

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

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

**COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS
SUPPORTING THE REQUEST TO WAIVE IMPLEMENTATION OF THE
SCHEDULED DECEMBER 2020 LIFELINE MINIMUM STANDARDS**

The National Association of Regulatory Utility Commissioners (“NARUC”), respectfully submits these comments in response to the August 27, 2020 petition¹ filed by the National Lifeline Association Petition for Waiver of Lifeline Mobile Broadband Minimum Service Standard and Voice Support Phase-down (“*NaLA Petition*”) and noticed for comment by the Federal Communications Commission (“FCC” or “Commission”) on August 31, 2020.²

¹ *National Lifeline Association Petition for Waiver of Lifeline Mobile Broadband Minimum Service Standard and Voice Support Phase-down*, filed August 27, 2020 in WC Docket Nos. 11-42, 09-197 and 10-90, online at: <https://www.fcc.gov/ecfs/filing/108270761108745>.

² *Wireline Competition Bureau Seeks Comment on National Lifeline Association Petition for Waiver of Mobile Broadband Minimum Service Standard and Voice Support Phase Down*, DA 20-995 (August 31, 2020), online at: <https://docs.fcc.gov/public/attachments/DA-20-995A1.docx>.

NARUC commends the FCC for the waivers the agency granted with respect to the Lifeline program in 2020. Those waivers have undoubtedly allowed many qualified consumers to acquire or retain their lifeline services during the pandemic. Now it appears, if the FCC does not act to stop the shift in voice subsidies and the increase in minimum data requirements, a bad situation will get worse, for stand-alone Lifeline voice service and for Lifeline subscribers generally.

BACKGROUND

The *NaLA Petition* asks the FCC to retain the mobile broadband MSS at 3 GB rather than increasing it to 11.75 GB, and also to retain Lifeline voice support at \$7.25 rather than decreasing it to \$5.25. This is not the first time the Commission has sought comment on the impact of shifting financial support away from stand-alone voice services and increasing the minimum data requirements. Last year, on June 27, 2019, a similar petition was filed jointly by CTIA, the National Hispanic Media Coalition, the National Consumer Law Center, the OCA-Asian Pacific American Advocates, and the United Church of Christ, OC Inc. (“*2019 Petition*”) in these proceedings, and noticed for comment.³ In response, NARUC filed an *ex parte*⁴ accurately pointing out that:

[T]he FCC should maintain current support for Voice Services. In rural areas, it is unclear whether low income consumers would be able to obtain quality voice services without Lifeline support. Others have

³ *Wireline Competition Bureau Seeks Comment on Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study*, FCC Public Notice DA19-617, WC Docket No. 11-42 (July 1, 2019). The *2019 Petition* is online: <https://ecfsapi.fcc.gov/file/106270798206687/190627%20Joint%20Petition%20re%20Lifeline%20MSS.pdf>.

⁴ *National Association of Regulatory Utility Commissioners Notice of Ex Parte*, filed July 3, 2019 in WC Docket No. 11-42, WC Docket No 09-197 and WC Docket No. 10-90, at Page 2. <https://www.fcc.gov/ecfs/filing/10703465420266>

made valid policy arguments for retention of voice services, pointing out, among other things, that if support for stand-alone voice service [citations omitted] is removed, Lifeline customers will have to buy broadband bundles, which even with a \$9.25 discount, might well be unaffordable. Plus, maintaining voice-only Lifeline service promotes consumer choice. Certainly, some consumers simply want a phone – not broadband service. Moreover, phasing out support for voice services is, at a minimum, facially inconsistent with a Congressional scheme which, in Title II, (i) focuses explicitly on opening competition in local phone “telecommunications services,” and (ii) requires carriers to offer a “telecommunications service” to qualify for federal universal service support subsidies. Given the recent reclassification of Broadband Internet Access Service as an information service, the only qualifying “telecommunications service” such subsidized carriers currently offer is voice service.

NARUC was not alone in supporting the earlier *2019 Petition*. All of the initial commenters on the *2019 Petition*, like NARUC, offered logical arguments and evidence in support of granting the petition in *toto*.⁵ Not a single opposing comment was filed.

⁵ Supporting comments were filed by [Consumer Action and Consumer Federation of America](#) (July 30, 2019); [National Grange](#) (July 30, 2019); [National Association of American Veterans](#) (July 30, 2019), at p.1; [Access Humboldt, Advocates for Basic Legal Equality, Asian Americans Advancing Justice/AAJC, Center for Rural Strategies, Common Sense Media, Communications Workers of America, Greenlining Institute, NAACP, New Americas Open Technology Institute, Next Century Cities, Public Knowledge, US Conference of Catholic Bishops](#) (July 30, 2019) at p. 1 (“As we confront another hurricane season, the importance of full financial support for voice-only service which permits people to access 911...continues to be glaringly apparent.”); [Public Utility Commission of Oregon](#) (July 31, 2019); [National Association of State Utility Consumer Advocates](#) (July 31, 2019); [National Lifeline Association](#) (July 31, 2019); [Sprint Corporation](#) (July 31, 2019); [NTCA-The Rural Broadband Association](#) (July 31, 2019); [Q LINK Wireless LLC](#) (July 31, 2019); [Comments of TracFone Wireless, Inc](#) (July 31, 2019); [Free Press](#) (July 31, 2019); [Sage Telecom Communications, LLC D/B/A Trueconnect](#) (July 31, 2019); [Missouri Public Service Commission](#) (August 1, 2019), at p. 2 (“[M]any customers may want or need voice service and not broadband . . . it is difficult to see how the FCC’s plan to eliminate federal support for voice service provides any benefits to Lifeline consumers . . . The Lifeline discount is directly applied to voice service for approximately 22% of Missouri’s current 97,126 Lifeline subscribers.”); and [Letter from Korean War Veteran’s Association](#) (August 8, 2019).

The *2018 Petition* commenters represent a wide range of perspectives ranging from self-described “supporters of free market oriented communications policies,”⁶ to think tank economists,⁷ to experts that work closely with State and Federal Lifeline programs,⁸ public interest and veteran’s groups,⁹ and the mobile wireless industry.¹⁰

After those initial comments were filed on the 2019 petition, on July 24, 2019, NARUC passed a ***Resolution on the Lifeline National Verifier Launch and Minimum Service Standards***,¹¹ which, among other things, urges the FCC

⁶ [Comments of Randolph J. May, President, The Free State Foundation](#) (July 31, 2019); Compare, Randolph May, *A Reasonable Lifeline Postponement Request*, The Free State Foundation (June 29, 2019) (Free State Blog Post), available at <http://freestatefoundation.blogspot.com/2019/06/a-reasonable-lifeline-postponement.html>.

⁷ George S. Ford, PhD., *Phoenix Center Policy Paper No. 55, A Fresh Look at the Lifeline Program*, Phoenix Center for Advanced Legal & Economic Public Policy Studies (July 2019), available at <http://www.phoenix-center.org/pcpp/PCPP55Final.pdf>.

⁸ Both NARUC, whose members either run their own State lifeline programs in tandem with the federal program, or certify the activities of lifeline carriers, and the National Association of State Consumer Advocates, which represents State government entities that also work closely with consumers on lifeline issues, passed resolutions urging the FCC to stop phasing down support for voice services and filed comments supporting the *2019 Petition*.

⁹ The *2019 Petition* was filed on behalf of consumers by National Hispanic Media Coalition, National Consumer Law Center, OCA-Asian Pacific American Advocates, and United Church of Christ. Other NGO’s filed supporting the petition, including [Consumer Action and Consumer Federation of America](#), [National Grange](#), [the National Association of American Veterans](#), [Access Humboldt](#), [Advocates for Basic Legal Equality](#), [Asian Americans Advancing Justice/AAJC](#), [Center for Rural Strategies](#), [Common Sense Media](#), [Communications Workers of America](#), [The Greenlining Institute](#), [NAACP](#), [New Americas Open Technology Institute](#), [Next Century Cities](#), [Public Knowledge](#), [US Conference of Catholic Bishops Joint Comments](#), [National Lifeline Association](#), [Free Press](#), and the [Korean War Veteran’s Association](#).

¹⁰ The *2019 Petition* was also filed on behalf of mobile wireless Lifeline service providers by CTIA. Several lifeline providers filed separate July 31, 2019 comments in in WC Docket No. 11-42, including [Sprint Corporation](#), [NTCA-The Rural Broadband Association](#), [Q LINK Wireless LLC](#), [TracFone Wireless, Inc.](#), and [Sage Telecom Communications, LLC D/B/A Trueconnect](#).

¹¹ The *Resolution on the Lifeline National Verifier Launch and Minimum Service Standards* is attached as Appendix A and is available at <https://www.naruc.org/meetings-and-events/naruc-meetings-and-events/2019-summer-policy-summit/final-resolutions/>.

- [1] to maintain the full \$9.25 in Lifeline support for voice services at the December 1, 2018 service levels, instead of phasing-down or eliminating support for voice services between 2019 and 2021; and
- [2] to freeze the broadband minimum service standards for Lifeline at the December 2018 levels – 2 GB per month/household at \$9.25 – until the FCC concludes its 2021 Lifeline Study and determines an appropriate standard based on usage data available at that time.

NARUC later filed reply comments based on that resolution strongly endorsing all elements of the *2019 Petition*.¹²

Subsequently, in December 2019, the FCC rejected the arguments and evidence presented by all commenters and *decreased* the support for stand-alone voice service to \$7.25 in December 2019. It also *increased* the data requirements to 3 GB per month per household.

But both NARUC positions remain relevant. Indeed, nothing has changed since 2019 other than the record in the proceeding, which, if anything provides additional evidence, for the Commission to block any changes to voice support levels or any increases in minimum data requirements (pending the 2021 study). As the National Lifeline Association pointed out in a recent *ex parte*:¹³

While NaLA appreciates that the outcome of a 3 GB mobile broadband MSS was preferable to the 8.75 GB produced by the formula, it still had a devastating impact on the Lifeline program by forcing nearly all carriers to suspend in-person distribution and free hand-set offers in “\$9.25 states” and others without significant additional subsidies. To

¹² See, *Reply Comments of the National Association of Regulatory Utility Commissioners Supporting the Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Standards*, filed August 15, 2019, in this proceeding, available online at: <https://www.fcc.gov/ecfs/filing/10815208914684>

¹³ *National Lifeline Association Notice of Oral Ex Parte*, WC Docket Nos. 17-287, 11-42, 09-197, 10-90, at page 3, note 9 (August 3, 2020), online at: <https://www.fcc.gov/ecfs/filing/1080370088496>

conclude that the industry absorbed the increase from 2 to 3 GB of data would ignore steeply declining Lifeline program participation rates in states other than California and Oklahoma caused by increases in mobile broadband MSS that are accompanied by no serious consideration of whether such services can be actively marketed or continued without imposing a price increase and co-pay on a population that is largely unbanked/underbanked, and increasingly unemployed /underemployed(i.e., whether the services are affordable for the Lifeline eligible population). It is this reality that caused T-Mobile, which is the primary wholesale provider for Lifeline, to understandably conclude in its 2019 Annual Report that “[w]e believe current and future regulatory changes have made the Lifeline program offered by our wholesale partners uneconomical.” T-Mobile 2019 Annual Report at 29 (available at <https://investor.t-mobile.com/financial-performance/annual-reports-and-proxy-statements/default.aspx>).

And there has been one other change since 2019: the COVID-19 pandemic has wrought economic havoc at a global scale and the United States continues to have high levels of unemployment.¹⁴

As the FCC Chairman pointed out in a recent joint NARUC-FCC Lifeline Awareness Week letter to all NARUC member commissioners:¹⁵

During this crisis, it is critical that Americans have the connectivity they need to stay in touch with loved ones, telework, search for jobs, participate in remote learning and telehealth, and maintain the social distancing necessary to slow the spread of the coronavirus.

Obviously, NARUC which cosigned that letter, agrees. With many still in lockdown or unable to run businesses at full capacity, the un- and underemployed

¹⁴ U.S. Bureau of Labor Statistics “Economic News Release,” online at: <https://www.bls.gov/news.release/empsit.toc.htm> (Sept 4, 2020) (last visited September 10, 2020).

¹⁵ *FCC Partners with NARUC to Raise Lifeline Awareness during COVID-19* (June 1, 2020), online at: <https://www.fcc.gov/document/fcc-partners-naruc-raise-lifeline-awareness-during-covid-19>

that qualify for Lifeline are even more dependent on the service. Even when all state-imposed lockdowns are lifted, there is likely to be an extended transition for many that have lost either their jobs, their businesses or their life savings. For those looking for work or just need to call 911/E911, Lifeline remains literally just that – a lifeline.

Without additional information that should be generated in the 2021 FCC Lifeline study, the only thing that is clear is that further adjustments to the program can only increase the burdens on Lifeline subscribers. While the record contains no evidence to demonstrate that any increase above 3 GB would be affordable, there is ample evidence in the record that any increase above 3 GB would mandate service offerings that are not affordable and would result in less access to Lifeline by those the program is intended to serve.

In support of these positions, NARUC states as follows:

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,¹⁶ energy, and water utilities. NARUC is recognized by

¹⁶ 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).

Congress in several statutes¹⁷ and consistently by the Courts,¹⁸ as well as a host of federal agencies,¹⁹ as the proper entity to represent the collective interests of State utility commissions. In the Telecommunications Act,²⁰ 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.²¹

¹⁷ 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”).

¹⁸ 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).

¹⁹ 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.”)

²⁰ *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”).

²¹ 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 supporting the FCC’s Lifeline program.²² 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 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.²³

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.

²² 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*; 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*; 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*

²³ 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.)

DISCUSSION

Pursuant to the Federal Communications Commission's 2016 *Lifeline Modernization Order*²⁴ and regulations, 47 C.F.R. §§ 54.403, 54.408, two changes to the Lifeline program are scheduled for December 1, 2020. First, the amount of support provided from the Universal Service Fund (USF) to make voice service more affordable for Lifeline consumers is set to decrease from \$7.25 to \$5.25.²⁵ Second, the minimum standards for Lifeline mobile broadband service will increase from 3 gigabytes (GB) a month to 11.75 GB per month, based upon a formula and changes in average mobile data usage per household.²⁶

A July 30, 2020 FCC Press Release indicated that the FCC Chairman circulated a draft order that would set the mobile standard at 4.5 GB. That release correctly recognizes that the formula adopted in 2016 is “flawed” and “results in drastic year-over-year increases that could impact the ability of Lifeline carriers to continue providing affordable service.”²⁷

The *NaLA Petition* asks the FCC essentially to delay these changes pending the release of the State of the Lifeline Marketplace Report in 2021.

²⁴ *In the Matter of Lifeline and Link-Up Reform and Modernization*, Third Report and Order, Further Report and Order, Order on Reconsideration, 31 FCC Rcd 3962, 3987, ¶ 66 (2016) (*Lifeline Modernization Order*).

²⁵ 47 C.F.R. § 54.403(a)(2)(i), (ii).

²⁶ *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, FCC Public Notice DA 20-820 issued in WC Docket No. 11-42 (July 31, 2020), online at: <https://www.fcc.gov/document/wcb-announces-lifeline-minimum-service-standards-and-indexed-budget> .

²⁷ News Release, “FCC Chairman Pai Circulates Order to Ensure Predictable Increases in Minimum Standard for Lifeline Mobile Broadband Service” (July 30, 2020), available online at: <https://www.fcc.gov/document/chairman-pai-proposes-lifeline-minimum-service-standard-order>

The record in this proceeding remains consistent on several points, presenting a compelling case for the FCC to grant the *NaLA Petition*.

There is certainly no question that any increase in the minimum data provision requirements will increase costs for service providers. And while the impact of that increase on costs and Lifeline consumers has not been quantified, the potential for a negative impact on the goals of the federal Lifeline program are obvious. The impact of the erosion of support for standalone voice is even more obvious. The FCC needs to investigate and determine: How much of the additional costs of increased data requirements would likely be passed to Lifeline consumers? Will the increased costs cause some providers to exit the market? How do those increases affect access to and knowledge of the Lifeline program? The FCC's pending *State of the Lifeline Marketplace Report*, due by June 30, 2021, provides a vehicle to answer those questions. Freezing the current mobile broadband minimum service standard until the State of the Lifeline Marketplace Report is completed will allow the Commission to rationally consider the impact of an unexpected and possible cost increase that will be triggered by the mandated formula-derived service levels for December 2020 which will definitively impact access to and the affordability of Lifeline services – and the impact of the decrease in support (and increase in costs) for standalone voice Lifeline subscribers.

That there will be a negative impact on the program and the consumers it serves is not speculation. Last December, the FCC did not find the disparities between retail offerings for increased data plans and comparable Lifeline minimums relevant to any assessment of costs. But the obvious impact on Lifeline carrier marketing and service plans of the December 2019 changes is relevant to those costs.

Carriers have obviously cut expenses to keep the no-monthly fee Lifeline service option available. Since the increase in the data allocation last year, the largest provider of Lifeline services - TracFone, no longer provides free handsets.²⁸ Moreover, after the increase to 3 GB eight months ago most wireless ETC were “forced...to abandon proactive in-person distribution of Lifeline in States where only the Federal Lifeline subsidy is available.”²⁹

And costs matter. Lifeline carriers have provided the Commission with statements *on the record* that the cost of providing even 4.5 GB per month will significantly exceed \$9.25 and that they cannot profitably provide service with that much data unless either subscribers do not use most of it *or they charge a co-pay*.³⁰ And one thing the record makes crystal clear: A co-pay is out of reach for the vast majority of Lifeline consumers the majority of whom are unbanked.³¹

²⁸ It is clear from TracFone’s website that the consumer must either bring their own phone or purchase one from TracFone. “Upon enrollment in the SafeLink Wireless Program, you may have the option of using your own phone . . . purchasing a SafeLink Wireless handset subject to the terms and conditions set forth in the following paragraph.” Safelink Wireless Terms and Conditions of Service, available online at: https://www.safelink.com/wps/portal/home/h/tandc!/ut/p/a1/04_Sj9CPykssy0xPLMnMz0vMAfGjzOINL_CxdDTINDL0NfHzNDRwNg_xcAzzdDQ0cjYAKIpEVuJs5GwMVeHmbebg6GVYImBHSH64fhaoEiwloCvz8nUFmGHuYhZkaGBjAFeAAjgb6wal5-gW5EQaZAemKAExVOBM!/ (last accessed September 10, 2020)

²⁹ See *NaLA Notice of Oral Ex Parte*, WC Docket Nos. 17-287, 11-42, 09-197, 10-90, 03-109, CC Docket No. 96-45 at 4 (July 7, 2020), available online at <https://www.fcc.gov/ecfs/filing/10708318408556>.

³⁰ See, e.g., *TruConnect Notice of Oral Ex Parte*, WC Docket Nos. 17-287, 11-42, 09-197, 10-90 and Exhibit (Aug. 6, 2020), at 5 (“[T]he proposed increase to 4.5 Gb will cause most every Lifeline provider to notify its subscribers . . . that they must pay at least \$15 or more per month.”), online at <https://www.fcc.gov/ecfs/filing/1080797244023>. See also, *TracFone Notice of Oral Ex parte* (July 27, 2020), at 3 (“[E]ven a 1 GB increase in the mobile broadband MSS will deprive Lifeline customers of a no-cost offering.”)

³¹ A survey conducted July 31 - August 5, 2020 showed that over 63% of Lifeline subscribers do not have a checking or savings account. See *NaLA Notice of Oral Ex Parte*, WC Docket Nos. 17-287, 11-42, 09-197, 10-90, 03-109, CC Docket No. 96-45 at 3-4 (August 8, 2020), (“The vast majority of Lifeline subscribers are not able to make a monthly co-pay – over 80% could not afford a monthly co-pay of any amount. . . Nearly 60% of Lifeline subscribers do not have a debit or credit card; only 13%

As Phoenix Center Chief Economist, Dr. George S. Ford, acknowledged in a 2019 analysis of the Lifeline program: “raising minimum service standards is likely to raise the price for Lifeline services, thereby making service unaffordable to precisely those households the Commission seeks to target with its subsidies.”³²

The record and simple logic also demonstrates the proposed decrease in support for voice services is a problem. What happens to a qualifying Lifeline subscriber that lives where there is no qualifying broadband service? Fixed and mobile broadband networks and service availability are certainly not universal in 2020. Moreover, some ETCs have relinquished their ETC designations.

Universal Service Administrative Company data shows that, as of November 2019, 30 percent of Lifeline customers still subscribe to plans that only qualify for Lifeline by virtue of meeting the minimum service standards for voice service.³³

If the FCC moves forward without a pause, there is no question that over 2.2 million Lifeline subscribers would likely be negatively impacted, in both rural and urban areas.³⁴ Many rely on voice services to contact first responders in time of

use a debit or credit card to automatically make recurring payments.”), available online at: <https://www.fcc.gov/ecfs/filing/10806023304369>.

³² *Phoenix Center Policy Paper* at p. 36. George S. Ford, PhD., *Phoenix Center Policy Paper No. 55, A Fresh Look at the Lifeline Program*, Phoenix Center for Advanced Legal & Economic Public Policy Studies (July 2019), at p. 36, available at <http://www.phoenix-center.org/pcpp/PCPP55Final.pdf>.

³³ *See USAC, High-Cost and Low Income Committee Briefing Book*, at 62 (January 27, 2020) (Lifeline Business Update, App. B: Lifeline Business Update) (showing 17.20% of Lifeline customers taking bundled plans meeting the voice minimum standards & 11.95% of customers taking voice-only plans), at: <https://www.usac.org/wp-content/uploads/about/documents/leadership/materials/hcli/2020/2020-01-HCLI-Briefing-Book.pdf>

³⁴ *Id.* (Shows 7.7 million total Lifeline subscribers in fourth quarter 2019. Thirty percent of 7.7 million is just over 2.3 million and 11.94% of 7.7 million is 919,380 subscribers.)

emergency, reach social service agencies, access healthcare, and keep connected to other essential services. The reduction of Lifeline support for voice services can only constrain the flexibility of service providers to make affordable offerings available and for consumers to afford those offerings. This defeats the applicable and laudable goals of preserving and enhancing universal service under both federal and state statutory law, and seriously degrades the effectiveness of Lifeline programs supported by both the Commission and the States.

CONCLUSION

The same good cause exists in 2020 to justify waiving the mobile broadband MSS increase from 3 GB to 11.75 GB as existed in 2019 to waive the increase from 2 GB to 8.75 (or even 4.5) GB. Moreover, at least until broadband is ubiquitously available, further erosion in support for standalone lifeline services is inconsistent with the FCC's statutory mandate (and the current state of broadband deployment). The FCC should defer planned changes to the lifeline program at least until the anticipated 2021 study. Overall, NARUC and the record in this and prior proceedings, strongly supports maintaining existing subsidies for voice services. The FCC should grant the Lifeline Association Petition waiver.

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Dated: September 14, 2020

Appendix A

Resolution on the Lifeline National Verifier Launch and Minimum Service Standards

Whereas in 1985, the Lifeline program was created to provide a discount on essential communications services for qualifying low-income consumers to ensure that all Americans have the opportunities and security that such service brings, including being able to connect to jobs, family, healthcare, and emergency services;

Whereas in 2012, the Federal Communications Commission (“FCC”) approved extending Lifeline support to include both voice and broadband internet service;

Whereas Section 254(b) of the federal Communications Act establishes the universal service principle that “[c]onsumers in all regions of the Nation, including low-income consumers . . . should have access to telecommunications and information services” at reasonable and affordable rates;

Whereas in 2016, the FCC issued the *Third Report and Order, Further Report and Order, and Order on Reconsideration*, 31 FCC Rcd 3962 (2016) (“*Lifeline Modernization Order*”) which created a national verification program (“National Verifier”) with three goals: (1) reducing waste, fraud and abuse by eliminating the Lifeline providers’ role in determining subscriber eligibility; (2) reducing costs to Lifeline providers by removing the responsibility of determining eligibility and providing a central point of verification; and (3) facilitating consumer choice and improving the enrollment process to help subscribers obtain service;

Whereas in describing the National Verifier, the *Lifeline Modernization Order* established the expectation that “the National Verifier will be able to accommodate and utilize many of the varying state databases available” and that the resulting “electronic certification process will produce at least near real-time results;”

Whereas in 2018, the National Verifier implementation commenced with a systematic two-phase, soft-to-hard launch rollout of states continuing throughout 2019 with full nationwide rollout scheduled for completion in December 2019;

Whereas the FCC’s goals and expectations for the National Verifier have not been fulfilled as the two-phase soft-to-hard launch rollout of the National Verifier has been completed in numerous states without resolving deficiencies ranging from structural to minor technical issues;

Whereas the structural deficiencies include the National Verifier’s often limited or non-existent access to state databases such as the Supplemental Nutrition Assistance Program (“SNAP”) and Supplemental Security Income (“SSI”) and federal/state Medicaid databases needed to electronically confirm subscriber eligibility, and the failure to include an application program interface (“API”) between providers and the National Verifier program which would enable providers in real-time to efficiently communicate with the National Verifier program and assist a prospective or existing subscriber in verifying eligibility and maintaining enrollment or getting newly enrolled;

Whereas neither the FCC nor the Universal Service Administrative Company (“USAC”) has made available complete data showing the National Verifier’s impact on the ability of existing and prospective subscribers to retain or obtain Lifeline service, but available data indicates that many potentially and apparently eligible Lifeline subscribers have not been re-verified and some have been de-enrolled from the program, and new enrollments have dropped substantially in states where the National Verifier has been hard launched;

Whereas these problems will necessarily continue in each hard launch state until needed improvements to the National Verifier are implemented;

Whereas in July 2018, the National Association of Regulatory Utility Commissioners (“NARUC”) passed a resolution urging the FCC to order USAC to incorporate service provider APIs into the National Verifier and thereafter, in February 2019, NARUC passed an additional resolution urging USAC to ensure critical state/federal databases for eligibility programs such as SNAP and Medicaid are utilized in states where the National Verifier has been or is being launched;

Whereas in the *Lifeline Modernization Order*, the FCC established minimum service standards for the Lifeline program, including a policy to phase-out voice support and to support only broadband;

Whereas the current FCC minimum service standard beginning in December 1, 2018 permits full support of \$9.25 per month/household for either (a) 1000 mobile voice minutes, (b) 2 GB of mobile broadband data, or (c) a voice/data bundle that meets either of the minimum service standards for voice or data;

Whereas on December 1, 2019, the support for voice will be reduced to \$7.25 for 1000 voice minutes per month/household or bundled voice/data services that meet the voice minimum, and the minimum standard for mobile broadband will be 9.75 GB per month/household, and by December 1, 2021, Lifeline support for voice is set to be eliminated;

Whereas the *Lifeline Modernization Order* mandated implementation of mobile broadband minimum service standards including a minimum data allowance but also created a 12-month port freeze to encourage subscribers to stay with a Lifeline provider to help offset the expense of the data and speed mandates, to increase program stability and to help root out waste, fraud and abuse. However, in 2017, the FCC issued an Order on Reconsideration, 32 FCC Rcd 10475 (2017), eliminating the 12-month port freeze without changing the mandated data allowance standards;

Whereas the mobile broadband marketplace has changed significantly following the *Lifeline Modernization Order*. In its 2017 *Mobile Wireless Competition Report*, the FCC noted that “[o]ne significant trend that has developed recently is the return of ‘unlimited’ data plans,” 32 FCC Rcd 8968, 9004 ¶51 (2017). In the 2018 consolidated *Communications Marketplace Report*, FCC Rcd 12558, 12570 ¶15 (2018), the FCC recognized that, “[i]n 2017, service providers continued the trend of offering unlimited data plans,” and observed that unlimited plans were also spreading rapidly into the prepaid marketplace. In the *Lifeline Modernization Order*, the FCC contemplated

a gradual increase in consumer data usage and did not anticipate that the transition from the initial data allowance levels using the 2016 formula would result in a leap to a substantially higher and more costly data requirement;

Whereas today, wireless providers typically retail 10 GB data plans for \$40 per month or higher. If the FCC allows the December 2019 broadband minimum standards to go into effect, the new standards will effectively impose a \$30 per month price increase on Lifeline subscribers – an increase that low-income subscribers cannot afford;

Whereas Lifeline subscribers can choose to obtain additional mobile broadband data above the current 2GB allowance by choosing to purchase more data allotments from a service provider;

Whereas according to USAC’s 2018 Annual Report, approximately 53% of Lifeline disbursements go to support either a voice-only or bundled voice services (bundles of voice and broadband that meet the voice minimum service standard) for low-income consumers. Consequently, if the FCC eliminates Lifeline voice support, it will significantly and negatively impact low-income households making it more difficult for them to stay connected using the essential communications services that best suit their needs and circumstances;

Whereas, NARUC, the National Association of State Utility Consumer Advocates (“NASUCA”), the AARP (formerly known as the American Association of Retired Persons), the National Association for the Advancement of Colored People (“NAACP”), the Leadership Conference on Human Rights (“LCHR”), and many others have filed comments at the FCC advocating for full voice support in the Lifeline program;

Whereas the *Lifeline Modernization Order* directed the FCC to prepare a *State of the Lifeline Marketplace Report* (the “*Report*”) by June 30, 2021. The FCC specifically anticipated that the *Report* would evaluate the appropriateness of the transition in the minimum service standards for broadband data usage;

Whereas various stakeholders have alleged that a reduction of support to \$7.25 for 1000 voice minutes per month/household or bundled voice/data services that meet the voice minimum, and a mandated increase over the current 2 GB data requirement will adversely impact service providers’ ability to continue to participate in Lifeline and consumers’ ability to afford Lifeline supported services, including veterans, seniors and those living in rural areas;

Whereas on June 27, CTIA, National Consumer Law Center, National Hispanic Media Coalition, OCA – Asian Pacific American Advocates, and United Church of Christ Office of Communications Inc., filed a Joint Petition to Pause Implementation of the December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study;

Whereas on June 20, NASUCA passed *Resolution 2019-02, Urging the FCC to Preserve Lifeline Support for Voice Service and to Stay and Study the Scheduled Changes in Lifeline Minimum Services, now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2019 Summer Policy Summit in Indianapolis, Indiana, requests that the FCC and USAC work quickly and collaboratively with service providers and other stakeholders to fix the National Verifier *before* use of it is required in any state by (a) implementing service provider APIs, and (b) securing access to federal/state SNAP and Medicaid databases, to ensure that the National Verifier achieves its stated goals and works as intended so that eligible low-income consumers can reasonably and efficiently retain or sign up for Lifeline without undue burdens or delays; *and be it further*

Resolved that NARUC urges the FCC to only continue to “soft launch” the National Verifier in states and to temporarily suspend “hard launch” of the National Verifier in states until *either* December 31, 2019 *or* until service provider APIs are established, and electronic access to state databases, such as SNAP or SSI, and federal/state Medicaid databases are available to confirm subscriber eligibility, *whichever is later; and be it further*

Resolved that the NARUC urges the FCC to maintain the full \$9.25 in Lifeline support for voice services at the December 1, 2018 service levels. Moreover, the FCC should not phase-down or eliminate support for voice services as it has proposed for 2019 to 2021. Many consumers, including seniors and families with children, rely on voice services to contact first responders in time of emergency, reach social service agencies, access healthcare, and keep connected to other essential services; *and be it further*

Resolved that NARUC also urges the FCC to freeze the broadband minimum service standards for Lifeline at the December 2018 levels – 2 GB per month/household at \$9.25 – until the FCC concludes its 2021 Lifeline Study and determines an appropriate standard based on usage data available at that time.

Sponsored by the NARUC Committee on Telecommunications
Adopted by the NARUC Board of Directors, July 24, 2019