> In the Matter of Universal Service Contribution Methodology, WC Docket No. 06-122, NASUCA Comments at 1-2, 9 (filed July 29, 2019), NASUCA Reply Comments (filed Sept. 28, 2017)(Opposing NTCA and USTelecom Petition for Temporary Forbearance). See also, Bridging the Digital Divide for Low-Income Consumers, WC Docket Nos. 17-187, et al, NASUCA Comments at 20-21 (filed Feb. 21, 2018), NASUCA Reply Comments at 7 (filed Mar. 23, 2018); In the Matter of the Connect America Fund, WC Docket Nos. 10-90, et al, NASUCA Joint Comments at xiii, 5, 23, 66-69, 70 (filed Jan. 12, 2012).

## II. CONCLUSION

NASUCA requests that the FCC grant the NASUCA Petition for Reconsideration and take the further actions and policy directions as described in these Comments.

Respectfully submitted,

David Springe, Executive Director  
NASUCA  
8380 Colesville Road, Suite 101  
Silver Spring, MD 20910  
Phone (301) 589-6313  
Fax (301) 589-6380

Barrett C. Sheridan  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut St., Forum Pl., 5<sup>th</sup> Fl.  
Harrisburg, PA 17101  
Phone (717) 783-5048  
[bsheridan@paoca.org](mailto:bsheridan@paoca.org)

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