

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

In the Matter of)
)
Lifeline and Link Up Reform and) WC Docket No. 11-42
Modernization)

**REPLY COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA-The Rural Broadband Association¹ hereby submits these reply comments to address the record compiled in response to the Public Notice² released in the above-captioned proceeding. The Public Notice seeks input on the Lifeline Universal Service Fund (“USF”) program for the purposes of a pending State of the Lifeline Marketplace Report (“*Lifeline Report*”) that the *2016 Lifeline Order* directed the Wireline Competition Bureau (“WCB”) to complete.³ NTCA submits that the *Lifeline Report* should reflect the fact that certain modifications to the Lifeline program undertaken in 2016 have had the unintended consequence of undermining low-income consumers’ access to the voice and broadband services they need and that fit within their budgets.

Specifically, the record compiled in response to the Public Notice, and NTCA members’ nearly 5 years’ experience with implementing the *2016 Lifeline Order*, indicate that both the

¹ NTCA represents approximately 850 providers of high-quality voice and broadband services in the most rural parts of the United States. In addition to voice and broadband, many NTCA members provide wireless, video, and other advanced services in their communities.

² *Wireline Competition Bureau Seeks Comment on the State of the Lifeline Marketplace*, Public Notice, DA 21-336 (rel. Mar. 19, 2021).

³ *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 ¶ 66 (2016) (“*2016 Lifeline Order*”) (as part of its discussion on the phase-out of standalone voice support, directing the Bureau to “submit to the Commission a State of the Lifeline Marketplace Report” and to specifically consider “the prevalence of subscriptions to various service offerings in the Lifeline program, the affordability of both voice and broadband services, the pace since adoption of this Order at which voice and data usage has changed, and the associated net benefits of continuing to support voice service as a standalone option.”).

phase-out of support for standalone voice service and the minimum service speed standards for Lifeline-supported fixed services – while perhaps well-intentioned – should be reconsidered at this point. The *Lifeline Report* should reflect the need to revisit and revise these provisions of the *2016 Lifeline Order*, and swift Commission action toward these ends should follow submission of the WCB’s report.

With respect to the minimum service speed standards, NTCA has repeatedly over the past several years sought a carefully targeted waiver from the strict application of this provision as updated annually by the Commission.⁴ As these requests for relief have noted, like any broadband provider, rural carriers’ rates for broadband service typically increase as the speed provided increases – as a result, the value of the Lifeline subsidy to the consumer is eroding year after year. This forced escalation hinders consumer choice because they can no longer apply the Lifeline subsidy to the affordable service they previously purchased. To be clear, NTCA’s advocacy on this specific provision of the Lifeline program is not intended to foist inferior services on rural low-income consumers. To the contrary, NTCA has argued year after year that providers should be required to offer low-income consumers a variety of services that comport with minimum standards – but also that customers should have the choice then to apply the subsidy to a service of their choosing rather than being compelled to migrate to a different service tier that costs them more out-of-pocket. When adopting the provision requiring the WCB to annually update the program’s minimum service speed standards, the Commission surely did not intend that such a process would negatively affect existing broadband utilization by low-

⁴ NTCA Petition for Temporary Waiver, WC Docket No. 11-42, et al. (fil. Oct. 20, 2017); NTCA Petition for Temporary Waiver, WC Docket No. 11-42, et al. (fil. Jul. 23, 2018); NTCA Petition for Temporary Waiver, WC Docket No. 11-42, et al (fil. Jul. 29, 2019).

income consumers. Yet the minimum service standards pose just such a risk by eroding the value of the subsidy in the face of increased prices for higher-speed services to which the customer is forced to subscribe year after year.

Like NTCA, the National Lifeline Association (“NaLA”), both in response to the Public Notice⁵ and in a separate waiver petition,⁶ has noted the negative consequences that flow from these minimum service standards. As NaLA has argued,⁷ the minimum standards in the mobile context lead to rate increases that run counter to the overall goal of making communications service affordable for low-income consumers. NTCA, for its part, has proposed addressing the issue in the *fixed* context via a “grandfathering” of service packages not strictly meeting the minimum service standard – under this consumer-driven approach, a low-income consumer would be able to choose either to continue receiving the service to which she or he already subscribes as of the date updated service standards became effective or to move to the new higher speed service. This approach would ensure that the fixed minimum speed standards do not force any low-income consumer to drop a no-longer-affordable broadband service even as offerings to new customers would still need to comport with the minimum standards. In any case, *the Lifeline Report* should reflect the fact that the minimum service standards have the potential to undermine the very broadband adoption gains that *the 2016 Lifeline Order* was intended to promote. Then, the Commission should, in turn, take up a rulemaking to explore a more adoption-friendly approach going forward.⁸

⁵ Comments of the National Lifeline Association (“NaLA”), WC Docket No. 11-42 (fil. Apr. 19, 2021), p. 5.

⁶ NaLA, Emergency Petition, WC Docket No. 11-42 (fil. Nov. 9, 2020).

⁷ *See Id.*

⁸ The Commission should also consider that a \$9.25 per month subsidy may not be sufficient to promote low-income consumers’ adoption of broadband – and this may even be the case if the Commission eliminates minimum service standards that increase low-income consumers’ rates without additional subsidy. A better approach to minimum standards, at least – through either the Lifeline program or a successor mechanism that operates outside the USF –

With respect to support for standalone voice service, a number of parties responding to the Public Notice note that the phase-out of support for this service and effective in December 2021 merits revisiting as well,⁹ and *the Lifeline Report* should reflect the persisting demand and need for that service.¹⁰ As the Massachusetts Department of Telecommunications and Cable notes, the Commission found last year that approximately 850,000 Americans used their Lifeline benefit for this service as of March 2020.¹¹ As the Michigan Public Service Commission correctly notes, even as support for a voice/broadband bundle is available, “a Lifeline customer may not be able to afford to bundle their Lifeline service without any increase in the Lifeline support amount.”¹² And of course, as noted above, the minimum service speed standard pushes up the cost of these bundles. Next Century Cities states that:

McKinsey and Company estimates that 14% of consumers skipped or partially paid their telecommunications bill in 2020, with younger adults having the highest nonpayment rate at 34%. Considering these factors, to reduce or remove the

may be a commensurate increase in subsidy tied to an evolving minimum level of service. In any case, even if such standards did not exist, the current \$9.25 subsidy was set in 2012, and the 2016 reforms that produced the minimum service standards and phase-out of standalone voice support discussed herein were not even adopted with a serious consideration of the appropriateness of the subsidy level for Lifeline. *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012), ¶ 58. Going forward, to inform what should be seen as a necessary inquiry into the appropriate level of support offered by any low-income program, the soon to be launched Emergency Broadband Benefit (“EBB”) program, which will offer consumers a subsidy of up to \$50 per month, provides the Commission with an opportunity to gather data on the connection between subsidy level and low-income consumer adoption – the Commission will have for review a substantial amount of data on the service packages EBB-supported consumers subscribed to, something that can offer insight into the proper Lifeline or other similar subsidy going forward.

⁹ Comments of the Massachusetts Department of Telecommunications and Cable (“MDTC”), WC Docket No. 11-42 (fil. Apr. 19, 2021), p. 2; Comments of the Michigan Public Service Commission (“MPSC”), WC Docket No. 11-42 (fil. Apr. 19, 2021), p. 2; Comments of Next Century Cities (“NCC”), WC Docket No. 11-42 (fil. Apr. 19, 2021), pp. 4-7.

¹⁰ Indeed, the requirement to produce *the Lifeline Report* at issue herein was created in the specific context of the 2016 *Lifeline Order*'s initiation of the voice phase-down – the language in paragraph 66 specifically indicates a Commission hesitancy to make the phase-out permanent unless and until the WCB indicated that market trends pointed to voice support no longer being needed. But the record here indicates that at the very least voice support remains highly valuable to low-income consumers, and *the Lifeline Report* must reflect that.

¹¹ MDTC, p. 2.

¹²MPSC, p. 6. See also, NTCA Petition for Reconsideration, WC Docket No. 11-42, et. al., (fil. Jun. 23, 2016) (“NTCA Lifeline PFR”) (“While support for voice service is available as part of a bundled voice and BIAS package, this will be of little comfort to low-income rural consumers forced to purchase a broadband service they might not want or need or which is unaffordable to them.”).

voice only option could mean cutting off the only dependable method for current Lifeline subscribers to contact employers, health providers, emergency service, and family. Some may not have alternatives.¹³

In light of the ongoing pandemic, the recovery from which may last well beyond the December 2021 scheduled phase-out of standalone voice support, at the very least *the Lifeline Report* should point to the value that a voice connection can have, if affordable, and the fact that the Lifeline program will not enable that in a few short months.

Moreover, as NTCA has noted, the phase-out of support for standalone voice has always been perplexing considering the public safety implications – in an emergency, voice service can be a literal Lifeline.¹⁴ Unfortunately, this was largely glossed over in 2016 when the voice phase-out was initiated – ironically this decision came only one year after the Commission required battery back-up for non-line-powered voice service precisely because of public safety access considerations in a power outage.¹⁵ Thus, these public safety implications not heretofore appropriately considered, the continued need for voice support as the nation recovers from the pandemic, as well as the rising cost of bundles, should at the very least be heavily featured in *the Lifeline Report* if not the basis for recommending a reversal of this rule.

In sum, while the 2016 modernization of the Lifeline program was a welcome step forward, the record compiled in response to the Public Notice indicates that certain provisions, while perhaps well-intentioned, have produced unforeseen negative consequences for low-income consumers. In particular, the two issues raised above have and will continue to harm rural low-income consumers in need of affordable voice and/or broadband service – these harms

¹³ NCC, p. 5.

¹⁴ NTCA Lifeline PFR, p. 7.

¹⁵ Ensuring Customer Premises Equipment Backup Power for Continuity of Communications, *PS Docket No. 14-174*, FCC 15-98, Report and Order (rel. Aug. 7, 2015).

and potential solutions to address them should be reflected in the *Lifeline Report* and follow-on proceedings. The Lifeline program continues to be a valuable mechanism for rural consumers – indeed, even as one commenter asserts that “Lifeline is a primarily wireless program”¹⁶ it has been and can remain one of a suite of valuable programs (along with the High-Cost, Schools and Libraries, and Rural Health Care mechanisms) that, working together, makes high-quality *wireline and wireless* communications services available and affordable. NTCA and its members are committed to ensuring that the Lifeline program functions to give low-income rural consumers access to affordable and robust connectivity while also enabling continued access to public safety. The recommendations made herein are necessary to make that happen.

Respectfully Submitted,



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¹⁶ Comments of the Benton Institute for Broadband & Society, WC Docket No. 11-42 (fil. Apr. 19, 2021), p. 11.