

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

In the Matter(s) of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 17 - 287
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible For Universal Service Support)	WC Docket No. 09-197

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

The National Association of Regulatory Utility Commissioners (“NARUC”), respectfully submits these comments in response to the Federal Communications Committee (“FCC” or “Commission”) July 11, 2018 Notice¹ seeking comment on the *Emergency Petition of Q Link Wireless, LLC for an Order Directing the Universal Service Administrative Company to Implement Machine-to-Machine Interfaces for the National Verifier*.²

¹ *Wireline Competition Bureau Seeks Comment on Emergency Petition of Q Link Wireless, LLC for an Order Directing the Universal Service Administrative Company to Implement Machine-to-Machine Interfaces for the National Verifier*, FCC Notice DA 18-718, WC Docket Nos. 17-297, 11-42, 09-197 (Released July 11, 2018).

² *See Emergency Petition of Q-Link Wireless, LLC for an Order Directing the Universal Service Administrative Company to Implement Machine-to-Machine Interfaces for the National Verifier*, WC Docket Nos. 17-287, 11-42, 09-197 (filed July 5, 2018) (“Q Link Petition” or “Petition”).

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,³ energy, and water utilities. NARUC is recognized by Congress in several statutes⁴ and consistently by the Courts,⁵ as well as a host of federal agencies,⁶ as the proper

³ NARUC's member commissions have oversight over intrastate telecommunications services and particularly the local service supplied by incumbent and competitive 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).

⁴ *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) (explaining that “[c]arriers, 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”).

⁵ *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) (noting that “[t]he District Court permitted [NARUC] to intervene as a defendant. Throughout this litigation, the NARUC has represented the interests of the Public Service Commissions 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).

⁶ 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.”)

entity to represent the collective interests of State utility commissions. In the Telecommunications Act,⁷ Congress references NARUC as “the national organization of the State commissions” responsible for economic and safety regulation of the intrastate operation of carriers and utilities.⁸

BACKGROUND

NARUC and its members have a long history of supporting the FCC’s Lifeline program.⁹ Many NARUC members have complimentary State programs that pioneered database programs, similar to the FCC’s Lifeline Eligibility Verifier (and the duplicates database), to limit fraud and abuse of the program. Indeed, in 1996, Congress recognized the crucial partnership between the FCC and States on

⁷ *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”).

⁸ *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 “[c]arriers, 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.).

⁹ *See, e.g.*, NARUC’s July 2000 *Resolution Regarding Universal Service for Low Income Households*; July 2005 *Resolution Supporting the efforts of the Federal Communications Commission and the National Association of Regulatory Utility Commissioners to promote Lifeline Awareness*; July 2009 *Resolution Proclaiming National Telephone Discount Lifeline Awareness Week*; NARUC’s February 2008 *Resolution to Support Equal Access to Communication Technologies by People with Disabilities in the 21st Century*; February 2009 *Resolution on Legislation to Establish a Broadband Lifeline Assistance Program*; November 2009 *Resolution on Lifeline and Link-Up Program Support for Broadband Internet Access Services and Devices*; July 2011 *Resolution Supporting a Low-Income Broadband Service Adoption Program*; February 2018 *Resolution to Ensure that the Federal Lifeline Program Continues to Provide Service to Low-Income Households.*

universal service issues – creating a structure that requires the FCC to work hand-in-glove with State commissions on Lifeline and other universal service programs.¹⁰

To its credit, the FCC has also explicitly recognized the integral State commission role. The agency and the Universal Service Administrative Company (“USAC”) have also worked closely with NARUC member commissions on many aspects of the federal lifeline program, including in particular the soft roll-out of the National Eligibility Verifier.

The Lifeline National Eligibility Verifier is a centralized system that determines whether subscribers are eligible for Lifeline. USAC manages the National Verifier through its customer service department, the Lifeline Support Center.

The Q Link Petition points out serious flaws in the current implementation plans for the National Verifier that will, at a minimum, increase costs and undermine efficiencies in the current program.

NARUC’s members were concerned about those flaws even before the Q Link petition was filed. At NARUC’s July 2018 Summer Policy Summit, the association passed a *Resolution to Implement Expeditiously a Properly Functioning and*

¹⁰ Weiser, Philip, *Federal Common Law, Cooperative Federalism, and the Enforcement of the Telecom Act*, 76 N.Y.U.L. Rev. 1692, 1694 (2001) (describing the 1996 Act as "the most ambitious cooperative federalism regulatory program to date"). Like the FCC, State commissions are *affirmatively charged* by Congress to “preserve and advance universal service,” and to encourage deployment “of advanced telecommunications” to all Americans. *See*, 47 U.S.C. §254(b)(5) (“should be specific . . . federal and state mechanisms to advance universal service”); §254(f) (authorizing State programs); §251(f) (allowing States to exempt rural carriers from certain requirements); and §254(i) (requiring FCC and States to insure universal service at reasonable rates.)

Consumer-Friendly Federal Lifeline National Eligibility Verifier specifically addressing the issue central to the Q Link petition. That resolution specifically urges the FCC to order USAC to incorporate Application Programming Interfaces (“APIs”) into its National Verifier implementation plan.

DISCUSSION

Since 1985, the federal Lifeline program has provided eligible low-income households with more affordable access to telecommunications services so that low-income households can be connected to jobs, healthcare, education, family, and friends. Currently, approximately 10 million households participate in the Lifeline program, receiving \$9.25 per month in basic Lifeline benefits from the Universal Service Fund.

The National Verifier is essential to bolstering program integrity.

The concept originated in the *Third Report and Order, Further Report and Order, and Order on Reconsideration (Lifeline Modernization Order)* released on April 27, 2016.¹¹ The verifier was supported by all five FCC commissioners as crucial to assuring both the efficiency and security of the Lifeline Program.¹² The Commission established three core objectives for this mechanism: (i) “to protect against and reduce waste, fraud, and abuse;” (ii) “to lower costs to the Fund and Lifeline providers through administrative efficiencies;” and (iii) “to better serve

¹¹ *In the Matter of Lifeline and Link Up Reform and Modernization*, 31 F.C.C. Rcd. 3962 (2016).

¹² *Id.* ¶¶ 5, 7, 126-166.

eligible beneficiaries by facilitating choice and improving the enrollment experience.”¹³

Clearly, the *Lifeline Modernization Order* recognized the critical importance of a consumer-friendly platform that would allow consumers to enroll in Lifeline online with carrier assistance.¹⁴

USAC, which administers the Lifeline program and other Universal Service Fund programs on behalf of the FCC, was designated to work with the FCC to roll out the National Verifier.¹⁵

When USAC initially presented its “National Verifier Plan” in November 2016,¹⁶ it included machine-to-machine interfaces (application programming interfaces, or APIs) that would have permitted *user-friendly, carrier-assisted, online verification and enrollment of Lifeline households*. Such APIs were consistent with the *Lifeline Modernization Order* which contemplated an “interface

¹³ *Id.* ¶ 128.

¹⁴ *Id.* Footnote 390 (“[T]he National Verifier may have an interface that is consumer-friendly and geared towards subscribers. It may have another interface that is geared toward providers that may allow application programming interfaces (machine-to-machine interaction.) and accompanying text in ¶ 138.

¹⁵ *Id.* ¶ 132;

¹⁶ See USAC, The National Verifier Draft Plan – Lifeline National Verifier (Nov. 21, 2016), <http://www.lifelinenationalverifier.org/2016/11/hello-world/>; see also USAC, Draft Lifeline National Verifier Plan (Nov. 30, 2016), https://www.usac.org/_res/documents/li/pdf/nv/2016-Nov-Draft-National-Verifier-Plan%20-%20Copy.pdf.

. . . geared toward providers that may allow application programming interfaces (machine-to-machine interaction).”¹⁷

Subsequently, the plans for such APIs were removed from the implementation plans without explanation.¹⁸ This proceeding should focus on correcting that lapse.

Failure to include carrier APIs will impose unnecessary burdens on consumers, service providers, and the National Verifier administration.

It is inefficient at all levels.

Without a service provider API, consumers will be forced to go to an online portal to demonstrate eligibility, and then separately go to a Lifeline service provider to enroll for Lifeline service. As the Q Link petition demonstrates in excruciating detail, absent an interface to allow carriers to assist applicants, the online application process is unnecessarily complicated and daunting for even the most computer-savvy consumer.¹⁹ This deficit in the implementation scheme threatens to disconnect millions of qualified Americans from the enrollment

¹⁷ See note 13, *supra*.

¹⁸ USAC, Lifeline National Verifier Plan (July 2017) at Slides 34, 36, 37, <https://www.usac.org/res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf>. Note, USAC’s July 2018 Plan update, online at <https://ecfsapi.fcc.gov/file/1073108231829/National%20Verifier%20Plan%20-%20Final%20-%20July%202018%20.pdf>, clearly indicates this omission was not an oversight. Page 72 of the update acknowledges, without any amplification/explanation, that “there is no API available associated with the NV web Portal.”

¹⁹ Q Link Petition at 91-21

process and expose others to data security risks, including phishing scams.²⁰ It also would increase costs for the National Verifier for applicant screening and associated transaction costs normally handled by the service providers during the intake process.

NARUC's July 2018 resolution targets the absence of carrier APIs and the resulting inefficiencies in the current National Verifier implementation plan. API's are not only user friendly, they permit carrier assistance and online verification, allowing the consumers to have a smooth and streamlined enrollment experience. NARUC's resolution specifically notes that, without APIs:

- Customers seeking online enrollment must navigate the complicated National Verifier process alone, only to repeat the same process with the carrier, exponentially increasing the odds of input mistakes that could affect the processing of the application;
- Lifeline service providers will be unable to provide remote assistance to rural and low-income customers and customers with disabilities, many of whom rely on online enrollment because they do not live or work near a retail location; and
- Service providers will no longer be able to screen ineligible applicants and incorrect documents prior to National Verifier review, increasing the costs for the National Verifier.

²⁰

Id.

Left uncorrected, the elimination of carrier APIs could deny access to mobile wireless broadband and voice services to millions of low income Americans in rural areas, and to other Americans that are uniquely dependent on online enrollment, like veterans with disabilities or homebound seniors. The National Verifier simply cannot operate effectively with service providers without APIs. Customer access to the National Verifier must be preserved by way of APIs. The FCC should order key agency and USAC staff to work quickly with the States to implement a properly functioning, and consumer-friendly National Verifier that incorporates carrier APIs.

Fortunately, the incorporation of an API into the National Verifier is not difficult and can be completed before the hard launch of the program. After all, the National Lifeline Accountability Database (“NLAD”) has operated since 2014 with a service provider API allowing providers to screen applications, obtain proper documentation and assist consumers to efficiently submit Lifeline enrollments. Creating a service provider API is simple, secure and cost effective. It will not introduce any new security risks or Federal Information Security Management Act compliance concerns because the NLAD, which has been used by service providers for more than four years and will be integrated with the National Verifier, already includes service provider APIs. Finally, as suggested earlier, utilizing the existing applicant screening processes will likely reduce USAC transactions and associated costs (including customer service inquiries) significantly.

CONCLUSION

As the NLAD experience has demonstrated, carrier-assisted online enrollment has emerged as a critical tool for expanding wireless Lifeline service to rural, disabled, and homebound Americans. It has been the crucial bridge allowing carriers to reach hundreds of thousands of rural low-income consumers nationwide.

The absence of a carrier API from the National Verifier, however, will make it extremely difficult for these Americans to get the help they need to navigate the eligibility verification process, even though their urban counterparts would benefit from in-person assistance provided through a dedicated National Verifier sales agent portal. The absence of carrier APIs will force online customers to navigate and complete two separate application processes, whereas today they can proceed through just one. APIs facilitating the exchange of information between carriers and the National Verifier are the obvious tool to avoid these absurd results and streamline the Lifeline online enrollment process, while ensuring that the National Verifier acts at all times as the final arbiter of consumer eligibility. APIs will also significantly reduce the annual operating costs for the National Verifier.

The Commission should direct USAC to restore carrier APIs prior to the National Verifier's hard launch, which would harmonize USAC's implementation with its initial plans, and with the Commission's Order establishing the National Verifier.

Respectfully submitted,

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Appendix A

Resolution to Implement Expeditiously a Properly Functioning and Consumer-Friendly Federal Lifeline National Eligibility Verifier

Whereas on April 27, 2016, the Federal Communications Commission (“FCC”) released a Third Report and Order, Further Report and Order, and Order on Reconsideration addressing Lifeline modernization (*In the Matter of Lifeline and Link Up Reform and Modernization*, 31 F.C.C. Rcd. 3962 (2016));

Whereas since 1985, the federal Lifeline program has provided eligible low-income households with more affordable access to telecommunications services so that low-income households can be connected to jobs, healthcare, education, family, and friends;

Whereas currently, approximately 10 million households participate in the Lifeline program, receiving \$9.25 per month in basic Lifeline benefits from the Universal Service Fund;

Whereas in the Third Report and Order, the FCC contributed to the modernization of Lifeline by expanding Lifeline to include broadband service, *Id.* ¶ 5., and by establishing the Lifeline National Eligibility Verifier (“National Verifier”) to address waste, fraud, and abuse, *Id.* ¶¶ 5, 7, 126-166;

Whereas in establishing the National Verifier, the FCC recognized the critical importance of a consumer- friendly platform that would allow consumers to enroll in Lifeline online, *Id.* ¶ 138 and text accompanying note 390;

Whereas in the Third Report and Order, the FCC designated the Universal Service Administrative Company (“USAC”), which administers the Lifeline program and other Universal Service Fund programs on behalf of the FCC, to play a key role in implementing the National Verifier, *Id.* ¶ 132;

Whereas on June 18, 2018, the FCC’s Wireline Competition Bureau announced that the National Verifier is “now operational in Colorado, Mississippi, Montana, New Mexico, Utah, and Wyoming,” and that “[d]uring the soft launch, only Eligible Telecommunications Carriers will have access to the National Verifier. Consumers will be able to access the National Verifier at a later date once the hard launch takes place” (*Wireline Competition Bureau Announces the Initial Launch of the National Lifeline Eligibility Verifier Database* (DA 18-627));

Whereas carriers petitioned the FCC and highlighted that there is a flaw in USAC’s technical implementation of the National Verifier that could disconnect millions of Americans from the enrollment process;

Whereas when USAC initially presented its “National Verifier Plan,” diagrams illustrated plans to include machine-to-machine interfaces (application programming interfaces, or APIs) that

would have permitted user-friendly, carrier-assisted, online verification and enrollment of Lifeline households;

Whereas such APIs were consistent with the Third Report and Order establishing the National Verifier, which contemplated an “interface . . . geared toward providers that may allow application programming interfaces (machine-to-machine interaction)”, *Id.* ¶ 137 n.390; *hereas* although USAC announced the soft launch of the National Verifier’s service provider’s portal, which supports only in-person carrier interaction with consumers, USAC had no stated plans to add an API for use by ETCs, which is an important component of an effective National Verifier;

Whereas without APIs, a customer seeking to enroll online will have to navigate the National Verifier’s verification process on his or her own only to repeat the same process with the carrier, imposing on consumers unnecessary burdens and potentially exposing consumers to phishing scams;

Whereas without APIs, ETCs will be unable to provide remote assistance to consumers, and may assist consumers only in person, to the detriment of many low-income households, many of whom rely on online enrollment because they do not live or work near a retail location;

Whereas without APIs, ETCs will no longer be able to screen ineligible applicants, or incorrect or incomplete applicant documents, prior to National Verifier review, saving the National Verifier significant annual operating costs;

Whereas without ETC assistance to consumers or screening, USAC’s costs of operating the National Verifier will be significantly inflated;

Whereas the National Verifier cannot operate effectively or efficiently between ETCs and the National Verifier without APIs;

Whereas the modifications to the National Verifier need to be made before use of the National Verifier is mandatory to preserve consumer access to Lifeline voice and broadband connections;
now therefore be it

Resolved, that the Board of Directors of the National Association of Regulatory Commissioners (“NARUC”), convened at its 2018 Summer Policy Summit in Scottsdale, Arizona, urges the FCC and USAC to work with the states to implement a properly functioning, consumer-friendly National Verifier without further delay; *and be it further*

Resolved, that NARUC urges the FCC to order USAC to incorporate APIs into its National Verifier implementation.

Sponsored by the Committee on Telecommunications.

Adopted by the NARUC Board of Directors on July 18, 2018.