

Testimony on behalf of the
National Association of Regulatory Utility Commissioners (NARUC)

by

Commissioner Ronald A. Brisé, Florida Public Service Commission

before the

**United States Senate Commerce, Science & Transportation
Subcommittee on Communications, Technology, Innovation & the
Internet**

hearing on

Lifeline: Improving Accountability and Effectiveness

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Chairman Wicker, Ranking Member Schatz, and Members of the Subcommittee, thank you for the opportunity to testify today on the low-income Lifeline Program.

I am a Commissioner with the Florida Public Service Commission (PSC) and currently serve as a NARUC representative on the Federal State Joint Board on Universal Service, the Board of Directors of the Universal Service Administrative Company, and on the FCC's Intergovernmental Advisory Committee. NARUC – like Congress – is a bipartisan organization. NARUC's members include public utility commissions (PUCs) in all of your States, the District of Columbia and U.S. territories with jurisdiction over telecommunications, electricity, natural gas, water and other utilities. NARUC member commissioners are the in-State experts on the impact of FCC programs in your State and on your constituents. The Universal Service Fund (USF) and the low-income Lifeline program we are discussing today are shared responsibilities of federal and State regulators. I personally take this responsibility seriously, as do my colleagues across the country.

Currently, Lifeline provides low-income consumers with discounts on monthly telephone service enabling them to connect to the vital telecommunications network. Established in 1985, the federal program provides discounts for voice communications on monthly wireless or wired phone bills (\$9.25 a month) to low-income households. At least half the States provide matching Lifeline funds ranging from \$.75 to \$8.50 a month with most States averaging about \$3.50.

NARUC has a long history of supporting this vital social program.¹

¹ 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>.

We have also supported transitioning the program to include broadband service.²

Specifically, NARUC supports 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.”³ We also believe a Joint Board referral on lifeline issues to, among other things, as per our February 2009 Resolution, evaluate the FCC’s Pilot program⁴ and “to make recommendations regarding its continuation and configuration as a national program,” should precede final FCC action.⁵ Our subsequent 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.”

As technology continues to move forward, it is critical to the economic well-being of our nation that all Americans can communicate effectively. Broadband has become a vital communications conduit. It is time for Congress and the FCC to consider expansion.

² 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>.

³ 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>

⁴ 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>.

⁵ 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.”)

However, our experiences during the rapid expansion the Lifeline program since 2005 illustrates why sound safeguards, careful consideration, and continued oversight are necessary.

NARUC and its members were quick to identify many of the concerns policymakers continue to focus on today.

The Lifeline program grew from about \$800 million in 2008 to \$2.2 billion in 2012.

This explosive growth in the program indicated the business plans of the new prepaid wireless ETCs were both profitable and popular. Unfortunately, as later FCC enforcement actions would demonstrate,⁶ the framework in place was not adequate to shield the program from extensive fraud and abuse. The FCC's recent reforms, based on a Federal-State Joint Board recommended decision, were a significant step forward. But some problems still remain.⁷

⁶ According to the FCC, 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.

⁷ 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, disbarring the addressee for his conviction of money laundering for transferring \$20,455,829.10 to his personal bank account while knowing that Icon had thousands fewer lifeline customers than it reported. See also, footnote 5, *supra*.

States Remain a Crucial Safeguard Against Waste, Fraud and Abuse

As both Congress and the FCC consider whether to expand the program to include broadband service, it certainly would be prudent to reevaluate current safeguards and consider possible improvements.

A 2009 NARUC resolution, responding to the post-2005 expansion, pointed out that “some States are developing real-time access to information necessary to verify household eligibility and ensure that a household receives only one Lifeline Subsidy” and called upon both States and the FCC to “review existing procedures to verify eligibility . . . including consideration of real-time verification.”⁸

My State, Florida, was one that implemented a real-time verification procedure in 2007. Consumers participating in the Supplemental Nutrition Assistance Program, Medicaid, or Temporary Assistance for Needy Families programs can electronically apply for Lifeline through the Florida Department of Children and Families or on the Florida PSC Website. In either case, applicants are verified as participants in one of those qualifying programs in real-time. Implementation of the electronic Lifeline Coordinated Enrollment Process in Florida has been a major success with over 734,000 applications received since 2007.

Our federalist system allows States like Florida to act as laboratories for programs providing useful and tested templates to guide federal (and other State) policy makers’ decisions.

We commend the FCC for its 2012 reforms⁹ 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

⁸ See, *Resolution on Lifeline Service Verification* (November 2009), available online at: <http://www.naruc.org/Resolutions/Resolution%20on%20Lifeline%20Service%20Verification.pdf>.

⁹ 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>.

billion in 2014. At the same time, the federal USF contribution factor remains in double digits - currently set at 17.4% of interstate revenues.

Florida was not alone. Both before and after the FCC's 2012 action, several States enacted prophylactic measures such as databases on duplicates and eligibility and periodic compliance audits of carriers.

According to an informal survey of our members, at least five States established programs to eliminate duplicative support and have been allowed to opt out of the FCC's National Lifeline Accountability Database.¹⁰ 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.¹¹ 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. But the costs of establishing these verification systems can be high. States, like the federal government, are not immune to current economic conditions and fiscal restraints. As often happens, the FCC's announcement that it was creating databases was likely an incentive for other States to defer expending scarce resources to create a State-specific database.

Also, in many States, including mine, Eligible Telecommunications Carriers (ETCs) have been reluctant to take the steps and incur costs necessary to utilize available State social service databases for verification. This problem remains despite a specific FCC rule requiring all ETCs to utilize existing State databases.¹² Though some may ascribe more venial motivations, it is

¹⁰ States establishing their own program to eliminate duplicates: California, Texas, Vermont, Oregon, and Puerto Rico.

¹¹ States responding to either the 2013 or 2015 they have a system or program in place to confirm the eligibility of Lifeline subscribers by using social service agency databases: CA, FL, ID, IL, IN, KS, MI, NE, NC, NY, OR, PA, WA, WI, WY. MN has a pilot program ongoing. In AZ & GA the largest ILEC in the State has contracted for access to the social service database but no other ETC has access at this point.

¹² See 47 C.F.R. §54.410(c)(i)(A).

clear that carriers are also hoping to avoid some compliance costs by waiting for a national database. This is a problem for States that offer eligibility verification resources. We have been unable to locate any formal agency action to enforce this rule.

Thirteen responding States have programs to periodically conduct compliance audits on ETCs and/or of Lifeline recipients.¹³ For example, California, in addition to financial and compliance audit provisions, has had annual renewal/recertification requirements since 2006.

In some cases, States have revoked or refused to grant an ETC designation pursuant to Section 214(e) of the 1996 Act. This capability is a crucial component for policing the fund to eliminate bad actors. Six States responding to our survey have refused an application for ETC designation filed by a carrier. Seven others, including Florida, revoked designations for questionable practices and/or violating program rules.¹⁴ But these numbers do not tell the whole story. In many cases, a carrier whose ETC application or existing ETC designation is being challenged will withdraw its application or relinquish its ETC status once it becomes clear it will not be granted or may be revoked. Such actions are not reflected in any statistics. Florida, for example, has had 19 ETC filings withdrawn. Moreover, many States require ETCs to certify--when they are seeking designation or submitting annual filings--that it is in compliance with all federal and State rules and whether the provider's ETC designation has been suspended or revoked in any jurisdiction.

¹³ States responding to either the 2013 or 2015 surveys that have requirements for requiring periodic compliance audits on lifeline carriers or recipients: CA, CO, FL, KS, ME, MA, MO, MS, NE, NJ, OH, OR, WI.

¹⁴ States responding they had revoked a carrier's ETC designation: FL, KS, KY, MI, MN, WA, WI. Florida revoked the designations of two companies for abuse of the Lifeline program, one of which faces criminal charges in Tampa federal court this summer. See Florida PSC Docket No. 080065, *Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida*, and Docket No. 110082-TP, *Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders*.

Unfortunately, the ability of our members to audit and investigate waste, fraud, and abuse by wireless ETCs is hampered in some States because of current (but reversible) limitations on oversight over wireless carriers.¹⁵ For others, the ability to effectively oversee any broadband internet access Lifeline providers might be hampered by other State laws targeting IP-based services.¹⁶ Questions remain: Can the FCC marshal the resources to properly oversee the program for all States? Should Congress encourage States to play a stronger compliance role? These are questions for Congress and this committee to consider.

Partnership, Not Preemption

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.

Managing the total size of the USF, and eliminating fraud and waste, is important to protect the consumers who pay for these programs through bill surcharges. Those surcharges burden consumers and can directly undermine and negatively affect the competitive market if effective accountability/screening mechanisms are not in place.

NARUC represents States that are both net donors to and net recipients from the federal lifeline programs. However, I come from a net donor State. As you might expect, I am *personally* and particularly sensitive to the clear need to balance the growth in the fund with the program’s policy goals. Like all net donor States, Florida is necessarily concerned about the

¹⁵ State Commissions generally designate carrier participation in the Lifeline program for wireline carriers. That is not always the case for wireless providers. Ten states and the District of Columbia do NOT grant ETC status for wireless carriers because they lack the jurisdiction under State statute, i.e., Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, Texas, the Commonwealth of Virginia, Florida and the District of Columbia. In these jurisdictions a crucial line of defense against abuse – State oversight - is non-existent or at least more limited.

¹⁶ Several States continue to designate wireless ETCs despite not having specific authority over them. It is anticipated that this will also be the case if the program is expanded to cover broadband. Additionally, many States with limited regulatory authority often work informally to resolve consumer complaints.

disparity between what Florida customers pay into the federal USF versus what that USF disburses to our citizens. In 2013, for all federal USF programs – including lifeline, Floridians paid-in \$539 million but only received back \$256 million – leaving Florida as a net contributor of \$283 million.

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,¹⁷
- 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

¹⁷ See Appendix B "Impacts on State."

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*.

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 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

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.

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. I was pleased the FCC took action on Lifeline 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. I give the FCC, 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, much credit for tackling this issue and seeking vital State input throughout the process. This was a textbook example of how the Congressionally-established Joint Board process can be properly utilized to address issues quickly and provide an excellent basic template for FCC action on this issue.

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 questions asked by

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).

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.²³

Responsibility and Review

Whatever else the FCC does, as both Congress and the FCC consider expanding the program to include broadband service, it certainly would be prudent to reevaluate current safeguards and consider possible improvements in oversight.²⁴

Continued coordination with States is crucial. And the FCC generally has continued 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

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 Questions such as confidentiality of a Lifeline applicant's information, number of entities with access to the database, possible "opt out" provisions of the national eligibility database for States, the interaction of State and federal databases, and many other issues require additional illumination – and the Joint Board process is an ideal vehicle to conduct the needed review.

²⁴ On April 25, 2013, NARUC President (and Washington State Commissioner) Phil Jones testified before the U.S. House of Representatives Energy and Commerce Committee, Subcommittee on Communications and Technology for NARUC on *The Lifeline Fund: Money Well Spent?* The text of his testimony is available online at http://www.naruc.org/Testimony/13%200425%20NARUC%20Pres%20P%20Jones%20House%20CT%20Subcmte%20Lifeline%20Testimony%20FINAL%20_2.pdf. In response to a question from Chairman Walden, Commissioner Jones said that when prepaid wireless carriers came in to his commission to obtain ETC designation, he asked them for cost information and they refused to give them data. The carriers stated that the requested data dealt with "rates" and States are preempted from regulating wireless rates. See, Archived Video, *April 25, 2015 House Energy and Commerce Committee Lifeline Hearing* at: <http://energycommerce.house.gov/hearing/lifeline-fund-money-well-spent>. Certainly, in considering the efficient level of benefits that must be offered to attract Lifeline service providers – one crucial input is the actual carrier costs (or a reasonable approximation thereof) of providing the service. Without such information, it is unclear how to determine if current subsidy levels are either too generous or not generous enough to assure carrier participation in the program.

Wireline Competition Bureau (WCB) Chief Julie Veach and her replacement Matt DelNero, WCB Deputy Bureau Chief Ryan Palmer, Consumer and Governmental Affair Bureau Chief Kris Monteith, and CGB Intergovernmental Affairs Chief Greg Vadas, among many other staff. The Universal Service Administration Company should also be commended for its recognition of the important role States necessarily play in this process.

NARUC has not had an opportunity to formally consider specific positions on the Chairman Wheeler's May 28, 2015 proposal to issue a rulemaking on Lifeline services.²⁵ And, while we have no resolution on point, it certainly seems logical, as the NPRM suggests, for the FCC to require providers to retain documentation of eligibility for a time that is *at least long enough to allow for effective oversight and audits of the carriers' qualification procedures*. That proposal also seems to raise questions that would benefit from a Joint Board recommended decision.

In preparation for my testimony here today, NARUC did a quick informal (and necessarily incomplete) survey of our members to elicit suggestions on improving the Lifeline program. The ideas provided by those that responded to last week's survey (combined with a similar survey conducted about a year ago under similar circumstances) are shown in appendix A to this testimony.

None of these ideas have been considered formally by NARUC or any specific State commission. Accordingly none are endorsed by the association or any specific member of the association.

²⁵ FCC Chairman Wheeler Seeks Comment On Modernizing Lifeline To Make 21st Century Broadband Affordable For Low-Income Households (May, 28, 2015), at: <https://www.fcc.gov/document/chairman-seeks-comment-modernizing-reforming-lifeline-broadband>. See also, Wheeler, Tom, FCC Chairman, A lifeline for Low-Income Americans: FCC Blog (May 28, 2015- 01:25 PM) <https://www.fcc.gov/blog/lifeline-low-income-americans>.

However, as they were offered by those most familiar with the on-the-ground implementation of the Lifeline program, they certainly can provide a useful starting point in any discussion of needed reforms.

The FCC's National Lifeline Accountability Database (NLAD) is up and running. This is a major step forward and can only significantly reduce duplicative support nationally. As with implementation of any new process, issues arise. Some NARUC commissions received complaints about the recertification process. For example, there are cases of recipients being improperly de-enrolled for duplicative service after they switched Lifeline providers or being told they were already in the database despite only subscribing to one Lifeline service. This is apparently an issue with how and when the database wasn't updated promptly. These concerns have already been shared with USAC and they have been very responsive. I am told corrections are in progress now.

Although NARUC has not formally taken any position on such access, it does seem logical that providing State (read-only) access to the NLAD database would also be a step forward. Such access allows State PUCs to address such complaints as well as better monitor the in-State activity within the program. Indeed, the USAC recently held a webinar for State Commissions to learn what States would need and expect from access to the database. It seems likely USAC will look for ways to grant access to the duplicates database in the near future. Certainly, USAC has been very responsive to State concerns.

I urge Congress to support the FCC and USAC efforts to complete the national eligibility database. NARUC fully recognizes the heavy lift facing the FCC in creating the much more complicated national eligibility database. The FCC needs more input on this and as some States

have functioning databases, we are uniquely positioned to offer vital input to achieve this monumental task. This is another of many issues that would benefit from a Joint Board referral.

Lifeline will once again be a major topic of discussion at the NARUC Summer Meeting this July in New York City. FCC Commissioners Mignon Clyburn and Michael O’Rielly will attend to jointly discuss their competing proposals for reforming Lifeline.²⁶

I am proud to say that Florida has been a leader in Lifeline reform and continues enforcing safeguards to prevent waste, fraud, and abuse of the Universal Service Fund. Florida’s leadership in instigating a National ETC State Coordinating Group (SCG) to monitor prospective and existing ETCs across the country, has fostered additional information sharing with all 50 states and the District of Columbia. Chairman Wheeler’s FCC USF Strikeforce²⁷ has reached out to both the SCG (and NARUC’s full and Staff Telecommunications Committees) in its efforts to ensure the efficiency and viability of the Lifeline program.

Let me close by reiterating my support for the Lifeline program with proper verification and accountability measures in place. This vital program is supported by the FCC and State commissions for voice services. It is time to consider how to migrate the program to some level of broadband service. We appreciate the efforts of the FCC and USAC working with States on these crucial issues. A continued partnership will minimize fraud, waste, and abuse in the program. NARUC’s member commissions stand ready and willing to work with the FCC, industry, the low-income community, and you in Congress on these issues. Thank you for the opportunity to testify. I look forward to your questions.

²⁶ See, Clyburn, Mignon, FCC Commissioner, *Reforming Lifeline for the Broadband Era*: Speech to the American Enterprise Institute in Washington, DC (November 12, 2014), online at: <https://www.fcc.gov/document/commissioner-clyburn-remarks-american-enterprise-institute>; O’Rielly, Michael, FCC Commissioner, *Sound Principles for Lifeline Reform*: FCC Blog (February 13, 2015 - 03:51 PM), online at: <https://www.fcc.gov/blog/sound-principles-lifeline-reform>.

²⁷ See, FCC Chairman Wheeler Announces Universal Service Fund Task Force, FCC Press Release (July 14, 2014), at <https://www.fcc.gov/document/fcc-chairman-wheeler-announces-universal-service-fund-strike-force>

APPENDIX A

States suggestions on how to further improve the Lifeline program

Below is a list of ideas offered by individual NARUC members and staff that work on Lifeline on a regular basis. The suggestions have not been considered or endorsed by NARUC or any specific State commission. NARUC specified that NARUC would not attribute particular responses to any State or individual. This anonymity encouraged a broader range of recommendations for the consideration of the Subcommittee.

Databases:

- *The FCC should develop & implement the national eligibility database as soon as possible as it will help eliminate much waste, fraud and abuse.*
- *FCC should work with States on ways to incentivize the utilization of State social service databases to be used for Lifeline eligibility verification.*
- *Provide States access to the recently created National Lifeline Accountability Database (NLAD, aka. Duplicates database). Access to the database will allow State commissions to resolve complaints regarding de-enrollment/duplicates and better monitor enrollment/de-enrollment in the program with specific States (USAC is apparently working on this now).*

Marketing of Lifeline and Consumer Information:

- *Require ETCs to provide customers with consumer helpline at the FCC and State level agencies.*
- *The FCC/Congress should prohibit the practice of advertising “free government cellphones” and handing out free cellphones from tents and temporary kiosks. Providing information on the program and how to apply could be allowed at such temporary locations but the customer should be directed to a permanent facility before obtaining a phone after eligibility is verified.*
- *The FCC should require all ETCs to call their service “Lifeline” and prohibit the misleading practices used by some carriers of “doing business as”, e.g., Assurance Wireless and SafeLink to avoid customer confusion.*

Enforcement:

- *The FCC should prohibit someone that falsifies an application from participating in the program for some period of time and/or require reimbursements to the fund of any losses caused by the fraud prior to re-qualifying for the program.*
- *The FCC should impose significant fines and, when appropriate because of the magnitude of the abuse (and the threshold should be small) suspend companies AND their officers from any participation in the Lifeline programs when ETCs or their officers/principals/owners/third party vendors violate rules. Repeat offenders should be permanently banned program participation.*
- *The FCC should prohibit any ETCs with a validation/recertification rate of less than a reasonable benchmark, such as 75%, from enrolling new customers and subject them to an FCC/USAC/State audit.*
- *The FCC should require more than one month of reimbursement of lifeline funds whenever duplicate Lifeline recipients are discovered.*

- *The FCC should remind ETCs that where available they are required to utilize State social service databases to verify eligibility.*

Eligibility Verification/Recertification Process:

- *Take the of verification of consumer eligibility out of the hands of the ETC/carrier*
- *The FCC should simplify the recertification process to assure eligible customers are not de-enrolled from the program mistakenly.*
- *The FCC should consider requiring all ETCs located in a particular State to use the same Lifeline application form that lists all Lifeline providers in that State so applicants will be more likely to ask questions if they already have service.*
- *If an ETC elects to have USAC undertake recertification then the carrier should notify the customer to expect USAC notices on recertification.*
- *ETCs using USAC for recertification should be allowed to attempt contact with the customer after a specified time of non-response to USAC.*
- *The FCC should establish a program for retention of customer eligibility verification documentation by all ETCs (TracFone petition).*
- *The FCC should prohibit the use of third-party agents hired by carriers to sign up Lifeline subscribers*
- *The FCC should grant the USTelecom petition filed April 2, 2012 for reconsideration of 47 C.F.R. §§ 54.410(b)(2)(ii) and 54.410(c)(2)(ii) to allow States that administer the Lifeline program and determine eligibility to provide lists to carriers of subscribers that qualify for Lifeline instead of requiring that copies of application forms be provided to carriers.*

Transparency/Operational Changes:

- *The cost basis of Lifeline subsidy level should be reexamined on a periodic basis to evaluate the subsidy against the benefit (i.e. for wireless does the set number of minutes align with the monthly Lifeline amount. A separate level for wireless, wirelines voice and Broadband. For example, Should the subsidy be less for prepaid wireless or the amount of minutes increased?).*
- *Require a customer to contact the ETC each month and verify identity to receive their free allotment of minutes.*
- *FCC should clarify FCC Form 555's (Annual Lifeline Eligible Telecommunications Carrier Certification Form) filed by the carriers are not confidential (if confidential ETCs can deny State PUC access).*
- *FCC should publish an annual report of the findings in the annual FCC Form 555 FCC should conduct a cost study to establish a subsidy level that appropriately reflects services offered.*
- *The FCC or USAC should create a list of customer service contacts for each ETC for use by federal and State officials.*
- *Modify USF contributions before expanding program to broadband*

APPENDIX B

Impact of FCC Reform on States

This information illustrates the crucial role the States play in Lifeline enforcement and why State input for any program changes is vital to efficient implementation. The FCC reforms to address waste, fraud and abuse also had some unintended consequences on States with existing programs. NARUC again removed all attribution and indicia of particular States to encourage responses. ***These comments are, like the statements in Appendix A – not specifically considered or endorsed by NARUC or any specific State Commission.***

- The expansion of the Lifeline eligibility criteria in the FCC's reform order proved to be very costly to States.
 - Added social service programs were not in existing state databases and it was costly to add the needed data
 - The state low income program database was not matching the national data base since the state has a different set of eligibility requirements.
 - Programs added to eligibility lists were ones that the State Lifeline administrator did not have control over or access to.
 - Addition of “income level” to eligibility criteria complicated process since there is no database, requiring manual collection of sensitive personal financial information to verify consumer eligibility.
 - Forced the State to spend hundreds of thousands of dollars to expand the scope of our state database queries and expand hours of access to it. For example, adding the Free School Lunch program has required creating an additional interface to obtain data from another database
- The State required the ETC “kick in” a certain amount in matching funds as a requirement of being an ETC. After the reform the ETCs interpreted the FCC rules to mean this was no longer required.
- The changes, while adding complexity to our efforts given the additional requirements, have enhanced our ability to review Lifeline provider's activities and identify concerns.
- As a result the State increased the amount of matching support for landline Lifeline ETCs.
- As a result some States reduced the State matching level.
- The State expanded and strengthened requirements for ETC applications and annual reporting.
- Under the old system there were tiered levels and matching effect. This was replaced with the flat federal \$9.25 monthly subsidy. As a result, the State regulations no longer matched the federal regulations causing confusion. The State continues to evaluate if and how to alter State laws and rules to reflect the new federal regime.