

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554**

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| <i>In the Matter of</i> |) | |
| |) | |
| <i>Lifeline and Link Up Reform and Modernization</i> |) | WC Docket No. 11-42 |
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| |) | |
| <i>Telecommunications Carriers Eligible for Universal Service Support</i> |) | WC Docket No. 09-197 |
| |) | |
| |) | |
| <i>Connect America Fund</i> |) | WC Docket No. 10-90 |

**COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY
COMMISSIONERS**

On June 18, 2015, the Federal Communications Commission (FCC) issued a *Second Further Notice of Proposed Rulemaking, Order on Reconsideration, a Second Report and Order and a Memorandum Opinion and Order* on the federal Lifeline program in the above-captioned proceedings.¹ The release, at ¶¶ 14-223, includes a *Second Further Notice of Proposed Rulemaking (FNPRM)* seeking comments on proposals to modify the Lifeline program to, among other things, establish minimum service levels for voice and broadband Lifeline service, reset eligibility rules, encourage increased competition/innovation in Lifeline services, enhance Lifeline consumers’ protection; and improve administration and ensure efficiency and accountability in the program.

¹ See, *In the Matter(s) of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, SECOND FURTHER NOTICE OF PROPOSED RULEMAKING, ORDER ON RECONSIDERATION, SECOND REPORT AND ORDER, AND MEMORANDUM OPINION AND ORDER (FCC 15-71) (rel. June 22, 2015), online at: https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-71A1.docx.

In response to several requests, on August 5, the FCC extended the comment cycle setting the deadline for initial comments at August 31, 2015.²

In July, the National Association of Regulatory Utility Commissioners (NARUC) passed a *Resolution on ETC Designations for Lifeline Broadband Service* at its July meetings in New York, which is available online at: <http://www.naruc.org/Resolutions/Resolution%20on%20ETC%20Designations%20for%20Lifeline%20Broadband%20Service.pdf>.

In that resolution, NARUC “*urges the FCC to refrain from disrupting the existing Federal-State partnership in the provision of Lifeline Services by preempting the authority of States to designate ETCs for the provision of advanced telecommunications services to low-income consumers in their States.*” Moreover, NARUC is on record, supporting expansion of the Lifeline program to include broadband services after another referral of related issues to the Federal State Joint Board on Universal Service.³

In support of those positions, NARUC offers the following:

² See, *In the Matter(s) of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, ORDER (DA 15-855) (rel. August 5, 2015), available online at: https://apps.fcc.gov/edocs_public/attachmatch/DA-15-885A1.pdf

³ See, *Testimony of Commissioner Ronald A. Brisé, on behalf of the National Association of Regulatory Utility Commissioners before the United States Senate Commerce, Science & Transportation Subcommittee on Communications, Technology, Innovation & the Internet June 2, 2015 hearing on Lifeline: Improving Accountability and Effectiveness*, online at: http://www.commerce.senate.gov/public/?a=Files.Serve&File_id=c97efe66-fc7c-4c63-a69a-efb280b1759d

NARUC'S INTEREST

NARUC is a nonprofit organization founded in 1889. Its members include the government agencies in the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands charged with regulating the activities of telecommunications,⁴ energy, and water utilities.

NARUC is recognized by Congress in several statutes⁵ and consistently by the Courts⁶ as well as a host of federal agencies,⁷ as the proper entity to represent the collective interests of State utility commissions. In the Telecommunications Act,⁸ Congress references NARUC as “the national organization of the State

⁴ NARUC's member commissions have oversight over intrastate telecommunications services and particularly the local service supplied by incumbent and competing local exchange carriers (LECs). These commissions are obligated to ensure that local phone service is provided universally at just and reasonable rates. They have a further interest to encourage LECs to take the steps necessary to allow unfettered competition in the intrastate telecommunications market as part of their responsibilities in implementing: (1) State law and (2) federal statutory provisions specifying LEC obligations to interconnect and provide nondiscriminatory access to competitors. See, e.g., 47 U.S.C. § 252 (1996).

⁵ See 47 U.S.C. §410(c) (1971) (Congress designated NARUC to nominate members of Federal-State Joint Board to consider issues of common concern); See also 47 U.S.C. §254 (1996); See also *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where this Court explains “Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the “bingo card” system).

⁶ See, e.g., *U.S. v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), aff'd 672 F.2d 469 (5th Cir. 1982), aff'd en banc on reh'g, 702 F.2d 532 (5th Cir. 1983), rev'd on other grounds, 471 U.S. 48 (1985) (where the Supreme Court notes: “The District Court permitted (NARUC) to intervene as a defendant. Throughout this litigation, the NARUC has represented the interests of the Public Service Commission's of those States in which the defendant rate bureaus operate.” 471 U.S. 52, n. 10. See also, *Indianapolis Power and Light Co. v. ICC*, 587 F.2d 1098 (7th Cir. 1982); *Washington Utilities and Transportation Commission v. FCC*, 513 F.2d 1142 (9th Cir. 1976); Compare, *NARUC v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *NARUC v. DOE*, 851 F.2d 1424, 1425 (D.C. Cir. 1988); *NARUC v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985).

⁷ NRC Atomic Safety and Licensing Board *Memorandum and Order* (Granting Intervention to Petitioners and Denying Withdrawal Motion), LBP-10-11, *In the Matter of U.S. Department of Energy (High Level Waste Repository)* Docket No. 63-001-HLW; ASLBP No. 09-892-HLW-CABO4, mimeo at 31 (June 29, 2010) (“We agree with NARUC that, because state utility commissioners are responsible for protecting ratepayers’ interests and overseeing the operations of regulated electric utilities, these economic harms constitute its members’ injury-in-fact.”)

⁸ *Communications Act of 1934*, as amended by the *Telecommunications Act of 1996*, 47 U.S.C. §151 *et seq.*, Pub.L.No. 101-104, 110 Stat. 56 (1996) (West Supp. 1998) (“Act” or “1996 Act”).

commissions” responsible for economic and safety regulation of the intrastate operation of carriers and utilities.⁹

NARUC, and its members, have a long history of supporting the federal Lifeline program.¹⁰ We have also supported transitioning the program to include broadband service,¹¹ and changes to “defray a meaningful amount of the program participant’s average cost for the installation/activation and monthly charges for broadband service and acquisition of enabling devices.”¹² We continue to urge the FCC to let the Federal State Joint Board on Universal Service, among other things evaluate any FCC Pilot Broadband Lifeline program¹³ “to make recommendations

⁹ See 47 U.S.C. § 410(c) (1971) (NARUC nominates members to FCC Joint Federal-State Boards which consider universal service, separations, and related concerns and provide formal recommendations that the FCC must act upon; Cf. 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). Cf. *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains “...Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the "bingo card" system.)

¹⁰ See, NARUC’s July 2000 *Resolution regarding Universal Service for Low Income Households* at: http://www.naruc.org/Resolutions/lifeline_summer00.pdf ; July 2005 *Resolution Supporting the efforts of the FCC and NARUC to promote Lifeline Awareness* at: http://www.naruc.org/Resolutions/LifelineAwareness_s0705.pdf ; July 2009 *Resolution Proclaiming National Telephone Discount Lifeline Awareness Week*, at <http://www.naruc.org/Resolutions/Resolution%20on%20Lifeline%20Awareness%20Week.pdf>.

¹¹ See, NARUC’s February 2008 *Resolution to Support Equal Access to Communication Technologies by People with Disabilities*, at <http://www.naruc.org/Resolutions/People%20with%20Disabilities%20Resolution1.pdf>; February 2009 *Resolution on Lifeline and Link-Up Program Support for Broadband Internet Access Services and Devices*, at: <http://www.naruc.org/Resolutions/TC%20Resolution%20on%20Lifeline%20and%20Link-Up%20Program%20Support%20for%20Broadband%20Internet%20Access%20Services%20and%20Devices.pdf>; November 2009 *Resolution on Legislation to Establish a (Permanent) Broadband Lifeline Assistance Program*, at <http://www.naruc.org/Resolutions/Resolution%20on%20Legislation%20to%20Establish%20a%20Broadband%20Lifeline%20Assistance%20Program.pdf>.

¹² See, NARUC’s July 2011 *Resolution Supporting Low-Income Broadband Adoption Program*, at <http://www.naruc.org/Resolutions/Resolution%20Supporting%20a%20Low-Income%20Broadband%20Adoption%20Program.pdf>.

¹³ See, Veach, Julie, Chief, FCC Wireline Competition Bureau, *Driving Lifeline Updates with Data*: FCC Blog (May 22, 2015 -1:10 PM) at: <https://www.fcc.gov/blog/driving-lifeline-updates-data>. See also, the FCC’s *Low-Income Broadband Pilot Program data sets* at: <https://www.fcc.gov/encyclopedia/low-income-broadband-pilot-program> and the *WCB Low-Income Broadband Pilot Program Staff Report* (May 22, 2015) at: <https://www.fcc.gov/document/wcb-low-income-broadband-pilot-program-staff-report>.

regarding its continuation and configuration as a national program.”¹⁴ A July 2011 Resolution specifically “urges the FCC...and the States to work within the existing federal Universal Service Fund’s budget...to improve broadband service adoption...through coordinated Lifeline and Link-Up Broadband Service Pilot Program projects.” Indeed, NARUC members, many that operate complementary State Lifeline programs, were quick to identify many of the concerns policymakers continue to focus on today.¹⁵ Indeed, the only verification databases in operation today are at the State level. NARUC commends the FCC for the 2012 reforms¹⁶ and aggressive enforcement to reduce waste, fraud and abuse, as well as its coordination with NARUC and States. Coordinated action removed more than 2 million duplicate subsidies, and brought the fund down to about \$1.6 billion in 2014. This was a significant step forward. But it is clear, problems remain.¹⁷

¹⁴ The recent GAO Report suggests some additional review may be warranted. See GAO-15-335 *Report to the Chairman, Committee on Commerce, Science and Transportation, U.S. Senate: Telecommunications: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program* (March 2015) <http://www.gao.gov/assets/670/669209.pdf> ("The usefulness of information FCC gathered through its broadband pilot program may be limited due to the lack of an evaluation plan and other challenges. . . Although GAO previously recommended in 2010 that FCC develop a needs assessment and implementation and evaluation plans for the pilot, FCC did not do so and now faces difficulties in evaluating the program without established benchmarks.")

¹⁵ The Lifeline program grew from about \$800 million in 2008 to \$2.2 billion in 2012. This explosive growth indicated the new prepaid wireless Lifeline ETCs were profitable and popular. Unfortunately, as later FCC enforcement actions demonstrate, the framework in place was not adequate to shield the program from extensive fraud. By November 1, 2013, “over 2 million duplicate subscriptions were eliminated, and the FCC’s reform’s are on track to save the fund over \$2 billion over three years.” *FCC Proposes Nearly \$33 Million in Penalties Against Lifeline Providers That Sought Duplicate Payments for Ineligible Subscribers*, FCC Press Release (November 01, 2013), at https://transition.fcc.gov/eb/News_Releases/DOC-323858A1.html; *FCC Proposes Nearly \$44 Million in Fines Against 3 Lifeline Providers*, FCC Press release (December 11, 2013) at https://transition.fcc.gov/eb/News_Releases/DOC-324620A1.html; *FCC Proposes \$14.4 Million Forfeitures to Protect Lifeline Service*, FCC Press Release (June 25, 2013) at https://transition.fcc.gov/eb/News_Releases/DOC-323565A1.html.

¹⁶ See, *FCC Reforms, Modernizes Lifeline Program for Low-Income Americans*, FCC Press Release, (January 31, 2012), at: <https://www.fcc.gov/document/fcc-reforms-modernizes-lifeline-program-low-income-americans>.

¹⁷ See, e.g., *AT&T and SNET to Pay \$10.9 Million for Overbilling Federal Lifeline Program*, FCC Press Release (April 29, 2015), at: https://transition.fcc.gov/eb/News_Releases/DOC-333257A1.html See also, *Notice of suspension and initiation of debarment proceeding, to Mr. Wes Yui Chew from Jeffrey J. Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, File No. EB-IHD-15-00019046, DA 15-630* (May 26, 2015), at: https://apps.fcc.gov/edocs_public/attachmatch/DA-15-630A1.docx.

DISCUSSION

We genuinely appreciate the FCC's acknowledgment, in ¶ 2 of the *FNRPM*, that:

Over the past few years, the Lifeline program has become more efficient and effective through the combined efforts of the Commission and the states. The Lifeline program is heavily dependent on effective oversight at both the Federal and the state level and the Commission has partnered successfully with the states through the Federal-State Joint Board on Universal Service (Joint Board) to ensure that low-income Americans have affordable access to voice telephony service in every state and territory.[] In addition to working with the Commission on universal service policy initiatives on the Joint Board, many states administer their own low-income programs designed to ensure that their residents have affordable access to telephone service and connections.

Partnership, Not Preemption

As those FCC comments confirm, the Lifeline program, however modified, will continue to benefit from coordinated federal and State oversight. There is simply no reason to reduce the number of State regulatory "cops" on the beat or further limit their enforcement/oversight authority.

To date, the FCC has continued extensive coordination and outreach with NARUC's member commissions about possible new problems or compliance issues with the Lifeline program, through, in part, the commendable efforts of its new Enforcement Chief, Travis LeBlanc, USF Strike Force Director, Loyaan Egal, former Wireline Competition Bureau (WCB) Chief Julie Veach and her replacement Matt DelNero, WCB Deputy Bureau Chief Ryan Palmer, Consumer and Governmental Affairs Bureau Chief Kris Monteith, and CGB Intergovernmental Affairs Chief Greg Vadas, among many other staff.

In the Joint Board process, which includes State Commissioners from both net donor and recipient States, Congress has provided an excellent vehicle to:

- limit unintended disruptions to State programs,
- assure national policy decisions benefit directly from States' experiences (as was reflected in the pragmatic reforms the FCC adopted to the lifeline program – based – in part on existing State compliance mechanisms),
- critique proposals to update the program's policy goals, and
- maintain the crucial enforcement and compliance partnership.

Our 2009 resolution suggests a referral would be a useful pre-requisite to final FCC action expanding the program.¹⁸

Indeed, the last 2010 Lifeline Recommended decision, in ¶¶ 76-78,¹⁹ highlights the need for additional Joint Board input before expansion of the Lifeline program to broadband services:

76. Although the Referral Order requested that the Joint Board consider whether the extension of the Lifeline program to include broadband services would alter its recommendations . . . it is difficult to consider whether any of the instant recommendations should be modified prior to the appropriate consideration of the broadband services that might be included in such an extension of the low-income program. Indeed, some members of the Joint Board would have preferred a more extensive referral on these issues, and at least

¹⁸ Over 8 years have passed since the November 2007 USF Joint Board initially recommended broadband internet access be a supported service. Our 2009 resolution, which was after that referral (and cites it in the 4th Whereas), recognized that the record was already stale and specifically recommends that: “the FCC direct the Federal State Joint Board on Universal Service to conduct an evaluation of the (Lifeline Broadband) Pilot program and make recommendations regarding its continuation and configuration as a national program.” It has been almost 5 years since the last recommended decision on Lifeline discussed, *infra*. See, e.g., footnote 19, *infra*.

¹⁹ Federal-State Joint Board on Universal Service Recommended Decision, November 4, 2010, at <http://www.universalservice.org/res/documents/about/pdf/fcc-orders/2010-fcc-orders/FCC-10J-3.pdf>.

one commenter noted that the Joint Board should have a more extensive role in the consideration of extending the Universal Service Fund's support to broadband. [] At the same time, the Joint Board recognizes the need to ensure continued support for existing voice networks.

77. Neither the Commission nor this Joint Board can adequately address potential changes to create a Broadband Lifeline plan without initially determining the definition of the broadband services or functionalities to be supported, sources of funding, the funding and contribution rules, and the overall approach to using low-income support to achieve universal broadband service. In fact, the Joint Board would like to emphasize that, as the Commission moves forward with considering the National Broadband Plan's recommendations on these and other universal service related issues, there are many practical issues to be considered. They include, but are not necessarily limited to: Conceptually, how should "broadband" eligible for federal USF Lifeline support be defined and measured, including consideration of typical (actual) versus advertised upload and download speeds; Technology type and technology neutral funding mechanisms; Price, affordability, subscribership, and penetration; Broadband usage, when that usage is subject to some sort of data or usage cap; How best to ensure availability of broadband service in unserved and/or underserved areas; Terms and conditions for data plans that include some form of broadband Internet access or other broadband service; and Once broadband is defined and a determination is made as to what to support and how to provide that support, it would still be necessary to determine whether the Lifeline discount would be applied as a percentage or a fixed dollar discount off of some currently undefined price, or some other measure.

78. Furthermore, given the lack of a definition for the term "broadband" as a supported service, and how such service would be calculated and distributed, it would be extremely difficult, if not impossible, to comply with even the Commission's de minimis broadband-related requests that were included in the Referral Order.[] In fact, NASUCA points out in its comments that "it is difficult to comment on 'broadband Lifeline' because the details have not been fleshed out, adding further that reclassification is needed in order to ensure the legality of broadband Lifeline support." [] The sheer number of issues relevant to defining broadband creates a great deal of uncertainty. This uncertainty is a significant issue, in and of itself,

because it makes it impossible to predict the impact of adding support for broadband or the recommendations for possible changes to eligibility, verification, and outreach, or to measure the impact of such changes to the overall size of the fund." {Footnotes omitted.}

Since this recommended decision, the FCC has issued several crucial orders that could impact any changes to the program and suggest that a referral is appropriate and will be a useful exercise.²⁰

Certainly, the process works. On the last lifeline referral, the FCC took action on a Joint Board recommended decision in 2010. In May of that year the FCC asked the Federal-State Joint Board on Universal Service to review the existing eligibility, verification, and outreach rules for the Lifeline and Link-Up universal service programs.²¹ The FCC also opened and maintains a robust and open dialogue with NARUC and the States. The FCC, and especially the Wireline Competition Bureau, FCC Commissioner Clyburn – the former Chair of the Federal State Joint Board on Universal Service, her staff and, of course, the other sitting FCC Commissioners, deserve much credit for tackling this issue and seeking vital State input throughout the process. This was a textbook example of how the Joint Board process can be properly utilized to address issues quickly and provide an excellent basic template for FCC action in this proceeding. The Universal Service Joint Board came back with a recommended decision in record time – around six months – in November of 2010. It addressed the Lifeline

²⁰ See, e.g., *In the Matter of Protecting and promoting the Open Internet*, GN Docket No. 14-28 (FCC No. 15-24) (rel. March 12, 2015), published in the Federal Register April 13, 2015 (80 Fed. Reg. 19737), at: <https://www.federalregister.gov/articles/2015/04/13/2015-07841/protecting-and-promoting-the-open-internet>. The full text of the decision is at: https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-24A1.pdf. (Among other things, reclassifying broadband as a Title II “telecommunications service.”); *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 F.C.C. Rcd 17663 (2011); and *Federal State Joint Board on Universal Service; Universal Service Contribution Methodology; A National Broadband Plan For Our Future*, WC Docket Nos. 96-45, 06-122, GN Docket No. 09-51, Order, 29 FCC Rcd 9784 (2014).

²¹ *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 (2010).

questions asked by the FCC and more - recommending that the FCC take into consideration the additional issues of broadband, overall fund size, and prepaid wireless Lifeline service as it moved forward with universal service reform.²² In the January 31, 2012 *Report and Order and Further Notice of Proposed Rulemaking*, the FCC either enacted or sought additional comments on all of the Joint Board recommendations. Again, this is exactly how the congressionally mandated Federal-State Joint Board process should be used.

The FCC should consider a referral here before taking final action in this proceeding.

Legal Authority to Support Lifeline Broadband Service

Starting at ¶61, the FNPRM seeks comment on amending the FCC’s rules to “include broadband Internet access service...as a supported service in the Lifeline program. Certainly, there is no question that the FCC can include a “telecommunications service” within the band of supported services – as long as it makes the record based factual findings required by 47 U.S.C. § 254(c) (1) (A) – (D). As noted earlier, NARUC is on record supporting such an expansion, albeit based on a more recent Joint Board recommended decision as Section 254 clearly contemplates.²³

Streamlining the ETC Designation Process

The *FNPRM*, at ¶ 140, mimeo at 140, specifically seeks comments on whether the national designation of ETCs for Broadband Lifeline Service would be preferable to the State- by-State ETC designation process. This is a very bad

²² *Federal-State Joint Board on Universal Service Recommended Decision*, November 4, 2010, at http://www.universalservice.org/_res/documents/about/pdf/fcc-orders/2010-fcc-orders/FCC-10J-3.pdf.

²³ *See*, e.g., 47 U.S.C. § 254 at (b) (“the Joint Board and the Commission shall base policies for the preservation and advancement of universal service on...”), and at (c)(2) (“The Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by the Federal Universal service support mechanisms.”)

idea. States have lead the way in limiting fraud and abuse in the Lifeline program through audits, duplicate and verification databases, and efficient use of the designation process.²⁴ It makes absolutely no sense for the FCC to limit or remove that State authority.²⁵

That is why at our last meeting NARUC unanimously passed a resolution, appended to these comments “urging the FCC to refrain from disrupting the existing Federal-State partnership in the provision of Lifeline Services by preempting the authority of States to designate ETCs for the provision of advanced telecommunications services to low-income consumers in their States.”

The current ETC process works well. States are interested in legitimate ETC applicants and must have adequate information to properly assess the applicant’s qualifications for providing a quality Lifeline service.²⁶ Indeed, any efforts to simplify or streamline processes must respect State process and legitimate need for carrier information. Each State is different. Those differences may cause issues when attempting to consolidate all State processes into one, uniform, streamlined procedure. States often must request additional information to ensure that the requesting carrier meets all of the appropriate criteria and to limit fraud and abuse.

²⁴ See examples cited in the June 2, 2015 NARUC testimony at pp. 6-7, cited in footnote x, *supra*. (“[A]t least five States established programs to eliminate duplicative support and have been allowed to opt out of the FCC’s National Lifeline Accountability Database. . . .At least 15 of the States that responded to our informal surveys use State social service databases to confirm consumer eligibility for participation in the Lifeline program. At least one (more) State has initiated a pilot program. In two more, the largest Incumbent Local Exchange Carrier has a contract to access the social service database to confirm eligibility. Thirteen responding States have programs to periodically conduct compliance audits on ETCs and/or of Lifeline recipients.”)

²⁵ While it is difficult to measure the amount of savings as a result of collective State policing of the program it is fair to say it is in the millions. Adjustments to diminish States’ role can only diminish those savings.

²⁶ Moreover, it appears the FCC is ill-equipped to handle all possible ETC designation. According to NARUC’s resolution, at the time it passed, the FCC had a backlog of 38 pending wireless carrier ETC designation petitions for default States dating from December 29, 2010 - a backlog that can only have limited the competitive market for Lifeline Services.

State use of the designation process has frequently screened out bad actors. State authority should not be inadvertently limited by FCC rule. NARUC agrees generally, with the August 28, 2015 recommendation of the “Comments - Missouri Public Service Commission” filed in this proceeding, at page 10, that “the FCC continue the federal-state partnership for designating ETCs. . . . [because] . . . [f]raud has been a problem with the Lifeline program and the Missouri Commission’s rules were designed to help address fraud and complement the FCC’s reforms to the Lifeline program.” {emphasis added}

CONCLUSION

NARUC appreciates the opportunity the FCC has provided to submit comments on this *FNPRM*. We agree that “[t]he Lifeline program is heavily dependent on effective oversight at both the Federal and the state level and the Commission has partnered successfully with the states through the Federal-State Joint Board on Universal Service (Joint Board) to ensure that low-income Americans have affordable access to voice telephony service in every state and territory.”²⁷ NARUC believes that partnership must continue.

Respectfully submitted,

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Dated: August 31, 2015

²⁷ *FNPRM*, ¶ 2.

Resolution on ETC Designations for Lifeline Broadband Service

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) has previously demonstrated its commitment to advancing the availability and adoption of broadband services in low-income communities across the United States in resolutions adopted at the February 2008 Winter Meetings, February 2009 Winter Meetings, and July 2011 Summer Meetings; *and*

WHEREAS, Several States have implemented policies to promote the availability of affordable broadband services to low-income consumers; *and*

WHEREAS, States have a long history of managing Lifeline Service programs to make telephone service more affordable for the nation's low-income consumers by designating Eligible Telecommunications Carriers (ETCs) to provide a discount on local telephone service; *and*

WHEREAS, On June 22, 2015, the Federal Communications Commission (FCC) released a *Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order* (WC Docket Nos. 11-42, 09-197, and 10-90 (Second FNPRM and Report and Order)), that seeks comments on "our efforts to modernize the Lifeline program so that all consumers can utilize advanced networks"; *and*

WHEREAS, The Second FNPRM and Report and Order seeks comments on whether the national designation of ETCs for Broadband Lifeline Service would be preferable to the State- by-State ETC designation process used currently for Lifeline Services (see para. 140, pg. 51); *and*

WHEREAS, Section 214 of the Telecommunications Act of 1996 and the FCC rules (47 C.F.R. §54.210) provide that States have the primary authority to designate ETCs; *and*

WHEREAS, The FCC has a backlog of 38 pending wireless carrier ETC designation petitions for default States dating from December 29, 2010; *and*

WHEREAS, This backlog of pending wireless carrier ETC designation petitions for default States has limited the competitive market for Lifeline Services; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2015 Summer Meetings in New York, New York, urges the FCC to refrain from disrupting the existing Federal-State partnership in the provision of Lifeline Services by preempting the authority of States to designate ETCs for the provision of advanced telecommunications services to low-income consumers in their States.

*Recommended by the Committee on Communications
Adopted by the NARUC Board of Directors*

