Federal Communications Commission
Washington, D.C. 20554

June 13, 2013

The Honorable Greg Walden
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Walden:

Please find attached responses from Julie Veach, Chief of the Federal Communications Commission's Wireline Competition Bureau, to the post-hearing questions from the Subcommittee's April 25, 2013 hearing titled "The Lifeline Fund: Money Well Spent?". Please let me know if I can be of further assistance.

Sincerely,

Greg Guice
Director
Office of Legislative Affairs

Enclosure

The Honorable Henry Waxman

1. Mr. Gregg's testimony cited data claiming that eight states have more Lifeline subscribers than low income households – Alaska, Arkansas, Georgia, Louisiana, Maryland, Ohio, Oklahoma, and Rhode Island. After our hearing, one analysis questioned this conclusion, arguing that Mr. Gregg's conclusions were based on outdated poverty statistics and an undercount of eligible recipients, among other issues. What is the FCC's perspective on Mr. Gregg's data?

Mr. Gregg asserted that, in certain states, the actual disbursed Lifeline support exceeded 100% of the amount that would be disbursed if all eligible households subscribed to the Lifeline program. I understand that Mr. Gregg reached this conclusion by comparing a state's actual annual disbursements to his estimate of the potential number of eligible households. By doing so, it is our view that Mr. Gregg's calculation underestimates the number of eligible households because it accounted only for households eligible based on income and did not consider that many households are eligible through participation in one of seven Federal programs. These programs include Medicaid, Supplemental Nutrition Assistance Program (SNAP), Low-Income Home Energy Assistance Program (LIHEAP), Federal Public House Assistance (Section 8), National School Lunch Program, Supplemental Security Income (SSI), and Temporary Assistance to Needy Families (TANF). By excluding these households, Mr. Gregg underestimated the potential number of eligible households, causing his estimate of the percentage of eligible households subscribing to Lifeline to be too high.

The Census Bureau provides the data (Current Population Survey March 2012 Supplement) necessary to correctly estimate the number of eligible households using both the income and program participation criteria. Using these data reveals lower estimates of the subscription rate in every state Mr. Gregg reported. For example, Mr. Gregg's estimates overstate the subscription rate in Maryland by approximately 83 percent and in Louisiana by approximately 38 percent.

2. Mr. Feiss stated in his written testimony for the hearing that "no application for Lifeline-only ETC designation has been denied anywhere in the U.S." Is that accurate? Has the FCC denied any Lifeline ETC applications?

States generally designate ETCs but, in the instance where a state commission does not have jurisdiction, Congress has directed the FCC to evaluate a carrier's request for designation as an ETC. The FCC currently designates wireless carriers in the following jurisdictions: Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, Virginia, Texas and the District of Columbia. Given that states have primary jurisdiction to designate carriers as ETCs, the FCC cannot comment on the number of Lifeline-only ETC designations that have been denied nationwide. Since 2008, the FCC has granted 6 ETC designation petitions and currently has pending 38 Lifeline-only ETC petitions. The FCC accords rigorous scrutiny to such applications and has encouraged states to do the same for state ETC applications. In the April 29, 2013 letter to the Committee submitted by the National Association of Regulatory Utility Commissioners (NARUC), NARUC explains how states are combatting waste, fraud and abuse in the Lifeline program and notes that at least seven states have "pulled" ETC designations and at least six have refused to designate carriers as ETCs.

3. Mr. Feiss' testimony also characterized the FCC's ETC approval process as "lenient." Do you agree? Could you explain the requirement for ETC compliance plans that the FCC adopted as part of the 2012 Lifeline Reform Order?

No. The Commission's ETC process is not "lenient". Rather, the FCC has imposed a rigorous approval process for non-facilities based carriers that seek designation as ETCs. With its ongoing commitment to fight waste, fraud, and abuse in the program, the FCC, through its 2012 reforms, now requires that every non-facilities based carrier seeking to become a Lifeline-only ETC must first receive approval of its compliance plan before becoming an ETC. In a Public Notice, FCC staff set forth the key elements that must be contained in a compliance plan, which include a detailed explanation of how the carrier will comply with the FCC's rules (including a thorough review of the carrier's marketing and outreach materials) as well as a description of its future service offerings. The staff undertakes a rigorous review of each carrier's compliance plan before granting approval. A non-facilities-based carrier cannot seek designation as an ETC (from the FCC or a state commission) or receive federal universal service fund (USF) support until it has a compliance plan approved. Commission staff also coordinate with staff from state commissions on a regular basis to ensure appropriate management and oversight the ETC designation process at the state level.

4. There was some discussion at the hearing about an "explosion" of ETC designations for Lifeline. Does the FCC have information about what percentage of the carriers certified to participate in Lifeline are also receiving high-cost support? How many are only certified to participate in Lifeline?

Approximately 70 percent of the ETCs certified to offer Lifeline services are also receiving high-cost support and approximately 30 percent are designated as ETCs for the limited purpose of offering Lifeline services.

<u>The Honorable Doris Matsui</u>

1. Is there such a thing as a "Free" government phone?

No. Lifeline support cannot be used to support a phone or any other device. The flat-rate support amount can only be used towards the purchase of voice telephony service and the FCC's rules require that the ETC must pass through to the Lifeline consumer the entire subsidy amount. If a company offers a free phone to Lifeline subscribers, it is doing so as part of its business model.

2. Is it accurate to say that the Lifeline program is not contributing to "any current growth" within the Universal Service Fund at this point?

Yes. Lifeline reforms have led to a reduction in disbursements. For example, in July 2012, the program disbursed $190,451,629 in support to ETCs. In May 2013, the program disbursed $145,521,710, a savings of $45 million. Overall, the Commission has already saved over $214 million since the reforms went into effect and we are on track to save $2 billion by the end of 2014. The contribution factor in the first quarter of 2012, before implementation of Lifeline reforms was 17.9 percent, whereas the most recent contribution factor for the second quarter of 2013 was 15.5 percent.

3. What is the current status for the duplicates database?

The Universal Service Administrative Company, or USAC, administers the Lifeline program on behalf of the FCC. USAC has announced its selection of the vendor for the National Lifeline Accountability Database (NLAD), and work is already underway. The NLAD will be operational this year.

4. In the Lifeline Reform Order, the FCC adopted a goal for the program to "ensure the availability of broadband service for low-income Americans." The order also established a broadband pilot program which is now underway with 14 pilots in over 20 states to test how the program can potentially support broadband. Can you discuss why the Commission felt a goal of the program should be to ensure broadband availability for low-income Americans and what you hope to learn from the pilots?

In its 2012 Lifeline reforms, the FCC established specific goals for the program, including a goal of "ensuring the availability of broadband service for low-income Americans." This goal reflects the principle in section 254 of the Communications Act that all consumers, including low-income consumers, should have access to advanced telecommunications and information services at affordable rates. It is also consistent with the recommendations of the National Broadband Plan, which recognizes how broadband has become essential to all Americans to access jobs, education and economic opportunity in the 21st century. As a first step towards achieving this goal, the FCC launched a broadband pilot program on February 1, 2013, that will provide high-quality data on how the Lifeline program could be structured to promote the adoption and retention of broadband services for low-income Americans. The fourteen selected projects will provide various broadband services to Lifeline eligible consumers and will gather data and provide analysis on a wide range of geographic, technological and programmatic variables. The pilot will test subsidy amounts, end-user charges, access to digital literacy training, equipment types, speed ranges, data usage limits and other variables to assist the Commission in determining how the program could potentially be modernized to support broadband.

5. Does the Lifeline program have any impact on the U.S. budget or our nation's fiscal deficit?

The Lifeline program does not have an impact on the U.S. budget or the nation's fiscal deficit. The program, like all USF programs, is funded through a fee imposed on providers of interstate telecommunications. Wireless companies, wireline telephone companies, and interconnected voice over Internet protocol (VoIP) providers contribute to the Fund and generally recover those contributions from their end-user customers. Funds are remitted not to the U.S. Treasury, but rather to USAC to administer the four universal service programs. Thus, increasing or decreasing the size of the Lifeline program, or any other component of the overall universal service program, will not impact the federal budget, the deficit, or the debt.

<u>The Honorable Ben Ray Lujan</u>

1. As mentioned at the hearing, I represent a very rural district. It stretches across the farmlands of eastern New Mexico and the rugged mountains of the Rio Grande valley. Many of my constituents depend upon Lifeline to follow up on job opportunities, communicate with their doctors, or contact emergency services. Lifeline is often mischaracterized by its critics as being an urban program, but I can assure you that it also serves many of the most vulnerable populations in rural America. How many lifeline users live in rural communities? Is the participation rate in rural communities comparable to urban areas?

Since 1985, the Lifeline program has provided a discount on phone service for qualifying low-income consumers to ensure that all Americans have the opportunities and security that phone service brings, including being able to connect to jobs, family and emergency services. This program is available to eligible low-income consumers in every state, territory, commonwealth, and on Tribal lands, regardless of whether the consumer resides in a rural or urban area. While we have data on the overall number of subscribers in each state and on Tribal lands, the FCC does not have data showing whether Lifeline subscribers live in rural or urban areas.

2. My district is also home to a large Tribal population, much of which is severely underserved by modern infrastructure networks, including telecommunications networks. The FCC has recognized the dire needs for network connections and high cost of making those connections in these areas and preserved a higher subsidy to service providers on Tribal lands. This subsidy has gone to good use as Tribal telecom companies have utilized it to connect a large number of their populations to telecommunications networks for the first time. In letters to the Subcommittee, both the Mescalero Apache Telecom, Inc. and Gila River Telecommunications, Inc. expressed their reliance upon the program in their work. They tell us that 611 households on the Mescalero Apache Nation in New Mexico have been connected by the Lifeline program and 78% of Gila River's Tribal subscribers in Arizona are subscribers. Does the FCC have any estimates of how important this program is to Tribal communities? How many Lifeline users live on Tribal lands? What is the FCC doing to keep the program relevant to Tribal populations and other underserved communities?

Since 2000, the Tribal Lifeline and Link Up programs have provided invaluable assistance in helping to dramatically improve access to telephone service for low-income residents of Tribal lands, many of whom face often endemic levels of cyclical poverty. Given the significant telecommunications deployment and connectivity challenges on Tribal lands, and the high percentage of Tribal residents with incomes under the Federal Poverty Guidelines, the Lifeline program has served as an important resource for Tribal residents. In 2012, over 800,000 subscribers on Tribal lands participated in the Lifeline program.

In its 2012 reforms of these programs, the FCC recognized the unique circumstances facing residents on Tribal lands and adopted a number of Tribal-specific provisions to ensure that the programs remain relevant and accessible. For example, the FCC learned that many Tribal elders opted for the Food Distribution Program on Indian Reservations (FDPIR), commonly referred to as the "commodity program," rather than the Supplemental Nutrition Assistance Program (SNAP). Because FDPIR was not considered an eligible program for participating in Lifeline and Link Up, FDPIR beneficiaries had been excluded from receiving the benefits of Lifeline and Link Up support. To address this, the FCC made FDPIR an eligible program for purposes of Lifeline and Link Up.

As another example, the FCC preserved the Link Up program on Tribal lands (with certain limitations) while eliminating it elsewhere, acknowledging the significant telecommunications deployment and access challenges that persist today on Tribal lands. The FCC also adopted a broadband adoption pilot program, in an effort to gather data on broadband adoption and deployment among low-income consumers. Of the 14 applicants selected for the program, two Tribally owned ETCs – Gila River Telecommunications, Inc. and Hopi Telecommunications, Inc. – were accepted into the pilot program. That program is currently underway.

3. If our hearing brought about any agreement between the two parties, it's that a reform of the Lifeline program has been sorely needed. I commend the FCC for the changes to the program announced last year. The FCC is now requiring proof of eligibility for the program and compiling eligibility and enrollment databases to ensure that Lifeline is not abused. How does the implementation of these reforms impact the FCC's decisions regarding the programs funding, modernization, and any additional reform efforts?

The tough reforms that the FCC unanimously adopted are working; the number of subscribers enrolled in the program is down by 5 million since the reforms were adopted, and the program is on track to save $2 billion by 2014. Establishing automated means for checking for duplicate subscribers and subscriber eligibility should lead to further savings. In this regard, the National Lifeline Accountability Database (NLAD), which will enable carriers to check for duplicate subscribers, is on track to be operational by the end of this year, and the FCC is making progress working with other federal agencies also to automate verification of subscriber eligibility. When the FCC adopted reforms in early 2012 it determined that it was appropriate to assess the impact of the reforms before moving forward with other potential changes to the program, including whether to establish a budget, the permanent per-subscriber support level, and whether other federal programs should be added to the list of those enabling subscriber eligibility. While the FCC's reforms have taken hold and have reduced the size of the Fund in one year, the FCC is continuing to monitor the impact of its reforms to see whether additional measures are necessary.

a. What is the current status of the two databases? Do you expect them to be online and in use by the end of the year?

USAC has announced that the vendor for the National Lifeline Accountability Database (NLAD) has been selected, and work is already underway. The NLAD will be operational this year.

The FCC has also directed the FCC staff to create an automatic means of verifying eligibility. The FCC is leading discussions at the federal level with the Department of Agriculture and the Department of Health and Human Services. Simultaneously, the FCC is also working with those states that are seeking to develop automated means for verifying subscriber eligibility. About 10 states already have automatic means of verifying eligibility, with the possibility that more states will follow.

b. Some have suggested that a minimum co-payment be required for consumers receiving Lifeline service, so that they have some "skin in the game." Did the FCC consider requiring a co-payment as part of the reform Order? Why didn't the FCC adopt one?

The FCC considered a minimum charge during the Lifeline rulemaking process in 2011-2012, but voted unanimously not to mandate it, indicating that there was insufficient data to establish that such a federal requirement would effectively protect the program from waste, fraud, and abuse without thwarting the goal of making vital communications services available to low-income consumers. The Commission also found that it was unnecessary to impose a federal minimum charge at that time requirement in light of the other significant steps being taken to reform the Lifeline program. States, however, are free to adopt minimum charges if they decide to. Georgia, for example, just adopted a $5 minimum charge; California, on the other hand, used to have a minimum charge but recently permitted carriers to offer Lifeline without a charge.

The Honorable Steve Scalise

1. How many and what percentage of Lifeline subscribers that receive subsidized mobile service choose to upgrade their cell phone plans?

The FCC does not track information about individual subscribers, such as their usage patterns or whether they choose to upgrade their service plans. Carriers can be contacted regarding their subscribers' usage patterns. The USAC website (http://www.lifelinesupport.org/ls/companies/companies.aspx) provides a listing of all the carriers designated as ETCs within each jurisdiction.

The Honorable Billy Long

1. What percentage of Lifeline cell phone users go over the free 200 minutes on the cellular phones provided through the program?

The FCC does not track information about individual subscribers, such as usage patterns or whether they exceed their allotted minutes for their service plans. Carriers can be contacted regarding their subscribers' usage patterns. The USAC website (http://www.lifelinesupport.org/ls/companies/companies.aspx) provides a listing of all the companies designated as ETCs within each jurisdiction.

2. Are Lifeline cell phone users able to forward their personal cell phone to their Lifeline phone in order to use up the free 200 minutes? This of course would allow 200 minutes of cell phone use paid for by the Lifeline program.

Each carrier has its own procedures for handling call forwarding. The FCC does not track this information and its rules do not address this matter. To gather information regarding individual carriers' call forwarding procedures, the USAC website (http://www.lifelinesupport.org/ls/companies/companies.aspx) provides a listing of all the companies designated as ETCs within each jurisdiction.