BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20544

In the Matter of	)	
	)	
Lifeline and Link-Up Reform and	)	
Exchange Carriers	)	WC Docket No. 11-42
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

INITIAL COMMENTS OF THE
NEW YORK PUBLIC SERVICE COMMISSION

The Comments of the New York State Public Service Commission (NYPSC) are filed pursuant to the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (Notice). The Notice proposes a set of reforms to modernize and reform the Lifeline Link-Up Program (Program), which is part of the Universal Service Fund (USF). Established in 1985, the Program provides discounts for voice communications on monthly wireless or wired phone bills (approximately $10 a month) and initial connection charges (up to $30) for a wireless or wireline telephone service to low income households. The support is provided directly to service providers on behalf of the consumer households.

In New York State, the Program has helped increase the percentage of low income households subscribing to telephone service from 78.4% in 1984, before the inception of the Program, to 90.1% in 2009[1] (95% of the general population in the State subscribes to

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[1] Telephone Penetration by Income by State (Data through March 2009), Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division (released May 2010).

telephone service). The Program's financial assistance provided to low income households, additional state-funded discounts, coordination with low income programs administered by social services agencies, and a streamlined automatic enrollment policy contributes to the State's success in promoting the goal of universal telephone service. Significant changes in telecommunications technology, markets and FCC regulations provide opportunities for low income households to choose voice service offered by multiple wireless and wireline eligible telecommunications companies (ETCs). The FCC's expansion of the Program to non-facilities-based prepaid wireless providers substantially increased participation of low income consumers in New York State and contributed to the significant increase in disbursements for low income subscribers ($1.3 billion in 2010).

In summary, the NYPSC supports modernizing and reforming the Program, as long as the changes to the Program do not jeopardize the continuation of the provision of voice service to the 90.1% of eligible low income consumers in New York State and the opportunity for expansion to the approximately 10% of eligible customers who do not yet subscribe to voice service. New York's significant subscribership promotes important social values in providing access to telecommunications services for eligible low income consumers who require some assistance to pay for the service. Many of the proposed reforms may assist in maintaining voice services for eligible low income consumers by bringing about a Program that is more sustainable over the long term, accommodating the changing telecommunications needs of the low income population, and making more effective and efficient use of contributions recovered from all telephone subscribers.

Limitation on Program Costs

In 2010, the USF required total expenditures of almost $9 billion to support four principal programs: high cost support ($4.6 billion); schools and libraries support ($2.7 billion); rural health care support ($214 million); and, low income ($1.3 billion). Of these programs, the only major components that the FCC has not limited are the low income program and the high cost support ($1.7 billion) to rate-of-return carriers in rural, Tribal and insular areas. The FCC proposes to establish an annual temporary or permanent cap on the Program.

The benefits that this Program affords to low income consumers outweighs the concerns relating to the growth of the fund, particularly when some of this growth is attributable to opportunities for duplicate claims under the Program, which the FCC is poised to rectify. The NYPSC supports strong reforms to eliminate duplicate claims and put in place effective administrative practices in order to achieve the necessary savings to minimize increases in the cost to subscribers of the Program's funding. The principle of universal service to society and individuals is too important to cut back on this portion of the USF. Although the Program costs do impose a burden on consumers, the benefits of bringing telecommunications service to eligible low income customers justify the costs. Accordingly, the NYPSC does not support implementation of a temporary or permanent cap on the Program.

The NYPSC recognizes that it is important to manage the total size of the USF in order to protect consumers who pay for its expansions through a surcharge on their bills. These costs burden consumers and may affect economic activity, progress and recovery. New York's economy is particularly susceptible to the increased costs, because the State is a substantial net contributor to the FCC's USF program. Managing the total size of the USF protects consumers who pay for its expansion. In determining the method for establishing a budget for the USF programs, it is reasonable to take into account the cumulative effect of the four USF support programs, particularly given the similarity in objectives between the low income, assuming the Program eventually supports broadband, and the proposed Connect America Fund (CAF), to promote affordability and adoption of universal broadband service. Although we do not support a limitation on the low income program specifically, the NYPSC proposes an overall USF budgetary limitation, for example, not more than the 2010 $9 billion level. As costs of providing voice service are going down, establishing an overall USF cap at the 2010 level, in combination with savings from proposed reforms, should result in sufficient funds to serve the needs of the low income community.

<u>One Discount per Household Policy</u>

The FCC proposes to strengthen rules to more rigorously ensure that the Program provides a discount to no more than one subscription per eligible residential address. The one line per residence rule was established when the Program provided support for landline service. These requirements were designed for a telecommunications industry that provided voice service over circuit-switched networks, and expanded recently to authorize use of wireless phones. Changes in technology, the telecommunications market and regulation have dramatically transformed the ways in which the general population uses telecommunications, including its low income members. A program, built on the premise of basic phone service at a stationary residential location, ignores the reality of the expanding use of mobile telecommunications. The NYPSC recommends that the FCC adapt the Program's discounts to the needs of the low income population receiving the service, including consideration of the provision of a mobile phone to eligible adults, within the limits of the available funding under an established overall total USF cap.

The limitation of one phone per household may not recognize the changes in the marketplace and subscriber demands. Access to emergency services may require multiple wireless phones for family members, so that when one individual leaves the home, the other members of the household have access to their own wireless phones to contact emergency services or to maintain their own important family communications during an emergency. Although the NYPSC does not make a specific recommendation in this regard, it suggests that the FCC conduct a study to develop its Program's policies based on careful consideration of the manner in which low income households use mobile phones, and balance the needs of low income individuals for wireless phones against the costs involved of changing the one discount per household policy.

Support for Broadband

The FCC proposes a revision of the definition of Lifeline to include broadband and to fund, through the Program, support for access to wireless or wireline broadband. It intends to use a pilot program to fund a series of projects to test different methods of providing support for broadband to low income consumers across different geographic areas. Given the importance of broadband to economic development and quality of life at the state and federal level, the NYPSC supports reasonable efforts to expand broadband availability and adoption as a long-term voice, data and video technology for all sectors of our society, including our low income population. However, the FCC should defer any decision on the modifications to the definition of Lifeline to support broadband, pending the outcome of its proposed pilot program. As the FCC states in the Notice, the low adoption rate among low income families is one of the barriers to greater broadband expansion. Thus, we propose that the FCC's pilot programs focus primarily on exploration of techniques for developing interest in broadband and promoting adoption of the technology by low income households. Other factors that the pilot program should consider include the financial impacts on limited state and federal resources and how large a benefit would be necessary to make broadband available to low income consumers.

The FCC proposes to pay for the broadband pilot through use of the savings expected from the effect of implementing its reforms of the Program. The NYPSC recommends that the FCC assure itself of the availability of the funds before it moves forward with expending valuable resources on a pilot program. Because the FCC's objective of establishing ubiquitous broadband through the CAF, to make affordable broadband available to all, is closely related to the goals of expanding the Program's support to include broadband, we propose that the FCC consider use of the CAF to support its broadband pilot. The NYPSC recommends that the FCC postpone its consideration of providing broadband access in Lifeline support, until it obtains the results of the proposed pilots.

Bundled Basic and Enhanced Services

The FCC proposes to amend its rules to allow eligible households to use the Program's discounts on bundled services. This rule change would allow the consumer to apply a discount to reduce the cost of bundled service plans that include optional calling features. The NYPSC supports adoption of a uniform federal requirement that eligible customers may apply discounts to purchase of bundled basic telecommunications service and enhanced service, such as voice mail and call waiting. This type of bundled service is a standard wireless offering. The change would allow wireline customers to have the same options available to wireless Program customers to meet the necessities of their everyday lives.

Duplicate Claims

Under FCC rules, adopted at a time when incumbent local exchange companies (LECs) provided Lifeline service, support is provided for a single telephone line at a principal residence. Many low income households have a choice of multiple mobile wireless providers offering expanded and innovative service offerings and multiple wireline competitive LECs. This type of market provides greater opportunities for multiple carriers to seek reimbursement for discounts for Lifeline service provided to the same residential location. The FCC proposes interim rules to restructure the program to diminish these duplicative service claims, including a requirement that ETCs submit unique household identification, such as, customer names, addresses, the last four digits of a customer's social security number, birthdates, or other unique household-identifying information, to the Universal Services Administrative Company (USAC) on Form 497. This new procedure would end the current practice of self-certification, which provides opportunities for subscribing to duplicate services. The NYPSC strongly supports the proposed measures to eliminate the self-certifying eligibility option and require ETCs to submit unique household information. These reforms would redirect funds to satisfy the legitimate needs of low income individuals, assist ETCs and consumers to avoid duplication of Lifeline discounts, assure that ETCs are reimbursed only for Lifeline service provided to eligible customers and contribute to containing the costs of the Program.

The FCC proposes a number of alternate remedies for eliminating duplicate claims. One of the alternatives is a rule that would require ETCs to notify customers that 30 days are provided for selection of a single ETC to receive a contribution to provide service under the Program. If the customer does not make a timely selection, the carrier that has provided continuous Lifeline service to the customer for the longest period of time would continue to receive Lifeline support; and support to the other carrier would be discontinued. The NYPSC supports this alternative as the most reasonable method to eliminate duplicate claims and result in the least disruption to the consumer.

In the event that the FCC limits discounts to one per residential address, it should recognize the unique features of group living facilities, such as homeless shelters or domestic violence safe houses. These facilities are occupied by multiple individuals who, in effect, maintain separate living arrangements, or households, for themselves, within the confines of one structure. The FCC should provide separate eligibility for the low income customers who live in these facilities and are entitled to receive Lifeline services.

Prepaid Wireless Inactive Services

Pre-paid wireless ETCs provide pre-paid mobile phones to low income consumers; consumers are able to top up their credit at any time using a variety of payment mechanisms. These phones do not require a monthly service charge, requirements for termination of service, or street addresses for monthly billing. Thus, it is not feasible for a pre-paid wireless ETC to know when a prepaid subscriber leaves the network. The FCC proposes to amend its rules to prevent ETCs from obtaining reimbursement from inactive customers, defined as customers who fail to use the pre-paid service for 60 days, consistent with the policy implemented by two major ETCs providing pre-paid mobile phones (TracFone and Virgin Mobile). The FCC would establish protections for customers by directing ETCs to notify customers and by requiring transmission of wireless 911 calls from the disconnected phones. The NYSPSC supports the FCC's rule changes to ensure that pre-paid wireless carriers are reimbursed only for the provision of Lifeline services to current customers.

In addition, the FCC proposes to extend these rules to all types of service, even though, it states, pre-paid mobile wireless services present the greatest risk of inactive usage. The NYPSC has some concerns regarding this proposal, due to the multitude of reasons for periods of inactivity on wireline and other types of wireless phones, and the different terms and conditions of these services, including monthly billing and association of the service with a billing address.

Federal Eligibility, Certification and Verification Requirements

The FCC proposes to improve administration of the Program by adopting a core set of federal eligibility, certification and verification requirements that would apply in all states, including uniform national minimum income and program based eligibility standards. The FCC proposes to allow states to maintain state-specific supplemental eligibility criteria. The federal standards would require consumers to (1) have a household income at or below 135% of the Federal Poverty Guidelines, or (2) participate in at least one federal assistance program. The NYPSC supports the adoption of these minimum program standards, and continuation of state authority to maintain supplemental state-specific eligibility criteria. Minimum federal standards may result in more streamlined and effective enrollment of eligible consumers.

The FCC proposes to modify annual verification procedures by adopting a uniform federal rule to serve as a minimum threshold for verification sampling and require ETCs to de-enroll consumers who decline to respond to ETC verification attempts. Recognizing that states have a role in protecting consumers, the proposals allow states to implement additional verification procedures beyond the proposed uniform minimum collection procedures and the submission of verification data. The NYPSC supports these reforms, which will increase oversight of these important programs. Many of the requirements for certification and verification proposed for wireless companies are already required for wireline providers.

Coordinated Enrollment

The FCC proposes to reduce barriers to participation in the Program by service providers and low income consumers, through the use of coordinated enrollment with social services assistance programs. The FCC distinguishes between coordinated enrollment, a method that allows consumers to enroll in the Program at the same time that they apply for a qualifying public assistance program, and automatic enrollment, a practice that automatically enrolls consumers in the Program when consumers subscribe to phone service. New York uses a coordinated enrollment system, with an automatic feature that enrolls consumers of Verizon New York Inc.'s (Verizon) wireline service when they receive assistance form a qualifying public assistance program. Consumers may choose to enroll in the Program at the same time they enroll in a qualifying public assistance program (e.g., Home Energy Assistance Program). New York uses a computer system to match customers of Verizon who choose to enroll with the database of eligible low income households maintained by the State Office of Temporary and Disability Assistance to determine the customers who are eligible for, but not enrolled in, the program. The list includes two categories of customers: those that subscribe to a service for which Lifeline is available and those that subscribe to a service for which Lifeline is not available (e.g., a bundle including Internet and video). For the former, eligible customers are sent a letter saying that they will be enrolled in the Program, unless they object. For the latter, the customers are sent a letter stating that Lifeline is available, and, to obtain the discount, the customers must affirmatively switch to a qualifying service. The NYPSC supports the continuation of the automatic feature of its enrollment program, because of the significant value it provides in achieving the goals of universal service. We note, in particular, the benefits it provides for those eligible customers who may not understand competitive choices or who may qualify for income based support, perhaps for the first time, because of changes in financial circumstances. States operating successful programs of this nature should be provided the opportunity to enhance them to address the FCC's concerns.

IVR System and Electronic Signatures

The NYSPC supports proposals to use an Interactive Voice Response (IVR) system to record and save an applicant's certification of eligibility and electronic signatures for Lifeline enrollment, certification and verification. These technologies are used for other business and regulatory purposes, and their adoption in the Program would streamline procedures, eliminate time consuming compliance methods, and encourage and simplify enrollment procedures for eligible low income consumers.

National Data Base for Verification of Eligibility

The NYSPSC sees merit in the establishment of a national data base to verify consumer eligibility, track verification and check for duplicates to ensure greater program accountability, as long as the benefits outweigh the costs.

CONCLUSION

The NYSPSC supports the FCC proposals to implement important reforms to protect access of low income consumers to vital telecommunications services and contain the contribution burden that is placed upon consumers to support the Program.

Respectfully submitted,

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