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

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

REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS SUPPORTING THE JOINT PETITION TO PAUSE IMPLEMENTATION OF DECEMBER 2019 LIFELINE MINIMUM STANDARDS

The National Association of Regulatory Utility Commissioners ("NARUC"), respectfully submits these reply comments to respond to the July 31, 2019 comments filed on the June 2019 petition filed by CTIA, the National Hispanic Media Coalition, the National Consumer Law Center, the OCA-Asian Pacific American Advocates, and the United Church of Christ, Office of Communications, Inc.,[1] ("*Joint Petition*") in the above captioned proceedings. The Federal Communications Commission ("*FCC*" or "*Commission*") noticed the *Joint Petition* for comment on July 1, 2019.[2]

The *Joint Petition* asks the *FCC* to pause both the scheduled update to the minimum service standard for Lifeline-supported mobile broadband service and the scheduled reduction in the support amount for Lifeline-supported mobile voice service.[3]

On July 3rd, two days after the *FCC* sought comment on the *Joint Petition*, NARUC filed an *ex parte* pointing out that:

---

1 Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket No. 11-42 et al. (filed June 27, 2019).

2 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 issued in WC Docket No. 11-42 (July 1, 2019).

3 *Joint Petition*, p. 1.

> NARUC has not had the opportunity to take a position on the specifics of this petition, but we have specified that the FCC should maintain 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 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. On its face, NARUC's long held opposition to the phasing out of support for voice service is consistent with the Joint Petitioners' proposal to freeze the scheduled reduction in the support for Lifeline-supported mobile voice service.
>
> 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.

Two weeks later at NARUC's Summer Policy Summit in Indianapolis, Indiana, the Association passed a resolution directly supporting the *Joint Petition.* On July 24, 2019, NARUC adopted the *Resolution on the Lifeline National Verifier Launch and Minimum Service Standards,*[4] which, among other things, urges the *FCC*:

[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.

---

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

NARUC was not alone in supporting the *Joint Petition*. All sixteen initial commenters on the *Joint Petition*, like NARUC, encouraged the *FCC* to grant the petition.[5] No opposing comments were filed.

[5] Comments of Consumer Action and Consumer Federation of America (July 30, 2019), at p. 1 ("*Consumer Action and Consumer Federation of America [ask the FCC] to pause both the scheduled update to the minimum service standard for Lifeline-supported mobile broadband service and the scheduled reduction in the support amount for Lifeline-supported mobile voice service.*"); Comments of National Grange (July 30, 2019), at p. 1 ("*[W]e are writing today to urge you to maintain support for voice services in the Lifeline program at the December 1, 2018 levels, and to not eliminate support for voice services as proposed for 2021. We stated our concerns about Minimum Service Standards in our December 2018 filing [] and agree. . . .the FCC should freeze the broadband minimum data standards for Lifeline to the December 2018 numbers. . .until the FCC concludes its 2021 Lifeline Study*."); Comments of the National Association of American Veterans (July 30, 2019), at p. 1 ("*We are also… asking you to pause pending further study two major changes to the Lifeline program, specifically, the recently-announced increase in the minimum service standard for mobile broadband service . . . and the phase-down in support for voice-only Lifeline services*."); Comments of 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 (July 30, 2019) at p. 1 ("*[S]eeking a pause in the decline in support for voice-only service and increases in minimum service standards pending completion of the Commission's forthcoming marketplace report . . .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.*"); Comments of the Public Utility Commission of Oregon (July 31, 2019) at p. 1 ("*The OPUC supports the waiver request of the Joint Petitioners relative to the phase-down of Lifeline support for voice services.*"); Comments of the National Association of State Utility Consumer Advocates in Support of the Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards (July 31, 2019) at p. 1 ("*[NASUCA] supports the . . . requests that the [FCC] exercise its waiver authority to grant a stay of two changes to the Lifeline program.*"); National Lifeline Association Comments on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study (July 31, 2019) at p. 1 ("*There is broad support for both proposals in the Joint Petition – to pause any increases in the mobile broadband minimum service standard and retain full Lifeline support for standalone voice and voice-centric bundles – until the Commission can study the impact of such changes on access to and affordability of Lifeline services*."); Comments of Sprint Corporation (July 31, 2019), at p. 1 ("*[T]he Commission should grant Joint Petitioners' request to waive the rule that will lead to an almost five-fold increase in the Lifeline mobile broadband monthly data usage allowance.*"); Comments of NTCA-The Rural Broadband Association (July 31, 2019), at p. 2 ("*NTCA… requests the Commission grant Petitioners' request for stay.*"); Q LINK Wireless LLC Comments on Joint Petition To Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study (July 31, 2019), at p. 2 ("*Q LINK unequivocally supports grant of the Joint Petition*."); Comments of TracFone Wireless, Inc In Support of Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study (July 31, 2019), at p. 1 ("*Proposed as a way of providing "reasonable comparability" of services to Lifeline subsidy recipients, Lifeline Minimum Service Standards ("MSS") have strayed . . . and now threaten to wholly undermine the Lifeline program. . .. The more than four-fold increase in the minimum required broadband data usage allowance and the phase-down in support for voice services . . . will seriously intensify the threat the MSS pose to the viability of the Lifeline program, and TracFone agrees . . .. that the [FCC] should pause implementation of these changes pending further study*."); Comments of Free Press on Joint Petition to Pause Minimum Standards Changes (July 31, 2019), at p. 1 ("*Free Press supports. . . seeking a pause in implementation of Lifeline minimum service standards – specifically, the pending decrease in support for voice-only service – until the Commission completes its State of the Lifeline Marketplace Report.*") Comments of Sage Telecom Communications, LLC D/B/A Trueconnect In Support of Joint Petition to Pause Implementation of December 2019 Lifeline Minimum service Standards (July 31, 2019), at p. 11 ("*TruConnect strongly believes that the Commission should eliminate the minimum service standard requirements from the Lifeline program and reverse any planned phase-down for support of voice-only Lifeline plans*."); Comments Missouri Public Service Commission (August 1, 2019), at p. 2 ("*In early 2018, the Missouri Commission, along with six other state*

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,[6] energy, and water utilities. NARUC is recognized by Congress in several statutes[7] and consistently by the Courts,[8] as well as a host of federal agencies,[9] as the proper entity to represent the collective interests of State utility commissions. In the Telecommunications Act,[10] Congress references NARUC as "the national

---

commissions and[NARUC] filed comments urging the FCC to maintain federal Lifeline voice support. [] Lifeline consumers should continue to have the choice of subscribing solely to voice service because many customers may want or need voice service and not broadband service. Overall it is difficult to see how the FCC's plan to eliminate federal support for voice service provides any benefits to Lifeline consumers or Lifeline providers. The Lifeline discount is directly applied to voice service for approximately 22% of Missouri's current 97,126 Lifeline subscribers."); and Letter from James R. Fisher, National Executive Director, Korean War Veteran's Association (August 8, 2019), at p. 1 ("*[W]e are writing today to respectfully support the recommendations of other veteran and consumer advocates asking you to pause pending further study two major changes to the Lifeline program.*")

6 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).

7 *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").

8 *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).

9 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.")

10 *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").

organization of the State commissions" responsible for economic and safety regulation of the intrastate operation of carriers and utilities.[11]

NARUC and its members have a long history of supporting the *FCC's* Lifeline program.[12] 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.[13]

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.

---

11 *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.).

12 *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 Expeditiously 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*

13 *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 *FCC's* 2016 *Lifeline Modernization Order*[14] and regulations 47 C.F.R. §§ 54.403, 54.408, two changes to the Lifeline program are scheduled for December 1, 2019.

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 $9.25 to $7.25, followed by future annual decrements for Lifeline voice service support.[15] Second, the minimum standards for Lifeline mobile broadband service will increase from 2 gigabytes (GB) a month to 8.75 GB per month, based upon a formula and changes in average mobile data usage per household – a jump of more than four times the current requirements.[16] The *Joint Petition* seeks a delay in these changes.

NARUC agrees with the arguments presented in the sixteen other filed initial comments which all strongly endorse the *Joint Petition*. The commenters represent an array of perspectives ranging from self-described "supporters of free market oriented communications policies,"[17]

---

14 *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*).

15 47 C.F.R. § 54.403(a)(2(i), (ii).

16 Wireline Competition bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount, FCC Public Notice DA19-704 issued in WC Docket No. 11-42 (July 25, 2019).

17 Comments of Randolph J. May, President, The Free State Foundation, filed July 31, 2019 in WC Docket No. 11-42. (*FSF Comments*); 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. One anomaly in the truncated definition of markets often proposed by some free market advocates is the absence of any meaningful discussion about actual natural monopoly markets *i.e.,* those places where the cost to deploy facilities consumes such large amounts of capital or will result in such exorbitant pricing that it is simply uneconomic to have more than one supplier. *See e.g.,* Paul J. Garfield and Wallace P. Lovejoy, *Public Utility Economics* (Prentice-Hall: Englewood Cliffs, NJ, 1964), p. 15, especially n. 2 quoting John Stuart Mill *Principles of Political Economy* in George T. Brown, *The Gas Light Company of Baltimore* (Baltimore: The Johns Hopkins Press, 1936), pp. 63-64. So-called high-cost areas have long challenged both State and Federal regulators efforts to provide safe, adequate, and reliable voice and broadband access services at just and reasonable rates. In those same areas, Lifeline is likely to be even more constrained, particularly if support funding is reduced as minimum service requirements are increased.

to think tank economists,[18] to experts that work closely with State and Federal Lifeline programs,[19] public interest and veteran's groups,[20] and the mobile wireless industry.[21]

---

[18] 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) (*Phoenix Center Policy Paper*), available at http://www.phoenix-center.org/pcpp/PCPP55Final.pdf. *Compare infra* at n. 17.

[19] Both NARUC, whose members either run their own State lifeline programs in tandem with the federal program, and/or certify the activities of federal eligible telecommunications carriers, and the National Association of State Consumer Advocates (NASUCA), which represents State government entities that also work closely with consumers on lifeline issues, passed resolutions again urging the FCC to stop phasing down support for voice services and filed comments supporting the *Joint Petition*. See, e.g., Comments of the National Association of State Utility Consumer Advocates in Support of the Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards, filed July 31, 2019 in WC Docket No. 11-42. WC Docket 09-197, and WC Docket No. 10-90. (*NASUCA Comments*) Cf. *NASUCA Resolution 2019-02, Urging the FCC to Preserve Lifeline Support for Voice Service and to Stay and Study the Scheduled Changes in Lifeline Minimum Standards*, online at: https://www.nasuca.org/nwp/wp-content/uploads/2019/07/2019-02-NASUCA-Telecom-Resolution-re-Lifeline-for-Voice-Service-Min-Standards.pdf

[20] The *Joint Petition* was filed on behalf of consumers by the National Hispanic Media Coalition, the National Consumer Law Center, the OCA-Asian Pacific American Advocates, and the United Church of Christ. Other NGO's filed supporting the petition, including Consumer Action and Consumer Federation of America, Comments of Consumer Action and Consumer Federation of America, National Grange, Comments of National Grange, American Veterans; Comments of the National Association of American Veterans, Public Interest Groups Comments of 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, National Lifeline Association Comments on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, Free Press, Comments of Free Press on Joint Petition to Pause Minimum Standards Changes (*Free Press Comments*), and Korean War Veterans, Letter from James R. Fisher, National Executive Director, Korean War Veteran's Association.

[21] The *Joint 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, Comments of Sprint Corporation (*Sprint's Comments*), NTCA, Comments of NTCA-The Rural Broadband Association (*NTCA's Comments*) Q Link, Q LINK Wireless LLC Comments on Joint Petition To Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study (*Q Link's Comments*), TracFone, Comments of TracFone Wireless, Inc In Support of Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study (*TracFone's Comments*), and Sage, Comments of Sage Telecom Communications, LLC D/B/A Trueconnect In Support of Joint Petition to Pause Implementation of December 2019 Lifeline Minimum service Standards (*Sage's Comments*).

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

There is certainly no question that increasing the minimum data provision requirements by a factor of more than four will increase costs for service providers. The potential for a negative impact on the goals of the federal Lifeline program is obvious. The questions raised are: how much of those costs would likely be passed through to consumers? What will the impact be on Lifeline consumers? And, will the increased costs cause some providers to exit the market?

The *FCC's* pending *State of the Lifeline Marketplace Report,* due by June 30, 2021, provides the perfect vehicle to answer those questions.

As the National Lifeline Association states in its comments at p. 2,

> 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 apparently massive price increase that would be triggered by the mandated formula-derived service levels for December 2019 and later on access to and the affordability of essential communications services for low-income consumers.

The likely impact on the program and the consumers it serves is not speculative. As NARUC points out in its resolution, the current market in non-Lifeline wireless services sets retail 10 GB data plans for $40 per month or higher. This information is in the record. *Sprint's Comments*, at p. 6, note that "[g]iven the fierce level of competition in the retail wireless market, there should be no debate over the reasonableness of the charges assessed by the service providers for their non-Lifeline plans." *Sprint's Comments* go on to provide, at p. 5 – 6, record evidence of the level of today's charges pointing out that non-Lifeline wireless plans providing 5-10 GB data per month retail for $40 - $50, considerably higher than the current $9.25 federal lifeline subsidy. Indeed, the $9.25 monthly support amounts to 18.50%-23,13% of the price for such plans. Even plans that approximate the current Lifeline offer (1-3 GB of data per month) are offered at a rate considerably higher than the $9.25 federal Lifeline subsidy.[22] The prospect for an unspecified

[22] *Id., Compare, Q Link's comments* at p. ii ("Moreover, wireless ETCs are in no position to successfully impose monthly price increases of $2 for voice to $30 or more for broadband on Lifeline subscribers. This is because Lifeline subscribers live near or below the poverty level and cannot afford basic necessities without assistance – and most are unbanked."), and at p. 6 ("The December 2019 mobile broadband MSS increase would result in decreased access and higher prices for low-income consumers. This untenable (and unanticipated) outcome is in part due to the fact that the network cost alone of meeting the mobile broadband data requirement easily exceeds the subsidy amount. Retail wireless plans that include a minimum of 8.75 GB of high speed broadband data typically retail for $40 and higher

increase in costs to both companies and Lifeline consumers is obvious. Indeed, the only expert economist evidence in the record, from Phoenix Center's Chief Economist, Dr. George S. Ford, acknowledges "that 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."[23] Dr. Ford also found that "many of the *Commission's* reforms, including proposals to exclude resellers from the program and the scheduled increases in minimum service standards, are counterproductive in that both reforms will increase the alleged displacement of Lifeline for regular accounts and reduce the adoption of advanced telecommunications services by low-income Americans."[24]

Free State Foundation President Randy May, at p. 2 of *FSF's comments*, agrees that the *Joint Petition* "credibly" states that the flash jump increasing the required data use allotment would also "significantly narrow consumer choice, limiting the variety of service plans available for eligible low-income consumers to choose and requiring eligible low-income consumers to purchase plans that might often include much larger increments of data usage than they need or want."

The record also demonstrates the proposed decrease in support for voice services is a problem.

Universal Service Administrative Company data shows that, as of February 2019, nearly 42% of Lifeline customers still subscribe to plans that qualify for Lifeline by virtue of meeting the minimum service standards for voice service.[25]

---

and simply cannot be made available to Lifeline subscribers for free based on a $9.25 subsidy amount. If the Bureau does not grant the waiver requested in the Joint Petition, existing Lifeline subscribers will have their free plans replaced with costly ones for which they will not have the means or ability to pay.")

[23] *Phoenix Center Policy Paper* at p. 36.

[24] *Proposed Reforms to FCC's Lifeline Program Require A Bit More Thought*, July 22, 2019, online at: https://fedsoc.org/commentary/blog-posts/proposed-reforms-to-fcc-s-lifeline-program-require-a-bit-more-thought.

[25] *See USAC, High-Cost and Low Income Committee Briefing Book*, at 41 (April 29, 2019) (Lifeline Business Update, App. A: Lifeline Program Trends) (showing 27.81% of Lifeline customers taking bundled plans meeting the voice minimum standards and 13.8% of customers taking voice-only plans), available at https://www.usac.org/_res/documents/about/pdf/bod/materials/2019/High-Cost&Low-Income-Briefing-Book-April.pdf.

If the *FCC* moves forward without a pause, over 3.8 million Lifeline subscribers could be negatively impacted in both rural and urban areas.[26]

Again the Comments of Mr. May, at p. 3 of the *FSF's comments*, seem prescient:

> The impending diminishment in support for voice services likely will adversely impact Lifeline customers by constraining the flexibility of service providers to tailor affordable offerings to meet Lifeline customers' demands. . . 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. (Internal citations omitted)

NASUCA amplifies Mr. May's statements, noting, at p. 3 of its comments, that:

> Decreasing the amount of monthly support for Lifeline voice service will make the service less affordable for Lifeline consumers who prefer voice service or who have no Lifeline broadband alternative. [T]he expansion of fixed and mobile broadband networks and service availability has proceeded at a slower pace than anticipated. Additionally, some ETCs have chosen to relinquish their ETC designation, while other ETCs are not obligated to offer broadband internet access service as an alternative to voice service throughout their service area.

The fact is, if the *FCC* allows the December 2019 broadband minimum standards to go into effect, the new standards might well effectively impose a $30 per month price increase on Lifeline subscribers – an increase that low-income subscribers cannot afford. The continuing shift of resources away from the most basic Lifeline service – voice – must be re-examined.

As Free Press accurately states in its comments at page 2:

> The Commission's predictions used to justify the *2016 Lifeline Modernization Order*'s voice support phase-down bear little resemblance to the realities of 2019. What has not changed, however, is that voice-only service remains extremely important for low-income individuals. …Reducing support now for voice-only service would leave people without access to emergency services or means of communications with loved ones. While there may be a point in the future when these individuals will turn to other options, it is not here now and will not be for some time. Voice-only services remain essential. Over the objections of [many including NARUC], the *2016 Lifeline Modernization Order* phased down support for these services starting in December 2019. The impact of this decline in support is potentially severe. When the Commission sought comment on reinstating

[26] *Id.* (Shows 9 million total Lifeline subscribers in fourth quarter 2018. Twenty – Seven percent of 9 million is just over 2.5 million and 13.8% of 9 million is just over another 1.24 million subscribers.).

> full financial support for voice-only service in rural areas only, the record showed widespread support for restoring full subsidies for voice services in all areas of the U.S. Without the pause the joint petition seeks, over 3.8 million Lifeline subscribers could be negatively impacted. The Commission should maintain the $9.25 subsidy and support for 1,000 voice minutes per month packages while it studies the changing Lifeline marketplace. As the country faces continued and worsening public safety crises such as wildfires and the new hurricane season, the importance of voice-only service becomes glaringly apparent: voice-only service still provides a critical access point for 911 and other emergency services. . . .Subscribers still choose voice-only service for ensuring their personal safety, and even absent a choice they still can and do rely on more traditional legacy telephony service.
>
> [*Internal citations omitted and emphasis added*]

CONCLUSION

As referenced on page 7, supra, the *FCC* should defer planned changes to the Lifeline program at a minimum until the anticipated 2021 "State of the Lifeline Marketplace report." Overall, NARUC, and the record in this and prior proceedings, strongly supports maintaining specific subsidies for voice services. The *FCC* should grant the *Joint Petition's* requests.

Respectfully submitted,

James Bradford Ramsay
GENERAL COUNSEL
Kenneth Mallory
LEGISLATIVE COUNSEL
National Association of Regulatory Utility Commissioners
1101 Vermont Avenue, Suite 200
Washington, DC 20005
PH: 202.898.2207
E-MAIL: jramsay@naruc.org

Dated: August 15, 2019

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