Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Lifeline and Link Up Reform and Modernization

Telecommunications Carriers Eligible for Universal Service Support

Connect America Fund

WC Docket No. 11-42

WC Docket No. 09-197

WC Docket No. 10-90

REPLY COMMENTS OF THE NATIONAL HISPANIC MEDIA COALITION

Of Counsel:
Daiquiri Ryan
The George Washington University Law School
Law Student

Michael J. Scurato, Esq.
Andy Lomeli
National Hispanic Media Coalition
55 South Grand Avenue
Pasadena, CA 91105
(626) 792-6462

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SUMMARY

The National Hispanic Media Coalition ("NHMC") appreciates the Federal Communication Commission’s ("FCC" or "Commission") efforts to modernize the Lifeline program and shares the enthusiasm of many fellow commenters for the completion of this process.

First, NHMC joins others in asserting that a national third-party eligibility verifier would help streamline the program nationwide and protect consumer privacy.

Second, NHMC agrees with several commenters that the Commission must foster consumer choice by allowing Lifeline consumers to elect the types of services to which they may apply their benefits.

Third, NHMC joins other commenters in urging the Commission to examine a multitude of ways to ensure that Lifeline customers do not receive sub-standard services. For instance, the Commission should implement a tiered subsidy that would encourage competition and more robust service offerings. The Commission should also develop a process to ensure minimum standards do not remain stagnant but rather responsive to technological and market developments. The Commission should also take special efforts to avoid the harms associated with artificially low or unnecessary usage limits in Lifeline. NHMC believes disclosure standards must meet the FCC’s requirements under its open Internet rules and offer transparent disclosures in multiple languages.

Finally, NHMC believes the Commission should adjust the standard for demonstrating usage to prevent de-enrollment to include both text messaging and broadband usage. Text messaging is an important means of communications, particularly for individuals with disabilities. Data usage should also prevent de-enrollment, particularly if Lifeline is modernized to support broadband services.
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The National Hispanic Media Coalition (“NHMC”) respectfully submits this reply to comments responsive to the Federal Communications Commission’s (“FCC” or “Commission”) Second Further Notice of Proposed Rulemaking (“Second FNPRM”) seeking input on how to modernize Lifeline and allow the program to support broadband services.\(^1\) NHMC is encouraged both by commenters’ enthusiasm toward modernizing Lifeline as well as the Commission’s willingness to explore new means of providing program recipients with 21st century connectivity.

Today, Lifeline is vital to tens of millions of low-income consumers who would otherwise be unable to afford basic telephony services important for staying connected with loved ones, finding and maintaining employment, obtaining social services, reaching emergency services, accessing healthcare information, and countless other daily tasks. As technology evolves, however, NHMC recognizes that many Lifeline recipients are at risk of being left behind, as newer forms of communication, like Internet access, become a necessity for

socioeconomic empowerment. NHMC believes that the Latino population, in particular, stands to benefit greatly if the Commission takes the appropriate steps to modernize Lifeline. NHMC appreciates and supports many of the recommendations made by fellow commenters.

First, NHMC joins others in asserting that a national third-party eligibility verifier would help streamline the program and protect consumer privacy.

Second, NHMC agrees with several commenters that the Commission must foster consumer choice by allowing Lifeline consumers to elect the types of services to which they may apply their benefits.

NHMC argues that creating a tiered model of subsidy levels, similar to the California Lifeline program, could help create more competition and innovation within the program. Like many other commenters, NHMC believes minimum voice and broadband standards must be established to ensure consumers derive maximum value from their Lifeline subsidy. In creating such standards, however, the Commission must make certain they remain flexible and responsive to changes in the marketplace and technology.

As a fervent supporter of the Commission’s open Internet rules, NHMC agrees with commenters that providers must offer consumers transparent disclosures on network openness. Additionally, NHMC believes the Commission must protect consumers with limited English proficiency by ensuring disclosures are provided in multiple languages. With the potential addition of broadband to the program, NHMC joins other commenters in arguing that artificially low or unnecessary data caps could detrimentally limit consumers.

Finally, NHMC agrees that the Commission must rethink standards for demonstrating usage to prevent de-enrollment from the program. The importance of text messaging for the deaf community demonstrates one existing problem with relying on voice usage to prevent de-
enrollment. Further, if the Commission determines the Lifeline subsidy can be applied to broadband-only plans, measuring voice usage will not fully capture a consumer’s use of his or her Lifeline subsidy.

**DISCUSSION**

I. A NATIONAL THIRD-PARTY ELIGIBILITY VERIFIER SHOULD BE CREATED IN ORDER TO FULLY UTILIZE ALREADY EXISTING DATABASES AND PROVIDE THE STRONGEST DATA SECURITY POSSIBLE TO CONSUMERS.

NHMC agrees with many commenters who support the Commission’s proposal to establish a national third-party verifier for its potential efficiency\(^2\) and increased security assurances.\(^3\) As several commenters mentioned, California and Wisconsin have already established a third-party verifier,\(^4\) which resulted in increased efficiencies and program integrity measures – namely superior protection of sensitive consumer information.\(^5\) Many industry commenters and public interest groups agree that a third-party verifier will reduce administrative costs and allow funds to better serve Lifeline’s main purpose of making communications services more affordable for low-income consumers.\(^6\) NHMC agrees with many commenters that shifting the administrative burden of eligibility verification away from carriers will also make industry participation in Lifeline more “palatable” for companies that may not currently

\(^2\) Open Technology Institute Comments at 19 (“OTI Comments”).
\(^3\) OTI Comments at 19; The Leadership Conference on Civil and Human Rights Comments at 4 (“LCCHR Comments”).
\(^4\) California Emerging Technology Fund Comments at 31 (“CETF Comments”); Public Service Commission of Wisconsin Comments at 1-3 (“WI PSC Comments”).
\(^5\) CETF Comments at 19. Cf. WI PSC Comments at 1-5 (noting that though verification system is efficient, it needs to be updated).
\(^6\) See e.g. Castleberry Telephone Co. Comments, Charter Communications Comments at 2; Comcast Comments at 8; OTI Comments at 19; Connected Nation Comments at 3; Consumer Action Comments at 4; EveryoneOn Comments at 4; Missouri Public Service Commission Comments at 4 (“MO PSC Comments”); NCTA Comments at 5; Multicultural Media, Telecom and Internet Council et al. Comments at 8-9; WI PSC Comments at 1; Windstream Services, LLC Comments at 7-8.
participate, thereby creating greater competition in the Lifeline marketplace and more options for consumers.\textsuperscript{7}

Several commenters expressed concern over privacy and security of vulnerable consumer personal information. Many believe that determining consumer eligibility for a government program is better left to government actors.\textsuperscript{8} Utilizing a third party to determine consumer eligibility makes sense; NHMC agrees that moving eligibility verification to a trusted third party could create a more secure method of collecting consumer information through a centralized system and utilizing existing databases.\textsuperscript{9} Additionally, NHMC agrees with EveryoneOn that a third-party verifier could reduce security risks, granting consumers peace of mind and encouraging enrollment.\textsuperscript{10}

\textbf{II. THE COMMISSION SHOULD MAXIMIZE CONSUMER CHOICE BY ALLOWING THE LIFELINE SUBSIDY TO APPLY TO ANY EXISTING VOICE, BROADBAND, OR BUNDLED SERVICE PLAN.}

NHMC agrees with commenters that consumers must have the freedom to apply the Lifeline benefit to the services they deem most important.

NHMC joins other commenters in supporting the continued availability of stand-alone voice service, as it remains a critical communication service for many low-income families.\textsuperscript{11} Even as alternative technologies grow more prevalent, voice-only service operates as a primary

\textsuperscript{7} MO PSC Comments at 4; NCTA Comments at 5.
\textsuperscript{8} See Internet Innovation Alliance Comments at 11; Common Cause Comments at 11.
\textsuperscript{9} See OTI Comments at 20; LCCHR Comments at 4.
\textsuperscript{10} See EveryoneOn Comments at 4.
\textsuperscript{11} Public Knowledge Comments at 31; National Hispanic Media Coalition Comments at 17 ("NHMC Comments"); National Consumer Law Center et al. Comments at 3 ("NCLC Comments"); LCCHR Comments at 3; The Greenlining Institute et al. Comments at 18 ("Greenlining Comments").
means of communication for a large segment of the population—particularly in emergency situations. NHMC agrees that these needs cannot be ignored.

The Commission should consider the utility of bundled services as the Lifeline program evolves. NHMC does not agree that Commission proposals would require a consumer to choose between voice and broadband. Instead, NHMC agrees with other public interest commenters that, if the Commission can encourage a competitive, free market for these services, consumers would benefit from more innovative products – such as bundled offerings – and apply their subsidy toward packages containing both voice and broadband service.\(^{12}\)

**III. THE COMMISSION SHOULD EXAMINE MINIMUM STANDARDS FOR LIFELINE PRODUCTS AND DISCLOSURES.**

The Commission should examine a multitude of ways to ensure that Lifeline customers do not receive sub-standard services. First, the Commission should consider implementing a tiered subsidy model, like the state of California, that would encourage providers to compete and offer more robust plans and products. Second, the Commission must articulate a process for adopting evolving minimum standards responsive to consumer usage and market conditions. Third, the Commission should make special efforts to understand and respond to the harms to communities of color associated with artificially low or unnecessary usage limits and ensure that those harms do not manifest through Lifeline. Finally, the Commission should establish minimum standards for consumer disclosure methods, including requiring disclosures to be made in multiple languages.

**A. The Commission Should Implement A Tiered Model For Providing Lifeline Benefits Based On The Level Of Service Provided.**

NHMC agrees with other commenters that the Commission should explore innovative

\(^{12}\) See Free Press Comments at 68-69.
subsidy models that spur competition amongst providers. Both the Greenlining Institute et al. ("Greenlining")\textsuperscript{13} and the Leadership Conference\textsuperscript{14} recommend the Commission tailor subsidy amounts according to benefit levels in tiered increments, incentivizing providers to offer more robust services for a larger reimbursement, thus, elevating the floor of service offered.

NHMC is particularly encouraged by Greenlining’s discussion of the tiered California Lifeline model instituted by the California Public Utilities Commission in 2014. Through California’s wireless Lifeline program, providers offering plans between 501 and 999 minutes receive a $5.75 state subsidy, compared to the more substantial $12.65 provided to carriers offering at least 1,000 minutes. Participation in the state program has exploded since tier implementation, with 1.5 million active wireless California Lifeline participants as of August 2015.\textsuperscript{15} In fact, most California Lifeline wireless provider currently offers at least 1,000 minutes in each plan – three to four times the typical number of minutes offered by federal wireless Lifeline providers.\textsuperscript{16}

These trends demonstrate how a tiered subsidy model can spur significant competition and, subsequently, improve the minimum level of service provided to Lifeline participants. NHMC believes that such a model can similarly incentivize providers to offer abundant plans that further benefit consumers nationwide. Moreover, NHMC agrees with both Greenlining and the Leadership Conference that a similar framework can be applied to the federal Lifeline program to ensure participants are not relegated to minimal services. Similarly, as California’s

\begin{itemize}
\item[\textsuperscript{13}] Greenlining Comments at 17-18.
\item[\textsuperscript{14}] LCCHR Comments at 2-3.
\item[\textsuperscript{15}] California Public Utilities Commission, Total Approved Lifeline Subscribers in California by Carrier, \emph{available at} http://www.cpuc.ca.gov/NR/rdonlyres/1276B73C-D201-46BB-9753-EBDC9A65D12D/0/Copyof2015XeroxSubscriberCountsasof9915.xlsx (last visited Sept. 23, 2015).
\end{itemize}
participants have benefitted from the state’s additional benefits, other states should be encouraged to provide benefits above and beyond the federal program.

B. The Commission Must Adopt A Forward-Facing, Data-Driven, And Ever-Evolving Process For Determining Minimum Service Standards.

NHMC agrees with several commenters that minimum standards must be established to prevent Lifeline participants from becoming second-class users. NHMC agrees with OTI that “minimum standards should not be a double standard that produces two tiers of broadband—one for low-income Lifeline customers, and another, faster tier for everyone else.”

NHMC is glad to find many fellow commenters agreed that any minimum broadband standards must address the “homework gap” by allowing school-age children to complete school assignments that often require online resources. NHMC appreciates and applauds the American Library Association calling for bandwidth capacities that allow students to upload homework assignments and take advantage of growing real-time distance learning opportunities. Common Sense Kids Action similarly calls for a minimum standard that allows students to complete assignments in a timely manner. Additionally, Connect Your Community 2.0 specifically points to General Education Degree (“GED”) students being left behind as a result of recent changes to the GED process.

NHMC agrees with Common Cause that constant technical innovations make it difficult for us to forecast specific minimum broadband support levels today. Instead of advocating for specific minimum bandwidth standards for Lifeline-eligible broadband plans, NHMC urges the

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17 OTI Comments at 2.
18 American Library Association Comments at 10.
19 Common Sense Kids Action Comments at 7.
20 Connect Your Community 2.0 Comments at 2.
21 Common Cause Comments at 16.
Commission to adopt a forward-facing, data-driven, and ever-evolving process for determining minimum service standards. While we agree resources must be abundant to close the homework gap and allow multiple members of a household to engage in critical socioeconomic online activities, NHMC maintains (as in initial comments\textsuperscript{22}) that Section 254 of the Telecommunications Act of 1996 refers to “an evolving level of telecommunications service.”\textsuperscript{23} With constant changes to the market, usage patterns, and technologies, the Commission must maintain the flexibility to change both minimum broadband standards and the support level over time. Making any of these standards or levels permanent could create a major limitation for generations of Lifeline users to come.

C. The Commission Must Recognize The Harms Of Artificially Low Or Unnecessary Data Usage Limits For Communities Of Color.

Many commenters offered persuasive evidence of the potential harms to consumers that result from the imposition of unnecessary or artificially low data usage limits on customers, particularly low-income consumers. NHMC agrees that the Commission must be cognizant of this data as it explores the imposition of minimum standards. NHMC agrees with OTI’s research that “data caps, especially on wireline networks, are hardly a necessity, and instead appear to be primarily motivated by a desire to further increase revenues from existing subscribers and protect legacy services (such as cable television) from competing Internet services.”\textsuperscript{24}

NHMC further contends that data caps can be particularly harmful for communities of color, who are more likely to purchase a more affordable, low-data plan. A recent Pew study found that 49 percent of Latino smartphone owners “frequently” or “occasionally” reach their

\begin{footnotesize}
\textsuperscript{22} NHMC Comments at 16.
\textsuperscript{23} 47 U.S.C. § 254(c).
\textsuperscript{24} OTI Comments at 8.
\end{footnotesize}
plan’s data cap, compared to just 31 percent of whites and 43 percent of African Americans.²⁵ Moreover, 51 percent of those who are “smartphone dependent” frequently or occasionally reach their maximum data allowance, while only 35 percent of other smartphone owners experience this issue.²⁶ NHMC’s initial comments demonstrate that Latinos are much more likely to be reliant on mobile broadband as their primary means of accessing the Internet and would suffer disproportionately by any unreasonable limitations placed on their broadband Internet access.

NHMC also agrees with the Benton Foundation that data limits force low-income households to ration broadband, a practice that undermines one’s ability to fulfill communications needs – including accessing health and emergency services, filling out job applications, and completing school assignments. Benton also argues that subjecting low-income households to such caps puts them at risk of paying unaffordable penalties, frustrating the purpose of Lifeline.²⁷ Especially problematic, data limits and usage patterns are not always transparent or readily determined. NHMC believes providers should grant consumers clear, understandable disclosures about any data limitations, potential penalties, or overage charges.

D. The Commission Should Adopt Minimum Disclosure Standards That Ensure Transparency In Accordance With The Open Internet Order and Require Providers To Offer Multilingual Consumer Disclosures.

NHMC agrees with commenters urging the Commission to adopt minimum disclosure standards that ensure the highest level of transparency in accordance with the relevant

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²⁶ Id.
regulations from the Open Internet Order. NHMC agrees with OTI that customers should be able to clearly understand the various services and prices offered to them, as well as any relevant network management practices that could degrade their service. A fervent supporter of the open Internet rules, NHMC agrees that transparency is critical in ensuring both that customers understand their products and that the Commission has the data necessary to enforce openness and non-discriminatory practices.

Moreover, NHMC agrees with Greenlining that notices and customer service should be provided for consumers with limited English proficiency. Greenlining specifically calls on the Commission to institute rules ensuring providers offer contracts, terms of service, billing information, notices, and free customer service in the language in which Lifeline service was originally sold. In-language disclosures are extremely important for the population that Lifeline would hope to serve. For instance, only 38 percent of Spanish-dominant Latinos report having broadband at home, making this segment a potential target for Lifeline broadband products. English-only disclosures would be of minimal value to this sizeable population. NHMC agrees that the Commission should require providers to be transparent in their offerings and make available disclosures that are understandable to all communities—including Spanish-speakers.

IV. TEXT MESSAGING AND BROADBAND USAGE SHOULD BE SUFFICIENT TO PREVENT DE-ENROLLMENT IN LIFELINE.

NHMC also agrees with numerous commenters that the Commission must change its
standard for evaluating participants’ monthly usage to avoid de-enrollment. As CETF points out, text messaging is widely accepted as a means of communicating, particularly by younger generations, and can be sufficient or necessary during emergency situations. As CETF points out, text messaging is widely accepted as a means of communicating, particularly by younger generations, and can be sufficient or necessary during emergency situations. The National Association of the Deaf also explains that many hearing-impaired participants rely on texting and therefore risk losing their benefit from such a usage requirement. Kelley Drye similarly points out that excluding text messages discriminates against Lifeline users with certain disabilities. NHMC joins these commenters in asking the Commission allow text messaging to satisfy monthly usage requirements, thus preventing participants from unfairly losing access to important social and emergency services.

Further, the potential addition of broadband to the Lifeline program requires the Commission to change its voice-based paradigm for satisfying monthly usage. If consumers are allowed to apply their Lifeline subsidy to broadband-only plans that do not include voice, they would be automatically de-enrolled, based on their inability to complete a voice call under the Lifeline plan. The Commission must adopt greater flexibility in its usage demonstration standard to include any sort of data usage using a Lifeline plan.

CONCLUSION

Wherefore, NHMC respectfully requests that the Commission accept the recommendations herein.

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32 CETF Comments at 46.
34 Kelley Drye & Warren Comments at 63.
Daiquiri Ryan  
The George Washington University Law School  
Law Student  
Dated: September 30, 2015

Respectfully Submitted,

/s/  
Michael J. Scurato, Esq.  
Andy Lomeli  
National Hispanic Media Coalition  
55 South Grand Avenue  
Pasadena, CA 91105  
(626) 792-6462