

**Before The
Federal Communications Commission
Washington, D.C. 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 THE
SCHOOLS, HEALTH & LIBRARIES BROADBAND (SHLB) COALITION**

August 31, 2015

EXECUTIVE SUMMARY

1. The Lifeline Program Should Support Broadband Connectivity as a Stand-Alone Broadband Service.
2. The Commission Should Replace the Performance Goal of Making Broadband Service “Available” to Low-Income Americans with Two Different Performance Goals: Increasing Broadband Adoption and Making Broadband Service More Affordable.
3. The Commission Should Adopt a Holistic Approach to Broadband that Recognizes the Role Played by Community Anchor Institutions in Promoting Broadband Adoption.
4. The Commission Should Consider Adopting a Range of Broadband Services that Are Eligible for Lifeline Support, Rather than Setting Only a Minimum Standard.
5. Non-ETCs Should be Eligible to Participate as Providers in the Lifeline Program.
6. It is Premature to Adopt a “Permanent” Support Amount for Broadband Service at this Time.

The Schools, Health & Libraries Broadband (SHLB) Coalition (“SHLB Coalition”)¹ respectfully submits these comments in response to the Second Further Notice of Proposed Rulemaking (Second FNPRM)² on reform and modernization of the FCC’s Lifeline program.

I. Introduction

The SHLB Coalition is a broad-based coalition of diverse organizations all of whom share the goal of promoting open, affordable, high-capacity broadband for anchor institutions and their communities. High-capacity broadband is the key infrastructure that libraries, K-12 schools, community colleges, colleges and universities, health clinics, public media and other anchor institutions need for the 21st century. Enhancing the broadband capabilities of these community anchor institutions (CAIs), and enhancing consumers’ access to Internet-based services through CAIs, is especially important to the most vulnerable segments of our population – those in rural areas, low-income consumers, disabled and elderly persons, students, minorities, and many other disadvantaged members of our society.

II. The Lifeline Program Should Support Broadband Connectivity as a Stand-Alone Broadband Service.

The SHLB Coalition strongly supports modernizing the Lifeline program to include support for stand-alone broadband service for low-income people. Broadband access to the Internet has become an essential service that allows people to improve their access to health care, education, information, employment, public safety and public discourse. The SHLB Coalition agrees with the Commission’s statement that “[b]roadband access thus is necessary for even basic participation in our society and economy.”³ The Lifeline program has been supporting broadband service bundled with telecommunications services for several years, so the Commission and broadband providers now have the experience needed to take the next step to make broadband service eligible for support on a stand-alone basis.

¹ The SHLB Coalition members include representatives of schools, libraries, state broadband offices, private sector companies, state and national research and education networks, consultants, foundations, and consumer organizations. A full list of the SHLB Coalition’s members is available at www.shlb.org/about. “SHLB Coalition” is pronounced “SHELL-bee Coalition.”

² FCC 15-71, released June 22, 2015. The comment deadline was extended to August 31, 2015 in Public Notice DA 15-828, issued on July 17, 2015.

³ See Second FNPRM, para. 5.

In 2012, the Commission amended its rules to allow the Lifeline program to include a bundle of voice and broadband services.⁴ But the market is evolving and broadband is replacing traditional telephone service in many areas. Failing to make a stand-alone broadband service eligible for Lifeline support could mean that low-income consumers in some locations may be forced off the Lifeline program altogether if traditional telephony service is no longer available.

Furthermore, making broadband Internet access eligible for Lifeline support will open a world of new information and resources for low-income Americans, allowing them to participate as equal members of society. As government agencies, educational institutions, health clinics and other essential services move to cloud-based alternatives, the “Digital Divide” could become even wider if low-income people are disconnected from the Internet. Allowing broadband to be eligible for support is a technology-neutral way to ensure that all consumers have adequate communications services, as is required by Section 1 of the Communications Act.

III. The Commission Should Replace the Performance Goal of Making Broadband Service “Available” to Low-Income Americans with Two Different Performance Goals: Increasing Broadband Adoption and Making Broadband Service More Affordable.

In the Lifeline Reform Order of 2012, the FCC adopted as goal #2: “to ensure the availability of broadband for low-income Americans.” This goal does not capture the purpose of this proceeding. Focusing on broadband “availability” suggests that the focus is on the deployment of broadband networks, rather than subscribership/adoption.

The Commission should replace goal #2 with two new performance goals that are focused on 1) promoting broadband adoption and 2) making broadband service more affordable for low-income consumers.⁵ The existing Lifeline program promotes both telephone adoption and affordability.⁶ As the

⁴ See para. 315 of the Lifeline Reform Order (“We amend sections 54.401 and 54.403 of the Commission’s rules to adopt a rule permitting ETCs in all states to allow qualifying low-income consumers to apply Lifeline discounts to all residential service plans that provide voice telephony service, including bundled service packages combining voice and broadband, or packages containing optional calling features.”)

⁵ The GAO report says that the FCC staff defended the Lifeline program for telephony as an effort to promote the affordability of telephone service, but GAO criticized the agency because affordability was not one of the FCC’s articulated goals. (See GAO, “Telecommunications: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program,” GAO-15-335, at 35 (Mar. 2015) (“GAO March 2015 Report”) p. 14). The FCC should not make the same error with the broadband component of the Lifeline

FCC points out, broadband subscribership is substantially lower among low-income households than the general population. The Pew Research report indicates that the price of broadband service is one of three factors that influence a consumer's decision to subscribe. Providing financial support for low-income consumers is likely to help low-income consumers subscribe to broadband, and the Commission should explicitly recognize that broadband adoption is a goal of this proceeding.

In addition, the Commission should also state that making broadband service more affordable for low-income consumers is an equally important goal. Even consumers who have already subscribed to broadband service may have to sacrifice other important needs, such as food, schoolbooks, clothing and housing costs. Providing additional financial support to those who already subscribe to broadband service may improve their quality of life by allowing them to purchase other basic necessities for themselves and their families.

There is no statutory barrier to the Commission's authority to establish both broadband adoption and broadband affordability as performance goals. In fact, the Lifeline Reform Order in 2012 recognized its legal authority to include broadband as a stand-alone service when it created the Broadband Pilot Program.⁷ The Second FNPRM recognizes that stand-alone broadband Internet access is a telecommunications service and thus is qualified to receive Lifeline support. The legal authority to support broadband, however, does not rest solely on its decision to re-classify broadband service as a telecommunications service. Even if the FCC's re-classification decision is overturned, the Commission still has authority under section 706 and its pre-1996 Act authority to include broadband service under Sections 1 and 4(i).

program.

⁶ See para. 1 of the Second FNPRM ("The purpose of the Lifeline program is to provide a hand up, not a hand out, to those low-income consumers who truly need assistance *connecting to* and *remaining connected to* telecommunications and information services.")(emphasis added).

⁷ See para. 328 of the *Lifeline Reform Order* (" . . . we conclude that sections 254 and 706 authorize us to fund bundled voice and broadband services as well as standalone broadband services as part of a discrete, time-limited Pilot Program structured to determine how best to bring advanced services to low-income consumers. These conclusions are consistent with the overwhelming bulk of the comments we received on this issue.")

IV. The Commission Should Adopt a Holistic Approach to Broadband that Recognizes the Role Played by Community Anchor Institutions in Promoting Broadband Adoption.

Because CAIs are in every community, they serve as a gateways to reaching low-income people. CAIs can promote broadband adoption in many ways – by providing digital literacy training, by educating consumers about the availability of the Lifeline program, and at times by extending their broadband services directly to surrounding homes. As the Pew Report indicates, broadband adoption is also affected by the consumer’s digital literacy skills and by an awareness of relevance. CAIs can help with both of these additional factors.

The GAO report noted that consumers’ lack of awareness of the Lifeline program was a large factor in the relatively low rate of participation in the program.⁸ GAO noted that only about 12 million households participate in the program compared to the 40 million households that might be eligible. It also found that consumers may have difficulty filling out the forms necessary to be certified as low-income.⁹ Anchor institutions, and especially libraries, can be particularly helpful in addressing both of these barriers.¹⁰

⁸ According to the GAO Report, “Eligible households may be unaware of the program. FCC requires ETCs to publicize the availability of Lifeline in a manner reasonably designed to reach those likely to qualify. In a 2010 recommended decision, the Federal-State Joint Board on Universal Service observed that ETCs’ outreach efforts may not reach some eligible households and that insufficient outreach efforts by some ETCs may have contributed to low Lifeline participation rates.” GAO report, pp. 27-28.

⁹ According to the GAO Report, “Eligible households may have difficulty accessing or submitting Lifeline applications. For example, representatives from two of the three wireline ETCs we interviewed said applicants can access the application online and submit the application by mail or fax. However, applicants may be challenged to access or submit applications through such methods because they may lack access to the Internet or fax machines. In addition, two stakeholders we interviewed said that eligible consumers may struggle to complete an application due to a lack of literacy or language skills given the complexity of the form.” GAO Report, p.

¹⁰ The following anecdote demonstrates the importance of anchor institutions in making broadband connectivity: Paragraph 20 of the Second FNPRM notes that consumers often go to the local McDonald’s restaurants for Internet access after the local library shuts down. In reality, many libraries leave their Internet access on even after the library closes its doors, and students and others often congregate in the parking lot around the library to use the signal after hours. In contrast, McDonald’s recently announced that it is reducing the number of its restaurants. See, https://www.washingtonpost.com/news/wonkblog/wp/2015/08/13/mcdonalds-is-shrinking/?tid=hybrid_experimentrandom_3_na. (“ On Tuesday, McDonald’s announced it is planning to

The FCC should provide incentives for anchor institutions to promote enrollment of low-income consumers in the Lifeline program. For instance, providers of Lifeline service should be encouraged to distribute information about their services and provide staff training in how to access their services to anchor institutions to make available to low-income consumers in their neighborhoods. Perhaps notices could be added to real estate tax assessments, distributed through local Rotary organizations or through schools sending notices home. Providers could establish programs where high school students volunteer to educate low-income consumers about the program and put notices on doors in communities. Public libraries, for instance, frequently serve as a vital link between government and people, particularly those lacking home broadband access.¹¹ With staff training and/or public Lifeline information sessions held in libraries conducted by government staff, Lifeline providers or community non-profits that serve low-income individuals, more eligible applicants can be reached and enrolled leveraging libraries' role as trusted, neutral and technology-rich community hubs..

V. The Commission Should Adopt a Range of Broadband Services that Are Eligible for Lifeline Support, Rather than Setting Only a Minimum Standard.

The Second FNPRM asks what the minimum broadband service standards for Lifeline offerings should be, and notes that the statute calls for “access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas.” Some observers suggest that the minimum standard for wireline service should be set at a level that equals the Commission’s updated definition of broadband service - at 25 Mbps – to make sure that low-income consumers have service that is “reasonably comparable to those in urban areas.” If the Lifeline program is limited to services at this level, there is a risk that the service will be priced at an unaffordably high level that will not be attractive to low-income consumers even with the financial support of the Lifeline program. If, on the other hand, the Lifeline transmission capacity is set too low, then a Lifeline provider might satisfy its Lifeline obligation by providing a minimal level of service that does not provide sufficient bandwidth for low-income consumers to benefit from the multitude of educational, medical, and other information services available over the Internet.

close 184 restaurants across the United States this year, 59 more than it is planning to open. The scale-back is something of a historic negative milestone, because it hasn’t happened in more than 40 years.”).

¹¹ <http://digitalinclusion.umd.edu/sites/default/files/EgovernmentIssueBrief2014.pdf>.

Rather than set a single, specific minimum standard, the Commission may want to consider requiring ETCs to offer a range of services for the Lifeline program. Lifeline providers could be required to offer low-income consumers the full range of speeds, or data plans, that they offer the general public.¹² For wireline service, for instance, the range could be between 3 Mbps to 25 Mbps. This would allow a low-income consumer the option to purchase basic level of service at the most affordable price. But providers would not be able to satisfy their obligation by offering only a 3 Mbps service; if the provider is offering a higher speed – up to 25 Mbps to the general public, then it must offer that “comparable” level of service to low-income consumers as well. This would give low-income consumers the option to purchase either the minimum level of service or the higher level of service with its Lifeline support (i.e. the subsidy would be “portable” to other service offerings).¹³

VI. Non-ETCs Should be Eligible to Participate as Providers in the Lifeline Program.

The Second FNPRM seeks other ways to promote competition among providers of Lifeline service, and cites AT&T’s request that Lifeline should be de-linked from ETC status. We support the idea that there should be greater competition for Lifeline service and that non-ETCs should be eligible for Lifeline support. But we oppose the notion that ETCs should be granted a blanket exemption from providing Lifeline service.

Low-income consumers ought to have the same ability as other consumers to choose among multiple providers. The evidence has shown that competition leads to lower prices and gives incentives for providers to offer improved service. As the Commission recognizes, the ETC designation process has

¹² In the Lifeline Reform Order, the Commission *allowed* ETCs to allow the Lifeline discount to be used for all eligible retail service offerings, not just those that the ETC designed to be used by low-income Americans. We propose that the Commission go one step further to *require* ETCs to allow the Lifeline discount to be used for the full range of broadband service offerings between 3 and 25 Mbps. See *Lifeline Reform Order*, para. 316 (“We also eliminate language in section 54.401 of our rules that currently describes Lifeline as a retail service offering ‘that is available only to low-income consumers.’ We eliminate such language to clarify that ETCs are free to apply the Lifeline discount to any retail service offering, not just to an offering specifically offered to low-income consumers.”)

¹³ An additional idea is that the amount of Lifeline support could increase with the broadband speed level in order to make the higher bandwidth service more affordable. For instance, a Lifeline consumer could avail themselves of the \$9.25 level of support for a 3 Mbps offering, and receive \$18.50 in support for a 25 Mbps offering.

limited the competitive options available to low-income consumers.¹⁴ The Commission should thus recognize – as it did 8 years ago in permitting prepaid wireless providers to offer Lifeline service – that allowing competitors to offer Lifeline services will benefit low-income consumers.

There is no statutory requirement that a provider must be an Eligible Telecommunications Carrier to participate in the Lifeline program. We agree with the Commission’s recognition that the ETC process was designed for the former High-cost Fund (now the Connect America Fund), not for the Lifeline program. Providers do not have to be ETCs to participate in the other Universal Service Fund programs (E-rate or Rural Health care), and there is no reason that the Lifeline program should be restricted to ETCs. Municipalities, non-profit providers and even some schools and libraries are offering broadband data services to low-income consumers, and they should be eligible to participate in the Lifeline program to the extent they are providing service to eligible low-income consumers.¹⁵ The Commission established the Lifeline program under its pre-existing authority (section 4(i), 201 and 205) prior to passage of the Telecommunications Act of 1996, and that pre-existing authority was preserved in the Telecommunications Act under section 254(j). This gives the FCC the authority to allow non-ETCs to participate in the Lifeline program.

We recognize that there needs to be some amount of regulatory oversight to ensure that a Lifeline provider is qualified to offer service. The ETC designation has served as a proxy for this oversight in the past, but this burdensome process is not well-designed for the Lifeline program. The Commission should adopt a streamlined certification process for Lifeline providers to register to provide Lifeline service, perhaps similar to the process used by any business to incorporate and obtain a state business license.

¹⁴ See paragraph 132 of the Second FPNRM (“evidence in the record indicates that the ETC designation may be an impediment to broader participation in the Lifeline program.”)

¹⁵ Several articles in EdWeek describe efforts by school and library systems to provide WiFi and other forms of broadband Internet access, such as Kent, Washington (<http://tinyurl.com/qxxgypd>), in Vail, Arizona (<http://tinyurl.com/oq58h6r>), and in Green Bay, Wisconsin (<http://preview.tinyurl.com/pkftvpw>).

VII. It is Premature to Adopt a Permanent Support Amount for Broadband Service at this Time.

The Second FNPRM proposes that the FCC adopt the \$9.25 subsidy amount as permanent.¹⁶ We respectfully oppose the adoption of a permanent amount of support for broadband service at this time.¹⁷ The \$9.25 subsidy amount was adopted for wireline voice telephony, but wireline broadband service is generally more expensive than voice telephone service, and often twice as expensive.¹⁸ The amount of the subsidy for wireline broadband service probably should be substantially higher than the amount for voice telephony. The current support level of \$9.25 for telephone service may not be enough to promote broadband adoption or make broadband services affordable. As the GAO noted in its report, the broadband pilot programs with the highest level of support (\$20 per month support, or free service) had the highest subscribership levels.¹⁹ The Commission should explore both the prices for broadband services and the impact of the \$9.25 subsidy amount on broadband adoption and affordability before making any subsidy amount permanent. It is premature for the Commission to lock in a specific amount of support as “permanent” until it has more experience with the operation of this program.

Respectfully Submitted,



John Windhausen

¹⁶ Lifeline Second FNPRM, para. 52 (“We tentatively conclude that we should set a permanent support amount of \$9.25, and seek comment on this tentative conclusion.”)

¹⁷ We do not speak to what the proper level of support should be for voice telephone service.

¹⁸ For instance, New America’s OTI report found that the median price in U.S. urban markets for a 4-6 Mbps wireline service was \$34.99, while the median price for a 15-20 Mbps connection was \$41.95. Since these are urban prices, the prices in rural areas could be even greater. <https://www.newamerica.org/oti/the-cost-of-connectivity-2014/>. In contrast, the FCC found that the median rate floor for telephone service in urban markets was \$21.22. https://apps.fcc.gov/edocs_public/attachmatch/DOC-333061A1.docx.

¹⁹ The GAO Report noted “. . . broadband offered at no or the lowest cost per month resulted in the highest participation.” (p. 33).

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