The Committee on Energy and Commerce

Memorandum

April 23, 2013

To: Members and Staff, Subcommittee on Communications and Technology

From: Majority Committee Staff

Re: Hearing on "The Lifeline Fund: Money Well Spent?"

The Subcommittee on Communications and Technology will hold a hearing Thursday, April 25, 2013, at 10:30 a.m. in 2123 Rayburn House Office Building entitled "The Lifeline Fund: Money Well Spent?"

I. **Witnesses**

Geoff Feiss
General Manager
Montana Telecommunications Association

Jessica Gonzalez
Vice President of Policy and Legal Affairs
National Hispanic Media Coalition

Billy Jack Gregg
Billy Jack Gregg Universal Consulting

Christopher Guttman-McCabe
Vice President, Regulatory Affairs
CTIA—The Wireless Association

Phillip B. Jones
Chairman of the Board and President
National Association of Regulatory Utility Commissioners

Julie Veach
Chief, Wireline Competition Bureau
Federal Communications Commission (FCC)

II. **Overview**

The Universal Service Fund's Lifeline program nearly tripled in size from $800 million per year in 2009 to $2.2 billion per year in 2012. Because all Americans ultimately pay for Lifeline through recurring charges on their phone bills, managing the program is important, especially in these economic times. While reforms the FCC adopted starting in 2011 are commendable and may be slowing growth, they may not contain the absolute size of the fund over time. Some are concerned that, notwithstanding the FCC's reforms, growth in the fund may be unsustainable. Others are concerned that the fund creates opportunities for waste and fraud. This hearing will consider the growth, waste, and abuse that have occurred in the program and the recent FCC reforms. Are the funds being spent wisely and not being wasted? Is the program appropriately targeting funds to low-income Americans with unmet telecommunications needs? Are the FCC reforms achieving their goals or are there other reforms that could be implemented to better target the funding to eligible customers and to avoid waste, fraud and abuse?

III. **Background**

The Universal Service Fund (USF) consists of four subsidy sub-funds. One, the low-income fund, consists of two programs: Lifeline and Link-Up.

A. Lifeline

The Lifeline program was originally created to help cover any increase in local phone service rates for low-income customers that resulted from the divestiture of the Bell Operating Companies from AT&T. In 1996, Congress enacted the Telecommunications Act, which introduced competition to the market for local telephone service and codified the Universal Service Fund, thus applying the USF to all new entrants. The low-income Lifeline program provides a subsidy to telecommunications providers to offset the cost of basic monthly service at the primary residence for eligible subscribers. These discounts can be as high as $10.00 per month, and vary depending on the subscribers' location. Additionally, tribal communities may qualify for enhanced Lifeline assistance (up to an additional $25.00).

Companies that wish to participate in Universal Service programs must be certified as "eligible telecommunications carriers" (ETCs). To qualify, a provider must meet criteria that may vary depending on where they intend to provide service, as many States have their own universal service programs and eligibility can vary from State to State. A number of States do not certify ETCs, however, leaving that task to the FCC. Among the criteria required by the FCC are that the carrier offer all services designated for USF support; that the provider satisfy certain consumer protection, quality of service and disclosure rules; and that the carrier provide service over its own facilities. Beginning in 2005, however, the Commission began granting petitions for non-facilities based providers (companies that do not own the infrastructure used to provide service, such as some prepaid wireless providers) to become ETCs on a case-by-case basis.

In addition to requirements that the carrier meet certain criteria for participation, recipients of the low-income subsidy must also meet eligibility criteria. These, too, can vary from State to State. For those ETCs designated by the FCC, subscribers with income at or below 135 percent of the Federal poverty guidelines, or that participate in certain assistance programs are such as food stamps, eligible for Lifeline.

B. Link-Up

The Link-Up program was created to help low-income consumers pay for the installation costs of phone service. The program pays up to $30 of the fees to install phone service and provides up to $200 of one year, interest-free loans for any additional installation costs such as line extension charges. The FCC's February 2012 reform order largely eliminated Link-Up, limiting it to tribal areas, where eligible consumers can receive up to an additional $70 in expanded Link-Up support.

C. 2012 Reforms to the Low-Income Fund

In February 2012, the FCC adopted a number of reforms to the low-income fund, including:

- Required all subscribers to recertify their eligibility and to do so annually by providing documentation of income or program participation;
- Confirmed the program's restriction of one subsidy per household;
- Started a process to create a State-by-State and/or a National Lifeline Accountability Database to prevent multiple subsidies to the same household;
- Eliminated Link-Up support except for recipients on tribal lands that are served by ETCs that participate in both the low-income Lifeline and high-cost support programs;
- Imposed independent audit requirements on carriers receiving more than $5 million in annual support;
- Directed the FCC and Universal Service Administrative Company staff to take action no later than December 31, 2013, to provide an automated means of determining enrollment in the Medicaid, Food Stamps, and Supplementary Security Income programs, the three most common criteria for Lifeline eligibility.
- Set an interim base subsidy amount of $9.25 per month for non-tribal subscribers.

IV. <u>Discussion</u>

The FCC has taken significant steps to address criticisms of waste, fraud and abuse in the fund but many questions remain.

Competitive ETCs represented only 8.4 percent of low-income support claims in 2005. As a result of waivers of the facilities-based service requirement, by the end of 2012 almost 80 percent of the support distribution had shifted to CETCs, the vast majority of which are wireless providers. Senator Pryor wrote a letter in March 2013 calling for elimination of prepaid wireless providers from the program and creation of a firm cap on the total amount of Lifeline support available in a given year. Senator Pryor also called for a freeze on ETC designation, which would prevent new carriers from being certified for participation in the Lifeline fund. Several Members of the House of Representatives have written similar letters and introduced similar legislation. Should the waiver allowing carriers offering pre-paid service to receive funding even if they deploy no facilities of their own be reconsidered?

The Lifeline fund was created to address the specific needs of low-income Americans. Press reports indicate, however, that as many as 41 percent of those receiving Lifeline support either could not demonstrate eligibility for the subsidy or refused to respond to requests for certification. During Senate debate of the budget, Senator Coburn offered material suggesting that some subscribers have eight or more subsidized phones, with one subscriber saying that to get one “she just goes across the street and gets it.” Other material showed another man claiming to have a bag full of 20 subsidized phones that he sells “for about 10, 15, 20 bucks” each. Press reports indicated that carriers have also been issuing phones without checking eligibility. All this is alleged to have occurred since the FCC reforms were enacted. Are the ETCs that are receiving the subsidy giving away free phones or are they charging the eligible consumer for the cost of the phone or an activation fee for service? Senator Coburn drafted an amendment during the Senate budget debate that would require a co-payment by eligible low-income subscribers. Would a consumer co-payment for service add accountability to the program?

Also during the Senate budget debate, Senators McCaskill and Vitter drafted amendments to eliminate the Lifeline fund in its entirety, calling it a waste and abuse of resources. Should the program be eliminated? Should the program be frozen until the pending and additional reforms are fully in place? What other measures should be considered?

Finally, many are concerned that the growth in the fund is uncontrolled. The FCC estimates its reforms will save the fund up to $2 billion over the next three years. Additionally, the FCC has established a savings target of $200 million in 2012 and created a mechanism for ensuring that the target is met. According to the FCC, this effort will put it in a position to determine the appropriate budget for Lifeline in early 2013, including the appropriate monthly support amount for the program. When will the FCC set the budget? What is the appropriate amount? When does the FCC expect to determine the appropriate monthly subsidy per subscriber? What is the appropriate amount of subsidy? Could as many or more eligible consumers as are subsidized today be served with a smaller overall fund? Are the funds misallocated among the States? Should the program be put on a budget or placed under a cap like other programs within the Universal Service Fund? The FCC Order established a Broadband Adoption Pilot Program to determine how Lifeline might be used to increase broadband adoption among Lifeline-eligible consumers. What are the results of the pilot program? Should the FCC be creating broadband adoption programs before reforms are fully implemented and the fund has been brought under control?

If you need more information, please contact Neil Fried or Ray Baum at (202) 225-2927.