



N A R U C
National Association of Regulatory Utility Commissioners

September 15, 2025

TO: United States Senate Universal Service Fund (“USF”) Working Group

The Honorable Deb Fischer
Co-Chair
Senator, Nebraska

The Honorable Ben Ray Luján
Co-Chair
Senator, New Mexico

The Honorable Shelley Moore Capito
Senator, West Virginia

The Honorable Amy Klobuchar
Senator, Minnesota

The Honorable Jerry Moran
Senator, Kansas

The Honorable Gary Peters
Senator, Michigan

The Honorable Dan Sullivan
Senator, Arkansas

The Honorable Jackie Rosen
Senator, Nevada

The Honorable Richard Hudson
Representative North Carolina

The Honorable Doris Matsui
Representative, California

FR: The National Association of Regulatory Utility Commissioners (NARUC)
[Contact: Brad Ramsay at jramsay@naruc.org or 202.257.0568]

RE: NARUC Comments on USF Working Group’s Request for Comment.

The National Association of Regulatory Utility Commissioners (NARUC), in a July 2025 resolution, commended both Senator Fischer and Senator Lujan for reconstituting the Universal Service Fund Working Group and expressed NARUC’s support for its stated goals.¹ In response to the updated August 1, 2025 request for comment on the future of the FCC’s Universal Service Programs,² NARUC respectfully submits these comments. Like the prior 2023 request,³ this 2025 Working Group Request seeks comment on specific questions.

¹ *Resolution in Support of Federal Universal Service Fund Working Group* (NARUC July 30, 2025).

² “Fisher: USF Working Group Comment Portal Officially Open” (August 1, 2025) (“Request”), online at: <https://www.fischer.senate.gov/public/index.cfm/news?ID=036283CF-9308-4777-8177-2386E29DBC0A> (last accessed August 20, 2025). The portal “Universal Service Fund (USF) Working Group – Request for Comment” is on Senator Fischer’s website at www.Fisher.senate.gov/usf.

³ “Universal Service Fund (USF) Working Group Request for Comment” (July 27, 2023) (“Request”), online at <https://www.lujan.senate.gov/usf/> (last accessed August 20, 2025).

As with our August 25, 2023 comments,⁴ these NARUC's comments endorse and amplify long standing Association principles and also highlight positions articulated by its member commissions in a related FCC proceeding on the future of the USF program from 2022.⁵

Specifically, (1) any evolution of the USF mechanism must build on the existing coordinated State and Federal approach outlined in the current law to, among other things, assure the integrity of States complementary high cost and broadband subsidy or support programs; (2) reform of the contribution mechanism supporting the FCC USF programs is long overdue and the October 15, 2019 proposal⁶ from the State members of the Federal State Joint Board on Universal Service (and the associated process) is a useful place to start, and (3) if Congress cares about fraud and abuse in the program, the last thing it should do is eliminate the State Eligible Telecommunications Carrier (ETC) designation procedure as a prerequisite for a access to federal subsidies.

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,⁷ energy, and water utilities. NARUC has long been recognized by Congress in several

⁴ NARUC Response to the Senate Future of the Universal Service Fund Working Group (August 25, 2023, available online at: <https://pubs.naruc.org/pub/2FB513D0-B156-7BFC-F364-BE1663DA4177>).

⁵ See, the February 17, 2022 comments filed in FCC Docket WC 21-476 by the California Public Utilities Commission at: <https://www.fcc.gov/ecfs/filing/10217151028198>, the Massachusetts Department of Telecommunications and Cable (MA) at: <https://www.fcc.gov/ecfs/filing/10217083610029>, the Minnesota Department of Commerce (MN) at: <https://www.fcc.gov/ecfs/filing/102171644822957>, the NY State Public Service Commission (NY) at: <https://www.fcc.gov/ecfs/filing/10217129634965>, and the Vermont Department of Public Service (VT), at: <https://www.fcc.gov/ecfs/filing/102171713111737>.

⁶ See, *In the Matter of Federal State Joint Board on Universal Service*, WC Docket No. 96-45, et al., Recommended Decision of the State Members (rel. Oct. 15, 2019), available online at: <https://ecfsapi.fcc.gov/file/1015153264262/2019%20State%20Members%20Recommendation.pdf>.

⁷ 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).

statutes⁸ and consistently by the Courts,⁹ as well as a host of federal agencies,¹⁰ as the proper entity to represent the collective interests of State utility commissions. In the Telecommunications Act,¹¹ 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.¹²

⁸ 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”).

⁹ 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).

¹⁰ 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.”)

¹¹ *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”).

¹² 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). *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.).

NARUC and its members have a long history of providing support to, and coordinating with, both Congress and the FCC on Lifeline,¹³ High Cost,¹⁴ and other USF programs.

It made sense in 1934 and 1996 and it makes sense now.

The 1996 Telecommunications Act recognized and explicitly encouraged the continuation of existing state complementary universal service programs. It is also obvious, that the state commission located in each of

¹³ See, e.g., NARUC's July 2023 Resolution Supporting Permanent Funding for the Affordable Connectivity Program; July 2023 Resolution Proclaiming Digital Connectivity and Lifeline Awareness Week; July 2022 Resolution for Federal and State Entities to Promote Consumer Awareness of the Affordable Connectivity Program and Share Database Access to Automatically Verify the Eligibility of Consumers for the Program; July 2021 Resolution on Ensuring that Low-Income Households Can Efficiently Enroll in the Emergency Broadband Benefit Program and Seeking Additional Funding; February 2021 Resolution on the Federal Communications Commission's Review of Rural Digital Opportunity Program; 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; 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; July 2013 Resolution to Improve Lifeline Annual Recertification Process; **July 2015 Resolution on ETC Designations for Lifeline Broadband Service**; February 2016 Resolution on Reform of Lifeline Program; November 2016 Resolution on Requested Waivers to Implement the FCC's Lifeline Reform Order February 2018 Resolution to Ensure that the Federal Lifeline Program Continues to Provide Service to Low-Income Households; July 2018 Resolution to Implement Expediently a Properly Functioning and Consumer-Friendly Federal Lifeline National Eligibility Verifier; February 2019 **Resolution to ensure the National Verifier is Properly Launched so that Low-Income Consumers can Access the Federal Lifeline Program** ; July 2019 **Resolution on the Lifeline National Verifier Launch and Minimum Service Standards**.

¹⁴ See, e.g., NARUC's February 2023 Resolution Encouraging the Federal Communications Commission To Act To Ensure That Federal Support Provided to Successful Bidders in the Rural Digital Opportunity Fund Auction 904 Is Retained For Support In Any Jurisdiction Where A Successful Bidder Is Disqualified by the Federal Communications Commission; July 20, 2011 Resolution Strongly Supporting the Proposals Submitted on Universal Service Reform by the State Members of the Federal State Joint Board on Universal Service; July 2011 Resolution Supporting a Low-Income Broadband Service Adoption Program; November 2012 Resolution Seeking Joint Board Referrals; July 2013 Resolution Urging the Federal Communications Commission to Act Transparently in Deploying Formal CAF-II Rules and to Direct Funding to Ensure Comparable Voice and Broadband Services to Customers in the Nation's Highest-Cost Areas; February 2014 Resolution Supporting Reform of the Federal Universal Service Fund Contribution System; November 2015 Resolution to Expedite Availability of Remote Areas Funding and Connect America Funding to Unserved and Underserved Areas Where Carriers Have Not Accepted Funding; November 2016 Resolution on Ensuring Timely State Access to CAF ETC Reporting Data; February 2017 Resolution on Federalism and the Connect America Fund Phase II; July 2017 Resolution Calling for Sufficient Funding of the High-Cost Universal Service Program for Rate Return (RoR) Carriers; July 2018 Resolution on Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States; November 2018 Resolution Urging the FCC to Extend and Reform Process for Creating the MF-11 Eligibility Map; February 2020 Resolution on the 5G Fund; July 2020 Resolution to Ensure that Recipients of Universal Service Fund Support Continue to Be Held to a High Standard and to Prevent Waste, Fraud, and Abuse; February 2021 Resolution on the Federal Communications Commission's Review of Rural Digital Opportunity; July 2021 Resolution Supporting Recommendations from the Broadband Expansion Task Force; November 2021 Resolution Supporting Energy Company Communications Infrastructure for Broadband Expansion; February 2022 Resolution on Ensuring that Federal and State Entities Collaborate, Share Data, and Track Progress on Closing the Digital Divide Utilizing Various Federal Programs including the Infrastructure Investment and Jobs Act and the American Rescue Plan Act of 2021.

your home jurisdictions has a much better grasp on what is going on in your state – and is far more likely to receive complaints about service providers that are failing to meet their federally subsidized service obligations.

High-cost programs target areas that, by definition, are so remote¹⁵ and expensive to serve that they cannot support even one carrier without federal support. In these areas, your constituents need both FCC and State cops on the beat to ensure that promised services are being provided and to protect both program integrity and individual consumers.

No one knows the market – or the actual impact of federal programs – including unintended consequences on your constituents – better than NARUC’s member commissions. They are a demonstrable frontline defense against fraud and abuse of the FCC’s programs and the constituents each program seeks to serve.

NARUC was a constant presence on Capitol Hill assisting Congress in the years leading up to the enactment of the Telecommunications Act of 1996. Both before and after the 1996 Act, the FCC and its staff have a long history of collaboration with States on USF issues through the Federal State Joint Board on Universal Service and through interactions with key staff in the Wireline Competition Bureau, the Consumer and Governmental Affairs Bureau, and the Universal Service Administrative Company.

The success of the FCC’s USF programs requires that that collaboration continue.

The Questions

The Request asks several questions. This response focuses on only two, The first:

What reforms would reduce waste, fraud, and abuse in each of the four USF programs?

NARUC’s comments are focused on the FCC’s High Cost and Lifeline programs. In the 2023 Request for Comment, the Working Group asked whether Eligible Telecommunications Carrier (“ETC”) designation should be required for the receipt of USF subsidies. We are pleased the working group chose not to repeat that question in this second round of comments. Nonetheless, NARUC anticipates that some commentors will reprise their advocacy for removal or substantial modification of this crucial state oversight role in response to this question.

¹⁵ 47 U.S.C. § 254(b)(3).

IF CONGRESS WANTS TO MINIMIZE FRAUD AND ABUSE OF THESE PROGRAMS, IT SHOULD RETAIN THE ETC DESIGNATION PROCEDURE.

State and Federal coordination and cooperation is vital to the continued success of both the FCC's and various State programs. Many NARUC members have *complimentary* State lifeline, high cost, and broadband funding programs.¹⁶ Many of those State initiatives pioneered policy initiatives, *e.g.*, database programs, similar to the FCC's Lifeline Eligibility Verifier, that were successful in limiting fraud and abuse and ultimately migrated into the federal program.

Indeed, 27 years ago, in 1996, Congress recognized the crucial partnership between the FCC and States on universal service issues – creating a structure that requires the FCC to work hand-in-glove with State commissions on Lifeline, High Cost, and other universal service programs.¹⁷

As part of that cooperative effort, the majority of NARUC's member commissions conduct proceedings to designate carriers as “eligible telecommunications carriers” (ETCs) under 47 U.S. C. § 214. That ETC designation is a prerequisite for participation in federal universal service programs, including the federal Lifeline program, which provides subsidized access to telecommunications services to low-income Americans.

Many states have complementary Lifeline programs that provide additional funds to those low-income consumers. Other States have separate high-cost and broadband funding programs.

¹⁶ Lichtenberg, Sherry, Ph.D. “State Universal Service Funds 2018: Updating the Numbers” (NRRI April 2019), online at: <https://pubs.naruc.org/pub/FA86A8F7-0CE5-DF43-391B-095BD03757BF>. Note, in 2025, Oregon Bill H.B. 3148 passed, increasing that state's Lifeline Benefit from \$10.00 to \$15.00 and also providing a subsidy for broadband equipment for low-income customers.

¹⁷ 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.)

The ETC designation process frequently is the basis for a state’s oversight of the designated carrier’s Lifeline and universal service operations. With all these overlapping low-income and broadband subsidy programs,¹⁸ federal-state coordination remains vital.

All Federal and State universal service programs provide government support.

Companies that get government subsidies, whatever the mechanism, require some oversight. As Senator McCaskill noted in a September 2017 hearing on the federal lifeline program:

It does not take an auditor to tell you it might not be the best idea to blindly trust the companies that are going to make the money—who receive \$1.5 billion each year from this program...¹⁹

The history of the so-called “Affordable Connectivity Program” (ACP), a short-lived program created during the pandemic, offers useful lessons. In that emergency program, Congress specifically allowed many providers to simply *bypass the State ETC designation procedure* via an *expedited* FCC certification process. As a result of that combination, the ensuing fraud was predictable.²⁰

The ETC designation procedure has permitted many States to be a crucial partner with the FCC, with demonstrated success blocking carrier diversions of federal USF program funds to non-existent customers as well

¹⁸ See, e.g. February 17, 2022 Comments of the California Public Utilities Commission (CA Comments) in filed in FCC Docket WC 21-476 at p. 2, noting: “In California, ten Small Incumbent Local Exchange Carriers (Small LECs) provide telephone service in certain rural and high-cost areas. These companies receive funding from both the federal High-Cost Programs and the California High-Cost Fund – A (CHCF-A)6, some of which is intended to enable them to build out broadband-capable networks and offer broadband services to consumers.” (emphasis added)

¹⁹ *FCC’s Lifeline Program: A Case Study of Government Waste and Mismanagement*, Hearing before the Committee on Homeland Security and Government Affairs, United States Senate September 14, 2017, at page 3, available online at: <https://www.govinfo.gov/content/pkg/CHRG-115shrg29656/pdf/CHRG-115shrg29656.pdf> (Last accessed 9/14/2025). *FCC Should Take Additional Action to manage Froud Risks in Its program to Support Broadband Services in High-Cost Areas* (GAO-20-27) (October 2019), available online at: <https://www.gao.gov/assets/gao-20-27-highlights.pdf>; Pressman, Aaron, *The Federal Government’s Phone Subsidy Program is Apparently Rife with Fraud*, (Fortune Magazine June 30, 2017) (“The [FCC’s] Lifeline program paid at least \$1.2 million to duplicate or deceased recipients and more than one-third of participants out of 3.5 million reviewed appeared not to be eligible, the Government Accountability Office said in a report released on Thursday.”)

²⁰ See, e.g., *Client Advisory: FCC Imposes \$14 Million Forfeiture On Tone For Affordable Connectivity Fraud* (Marashlian & Donahue, PLLC February 5, 2024). Online at: <https://commlawgroup.com/2024/fcc-imposes-14m-forfeiture-on-for-affordable-connectivity-program-fraud/> (last accessed September 14, 2025); Neena, Jake, *AT&T Settles ACP Investigation for \$2.4 Million - FCC said the company improperly enrolled more than 3,900 subscribers.* (Broadband Breakfast October 28, 2024) online at: <https://broadbandbreakfast.com/at-t-settles-acp-investigation-for-2-3-million/> (last accessed September 14, 2025); *Advisory Regarding Provider Enrollments of Multiple ACP households Based on the Same Child/Dependent*, Memorandum, US FCC Office of Inspector General, September 8, 2022. https://www.fcc.gov/sites/default/files/oig_advisory_duplicate-bqps_09082022.pdf (Last accessed September 14, 2025).

as ensuring that Lifeline consumers get the specified services. States have also protected the FCC’s High-Cost program.

Eliminating the ETC designation procedure will multiply the opportunities for fraud and abuse and leave constituents with limited, if any, remedies where promised services are not provided. Congress should assure that, at a minimum, the existing procedure remains in place to allow States with the resources to address program and service integrity.

Eliminating the ETC designation procedure is illogical. It makes absolutely no sense to take any additional “state cops” off the beat. Removing or substantially modifying the ETC designation process will do just that. Some carriers who want zero oversight of how they spend federal (and state) subsidies have been pushing some version of streamlining or eliminating the ETC designation process for years.²¹ They were only partially successful in the pandemic-era short-lived ACP program.

No policy maker – state or federal - is going to hand out billions of dollars without providing some form of carrier accountability.

However, by targeting the ETC designation process, some carriers can limit oversight of their expenditures of funds and also block any State oversight - oversight which heretofore, has allowed States to help ensure that the FCC carrier or customer support payments benefit the intended recipients and not carrier bottom lines.

²¹ These carriers argue that requiring ETC certifications will inhibit carrier entry into one of the FCC universal service programs: the lifeline market. But there are at least two flaws with that “argument.” First, even without the current State focused ETC designation procedure there will still necessarily be some substitute registration procedure in place of the designation procedure and regulatory oversight. Secondly, other than speculation by carriers with an obvious interest in limiting oversight, there is no evidence that the requirement to become an ETC has ever inhibited (or “limited”) competition with respect to the federal Lifeline program. Indeed, the only available evidence suggests the precise opposite. After the Bush-era FCC permitted “non-facilities” based wireless Lifeline only providers – the number of carriers competing to provide Lifeline service increased significantly. The level of funding provided meant there was a business case for a profit seeking company to provide service and as a result, many wireless carriers pressed to get into the market. FCC innovative high cost fund initiatives show similar trends. If there is money on the table, the carriers will come. In the FCC’s recent 2020 Rural Digital Opportunity Fund Auction 386 bidders qualified to participate in Phase One auction for \$16 billion dollars – an auction which resulted in 1764 winning bids. Some strong advocates for elimination of the state role in the designation process, won RDOF bids and had no problem getting the State ETC designations required to access the auction funds. The fact is – there is no evidence that requiring ETC certifications or an alternate procedure inhibits carrier entry into the Lifeline or high-cost programs.

It is obvious why some carriers want to basically eliminate, or at least, severely constrain oversight of how federal support is actually used. It is also obvious why they would want to limit examination of the quality of the services they are required to provide.

It is more difficult to understand why federal policy makers with familiarity with the history of federal universal service programs would want to limit oversight of this expenditure of taxpayer or other support dollars or, worse still, limit avenues for constituents to complain about substandard (or non-existent) subsidized services.

Historically, FCC and Congressional policy makers have welcomed State participation in oversight.

Indeed, the FCC has provided explicit examples – acknowledging the crucial role states have played in limiting fraud and abuse and in helping consumers that are not getting the service Congress intended. In a November 14, 2019 Order,²² the agency described states as:

*vigorously exercis[ing] their oversight authority to combat waste, fraud, and abuse . . . In some cases, states have been the first to identify waste, fraud, and abuse by ETCs—the Hawaii Public Utilities Commission first identified the issues with Blue Jay’s **overclaims** of Tribal subscribers, and the Oklahoma Corporation Commission “first identified **fraudulent funding requests** from Icon Telecom.” More recently, an apparent (Sprint) violation of the Commission’s non-usage rule was initially uncovered by an investigation by the Oregon Public Utility Commission. (Footnote 82 “See **FCC Learns That Sprint Received Tens of Millions in Lifeline Subsidies—But Provided No Service,**” FCC Press Release (Sept. 24, 2019), online at <https://www.fcc.gov/document/sprintreceived-lifeline-subsidies-885000-inactive-subscribers>.”) . . . States have also filtered out ineligible carriers **by refusing designations to those with substandard services** and weeded out bad actors by revoking designations for unlawful practices . . . States have also performed audits, addressed consumer complaints, and **maintained valuable state matching programs.***

In response to a proposal at the FCC to federalize the ETC designation process for broadband lifeline service by eliminating the state role in designations, then-Commissioner Ajit Pai accurately pointed out that:

. . . state commissions thus far have the best track record. . . It was the Florida Public Service Commission that cracked down on carriers receiving Lifeline subsidies for consumers who never used the service. . . . And it was the Oklahoma Corporation Commission that “first identified fraudulent funding requests from Icon Telecom.”

²² *In the Matter(s) of Bridging the Digital Divide for Low-Income Consumers, WC Docket no. 17-287, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration 34 F.C.C. Rcd. 10886, 10898-10899 (2019) at ¶ 28.*

In the record of that same proceeding, the California commission noted that:

*CPUC staff evaluates the cost of proposed Lifeline service plans to comparable retail offerings and rejects Lifeline plans that cost a Lifeline customer more than comparable retail plans. {emphasis added}*²³

And States don't just police the Lifeline program. Three years ago, on March 21, 2022, the South Dakota Public Service Commission rejected LTD Broadband's application for an ETC designation in March of 2022 necessary to receive \$46,588,454 in FCC Rural Digital Opportunity Fund (RDOF) funding to support broadband rollout in the State.²⁴ The State found based on record evidence that LTD lacked the technical and financial ability to deliver on the promise to serve over 7000 locations in South Dakota. The SD Commission acted five full months before the FCC found LTD's auction long form deficient. This is a first-hand example of the States ability to dig deeply into the capacity of a new company to evaluate if that company can, in fact, provide the required subsidized high-speed broadband services. Other NARUC member Commissions have taken similar action where carriers either acted dishonestly or failed to demonstrate adequate technical ability.²⁵ These state commission actions protected the FCC RDOF programs integrity, blocking waste and saving funds for reallocation to companies that can meet the targeted services levels.

²³ See, e.g., February 22, 2016 *Letter from California Public Utilities Commission members Catherine J.K. Sandoval, Carla J. Peterman, and Michel P. Florio to FCC Secretary*, in WC Docket No. 11-42, (*California Ex Parte*) available online at: <https://ecfsapi.fcc.gov/file/60001515662.pdf> (*February 2016 California Ex Parte*).

²⁴ *In the matter of the Application of LTD Broadband LLC for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Federal Universal Service Support*, Final Decision and Order Denying Application for Designation as an Eligible Telecommunications Carrier in Certain Census Blocks; Notice of Entry of Order, TC 21-001 (March 21, 2022) available online at: <https://puc.sd.gov/commission/dockets/telecom/2021/TC21-001/TC21-001FinalOrderDenyPublic.pdf> (last accessed August 29, 2025).

²⁵ See, e.g., Order Denying Application for Eligible Telecommunications Carrier Status, *In the Matter of the Application of LTD Broadband LLC, Las Vegas, Nevada, Seeking Designation as an Eligible Telecommunications Carrier in the State of Nebraska*, Application No. C-5256/NUSF-130 (December 14, 2021), available online at: <https://www.nebraska.gov/psc/orders/telecom/2021-12-14%20C-5256%20NUSF-130%20Order%20Denying%20Application%20for%20Eligible%20Telecommunications%20Carrier%20Status.pdf> (last accessed September 14, 2025).

States also have a history of blocking unresponsive carriers from ever getting an ETC designation²⁶ and thereby access to federal USF dollars. They also have revoked the ETC designations of carriers that the State has found engaged in fraudulent behavior.²⁷ The undeniable impact of elimination of or any additional restrictions on the ETC designation procedure will be that: consumers will have less protection and the program will be far more likely to incur losses that limit the resources available to support qualifying consumers.

Removing the State ETC Designation Role can only undermine existing state matching programs, resulting in higher prices for low-income constituents.

The first telephone Lifeline programs in the United States started at state commissions, which have a long history of supporting such vital social programs.²⁸ State commissions have promoted enrollment of Lifeline in a variety of innovative ways – including by creating and supporting the annual *Lifeline Awareness Week*. Indeed, in 2023, in recognition of the nascent success of the now defunct ACP program, NARUC rechristened Lifeline awareness week as *National Digital Connectivity and Lifeline Awareness Week*.²⁹

²⁶ See, e.g., Order, *In the Matter of the application of ASSURANCE HOPE PHONE SERVICES, d/b/a SURETY WIRELESS, for designation as an eligible telecommunications carrier pursuant to Section 214€(2) of the communications Act of 1934*, Case No. [U-16575](#) (Michigan Public Service Commission December 4, 2024) (dismissing ETC application because the provider failed to receive an approved compliance plan and was unresponsive); Order, *In the Matter of the application of CINTRIX WIRELESS LLC, for designation as an eligible telecommunications carrier pursuant to Section 214€(2) of the communications Act of 1934*, Case No. [U-16806](#) (Michigan Public Service Commission December 4, 2024) (dismissing ETC application because the provider failed to receive an approved compliance plan and was unresponsive); Order, *In the Matter of the application of Easy Wireless, for designation as an eligible telecommunications carrier pursuant to Section 214€(2) of the communications Act of 1934*, Case No. [U-16476](#) (Michigan Public Service Commission December 4, 2024) (dismissing ETC application because the provider failed to receive an approved compliance plan and was unresponsive); Order, *In the Matter of the application of GO MD USAC, LLC, for designation as an eligible telecommunications carrier pursuant to Section 214€(2) of the communications Act of 1934*, Case No. [U-21771](#) (Michigan Public Service Commission December 4, 2024) (dismissing ETC application because the provider was unresponsive);

²⁷ See, e.g., Order, *In the Matter of the application of Q LINK WIRELESS LLC, for designation as an eligible telecommunications carrier pursuant to Section 214€(2) of the communications Act of 1934*, Case No. [U-16940](#) (Michigan Public Service Commission February 27, 2025) (Q Link’s ETC revocation stemmed from the Department of Justice’s and FCC notices regarding Q Link’s admission of conspiring to defraud and commit offenses against the United States, as well as the FCC). suspending and initiating the process of debaring Q Link from the Federal Lifeline program. Order, *In the Matter of the application of Blue Jay Wireless LLC for designation as an eligible telecommunications carrier pursuant to Section 214€(2) of the communications Act of 1934*, Case No. [UU-20744](#) (Michigan Public Service Commission December 4, 2014) (The Michigan Commission initiated a Show Cause proceeding regarding potential violations of Federal and State law, as well as Commission Orders. After a hearing (which Blue Jay did not participate), the Commission issued an order revoking Blue Jay’s ETC designation. Blue Jay failed to provide numerous annual filings, failed to provide the Commission with notice of changes, and failed to provide their Form 481 recertifications.

²⁸ Compare, *MTS and WATS Market Structure; Amendment of the Rules and Establishment of a Joint Board*, Order Requesting Comments, 50 FR 14727-01 (April 15, 1985) and *Re Moore Universal Tel. Serv. Act*, 14 CPUC 2d 616 (Apr. 18, 1984) (“The [1983] Act is intended to provide affordable local telephone service for the needy, the invalid, the elderly, and rural customers. The Act mandates that this Commission establish a subsidized telephone service funded by a limited tax on suppliers of intrastate telecommunications service.”). See also, *NARUC’s July 2000 Resolution regarding Universal Service for Low Income Households*.

In 1996, Congress made clear in 47 U.S.C. §§ 214(e),³⁰ 253³¹ 254,³² 1301-3,³³ and other provisions of the Telecommunications Act, that it expected the states to continue to play a crucial role by partnering with the FCC with respect to universal service and the promotion of advanced services like broadband.

State Lifeline/low-income programs are a crucial part of that equation.

Not all states offer additional support or subsidies, but several state Lifeline programs provide support or subsidies ranging from \$2.50 to well over \$10.00 per month to qualifying federal Lifeline recipients.³⁴

²⁹ See, e.g., NARUC's July 2023 [Resolution Proclaiming Digital Connectivity and Lifeline Awareness Week](#).

³⁰ 47 U.S.C. §214(e) ("State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier.")

³¹ 47 U.S.C. §253 ("(a) In general - No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. (b) State regulatory authority - Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254 of this title, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.") {emphasis added}

³² 47 U.S.C. §254 ("(b) Universal service principles - The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles . . . There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service...(e) Universal service support . . . only an eligible telecommunications carrier designated under section 214(e) of this title [by a State commission in the first instance] shall be eligible to receive specific Federal universal service support. . .(f) State authority A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. ") {emphasis added}

³³ 47 U.S.C. §1301. ("Congress finds . . . The Federal Government should also recognize and encourage complementary State efforts to improve the quality and usefulness of broadband data."); §1302(a) (The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment. §1304. (captioned "Encouraging State initiatives to improve broadband") {emphasis added}

³⁴ Responses to an April 2021 informal survey about monthly State Lifeline subsidies, indicated, **California** provides a **\$14.85** subsidy for cell or landline service, plus a one-time **\$39** service connection or conversion discount, Missouri's program is limited to landline but provides **\$18.75** to a Lifeline Subscriber with voice-only service or voice service bundled with non-qualifying broadband service and **\$14.75** to those with voice service bundled with qualifying broadband service; **Minnesota** provides **\$10**, the **District of Columbia** provides **\$9.48** per month to customers under age 65 and **\$11.48** to customers 65 and older, **Wisconsin** provides up to **\$9.25** depending on the provider's rate base, **Kansas**, **\$7.77**, **Oregon**, **\$7.00**, **Missouri**, **\$6.50**. Several other States offer **\$3.50/month**, including **Kentucky**, **Nebraska**, **New Mexico**, **Nevada**, **Texas**, and **Utah**. **Idaho**'s subsidy is **\$2.50**, whereas New York's subsidy varies. **Michigan** is unusual in that it requires just jurisdictional carriers to instead offer rate reductions ranging from **\$8.25 to \$12.35**. Oregon's Lifeline subsidy increased to \$15 in 2025.

For obvious reasons, in the states that do offer these additional funds to low-income households, state legislators, like Congress, are not likely to welcome any approach that limits states' ability to oversee, condition, and audit the use of State-provided Lifeline subsidies or support. Accessing state funds will continue to require at least some sort of registration or qualification. If Congress chooses instead to eliminate the ETC designation process, and thereby also the state role in that process – it will, at a minimum, undermine these state programs and cause unnecessary diversions of both FCC and state resources better directed towards serving deserving Lifeline consumers.

In the worst case, it could, long term, sound the death knell for State matching programs. As one state Lifeline expert said in 2016:

My biggest fear is that the largest carriers will only go for federal designation and decline the additional State funding because they don't want to have to deal with us in the first place. I believe that leaving the States out of the ETC designation process for [Broadband] Lifeline could essentially destroy nearly all the existing State programs.³⁵

One thing is clear, if the ETC designation process, and the States default role, is eliminated or seriously constrained, some carriers will, at least in the first instance, decide if a low income consumer may have access to the additional support offered by states that have matching programs. In those states, low-income constituents will pay more for vital services.

Removing the state ETC Designation Role can only result in the provision of substandard services.

No matter how the FCC's Lifeline program is revised, problems with service quality and providers will continue, as will disputes, and fraudulent schemes. The same is true of the FCC's high-cost programs. Customers will always have complaints and will always direct them to State public service commissions.

Unfortunately, the FCC is unlikely to have access to sufficient resources to handle all universal service compliance and complaints alone. That, along with the desire to maintain strong state matching programs, is exactly the reason why Congress specified the role the states have today. If there is no state role with respect to the revised Lifeline broadband-voice program or high-cost funding, and therefore no state oversight authority, it

³⁵ See, *Letter from 96 Commissioners representing 37 State Commissions to FCC Chairman Wheeler et. al.*, WC Docket Nos. 11-42 09-197 (March 20, 2016), at p. 3.

will be difficult for any commission to justify assigning staff to either promote or protect users of such programs or to monitor carrier high-cost expenditures.³⁶

And it is evident that exactly what many states do. As the Pennsylvania PSC noted, at 3, in a February 2016 *ex parte*:

[S]eparating the ETC designation process from an entity's ability to participate and receive federal Lifeline support would undermine the ability of the States and the Commission to protect consumers for services supported by Section 254, as required by Section 254(i). . . [The current ETC designation procedure] makes it easier for the Commission to focus on complex interstate matters, knowing that the States can utilize their ETC designation authority to ensure adequate consumer protection for services supported by Section 254.³⁷

California provided specific examples of how that commission protects consumers through the ETC designation procedure. At pages 2-3 of the attachment to a 2016 *ex parte*,³⁸ three State commissioners pointed out that California has rejected Lifeline plans "with wireless local loop service that did not reliably identify caller location when calling E911 and did not reliably complete calls," as well as plans "that cost a Lifeline customer more than comparable retail plans."

The California commission also, where it has jurisdiction, "ensure[d] compliance with FCC consumer protection rules. For example, one [wireless Lifeline reseller] did not comply with CTIA handset unlocking policies, and staff withheld ETC designation approval until the company was in compliance."³⁹

It is obvious that another likely result of eliminating or circumscribing the ETC designation process – is that some carriers will provide substandard services that could be either prevented or corrected if States retain their current role. In the States that have low-income subsidy or support programs that complement FCC lifeline programs, the commission, as a result of state legislation or judicial fiat,⁴⁰ is unable to claim jurisdiction unless

³⁶ It is not clear how States with State Lifeline complementary subsidies will handle this circumstance.

³⁷ See, February 22, 2016 *Letter from David E. Screven, Assistant Counsel for the Pennsylvania Public Utility Commission to FCC Secretary*, in WC Docket No. 11-42, at: <https://ecfsapi.fcc.gov/file/60001515632.pdf>.

³⁸ See, e.g., February 2016 *California Ex Parte*, noting, among other things, in the attachment at 2, that "CPUC staff has found inaccurate and misleading statements in *FCC-approved* compliance plans regarding the technical capability of purported [wireless lifeline service provider's] subject matter experts." {emphasis added}

³⁹ *Id.*

⁴⁰ See, e.g., *Charter Advanced Services, LLC v. Lange*, 903 F.3d 715, 718 (8th Cir. 2018) (Charter).

the carrier chooses to seek State ETC designation. Where there is not state certification process, those jurisdictions may lack the option to compel a carrier to also offer those complementary State Lifeline subsidies that further assist low-income consumers located in their jurisdictions.

What should Congress do?

Congress should leave the ETC designation process intact. Ideally any new legislation would also specify that nothing prohibits States from (i) auditing in-state carrier expenditures of federal support from any agency and revoking or conditioning access to future federal subsidies or support if the audit/investigation uncovers malfeasance, (ii) handling customer concerns about the subsidized/supported services, and (iii) requiring carriers to offer complementary State low-income subsidies or support. Moreover, federal requirements should be floors – not ceilings on State enforcement/public safety requirements⁴¹ and procedures. Also, any new federal regime should not interfere with existing or future state infrastructure or low-income programs – including the State’s funding mechanism. Congress should not pass legislation that requires additional state legislation to implement or encourages unproductive litigation over the scope of state authority to protect program integrity and consumers.

OTHER QUESTIONS: What Reforms would ensure that the USF contribution factor is sufficient to preserve universal service? For any recommendations on reforms, does the Commission currently have the feasibility and authority to make such changes?

REFORM OF THE USF CONTRIBUTION MECHANISM IS LONG OVERDUE.

In the 2022 FCC proceedings on USF Reform, the Minnesota Department of Commerce, p. 1 pointed out that:

Without USF reform, there will be less services contributing to the USF, causing the contribution factor to continue to grow and driving up the cost of services. Ironically, the surcharge designed in part to bring affordability to those who need assistance, will result in price increases for ratepayers that retain traditional telecommunications services. It is unreasonable to continue to require only those customers that use interstate and international telecommunications services to support all programs funded by the USF“),

⁴¹ See, February 17, 2022 *Comments of the National Association of State Consumer Advocates*, at p. 5, online at: <https://www.fcc.gov/ecfs/filing/1021730271405> (“Section 54.202 of the FCC’s regulations require [] ETC applicant[s] to “demonstrate its ability to remain functional in emergency situations...” including a demonstration of reasonable back-up power, ability to reroute traffic around damaged facilities, and capability to manage traffic spikes during an emergency. [] The specific public interest broadband performance requirements associated with an award of High Cost support are described in terms of speed, latency, and usage allowances, also as part of the FCC’s ETC designation standards.”) (footnotes omitted)

The most recent estimates, based on the Universal Service Administration Company August 2025 4th Quarter demand projections, suggest the 4th Quarter contribution factor will break another record reaching the highest quarterly contribution factor in the history of the program and the first time the contribution factor has reached 40%. Total USF revenues for all of 2025 are projected to be \$32.3 billion, \$827 million **less** than 2024, and the lowest annual revenues in the history of the USF. Total projected USF demand for 2025 will be \$8.714 billion, \$311.2 million **higher** than 2024. Even though the decline in the revenues has slowed somewhat over the past three years, the average assessment factor for 2025 will be 37.3%, 280 basis points above the average assessment factor for 2024. This large year-over-year increase in the average assessment factor is driven by the decline in revenues coupled with the increase in demand during 2025.

Most of the arguments for immediate action to reform the contribution mechanism are raised and documented in the 2021 “US Forward Report,”⁴² authored by Carol Matthey and filed in FCC Docket WC 21-476. That report points out, accurately, that the USF contribution methodology is under duress and requires immediate attention because, *inter alia*, (1) the current funding mechanism is not sustainable; (2) expanding the current revenues-based system to include BIAS mitigates gamesmanship and promotes transparency by removing incentives of providers to arbitrarily allocate revenues from bundled services to one service and not the other; and (3) there is significant and diverse support for the Commission to act fast to stabilize the USF.

Congress should instruct the FCC to broaden the USF contributions base. Because, under the current law, revisions to the FCC’s funding can affect State funding mechanisms, any new federal legislation should revisit and clarify that states have maximum discretion to adopt any mechanisms that support state programs.

Action is required now.

As referenced, *infra*, the State members of the FCC Federal State Joint Board on Universal Service (“Joint Board”) have already filed one recommended decision for contribution reform. During the waning days of the Obama Administration, the Joint Board (a jurisdictionally collaborative body established by Congress in 47 U.S.C. § 410(c); see, also, 47 U.S.C. §254(a)), chaired by then-Commissioner Rosenworcel, was, under her leadership, very close to a strong majority compromise in a proposed Board Recommended Decision to reform the contribution mechanism.

⁴² See Matthey, Carol, *USForward Report* (Sept. 2021), filed in filed in FCC Docket WC 21-476 at: <https://www.fcc.gov/ecfs/filing/102141954517172>.

Unfortunately, progress stalled after the change in administrations, which ultimately led five State members of the Joint Board to file a Recommended Decision in the record of the proceeding. *See, In the Matter of Federal State Joint Board on Universal Service*, WC Docket No. 96-45, et al., Recommended Decision of the State Members (rel. Oct. 15, 2019), available online at: <https://ecfsapi.fcc.gov/file/1015153264262/2019%20State%20Members%20Recommendation.pdf>. The State Members recommended that: 1) services such as broadband internet access service (BIAS) and advance business services be included in the contribution (§ 17 and 24); 2) residential customers should be assessed on the basis of the number of voice and broadband connections to the public communications network rather on the basis of revenue (§22); 3) 50 percent of the fund should be recovered from the assessments on residential customers and 50 percent of the fund should be recovered from assessments on business customers; (§23); and 4) the FCC should remove prohibitions that prevents state from including broadband and other advance services in their state contribution bases.

Since, as noted earlier, changes to the federal funding mechanism can impact State funding mechanisms, coordination with the Federal State Joint Board is a necessary pre-requisite for final Commission action. **Congress should require the FCC to immediately re-engage the Congressionally-established Joint Board, ask for an investigation of options, and set a deadline for a recommendation.**

If you have questions about this letter, please do not hesitate to contact NARUC General Counsel Brad Ramsay at 202.898.2207 (w), 202.257.0568(c) or at jramsay@naruc.org (or Kim Duffley at kduffley@naruc.org).