

**Before the  
FEDERAL COMMUNICATIONS INDIANA COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

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**REPLY COMMENTS OF  
THE INDIANA UTILITY REGULATORY COMMISSION**

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**I. Introduction**

On December 1, 2017, the Federal Communications Commission (“FCC” or “Commission”) released its Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking (“NPRM”), and Notice of Inquiry (“NOI”) regarding the Lifeline program and the process to designate Eligible Telecommunications Carriers (“ETCs”). Initial comments were due February 21, 2018, and a diverse range of interested parties filed comments, including communications service providers, consumer advocates, and state utility commissions, including the Indiana Utility Regulatory Commission (“Indiana Commission”).

Having reviewed many of the comments filed, the Indiana Commission respectfully requests consideration of its reply comments. The Indiana Commission provides these comments to add to the record and assist the FCC in formulating wise public policy that balances the need to control waste, fraud, and abuse with the worthy goal of ensuring that low-income consumers have access to affordable telecommunications and information services to enable access to emergency services, family, and important community and government resources.

The Indiana Commission is providing its position on the following policies:

- The FCC should reauthorize state commissions to designate Lifeline ETCs and change applicable rules to restore traditional state and federal roles.
- The FCC should eliminate the Stand-Alone Lifeline Broadband Provider (LBP) designation.
- The FCC should not phase out support for voice services.
- The Independent Economic Household (“IEH”) worksheet should only be used when a prospective Lifeline subscriber shares an address with an existing Lifeline subscriber.

## II. Reauthorization of State Commissions for the Lifeline ETC Designation Process

The FCC seeks comments on its consideration to reverse the preemption of states to designate Lifeline ETCs in the *2016 Lifeline Order* and the legal issues surrounding LBPs in paragraphs 55 through 58 of the NPRM. The Indiana Commission supports the reauthorization of states to designate Lifeline ETCs in response to the U.S. Court of Appeals for the D.C. Circuit’s grant of the FCC’s motion for voluntary remand.<sup>1</sup> The Telecommunications Act gives states clear authority to designate ETCs and establish ETCs’ service areas. Section 214(e)(2) states:

“A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for the service area designated by the state commission ...”

Reauthorizing state commissions to designate ETCs for the purposes of Lifeline would help to align the FCC’s rules regarding ETC designations with the original ETC framework stated in the Telecommunications Act. The initial comments of the National Association of Regulatory Commissioners (“NARUC”) and many other state commissions support this position.

Related to this discussion, the NPRM seeks comment on the question of traditional state and federal roles related to ETC designations for the purpose of Lifeline only or for both the high-cost and Lifeline programs and what rule changes would be needed to restore traditional state and federal roles for ETC designations.<sup>2</sup> The Indiana Commission agrees with the statement in the NARUC’s initial comments,<sup>3</sup> and also applauds the NPRM’s recognition of the important and lawful role of states in designating ETCs for the Lifeline program.<sup>4</sup> The Telecommunications Act has relatively straight forward standards for ETCs. It does not create different types of ETCs with different obligations and benefits. Understandably, the FCC has used its authority to grant

<sup>1</sup> NARUC v. FCC, Case No. 16-1170 (D.C. Cir., Apr. 19, 2017) (granting the Commission’s motion for voluntary remand).

<sup>2</sup> NPRM, ¶ 56

<sup>3</sup> Initial Comments of the National Association of Regulatory Utility Commissioners, pg. 4

<sup>4</sup> NPRM, ¶ 54

forbearance from certain requirements of the Telecommunications Act as a tool to meet public interest objectives, such as increased availability of Lifeline services. However, the Indiana Commission encourages the FCC to consider that this has affected other areas of the ETC framework and states' abilities to perform their roles as described in the Telecommunications Act, such as in section 214(e)(4) – Relinquishment of Universal Service.

Prepaid wireless resellers that have received forbearance from the requirement in section 214(e)(1)(A) of the Telecommunications Act to have facilities have been effective at marketing the Lifeline discount and increasing enrollment in the program. However, the presence of these non-facilities-based, Lifeline-only ETCs in a given area can expedite the relinquishment of existing facilities-based ETCs under Section 214(e)(4):

“A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier...”

The FCC should ensure that rules regarding ETC designation in 47 C.F.R. 54.201 and ETC relinquishment 47 C.F.R. 54.205 are symmetrical. Since FCC grants of forbearance from the facilities requirement allowed wireless reseller ETC designations for the narrow purpose of reimbursement for providing the Lifeline discount, the FCC should make it clear that states are allowed to distinguish between Lifeline-only ETCs and ETCs also designated for the purposes of high-cost support<sup>5</sup> when permitting ETC relinquishments under 47 C.F.R. 54.205. The rule should contain language that makes it clear states are not required to consider Lifeline-only ETCs as replacements for facilities-based ETCs, eligible for both high-cost and Lifeline support, in the case of a relinquishment under section 214(e)(4) of the Telecommunications Act and section 54.205 of the FCC's rules. Even Lifeline-only wireless ETCs that are considered facilities-based may be adapted to serve a more narrow market sector than ETCs eligible to receive high-cost support. Therefore, the Indiana Commission suggests adding the following language to 47 C.F.R. 54.205:

In the event that an ETC designated for the purpose of eligibility for high-cost support (as defined in 47 C.F.R. 54.5) seeks to relinquish its ETC designation, a state commission may determine that any remaining ETCs designated solely for the purposes of eligibility for Lifeline support are not considered an ETC serving the area of the relinquishing ETC for the purpose of this rule.

The Indiana Commission's reply comments regarding this section of the NPRM also tie in with considerations in paragraphs 63 through 72 of the NPRM to potentially limit Lifeline support to ETCs that provide Lifeline services over facilities-based voice- and broadband-capable, last mile networks. The Indiana Commission provided initial comments on this topic and urged

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<sup>5</sup> As defined in 47 C.F.R. 54.5

caution before discontinuing Lifeline support for non-facilities-based services.<sup>6</sup> However, whether the FCC decides to aggressively move to discontinue Lifeline support for non-facilities service, seeks a middle ground, or decides to leave the current policy untouched, the Indiana Commission advocates the language listed above. The prevalence of non-facilities-based, Lifeline-only ETCs has reshaped the ETC landscape for the foreseeable future. Since some ETCs have been designated for the narrow purpose of receiving support for Lifeline, state commissions should not be required to view such ETCs as a substitute for ETCs designated for the purpose of receiving support to serve high-cost and insular areas. While some states may already interpret section 54.205 and section 214(e)(4) of the Telecommunications Act this way, the recommended language above would provide a necessary clarification for state commissions when evaluating ETC relinquishment petitions.

### **III. Stand Alone Lifeline Broadband Provider Designation**

The Indiana Commission agrees with NARUC and encourages the FCC to eliminate the stand-alone LBP designation as suggested in paragraph 58 of the NPRM. While it is reasonable for federal rules to contain some distinctions between wireless Lifeline-only ETCs and ETCs designated for the purposes of receiving support from the high-cost program, the Indiana Commission does not believe adding the LBP designation helps further the goals of the Lifeline program or broadband deployment. The LBP classification adds an unnecessary layer of complexity to the ETC framework, removes states from the process, and departs from the standards of Section 214(e) of the Telecommunications Act. The federal Lifeline program can best support affordable voice and broadband services by promulgating clear expectations, setting minimum standards for voice, and allowing the Lifeline discount to be applied to bundles that include broadband Internet access service and voice.

### **IV. Voice-only Lifeline Support**

The Indiana Commission agrees with the initial comments filed by numerous state commissions and consumer advocates that voice-only Lifeline support should continue to be available in both rural and urban areas. Some low income consumers, particularly older Lifeline customers, may only need or use voice services. Lifeline providers that want to serve this market and provide a reliable, high-quality voice services offering should continue to be eligible for support. Voice service remains a necessary form of communication, not only for emergency calls

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<sup>6</sup> See Comments of the Indiana Utility Regulatory Commission, WC Docket 17-287, filed January 24, 2018

to 911, but for critical communications to friends, family, schools, and community resources. Therefore ceasing to support voice services would send the wrong message to ETCs.

## **V. Independent Economic Household Worksheets**

Regarding the FCC's considerations to refine the use of IEH worksheets, the Indiana Commission agrees with the opening comments of Low-Income Consumer Advocates on this topic, stating that the IEH should only be used when there is actually a duplicate address issue.<sup>7</sup>

The Indiana Commission has experience with this worksheet due to its investigation of a Lifeline-only ETC in 2014.<sup>8</sup> This investigation was resolved by placing conditions on the ETC, one of which included working with commission staff to review IEH worksheets. Based on this review, commission staff observed that there was wide-spread use of the IEH worksheets (referred to as the Lifeline Household Worksheet in this investigation). Commission staff reported that requiring completion of the worksheet regardless of the Lifeline customer's situation, even those clearly living alone, made the worksheet less meaningful. Commission staff recommended that the Indiana Commission consider a rulemaking to require the worksheet to be used only when screening information or the customers' statements indicate that the subscriber shares an address with another Lifeline subscriber.<sup>9</sup> However, a statewide rule regarding the use of a federal form potentially would have conflicted with federal rules. Therefore, the Indiana Commission did not undertake such a rulemaking.

The Indiana Commission encourages the FCC to proceed with its proposal to amend "the language in section 54.404(b)(3) to only permit the use of an IEH worksheet after the ETC has been notified by the NLAD, or state administrator in the case of NLAD opt-out states, that the prospective subscriber resides at the same address as another Lifeline subscriber."<sup>10</sup> The Indiana Commission commends the FCC for its efforts to ensure that Lifeline funds are being directed to eligible consumers who actively use the Lifeline program and believe this step will further that goal.

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<sup>7</sup> Opening Comments on the Notice of Proposed Rulemaking and Notice of Inquiry by Low-Income Consumer Advocates, pg. 21

<sup>8</sup> See Final Order, Cause No. 44332, Indiana Utility Regulatory Commission, approved May 7, 2014

<sup>9</sup> See Final Joint Report, Cause No. 44332, Indiana Utility Regulatory Commission, filed October 7, 2014


<sup>10</sup> NPRM, ¶ 98

## VI. Summary and Conclusion

The Indiana Commission appreciates the FCC's recognition of the importance of the role of states in Lifeline program administration and rooting out waste, fraud, and abuse in the program. The Indiana Commission makes its suggestions to encourage reforms that avoid an overly complex and ambiguous ETC framework which respects state and federal roles. At the same time, the Indiana Commission supports the Lifeline program and the FCC's goals to direct its funding to eligible customers who use the services.

The Indiana Commission appreciates the opportunity to provide reply comments. The Indiana Commission hopes the FCC finds our perspective and experience with the Lifeline program and ETC designation policies helpful in formulating sensible federal rules which further the goals of the Telecommunications Act. The Indiana Commission looks forward to continuing the coordinated state-federal partnership with the FCC.

Respectfully submitted this 23<sup>th</sup> day of March, 2018



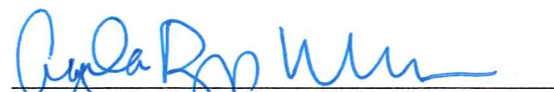
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James F. Huston, Interim Chairman



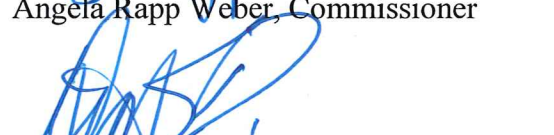
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Sarah E. Freeman, Commissioner



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Angela Rapp Weber, Commissioner



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David E. Ziegner, Commissioner