

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter 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
)	

**COMMENTS OF PUBLIC KNOWLEDGE,
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EXECUTIVE SUMMARY

In recent years, broadband Internet access service has become an essential conduit for Americans to participate in economic life and society. Although most Americans subscribe to some type of Internet service, low-income households adopt broadband at significantly lower rates than those with higher incomes. As a result, families who are already economically disadvantaged are falling farther behind.

The Federal Communications Commission has proposed addressing this problem by updating the Lifeline program to support broadband Internet access. Updating Lifeline to support broadband adoption will help make Internet access more attainable for families on the wrong side of the digital divide. Public Knowledge, Appalshop, and the Center for Rural Strategies support the Commission's proposal.

Universal service has long been a national priority. Since its creation in 1985, Lifeline has helped low-income households access basic, essential telecommunications services. Originally, Lifeline supported fixed voice service, but as Americans migrated to mobile networks, the program was updated to reflect consumers' changing needs by supporting mobile voice. Today, broadband is an essential service; Americans increasingly rely on it for education, employment, health care, access to government and social services, news and information, and commerce.

Affordability is a significant barrier to low-income adoption. Modernizing Lifeline to support broadband will help address this problem, and doing so will narrow the adoption gap between low-income households and more affluent Americans, advancing the goal of universal service.

To improve the affordability and availability of broadband service to low-income households, the Lifeline benefit should reflect the cost of modern telecommunications services and be meaningful enough to put access within reach for low-income consumers. Additionally, Lifeline should not be restructured in a way that will result in eligible households being turned away. The program is intended to help those in need; denying benefits to eligible families only exacerbates their economic distress.

The updated Lifeline program should promote consumer choice, flexibility, and program efficiency. Beneficiaries should be permitted to apply the Lifeline subsidy to the service that best meets their needs—whether that means broadband or voice service, fixed or mobile, standalone or bundled. Crucially, Lifeline should continue to support voice service, as millions of Americans still rely on basic telephone service.

The Lifeline benefit should be portable, allowing beneficiaries to subscribe to the service that best meets their needs. Additionally, portability should promote competition between carriers, leading to better services and rates for customers and greater value for universal service contributors.

The Commission should also take steps to increase participation and competition in Lifeline program. Lifeline should also be innovative and promote the use of unlicensed spectrum to serve beneficiaries.

Finally, while modernizing Lifeline for the 21st century, the Commission must protect the integrity of the Lifeline program and the dignity of Lifeline subscribers. The Commission can accomplish both tasks by establishing a national eligibility verifier and making certain that Lifeline customer information is properly secured.

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Public Knowledge, Appalshop, and the Center for Rural Strategies file these Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) June 18, 2015 *Lifeline Modernization Second Further Notice of Proposed Rulemaking* (“*Lifeline Modernization FNPRM*”).¹ Public Knowledge and Appalshop support the Commission’s proposal to use the Lifeline program to improve broadband availability and adoption by low-income households.

I. THE COMMISSION SHOULD MODERNIZE LIFELINE TO PROMOTE THE AVAILABILITY OF MODERN TELECOMMUNICATIONS AND INFORMATION SERVICES, INCLUDING BROADBAND, TO LOW-INCOME HOUSEHOLDS.

In 2010, the National Broadband Plan recognized that although increasing numbers of consumers were subscribing to broadband Internet access services, low-income households, minorities, rural residents, those living on Tribal lands, and those with disabilities, lagged in broadband adoption.² The National Broadband Plan recommended using the Lifeline program to help close the broadband adoption gap.³ In 2012, the Commission began to act on this recommendation and adopted the *2012 Lifeline Reform and Modernization Order* (“*2012 Lifeline Reform Order*”), setting a goal to modernize Lifeline to support broadband Internet access service to ensure the availability of broadband service for low-income Americans.⁴ To achieve

¹ 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, Memorandum Opinion and Order*, 30 FCC Rcd. 7818 (2015) (“*Lifeline Modernization FNPRM*”).

² FEDERAL COMMUNICATIONS COMMISSION, OMNIBUS BROADBAND INITIATIVE, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN 167 (2010) (“NATIONAL BROADBAND PLAN”), available at <http://www.broadband.gov/plan>.

³ *Id.* at 172-73.

⁴ Lifeline and Link Up Reform and Modernization et al., WC Docket Nos. 11-42 et al., CC Docket No. 96-45, *Report and Order and Further Notice of Proposed Rulemaking*, 27 FCC Rcd. 6656, 6673 ¶ 33 (2012) (“*2012 Lifeline Reform Order*”).

this goal, the Commission should adopt its proposal to modernize Lifeline to support broadband Internet access service.⁵

A. Modernizing Lifeline to Support Broadband Is Consistent with the National Policy of Promoting Universal Service.

America’s communications policy is based on the fundamental principle of universal service, which means connecting every American regardless of geography, income, or other factors.⁶ Congress has recognized universal service as a “fundamental goal of federal telecommunications regulation since the passage of the Communications Act of 1934.”⁷

Congress also “renewed its concern for low-income consumers in the Telecommunications Act of 1996 when it established the principles that guide the advancement and preservation of universal service.”⁸

The creation of the Lifeline program, as well as its subsequent codification and expansion, are consistent with the fundamental principle of universal service. The Lifeline program was created in 1985 when landline telephone service was the essential communications medium.⁹ The Commission established Lifeline because it found that “[a]ccess to telephone service has become crucial to full participation in our society and economy, which are increasingly dependent upon the rapid exchange of information,” and that the Communications Act required it to take steps to prevent the degradation of universal service, which, if not

⁵ *Lifeline Modernization FNPRM* at 7825 ¶ 10.

⁶ See *Universal Service*, FEDERAL COMMUNICATIONS COMMISSION, <http://www.fcc.gov/encyclopedia/universal-service> (last accessed Aug. 18, 2015).

⁷ Petition of Tracfone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, *Order*, 20 FCC Rcd. 15095, 15100 ¶ 10 (2005) (“*Tracfone Forbearance Order*”) (citing Communications Act of 1934, Act of June 19, 1934, ch. 652, title I, section 1, 48 Stat. 1064 (1934), codified at 47 U.S.C. § 151 (“to make available, so far as possible, to all people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and communication service with adequate facilities at reasonable rates”)).

⁸ *Id.* (citing 47 U.S.C. § 254(b)).

⁹ See *MTS and WATS Market Structure, and Amendment of Parts 67 & 69 of the Commission’s Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, *Report and Order*, 50 Fed. Reg. 939 (Jan. 8, 1985) (“*MTS/WATS Market Structure Order*”).

preserved, could divide Americans into those with access to modern communications services and those without.¹⁰ In adopting Lifeline, the Commission helped defray the costs of telephone connectivity for low-income consumers.

As the Commission recognized, the Telecommunications Act of 1996 (“1996 Act”) explicitly reflected Congress’ intent to shape universal service policy to address the needs of low-income consumers:

With respect to the Lifeline and Link Up programs, we observe that the act evinces a renewed concern for the needs of low-income citizens. Thus, for the first time, Congress expresses the principle that rates should be “affordable,” and that access should be provided to “low-income consumers” in all regions of the nation. These principles strengthen and reinforce the Commission’s preexisting interest in ensuring that telecommunications service is available “to all people of the United States.” Under these directives, all consumers, including low-income consumers, are equally entitled to universal service as defined by this Commission under section 254(c)(1).¹¹

Congress also understood that new technologies like wireless service were providing additional choices and benefits to consumers. As a result, the 1996 Act codified the principle of serving low-income consumers and recognized that “[u]niversal service is an evolving level of telecommunications services.”¹² Congress directed that the Commission’s policies to promote universal service should account for “advances in telecommunications and information technologies and services.”¹³ When Lifeline was created, connecting individuals and maintaining a nation-wide communications network meant ensuring that all Americans could access landline telephone service. At that time, the landline telephone was the lifeline that connected people with emergency services, medical care, commerce, relatives, and friends. Over time, Americans increasingly adopted mobile phones, which in many cases became not merely a supplement to,

¹⁰ *Id.* at 941 ¶ 9.

¹¹ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd. 8776, 8955 ¶ 335 (1997).

¹² 47 U.S.C. § 254(c)(1).

¹³ 47 U.S.C. § 254.

but a substitute for fixed telephone service. A mobile phone is often the connection that allows low-income householders to navigate job shifts, childcare pickups, and health care arrangements on the go. The Commission recognized the evolution in the communications services and technologies Americans were using, and in 2005, updated the Lifeline program to permit participation by wireless carriers and non-facilities based telecommunications providers, effectively extending Lifeline support to pre-paid wireless carriers.¹⁴

In 2012, the Commission affirmed that providing universal service support for an individual broadband subsidy is contemplated in an “evolving level of service.” The *2012 Lifeline Reform Order* established an express broadband service goal for Lifeline: to ensure the availability of broadband service for low-income Americans. The Commission found that this goal implements Congress’ mandate that all consumers – including low-income consumers – should have access to advances in telecommunications services.¹⁵

For many, the Internet is now a primary source of information, as well as a method of connecting with family and conducting business. Therefore, providing an evolving level of services that includes “advances in telecommunications and information technologies and services” requires the Commission to extend Lifeline support to retail broadband Internet access service.

1. Broadband is The Essential Communications Medium for the 21st Century.

Much like telephone service a generation ago, broadband is the essential communications medium of the digital economy.¹⁶ Since the passage of the 1996 Act, Congress has understood

¹⁴ See, e.g., *Tracfone Forbearance Order*; see also *2012 Lifeline Reform Order* at 6668 ¶ 21 (summarizing the FCC’s inclusion of wireless carriers in the Lifeline program).

¹⁵ *2012 Lifeline Reform Order* at 6673 ¶ 33.

¹⁶ RALPH B. EVERETT, GEORGETOWN UNIVERSITY CENTER FOR BUSINESS AND PUBLIC POLICY, *THE DIGITAL ECONOMY AND CLOSING THE OPPORTUNITY GAP*, at 4 (June 2015), available at http://www.gcbpp.org/files/EPV/EPV_Everett_OpportunityGap62015.pdf.

that “advanced telecommunications capabilities” would be both essential for Americans in the 21st century,¹⁷ and critical to preserving “vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.”¹⁸ The Commission has found, “Americans turn to broadband Internet access service for every facet of daily life, from finding a job to finding a doctor, from connecting with family to making new friends, from becoming educated to being entertained.”¹⁹ Without access to broadband service, low-income Americans lose out on opportunities to improve their lives and the lives of their children.

Education

Access to broadband Internet access in the home is a threshold service for students. Students increasingly need broadband Internet access to communicate with teachers, complete and upload assignments, and perform research. Low-income students without Internet access risk being left even further behind.

The benefits of connectivity at home are broadly known and well documented. In 2012, a contractor for the Broadband Technology Opportunities Program explained that, “using computers and broadband can be a significant factor in boosting math and reading achievement, as well as motivating students and enriching school content, ultimately improving students’ achievement.”²⁰ And as the Commission has previously noted, a study by the Federal Reserve

¹⁷ 47 U.S.C. § 1302(a).

¹⁸ 47 U.S.C. § 257(b).

¹⁹ Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 14-126, *2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment*, 30 FCC Red. 1375, 1377 ¶ 2 (2015) (“*2015 Broadband Progress Report*”).

²⁰ U.S. GOV’T ACCOUNTABILITY OFF., GAO-15-473, INTENDED OUTCOMES AND EFFECTIVENESS OF EFFORTS TO ADDRESS ADOPTION BARRIERS ARE UNCLEAR, 9 (2015) (“GAO REPORT ON EFFORTS TO ADDRESS

found that students with a computer and broadband access at home “have six to eight percentage point higher graduation rates than similar students who don’t have home access to the Internet.”²¹

When students have access to such a powerful tool, teachers are quick to utilize it. As Commissioner Rosenworcel has noted, about seven in ten teachers assign homework that requires access to the Internet.²² However, because so many students lack access at home, some school districts decline to assign homework that requires Internet research. Educators are aware that a lack of Internet access at home puts students at a disadvantage with regards to completing classwork, and many face a no-win choice between assigning homework they know some students can’t complete, or leaving all of their students unprepared for life after high school if online learning isn’t emphasized.²³

The number of school children coming from low-income households is immense. Earlier this year, the Southern Education Foundation found that more than half of public school students are from low-income households.²⁴ Data further suggests that these same low-income students are the least likely among their peers to have access to the Internet at home. For instance,

ADOPTION BARRIERS”) (citing ASR ANALYTICS, STUDY DESIGN DELIVERABLES A-B: BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM EVALUATION STUDY (rev. Jan. 30, 2012)).

²¹ Press Release, Federal Communications Commission, FCC and Connect to Compete Tackle Broadband Adoption Challenge (Oct. 13, 2011), *available at* <http://transition.fcc.gov/statelocal/Connect-to-Compete-March-08-2012.pdf> (last accessed Aug. 24, 2015) (“*Broadband Adoption Challenge Press Release*”) (citing Daniel O. Beltran et al., *Home Computers and Educational Outcomes: Evidence from the NLSY97 and CPS* (Board of Governors of the Federal Reserve System International Finance Discussion Papers, Working Paper No. 958, 2008), *available at* <http://www.federalreserve.gov/pubs/ifdp/2008/958/ifdp958.pdf>).

²² Comm’r Jessica Rosenworcel, *Bridging the Homework Gap*, THE HUFFINGTON POST (Jun. 15, 2015), http://www.huffingtonpost.com/jessica-rosenworcel/bridging-the-homework-gap_b_7590042.html.

²³ See EVERETT, *supra* note 16, at 3 (June 2015). See also Anton Troianovski, *The Web-Deprived Study at McDonald’s*, WALL ST. J., Jan. 28, 2013, *available at* <http://www.wsj.com/articles/SB10001424127887324731304578189794161056954>.

²⁴ SOUTHERN EDUCATION FOUNDATION, A NEW MAJORITY: LOW INCOME STUDENTS NOW A MAJORITY IN THE NATION’S PUBLIC SCHOOLS, at 2, n.1 (Jan. 2015), *available at* <http://www.southerneducation.org/getattachment/4ac62e27-5260-47a5-9d02-14896ec3a531/A-New-Majority-2015-Update-Low-Income-Students-Now.aspx> (defining “low-income” households as those eligible for free or reduced lunch, or below 185 percent of the poverty threshold).

teachers in high-poverty schools are more likely than teachers in more affluent schools (56 percent to 21 percent, respectively) to cite students' lack of resources and access to digital technologies as a challenge in their classrooms. Meanwhile, only three percent of teachers in high-poverty schools believe their students have the digital tools they need to effectively complete assignments while at home.²⁵ And Pew Research Center reports, “[t]eachers with the lowest income students are the least likely to say their students have sufficient access to the digital tools they need, both in school and at home.”²⁶

The lack of home broadband access is creating a skills and achievement gap between those with and without access to broadband at home. Earlier this year, the Hispanic Heritage Foundation explained—“[a]s education delivery becomes more dependent on web-based technologies, students with less access to those tools are at a disadvantage,”—a situation that both creates and exacerbates a “skill and experience gap between those who are regularly connected, to those who are not.”²⁷

Truly frustrating is the fact that the educational benefits of broadband Internet access service are uniquely well-suited to help narrow the achievement gap between students from disadvantaged backgrounds and their more affluent peers. Research shows that if at-risk students gain ready access to appropriate technology and tools and use them in thoughtful ways, they can make substantial gains in learning and technological readiness.²⁸

²⁵ LINDA DARLING-HAMMOND ET AL., STANFORD CTR. FOR OPPORTUNITY POLICY IN EDUC., USING TECHNOLOGY TO SUPPORT AT-RISK STUDENTS' LEARNING, at 2-3, fig. 2 (Sept. 2014).

²⁶ KRISTEN PURCELL ET AL., PEW RESEARCH CTR., HOW TEACHERS ARE USING TECHNOLOGY AT HOME AND IN THEIR CLASSROOMS, at 2 (Feb. 28, 2013), *available at* http://www.pewinternet.org/files/old-media/Files/Reports/2013/PIP_TeachersandTechnologywithmethodology_PDF.pdf.

²⁷ HISPANIC HERITAGE FOUND., TAKING THE PULSE OF THE HIGH SCHOOL STUDENT EXPERIENCE IN AMERICA: RESEARCH FINDINGS, ACCESS TO TECHNOLOGY, at 1-2 (Apr. 29, 2015), *available at* https://www.fosi.org/documents/142/Taking_the_Pulse_Phase_1_Research_Findings_FINAL.pdf.

²⁸ EVERETT, *supra* note 16, at 3-4.

Employment and Job Training

Internet access is all but essential to find a job, apply for a job, and gain the skills needed for career advancement. In 2011, the FCC noted that over 80 percent of Fortune 500 companies—including major employers such as Wal-Mart, Target, Costco, and ExxonMobil—require applicants to apply for jobs online.²⁹ As of 2012, over 2.5 million U.S. businesses used the Internet to advertise job openings or accept job applications, including approximately 139,000 businesses that only accept online job applications.³⁰ The Federal Government itself strongly encourages job seekers to apply online.³¹

While low-income households are most likely not to have a broadband subscription, when low-income users are connected, they are more likely than wealthier users to look for work or apply for a job online.³² Additionally, Internet access appears to have a positive correlation with improving employment prospects. Those who use the Internet or live in a household where someone else uses the Internet are more likely to have a job than individuals for which neither is true.³³

The Internet also provides immense benefits for flexibility and advancement in the workplace. It provides subscribers with more flexibility to pursue different types of jobs and work arrangements, including those that require or allow teleworking. Approximately 2.4 million

²⁹ *Broadband Adoption Challenge Press Release*. See also NAT'L TELECOMM. AND INFO. ADMIN. AND ECON. STATISTICS ADMINISTRATION, U.S. DEPT. OF COMMERCE, EXPLORING THE DIGITAL NATION: AMERICA'S EMERGING ONLINE EXPERIENCE, 6, June 2013, available at http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_-_americas_emerging_online_experience.pdf (“AMERICA'S EMERGING ONLINE EXPERIENCE”).

³⁰ CONNECTED NATION, THE 2012 JOBS AND BROADBAND REPORT: NATIONAL PROJECTIONS ON HOW AMERICAN BUSINESSES USE COMPUTERS AND BROADBAND TO GROW, HIRE, AND THRIVE, 1, May 2012, http://www.connectednation.org/sites/default/files/connected-nation/files/cn_biz_whitepaper2012_final.pdf (“CONNECTED NATION 2012 JOBS AND BROADBAND REPORT”).

³¹ See U.S. GENERAL SERVICES ADMINISTRATION, Using USAJOBS, <http://www.gsa.gov/portal/content/105310> (last accessed Aug. 30, 2015).

³² JOHN B. HARRIGAN, FEDERAL COMMUNICATIONS COMMISSION, BROADBAND ADOPTION AND USE IN AMERICA 7 (2010).

³³ See AMERICA'S EMERGING ONLINE EXPERIENCE at 7-8

U.S. business establishments—both urban and rural, including 1.5 million small businesses with fewer than five employees—allow employees to telework, and that number is rising.³⁴ And digital literacy itself is critical to competing in the modern job market. In 2011, half of all jobs required digital literacy skills; that number is expected to rise to 77 percent by 2021.³⁵ It is no surprise, then, that Internet access and digital literacy is increasingly critical to both employed and unemployed individuals.³⁶

Health Care

Broadband is increasingly how Americans access health care information and services. According to the Government Accountability Office (“GAO”), “[b]roadband provides consumers the ability to research health issues, obtain and share personal health information with third parties, and to communicate with doctors, including specialists who may work in a different city.”³⁷

Researching health plans and finding medical information are common online activities.³⁸ Approximately 70 percent of Internet users look for health information online.³⁹ Consumers search for health information on a variety of sites, such as specialized health information sites like WebMD; government health sites like PubMed, CDC.gov, Medline, HHS.gov, and

³⁴ See CONNECTED NATION 2012 JOBS AND BROADBAND REPORT at 1, 4 (finding that 24 percent of rural businesses and 35 percent of non-rural businesses allow employees to telework or telecommute).

³⁵ FEDERAL COMMUNICATIONS COMMISSION, BROADBAND ADOPTION TASK FORCE, BROADBAND ADOPTION PRESENTATION TO FCC OPEN MEETING, slide 10 (Nov. 30, 2011), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-311281A1.pdf.

³⁶ See AMERICA’S EMERGING ONLINE EXPERIENCE at 6 (finding that Internet-based job training is common for both employed and unemployed individuals).

³⁷ GAO REPORT ON EFFORTS TO ADDRESS ADOPTION BARRIERS at 9.

³⁸ AMERICA’S EMERGING ONLINE EXPERIENCE at v.

³⁹ PEW RESEARCH CENTER, THE DIAGNOSIS DIFFERENCE 14 (Nov. 26, 2013), *available at* http://www.pewinternet.org/files/old-media//Files/Reports/2013/PewResearch_DiagnosisDifference.pdf.

Medicare.gov; as well as websites for health insurers, doctors, and specific services like iTriage.⁴⁰

Broadband service also allows users to remotely access health care resources. In 2010, GAO found that, “through remote access, telemedicine can allow rural patients to receive medical diagnosis or patient care, including from specialists who are located elsewhere.”⁴¹

Advances in telemedicine are constantly improving patients’ access to health care, even when the patient is far removed from the doctor or hospital.⁴² Broadband is helping older Americans who plan to age in place communicate with doctors and access social support services.⁴³

The National Telecommunications and Information Administration (“NTIA”) reports that Internet users may see improved health care outcomes. Given the number of Americans who look for health information online and the Internet’s strength as an information source, “using it for this purpose may enable individuals to make better choices about their healthcare options.”⁴⁴

Communications

The Internet is, at its core, an invaluable communications tool. E-mail, instant messaging services, social networks, video chat applications, and VoIP calling allow millions of Americans to communicate with friends and family and to conduct business. These services are especially useful for people who need to communicate with those overseas, or for situations where a

⁴⁰ *Id.* at 14-15.

⁴¹ GAO REPORT ON EFFORTS TO ADDRESS ADOPTION BARRIERS at 9 (citing U.S. GOV’T ACCOUNTABILITY OFF., GAO-11-27, TELECOMMUNICATIONS: FCC’S PERFORMANCE MANAGEMENT WEAKNESS COULD JEOPARDIZE PROPOSED REFORMS OF THE RURAL HEALTH CARE PROGRAM (2010)).

⁴² *See e.g.*, FEDERAL COMMUNICATIONS COMMISSION, HEALTH CARE BROADBAND IN AMERICA: EARLY ANALYSIS AND A PATH FORWARD 5 (2010); CENTER FOR TECHNOLOGY AND AGING, TECHNOLOGIES FOR REMOTE PATIENT MONITORING FOR OLDER ADULTS 13 (2010), *available at* <http://www.techandaging.org/RPMPositionPaper.pdf> (“TECHNOLOGIES FOR REMOTE PATIENT MONITORING FOR OLDER ADULTS”).

⁴³ TECHNOLOGIES FOR REMOTE PATIENT MONITORING FOR OLDER ADULTS at 2.

⁴⁴ AMERICA’S EMERGING ONLINE EXPERIENCE at 9.

traditional telephone call is impractical.⁴⁵ Further, broadband provides a means of communications for otherwise socially isolated Americans.⁴⁶

Government Services

Americans regularly use the Internet to interact with government in myriad ways, ranging from searching for the nearest post office, to communicating with elected officials, to submitting comments and letters to government agencies like the FCC. According to GAO, broadband access provides consumers with the opportunity to obtain information about government services, apply for entitlement benefits, such as social security, and complete tasks such as tax filing.⁴⁷

This benefit runs both ways; broadband access allows Americans receive more prompt responses from government officials and agencies. For example, the Internal Revenue Service tells taxpayers that those who file electronic returns receive faster refunds, with direct deposit returns often arriving within ten days—instead of the three weeks required to process paper documents.⁴⁸

Civic Engagement

Broadband is a key tool for fostering civic engagement and awareness of news and current events. According to NTIA, 56 percent of Americans use the Internet to obtain news or other information that can influence civic engagement, and 22 percent of Americans cite the Internet as their primary news source.⁴⁹ Recent studies indicate that the Internet may be more

⁴⁵ NATIONAL BROADBAND PLAN at 59.

⁴⁶ GAO REPORT ON EFFORTS TO ADDRESS ADOPTION BARRIERS at 9.

⁴⁷ *Id.*

⁴⁸ Internal Revenue Serv., When Can I Expect My Refund? (Jan. 2012), <http://www.irs.gov/uac/When-Can-I-Expect-My-Refund%3F> (last accessed Aug. 15, 2015).

⁴⁹ AMERICA'S EMERGING ONLINE EXPERIENCE at 11-12.

effective than television in encouraging civic engagement, particularly when used as a primary news source.⁵⁰

Commerce & Cost Savings

Broadband Internet access also helps users save money by allowing them to comparison-shop across a wide array of vendors and find deals that are unavailable offline.⁵¹ GAO reports, “[s]hopping online . . . enables comparing prices and searching for price discounts, thus lowering the price paid for goods and services.”⁵² Also, some consumer services actually cost more if not purchased online. For example, Delta Airlines charges a \$25.00 fee for booking a ticket by telephone—a charge that is waived when booking a ticket online.⁵³

Research from the Internet Innovation Alliance found that the cost savings the Internet can provide are substantial, particularly for low-income households. A 2012 study reported that, after discounting the average cost of access, broadband connectivity enables households to save \$8,400 per year on necessities like housing, food, transportation, and clothing, as well as bill pay services only available online. The amount of savings attributable to Internet access has been increasing, rising more than 12 percent between 2011 and 2012.⁵⁴

⁵⁰ *Id.* at vi; *see also* GAO REPORT ON EFFORTS TO ADDRESS ADOPTION BARRIERS at 10.

⁵¹ *See* GAO REPORT ON EFFORTS TO ADDRESS ADOPTION BARRIERS at 10 (citing U.S. GOV’T ACCOUNTABILITY OFF., GAO-14-471, TELECOMMUNICATIONS: USDA SHOULD EVALUATE PERFORMANCE OF THE RURAL BROADBAND LOAN PROGRAM (2014); U.S. GOV’T ACCOUNTABILITY OFF., GAO-13-562T, U.S. POSTAL SERVICE: URGENT ACTION NEEDED TO ACHIEVE FINANCIAL STABILITY (2013)).

⁵² *Id.* at 10.

⁵³ Delta Airlines, Direct Ticketing Charges, http://www.delta.com/content/www/en_US/traveling-with-us/planning-a-trip/booking-information/optional-fees-services/direct-ticketing-charges.html (last accessed Aug. 10, 2015).

⁵⁴ Press Release, Internet Innovation Alliance, Report: Americans Save \$8,800 Annually Thanks to Internet (Nov. 14, 2012), <http://www.internetinnovation.org/press-room/broadband-news-press-releases/report-americans-save-8800-annually-thanks-to-internet/> (last accessed Aug. 15, 2015).

Finally, consumers regularly use the Internet to access financial services. More than half of broadband users rely on the Internet for banking.⁵⁵ Consumers are increasingly using mobile broadband services to make mobile payments or pay bills online using an app.⁵⁶

2. Affordability is a Significant Barrier to Broadband Adoption for Low-Income Households.

Broadband is unaffordable, and thus unavailable, to too many low-income Americans. As NTIA has reported “people with low incomes, less education, or disabilities, as well as unemployed individuals or seniors, certain minorities, and non-family households, are on the wrong side of the [digital] divide.”⁵⁷ As a result, millions of Americans are unable to access the education, health care, employment, and social service resources that are available online. Tragically, these are the very resources that could help low-income households find greater opportunities and firm economic footing.

Affordability is an essential part of access to telecommunications services. It is meaningless to make broadband service “available” to low-income consumers if it is so expensive that those consumers cannot purchase it. The concept that affordability is an essential component of access and availability is implicit in the provision of universal service.

Beginning in 1934, the Communications Act’s universal service mandate contemplated that the Commission should make communication available to “all the people of the United States . . . at *reasonable charges*.”⁵⁸ In 1985, the Commission created the Lifeline program and

⁵⁵ AMERICA’S EMERGING ONLINE EXPERIENCE at vi.

⁵⁶ See BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, CONSUMERS AND MOBILE FINANCIAL SERVICES 2015, 1-2 (2015), *available at* <http://www.federalreserve.gov/econresdata/consumers-and-mobile-financial-services-report-201503.pdf>.

⁵⁷ NAT’L TELECOMM. AND INFO. ADMIN., DIGITAL NATION: EXPANDING INTERNET USAGE 28 (2011), *available at* http://www.ntia.doc.gov/files/ntia/publications/ntia_internet_use_report_february_2011.pdf.

⁵⁸ Communications Act of 1934, ch. 652, title I, sec. 1, 48 Stat. 1064 (1934), codified as amended at 47 U.S.C. § 151 (emphasis added).

reaffirmed the connection between affordability and availability.⁵⁹ Similarly, in 2012, the Commission found that “[f]or broadband to be ‘available’ to a low-income consumer . . . the broadband service . . . must be affordable and provide a sufficient level of robustness (e.g., bandwidth) to meet basic broadband needs.”⁶⁰ The Commission clarified that its understanding of this goal is “consistent with the plain meaning of ‘available’ and is consistent with (although distinct from) our findings . . . in which we have observed that an inquiry into availability requires us to examine more than strict deployment.”⁶¹

NTIA has recognized that “[t]he continued persistence of financial and other barriers to Internet use is an urgent problem to policymakers” because of how integral the Internet is to daily life in the U.S.⁶² According to the *Financial Times*, the Organisation for Economic Co-Operation and Development found that the U.S. has some of the least affordable broadband service in the industrialized world.⁶³ As a result, broadband is too expensive for many low-income households. Only 48 percent of households earning less than \$25,000 per year subscribe to broadband Internet access service, while 95 percent of those with incomes over \$150,000 are online.⁶⁴ GAO research found that affordability is the most frequently identified barrier to

⁵⁹ *MTS/WATS Market Structure Order* at 939 ¶ 8.

⁶⁰ *2012 Lifeline Reform Order* at 6674 ¶ 34

⁶¹ *Id.*

⁶² NAT’L TELECOMM. INFO. ADMIN., *EXPLORING THE DIGITAL NATION: EMBRACING THE MOBILE INTERNET*, at i, (2014), *available at* http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_embracing_the_mobile_internet_10162014.pdf (“EMBRACING THE MOBILE INTERNET”).

⁶³ See David Crow, *Digital divide exacerbates US inequality*, *FIN. TIMES*, Oct. 26, 2014, <http://www.ft.com/intl/cms/s/2/b75d095a-5d76-11e4-9753-00144feabdc0.html> (last accessed Aug. 22, 2015) (explaining the Organisation for Economic Co-Operation and Development ranks the U.S. 30 out of 33 for broadband affordability, with an average price per month of \$44 for 2.5 Mbps.; Comparatively, the average price in the United Kingdom is \$26 per month, \$22 per month in Greece, and \$16 per month in South Korea).

⁶⁴ THOM FILE AND CAMILLE RYAN, U.S. CENSUS BUREAU, *COMPUTER AND INTERNET USE IN THE UNITED STATES: 2013* at 3, table 1 (2014), *available at* <http://census.gov/history/pdf/2013computeruse.pdf>.

Internet adoption.⁶⁵ Low-income households (earning less than \$25,000 per year) are the most likely to cite financial concerns as the primary reason they lack residential Internet service; “they are also the least likely to say they had no interest or need for such service.”⁶⁶ Further, households that have dropped home Internet access frequently cite expense as the reason why they no longer subscribe.⁶⁷

The unemployed also typically cite the cost of access as the reason why they are not online,⁶⁸ although they appear eager to have broadband access.⁶⁹ Lack of broadband for the jobless is particularly difficult because finding and applying to jobs is increasingly an activity that requires Internet access. Mirroring the fact that education levels tend to coincide with income levels, less than half of households headed by someone without a high school diploma have an Internet connection, compared to over 90 percent of households headed by a college graduate.⁷⁰

The lack of widely available affordable broadband is also expressed in geographic terms. According to the Council of Economic Advisors, America’s most affluent areas have home Internet adoption rates of 80 to 90 percent, while areas with the lowest median incomes have adoption rates around 50 percent.⁷¹ Cities like Detroit and Flint in Michigan and Macon, Georgia have median household incomes below \$25,000, along with correspondingly low household broadband adoption rates below 50 percent. The fact that a majority of families in some of

⁶⁵ GAO REPORT ON EFFORTS TO ADDRESS ADOPTION BARRIERS at 11.

⁶⁶ EMBRACING THE MOBILE INTERNET at 30-31, fig. 19.

⁶⁷ See AMERICA’S EMERGING ONLINE EXPERIENCE at 38-39, fig. 28.

⁶⁸ *Id.* at 39.

⁶⁹ EMBRACING THE MOBILE INTERNET at 27 (the unemployed are amongst the least likely non-subscribers to say they don’t have a strong interest having broadband Internet access).

⁷⁰ THE WHITE HOUSE, COUNCIL OF ECON. ADVISORS, MAPPING THE DIGITAL DIVIDE at 2 (2015), https://www.whitehouse.gov/sites/default/files/wh_digital_divide_issue_brief.pdf (last accessed Aug. 25, 2015).

⁷¹ *Id.* at 2.

America's poorest cities do not have a broadband connection "shows how the 'digital divide' is exacerbating inequality" in the United States.⁷² And low broadband adoption rates are not just an urban problem. Low-income Americans in rural areas also have very low adoption rates; households with incomes of less than \$25,000 have adoption rates of only 36 percent.⁷³

3. Modernizing Lifeline to Support Broadband Will Help Narrow the Digital Divide.

Modernizing Lifeline to support broadband will help low-income households access modern telecommunications services, helping narrow the digital divide and improve the opportunities available to millions of unconnected Americans. For two decades, Lifeline has successfully helped low-income Americans access telephone service, narrowing the adoption gap. Extending Lifeline support to broadband Internet access services should be similarly successful.

The Commission has recognized the success of the Lifeline program in increasing low-income telephone adoption rates and closing the adoption gap. In 1984, there was a twelve percent gap in telephone penetration rates between low-income (defined as households with annual income under \$10,000) and non-low-income households. With Lifeline, that gap had narrowed to four percent by 2011.⁷⁴ The adoption of telephone service in households living at or below 200% of the federal poverty line has jumped from 80.1 percent in 1984 to 92.6 percent today.⁷⁵

⁷² David Crow, *supra* note 63.

⁷³ AMERICA'S EMERGING ONLINE EXPERIENCE at vii.

⁷⁴ 2012 *Lifeline Reform Order* at 6664 ¶ 15.

⁷⁵ *Overview of the National Broadband Plan*, 18 COMMLAW CONSPECTUS, 517, 538 (2010) (explaining that low-income telephone subscribership increased from 80.1 percent in 1984 to 89.7 percent in 2008); see FED. COMMUNICATIONS COMMISSION, UNIVERSAL SERVICE MONITORING REPORT table 3.1 (Oct. 2014). Income brackets in the table are calculated using 1984 dollars; the lowest income bracket, sub-\$9,999, reflects approximately twice the federal poverty level of \$4,980 annual income in 1984. See Prior HHS Poverty

Modernizing Lifeline to support broadband Internet access service can help achieve similar results. According to research by Connected Nation and the Commission, “[e]xpanding access to high-speed Internet communications for millions of Americans in rural and urban areas can be achieved, in part, through a system of discounts on broadband service for qualifying low-income consumers.”⁷⁶ These discounts could help millions of low-income Americans become broadband subscribers,⁷⁷ because reductions in the cost of service will have a positive effect on increasing adoption rates amongst price-sensitive consumers. While price subsidies alone won’t close the adoption gap, they will help narrow it by providing the opportunity for millions of low-income Americans to get online.⁷⁸ This is particularly true if the program is paired with parallel efforts to provide needed support to get low-income households online.

Research suggests that some Americans cite disinterest and lack of relevance as the reason why they do not subscribe to broadband, and other non-adopters believe the Internet is too difficult to use.⁷⁹ However, other findings show that these individuals may yet find the Internet relevant and may subscribe someday. Many non-adopters who claim they don’t use the Internet—or that it is irrelevant—ask friends or family to go online to look something up or

Guidelines and Federal Register References, Dept. of Health and Human Services, <http://aspe.hhs.gov/prior-hhs-poverty-guidelines-and-federal-register-references> (last accessed Aug. 31, 2015).

⁷⁶ OCTAVIAN CARARE ET AL., THE WILLINGNESS TO PAY FOR BROADBAND OF NON-ADOPTERS IN THE U.S.: ESTIMATES FROM A MULTI-STATE SURVEY 2 (Nov. 18, 2014).

⁷⁷ *Id.* at 15.

⁷⁸ See CONNECTED NATION, FCC PROPOSES TO DISCOUNT BROADBAND COSTS FOR LOW-INCOME HOUSEHOLDS at 1 (Jun. 18, 2015), *available at* http://www.connectednation.org/sites/default/files/bb_pp/fcc_lifeline_broadband_proposal_policy_brief_6_18_2015.pdf (last accessed Aug. 27, 2015) (citing CARARE ET AL., *supra* note 76).

⁷⁸ CARARE ET AL., *supra* note 76; Federal Communications Commission, Wireline Competition Bureau Announces Posting of Broadband Data From Urban Rate Survey And Seeks Comment on Calculation of Reasonable Comparability Benchmark For Broadband Services, WC Docket No. 10-90, *Public Notice*, 29 FCC Rcd. 7992, 7994 (2014).

⁷⁹ KATHRYN ZICKUHR, PEW RESEARCH CTR., WHO’S NOT ONLINE AND WHY? at 2 (Sept. 25, 2013), *available at* http://www.pewinternet.org/files/old-media/Files/Reports/2013/PIP_Offline%20adults_092513_PDF.pdf.

complete a task for them.⁸⁰ And GAO has reported that those who don't use the Internet may not be aware of its benefits, or that other underlying factors, such as affordability, drive their self-declared lack of interest.⁸¹ Therefore, the Commission should not write off those who claim they are uninterested in broadband access; these individuals may be future adopters if broadband access is made affordable.

4. Widespread Internet Adoption Provides Significant Societal Benefits.

Lifeline-eligible households will clearly benefit from the modernization of Lifeline to support broadband Internet access service. Additionally, there are numerous societal benefits and positive network effects that justify policies aimed at increasing broadband affordability and adoption by low-income Americans.⁸²

There are great economic benefits to widespread Internet adoption by low-income households. For example, NTIA has found that when disadvantaged groups finally get online, they use the Internet to find jobs, helping both the individual, and the nation's economy.⁸³ Broadband adoption can also have broader effects on "our nation's job base, productivity, competitiveness, economic growth, and ultimately, our standard of living."⁸⁴ Helping the disconnected get online can create new economic opportunities, including helping communities build more highly skilled workforces.⁸⁵

⁸⁰ *Id.* at 3.

⁸¹ *GAO Report on Efforts to Address Adoption Barriers* at 36.

⁸² *See* CARARE ET AL., *supra* note 76 at 15.

⁸³ AMERICA'S EMERGING ONLINE EXPERIENCE at ii.

⁸⁴ THOM FILE AND CAMILLE RYAN, *supra* note 64, at 1.

⁸⁵ NATIONAL HOUSING CONFERENCE ("NHC"), NHC CONNECTIVITY WORKING GROUP, BROADBAND CONNECTIVITY IN AFFORDABLE HOUSING: POLICY RECOMMENDATIONS, at 1 (2015), http://media.wix.com/ugd/19cfbe_bd307c210d2340b6b439df628ef8c041.pdf (last accessed Aug. 18, 2015)

Additionally, “[w]idespread Internet use provides numerous societal benefits, including increased civic engagement, economic growth, and enhanced productivity.”⁸⁶ The benefits of increasing broadband adoption can include higher employment rates, improving public health, and a more engaged citizenry.⁸⁷ Finally, “[a]ll consumers, not just low-income consumers, receive value from the networked effects of widespread voice and broadband subscribership.”⁸⁸ The benefits of universal service accrue to everyone because communications networks increase in value as they add users.⁸⁹

B. The Commission Has the Requisite Legal Authority to Modernize Lifeline to Support Broadband.

1. Broadband is a Telecommunications Service, and Including Broadband as a Lifeline Supported Service is Consistent with the Communications Act.

As the Commission correctly noted in its *2012 Lifeline Reform Order*, it has authority under sections 254 and 706 of the Communications Act “to provide support for modern networks capable of providing both voice and broadband and to condition receipt of support for the provision of voice telephony on the offering of broadband services over those networks.”⁹⁰

The universal service language of section 254 explicitly mandates that the FCC work to ensure “[a]ccess to advanced telecommunications and information services ... in all regions of the Nation”⁹¹ and that these services “should be available at just, reasonable, and affordable rates.”⁹² The communications landscape is no longer a purely telephony-based network; it has, instead, shifted to one that relies on digital communication and connectivity.

⁸⁶ AMERICA’S EMERGING ONLINE EXPERIENCE at 1.

⁸⁷ *Id.* at 5.

⁸⁸ *2012 Lifeline Reform Order* at 6665 ¶ 17.

⁸⁹ Inst. of Electrical and Electronics Engineers, *Metcalf’s Law is Wrong* (Jul. 1, 2006), <http://spectrum.ieee.org/computing/networks/metcalfes-law-is-wrong> (last accessed Aug. 27, 2015).

⁹⁰ *See 2012 Lifeline Reform Order* at 6656, 6757 ¶¶ 328-331.

⁹¹ 47 U.S.C. § 254(b).

⁹² 47 U.S.C. § 254(a).

But, in the words of writer William Gibson, “[t]he future is here; it’s just not very evenly distributed.”⁹³ Low-income Americans have extremely limited access to broadband, with only 48 percent of households making under \$25,000 having access to broadband connections at home—as compared to 95 percent of households with incomes of \$150,000 or more.⁹⁴

In short, updating Lifeline to include broadband Internet access is not only wise public policy; it is a necessary implementation of the Commission’s statutory mandate to close the digital divide and provide increasingly critical services to those who would otherwise be left behind.⁹⁵

2. The Commission Has the Requisite Legal Authority to Modernize Lifeline to Support Broadband.

Lifeline, like all Universal Service programs, was explicitly designed to evolve in coverage over time. The Commission holds broad authority to expand Lifeline support to broadband under multiple statutory provisions. Section 254(c) makes clear that Universal Service is intended to encompass “an evolving level of telecommunications services” and calls for the Commission to periodically establish coverage parameters, “taking into account advances in telecommunications and information technologies and services.”⁹⁶ Federal courts have also acknowledged that section 254(e) can be reasonably interpreted as an implicit grant of authority to the Commission to “specify what a USF recipient may or must do with the funds” granted to it.⁹⁷ The courts have also acknowledged the Commission’s right to require USF recipients to

⁹³ *Talk of the Nation: The Science in Science Fiction* (National Public Radio broadcast, Nov. 30, 1999).

⁹⁴ See THOM FILE AND CAMILLE RYAN, *supra* note 64 at 3, table 1.

⁹⁵ *Lifeline Modernization FNPRM* at 7818 ¶ 7.

⁹⁶ 47 U.S.C. § 254(c).

⁹⁷ *Cedar Valley, LLC v. FCC* (In re FCC 11-161), 753 F.3d 1015, 1046 (10th Cir. 2014).

provide services that fall outside of the current definition of USF coverage, or build facilities related to those services.⁹⁸

The Commission also has independent statutory authority under section 706(b) to provide universal service support—including Lifeline—for broadband service. Section 706(b) grants the Commission broad authority to “take immediate action to accelerate deployment of [advanced telecommunications] capability by removing barriers to infrastructure and by promoting competition in the telecommunications market.”⁹⁹ The FCC concluded in its *2015 Broadband Progress Report* that broadband is not being deployed “in a reasonable and timely fashion,” thus triggering its duty to take immediate action under section 706(b).¹⁰⁰ The Commission further identified affordability as a barrier to deployment,¹⁰¹ and has previously concluded that Lifeline support would remove barriers to infrastructure investment in broadband.¹⁰²

II. LIFELINE CUSTOMERS SHOULD BE PERMITTED TO SUBSCRIBE TO THE VOICE OR BROADBAND SERVICE OF THEIR CHOICE.

The Commission should create a portable Lifeline benefit that customers can use for the service they want with the service provider of their choosing. Lifeline subscribers should have the flexibility to use the Lifeline subsidy to purchase the voice or broadband service that meets their needs, regardless of whether the service is fixed or mobile, standalone or part of a bundle. Communications services that are widely available to the public should be eligible for Lifeline support. However, services that are specifically targeted to Lifeline subscribers, rather than to the

⁹⁸ *Id. Cf.* *City of Arlington, Tex. v. F.C.C.*, 133 S. Ct. 1863, 1870 (2013) (deference extends to an agency's interpretation of the scope of its own authority under a statute); *Kobach v. U.S. Election Assistance Comm'n*, 772 F.3d 1183, 1190 (10th Cir. 2014) (*Chevron* deference is applied to agency's interpretation of its enabling statute); *Mitchell v. C.I.R.*, 775 F.3d 1243, 1247 (10th Cir. 2015) (deference is appropriate where Congress has tasked an agency with promulgating rules to achieve a legislative end), *et al.*

⁹⁹ 47 U.S.C. § 1302(b).

¹⁰⁰ *2015 Broadband Progress Report* 1378 ¶ 4.

¹⁰¹ FED. COMMUNICATIONS COMMISSION, 2011 SEVENTH BROADBAND PROGRESS REPORT, 26 FCC Rcd. 8011 ¶ 4.

¹⁰² *FNPRM* 6799 ¶ 342.

general public, should be required to meet minimum service standards that support the functionality consumers expect from broadband Internet access services.

A. Lifeline Customers Should be Permitted to Subscribe to the Fixed or Mobile Broadband Service They Believe Best Fits Their Needs.

As the Commission modernizes the Lifeline program to support broadband Internet access service, the Commission should permit subscribers to use the Lifeline subsidy to purchase the broadband access service that best meets their needs. At this time, the Commission should refrain from setting minimum service standards for services eligible to receive Lifeline support that are also available to the general public, and allow subscribers to use the subsidy for any widely available fixed or mobile broadband service.

In the *2015 Broadband Progress Report*, the Commission found that available broadband speeds varied depending on geographic location (urban areas typically have access to faster speeds than rural and Tribal areas), population density (densely populated areas typically have access to faster speeds than more sparsely populated areas), and median household income (areas with higher median household incomes typically have access to faster speeds than lower income areas).¹⁰³ If the Commission establishes minimum broadband speeds for Lifeline supported services that are faster than the speeds available in some communities, low-income households in those areas may be unable to use the Lifeline subsidy for broadband service because providers in that area may not meet the minimum standard.

There is a risk that by refraining from setting minimum service standards, subscribers could be left with a Lifeline subsidy, and only subpar service offerings on which to use it. To address this potential problem, the Commission should modernize the Lifeline benefit so that it empowers customers to drop low-quality services for services that are faster, more reliable, and

¹⁰³ See *2015 Broadband Progress Report* at 1416-44 ¶¶ 78-119.

better priced. To allow for customers to seamlessly change service providers, the Commission should take steps to prevent customer lock-in. Designing the broadband for Lifeline program so that customers can easily change service providers will encourage broadband providers to offer higher quality products at competitive rates, providing customers with better service to customers and more value for every universal service dollar.

Additionally, consistent with the Commission's *2012 Lifeline Reform Order*, Lifeline customers should be permitted to apply the broadband Lifeline subsidy toward the cost of bundled services.¹⁰⁴ As the Commission has recognized, bundled service packages are increasingly common and include voice and broadband services, can lower costs, and allow customers to customize the service package to best meet their needs.¹⁰⁵

B. Minimum Service Standards Should be Established for Broadband Services Specifically Targeted at Lifeline Subscribers.

The Commission should ensure that fixed and mobile broadband services that are targeted specifically at Lifeline subscribers, and not widely available to other customers, are adequate to provide the functionality customers need to participate in the economy to move toward self-sufficiency. Services targeted solely to Lifeline subscribers must not be substandard.

Broadband services aimed only at Lifeline subscribers should support sufficient speed and capacity to enable users to perform a full range of activities online, including searching and applying for jobs, and performing job-related functions and training. Additionally, these services should support user access to digital education resources, health care, social and government services, and public safety, as well as participation in civic discourse. Services that do not offer sufficient functionality are not an efficient use of universal service dollars because they will be

¹⁰⁴ See *2012 Lifeline Reform Order* at 6790-93 ¶¶ 310-320.

¹⁰⁵ *Id.* at 6790 ¶ 310.

inadequate for helping customers use Lifeline as a stepping-stone to economic stability and improve the educational opportunities for their children.

C. Lifeline Should Continue to Support Fixed and Mobile Voice Service.

Even as Lifeline is modernized to support broadband service, Lifeline-eligible households should continue to have the option to use the Lifeline subsidy for voice service. As recently as 2012, the Commission reiterated its commitment through the Lifeline program of ensuring the availability of voice service for low-income Americans, concluding, “voice service remains a prerequisite for full participation in our economy and society.”¹⁰⁶ The Commission should keep this commitment and continue to offer Lifeline support for both fixed and mobile voice service.

Basic voice service continues to be a critical communications service; people still rely on it to conduct business, communicate with loved ones, and to contact emergency services.¹⁰⁷ In 2012, the Commission explained that it had heard from numerous low-income consumers who explained that the Lifeline subsidy enabled them to afford voice service, and detailed the hardships they would face without access to basic telephone service.¹⁰⁸ For millions of unemployed and underemployed Americans, Lifeline enables them to maintain voice service. A stable telephone number is necessary for low-wage workers to pick up extra shifts or jobs, coordinate transportation and child care logistics, and inform employers if work will be missed due to an emergency or illness. In short, voice service is critical for millions of Americans looking for work and keeping a job.¹⁰⁹

¹⁰⁶ *Id.* at 6671 ¶ 27, 6665-66 ¶ 17.

¹⁰⁷ Press Release, Federal Communications Commission, FCC Reforms, Modernizes Lifeline to Keep Low-Income Americans Connected to Jobs, Family, 911 Services (Jan. 31, 2012), https://apps.fcc.gov/edocs_public/attachmatch/DOC-312210A1.pdf (last accessed Aug. 24, 2015).

¹⁰⁸ *2012 Lifeline Reform Order* at 6664 ¶ 15.

¹⁰⁹ *Id.* at 6664-6666 ¶ 15-17.

Voice service is also essential for communicating with health care providers or contacting public safety or emergency services. For instance, a stable telephone number is important for patients waiting for follow-up communications from health care providers. Households without a telephone number (fixed or wireless) may be unreachable for health care providers following up with test results or time sensitive information. Also, those without voice service are unable to reach 9-1-1 for help in an emergency and cannot be reached by public health or public safety authorities.

Further, interconnected voice service remains a basic service by virtue of the number of people who continue to rely on it. As of June 2013, the Wireline Competition Bureau found there were 441 million retail telephone connections in the United States. Ninety million of those lines were end-user switched access lines, 45 million were interconnected VoIP lines, and 306 million were mobile subscriptions. Just accounting for residential fixed voice service, there was still one such active line for every four people in the U.S.¹¹⁰ Additionally, the most recent available data show that over 13.6 million people subscribed to Lifeline supported voice service in April 2014. In 2013, over 14.1 million people relied on Lifeline to access basic voice service.¹¹¹

Finally, voice service is necessary to access various government services and support programs. Access to basic telephone service is presupposed throughout U.S. law and regulation. Many federal and state government social services assume telephone access to share information, receive complaints, or file appeals.¹¹² Thus, Lifeline should continue to support both fixed and

¹¹⁰ See FEDERAL COMMUNICATIONS COMMISSION, INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, WIRELINE COMPETITION BUREAU, LOCAL TELEPHONE COMPETITION: STATUS AS OF JUNE 30, 2013, at 1-2 (2014).

¹¹¹ FED. COMMUNICATIONS COMMISSION, UNIVERSAL SERVICE MONITORING REPORT at 25, table 2.3 (2014).

¹¹² See FEDERAL COMMUNICATIONS COMMISSION, *Lifeline Program for Low-Income Consumers*, <http://www.fcc.gov/lifeline> (last accessed Aug. 24, 2015) (detailing that a federal program that assists low-income individuals access telephone service has been in place since 1985, implying that the government presumes individuals have access to telephone service); See, e.g., Social Security Admin., Benefits for People

mobile voice service so that low-income consumers continue to have access to the basic and essential connectivity that telephone service provides.

D. Voice Services Targeted at Lifeline Subscribers Should be Comparable to Widely Available Voice Services.

In recent years there has been a noted lack of improvement in the services offered to Lifeline voice customers, and the Commission has suggested that minimum standards for Lifeline supported voice services may be necessary.¹¹³ As Commissioner Clyburn has rightly noted, “[s]econd-class or inferior service is unacceptable and should not be eligible for universal service support, and “[w]e must demand more than . . . *de minimis* service offerings.”¹¹⁴

Americans continue to use voice service for essential communications regarding employment, health care, emergency services, child care, government and social services, and a range of other functions.¹¹⁵ Thus, standalone voice services receiving Lifeline support that are marketed specifically to Lifeline customers should be required to provide service quality and value comparable to services marketed to the general public; these services must not be “second-class.”

with Disabilities, <http://www.ssa.gov/disability/> (last accessed Aug. 27, 2015) (directing applicants whose applications are denied for non-medical reasons to call the Social Security Administration’s toll free telephone number to request an appeal). Public Knowledge has documented that many non-telecommunications laws and policies rely on Americans having universal, reliable access to voice service. See PUBLIC KNOWLEDGE, UNIVERSAL SERVICE IN AN ALL-IP WORLD 16-18 (May 2015).

¹¹³ See *Lifeline Modernization FNPRM* at 7827-28 ¶ 16, 7838-39 ¶¶ 37-42.

¹¹⁴ *Lifeline Modernization FNPRM*, Statement of Commissioner Clyburn at 7949-50.

¹¹⁵ See *supra* Section II.C.

III. THE COMMISSION SHOULD REFORM LIFELINE TO INCREASE COMPETITION FOR LIFELINE CUSTOMERS AND PROMOTE INNOVATIVE SERVICES

A. The Commission Should Streamline the Eligible Telecommunications Carrier (“ETC”) Designation Process to Increase Competition for Lifeline Consumers.

Achieving the goals set forth in section 254(b) requires a robust and competitive marketplace for Lifeline services. The current ETC designation process raises significant barriers to entry for new and innovative providers, including non-traditional and non-commercial providers such as cable companies offering broadband service.¹¹⁶

Given that the goal of the program is to encourage the broadest possible adoption of advanced telecommunications capabilities¹¹⁷, the Commission should not prohibit willing and able entities from establishing Lifeline-eligible programs in underserved communities. As we have previously argued, any individual, organization, or company that can demonstrate an ability to interconnect with recipient networks should be granted a right to do so.¹¹⁸ This includes community-based projects, which can often take root with only a handful of technically proficient individuals. Many communities that have difficulty accessing Lifeline programs would be eager to self-provision, and we have previously supported the waiver of ETC for such providers.¹¹⁹

Opening up participation to non-ETCs would also serve the Commission’s goal of making quality service “available at just, reasonable, and affordable rates.”¹²⁰ The Commission has found that the current lack of competition in the Lifeline voice market has not resulted in

¹¹⁶ See, e.g., Comments of Public Knowledge and Benton Foundation, WC Docket No. 03-109 (filed Apr. 18, 2011).

¹¹⁷ See, e.g., 47 U.S.C. § 254(b)(2)-(3).

¹¹⁸ Comments of Public Knowledge and Benton Foundation, WC Docket No. 03-109 (filed Apr. 18, 2011) at 14.

¹¹⁹ Reply Comments of Public Knowledge and Benton Foundation, WC Docket No. 03-109 (filed Aug. 24, 2011).

¹²⁰ 47 U.S.C. § 254(b)(1).

lower rates or improved quality of service; the quantity of voice minutes offered by ETCs has long remained stagnant.¹²¹ Opening up the Lifeline program to allow for more fluid and vibrant competition provides an opportunity to reverse the current trend.

While competition and flexibility are critical to expanding access to the Lifeline program, the Commission should establish some criteria to prevent fly-by-night service providers and maintain the integrity of the program. The Commission must take this need into consideration when formulating its final rules, and seek to balance broad accessibility with administrative reliability.

B. The Commission Has the Legal Authority to Streamline the ETC Designation Process.

The Commission has broad authority to streamline its own processes, provided the resulting procedure is not “arbitrary, capricious, or an abuse of discretion, or otherwise not in accordance with law.”¹²² The statutory requirements for ETC designation are extremely limited; section 214(e)(1) merely requires that the provider “offer the services that are supported by Federal universal service support mechanisms” (via its own facilities or resale of another’s) and “advertise the availability of such services and the charges therefor using media of general distribution.”¹²³ As the Internet Innovation Alliance noted in an *ex parte* filing, the application of ETC criteria to Lifeline provisioning is even something of an anachronism; the Lifeline program existed prior to the ETC process, and received an explicit exemption from ETC requirements in the 1996 Act.¹²⁴ In short, the FCC has the requisite legal authority to reform and streamline the ETC designation process.

¹²¹ *Lifeline Modernization FNPRM* at 7827-28 ¶16.

¹²² *Camp v. Pitts*, 411 U.S. 138, 14 (1973).

¹²³ 47 U.S.C. § 214(e).

¹²⁴ *Ex parte*, Internet Innovation Alliance, *Bringing the FCC’s Lifeline Program into the 21st Century*, WC Docket No. 11-42, at 23 (filed June 11, 2015).

C. The Commission Should Reform Lifeline to Use Unlicensed Spectrum to Serve Lifeline Subscribers.

The technological progress made in utilizing unlicensed spectrum has the potential to revolutionize broadband access for many Lifeline-eligible communities. Non-traditional carriers, including community organizations, can—and have—utilized spectrum to provide broadband access throughout entire neighborhoods and low-income housing developments. The Commission should promote the use of unlicensed spectrum in two ways: by offering Lifeline support to innovative users of unlicensed spectrum, and reviving successful programs to subsidize wireless-enabled equipment for Lifeline consumers.

As discussed earlier, broadband provision in low-income communities is not limited to a single business model. A wide variety of non-profits, community co-ops, and innovative businesses can use—and have used—unlicensed spectrum to provide access. Unlicensed spectrum as a source of broad connectivity is not merely a hypothetical; it is an ever-growing reality. Since 2013, Harlem Free Wi-Fi has provided free Internet access through public Wi-Fi access points to over 80,000 residents, including over 13,000 residents of low-income housing.¹²⁵ Nor are these successes limited to cities. Tribal Digital Village uses multiple unlicensed spectrum bands to bring connectivity into sovereign tribal lands in southern California.¹²⁶ Going forward, the Commission should craft its rules—particularly those touching on spectrum use—with a mind toward encouraging the growth of these kinds of innovative projects. The Commission should strive to empower local communities and organizations through self-provision, rather than maintaining a rigid legacy system due to inertia.

¹²⁵ City of New York, Mayor Bloomberg Announces Country's Largest Continuous Free Public WiFi Network (Dec. 10, 2013), <http://www1.nyc.gov/office-of-the-mayor/news/394-13/mayor-bloomberg-country-s-largest-continuous-free-public-wifi-network/> (last accessed Aug. 28, 2015).

¹²⁶ TRIBAL DIGITAL VILLAGE, *About TDV*, <http://sctdv.net/node/118> (last accessed Aug. 28, 2015).

To that end, the Commission should also modernize programs to cover the costs of necessary equipment for achieving this goal. High capacity routers, paired with high-capacity lines, can provide high-speed access to multiple homes simultaneously. However, without the availability of subsidies for equipment, the sunk costs of such an endeavor would be prohibitive to many smaller potential providers.

Equipment costs also create barriers to entry for consumers. Modern electronics increasingly assume the presence of Wi-Fi. Multiple generations of Apple’s MacBook laptops, as well as iPads, phones, and other devices no longer feature external Ethernet ports, and rely exclusively on wireless connectivity. In the absence of subsidies to cover the cost of in-home equipment Lifeline consumers are foreclosed from using any of these devices in their homes, effectively locking them out of devices that do not conform to an ever-diminishing technical standard. Previous efforts such as the Link-Up program have been hugely successful in promoting consumer connectivity by offsetting the costs of hardware-based barriers to entry. The Commission should consider how it will address these issues going forward—either through traditional Lifeline subsidies, or through a dedicated fund administered parallel to the Lifeline program.

IV. THE COMMISSION SHOULD REFORM LIFELINE TO ENSURE THE PROGRAM PROVIDES VALUE FOR CONSUMERS AND THE UNIVERSAL SERVICE FUND, MEETS THE PROGRAM’S GOALS, AND PROTECTS THE PROGRAM’S INTEGRITY.

A. The Lifeline Subsidy Should Reflect the Cost of Modern Telecommunications Services.

The Commission should establish the monthly Lifeline subsidy level at an amount that reflects the cost of modern telecommunications services. The Commission will fail to meet its mandate to ensure low-income families have “access to advanced telecommunications and

information services” if the Lifeline broadband subsidy is set at a level that does not meaningfully help put broadband access within reach for those the program is designed to help.

The *Lifeline Modernization FNPRM* proposes permanently setting the Lifeline subsidy at \$9.25 per month.¹²⁷ Data compiled by Connected Nation and the FCC indicate the average price for broadband service in the United States is \$47.48 per month. The proposed \$9.25 per month discount represents an approximately 20 percent reduction in monthly cost.¹²⁸

In determining an appropriate subsidy level, the Commission should analyze the price points at which eligible households will be willing to subscribe to broadband service, the number of households likely to subscribe at each price point, whether some households are unwilling to subscribe altogether (even when offered a free service), and set a subsidy level that will make broadband affordable, and thus available, to all low-income Americans. As a point of reference, although 40 million households were eligible for Lifeline in 2012,¹²⁹ only 17.1 million subscribed—the highest number of Lifeline subscribers in any year.¹³⁰ By April 2014, subscribership shrunk to 13.6 million households.¹³¹

The Commission should also routinely evaluate whether the subsidy level is sufficient to make broadband affordable for low-income subscribers and adjust the subsidy level as necessary to ensure affordable access to services that provide the necessary functionality. This analysis

¹²⁷ *Lifeline Modernization FNPRM* at 7842 ¶ 52.

¹²⁸ CONNECTED NATION, FCC PROPOSES TO DISCOUNT BROADBAND COSTS FOR LOW-INCOME HOUSEHOLDS, at 3 (Jun. 18, 2015), http://www.connectednation.org/sites/default/files/bb_pp/fcc_lifeline_broadband_proposal_policy_brief_6_18_2015.pdf (citing Wireline Competition Bureau Announces Posting of Broadband Data From Urban Rate Survey and Seeks Comment on Calculation of Reasonable Comparability Benchmark for Broadband Services, WC Docket No. 10-90, *Public Notice*, 29 FCC Rcd. 7992, 7994 (2014)).

¹²⁹ U.S. GOV'T ACCOUNTABILITY OFF., GAO-15-638T, TESTIMONY BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS, TECHNOLOGY, INNOVATION AND THE INTERNET, COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, U.S. SENATE at 6 (Jun. 2, 2015).

¹³⁰ FED. COMMUNICATIONS COMMISSION, UNIVERSAL SERVICE MONITORING REPORT at 23, table 2.1 (2014).

¹³¹ *Id.* at 28, table 2.7.

should determine whether Lifeline is effectively making broadband more affordable for eligible households and what the Commission can do to improve the program's effectiveness.

B. Funding for Lifeline Should Reflect the Cost of Helping Eligible Households Access Modern Telecommunications Services.

Funding available for the Lifeline program must be sufficient to allow all eligible low-income households to access the Lifeline subsidy if they choose to do so. The benefits of widespread broadband adoption are immense, with society standing to reap substantial benefits from greater adoption.¹³² Limiting funding for the Lifeline program risks eligible households being turned away from the very support that could help them achieve the economic stability they need to no longer rely on government benefits. The Commission should ensure this does not occur.

As a program targeting low-income households, Lifeline is intended to grow as more households slide into poverty and shrink when they emerge. Establishing a limit on funding for the Lifeline program based on static economic data could cause newly eligible Americans to be turned away. Lifeline-eligible households will necessarily increase during times of economic distress, likely causing the number of Lifelines beneficiaries to rise. The Commission should not take any action that would cause newly eligible households to be refused access to Lifeline.

Additionally, artificially limiting Lifeline program funding is premature. In 2012, the Commission reformed the Lifeline program to protect the program's integrity. While GAO has reported that some of these reforms are in progress or remain incomplete, the reforms that have been implemented have resulted in disbursements declining from \$2.2 billion in 2012 to \$1.7 billion in 2014.¹³³ The Commission should continue to implement these reforms to ensure the

¹³² See *supra* Section I.A.4.

¹³³ U.S. GOV'T ACCOUNTABILITY OFF., GAO-15-335, FCC SHOULD EVALUATE THE EFFICIENCY AND EFFECTIVENESS OF THE LIFELINE PROGRAM at 11 (2015).

program operates as efficiently as possible and extract the maximum value from each universal service dollar.

C. The Commission Should Establish a National Lifeline Eligibility Verifier for Lifeline.

The Commission should establish a national Lifeline eligibility verifier to make subscriber eligibility determinations for the Lifeline program. Doing so is key to protecting the integrity of the Lifeline program.¹³⁴ Among the many benefits of a centralized verifier, subscribers will be able to easily and seamlessly change carriers, universal service funds will be protected, and opportunities for duplicate enrollment will be reduced.

Centralizing eligibility decisions will lower the costs and administrative burdens for carriers to participate in Lifeline. As a result, there should be an uptick in competition for Lifeline customers, which will improve the quality and quantity of services available to subscribers and lower costs, further allowing the universal service fund to extract more value for each dollar spent on Lifeline.

V. THE COMMISSION SHOULD ENSURE THAT CONSUMER PROTECTIONS FOR LIFELINE SUBSCRIBERS ARE SUFFICIENT AND THAT SUBSCRIBERS ARE TREATED WITH DIGNITY.

A. The National Lifeline Eligibility Verifier Must Adequately Secure Lifeline Subscriber Information.

Regardless of the system the Commission decides to implement with regards to eligibility verification, the designated verifier must be held to high standards of security with regard to subscriber information. Eligibility determinations involve the collection and collation of extremely sensitive personal information. Any verifier charged with handling such information should be held to the highest security standards.

¹³⁴ Remarks of Commissioner Mignon Clyburn, Reforming Lifeline for the Broadband Era, Remarks at the American Enterprise Institute (Nov. 12, 2014), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-330453A1.pdf (last accessed Aug. 27, 2015).

B. Lifeline Subscribers Should be Treated with Dignity.

Above all, the verification process must be conducted in a way that respects the fundamental dignity of consumers. As Commissioner Clyburn aptly noted, consumers “no longer should be forced to turn over financially sensitive information to an unknown person, in front of a group of strangers, in a parking lot or tent.”¹³⁵ We cannot underestimate the powerful effect that the embarrassment and loss of privacy can have in deterring enrollment for eligible consumers. The process of enrollment and verification must be done with the utmost respect, privacy, and empathy for those involved. The ability of a consumer to apply for Lifeline benefits from the privacy of their own home, by mail, by phone, or online can lower barriers and encourage broad participation in a critical program.

VI. CONCLUSION.

The Commission should move quickly to adopt its proposal to modernize Lifeline to support broadband Internet access service. By modernizing Lifeline, the Commission can fulfill its mandate to make advanced telecommunications services more accessible.

Respectfully submitted,

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September 1, 2015

¹³⁵ *Lifeline Modernization FNPRM*, Statement of Commissioner Clyburn, at 7949-50.