

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket Nos. 11–42, 03–109, 12–23 and CC Docket No. 96–45; FCC 12–11]

### Lifeline and Link Up Reform and Modernization, Advancing Broadband Availability Through Digital Literacy Training

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission comprehensively reforms and begins to modernize the Universal Service Fund's Lifeline program. The reforms adopted in this document substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund.

**DATES:** Effective April 2, 2012, except for the amendments to §§ 54.202(a), 54.401(c), 54.403, 54.407, 54.410, 54.416, 54.417, 54.420, 54.222 which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for those sections, and except for the amendments contained herein to 47 CFR 54.411, 54.412, 54.413 and 54.414 which shall become effective April 1, 2012; and 47 CFR 54.409 which shall become effective June 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Scardino, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order (R&O) in WC Docket Nos. 11–42, 03–109, 12–23 and CC Docket No. 96–45; FCC 12–11, adopted on January 31, 2012 and released on February 6, 2012. There was also a companion document released with this item. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554. Or at the following Internet address: [http://transition.fcc.gov/Daily\\_Releases/Daily\\_](http://transition.fcc.gov/Daily_Releases/Daily_)

*Business/2012/db0207/FCC-12-11A1.doc.*

### I. Introduction

1. In this Order, the Commission comprehensively reforms and begins to modernize the Universal Service Fund's Lifeline program (Lifeline or the program). Building on recommendations from the Federal-State Joint Board on Universal Service (Joint Board), proposals in the National Broadband Plan, input from the Government Accountability Office (GAO), and comments received in response to the Commission's March Notice of Proposed Rulemaking, the reforms adopted in this Order substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund (USF or the Fund). We take these significant actions, while ensuring that eligible low-income consumers who do not have the means to pay for telephone service can maintain their current voice service through the Lifeline program and those who are not currently connected to the networks will have the opportunity to benefit from this program and the numerous opportunities and security that telephone service affords.

2. This Order is another step in the Commission's ongoing efforts to overhaul all USF programs to promote the availability of modern networks and the capability of all American consumers to access and use those networks. Consistent with previous efforts, we act here to eliminate waste and inefficiency, increase accountability, and transition the Fund from supporting standalone telephone service to broadband. In June 2011, the Commission adopted the *Duplicative Program Payments Order*, 76 FR 38040, June 29, 2011, which made clear that an eligible consumer may only receive one Lifeline-supported service, established procedures to detect and de-enroll subscribers receiving duplicative Lifeline-supported services, and directed the Universal Service Administrative Company (USAC) to implement a process to detect and eliminate duplicative Lifeline support—a process now completed in 12 states and expanding to other states in the near future. Building on those efforts, the unprecedented reforms adopted in today's Order could save the Fund up to an estimated \$2 billion over the next three years, keeping money in the

pockets of American consumers that otherwise would have been wasted on duplicative benefits, subsidies for ineligible consumers, or fraudulent misuse of Lifeline funds.

3. These savings will reduce growth in the Fund, while providing telephone service to consumers who remain disconnected from the voice networks of the twentieth century. Moreover, by using a fraction of the savings from eliminating waste and abuse in the program to create a broadband pilot program, we explore how Lifeline can best be used to help low-income consumers access the networks of the twenty-first century by closing the broadband adoption gap. This complements the recent *USF/ICC Transformation Order*, 76 FR 76623, December 8, 2011, which reoriented intercarrier compensation and the high-cost fund toward increasing the availability of broadband networks, as well as the recently launched "Connect to Compete" private-sector initiative to increase access to affordable broadband service for low-income consumers.

4. To make the program more accountable, the Order establishes clear goals and measures and establishes national eligibility criteria to allow low-income consumers to qualify for Lifeline based on either income or participation in certain government benefit programs. The Order adopts rules for Lifeline enrollment, including enhanced initial and annual certification requirements, and confirms the program's one-per-household requirement. The Order simplifies Lifeline reimbursement and makes it more transparent. The Commission adopts a number of reforms to eliminate waste, fraud and abuse in the program, including creating a National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers; phasing out toll limitation service support; eliminating Link Up support except for recipients on Tribal lands that are served by eligible telecommunications carriers (ETCs) that participate in both Lifeline and the high-cost program; reducing the number of ineligible subscribers in the program; and imposing independent audit requirements on carriers receiving more than \$5 million in annual support. These reforms are estimated to save the Fund up to \$2 billion over the next three years. As part of these reforms we establish a savings target of \$200 million in 2012 versus the program's status quo path in the absence of reform, create a mechanism for ensuring that target is met, and put the Commission in a position to determine the appropriate budget for Lifeline in early 2013 after

monitoring the impact of today's fundamental overhaul of the program and addressing key issues in the Further Notice of Proposed Rulemaking (FNPRM), including the appropriate monthly support amount for the program. Using savings from the reforms, the Order establishes a Broadband Adoption Pilot Program to test and determine how Lifeline can best be used to increase broadband adoption among Lifeline-eligible consumers. We also establish an interim base of uniform support amount of \$9.25 per month for non-Tribal subscribers to simplify program administration.

## II. Performance Goals & Measures

5. The Order adopts three performance goals for the program: (1) Ensure the availability of voice service for low-income Americans; (2) ensure the availability of broadband service for low-income Americans; and (3) minimize the contribution burden on consumers and businesses. The Order adopts measurements for each of the goals, while delegating to the Bureau authority to resolve implementation aspects of such measurements (for example, determining how to define "low-income" and "next higher" for the purpose of the measurement).

## III. Voice Services Eligible for Discount

6. Consistent with the actions taken in the CAF Order and Sua Sponte Order on Reconsideration, the Order amends the definition of "Lifeline" to provide support for "voice telephony service." The Order amends the rules to eliminate the "basic local service qualifier" that is currently part of the definition of Lifeline service, but explains that the Commission continues to expect Lifeline providers to provide service that enables consumers to communicate with others that live nearby, while acknowledging that service plans increasingly allow all distance communication. The Order declines to specify minimum service standards for Lifeline service, but states the Commission will monitor service levels to see if it should adopt standards in the future.

## IV. Support Amounts for Voice Services

7. Today, ETCs are reimbursed for Lifeline based on a rather complicated tiers structure that is, among other things tied to the ILEC Subscriber Line Charge. To simplify administration of the program and revise the rules to reflect the current marketplace in which more than half of the support is provided to wireless providers that do not charge a SLC, the Order adopts an interim rate of \$9.25 to replace the

current Tiers 1, 2, and 3, effective April 1, 2012. The interim support amount represents the nationwide average rate of reimbursement as of September 2011. Tier 4, which provides enhanced Lifeline support to residents of Tribal lands, remains unchanged. We seek further comment on setting appropriate permanent support amounts in a Further Notice of Proposed Rulemaking.

## V. Consumer Eligibility and Enrollment

### A. Uniform Eligibility Criteria

8. The Order establishes a uniform floor of eligibility for Lifeline based on the current federal rules, while allowing states to include more permissive eligibility criteria. Additionally, the Order keeps the current federal income standard of 135% or below of the federal poverty guidelines. This uniformity will simplify program administration for USAC and for ETCs as well as provide a baseline level of program accessibility nationwide.

### B. One-per-Household

9. The order adopts a one-per-household requirement. "Household" is defined consistent with the Low-Income Home Energy Assistance Program as "any individual or group of individuals who are living together at the same address as one economic unit," with an "economic unit" defined as "all adult individuals contributing to and sharing in the income and expenses of a household." The Order permits Lifeline support to individuals living in group living facilities. The Order adopts procedures to enable Lifeline applicants to demonstrate when initially enrolling in the program that any other Lifeline recipients residing at their residential address are part of a separate household and directs USAC, within 30 days of the effective date of the Order, to develop a worksheet that will allow low-income households sharing an address to indicate they are part of a separate household. The Order also directs USAC, within 30 days of the effective date of the Order, to develop print and web materials to be posted on USAC's Web site that both USAC and ETCs can use to educate consumers about the one-per-household rule (*i.e.*, how to determine what persons comprise a household).

### C. Determining Consumer Eligibility (At Enrollment and Annually Thereafter)

10. The Order requires all Lifeline subscribers to provide certain certifications when enrolling in Lifeline and annually thereafter. These requirements are as follows:

### 1. Initial Certification Requirements

11. The Order requires ETCs (or the state administrator, where applicable) to check the program-based eligibility of new Lifeline subscribers at enrollment by accessing available state or federal eligibility databases. Where underlying program eligibility data cannot be accessed, the Order requires new Lifeline subscribers to provide documentation of program-based eligibility, which the entity enrolling the subscriber should review (but not retain). Similarly, the Order extends the current requirement in federal default states that new Lifeline subscribers must present documentation to qualify for Lifeline based on income level to all states. The Order adopts additional certification requirements to protect the program from waste, fraud, and abuse, including requiring consumers to certify upon enrollment and annually thereafter that they are receiving support for only one line per household (as described above), and requires consumers to sign a certification form prior to enrolling in the Lifeline program.

### 2. Annual Re-Certification Requirements

12. The Order replaces the existing annual verification process with a rule that requires each Lifeline subscriber (both existing subscribers and new subscribers) to provide annual self-certifications attesting to their continued eligibility for the program. The Order requires all ETCs, to re-certify by the end of 2012, all of their subscribers claimed on their June FCC Form 497 and report the results of this annual re-certification process to the Commission, USAC and the relevant state commission (where the state has jurisdiction over the ETC) annually by January 31, 2013. Beginning in 2013, where ETCs cannot re-certify their subscriber by accessing a database, they must re-certify them on an annual basis or elect to have USAC re-certify them. The results of the re-certification process must be filed by January 31st each year. Where ETCs can access underlying state or federal program data to confirm a consumer's ongoing eligibility for Lifeline, the Order allows them to do so in place of the annual re-certification process. The Order adopts a rule that consumers that do not respond to annual re-certifications must be de-enrolled from the program. The Order also adopts a rule requiring consumers to notify their ETC within 30 days if the consumer no longer qualifies for Lifeline.

### 3. ETC Certifications

13. The Order requires ETCs to make certain certifications annually and when submitting for reimbursement from the program.

#### *D. Tribal Lifeline Eligibility*

14. The Order clarifies that residents of Tribal lands are eligible for Lifeline (and Link Up support if served by a high cost recipient) based on (1) Income level; (2) participation in any Tribal-specific federal assistance program identified in the Commission's rules; or (3) participation in any other program identified in the Commission's rules. The Order adopts the NPRM proposal to add the Food Distribution Program on Indian Reservations (FDPIR) to the list of programs that confer eligibility. The Order establishes a waiver and designation process for those Tribal communities that are located outside of reservations, but can show ties to defined Tribal communities, and removes the term "near reservation" from the Commission's definition of Tribal lands. The Order requires residents on Tribal lands to follow the same requirements for documentation of income and program based eligibility as other Lifeline recipients, but clarifies that we will continue to allow self-certification of residence on Tribal lands.

#### *E. Electronic Signature*

15. The Order allows ETCs and state agencies to capture a subscriber's signature electronically at sign-up, including through the use of interactive voice response systems in compliance with the requirements of the E-Sign Act and the Government Paperwork Elimination Act. The E-Sign Act allows the use of electronic records to satisfy Commission regulations requiring that such information be provided in writing, if the consumer has affirmatively consented to such use and has not withdrawn such consent.

#### *F. Automatic and Coordinated Enrollment*

16. The Order encourages states to facilitate coordinated enrollment, but makes clear that automatic enrollment whereby consumers receiving eligible benefits are automatically enrolled in a particular carrier's Lifeline program without their express consent is not permitted because it may increase the incidence of duplicative support.

### **VI. Reforms To Eliminate Waste, Fraud and Abuse**

#### *A. National Lifeline Accountability Database*

17. The Order adopts a national duplicates database to detect and eliminate duplicative Lifeline and Link Up support. The Order directs WCB to work with USAC and OMD to establish and implement the database and associated processes. ETCs will be required to query the database to determine whether a prospective subscriber is already receiving Lifeline support from another ETC. The order directs ETCs to (1) populate the database with the necessary information to implement these processes and (2) query the database for each new subscriber prior to receiving reimbursement from the fund for that subscriber. We seek further comment in an FNRPM on how to implement a database to check for eligibility.

#### *B. TLS*

18. The Order clarifies that it does not consider a subscriber who has a Lifeline calling plan that includes a set number of calling minutes available for either local or domestic long distance calls to have voluntarily elected to receive TLS. Therefore, TLS support will not be provided to ETCs providing such plans effective April 1, 2012. To the extent an ETC offers service plans that still charge a fee for toll calls that is in addition to the per month or per billing cycle price for the Lifeline service plan, it must provide at no additional cost to the consumer the ability to limit or block calls that would result in additional charge, but the program will no longer provide additional support for this functionality. Support for TLS will be eliminated over two years to mitigate the impact of this change. The Order establishes a limit on TLS support of \$3.00 per month per subscriber that will be implemented with April 2012 support payments through the remainder of 2012, beginning with April 2012 disbursements. TLS support will be reduced to \$2.00 per month per subscriber in 2013, and eliminated at the beginning of 2014.

#### *C. Link Up*

19. The Order eliminates Link Up support to all ETCs on non-Tribal lands, effective April 1, 2012, and limits Link Up on Tribal lands to high cost recipients deploying infrastructure. Marketplace trends indicate that Lifeline consumers increasingly have service options from ETCs that neither draw on Link Up support nor charge the consumer a service initiation fee. In

balancing a number of universal service goals with finite resources, we conclude that dollars currently spent for Link Up can be more effectively spent to improve and modernize the Lifeline program.

#### *D. Subscriber Usage of Customer Supported Service*

20. The Order establishes a rule that pre-paid ETCs offering service to subscribers for free may not seek reimbursement for subscribers until the subscriber initiates service in the first instance. Moreover, subscribers who fail to "use" the service (as that term is defined in the Order/Rules) within 60 consecutive days must be de-enrolled by the carrier and the duplicates database must be updated within one business day. Furthermore, pre-paid ETCs must inform their subscribers that Lifeline services are not transferable, that there is a usage requirement to retain the benefit, and that subscribers will be automatically de-enrolled for non-use.

#### *E. Minimum Consumer Charge*

21. The Order does not adopt a minimum consumer charge in light of other W/F/A protections that will be implemented to ensure that consumers do not abuse the program, but notes that this issue could be revisited if the measures adopted fail to address the issues that currently exist. Further, the Order eliminates the current rule that imposes a \$1 minimum local charge on Tribal subscribers.

#### *F. Outreach and Marketing*

22. Within six months from the Order's effective date, ETCs must include in plain, easy-to-understand language in all of their Lifeline marketing materials (including print, internet, audio and video), that the offering is a Lifeline-supported service; Lifeline is a government assistance program; only eligible consumers may enroll in the program; what documentation is necessary for enrollment; the program is limited to one benefit per household, consisting of either wireline or wireless service; and consumers who willfully make false statements in order to obtain program benefits can be punished with a fine or imprisonment or barred from the program. Additionally, the Order requires ETCs to disclose the company name under which it does business and the details of its Lifeline service offerings in its Lifeline-related marketing and advertising. The Order does not adopt mandatory outreach requirements but directs the Wireline Competition and Consumer and Governmental Affairs Bureau to conduct

an outreach campaign regarding the new program rules.

#### *G. Audits and Enforcement*

23. The order requires USAC to revise its existing oversight program (the Beneficiary Compliance Audit and Payment Quality Assurance programs) in light of the new rules. It also adopts a new first-year audit requirement for newly designated ETCs whereby they would be audited by USAC within their first year of providing service. The order also adopts a rule that ETCs drawing more than \$5 million, at the holding company level, from the low-income program must conduct biennial independent audits and submit the audit reports to the Commission, USAC, and appropriate state commission. The Order requires ETCs to report to USAC their ownership information, including affiliates and holding companies, which is necessary to implement this new audit requirement. ETCs are put on notice that findings concerning improper payment of funds may result in recapture of those payments under the Improper Payments Elimination and Recovery Act (IPERA) and related Office of Management and Budget implementation guidelines and/or revocation of ETC designation.

#### **VII. Payment of Low-Income Support**

24. The order adopts a three-month transition for low-income support to be disbursed based on actual support in place of the current administrative process of paying low-income support based on projected service. The Order accelerates USAC's payment of low-income support for carriers filing the FCC Form 497 electronically by a monthly deadline. The window by which carriers must file revisions or original FCC Form 497s is reduced from fifteen months from the end of a calendar year, to a rolling twelve-month window.

#### **VIII. Modernizing the Program**

##### *A. Bundled Services*

25. The Order adopts 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. ETCs will be required to apply partial subscriber payments to the cost of the Lifeline voice component of a package before paying down any additional services, and must notify Lifeline consumers of this rule in writing. In a

Further Notice, described below, we seek further comment on whether to adopt a rule mandating that ETCs offer Lifeline discounts on all bundled service packages and packages with optional calling features.

##### *B. Broadband Pilot*

26. The Order establishes a broadband pilot program aimed at generating statistically significant data that will allow the Commission, ETCs, and the public to analyze the effectiveness of different approaches to using Lifeline funds to making broadband more affordable for low-income Americans while providing support that is sufficient but not excessive. The broadband pilot program will be funded with some of the savings from the duplicate resolution process.

##### *C. Managing the Size of the Low Income Fund*

27. The Order sets a savings target of \$200 million for 2012. The Bureau shall provide to each Commissioner an interim report no later than six months from the adoption of the Order analyzing the reforms' progress in meeting the savings target. Not later than one year after the adoption of the Order, the Bureau shall provide to each Commissioner a report as to whether the reforms have succeeded in meeting the savings target; and, if they have not, analyzing the causes, providing options for realizing those savings, and making specific recommendations for corrective action to realize those savings. Both reports shall be made available for public input on the Commission's Web site.

#### **IX. Eligible Telecommunications Carrier Requirements**

##### *A. Facilities-Based Requirements for Lifeline-Only ETCs*

28. The Commission forbears from applying the Act's facilities requirement of section 214(e)(1)(A) to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program, subject to certain conditions. Specifically, each carrier must (i) comply with certain 911 requirements; and (ii) file, subject to Bureau approval, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order. To avoid disruption to subscribers served by existing Lifeline-only ETCs that previously received forbearance in those states where they were designated prior to December 29, 2011, those ETCs can

continue to receive reimbursement in those states pending approval of their compliance plan, provided they submit their plan to the Bureau by July 1, 2012. Non-facilities-based carriers designated after December 29, 2011 will not receive reimbursement from the Fund until the Bureau approves their compliance plans.

##### *B. Impact of New Rules on Prior Forbearance Conditions*

29. To the extent that any of the conditions in the prior forbearance orders and compliance plans are inconsistent with the rules adopted in the Order, the newly adopted rules shall prevail. However, any carrier whose grant of forbearance was conditioned on more stringent compliance plans must comply with those additional obligations as well as the rules adopted in the Order.

##### *C. Additional Rule Amendments*

30. The Order makes several changes to the rules regarding Lifeline providers to eliminate waste and inefficiency, and to increase accountability in the program. The Order amends section 54.202 to clarify that Lifeline-only ETCs are not required to submit a five-year improvement plan as part of its application for designation. Carriers seeking to be designated as a Lifeline-only ETC must demonstrate their technical and financial capacity to provide the supported services. All ETCs receiving Lifeline must annually report the names and identifiers used by the ETC, its holding company, operating companies and affiliates. Additionally, the Order requires every ETC receiving low-income support to annually provide to the Commission and USAC general information regarding their Lifeline plans for voice telephony service offered specifically for low-income consumers.

#### **X. APCC Petition**

31. The Order denies a petition for rulemaking and a petition for interim relief by the American Public Communications Council to subsidize the payphone industry through Lifeline.

#### **XI. Procedural Matters**

##### *A. Paperwork Reduction Act Analysis*

32. This Report and Order contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The new requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified

information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. We describe the impacts that might affect small businesses, which include most businesses with fewer than 25 employees, in the Final Regulatory Flexibility Analysis below.

#### B. Congressional Review Act

33. The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### C. Final Regulatory Flexibility Analysis

34. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, we have prepared a Final Regulatory Flexibility Analysis concerning the possible impact of the rule changes contained in this *Report and Order* on small entities.

35. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Lifeline and Link Up Reform and Modernization Notice of Proposed Rulemaking (*Lifeline and Link Up NPRM*), 76 FR 16482, March 23, 2011. The Commission sought written public comments on the proposals in the *Lifeline and Link Up NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

#### D. Need for, and Objectives of, the Order

36. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules that reformed its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Among other programs, the Commission adopted a program to provide discounts that make basic, local telephone service affordable for low-income consumers.

37. In this Order, we comprehensively reform and begin to modernize the

Universal Service Fund’s Lifeline program (Lifeline or the program). Building on recommendations from the Federal-State Joint Board on Universal Service (“Joint Board”), proposals in the National Broadband Plan, input from the Government Accountability Office (GAO), and comments received in response to the Commission’s March Notice of Proposed Rulemaking the reforms adopted in this Order substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund (USF or the Fund). We take these significant actions, while ensuring that eligible low-income consumers who do not have the means to pay for telephone service can maintain their current voice service through the Lifeline program and those who are not currently connected to the networks will have the opportunity to benefit from this program and the numerous opportunities and security that telephone service affords.

38. This Order is another step in the Commission’s ongoing efforts to overhaul all Universal Service Fund programs to fulfill the goals Congress gave us to promote the availability of modern networks and the capability of all American consumers to access and use those networks. Consistent with previous efforts, we act here to eliminate waste and inefficiency, increase accountability, and transition the Fund from supporting standalone telephone service to broadband. In June 2011, the Commission adopted the *Duplicative Program Payments Order*, which made clear that an eligible consumer may only receive one Lifeline-supported service, established procedures to detect and de-enroll subscribers receiving duplicative Lifeline-supported services, and directed USAC to implement a process to detect and eliminate duplicative Lifeline support—a process now completed in 12 states and expanding to other states in the near future. Building on those efforts, we estimate that the unprecedented reforms adopted in today’s Order could save the Fund up to an estimated \$2 billion over the next three years, keeping money in the pockets of American consumers that otherwise would have been wasted on duplicative benefits, subsidies for ineligible consumers, or fraudulent misuse of Lifeline funds.

39. These savings will reduce growth in the Fund but at the same time provide telephone service to consumers who remain disconnected from the voice networks of the Twentieth Century. Moreover, by using a fraction of the savings from eliminating waste and abuse in the program to create a broadband pilot program, we explore how Lifeline can best be used to help low-income consumers access the networks of the Twenty-First Century by closing the broadband adoption gap. This complements the recent *USF/ICC Transformation Order and FNPRM*, which reoriented intercarrier compensation and the high-cost fund toward increasing the availability of broadband networks, as well as the recently launched “Connect to Compete” private-sector initiative to increase access to affordable broadband service for low-income consumers.

40. To make the program more accountable, the Order establishes clear goals and measures and establishes national eligibility criteria to allow low-income consumers to qualify for Lifeline based on either income or participation in certain government benefit programs. The Order adopts rules for Lifeline enrollment, including enhanced initial and annual certification requirements, and confirms the program’s one-per-household requirement. The Order simplifies Lifeline reimbursement and makes it more transparent. The Commission adopts a number of reforms to eliminate waste, fraud and abuse in the program, including creating a National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers; phasing out toll limitation service support; eliminating Link Up support except for recipients on Tribal lands that are served by eligible telecommunications carriers (“ETCs”) that participate in both Lifeline and the high-cost program; reducing the number of ineligible subscribers in the program; and imposing independent audit requirements on carriers receiving more than \$5 million in annual support. These reforms are expected to save the Fund approximately \$2 billion over the next three years. Using savings from the reforms, the Order establishes a Broadband Adoption Pilot Program to test and determine how Lifeline can best be used to increase broadband adoption among Lifeline-eligible consumers. We also establish an interim base of uniform support amount of \$9.25 per month for non-Tribal subscribers to simplify program administration.

*E. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

41. No comments were filed in response to the IRFA attached to the *Lifeline and Link Up NPRM*. Notwithstanding the foregoing, general comments discussing the impact of the proposed rules on small business were submitted in response to the *Lifeline and Link Up NPRM*. With respect to the proposal to provide household identifying information as a measure to prevent duplicate enrollment, one commenter expressed concern that the imposition of a data transmission requirement would result in new training, programming, and administrative expenses which would be burdensome on small entities. One commenter opposed any limitations placed on Link Up support arguing that such limitations would inhibit small ETCs' ability to participate in the low income program. Commenters expressed concern that the proposed audit requirements in the NPRM would be expensive and difficult for small companies to comply with. One commenter opposed the proposed verification proposals in the NPRM asserting that such new requirements would be unnecessarily expensive and disproportionately burden small businesses. Commenters opposed the proposed sampling methodology to confirm eligibility as it would have the result of requiring small entities to sample most if not all of their Lifeline subscribers. Commenters asserted that outreach efforts may be unreasonably burdensome for small ETCs. In making the determinations reflected in the Order, we have considered the impact of our actions on small entities.

*F. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

42. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide,

there are a total of approximately 29.6 million small businesses, according to the SBA. A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

1. Wireline Providers

43. *Incumbent Local Exchange Carriers (Incumbent LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.

44. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers*. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers.

Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Seventy of which have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

45. *Interexchange Carriers*. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more

than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the Notice.

46. *Operator Service Providers (OSPs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede 2002 Census data, show that there were 3,188 firms in this category that operated for the entire year. Of the total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

47. *Local Resellers*. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

48. *Toll Resellers*. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under

that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

49. *Pre-paid Calling Card Providers*. Neither the Commission nor the SBA has developed a small business size standard specifically for pre-paid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these pre-paid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of pre-paid calling cards. Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees. Consequently, the Commission estimates that the majority of pre-paid calling card providers are small entities that may be affected by rules adopted pursuant to the Notice.

50. *800 and 800-Like Service Subscribers*. Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service ("toll free") subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of resellers in this classification can be considered small

entities. To focus specifically on the number of subscribers than on those firms which make subscription service available, the most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use. According to our data, as of September 2009, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,888,687; the number of 877 numbers assigned was 4,721,866; and the number of 866 numbers assigned was 7,867,736. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,860,000 or fewer small entity 800 subscribers; 5,888,687 or fewer small entity 888 subscribers; 4,721,866 or fewer small entity 877 subscribers; and 7,867,736 or fewer small entity 866 subscribers. We do not believe 800 and 800-Like Service Subscribers will be effected by our proposed rules, however we choose to include this category and seek comment on whether there will be an effect on small entities within this category.

## 2. Wireless Carriers and Service Providers

51. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

52. *Wireless Telecommunications Carriers (except Satellite)*. Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those



1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

53. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business” as an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

54. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of \$15 million or less in average annual receipts, under SBA rules. The second has a size standard of \$25 million or less in annual receipts.

55. The category of Satellite Telecommunications “comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year. Of this total, 464 firms had annual receipts of under \$10 million, and 18 firms had receipts of \$10 million to \$24,999,999. Consequently, the Commission

estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

56. The second category, i.e. “All Other Telecommunications” comprises “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.” For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,347 firms had annual receipts of under \$25 million and 12 firms had annual receipts of \$25 million to \$49,999,999. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

57. *Common Carrier Paging.* The SBA considers paging to be a wireless telecommunications service and classifies it under the industry classification Wireless Telecommunications Carriers (except satellite). Under that classification, the applicable size standard is that a business is small if it has 1,500 or fewer employees. For the general category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. The 2007 census also contains data for the specific category of “Paging” “that is classified under the seven-number North American Industry Classification System (NAICS) code 5172101. According to Commission data, 291 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 289 have 1,500 or fewer employees, and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of paging providers are small entities

that may be affected by our action. In addition, in the Paging Third Report and Order, the Commission developed a small business size standard for “small businesses” and “very small businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A “small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a “very small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

58. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the 2008 *Trends Report*, 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. We have estimated that 222 of these are small under the SBA small business size standard.

### 3. Internet Service Providers

59. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider’s own telecommunications facilities (e.g., cable and DSL ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of \$25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small



business size standard of \$21 million or less in annual receipts, which was revised in late 2005 to \$23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

60. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): “(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.”

#### *G. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

61. *Support Amounts for Voice Service.* In the Order, we adopt an interim rate of reimbursement for Lifeline in lieu of the prior tiered system. The tiered system was tied to the subscriber line charge (SLC), which we find to be an imprecise basis for Lifeline support given the myriad changes in the telecommunications marketplace. This interim monthly rate is set at \$9.25 per subscriber. This interim support amount was determined by calculating the average level of support from the most recent disbursement data available. Because the interim support amount is an average, some ETCs will receive more monthly support while others receive less—regardless of size. While there may be a slightly negative economic impact on some small entities, such an impact will be felt by all entities currently receiving more than \$9.25 per month per subscriber in Lifeline support, not just small entities. However, as with our adoption of uniform consumer eligibility rules, this uniform interim support amount will simplify program administration by ETCs operating across different SLCs.

62. *Uniform Eligibility Criteria.* As part of the Commission’s effort to streamline the program, the Commission adopts a uniform set of consumer eligibility requirements throughout the nation. This rule alleviates some of the administrative burdens on ETCs

operating in multiple states caused by varying consumer eligibility requirements. We anticipate that this new rule will significantly simplify program administration by ETCs, resulting in greater program efficiencies. Given that we permit states to adopt more permissive Lifeline eligibility criteria on top of the base of federal Lifeline eligibility criteria, no ETCs will face a smaller Lifeline subscriber base because of the change in eligibility criteria. We expect no economic impact on entities through the adoption of the federal eligibility criteria across all states.

63. *One-per-Household.* First, the Order adopts a one-per-household requirement. “Household” is defined consistent with the Low-Income Home Energy Assistance Program as “any individual or group of individuals who are living together at the same address as one economic unit,” with an “economic unit” defined as “all individuals contributing to and sharing in the income and expenses of a household” (which would include persons with no income who benefit from another person’s financial support). Second, the Order adopts procedures to enable Lifeline applicants to demonstrate when initially enrolling in the program that any other Lifeline recipients residing at their residential address are part of a separate household and directs USAC, within 30 days of the effective date of the Order, to develop a form that will allow low-income households sharing an address to indicate they are part of a separate household. Third, the Order also directs USAC, within 30 days of the effective date of the Order, to develop print and web materials to be posted on USAC’s Web site that both USAC and ETCs can use to educate consumers about the one-per-household rule (*i.e.*, how to determine what persons comprise a household). USAC will prepare materials that the ETCs can rely on to educate their subscribers about the one-per-household requirement.

64. We estimate that these rules will have a minimal economic impact. While the rules will require eligible telecommunications carriers to obtain information from a limited number of consumers about their household arrangements, it will only impact those low-income consumers who reside in group living facilities or at addresses shared by multiple households. This information will be collected using a worksheet to be designed and provided to the ETCs by USAC. This information is necessary to assist qualifying consumers relying on addresses shared by multiple households to obtain

Lifeline service and to document their compliance with the one-per-household rule. Additionally, USAC will develop print and web materials that ETCs can use to educate consumers about the one-per-household rule. We do not expect these requirements to have a disproportionate impact on carriers, including those that are small entities.

65. *Certification of Consumer Eligibility.* First, the Order amends § 54.410 of the Commission’s rules to require all Lifeline subscribers to provide certain certifications pertaining to their eligibility for Lifeline upon initial program enrollment and annually thereafter. Depending on the state, certifications should be collected from consumers by carriers or the state Lifeline administrator or a state agency.

66. Carriers and states (where applicable) may need to update their existing certification forms to comply with the requirements of § 54.410, as amended. Carriers already collect several similar certifications from Lifeline subscribers at enrollment; thus, we expect that the costs of compliance with the amended rule will be marginally larger. Therefore, we anticipate that the effect of this rule will have minimal economic impact. Carriers and states (where applicable) may choose to use their existing certification forms so long as those forms are updated to comply with the new certification rules. We also provide in the Order that the new certification rules will not go into effect until June 1, 2012, which will give carriers (both large and small) time to make any needed system updates. We also expect to recover cost savings to the program based on the reduction of ineligible consumers stemming from the updated certification requirements. We do not expect that this rule will disproportionately impact small entities.

67. Second, the Order requires ETCs (or the state administrator, where applicable) to check the eligibility of new Lifeline subscribers at enrollment by accessing available state or federal eligibility databases. Where underlying eligibility data cannot be accessed through a database, the Order requires new Lifeline subscribers to provide documentation of program-based eligibility or income-based eligibility, which the entity enrolling the subscriber should review (but not retain). We acknowledge that compliance with the rule we adopt here will involve some administrative costs for ETCs, for example, modifying their internal processes and systems to comply with the new documentation requirement. However, we do not expect

these costs to have a significant economic impact especially since we limit this requirement to new customers rather than requiring ETCs to re-verify all of their subscribers by obtaining documentary proof of eligibility. We do not expect these costs to be disproportionately large for small carriers. We also conclude that those costs are outweighed by the significant benefits gained by protecting the Fund from waste, fraud, and abuse. We estimate in the Order that up to 15 percent of current Lifeline subscribers may be ineligible for the program, potentially representing as much as \$375 million of support per year. We expect that a rule requiring ETCs to obtain documentation of program participation from new Lifeline applicants, in conjunction with our efforts to implement a Lifeline database, will enable the Commission to recapture those funds and prevent unbridled future growth in the Fund. The resulting cost savings will in turn benefit those consumers who contribute to the Universal Service Fund, new qualifying low-income consumers, and our goal to modernize the program for a broadband future. Further, while we will require consumers to provide documentation of program- and income-eligibility to ETCs at enrollment, consumers will no longer be required to provide such documentation as part of the annual verification process in federal default states. Moreover, consumers will not need to demonstrate eligibility at enrollment (or annually) once that function is addressed through a database. Lastly, we give ETCs until June 1, 2012, to implement processes to document consumer eligibility for Lifeline. We expect that these changes will reduce the burdens on both consumers and ETCs.

68. Third, the Order requires ETCs to make certain certifications annually and when submitting for reimbursement from the program. The Commission currently directs ETCs to make certain certifications relating to the Lifeline program. Section 54.410 of the Commission's rules, as modified, does not substantially change those requirements; rather, the Commission adds additional certifications that the ETC must make annually and when seeking reimbursement from the Fund. USAC and the Commission have jointly developed the certification language and the forms. Thus, carriers need only make the necessary internal inquiries (e.g., ensure that they have received a signed certification form from each Lifeline subscriber) and sign the forms as provided to them by USAC. We do

not expect that this requirement will have an adverse financial impact on small entities.

69. Fourth, we replace the existing process used by ETCs and states to verify ongoing consumer eligibility for Lifeline with a uniform rule requiring all ETCs (or states, where applicable) to re-certify the eligibility of their complete Lifeline subscriber base as of June 1, 2012. By the end of 2012, all ETCs (or states, where applicable) must obtain from each Lifeline subscriber a re-certification form that contains each of the required certifications listed in § 54.410, as amended, and report those results to USAC, the Commission, states (where the state has jurisdiction over the carrier), and Tribal governments (where applicable). Alternatively, in states where a state agency or a third party has implemented a database that carriers may query to re-certify the consumer's continued eligibility, the carrier (or state agency or third-party, where applicable) must instead query the database by the end of 2012 and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification.

70. We have taken steps in implementing this rule to minimize the impact on carriers and states performing the re-certification function. This re-certification may be done on a rolling basis throughout the year, at the ETC's election. ETCs (or states, where applicable) may re-certify the continued eligibility of an ETC's Lifeline subscribers by contacting them—which can be done in any of a number of ways, including in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility for Lifeline. As noted above, where available, ETCs and states will access electronic eligibility data rather than contact each subscriber to obtain an individual re-certification. Lastly, after 2012, ETCs may elect to have USAC administer the self-certification process on their behalf. We do not expect the costs of re-certification to be disproportionately burden small entities, who will have a lesser number of subscribers to contact and may opt to use less costly means (such as text message or email) to contact their subscribers for re-certification.

71. *Tribal Lifeline Eligibility.* First, the Order clarifies that residents of Tribal lands are eligible for Lifeline (and Link Up support if served by a high cost recipient) based on (1) income level; (2) participation in any Tribal-specific federal assistance program identified in the Commission's rules; or (3) participation in any other program

identified in the Commission's rules. We do not expect that this clarification will have any financial impact, including on small businesses, as it does not change existing program rules, but rather removes any ambiguity in the interpretation of those rules by carriers and consumers.

72. Second, the Order adopts the NPRM proposal to add the Food Distribution Program on Indian Reservations (FDPIR) to the list of programs that confer eligibility. We expect this rule change to have only minimal financial impact. For example, carriers serving eligible residents of Tribal lands will need to update their certification/enrollment forms to add FDPIR to their list of qualifying programs. However, the benefit that will accrue to eligible residents of Tribal lands participating in FDPIR will outweigh the burdens to carriers. We do not expect this rule to have a disproportionate impact on small entities, for whom the cost of compliance would be the same as for other carriers.

73. Third, the Order establishes a waiver and designation process for those Tribal communities that are located outside of reservations, but can show ties to defined Tribal communities, and removes the term "near reservation" from the Commission's definition of Tribal lands. We do not expect this rule to have any financial impact, including on small entities, as carriers will not have any role in the designation process.

74. Fourth, the Order clarifies that we will continue to allow self-certification of residence on Tribal lands. We do not expect this rule to have any economic impact on any entities, as it clarifies, rather than changes, existing program rules.

75. *Electronic Signatures and Interactive Voice Response Systems.* In the Order, the Commission clarifies that ETCs may use electronic signatures and interactive voice response systems to obtain Lifeline subscriber certifications, provided the electronic signatures are obtained in accordance with the requirements of the E-SIGN Act. We expect no negative economic impact from this clarification because this clarification makes obtaining subscriber signatures easier for all ETCs.

76. *National Accountability Database.* The Order established a national accountability database to reduce the likelihood that a consumer or household will receive more than one subsidized service through the low-income program. The Order directs the Bureau to work with USAC and OMB to establish and implement the database

and associated processes. The Order directs ETCs to (1) populate the database with the necessary subscriber information to implement these processes and (2) query the database for each new subscriber prior to receiving reimbursement from the fund for that subscriber. ETCs may have to collect customer information which is not currently in their possession to populate the database.

77. While the database imposes an economic impact on carriers to populate the database, and potentially interface with the database, the entire system will be designed to minimize burdens on small entities. There are a number of ways in which the database has been designed to limit the burden on small entities. First, the Commission does not impose any real-time obligations on ETCs to update the database. The ETCs must update the database prior to seeking reimbursement. Second, to the extent that ETCs have not collected the necessary data from existing customers to send to the duplicates database, ETCs will have a significant period of time before the database is operational to collect such information because the Commission projects that the database could take up to a year to build and ETCs are given an additional 60 days to populate the database. The Commission has directed USAC to provide support to ETCs regarding how they should populate the database, and this assistance should further reduce the burden on ETCs, particularly those smaller entities with fewer back-office resources and less sophisticated systems. For similar reasons, the burden on small entities will be limited because the database will be designed to accept the subscriber information in many different formats, not just via a machine to machine connection. The database will include an ID verification function, which had heretofore been undertaken by some ETCs at their own expense. The database includes an exception management and dispute resolution process so that the burden on ETCs to handle disputes if a subscriber is classified as a duplicate by the database will be limited.

78. *Toll Limitation Service Support.* In the Order, the Commission begins the process of eliminating toll limitation service (TLS) support and modifies its rules for which ETCs must offer TLS. The Commission finds that TLS is less relevant in a marketplace where many ETCs do not separately charge for “toll” or “long distance” calls. To the extent an ETC still distinguishes between local and long distance calling in its Lifeline service, it must provide at no additional cost to the consumer the ability to limit

or block calls that would result in additional charge. Support for TLS will be eliminated over three years to mitigate the impact of this change. In the first year of limited TLS support, support will be capped at \$3 per month per consumer. In the second year, support will be limited to \$2 per month per consumer. In the third year, support will be eliminated. ETCs seeking TLS reimbursement will need to adjust their TLS provisioning methods as there will no longer be a separate TLS reimbursement outside of the standard Lifeline support amount. This rule will have an economic impact only on ETCs unable to provide TLS at an incremental cost above the limits set in the rule.

79. *Link Up.* The Order will eliminate Link Up support to all ETCs on non-Tribal lands and limit Link Up on Tribal lands to high cost recipients deploying infrastructure. Marketplace trends indicate that Lifeline consumers increasingly have service options from ETCs that neither draw on Link Up support nor charge the consumer a service initiation fee. In balancing a number of universal service goals with finite resources, we conclude that dollars currently spent for Link Up can be more effectively spent to improve and modernize the Lifeline program. Some ETCs who had previously been receiving support from the Fund will no longer receive such support, however, the rule will not disproportionately impact small entities because the support is being eliminated for all ETCs serving non-Tribal areas—not just small entities.

80. *Subscriber Usage of Customer Supported Service.* The Order establishes a rule that pre-paid ETCs who do not charge a fee for the service (pre-paid ETCs) may not seek Lifeline reimbursement until a subscriber initiates service. Moreover, the rules require pre-paid ETCs to de-enroll subscribers who fail to use the service within a consecutive 60-day period and correspondingly update the duplicates database within one business day of any such de-enrollment. These new rules require pre-paid ETCs to monitor usage prior to seeking reimbursement from the low-income fund. In an effort to make compliance easier, the rules identify what actions on the part of consumers constitute usage. Given that carriers already have systems in place whereby usage is monitored so as to prevent consumers from using more than their allocated minutes, the burden of de-enrolling those consumers who do not use the service within a 60-day period is likely minimal. Moreover, while there may be some administrative expense related to updating the database, we

anticipate such expense to be nominal. The new rules also require pre-paid ETCs to inform subscribers at service initiation of the usage and de-enrollment policies. This new requirement only applies to those ETCs choosing to provide Lifeline service at no charge to subscribers.

81. *Minimum Consumer Charge.* The Order does not adopt a minimum consumer charge for Lifeline services and eliminates the current rule imposing a minimum local charge on Tribal subscribers. The requirements do not impose any obligations on carriers, large or small, therefore there is no associated cost of compliance.

82. *Marketing & Outreach.* The Order requires ETCs to include plain, easy-to-understand language in all of their Lifeline marketing materials that the offering is a Lifeline-supported service; that Lifeline is a government assistance program; that only eligible consumers may enroll in the program; what documentation is necessary for enrollment; and that the program is limited to one benefit per household, consisting of either wireline or wireless service. Additionally, we require ETCs to disclose the company name under which it does business and the details of its Lifeline service offerings in its Lifeline-related marketing and advertising. We do not anticipate this rule to have a significant economic impact on any entities because the costs of including basic program information in all marketing materials should be minimal.

83. *Audits and Enforcement.* The Order adopts a new audit requirement whereby newly designated ETCs will be audited by USAC within the first 18 months of seeking Lifeline support in any single state. This requirement is the same regardless of the size of the ETC. Moreover, because all ETCs are required to maintain records for a period of three years, submit annual recertification documentation, and be subjected to discretionary USAC audits, this first year audit requirement does not pose any burden or hardship on new ETCs or a disproportionate burden on small ETCs. The Order also requires those ETCs drawing more than \$5 million in low-income support from the fund, at the holding company level, to perform a biennial independent audit. This requirement only pertains to large entities therefore there is no impact, let alone a disproportionate one, on small ETCs.

84. In the Order, the Commission requires the submission of certain ownership information to USAC in order to implement our new biennial audit rule. ETCs are required to report

ownership information, including affiliates, holding companies, and any branding, to USAC, along with relevant universal service identifiers so that we may determine at the holding company level which ETCs meet the \$5 million threshold. In addition, the Order requires newly designated ETCs to describe service offerings and type of service being provided. These reporting requirements apply to all ETCs equally and do not have a disproportionate impact on small providers. This reporting will help the Commission increase accountability in our universal service programs by simplifying the process of determining the total amount of public support received by each recipient, regardless of corporate structure. This new requirement will impose a burden on all ETCs, though not one that has a significant economic impact. While there will be some administrative costs associated with this requirement, the overall burden should be minimal and will be greater for large ETCs operating with complex corporate structures across multiple study areas.

85. *Payment of Low-Income Support.* The Order adopts a three month transition for low-income support to be disbursed based on actual support in place of the current administrative process of paying low-income support based on projected service. The Order accelerates USAC's payment of low-income support for carriers filing the FCC Form 497 electronically by a monthly deadline. The window by which carriers must file revisions or original FCC Form 497s is reduced from fifteen months from the end of a calendar year, to a rolling twelve month window. In order to accomplish this transition, the Commission sets forth a procedure whereby entities determine which study area codes to transition in each of the transition months, thereby allowing carriers to proportionately distribute any potential financial burden resulting from the transition to payments based on actual support. The Commission sets the transition to payments based on actual support to begin in July 2012, giving small entities, and all ETCs alike, ample time to prepare for the transition to payments based on actual support. Any economic impact of this revision would be equal to all entities.

86. In addition, the Commission expedites payment of low-income funds for carriers that file the FCC Form 497 electronically by the monthly deadline, thereby allowing ETCs to receive payments in a timely manner for timely electronic filings, and helping small entities reduce the negative financial impact of delayed payment. The

Commission narrowed the revision window for FCC Form 497s from fifteen months to a rolling twelve month window. While carriers, large or small, may experience a minor burden by narrowing this revision window, the burden is minimized by the transition to payments on actual support. Carriers should not require as much time to scrutinize payments received because the calculations of projections and true-ups is being eliminated, and payments will be based on actual support provided by the ETC. A twelve month rolling window should be sufficient time for carriers to reconcile their books and file any required revisions, without imposing an unfair burden.

87. *Bundled Services.* In the Order, we amend §§ 54.401 and 54.403 of the Commission's rules to adopt a federal policy providing all ETCs (whether designated by a state or this Commission) the flexibility to permit Lifeline subscribers to apply their Lifeline discount to bundled service packages or packages containing optional calling features available to Lifeline consumers. We do not expect this rule change to have a substantial financial impact, as carriers can elect not to offer bundled service packages or packages containing optional calling features to Lifeline consumers. We are not mandating that they do so at this time and will continue to weigh the effects of the flexible policy adopted in the Order. We believe that the benefits to consumers that could result from this rule outweigh the potential costs of compliance for carriers who choose to make such plans available to Lifeline consumers.

88. *Support for Broadband: Pilot Program.* The Order will establish a broadband pilot program aimed at generating statistically significant data that will allow the Commission, ETCs, and the public to analyze the effectiveness of different approaches to using Lifeline funds to making broadband more affordable for low-income Americans while providing support that is sufficient but not excessive. The Commission directs the Bureau to solicit applications from ETCs to participate in the Pilot Program and to select a relatively small number of projects to test the impact on broadband adoption with variations in the monthly discount for broadband services, including variations on the discount amount, the duration of the discount (phased down over time or constant) over a 12-month period. The Bureau will also give preference to ETCs that partner with third parties that have already developed approaches to overcoming broadband adoption

barriers, including digital literacy, equipment costs, and relevance.

89. We do not expect these requirements to have a significant economic impact on ETCs because entities have a choice of participating. We also do not expect small entities to be disproportionately impacted. The Bureau will consider whether the projects proposed will promote entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, consistent with section 257 of the Communications Act, including those that may be socially and economically disadvantaged businesses. All ETCs that choose to participate will be required to collect and submit data throughout the pilot to USAC. The collection of information is required to study the length and amount of subsidy that is necessary for low-income consumers to adopt broadband. The benefits of collecting information outweigh any costs.

90. *Facilities-Based Requirements.* In the Order, the Commission forbears from applying the Act's facilities requirement of section 214(e)(1)(A) to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program, subject to certain conditions. Specifically, each carrier must (i) comply with certain 911 requirements; and (ii) file, subject to Bureau approval, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order. To avoid disruption to subscribers served by existing Lifeline-only ETCs designated prior to December 29, 2011, those ETCs can continue to receive reimbursement pending approval of their compliance plan, provided they submit their plan to the Bureau by July 1, 2012. Carriers designated after December 29, 2011 will not receive reimbursement from the Fund until the Bureau approves their compliance plans.

91. We do not expect these changes to have a disproportionate impact on entities, including those that are small entities, because the Commission will no longer require carriers to seek forbearance from the facilities requirement of section 214(e)(1)(a). The Commission, however, will continue to require carriers seeking to forbear from the facilities requirement of section 214 to comply with certain 911 requirements and to file and obtain approval from the Bureau of a compliance plan describing the ETC's

adherence to certain protections designed to protect consumers and the Fund. The Commission has historically imposed these requirements on carriers seeking to forbear from the facilities requirement so this will not unduly burden to all impacted entities.

#### *H. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

92. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): “(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.”

93. *Support Amounts for Voice Service.* The Commission considered the establishment of a separate rate of reimbursement for different types of providers. The Commission determined that such a system of reimbursement would create administrative difficulties for USAC and for ETCs. A tiered system, be it the prior structure or the one contemplated for the benefit of small entities, does not treat all subscribers equally and makes comparison of Lifeline plans difficult for consumers. Therefore, we determined that the benefits of such a structure do not outweigh the costs.

94. *One Per Household.* We considered alternatives to a one-per-household rule, including a rule permitting one Lifeline-supported service per adult and one Lifeline-supported service per residential address. We did not, however, adopt these approaches—the former because it would increase the size of the universal service fund, inconsistent with our program goals, and the latter because it could potentially exclude eligible consumers from the Lifeline program. Thus, we found that the benefits of a one-per-household rule and the associated processes we adopt today outweigh the potential costs.

95. *Certification of Consumer Eligibility.* We considered alternatives that would require ETCs to verify only a portion of their Lifeline subscriber base, including allowing small ETCs within a state to perform sampling in the aggregate rather than on an individual basis, requiring ETCs with a

minimal number of Lifeline subscribers to sample fewer subscribers than larger ETCs, and allowing all ETCs to sample a lesser percentage of their Lifeline subscriber base. The approach we adopt in the Order strikes an appropriate balance between these interests by helping to identify and de-enroll ineligible subscribers, while imposing fewer burdens on consumers and ETCs than a full census survey (*i.e.*, requiring consumers to annually produce documentation to verify continued eligibility).

96. *National Accountability Database.* The Commission considered whether ETCs would be obligated to update the database with customer information in real-time. The Commission found that it would be overly burdensome for ETCs, particularly ETCs which are also small entities, to implement real-time connections between the database and carriers given the limited benefits that real-time updates would provide. We therefore did not adopt a rule that the database would have to be updated in real-time. Furthermore, except for information regarding customer de-enrollment, ETCs would have ten business days to update the database once it has become aware that information regarding a subscriber has changed. The Commission adopted a rule that the first ETC to populate the database with a particular customer's information would be able to receive reimbursement for that customer. The Commission acknowledged that this rule would provide an advantage to those ETCs with real-time updating capability, but the Commission found that this approach would reduce the amount of duplicative support and encourage the prompt transmission of data without imposing burdens that a real-time updating requirement might impose on small entities.

97. *Toll Limitation Service Support.* The new TLS support rule, as discussed above, may have an economic impact on entities, including an impact on small entities because they are used to getting TLS support. This rule will have an economic impact only on ETCs unable to provide TLS at an incremental cost above limits set in the rule. In the Order, we note that ILECs typically seek TLS support at a much lower rate than competitive LECs. Small entities that purchase TLS will no longer be able to seek reimbursement for the incremental costs of doing so after 2013. Therefore, small competitive LECs may still be required to offer TLS to Lifeline subscribers but unable to receive sufficient support for the incremental costs of doing so. However, we adopt this TLS support rule to encourage

efficiencies in the provisioning of TLS. In light of the concerns expressed by competitive LECs, we considered several other approaches to reforming TLS support, including a shorter timeframe for reduction of TLS support as well as an immediate elimination of support. We chose the approach adopted in the Order because it is the least burdensome method to reform TLS support.

98. *Link Up.* While we considered some carriers' proposal to decrease the Link Up support amount, and others to define more narrowly appropriate and inappropriate uses of Link Up, on balance, the Commission concluded that the dollars spent on Link Up in its current form can be better spent on other uses, such as modernizing the program and constraining the overall size of the fund. We acknowledge that some ETCs will receive less support as a result of the elimination of Link Up funds but the Commission has concluded that Link Up support has been abused by some carriers and that USF dollars are better spent supporting other aspects of the program.

99. *Subscriber Usage of Customer Supported Services.* We extend the consumer usage condition (whereby subscribers will be de-enrolled if they fail to use the service within a consecutive 60-day period) only to free pre-paid services, which are those services for which subscribers do not receive monthly bills and do not have any regular billing relationship with the ETC, and decline at this time to impose this condition on other types of Lifeline supported services. We are sensitive to the administrative burden that a 60-day usage requirement may have on post-paid services, and at this time do not extend the usage requirements to post-paid services, whether wireline or wireless.

100. *Audits and Enforcement.* We adopt a requirement that every ETC providing Lifeline service and drawing \$5 million or more in the aggregate on an annual basis from the low-income program hire an independent audit firm to assess the ETC's overall compliance with the program's requirements every two years. We considered imposing the biennial independent audit requirement on all ETCs but rejected that as too burdensome on small entities. We concluded it was appropriate to focus the mandatory independent audit requirement on the largest recipients who post the biggest risk to the program if they lack effective internal controls to ensure compliance with Commission requirements.

101. *Payment of Low-Income Support.* The Commission sought comment on a

one month transition, as proposed by USAC, however the Commission found that the financial impact of the one month proposed transition could have been overly burdensome on the financial well-being of small entities participating in the Lifeline program. The Commission considered a two month transition as suggested by commenters, and went one step further to extend the transition to three months, thus allowing all carriers, especially small entities, to minimize any potential negative financial impact by spreading the transition out over the three months.

102. *Bundled Services.* We considered adopting a rule mandating that all ETCs allow Lifeline discounts to be applied to any package containing a voice component; however, we determined that we did not have sufficient information in the record to evaluate the impact of a rule at this time. We also adopt a rule that ETCs must explicitly notify Lifeline subscribers purchasing bundled packages or packages containing optional calling features that partial payments will first be applied to pay down the allocated price of the Lifeline voice services, and require ETCs to provide clear language to this effect on the subscriber's bill. We do not expect that this rule will disproportionately impact small businesses, which, as above, may opt not to offer such plans to Lifeline subscribers. Additionally, we expect that some carriers may already have processes in place to apply partial payments to maintain the voice portion of a Lifeline calling plan. Moreover, this rule will help to prevent Lifeline subscribers from being disconnected from voice service for non-payment, thereby reducing potential burdens that may result to ETCs from having to re-enroll disconnected subscribers.

103. *Report to Congress:* The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including this FRFA, to the Chief Counsel for Advocacy of the SVA. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

## XII. Ordering Clauses

104. *Accordingly, it is ordered*, that pursuant to the authority contained in sections 1, 2, 4(i), 10, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 160, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r),

332, 403, 1302, and §§ 1.1 and 1.427 of the Commission's rules, 47 CFR 1.1, 1.427, this Report and Order is *Adopted*.

105. *It is further ordered* that, Part 54 of the Commission's rules, 47 CFR part 54, is *Amended* as set forth in this rule, and such rule amendments shall be effective April 2, 2012, except for those rules and requirements that involve Paperwork Reduction Act burdens, which shall become effective immediately upon announcement in the **Federal Register** of OMB approval and of effective dates of such rules, and except for the amendments contained herein to 47 CFR 54.411, 54.412, 54.413 and 54.414 which shall become effective April 1, 2012; and 47 CFR 54.409 which shall become effective June 1, 2012.

106. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by AMERICAN BROADBAND & TELECOMMUNICATIONS is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

107. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by MILLENNIUM 2000, INC. is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

108. *It Is Further Ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by NORTH AMERICAN LOCAL, LLC is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

109. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by TOTAL CALL MOBILE, INC. is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

110. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by AIRVOICE WIRELESS, LLC is *granted* to the extent discussed herein

and conditioned on fulfillment of the obligations set forth in this order.

111. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, we forbear from applying section 214(e)(1)(A) of the Communications Act, 47 U.S.C. 214(e)(1)(A), and § 54.201(d)(1) and (i) of the Commission's rules, 47 CFR 54.201(d)(1), (i), to American Broadband & Telecommunications, Millennium 2000, Inc., North American Local, LLC, Total Call Mobile, Inc. and Airvoice Wireless, LLC to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

112. *It is further ordered* that the Petition of Qwest, Inc. regarding self-certification of subscribers on Tribal lands, filed April 25, 2008, is *granted*.

113. *It is further ordered* that the Petition of AMERICAN PUBLIC COMMUNICATIONS COUNCIL seeking a rulemaking regarding payphone service eligibility for Lifeline support, filed December 6, 2010, is *denied*.

114. *It is further ordered* that the Petition of AMERICAN PUBLIC COMMUNICATIONS COUNCIL for interim relief seeking to allow ETCs to receive Lifeline support for services provided to payphones, filed December 6, 2010, is *denied*.

115. *It is further ordered* that the Commission *shall send* a copy of this Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

116. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

## List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and record keeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

## Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

## PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

### Subpart A—General Information

■ 2. Amend § 54.5 by revising the definition of “eligible telecommunications carrier” to read as follows:

#### § 54.5 Terms and definitions.

\* \* \* \* \*

*Eligible telecommunications carrier.* “Eligible telecommunications carrier” means a carrier designated as such under subpart C of this part.

\* \* \* \* \*

### Subpart B—Services Designated for Support

■ 3. Amend § 54.101 by revising paragraph (a) to read as follows:

#### § 54.101 Supported services for rural, insular and high cost areas.

(a) *Services designated for support.* Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

\* \* \* \* \*

### Subpart C—Carriers Eligible for Universal Service Support

■ 4. Amend § 54.201 by revising paragraphs (a)(1) and (h) to read as follows:

#### § 54.201 Definition of eligible telecommunications carriers generally.

(a) \* \* \*

(1) Only eligible telecommunications carriers designated under this subpart shall receive universal service support distributed pursuant to part 36 of this chapter, and subparts D and E of this part.

\* \* \* \* \*

(h) A state commission shall not designate a common carrier as an

eligible telecommunications carrier for purposes of receiving support only under subpart E of this part unless the carrier seeking such designation has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of this part.

\* \* \* \* \*

■ 5. Revise § 54.202 to read as follows:

#### § 54.202 Additional requirements for Commission designation of eligible telecommunications carriers.

(a) In order to be designated an eligible telecommunications carrier under section 214(e)(6), any common carrier in its application must:

(1)(i) Certify that it will comply with the service requirements applicable to the support that it receives.

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant’s network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association’s Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part.

(5) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including

details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

(b) *Public interest standard.* Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest.

(c) A common carrier seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of Tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal Communications Commission. In addition, the Commission shall send any public notice seeking comment on any petition for designation as an eligible telecommunications carrier on Tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by the most expeditious means available.

#### § 54.209 [Removed]

■ 6. Section 54.209 is removed.

### Subpart E—Universal Service Support for Low-Income Consumers

■ 7. Revise § 54.400 to read as follows:

#### 54.400 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) *Qualifying low-income consumer.* A “qualifying low-income consumer” is a consumer who meets the qualifications for Lifeline, as specified in § 54.409.

(b) *Toll blocking service.* “Toll blocking service” is a service provided by an eligible telecommunications carrier that lets subscribers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

(c) *Toll control service.* “Toll control service” is a service provided by an eligible telecommunications carrier that allows subscribers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(d) *Toll limitation service.* “Toll limitation service” denotes either toll blocking service or toll control service



for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, “toll limitation service” denotes both toll blocking service and toll control service.

(e) *Eligible resident of Tribal lands.* An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in paragraph (a) of this section, living on Tribal lands. For purposes of this subpart, “Tribal lands” include any federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands—areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, *et. seq.*, as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in § 54.412.

(f) *Income.* “Income” is all income actually received by all members of a household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran’s benefits, inheritances, alimony, child support payments, worker’s compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

(g) *Duplicative support.* “Duplicative support” exists when a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently.

(h) *Household.* A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(i) *National Lifeline Accountability Database or Database.* The “National Lifeline Accountability Database” or “Database” is an electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Commission.

(j) *Qualifying assistance program.* A “qualifying assistance program” means any of the federal, state, or Tribal assistance programs participation in which, pursuant to § 54.409(a) or (b), qualifies a consumer for Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program’s free lunch program; Temporary Assistance for Needy Families; Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations (FDPIR), and with respect to the residents of any particular state, any other program so designated by that state pursuant to § 54.409(a).

■ 8. Revise § 54.401 to read as follows:

**§ 54.401 Lifeline defined.**

(a) As used in this subpart, Lifeline means a non-transferable retail service offering:

(1) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(2) That provides qualifying low-income consumers with voice telephony service as specified in § 54.101(a). Toll limitation service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an eligible telecommunications carrier charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers’ Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

(b) Eligible telecommunications carriers may allow qualifying low-income consumers to apply Lifeline discounts to any residential service plan that includes voice telephony service, including bundled packages of voice and data services; and plans that include optional calling features such as, but not limited to, caller identification, call waiting, voicemail,

and three-way calling. Eligible telecommunications carriers may also permit qualifying low-income consumers to apply their Lifeline discount to family shared calling plans.

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service for plans that:

(1) Do not charge subscribers additional fees for toll calls; or

(2) That charge additional fees for toll calls, but the subscriber voluntarily elects toll limitation service.

(d) When an eligible telecommunications carrier is designated by a state commission, the state commission shall file or require the eligible telecommunications carrier to file information with the Administrator demonstrating that the carrier’s Lifeline plan meets the criteria set forth in this subpart and describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans. Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier’s Lifeline plan satisfies the criteria set out in this subpart.

(e) Consistent with § 52.33(a)(1)(i)(C) of this chapter, eligible telecommunications carriers may not charge Lifeline customers a monthly number-portability charge.

■ 9. Revise § 54.403 to read as follows:

**§ 54.403 Lifeline support amount.**

(a) The federal Lifeline support amount for all eligible telecommunications carriers shall equal:

(1) *Basic support amount.* Federal Lifeline support in the amount of \$9.25 per month will be made available to an eligible telecommunications carrier providing Lifeline service to a qualifying low-income consumer, if that carrier certifies to the Administrator that it will pass through the full amount of support to the qualifying low-income consumer and that it has received any non-federal regulatory approvals necessary to implement the rate reduction.

(2) *Tribal lands support amount.* Additional federal Lifeline support of up to \$25 per month will be made

available to an eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400 (e), to the extent that the eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tribal lands support amount to the qualifying eligible resident of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

(b) *Application of Lifeline discount amount.*

(1) Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges must apply federal Lifeline support to waive the federal End User Common Line charges for Lifeline subscribers. Such carriers must apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers must apply the federal Lifeline support amount, plus any additional support amount, to reduce the cost of any generally available residential service plan or package offered by such carriers that provides voice telephony service as described in § 54.101, and charge Lifeline subscribers the resulting amount.

(2) Where a subscriber makes only a partial payment to an eligible telecommunications carrier for a bundled service package, the eligible telecommunications carrier must apply the partial payment first to the allocated price of the voice telephony service component of the package and then to the cost of any additional services included in the bundled package.

(c) *Toll limitation service.* An eligible telecommunications carrier providing toll limitation service voluntarily elected by Lifeline subscribers whose Lifeline plans would otherwise include a fee for placing a toll call that would be in addition to the per month or per billing cycle price of the subscriber's Lifeline service, shall, for April 2012 Lifeline disbursements through December 2013 Lifeline disbursements, receive support in an amount equal to the lesser of:

(1) The eligible telecommunications carrier's incremental cost of providing either toll blocking services or toll control services to each Lifeline subscriber who has selected such service; or

(2) The following amounts for each Lifeline subscriber who has selected toll

blocking services or toll control services:

(i) \$3.00 per month per subscriber during 2012; and

(ii) \$2.00 per month per subscriber during 2013.

■ 10. Add § 54.404 to Subpart E to read as follows

**§ 54.404 The National Lifeline Accountability Database.**

(a) *State certification.* An eligible telecommunications carrier operating in a state that provides an approved valid certification to the Commission in accordance with this section is not required to comply with the requirements set forth in paragraphs (b) and (c) of this section with respect to the eligible telecommunications carriers' subscribers in that state. A valid certification must include a statement that the state has a comprehensive system in place to prevent duplicative federal Lifeline support that is at least as robust as the system adopted by the Commission and that incorporates information from all eligible telecommunications carriers receiving low-income support in the state and their subscribers. A valid certification must also describe in detail how the state system functions and for each requirement adopted by the Commission to prevent duplicative support, how the state system performs the equivalent functions. The certification must be submitted to the Commission no later than six months from the effective date of this section of the Commission's rules to be valid. Such certification will be considered approved unless the Wireline Competition Bureau rejects the certification within 90 days of filing.

(b) *The National Lifeline Accountability Database.* In order to receive Lifeline support, eligible telecommunications carriers operating in states that have not provided the Commission with approved valid certification pursuant to paragraph (a) of this section must comply with the following requirements:

(1) All eligible telecommunications carriers must query the National Lifeline Accountability Database to determine whether a prospective subscriber who has executed a certification pursuant to § 54.410(d) is currently receiving a Lifeline service from another eligible telecommunications carrier; and whether anyone else living at the prospective subscriber's residential address is currently receiving a Lifeline service.

(2) If the Database indicates that a prospective subscriber, who is not seeking to port his or her telephone

number, is currently receiving a Lifeline service, the eligible telecommunications carrier must not provide and shall not seek or receive Lifeline reimbursement for that subscriber.

(3) If the Database indicates that another individual at the prospective subscriber's residential address is currently receiving a Lifeline service, the eligible telecommunications carrier must not seek and will not receive Lifeline reimbursement for providing service to that prospective subscriber, unless the prospective subscriber has certified, pursuant to § 54.410(d) that to the best of his or her knowledge, no one in his or her household is already receiving a Lifeline service.

(4) An eligible telecommunications carrier is not required to comply with paragraphs (b)(1) through (3) of this section if it receives notice from a state Lifeline administrator or other state agency that the administrator or other agency has queried the Database about a prospective subscriber and that providing the prospective subscriber with a Lifeline benefit would not result in duplicative support.

(5) Eligible telecommunications carriers may query the Database only for the purposes provided in paragraphs (b)(1) through (b)(3) of this section, and to determine whether information with respect to its subscribers already in the Database is correct and complete.

(6) Eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Lifeline subscriber's full name; full residential address; date of birth and the last four digits of the subscriber's Social Security number or Tribal Identification number, if the subscriber is a member of a Tribal nation and does not have a Social Security number; the telephone number associated with the Lifeline service; the date on which the Lifeline service was initiated; the date on which the Lifeline service was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for Lifeline.

(7) In the event that two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.

(8) All eligible telecommunications carriers must update an existing Lifeline subscriber's information in the Database

within ten business days of receiving any change to that information, except as described in paragraph (b)(10) of this section.

(9) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the subscriber's information. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Lifeline program, and that failure to provide consent will result in subscriber being denied the Lifeline service.

(10) When an eligible telecommunications carrier de-enrolls a subscriber, it must transmit to the Database the date of Lifeline service de-enrollment within one business day of de-enrollment.

(c) *Tribal Link Up and the National Lifeline Accountability Database.* In order to receive universal service support reimbursement for Tribal Link Up, eligible telecommunications carriers operating in states that have not provided the Commission with a valid certification pursuant to paragraph (a) of this section, must comply with the following requirements:

(1) Such eligible telecommunications carriers must query the Database to determine whether a prospective Link Up recipient who has executed a certification pursuant to § 54.410(d) has previously received a Link Up benefit at the residential address provided by the prospective subscriber.

(2) If the Database indicates that a prospective subscriber has received a Link Up benefit at the residential address provided by the subscriber, the eligible telecommunications provider must not seek Link Up reimbursement for that subscriber.

(3) An eligible telecommunications carrier is not required to comply with paragraphs (c)(1) through (c)(2) of this section, if it receives notice from a state Lifeline administrator or other state agency that the administrator or other agency has queried the Database about a prospective subscriber and that providing the prospective subscriber with a Link Up benefit would not result in duplicative support or support to a subscriber who had already received Link Up support at that residential address.

(4) All eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Link Up recipient's full name;

residential address; date of birth; and the last four digits of the subscriber's Social Security number, or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a Social Security number; the telephone number associated with the Link Up support; and the date of service activation. Where two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.

(5) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the information required in paragraph (c) of this section. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Link Up program, and that failure to provide consent will result in the subscriber being denied the Link Up benefit.

■ 11. Revise § 54.405 to read as follows:

**§ 54.405 Carrier obligation to offer Lifeline.**

All eligible telecommunications carriers must:

(a) Make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers.

(b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

(c) Indicate on all materials describing the service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term "materials describing the service" includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms.

(d) Disclose the name of the eligible telecommunications carrier on all materials describing the service.

(e) *De-enrollment*—(1) *De-enrollment generally.* If an eligible telecommunications carrier has a reasonable basis to believe that a Lifeline subscriber no longer meets the

criteria to be considered a qualifying low-income consumer under § 54.409, the carrier must notify the subscriber of impending termination of his or her Lifeline service. Notification of impending termination must be sent in writing separate from the subscriber's monthly bill, if one is provided, and must be written in clear, easily understood language. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination, that requires, at a minimum, written notification of impending termination, must comply with the applicable state requirements. The carrier must allow a subscriber 30-days following the date of the impending termination letter required to demonstrate continued eligibility. A subscriber making such a demonstration must present proof of continued eligibility to the carrier consistent with applicable annual recertification requirements, as described in § 54.410(f). An eligible telecommunications carrier must terminate any subscriber who fails to demonstrate continued eligibility within the 30-day time period. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination must comply with the applicable state requirements.

(2) *De-enrollment for duplicative support.* Notwithstanding paragraph (e)(1) of this section, upon notification by the Administrator to any eligible telecommunications carrier that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of a subscriber's household is receiving Lifeline service and therefore that the subscriber should be de-enrolled from participation in that carrier's Lifeline program, the eligible telecommunications carrier must de-enroll the subscriber from participation in that carrier's Lifeline program within five business days. An eligible telecommunications carrier shall not be eligible for Lifeline reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

(3) *De-enrollment for non-usage.* Notwithstanding paragraph (e)(1) of this section, if a Lifeline subscriber fails to use, as "usage" is defined in § 54.407(c)(2), for 60 consecutive days a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers, an eligible telecommunications carrier must provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the

Lifeline service within the 30-day notice period will result in service termination for non-usage under this paragraph. If the subscriber uses the Lifeline service within 30 days of the carrier providing such notice, the eligible telecommunications carrier shall not terminate the subscriber's Lifeline service. Eligible telecommunications carriers shall report to the Commission annually the number of subscribers de-enrolled for non-usage under this paragraph. This de-enrollment information must be reported by month and must be submitted to the Commission at the time an eligible telecommunications carrier submits its annual certification report pursuant to § 54.416.

(4) *De-enrollment for failure to re-certify.* Notwithstanding paragraph (e)(1) of this section, an eligible telecommunications carrier must de-enroll a Lifeline subscriber who does not respond to the carrier's attempts to obtain re-certification of the subscriber's continued eligibility as required by § 54.410(f); who fails to provide the annual one-per-household re-certifications as required by § 54.410(f); or who relies on a temporary address and fails to respond to the carrier's address re-certification attempts pursuant to § 54.410(g). Prior to de-enrolling a subscriber under this paragraph, the eligible telecommunications carrier must notify the subscriber in writing separate from the subscriber's monthly bill, if one is provided using clear, easily understood language, that failure to respond to the re-certification request within 30 days of the date of the request will trigger de-enrollment. If a subscriber does not respond to the carrier's notice of impending de-enrollment, the carrier must de-enroll the subscriber from Lifeline within five business days after the expiration of the subscriber's time to respond to the re-certification efforts.

■ 12. Revise § 54.407 to read as follows:

**§ 54.407 Reimbursement for offering Lifeline.**

(a) Universal service support for providing Lifeline shall be provided directly to an eligible telecommunications carrier, based on the number of actual qualifying low-income consumers it serves.

(b) An eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served. For each qualifying low-income consumer receiving Lifeline service, the reimbursement amount shall equal the federal support amount, including the support amounts described in

§ 54.403(a) and (c). The eligible telecommunications carrier's universal service support reimbursement shall not exceed the carrier's rate for that offering, or similar offerings, subscribed to by consumers who do not qualify for Lifeline.

(c) An eligible telecommunications carrier offering a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers:

(1) Shall not receive universal service support for a subscriber to such Lifeline service until the subscriber activates the service by whatever means specified by the carrier, such as completing an outbound call; and

(2) After service activation, an eligible telecommunications carrier shall only continue to receive universal service support reimbursement for such Lifeline service provided to subscribers who have used the service within the last 60 days, or who have cured their non-usage as provided for in § 54.405(e)(3). Any of these activities, if undertaken by the subscriber will establish "usage" of the Lifeline service:

(i) Completion of an outbound call;

(ii) Purchase of minutes from the eligible telecommunications carrier to add to the subscriber's service plan;

(iii) Answering an incoming call from a party other than the eligible telecommunications carrier or the eligible telecommunications carrier's agent or representative; or

(iv) Responding to direct contact from the eligible telecommunications carrier and confirming that he or she wants to continue receiving the Lifeline service.

(d) In order to receive universal service support reimbursement, an eligible telecommunications carrier must certify, as part of each request for reimbursement, that it is in compliance with all of the rules in this subpart, and, to the extent required under this subpart, has obtained valid certification and re-certification forms from each of the subscribers for whom it is seeking reimbursement.

(e) In order to receive universal service support reimbursement, an eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline services. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart.

■ 13. Revise § 54.409 to read as follows:

**§ 54.409 Consumer qualification for Lifeline.**

(a) To constitute a qualifying low-income consumer:

(1) A consumer's household income as defined in § 54.400(f) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or

(2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families; or

(3) The consumer must meet eligibility criteria established by a state for its residents, provided that such state-specific criteria are based solely on income or factors directly related to income.

(b) A consumer who lives on Tribal lands is eligible for Lifeline service as a "qualifying low-income consumer" as defined by § 54.400(a) and as an "eligible resident of Tribal lands" as defined by § 54.400(e) if that consumer meets the qualifications for Lifeline specified in paragraph (a) of this section or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

(c) In addition to meeting the qualifications provided in paragraph (a) or (b) of this section, in order to constitute a qualifying low-income consumer, a consumer must not already be receiving a Lifeline service, and there must not be anyone else in the subscriber's household subscribed to a Lifeline service.

■ 14. Revise § 54.410 to read as follows:

**§ 54.410 Subscriber eligibility determination and certification.**

(a) All eligible telecommunications carriers must implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services.

(b) *Initial income-based eligibility determination.*

(1) Except where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, when a prospective subscriber seeks to qualify for Lifeline or using the income-based eligibility criteria provided for in § 54.409(a)(1) or (a)(3) an eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber, unless the carrier has received a certification of eligibility from the prospective subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's income-based eligibility using the following procedures:

(A) If an eligible telecommunications carrier can determine a prospective subscriber's income-based eligibility by accessing one or more databases containing information regarding the subscriber's income ("income databases"), the eligible telecommunications carrier must access such income databases and determine whether the prospective subscriber qualifies for Lifeline.

(B) If an eligible telecommunications carrier cannot determine a prospective subscriber's income-based eligibility by accessing income databases, the eligible telecommunications carrier must review documentation that establishes that the prospective subscriber meets the income-eligibility criteria set forth in § 54.409(a)(1) or (a)(3). Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workers' Compensation statement of benefit; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information. If the prospective subscriber presents documentation of income that does not cover a full year, such as current pay stubs, the prospective subscriber must present the same type of documentation covering three consecutive months within the previous twelve months.

(ii) Must not retain copies of the documentation of a prospective subscriber's income-based eligibility for Lifeline.

(iii) Must, consistent with § 54.417, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's eligibility or

the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline.

(2) Where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, an eligible telecommunications carrier must not seek reimbursement for providing Lifeline service to a subscriber, based on that subscriber's income eligibility, unless the carrier has received from the state Lifeline administrator or other state agency:

(i) Notice that the prospective subscriber meets the income-eligibility criteria set forth in § 54.409(a)(1) or (a)(3); and

(ii) A copy of the subscriber's certification that complies with the requirements set forth in paragraph (d) of this section.

(c) *Initial program-based eligibility determination.*

(1) Except in states where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's program-based eligibility, when a prospective subscriber seeks to qualify for Lifeline service using the program-based criteria set forth in § 54.409(a)(2), (a)(3) or (b), an eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber unless the carrier has received a certification of eligibility from the subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's program-based eligibility using the following procedures:

(A) If the eligible telecommunications carrier can determine a prospective subscriber's program-based eligibility for Lifeline by accessing one or more databases containing information regarding enrollment in qualifying assistance programs ("eligibility databases"), the eligible telecommunications carrier must access such eligibility databases to determine whether the prospective subscriber qualifies for Lifeline based on participation in a qualifying assistance program; or

(B) If an eligible telecommunications carrier cannot determine a prospective subscriber's program-based eligibility for Lifeline by accessing eligibility databases, the eligible telecommunications carrier must review documentation demonstrating that a prospective subscriber qualifies for Lifeline under the program-based eligibility requirements. Acceptable documentation of program eligibility includes the current or prior year's statement of benefits from a qualifying

assistance program, a notice or letter of participation in a qualifying assistance program, program participation documents, or another official document demonstrating that the prospective subscriber, one or more of the prospective subscriber's dependents or the prospective subscriber's household receives benefits from a qualifying assistance program.

(ii) Must not retain copies of the documentation of a subscriber's program-based eligibility for Lifeline services.

(iii) Must, consistent with § 54.517, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's program-based eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline.

(2) Where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, when a prospective subscriber seeks to qualify for Lifeline service using the program-based eligibility criteria provided in § 54.409, an eligible telecommunications carrier must not seek reimbursement for providing Lifeline to a subscriber unless the carrier has received from the state Lifeline administrator or other state agency:

(i) Notice that the subscriber meets the program-based eligibility criteria set forth in §§ 54.409(a)(2), (a)(3) or (b); and

(ii) a copy of the subscriber's certification that complies with the requirements set forth in paragraph (d) of this section.

(d) *Eligibility certifications.* Eligible telecommunications carriers and state Lifeline administrators or other state agencies that are responsible for the initial determination of a subscriber's eligibility for Lifeline must provide prospective subscribers Lifeline certification forms that in clear, easily understood language:

(1) Provide the following information:

(i) Lifeline is a federal benefit and that willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program;

(ii) Only one Lifeline service is available per household;

(iii) A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;

(iv) A household is not permitted to receive Lifeline benefits from multiple providers;

(v) Violation of the one-per-household limitation constitutes a violation of the

Commission's rules and will result in the subscriber's de-enrollment from the program; and

(vi) Lifeline is a non-transferable benefit and the subscriber may not transfer his or her benefit to any other person.

(2) Require each prospective subscriber to provide the following information:

- (i) The subscriber's full name;
- (ii) The subscriber's full residential address;
- (iii) Whether the subscriber's residential address is permanent or temporary;
- (iv) The subscriber's billing address, if different from the subscriber's residential address;
- (v) The subscriber's date of birth;
- (vi) The last four digits of the subscriber's social security number, or the subscriber's Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number;
- (vii) If the subscriber is seeking to qualify for Lifeline under the program-based criteria, as set forth in § 54.409, the name of the qualifying assistance program from which the subscriber, his or her dependents, or his or her household receives benefits; and
- (viii) If the subscriber is seeking to qualify for Lifeline under the income-based criterion, as set forth in § 54.409, the number of individuals in his or her household.

(3) Require each prospective subscriber to certify, under penalty of perjury, that:

- (i) The subscriber meets the income-based or program-based eligibility criteria for receiving Lifeline, provided in § 54.409;
- (ii) The subscriber will notify the carrier within 30 days if for any reason he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the subscriber no longer meets the income-based or program-based criteria for receiving Lifeline support, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit.

(ii) If the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, he or she lives on Tribal lands, as defined in 54.400(e);

(iii) If the subscriber moves to a new address, he or she will provide that new address to the eligible telecommunications carrier within 30 days;

(iv) If the subscriber provided a temporary residential address to the eligible telecommunications carrier, he

or she will be required to verify his or her temporary residential address every 90 days;

(v) The subscriber's household will receive only one Lifeline service and, to the best of his or her knowledge, the subscriber's household is not already receiving a Lifeline service;

(vi) The information contained in the subscriber's certification form is true and correct to the best of his or her knowledge,

(vii) The subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and

(viii) The subscriber acknowledges that the subscriber may be required to re-certify his or her continued eligibility for Lifeline at any time, and the subscriber's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the subscriber's Lifeline benefits pursuant to § 54.405(e)(4).

(e) State Lifeline administrators or other state agencies that are responsible for the initial determination of a subscriber's eligibility for Lifeline must provide each eligible telecommunications carrier with a copy of each of the certification forms collected by the state Lifeline administrator or other state agency from that carrier's subscribers.

(f) *Annual eligibility re-certification process.*

(1) All eligible telecommunications carriers must annually re-certify all subscribers except for subscribers in states where a state Lifeline administrator or other state agency is responsible for re-certification of subscribers' Lifeline eligibility.

(2) In order to re-certify a subscriber's eligibility, an eligible telecommunications carrier must confirm a subscriber's current eligibility to receive Lifeline by:

(i) Querying the appropriate eligibility databases, confirming that the subscriber still meets the program-based eligibility requirements for Lifeline, and documenting the results of that review; or

(ii) Querying the appropriate income databases, confirming that the subscriber continues to meet the income-based eligibility requirements for Lifeline, and documenting the results of that review; or

(iii) Obtaining a signed certification from the subscriber that meets the certification requirements in paragraph (d) of this section.

(3) Where a state Lifeline administrator or other state agency is responsible for re-certification of a subscriber's Lifeline eligibility, the state

Lifeline administrator or other state agency must confirm a subscriber's current eligibility to receive a Lifeline service by:

(i) Querying the appropriate eligibility databases, confirming that the subscriber still meets the program-based eligibility requirements for Lifeline, and documenting the results of that review; or

(ii) Querying the appropriate income databases, confirming that the subscriber continues to meet the income-based eligibility requirements for Lifeline, and documenting the results of that review; or

(iii) Obtaining a signed certification from the subscriber that meets the certification requirements in paragraph (d) of this section.

(4) Where a state Lifeline administrator or other state agency is responsible for re-certification of subscribers' Lifeline eligibility, the state Lifeline administrator or other state agency must provide to each eligible telecommunications carrier the results of its annual re-certification efforts with respect to that eligible telecommunications carrier's subscribers.

(5) If an eligible telecommunications carrier is unable to re-certify a subscriber or has been notified of a state Lifeline administrator's or other state agency's inability to re-certify a subscriber, the eligible telecommunications carrier must comply with the de-enrollment requirements provided for in § 54.405(e)(4).

(g) *Re-certification of temporary address.* An eligible telecommunications carrier must re-certify, every 90 days, the residential address of each of its subscribers who have provided a temporary address as part of the subscriber's initial certification or re-certification of eligibility, pursuant to paragraphs (d), (e), or (f) of this section.

#### **§ 54.411 [Removed]**

■ 15. Section 54.411 is removed.

■ 16. Add § 54.412 to Subpart E to read as follows:

#### **§ 54.412 Off reservation Tribal lands designation process.**

(a) The Commission's Wireline Competition Bureau and the Office of Native Affairs and Policy may, upon receipt of a request made in accordance with the requirements of this section, designate as Tribal lands, for the purposes of the Lifeline and Tribal Link Up program, areas or communities that fall outside the boundaries of existing Tribal lands but which maintain the

same characteristics as lands identified as Tribal lands defined as in § 54.400(c).

(b) A request for designation must be made to the Commission by a duly authorized official of a federally recognized American Indian Tribe or Alaska Native Village.

(c) A request for designation must clearly describe a defined geographical area for which the requesting party seeks designation as Tribal lands.

(d) A request for designation must demonstrate the Tribal character of the area or community.

(e) A request for designation must provide sufficient evidence of a nexus between the area or community and the Tribe, and describe in detail how program support to the area or community would aid the Tribe in serving the needs and interests of its citizens and further the Commission's goal of increasing telecommunications access on Tribal lands.

(f) Upon designation by the Wireline Competition Bureau and the Office of Native Affairs and Policy, the area or community described in the designation shall be considered Tribal lands for the purposes of this subpart.

■ 17. Revise § 54.413 to read as follows:

**§ 54.413 Link Up for Tribal lands.**

(a) *Definition.* For purposes of this subpart, the term “Tribal Link Up” means an assistance program for eligible residents of Tribal lands seeking telecommunications service from a telecommunications carrier that is receiving high-cost support on Tribal lands, pursuant to subpart D of this part, that provides:

(1) A 100 percent reduction, up to \$100, of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber's principal place of residence imposed by an eligible telecommunications carrier that is also receiving high-cost support on Tribal lands, pursuant to subpart D of this part. For purposes of this subpart, a “customary charge for commencing telecommunications service” is the ordinary charge an eligible telecommunications carrier imposes and collects from all subscribers to initiate service with that eligible telecommunications carrier. A charge imposed only on qualifying low-income consumers to initiate service is not a customary charge for commencing telecommunications service. Activation charges routinely waived, reduced, or eliminated with the purchase of additional products, services, or minutes are not customary charges eligible for universal service support; and

(2) A deferred schedule of payments of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber's principal place of residence imposed by an eligible telecommunications carrier that is also receiving high-cost support on Tribal lands, pursuant to subpart D of this part, for which the eligible resident of Tribal lands does not pay interest. The interest charges not assessed to the eligible resident of Tribal lands shall be for a customary charge for connecting telecommunications service of up to \$200 and such interest charges shall be deferred for a period not to exceed one year.

(b) An eligible resident of Tribal lands may receive the benefit of the Tribal Link Up program for a second or subsequent time only for otherwise qualifying commencement of telecommunications service at a principal place of residence with an address different from the address for which Tribal Link Up assistance was provided previously.

■ 18. Add § 54.414 to Subpart E to read as follows:

**§ 54.414 Reimbursement for Tribal Link Up.**

(a) Eligible telecommunications carriers that are receiving high-cost support, pursuant to subpart D of this part, may receive universal service support reimbursement for the reduction in their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the customary charge for commencing telecommunications services for which the subscriber does not pay interest, in conformity with § 54.413.

(b) In order to receive universal support reimbursement for providing Tribal Link Up, eligible telecommunications carriers must follow the procedures set forth in § 54.410 to determine an eligible resident of Tribal lands' initial eligibility for Tribal Link Up. Eligible telecommunications carriers must obtain a certification form from each eligible resident of Tribal lands that complies with § 54.410 prior to enrolling him or her in Tribal Link Up.

(c) In order to receive universal service support reimbursement for providing Tribal Link Up, eligible telecommunications carriers must keep accurate records of the reductions in their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the

subscriber does not pay interest, in conformity with § 54.413. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart. The reductions in the customary charge for which the eligible telecommunications carrier may receive reimbursement shall include only the difference between the carrier's customary connection or interest charges and the charges actually assessed to the subscriber receiving Lifeline services.

**§ 54.415 [Removed]**

■ 19. Section 54.415 is removed.

■ 20. Revise § 54.416 to read as follows:

**§ 54.416 Annual certifications by eligible telecommunications carriers.**

(a) *Eligible telecommunications carrier certifications.* Eligible telecommunications carriers are required to make and submit to the Administrator the following annual certifications, under penalty of perjury, relating to the Lifeline program:

(1) An officer of each eligible telecommunications carrier must certify that the carrier has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services. Each eligible telecommunications carrier must make this certification annually to the Administrator as part of the carrier's submission of annual re-certification data pursuant to this section. In instances where an eligible telecommunications carrier confirms consumer eligibility by relying on income or eligibility databases, as defined in § 54.410(b)(1)(i)(A) or (c)(1)(i)(A), the representative must attest annually as to what specific data sources the eligible telecommunications carrier used to confirm eligibility.

(2) An officer of the eligible telecommunications carrier must certify that the carrier is in compliance with all federal Lifeline certification procedures. Eligible telecommunications carriers must make this certification annually to the Administrator as part of the carrier's submission of re-certification data pursuant to this section.

(3) An officer of the eligible telecommunications carrier must certify annually that the carrier has obtained a valid certification form for each subscriber for whom the carrier seeks Lifeline reimbursement.

(b) All eligible telecommunications carriers must annually provide the results of their re-certification efforts, performed pursuant to § 54.410(f), to the Commission and the Administrator.



Eligible telecommunications carriers designated as such by one or more states pursuant to § 54.201 must also provide, on an annual basis, the results of their re-certification efforts to state commissions for subscribers residing in those states where the state designated the eligible telecommunications carrier. Eligible telecommunications carriers must also provide their annual re-certification results for subscribers residing on Tribal lands to the relevant Tribal governments.

(c) States that mandate Lifeline support may impose additional standards on eligible telecommunications carriers operating in their states to ensure compliance with state Lifeline programs.

■ 21. Revise § 54.417 to read as follows:

**§ 54.417 Recordkeeping requirements.**

(a) Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline and Tribal Link Up program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in § 54.410(d) and (f) for as long as the subscriber receives Lifeline service from that eligible telecommunications carrier.

(b) If an eligible telecommunications carrier provides Lifeline discounted wholesale services to a reseller, it must obtain a certification from that reseller that it is complying with all Commission requirements governing the Lifeline and Tribal Link Up program.

(c) Non-eligible-telecommunications-carrier resellers that purchase Lifeline discounted wholesale services to offer discounted services to low-income consumers must maintain records to document compliance with all Commission requirements governing the Lifeline and Tribal Link Up program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. To the extent such a reseller provides discounted services to low-income consumers, it must fulfill the obligations of an eligible telecommunications carrier in §§ 54.405(e), 54.405(f), and 54.410.

■ 22. Add § 54.419 to Subpart E to read as follows:

**§ 54.419 Validity of electronic signatures.**

(a) For the purposes of this subpart, an electronic signature, defined by the Electronic Signatures in Global and

National Commerce Act, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(b) For the purposes of this subpart, an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

■ 23. Add § 54.420 to Subpart E to read as follows:

**§ 54.420 Low income program audits.**

(a) *Independent audit requirements for eligible telecommunications carriers.*

Companies that receive \$5 million or more annually in the aggregate, on a holding company basis, in Lifeline reimbursements must obtain a third party biennial audit of their compliance with the rules in this subpart. Such engagements shall be agreed upon performance attestations to assess the company's overall compliance with rules and the company's internal controls regarding these regulatory requirements.

(1) For purposes of the \$5 million threshold, a holding company consists of operating companies and affiliates, as that term is defined in section 3(2) of the Communications Act of 1934, as amended, that are eligible telecommunications carriers.

(2) The initial audit must be completed one year after the Commission issues a standardized audit plan outlining the scope of the engagement and the extent of compliance testing to be performed by third-party auditors and shall be conducted every two years thereafter, unless directed otherwise by the Commission. The following minimum requirements shall apply:

(i) The audit must be conducted by a licensed certified public accounting firm that is independent of the carrier.

(ii) The engagement shall be conducted consistent with government accounting standards (GAGAS).

(3) The certified public accounting firm shall submit to the Commission any rule interpretations necessary to complete the biennial audit, and the Administrator shall notify all firms subject to the biennial audit requirement of such requests. The audit issue will be noted, but not held as a negative finding, in future audit reports for all carriers subject to this requirement unless and until guidance has been provided by the Commission.

(4) Within 60 days after completion of the audit work, but prior to finalization of the report, the third party auditor shall submit a draft of the audit report to the Commission and the Administrator, who shall be deemed authorized users of such reports. Finalized audit reports must be provided to the Commission, the Administrator, and relevant states and Tribal governments within 30 days of the issuance of the final audit report. The reports will not be considered or deemed confidential.

(5) *Delegated authority.* The Wireline Competition Bureau and the Office of Managing Director have delegated authority to perform the functions specified in paragraphs (a)(2) and (a)(3) of this section.

(b) *Audit requirements for new eligible telecommunications carriers.* After a company is designated for the first time in any state or territory the Administrator will audit that new eligible telecommunications carrier to assess its overall compliance with the rules in this subpart and the company's internal controls regarding these regulatory requirements. This audit should be conducted within the carrier's first twelve months of seeking federal low-income Universal Service Fund support.

■ 24. Add § 54.422 to Subpart E to read as follows:

**§ 54.422 Annual reporting for eligible telecommunications carriers that receive low-income support.**

(a) In order to receive support under this subpart, an eligible telecommunications carrier must annually report the company name, names of the company's holding company, operating companies and affiliates, and any branding (a "dba," or "doing-business-as company" or brand designation) as well as relevant universal service identifiers for each such entity by Study Area Code. For purposes of this paragraph, "affiliates" has the meaning set forth in section 3(2) of the Communications Act of 1934, as amended.

(b) In order to receive support under this subpart, a common carrier designated as an eligible telecommunications carrier under section 214(e)(6) of the Act must annually provide:

(1) Detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which the eligible telecommunications carrier is designated for any facilities it owns,

operates, leases, or otherwise utilizes that potentially affect:

(i) At least ten percent of the end users served in a designated service area; or

(ii) A 911 special facility, as defined in 47 CFR 4.5(e).

(iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:

(A) The date and time of onset of the outage;

(B) A brief description of the outage and its resolution;

(C) The particular services affected;

(D) The geographic areas affected by the outage;

(E) Steps taken to prevent a similar situation in the future; and

(F) The number of customers affected.

(2) The number of complaints per 1,000 connections (fixed or mobile) in the prior calendar year;

(3) Certification of compliance with applicable service quality standards and consumer protection rules;

(4) Certification that the carrier is able to function in emergency situations as set forth in § 54.202(a)(2);

(5) Information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

(c) All reports required by this section must be filed with the Office of the Secretary of the Commission, and with the Administrator. Such reports must also be filed with the relevant state commissions and the relevant authority in a U.S. territory or Tribal governments, as appropriate.

**Note:** The following appendixes will not appear in the Code of Federal Regulations.

## Appendix A

### Certification Requirements for Lifeline Subscribers

Pursuant to the Universal Service Low-Income Order, all ETCs (or the state Lifeline program administrator, where applicable) must provide the following information in clear, easily understandable language on their initial and annual Lifeline certification forms:

#### *Household Information for Initial and Annual Certification Forms*

- **Contact Information:** All certification forms must ask for the Lifeline subscriber's name and address information.

- **Residential Address:** Prior to providing service to a consumer, ETCs must collect a residential address from each subscriber, which the subscriber must indicate is his/her permanent address, and a billing address, if different than the subscriber's residential address. ETCs should inform subscribers that, if the subscriber moves, they must provide their new address to the ETC within 30 days of moving.

- A consumer who lacks a permanent residential address (e.g., address not recognized by the Post Office, temporary living situation) must provide a temporary residential service address or other address identifying information that could be used to perform a check for duplicative support.

- **Consumers using Post Office Box Addresses:** Lifeline subscribers may not use a post office box as their residential address. An ETC may accept a P.O. Box or General Delivery address as a billing address, but not a residential address.

- **Consumers with Temporary Addresses:** ETCs must collect permanent addresses from subscribers. If a subscriber does not have a permanent address, ETCs must:

- Inform applicants that, if they use a temporary address, the ETC will attempt to verify every 90 days that the subscriber continues to rely on that address, and (as noted above) the subscriber must notify the ETC within 30 days of their new address after moving.

- Inform the subscriber that if he or she does not respond to the ETC's address verification attempts within 30 days, the subscriber may be de-enrolled from the ETC's Lifeline service.

- **Multiple Households Sharing an Address:** Upon receiving an application for Lifeline support, all ETCs must check the duplicates database to determine whether an individual at the applicant's residential address is currently receiving Lifeline-supported service. The ETC must also search its own internal records to ensure that it does not already provide Lifeline-supported service to someone at that residential address.

- If nobody at the residential address is currently receiving Lifeline-supported service, the ETC may initiate Lifeline service after determining that the household is otherwise eligible to receive Lifeline and obtaining all required certifications from the household.

- If the ETC determines that an individual at the applicant's residential address is currently receiving Lifeline-supported service, the ETC must collect from the applicant upon initial enrollment and annually thereafter a worksheet that: (1) Explains the Commission's one-per-household rule; (2) contains a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) provides a space for the applicant to initial or certify that he or she shares an address with other adults who do not contribute income to the applicant's

household and/or share in the household's expenses; and (4) notifies applicants of the one-per-household certification requirement adopted below and the penalty for a consumer's failure to make the required one-per-household certification (i.e., de-enrollment).

- **One-per-Household Certification:** All consumers must certify that they receive Lifeline support for a single subscription per household.

- All ETCs (or state agencies or third-parties, where they are responsible for Lifeline enrollment in a state) must obtain a certification from the subscriber at sign up and annually thereafter attesting under penalty of perjury that the subscriber's household is receiving no more than one Lifeline-supported service. In addition, the certification form must include a place for the subscriber to separately acknowledge that, to the best of his or her knowledge, no one at the consumer's household is receiving a Lifeline-supported service from any other provider.

- The certification form must explain in clear, easily understandable language that: (1) Lifeline is a federal benefit; (2) Lifeline service is available for only one line per household; (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses; and (4) households are not permitted to receive benefits from multiple providers.

- The certification form must also contain clear, easily understandable language stating that violation of the one-per-household requirement would constitute a violation of the Commission's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government.

#### *Eligibility Information for Initial and Annual Certification Forms*

- **Identity Information:** All certification forms must ask for the Lifeline subscriber's date of birth and the last 4 digits of the subscriber's social security number.

- **Establishing eligibility for Lifeline:**

- The certification form should be written in clear, easily understandable language and should include a place for the customer to sign under penalty of perjury attesting to his/her eligibility for Lifeline. All ETCs (or the state Lifeline program administrator, where applicable) should obtain the consumer's signature certifying under penalty of perjury that:

- The consumer either participates in a qualifying federal program or meets the income qualifications to establish eligibility for Lifeline;

- The consumer has provided documentation of eligibility, if required to do so;

- The consumer attests that the information contained in his or her application is true and correct to the best of his or her knowledge and acknowledging that providing false or fraudulent information to receive Lifeline benefits is punishable by law. The certification form should explain that Lifeline is a government benefit program

and consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.

- The certification form must include space for consumers qualifying for Lifeline under an income-based criterion to certify the number of individuals in their household.

- ETCs (or the state administrator, where applicable) should also obtain the consumer's initials or signature on the certification form acknowledging that the consumer may be required to re-certify his or her continued eligibility for Lifeline at any time, and that failure to do so will result in the termination of the consumer's Lifeline benefits.

- *Consumer no longer eligible for Lifeline:* The certification form must notify the consumer using clear, easily understandable language that he or she must inform the ETC within 30 days if (1) The consumer ceases to participate in a federal qualifying program or programs or the consumer's annual household income exceeds 135% of the Federal Poverty Guidelines; (2) the consumer is receiving more than one Lifeline-supported service; or (3) the consumer, for any other reason, no longer satisfies the criteria for receiving Lifeline support. Additionally, prior to enrolling in Lifeline, consumers must certify attest under penalty of perjury that they understand the notification requirement, and that they may be subject to penalties if they fail to follow this requirement.

- *Tribal eligibility:* Consumers seeking Tribal lands Lifeline support must certify that they reside on Federally-recognized Tribal lands.

- *Non-transferability of Lifeline benefit:* The certification form should inform consumers that Lifeline service is a non-transferable benefit, and that a Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.

#### *Annual Re-Certification of Consumer Eligibility for Lifeline*

- By the end of 2012, each Lifeline subscriber enrolled in the program as of June 1, 2012 must provide a signed re-certification form to the ETC (or the state Lifeline administrator, where applicable) attesting to their continued eligibility for Lifeline. This signed certification should collect all of the subscriber information noted above, including an updated address. Consumers may provide the re-certification in writing, by phone, by text message, by email, or otherwise through the Internet.

- Alternatively, where a database containing consumer eligibility data is available, the carrier (or state Lifeline administrator, where applicable) must query the database by the end of 2012 and maintain a record of what specific data was used to re-certify the consumer's eligibility and the date that the consumer was re-certified.

- The ETC or the state administrator, where applicable, must report the results of their re-certification efforts to USAC, the

Commission, and the relevant state commission (where the state has jurisdiction over the carrier) by January 31, 2013. ETCs or the state administrator, where applicable, should also provide their re-certification results to the relevant Tribal government, for subscribers residing on reservations or Tribal lands.

- ETCs must remind consumers about the annual re-certification requirement on the ETC's certification form that is completed upon program enrollment and annually thereafter.

#### *Database*

- *Consent to provide information to the database:* An ETC must obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the subscriber's name, telephone number, and address will be divulged to the Universal Service Administrative Company (USAC) (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit. In the event that USAC identifies a consumer as receiving more than one Lifeline subsidy per household, all carriers involved may be notified so that the consumer may select one service and be de-enrolled from the other.

#### **Appendix B**

#### **Lifeline Verification Survey Results for 2011 and 2007**

TABLE 1—LIFELINE VERIFICATION RESULTS FOR 2011

State/territory	Subscribers surveyed	Found ineligible	No response to survey	Percentage deemed ineligible	Percentage non-responders
<b>Federal Default States</b>					
American Samoa .....	62	0	16	0	26
Delaware .....	534	56	217	10	41
Hawaii .....	499	61	116	12	23
Indiana .....	2,066	340	647	16	31
Iowa .....	12,015	711	4,936	6	41
Louisiana .....	3,656	331	926	9	25
New Hampshire .....	629	115	156	18	25
North Dakota .....	2,240	419	706	19	32
Northern Mariana Islands .....	1,857	0	0	0	0
South Dakota .....	2,411	243	802	10	33
<b>Non-Federal-Default States Mandating That ETCs Follow Federal Verification Procedures</b>					
Arkansas .....	6,114	384	653	6	11
New York .....	6,276	401	1,755	6	28
North Carolina .....	4,288	171	689	4	16
<b>Non-Federal-Default States Requiring ETCs To Submit Verification Results to USAC</b>					
Alabama .....	4,594	858	1,193	19	26
Arizona .....	1,982	180	674	9	34
Pennsylvania .....	2,519	226	395	9	16
West Virginia .....	1,123	198	338	18	30
Average .....	52,865	4,694	14,219	9	27

TABLE 2—LIFELINE VERIFICATION RESULTS FOR 2007

State/territory	Subscribers surveyed	Found ineligible	No response to survey	Percentage deemed ineligible	Percentage non-responders
<b>Federal Default States</b>					
American Samoa .....	154	3	0	2	0
Delaware .....	250	4	162	2	65
Hawaii .....	296	54	11	18	4
Iowa .....	9,492	1,646	1,219	17	13
Indiana .....	2,669	991	1,065	37	40
Louisiana .....	2,141	673	175	31	8
New Hampshire .....	483	108	212	22	44
North Dakota .....	2,795	342	574	12	21
Northern Mariana Islands .....	947	0	0	0	0
South Dakota .....	1,823	472	447	26	25
<b>Non-Federal-Default States Mandating That ETCs Follow Federal Verification Procedures</b>					
Arkansas .....	5,650	1,608	296	28	5
New York .....	4,208	624	585	15	14
North Carolina .....	10,534	940	600	9	6
<b>Non-Federal-Default States Requiring ETCs To Submit Verification Results to USAC</b>					
Alabama .....	4,618	1,393	454	30	10
Arizona .....	1,313	619	525	47	40
Kentucky .....	11,482	1,253	1,788	11	16
Pennsylvania .....	138,453	10,956	9,866	8	7
Puerto Rico .....	4	3	0	75	0
Tennessee .....	4,907	1,562	891	32	18
West Virginia .....	838	109	702	13	84
Average .....	203,057	23,360	19,572	12	10

## Appendix C

## INITIAL COMMENTERS

Commenter	Abbreviation
AARP .....	AARP
Advocates for Basic Legal Equality, Inc., Community Counseling Bristol County, Community Voice Mail, Cross-roads Urban Center, Disability Right Advocates, Legal Services Advocacy Project, Low Income Utility Advocacy Project, National Center for Medical-Legal Partnership, National Consumer Law Center, On Behalf of Our, Low-Income Clients, New Jersey Shares, Ohio Poverty Law Center, Open Access Connections, Pennsylvania Utility Law Project, Pro Seniors, Inc., Salt Lake Community Action Program, Texas Legal Services Center, Virginia Citizens Consumer Council.	Consumer Groups
Alaska Telephone Association .....	ATA
American Library Association .....	ALA
American Public Communications Council, Inc. ....	APCC
Amvensys Telecom Holdings, LLC .....	Amvensys
Area Agency on Aging of West Central Arkansas .....	Area Agency on Aging
Arkansas Advocates for Nursing Home Residents .....	WCA
Association of Programs for Rural Independent Living .....	AANHR
AT&T .....	APRIL
Benton Foundation and Center for Rural Strategies Public Knowledge and United Church of Christ, OC Inc. ....	AT&T
Box Top Solutions, Inc. ....	Benton/PK/UCC
Budget Prepay, Inc., GreatCall, Inc. and PR Wireless Inc. d/b/a Open Mobile .....	Box Top
CenturyLink .....	Budget/GreatCall/PR
CGM, LLC .....	CenturyLink
Cincinnati Bell Inc. ....	CGM
City Councilor Sean Paulhus (ME) .....	Cincinnati Bell
City of New York .....	City of NY
City of North Las Vegas .....	North Las Vegas
Comcast Corporation .....	Comcast
Commissioner Brenda Howerton (NC) .....	
Commissioner Joe Bowser (NC) .....	
Commissioner Lawrence Weekly (NV) .....	
Commissioner Michael Page (NC) .....	
Ogden-Weber Community Action Partnership .....	OWCAP
COMPTel .....	COMPTel

## INITIAL COMMENTERS—Continued

Commenter	Abbreviation
Conexions LLC d/b/a Conexion Wireless .....	Conexions
Consumer Cellular, Inc. ....	CCI
Connecticut Department of Public Utility Control .....	CT DPUC
Councilman Christopher A. Hilbert (VA)	
Councilman Howard Clement (NC)	
Councilman Jamie Benoit (MD)	
Councilman Kelvin E. Washington, Sr. (SC)	
Councilman Ricki Y. Barlow (NV)	
Councilwoman Cora Cole-McFadden (NC)	
Cox Communication Inc. ....	Cox
CTIA—The Wireless Association .....	CTIA
Daniel Reyes, III	
Delegate Benjamin S. Barnes	
Delegate Eileen Filler-Corn	
Delegate Joe Morrissey (VA)	
Delegate Paula J. Miller (VA)	
Public Service Commission of the District of Columbia .....	DC PSC
Educational Services Network, Corp. ....	EDNet
Executive Councilor Daniel St. Hilaire (NH)	
Florida Public Service Commission .....	FL PSC
General Communication, Inc. ....	GCI
Gila River Telecommunications, Inc. ....	GRTI
House Democratic Caucus (GA)	
Indiana Family and Social Services Administration .....	Indiana FSSA
Indiana Utility Regulatory Commission .....	IN URC
Institute for Health, Law & Ethics .....	IHLE
Iridium Satellite LLC .....	Iridium
Keep USF Fair Coalition .....	Keep USF Fair
Kevan Lee Deckelmann	
Las Vegas Urban League .....	Las Vegas Urban League
The Leadership Conference on Civil and Human Rights .....	LCCHR
Leap Wireless International, Inc. and Cricket Communications, Inc. ....	Cricket
Massachusetts Department of Telecommunications and Cable .....	MA DTC
Mayor Jim Bouley (NH)	
Media Action Grassroots Network .....	MAG-Net
Michigan Public Service Commission .....	MI PSC
Minority Media and Telecommunications Council .....	MMTC
Mississippi Public Service Commission .....	MS PSC
Public Service Commission of the State of Missouri .....	MO PSC
National ALEC Association/Prepaid Communications Association .....	NALA/PCA
National Association for the Advancement of Colored People Reno/Sparks Branch #1112 .....	NAACP Reno Sparks
National Association of State Utility Consumer Advocates .....	NASUCA
National Association of Telecommunications Officers and Advisors .....	NATOA
National Cable & Telecommunications Association .....	NCTA
National Consumer Law Center .....	NCLC
National Telecommunications Cooperative Association .....	NTCA
Nebraska Public Service Commission .....	NE PSC
New America Foundation .....	NAF
New Hampshire Coalition of Aging Services .....	NH Coalition of Aging
New Hampshire Coalition Against Domestic and Sexual Violence .....	NHCADSV
New Jersey Division of Rate Counsel .....	NJ DRC
New York State Public Service Commission .....	NY PSC
Nexus Communications, Inc. ....	Nexus
Ohio Association of Second Harvest Food Banks .....	OASHF
Open Access Connections (formerly Twin Cities Community Voice Mail), Energy Cents Coalition, Main Street Project, Minnesota Center for Neighborhood, Organizing Voices for Change.	Open Access
One Economy Corp. ....	One Economy
Partnership for a Connected Illinois .....	PCI
Public Utilities Commission of Ohio .....	OH PUC
Public Utilities Commission of Oregon .....	OR PUC
Rainbow PUSH Coalition .....	Rainbow PUSH
Reunion Communications, Inc. ....	Reunion
San Juan Cable LLC d/b/a OneLink Communications .....	OneLink
Several Members of the Texas House Democratic Caucus	
Smith Bagley, Inc. ....	SBI
Solix, Inc. ....	Solix
Southern Nevada Children First .....	SNCF
Sprint Nextel Corp. ....	Sprint
State Representative Barbara B. Boyd, Ed. D. (OH)	
State Representative Bob Turner (WI)	
State Representative Christopher J. England (AL)	
State Representative Cory Mason (WI)	

## INITIAL COMMENTERS—Continued

Commenter	Abbreviation
State Representative Demetrius C. Newton (AL)	
State Representative Denise DrieHaus (OH)	
State Representative Denise Harlow (ME)	
State Representative Diane Russell (ME)	
State Representative Dennis Murray (OH)	
State Representative J.M. Lozano (TX)	
State Representative John F. Knight (AL)	
State Representative John Robinson (AL)	
State Representative John W. Rogers (AL)	
State Representative Leslie Milam Post (AR)	
State Representative Mark Eves (ME)	
State Representative Peter Stuckey (ME)	
State Representative Ralph Howard (AL)	
State Representative Richard Laird (AL)	
State Representative Sheila Lampkin (AR)	
State Representative Stacy Adams (GA)	
State Representative Tony Payton (PA)	
State Senator Jason Wilson (OH)	
State Senator John C. Astle (MD)	
State Senator Thomas Mac Middleton (MD)	
Suzanne Burke	
TCA	TCA
TracFone Wireless, Inc.	TracFone
United States Telecom Association	USTelecom
Verizon and Verizon Wireless	Verizon
ViaSat, Inc.	ViaSat
Virginia Interfaith Center for Public Policy	Virginia Interfaith Center
YourTel America, Inc.	YourTel

## Appendix D

## REPLY COMMENTERS

Commenter	Abbreviation
Advocates for Basic Legal Equality, Inc., Community Voice Mail National, Disability Rights Advocates, Low Income Utility Advocacy Project, The National Consumer Law Center, on Behalf of our Low-Income Clients, Ohio Poverty Law Center, Open Access Connections, Pennsylvania Utility Law Project, Pro Seniors, Inc., Texas Legal Services Center, Virginia Citizens Consumer Council.	Consumer Groups
American Public Communications Council, Inc.	APCC
Amvensys Telecom Holdings, LLC	Amvensys
AT&T	AT&T
California Public Utilities Commission	CA PUC
COMPTEL	COMPTEL
CTIA—The Wireless Association	CTIA
Emerios	Emerios
Fletcher School (Tufts University)	Fletcher School
General Communication, Inc.	GCI
Leap Wireless International, Inc. and Cricket Communications, Inc.	Cricket
Media Action Grassroots Network	MAG-Net
MFY Legal Services, Inc.	MFY Legal Services
Michigan Public Service Commission	MI PSC
Montana Independent Telecommunications Systems, LLC	MITs
National ALEC Association/Prepaid Communications Association	NALA/PCA
National Association of State Utility Consumer Advocates	NASUCA
National Hispanic Media Coalition	NHMC
New Jersey Division of Rate Counsel	NJ DRC
Nexus Communications, Inc.	Nexus
One Economy Corp., League of United Latin America Citizens, Minority Media and Telecommunications Council	One Economy
Open Access Connections	Open Access Connections
PR Wireless, Inc. d/b/a Open Mobile	PR Wireless
Regulatory Commission of Alaska	Alaska Commission
Reunion Communications, Inc.	Reunion
Sprint Nextel Corporation	Sprint
State of Alaska	Alaska
Texas Statewide Telephone Cooperative, Inc.	TX Telephone Cooperative
TracFone Wireless, Inc.	TracFone
Verizon and Verizon Wireless	Verizon
YourTel America, Inc.	

## Appendix E

## USAC DISBURSEMENT PUBLIC NOTICE COMMENTERS

Commenter	Abbreviation
Alexicon Telecommunications Consulting .....	Alexicon
CenturyLink .....	CenturyLink
COMPTEL .....	Comptel
Michigan Public Service Commission .....	MI PSC
PR Wireless, Inc. d/b/a Open Mobile .....	PR Wireless
Smith Bagley, Inc .....	Smith Bagley
South Carolina Office of Regulatory Staff .....	South Carolina Office of Regulatory Staff
Sprint Nextel Corporation .....	Sprint
United States Telecom Association .....	USTelecom
Verizon and Verizon Wireless .....	Verizon and Verizon Wire- less
Reply Commenter	
Massachusetts Department of Telecommunications and Cable .....	MDTC
National Tribal Telecommunications Association .....	NTTA
Nexus Communications, Inc .....	Nexus

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