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May 31, 2017

By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Lifeline Connects Coalition Notice of Oral *Ex Parte* Presentation; WC
Docket Nos. 09-197, 10-90, 11-42**

Dear Ms. Dortch:

On May 26, 2017, John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP participated in a conference call on behalf of the Lifeline Connects Coalition (Coalition) with Jodie Griffin, Allison Jones, Trent Harkrader and Dana Zelman from the Wireline Competition Bureau. On the call, we discussed the Universal Service Administrative Company's (USAC's) current plan to require Lifeline subscribers to re-prove their eligibility when they are migrated to the Lifeline National Verifier and the significant burden and confusion that will impose on Lifeline participants.

On a May 17, 2017 Lifeline Program Update industry webinar, USAC announced its intention to require Lifeline subscribers to re-verify their eligibility for Lifeline when they are migrated to the National Verifier. USAC will first check for the subscriber in any available eligibility databases. Where there are no databases and for those subscribers that are not found in the available databases (state eligibility databases usually only include some of the programs that qualify a low-income consumer for Lifeline), USAC will look to eligible telecommunications carriers (ETCs) to provide proof of eligibility. ETCs were required to retain records of subscribers' proof of eligibility starting in February 2016.¹ However, USAC's current

¹ See *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, ¶¶ 224-237 (2015).

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plan is to require that re-proof of eligibility be collected after **July 2017**, even if the ETC has retained a record of the subscriber's proof of eligibility from prior to July 2017.

Therefore, the following scenarios would likely occur:

Scenario 1. Lifeline subscriber John Smith is enrolled in Lifeline with an ETC in June 2017 in one of the first five states to be migrated to the National Verifier. Between December 2017 and March 2018 (the soft launch), the National Verifier would check any available eligibility databases for John Smith. If he is not found (possibly because John Smith qualified using his SNAP card and SNAP is not covered by any available databases), the National Verifier would ask the ETC for proof of eligibility. Even though the ETC has retained a copy of John Smith's SNAP card from June 2017, that would not be recent enough and the ETC would have to contact John Smith and attempt to obtain another copy of his SNAP card (or other proof of Lifeline eligibility). As described further below, we know that the response rate to inquiries requesting that subscribers re-prove eligibility is low. Therefore, John Smith would likely be de-enrolled from Lifeline despite his clear eligibility.

Scenario 2. Lifeline subscriber Mary Jones was enrolled in Lifeline with an ETC in December 2016 in one of the first five states to be migrated to the National Verifier. In December 2017 Mary is required to complete the annual recertification process or be de-enrolled, which does not require proof of eligibility because the FCC determined in the 2012 Lifeline Reform Order that to require re-verification of proof would be too burdensome.² Therefore, she is most likely to complete recertification by Interactive Voice Response (IVR) and does not have to send in any written documentation. To complete migration, between December 2017 and March 2018, the National Verifier would check available eligibility databases for Mary Jones. If Mary is not found, the National Verifier would then ask Mary's

² See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, FCC 12-11, ¶¶ 134, 139 (2012) (2012 Lifeline Reform Order) ("Because consumers in states without eligibility databases will be required to provide documentation at enrollment to establish program eligibility, we find a requirement that ETCs or program administrators, where applicable, verify all Lifeline subscribers' documentation on an annual basis to be unnecessary... We also do not believe that the recertification process we adopt today will be overly burdensome to consumers. As noted above, the amendment to section 54.410 will permit consumers to annually re-certify to their continued eligibility for Lifeline without requiring associated documentation... we expect that elimination of the requirement that consumers annually provide supporting eligibility documentation will enable consumers to more easily respond to verification surveys, thereby reducing the number of Lifeline subscribers de-enrolled for failure to respond to carrier verification efforts.").

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ETC for proof of her eligibility, but the proof retained from December 2016 does not qualify so the ETC would be required to request re-proof of eligibility from Mary within weeks or a few months of her successful annual recertification. If Mary does not respond to the request for re-proof of eligibility, she would be de-enrolled despite the fact that she is still eligible and recently completed the annual recertification process as required by the Commission's rules.

Obtaining re-proof of eligibility from Lifeline subscribers is likely to be highly unsuccessful. There are a few states that require re-proof of eligibility as part of the annual recertification process and the recertification rate in those states is instructive. Again, the Commission did not require proof of eligibility for recertification because it was deemed too burdensome on consumers, but some states require it anyway. One Coalition member reports that its successful recertification rate in Missouri, which requires re-proof of eligibility every two years, was approximately 22 percent in 2016. That means more than 75 percent of the subscribers had to be de-enrolled. The National Verifier could expect to see a similar de-enrollment rate for all subscribers that have to be contacted to provide more recent proof of eligibility. The overwhelming majority of those de-enrollments would be due to consumers' failure or inability to respond, not their lack of continuing eligibility for Lifeline.

Pursuant to Section 1.1206(b) of the FCC's rules, this letter is being filed electronically.

Respectfully submitted,



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