

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

In the Matter of

Lifeline and Link Up Reform and
Modernization

Federal-State Joint Board on Universal Service

Lifeline and Link Up

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WC Docket No. 11-42

CC Docket No. 96-45

WC Docket No. 03-109

Comments of the Minority Media and Telecommunications Council

The Minority Media and Telecommunications Council (MMTC) respectfully submits these comments in response to the Commission’s Public Notice.¹ MMTC urges the Commission to exercise its authority to implement broadband pilot programs, increase consumer eligibility, and prevent the creation of additional barriers to broadband adoption, while using the pilots to address multiple barriers to broadband adoption. MMTC also urges the Commission to not cap the size of the Lifeline fund or divert funds for other universal service fund (USF) programs, to examine whether to repurpose Link Up funds for hardware support, and to adopt the definition of “household” that was proposed by the Leadership Conference on Civil and Human Rights.

I. LIFELINE/LINK UP BROADBAND PILOT PROGRAMS

The Commission should capitalize on its authority under sections 254 and 706 of the Communications Act to commence work on broadband pilot projects. Section 254 defines universal service as “an evolving level of telecommunications services...”² and section 706 requires the Commission to encourage deployment of advanced telecommunications capability to

¹ See Further Inquiry Into Four Issues in the Universal Service Lifeline / Link Up Reform and Modernization Proceeding, DA 11-1346 (Aug. 5, 2011) (“Notice of Inquiry”).

² 47 U.S.C. §254(c)(1).

all Americans on a reasonable and timely basis.³ If the Commission determines, upon its annual inquiry, that advanced telecommunications capability is not being deployed in a reasonable and timely fashion, the Commission “shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and promoting competition in the telecommunications market.”⁴

The Commission has determined that broadband qualifies as an “advanced telecommunications capability”⁵ and that it is not being deployed to all Americans in a reasonable and timely fashion.⁶ In its section 706 analysis, the Commission determined that the barriers to infrastructure investment and competition include lack of affordable service, access to broadband devices, relevance, and digital literacy.⁷ Thus the Commission should immediately act to remove these barriers by implementing Lifeline/Link Up broadband pilot programs that address these issues.

Given how important broadband is in our digital society,⁸ consumer eligibility for pilot programs should be raised to 150% above the Federal Poverty Guidelines (“FPG”)⁹ to promote

³ “The Commission...shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans...by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.” 47 U.S.C. §1302(a).

⁴ 47 U.S.C. §1302(b).

⁵ See Seventh Broadband Progress Report and Order on Reconsideration, GN Docket No. 10-159 (May 20, 2011), p. 2 n. 2 (“706 Progress Report”) (broadband is defined as service with download speeds of 4 Mbps and upload speeds of 1 Mbps).

⁶ See id. at ¶1.

⁷ See id. at ¶¶5, 65. The Commission also found that “residents of unserved areas tend to have lower incomes, are less educated, and are more likely to self-identify as White [and] tend to live outside of “urban core” areas and tend to reside in areas with lower population density than served areas.” Id. at ¶38 (internal citations omitted).

⁸ See e.g., id. at ¶4 (“The costs of digital exclusion are high and growing: lack of broadband limits healthcare, educational, and employment opportunities that are essential for consumer welfare and America’s economic growth and global competitiveness.”)

greater participation. Lifeline eligibility should be simplified. Raising the eligibility standard to 150% above FPG would promote consistency¹⁰ and ultimately provide more opportunities for low-income individuals to connect to broadband.¹¹

MMTC also endorses the ideas put forth by the National Association of Regulatory Utility Commissioners (NARUC) to prevent barriers to consumer participation.¹² NARUC urged the Commission to ensure that pilot participants are not required to change the phone provider, purchase bundled broadband and voice packages, or be penalized for buying Lifeline/Link Up services and devices.¹³ These recommendations will give low-income consumers the flexibility to choose which provider, services, and devices are best suited to their needs.¹⁴ To implement

⁹ See 2011 Federal Poverty Guidelines, available at <http://www.usac.org/li/tools/latest-news/default.aspx#012811> (follow link to “2011 Federal Poverty Guidelines”) (last visited August 23, 2011) (“FPG”).

¹⁰ See Lifeline and Link Up, Notice of Proposed Rulemaking, 2011 FCC LEXIS 987, FCC 11-32, ¶ Chart 2 (March 4, 2011) (“Lifeline/Link Up NPRM”) (noting that some federal programs, such as LIHEAP have already raised income eligibility to 150% of FPG). See also Government Accountability Office, Telecommunications: Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program, GAO 11-11, p.50 (2010) (“2010 GAO Report”) (“Twenty-two of the 39 states that provide intrastate Lifeline support allow consumers to qualify for the program based on income alone. In 8 states, households may earn up to 135 percent of the federal poverty guideline and be eligible for the Lifeline program. In 2 states the income eligibility threshold is less than 135% of the federal poverty guidelines, and in 11 states it is greater” (internal citations omitted)).

¹¹ See Notice of Inquiry, p. 2 (citing Comments of the Benton Foundation, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 (April 21, 2011), p 10). See also Comments of the Leadership Conference on Civil and Human Rights, Lifeline and Link Up, WC Docket No. 03-109 (April 21, 2011), p. 7 (“LCCR Comments”). See also FPG (at 135% of the FPG a single person household earns \$14,702 and a two or three person household would have to earn less than or equal to \$19,859 or \$25,016 respectively – and add \$5,157 for each person thereafter – in order to qualify for Lifeline/Link Up support. At 150% of the FPG, a single person household earns \$16,335 and a two or three person household would have to earn less than or equal to \$22,065 or \$27,795 respectively – add \$5,730 for each person thereafter).

¹² See Notice of Inquiry, p. 2.

¹³ See id.

¹⁴ See LCCR Comments, p. 9 (One of the improvements LCCR suggest was for the Commission to “ensure low-income consumer maximum flexibility to meet their needs while ensuring companies do not receive compensation for substandard services...”).

these objectives, the Commission should consider a voucher system that would allow participants to subsidize the cost of broadband service or devices of their choosing.¹⁵ The Commission could also work with providers to identify barriers and create a set of best practices for incentivizing participation and ultimately broadband adoption through the Lifeline/Link Up program.

In terms of designing the structure and evaluation methodology of Lifeline/Link Up pilot projects,¹⁶ the Commission should ensure that the final results of the programs address the multiple barriers to broadband adoption including cost of service, digital literacy, relevant content, and cost of equipment.¹⁷ The Commission should combine and analyze data from the pilot programs with data from Broadband Technology Opportunities Program (“BTOP”) awardees to find opportunities for improvement.¹⁸ Further, data collected should be available to the public to allow interested parties an opportunity to submit independent analysis.¹⁹

The Commission should use Lifeline/Link Up to carryout its section 706 duties. By creating and implementing broadband pilot programs that address multiple adoption barriers for a broad base of low-income consumers without creating additional barriers to adoption, the Commission would help to ensure that all Americans not only have access to advanced telecommunications capability but also have the skills to participate in our digital society.

¹⁵ See Comments of the Asian American Justice Center, et al. in Response to NBP Public Notice #19, GN Docket No. 09-51 (Dec. 7, 2009), p. 7.

¹⁶ See Notice of Inquiry, p. 3.

¹⁷ See Comments of the Minority Media and Telecommunications Council, Lifeline and Link Up Reform and Modernization, WC Docket NO. 11-42 (April 21, 2011), p. 8 (“MMTC Lifeline Comments”).

¹⁸ See LCCR Comments, p. 3.

¹⁹ See e.g., id. p. 8 (discussing data gathering for states and carriers).

II. THE COMMISSION SHOULD NOT CAP THE SIZE OF LIFELINE OR DIVERT LIFELINE FUNDS FOR OTHER USE PROGRAMS

The Commission should focus its efforts on increasing the efficiency of the low-income program and improving participation rates rather than reducing the size of the program.

Limiting the size of the Lifeline/Link Up fund would create barriers to first class digital citizenship.²⁰ As we have explained in previous comments, broadband generally and mobile broadband in particular provides a means to overcome the digital divide and impacts nearly every aspect of our lives including searching for jobs or government services, obtaining an education, and participating in e-commerce.²¹

The digital divide remains wide, and deployment and adoption efforts for affordable broadband services and technologies are key components of serving low-income consumers.²² Extending Lifeline/Link Up support to broadband service and increasing program participation rates²³ could have a significant impact on broadband adoption for low-income consumers. Particular attention should also be given to improving broadband adoption for American Indians.²⁴

The Commission should focus its efforts on realizing greater programmatic efficiencies and increasing Lifeline/Link Up participation rates. This will encourage broadband adoption and ultimately first-class digital citizenship rather than stunting the potential for participation by constraining the amount of support.

²⁰ See MMTTC Lifeline Comments, p. 1.

²¹ See *id.* p. 2-3.

²² See *id.*

²³ See *id.* p. 3 (citing Universal Service Administrative Company (USAC) data showing that in 2009 only 33 percent of eligible households participated in Lifeline nationwide and only five states a participation rate above 50%). See also *Lifeline/Link Up NPRM*, ¶25, Chart 2.

²⁴ See 706 Progress Report, ¶¶59-60 (finding extremely low broadband adoption rates in Tribal lands). See also LCCR Comments, p. 9.

III. THE COMMISSION SHOULD EXAMINE REPURPOSING LINK UP FUNDING FOR BROADBAND DEVICE SUPPORT

As one of the barriers to broadband adoption is the cost of the devices,²⁵ modernization of the Lifeline/Link Up fund should include support for devices.²⁶

One Economy Corp. (OE) recommended providing consumers with several options of affordable hardware²⁷ and a small subsidy of, for example, \$25-\$40 to purchase the device so long as private partners cover the remaining subsidy.²⁸ If the Commission determines that Link Up support is no longer needed for initiating service,²⁹ the Commission could implement OE's recommendation by examining whether to repurpose Link Up funds to partially subsidize the cost of the device. Another way in which the Commission could provide users with affordable devices is to use pilot programs to study the impact of various equipment options, including whether leasing or owning the equipment bolsters broadband adoption.³⁰

Whether subsidizing the device upfront or providing otherwise affordable device options, the end result should be that consumers have the flexibility to determine which devices and purchase options best meet their needs and enable them to fully realize the benefits of broadband adoption.

²⁵ See 706 Progress Report, ¶72. See also Notice of Inquiry, p. 3 (citing Lifeline/Link Up NPRM, ¶283).

²⁶ See Comments of One Economy Corporation, WC Docket No. 11-42 (April 19, 2011), p. 20 (“OE Comments”).

²⁷ See OE Comments, p. 20. (“To truly address the computer cost barrier, OE recommends at least one option at or below a \$150 initial price point, in addition to at least two, and preferable several more choices...”).

²⁸ See id.

²⁹ See Notice of Inquiry, p. 6.

³⁰ See Notice of Inquiry, p. 3.

IV. MMTc ENDORSES THE DEFINITION OF “HOUSEHOLD” PROPOSED BY THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

The Commission requests feedback on defining “household” within the one-per-household rule in an administratively feasible manner.³¹ The Leadership Conference based its recommendation on the LIHEAP definition,³² proposing to define household as “any individual or group of individuals who are living together as one economic unit.”³³ Using this more flexible approach, the Commission could use home addresses as one of the ways to determine eligibility.³⁴ The Leadership Conference also recommended that the Commission define “dwelling” broadly to remove barriers for individuals in shelters or commercial residential properties.³⁵ These definitions would provide the Commission with increased flexibility to account for individuals and families living in non-traditional settings.

V. CONCLUSION

By modernizing the Lifeline and Link Up programs, the Commission is creating many opportunities to connect low-income consumers to broadband technology. By encouraging adoption and informed use, the Commission is making great strides in overcoming the digital divide. We applaud the Commission’s actions and encourage the Commission to prioritize USF reform.

³¹ See Notice of Inquiry, p. 4.

³² See LCCR Comments, p. 8 (citing 42 U.S.C. §8622(5)).

³³ See id. (noting that this is consistent with the current eligibility rules).

³⁴ See id.

³⁵ See id.

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