Before the
FEDERAL COMMUNICATIONS 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 No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197

COMMENTS OF THE CITIES OF BOSTON, MASSACHUSETTS, LOS ANGELES, CALIFORNIA, AND PORTLAND, OREGON, AND THE TEXAS COALITION OF CITIES FOR UTILITY ISSUES

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February 21, 2018

EXECUTIVE SUMMARY

The Cities of Boston, Massachusetts, Los Angeles, California, Portland, Oregon, and the Texas Coalition of Cities for Utility Issues submit these Comments to show their strong support for bridging the digital divide, and to challenge the proposals advanced by the Commission regarding the Lifeline program. The Cities are strong proponents of universal broadband access, and undertake a variety of local policy initiatives to maximize broadband access in schools and libraries, in residential neighborhoods, and in support of economic growth. Collectively, Cities represent more than 5.25 million constituents from all walks of life, including tens of thousands of low-income individuals who rely on the Lifeline program to help them cross over to the right side of the digital divide.

In this filing, Cities seek to demonstrate that both the NPRM and NOI are inconsistent with Congressional mandated universal service directives and must be substantially revised if not outright abandoned for the following reasons:

- Lifeline must remain focused on addressing affordability as a co-equal part of the Commission's diverse efforts to bridge the digital divide;
- The proposed changes in the NPRM would harm millions of Americans and fail to incent meaningful infrastructure investment, while undercutting state and local government efforts to expand connectivity; and
- Creating a lifetime cap on Lifeline is inconsistent with the program's purpose, and the Commission's Congressionally-mandated goal, of bridging the digital divide and promoting universal service for all Americans.

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INTRODUCTION

The Cities of Boston, Massachusetts,[1] Los Angeles, California,[2] and Portland, Oregon,[3] and the Texas Coalition of Cities for Utility Issues[4] (collectively, the "Cities") respectfully submit these Comments in response to the Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry ("2017 NPRM/NOI") regarding the Lifeline program, which was adopted by the Federal Communications Commission ("Commission") on November 17, 2017.[5] While the Cities share the Commission's strong interest in bridging the digital divide, the proposals advanced by the

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[1] Dating to 1631, Boston is the largest city in New England and capital of the Commonwealth of Massachusetts. Boston is home to approximately 673,184 people from all walks of life, thousands of whom rely upon the Lifeline program. Through the offices of Mayor Martin J. Walsh, Boston strives to ensure the City and all its residents and visitors have competitive, affordable, and robust access to modern communications services. Boston, as home to numerous universities and a robust technology and finance sector, is particularly attuned to the critical importance of broadband access and affordability to enable participation in the digital age.

[2] Los Angeles, with an estimated population of 3,976,322, is the second most populous city in the United States. The City is home to residents from more than 140 countries, speaking 224 different identified languages, and thousands of whom benefit from the Lifeline program. These comments were prepared on behalf of the Information Technology Agency, which under the leadership of Mayor Eric Garcetti works with agencies and departments across the City of Los Angeles to develop world-class IT infrastructure and applications that provide our citizens, businesses, and visitors with the digital services they expect from a leading global city.

[3] The City of Portland comprises an area of approximately 145 square miles in northwestern Oregon. With a 2016 population estimated at 627,000, Portland is the center of commerce, industry, transportation, finance, and services for a metropolitan area with a 2016 population estimated at 2.4 million people. Portland is the county seat of Multnomah County, and is the largest city in Oregon and the second largest city in the Pacific Northwest. Lauded as one of the best places to live in America, Portland has a vibrant downtown, diverse neighborhoods, natural beauty, good schools, friendly people and a dedication to closing the digital divide.

[4] The Texas Coalition of Cities for Utility Issues (TCCFUI) is a coalition of more than 50 Texas municipalities dedicated to protecting and supporting the interests of the citizens and cities of Texas with regard to utility issues. The Coalition is comprised of large municipalities and rural villages.

[5] *In the Matter of Bridging the Digital Divide for Low-Income Consumers et al*, WC Docket No. 17-287, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (rel. Dec. 1, 2017) ("2017 NPRM/NOI")

Commission and discussed in detail below do not further these important, and Congressionally-mandated, objectives, and should be seriously reconsidered or abandoned entirely.

Cities collectively represent more than 5.25 million constituents of all walks of life, including tens of thousands of low-income individuals who rely on the Lifeline program to help them reach the right side of the digital divide. The Cities are strong proponents of universal broadband access, and undertake a variety of local policy initiatives to maximize broadband access in schools and libraries, in residential neighborhoods, and in support of economic growth. Broadband access is essential to success in education, investment, employment, and public engagement in the 21st century. Consumers rely on broadband to access news, healthcare information, financial tools, and other resources. Most jobs require online applications, most elementary school teachers assign homework requiring broadband access, and most jobs require some form of digital literacy. Toward that end, the Cities remain strong supporters of the Lifeline program and the very real impact it has on millions of households nationwide.

In Part I of these comments, the Cities discuss why Lifeline must remain focused on addressing affordability as a co-equal part of the Commission's diverse efforts to bridge the digital divide in all communities nationwide.

In Part II, the Cities detail why the Commission's Notice of Proposed Rulemaking, if adopted, would harm millions of Americans, while failing to drive meaningful infrastructure investment. Furthermore, state and local government efforts to expand connectivity will be harmed by the Commission's proposals, with their singular focus on cutting the program's size, no matter the harm to low-income communities.

Finally, in Part III, the Cities outline their opposition to the Notice of Inquiry's proposals that pose threats to the long-term utility and success of the Lifeline program. Specifically, Cities oppose lifetime benefit caps as such caps substantially narrow the utility of the program, reduce the broader network effects generated by expanding broadband subscribership, and harms particularly vulnerable communities including seniors and persons with disabilities.

Because the Commissions' proposals in both the NPRM and NOI fail to reflect the program's purpose and Congressionally-mandated universal service principles, both the NPRM and NOI should be substantially revised or abandoned outright. Meaningful improvements to the Universal Service ecosystem are possible, and in some areas necessary; regrettably, few real improvements are on offer here.

PART I: THE ROLE OF LIFELINE IN FURTHERING CONGRESSIONAL UNIVERSAL SERVICE GOALS

I. LIFELINE IS NEITHER AN INFRASTRUCTURE NOR A RURAL-SPECIFIC PROGRAM; OTHER UNIVERSAL SERVICE PROGRAMS SERVE THOSE OBJECTIVES

A. Access and Affordability are Co-Equal Pillars of the Commission's Universal Service Mandate.

Millions of Americans find themselves without adequate communications services. The problem is particularly acute among low-income Americans. Recent data from Pew Research indicates that barely half of Americans earning less than $30,000 per year, have home broadband, and one third don't have a smartphone.[6] Barely half have a computer at home, and only one-third have a tablet.[7] In recognition of the diverse challenges that arise in attempting to ensure that all Americans have access to communications services, Congress and the Commission implemented multiple Universal Service Fund programs to address the "digital

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[6] Monica Anderson, *Digital divide persists even as lower-income Americans make gains in tech adoption*, Pew Research Center (Mar. 22, 2017), *available at* http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/.

[7] *Id.*

divide." Some programs address infrastructure generally; others target rural communities in particular, while still others address affordability and educational access. As the Commission noted in its 2016 Lifeline Modernization Order, "[u]niversal service has been a fundamental goal for Congress and the Commission since the passage of the Communications Act of 1934."[8] For more than three decades, the Commission has overseen the Lifeline program to make services affordable to many low-income consumers.[9]

The Commission's mandate was greatly expanded in the Telecommunications Act of 1996. Congress directed that the Commission must ensure that services are available at "just, reasonable, and affordable rates"[10] and that access be provided "in all regions of the Nation."[11] Congress recognized that to achieve universal service, no single solution would be appropriate. Simply ensuring that some sort of service was available everywhere, for instance, would not guarantee that available services were sufficient, affordable, or gave all Americans equal opportunities. Moreover, ensuring that rural communities were supported would not address the high costs of service in all areas nationwide. Maximizing educational connectivity would not help students once they moved into adulthood, and simply keeping prices low would not help those communities without sufficient potential revenue to incentivize deployment.

Congress therefore directed the Commission to address *all* these problems, in furtherance of its mandate that *all* Americans have access. The Commission had already acted to establish the High-Cost Fund, and the Lifeline program had been active for more than a decade at the

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[8] *In the Matter of Lifeline and Link Up Reform and Modernization, et al,* WC Docket No. 11-42, *Third Report and Order*, *Further Report and Order, and Order on Reconsideration,* ¶ 23 (rel. Apr. 27, 2016) ("2016 Lifeline Modernization Order").

[9] *Id.*

[10] 47 USC § 254(b)(1).

[11] 47 USC § 254(b)(2).

time.[12] Congress recognized the success of these programs and expanded the Commission's universal service mandate, including recognizing the value of the Lifeline program.[13] In the years following the enactment of the Telecommunications Act of 1996, the Commission took up this challenge, and expanded the Universal Service Fund to the scope we see today.[14]

B. Lifeline Addresses Affordability, Not Availability. Other Programs Tackle Other Problems, and All Play Complementary Roles.

The Lifeline program tackles the problem of universal service from the consumer side. Even where service is available, it may not be affordable and thus not accessible to millions of low-income Americans. The Lifeline program provides a modest, consumer-targeted subsidy designed to ensure that the access which is so essential to participation in our economy, society, and culture is not a luxury reserved only for those with means. While aspects of other USF programs indirectly support affordability goals, Lifeline is unique. It is the only USF program directly targeted at promoting affordability for individual consumers, and guaranteeing not just availability, but accessibility of 21st century communications. At its core, it is a co-equal part of our nation's Universal Service infrastructure, targeted at ensuring that "[c]onsumers in all regions of the Nation, including *low-income consumers* and those in rural, insular, and high cost areas" (emphasis added) have access to services that are reasonably comparable in quality and price to those available to the nation's most developed areas. [15]

In contrast, other USF programs provide support on the provider side. The Connect America Fund provides support to service providers, directly subsidizing infrastructure

[12] *See* 2016 Lifeline Modernization Order at ¶ 23.

[13] *See* 2016 Lifeline Modernization Order at ¶ 24 (citing 47 U.S.C. § 254(b); *Federal-State Joint Board on Universal Service,* Report and Order, 12 FCC Rcd. 8776, 8955, ¶ 335 (1997).)

[14] *See* 2016 Lifeline Modernization Order at ¶ 25.

[15] 47 USC § 254(b)(3).

investment in fixed and mobile networks in unserved and underserved areas. Many, but not all, Connect America Fund dollars go to rural and other low-population-density communities. Congress established a fund to support health services in rural America, which can be greatly enhanced by access to robust, reliable, and affordable communications services. And Congress created E-Rate to ensure that schools and libraries nationwide have the resources to build digital liberty and prepare future generations for a 21st century economy.

Most of the dollars distributed through these other programs target infrastructure investment. They promote construction and operation of new lines, new wireless towers, and new expansion into unserved and underserved communities, and to communities which, absent these subsidies, might not be served at all due to the high cost and limited potential for cost recovery. It is essential to fulfilling the promise of universal service, that the Commission address not only infrastructure, and not only rural, or high-cost needs, but *also* low-income users everywhere, however. Lifeline serves that goal in a way no other program can.

C. To The Extent The Digital Divide Persists, Expansion of All Programs Is the Appropriate Response, Rather than Picking Favorites Among Universal Service Principles.

Despite the efforts of federal, state, and local policymakers over a span of decades, the digital divide persists to this day. The Commission's commitment to solving that problem is laudable, and shared by Cities and countless other local leaders nationwide. The best approach, however, is not one of overwhelming emphasis on a single solution, but the multidisciplinary approach which has reduced the number of unconnected Americans by millions each year.[16] Further work remains necessary, certainly, but pillaging and limiting one program in service of

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[16] *In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* GN Docket No. 17-199, *2018 Broadband Deployment Report*, ¶ 4 (rel. Feb. 2, 2018) ("2018 Section 706 Report").

others is not the right path forward. If more money is needed for infrastructure, the Commission can and should say so, and Congress should respond. In recent testimony before the House Energy & Commerce Committee, panelists expressed a general consensus that additional funding for broadband deployment in rural America is essential.[17]

II. THE DIGITAL DIVIDE IS ACUTE IN COMMUNITIES OF ALL KINDS, AND LOW-INCOME CONSUMERS DESERVE LIFELINE SUPPORT NO MATTER WHERE THEY LIVE.

A. The Commission's Singular Focus on Rural Communities Leaves it Blind to the Digital Divide in Urban and Suburban Communities

Approximately twenty-four million Americans remain unable to access affordable and modern fixed broadband service.[18] While a majority of these Americans live in rural communities, millions do not. This latter category is made up of millions that have service available but are unable to access it due to the high price of these services. Commission data reveals that the US ranks well below median for mobile broadband pricing among 29 comparison countries.[19] Even after adjusting for a number of estimated variables, US prices, at best, rank 10th among those 29 comparison countries, with an average per-line price of $60.63.[20] That is not affordable for low-income individuals. The Lifeline program addresses this challenge for all Americans, equally, wherever they live, and furthers Congressional universal service goals

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[17] *See generally Closing the Digital Divide: Broadband Infrastructure Solutions: Hearing before the Subcommittee on Communications and Technology of the House Committee on Energy and Commerce* (Jan. 30, 2018), *transcript available at* https://energycommerce.house.gov/hearings/closing-digital-divide-broadband-infrastructure-solutions/.

[18] 2017 Section 706 Report at ¶ 50.

[19] *In the Matter of International Comparison Requirements Pursuant to the Broadband Data Improvement Act*, GN Docket No. 17-199, *Sixth Report*, at App'x C ¶ 5 (rel. Feb. 2, 2018) ("Sixth International Broadband Report").

[20] *Id.*

accordingly. The NPRM's intense focus on rural communities is too narrow, however, and is poised to overlook serious challenges facing low-income households in urban areas, as well, which face different but no less significant needs in bridging the digital divide.

The availability of a service not necessarily correlate to the affordability of that service. In the Commission's Sixth International Broadband Data Report, agency analysis found that the average price of a fixed broadband service meeting the agency's definition of advanced telecommunications capability is more than fifty dollars per month.[21] Such an amount is a challenge for low-income consumers to dedicate to connectivity, no matter where they live. While some providers offer lower-cost, entry-level products, not all do, and the total numbers of households participating in these programs does not fill the current gap. Moreover, the limits providers impose on these programs – such as mandatory credit checks – often create a barrier to low-income consumers.[22] The Lifeline program provides an essential source of connectivity and access to those who have broadband available, but lack the resources to access it. Adoption of the proposals in the NPRM would drastically change that accomplishment.

The NPRM and NOI's focus on rural communities while setting aside or deprioritizing the needs of cities sets the Commission on a path which blinds it to these and numerous other challenges.[23] Rural America has immense infrastructure needs, and universal service goals are no less important there than in cities, but the inverse is also true. The Commission cannot ignore that millions of Americans find themselves on the wrong side of the digital divide in urban areas. Moreover, the Commission is directed by Congress to help *everyone*, no matter where they live.

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[21] *Id.* at App'x C Table 3.

[22] *See* Jon Brodkin, *Comcast's internet for the poor too hard to sign up for, advocates say, Ars Technica* (July 23, 2014), https://arstechnica.com/information-technology/2014/07/comcasts-internet-for-the-poor-too-hard-to-sign-up-for-advocates-say/.

[23] *See, e.g.* 2017 NPRM/NOI at ¶¶ 76, 108, 124-126.

B. Low-Income Households Should Have Access to the Same Technology in Rural and Urban Areas

The Commission proposes to maintain the plan to phase out support for voice services, but asks whether it should permit rural areas to continue to receive support while urban areas go without.[24] Phasing out voice-only services ignores the importance of those services for all people in the U.S., whether they live in rural or urban areas. While the Commission should promote access to broadband services, as these are the services of the future, it should continue to rely upon consumer choice to permit Lifeline participants to choose the technology and cost which best meets their needs, if that is voice-only service.

Mobile voice services are particularly important for low-income households and are consistent with federal policies toward low-income populations. In particular, these services are consistent with policies started in the 1990s which encourage low-income people to work even if they are receiving income support.[25] These efforts, starting with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, have encouraged low-income people to remain in the workforce. However, as the record in previous Lifeline proceedings have amply shown, low-income communities face particular challenges in maintaining connections to employers without mobile access.[26] Shift work, changing shifts, fragile family supports, and reliance on public transportation all mean that low-income people require mobile access to maintain contact with current employers and potential employers.[27]

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[24] 2017 NPRM/NOI at ¶¶ 74, 76.

[25] *See* Comments of Prof. David A. Super, Georgetown Law Center, *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 (Aug. 31, 2015).

[26] *Id.*

[27] *Id.*

It is possible that some day that Lifeline support and the advance in technology may mean that the difference between voice service and broadband-only service has disappeared. At this time, however, the Commission should not treat urban residents less well than rural residents. If voice service is not needed or desired by residents in suburban or urban areas, those residents will not select those services as the Lifeline program is currently configured.

PART II: THE NPRM'S PROPOSALS WILL CRIPPLE THE LIFELINE PROGRAM, FAIL TO GENERATE INFRASTRUCTURE INVESTMENT, AND WIDEN THE DIGITAL DIVIDE

I. THE COMMISSION'S PROPOSAL TO EXCLUDE NON-FACILITIES-BASED PROVIDERS WILL NOT INFLUENCE BROADBAND DEPLOYMENT AND WILL HARM THE MAJORITY OF LIFELINE RECIPIENTS

A. Directing Lifeline Subsidy Dollars Exclusively to Facilities-Based Providers Will Not Improve Broadband Deployment.

The Commission proposes, ostensibly in order to encourage investment in broadband-capable networks, to "limit[] Lifeline support to facilities-based broadband service provided to a qualifying low-income consumer over an Eligible Telecommunications Carrier's ("ETC") voice- and broadband-capable last-mile network."[28] The Commission hypothesizes that such a rule would encourage deployment of facilities-based networks.

The Commission's hypothesis fundamentally misunderstands the barriers to deployment of broadband-capable networks. In the vast majority of cases, broadband networks are not deployed to particular geographic areas because the cost of deployment is high in widely-disbursed rural areas.[29] As explained by the NTCA-The Rural Broadband Association, "[t]he

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[28] 2017 NPRM/NOI at ¶ 65.

[29] *See, e.g.*, *Closing the Digital Divide: Broadband Infrastructure Solutions: Hearing before the Subcommittee on Communications and Technology of the House Committee on Energy and Commerce* (Jan. 30, 2018) (testimony of Jonathan Spalter, USTelecom CEO).

rates that rural consumers pay are rarely sufficient to cover even the costs of operating in rural areas, much less the enormous capital expenditure required in the first instance to deploy reliable, high-speed broadband in rural America."[30] The return on networks with few customers means private investors cannot obtain enough customers to justify capital investment.

Lifeline was created to increase the affordability of services for individual low-income households. Low-income consumers are dispersed among the population, and are not necessarily concentrated in the rural communities the Commission intends to prioritize in the current plan. Most important, while the Lifeline subsidy is sufficient to make a difference in a low-income household's budget, it is extremely low relative to the level of investment required to deploy new broadband infrastructure. The subsidy is helpful to increase the affordability of voice and broadband products, but $9.95 per month is unlikely to provide sufficient financial incentives to companies that have not deployed yet in lower-income communities. And the proposals contained elsewhere in this NPRM, which would reduce Lifeline subsidies in unpredictable ways when a cap is reached, make it less likely that long-term infrastructure investment would occur because of this subsidy.

Analysis of some low-income urban communities demonstrate broadband has been under-deployed in urban areas in California and cities such as in Cleveland, OH and Detroit, MI.[31] In these cases, it is the traditional incumbent provider – which until recently was required

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[30] *Closing the Digital Divide: Broadband Infrastructure Solutions: Hearing before the Subcommittee on Communications and Technology of the House Committee on Energy and Commerce* (Jan. 30, 2018) (testimony of Shirley Bloomfield, Chief Executive Officer, NTCA– The Rural Broadband Association).

[31] At least six reports released over the last two years identified urban low-income neighborhoods that lack fiber optic network deployment. *See, e.g.* Garret Strain et al., *AT&T's Digital Divide in California*. Haas Institute Policy Brief (2017), *available at* http://haasinstitute.berkeley.edu/sites/default/files/haas_broadband_042417-singles.pdf; National Digital Inclusion Alliance, *AT&T's Digital Redlining of Cleveland*, (Mar. 2017), *available at*

to offer Lifeline to all of its customers – that has failed to adequately deploy broadband in urban areas. This fact pattern is inconsistent with the Commission's theory that Lifeline availability will increase deployment of broadband infrastructure in urban areas which might experience high concentrations of poverty.

While poverty is concentrated in certain neighborhoods, even in urban neighborhoods, only 23 percent of people live in a distressed neighborhood, which is a census tract with a poverty rate of 40 percent or more.[32] And poverty concentrations between 2000 and 2012 have been increasing in the most rapidly suburban areas—those areas least likely to lack broadband infrastructure.[33] Therefore it is not likely that Lifeline will influence the deployment of broadband infrastructure as the most rapidly increasing concentrations are in areas with the highest likelihood of deployment.

Further, while traditional cable operators control about 64 percent of the total Internet

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https://www.digitalinclusion.org/blog/2017/03/10/atts-digital-redlining-of-cleveland/; Advocates for Basic Legal Equity, *AT&T Fails To Invest in Low-Income Montgomery County Neighborhoods*, (Mar. 21, 2017), *available at* http://ablelaw.org/media-room/news-and-press-releases/3403-att-fails-to-invest-in-low-income-montgomery-county; National Digital Inclusion Alliance, *More digital redlining? AT&T home broadband deployment and poverty in Detroit and Toledo* (Sept. 6, 2017), *available at* https://digitalinclusion.org/blog/2017/09/06/more-digital-redlining-att-deployment-and-poverty-in-detroit-and-toledo/; Allan Holmes, et al., *Rich people have access to high-speed Internet; many poor people still don't*, Center for Public Integrity (May 12, 2016), https://www.publicintegrity.org/2016/05/12/19659/rich-people-have-access-high-speed-internet-many-poor-people-still-dont. *See also* Comments of the Massachusetts Department of Telecommunications, *In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, at 5 (Sept. 21, 2017) ("in Massachusetts, households earning $40,000 are less than two-thirds as likely to subscribe to fixed broadband services (52.4% subscription rate) as are households earning $100,000 (82.4% subscription rate).").

[32] Elizabeth Kneebone, *The Growth and Spread of Concentrated Poverty, 2000 to 2008-2012*, Brookings (2014), *available at* https://www.brookings.edu/interactives/the-growth-and-spread-of-concentrated-poverty-2000-to-2008-2012/.

[33] *Id.*; *see also* Tomer, Kneebone & Shivaram, *Digital Distress*, at 15, Fig. 4, Brookings (2017), *available at* https://www.brookings.edu/wp-content/uploads/2017/09/broadbandreport_september2017.pdf.

subscribers in the U.S.,[34] they, by and large, do not participate in the Lifeline program. The industry expressed interest in participating in the Lifeline program if the Commission created a streamlined authorization process.[35] Now that the Commission is proposing to permanently eliminate the national Lifeline Broadband Provider designation, it is highly unlikely that the cable industry will enter. Therefore, Lifeline will not impact cable industry broadband deployment at all.

B. Eliminating Reseller Eligibility Will Curtail The Lifeline Program

The Commission's 2016 Universal Service monitoring report breaks out funding distributed by carrier. The data in that report demonstrates that, as of 2015, almost 70 percent of Lifeline funding, nationally, goes to reseller customers.[36] In California, 53 percent of California's Lifeline consumers are likely to lose service, totaling more than 750,000 consumers. In Massachusetts, 61 percent of consumers would lose service, totaling 138,000 consumers. In Oregon, 30 percent of consumers would lose service -- because of Oregon's very low 16% participation rate, that loss totals 24,000 customers, of which almost 11,000 reside in Portland.[37] Nationally, 8.5 million people will lose service. The numbers speak for themselves: cutting almost 70 percent of a program is not connected to program integrity. These proposals will have no other impact but to completely destabilize the Lifeline program.

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[34] Broadband Tech Report, *Internet Subs: Cable's Market Share Hits 64%* (Aug. 18, 2017) http://www.broadbandtechreport.com/articles/2017/08/internet-subs-cable-s-market-share-hits-64.html.

[35] Comments of the National Cable and Telecommunications Association, *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, at 4 (August 31, 2015).

[36] Federal Communications Commission, Universal Service Monitoring Report at 30, Non-Facilities Based Low-Income Subscribers by State in 2015, Table 2.8 (2016).

[37] *Id.*; *see also* National Consumer Law Center State by State Fact Sheets for California, Massachusetts and Oregon, *available at* https://www.nclc.org/issues/50-state-dc-pr-lifeline-fact-sheets.html.

Further, while this data is accurate as of 2015, the trend is clearly toward fewer and fewer Lifeline customers for traditional wireline consumers. In fact, AT&T has been actively withdrawing from the Lifeline program nationwide. AT&T withdrew as a Lifeline carrier in twelve states in 2017.[38] In those states, AT&T retained its designation as a Lifeline carrier where it is required to do so because it receives Connect America Fund support, but almost universally otherwise is not available as a Lifeline carrier. Thus in the twelve states where AT&T has

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[38] Implementation Of The Universal Service Requirements Of Section 254 Of The Telecommunications Act Of 1996, Alabama Public Service Comm., Docket No. 25980 (issued Mar. 9, 2017); Request For Relinquishment Of Partial Eligible Telecommunications Carrier (ETC) Status, By Bellsouth Telecommunications, LLC d/b/a AT&T Fla., Fla. Public Service Comm., Order No. PSC-2017-0290-PAA-TP at 1 (Jul. 24, 2017); Ind. Bell Telephone Co. Inc. D/B/A AT&T Ind. For Partial Relinquishment Of Its Designation As An Eligible Telecommunications Carrier In Ind., Ind. Utility Regulatory Comm., Cause No. 41052 ETC 39 S1 at 3 (Nov. 21, 2017); Peter Hancock, *AT&T dropping out of Kansas 'Lifeline' phone program for the poor*, LAWRENCE JOURNAL-WORLD.COM, (Apr. 28, 2017), *available at* http://www2.ljworld.com/news/2017/apr/28/t-dropping-out-kansas-lifeline-phone-program-poor/; Bellsouth Telecommunications, LLC D/B/AT&T La., *Ex Parte*, La. Public Service Comm., File No. S-34632 (Nov. 3, 2017); Verified Petition Of AT&T Miss. For An Order Confirming Relinquishment Of Its Eligible Telecommunications Carrier Designation In Specified Areas, Miss. Public Service Comm., 2017 WL 1425348 (Apr. 13, 2017); Order Confirming AT&T Missouri's Relinquishment of its Eligible Telecommunications Carrier Designation, Public Service Commission of the State of Missouri, File No. IO-2017-0132 (Issued Jan. 11, 2017); In the Matter of Petition of AT&T N.C. for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas, N.C. Utilities Comm., Docket No. P-100, SUB 133C at 5 (Jun. 14, 2017); Regulatory update: North Carolina Utilities Commission; Bell South Telecommunications LLC, has issued (P-55 Sub 1934) Comments of Public Staff, US Official News (May 29, 2017); Application of Southwestern Bell Telephone Co. d/b/a AT&T Okla. for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation, Okla. Corp. Comm., Cause No. PUD 201600455 (Feb. 22, 2017); Staff Presents for Comm. Consideration BellSouth Telecommunications, LLC d/b/a AT&T South Carolina's Petition for an Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas, S.C. Public Service Comm., Order No. 2017-276 (May 3, 2017); Order Confirming AT&T Tenn. Relinquishment Of Its Eligible Telecommunications Carrier Designation In Specified Areas, Tenn. Public Service Comm., Docket No. 16-00123 (Mar. 24, 2017); Request by Wis. Bell, Inc., d/b/a AT&T Wis., to Relinquish its Status as an Eligible Telecommunications Carrier in Certain Parts of its Service Territory, Wis. Public Service Comm., File 6720-TI-225 (Mar. 13, 2017).

withdrawn the loss of Lifeline consumers would likely much greater than the 2015 statistics indicate.

II. THE COMMISSION'S WASTE FRAUD AND ABUSE PROPOSALS PUNISH THE MAJORITY FOR ACTIONS OF A SMALL MINORITY, IMPOSE BURDENS ON LIFELINE SUBSCRIBERS, AND MAY HAMPER LIFELINE ADOPTION AMONG NEEDY HOUSEHOLDS.

The Commission states that "the vast majority of Commission actions revealing waste, fraud, and abuse in the Lifeline program over the past five years have been against resellers, not facilities-based providers."[39]

One of the preferable attributes of the Lifeline program is that it leverages private marketplace incentives to create an economically efficient program.[40] Prior to the entry of wireless resellers—which were permitted to enter the program under the Bush Administration after the devastation in Hurricane Katrina—most providers offered Lifeline because they were mandated to do so by federal regulation. These companies had little incentive in a monopoly environment to take on the administrative costs of identifying, verifying eligibility, and offering service at a discount to low-income consumers. Low-income consumers had no other choices and they were stuck with the service they received from predominantly monopoly providers. With the Bush Administration changes, competition entered the program. Companies received financial signals in the marketplace and sought to serve customers who previously had no choices and insufficient funds to attract service providers into the market. This means more providers entered the program. More providers meant more availability and consumer choice, and greater success for the Commission in pursuing its statutory goals.

[39] 2017 NPRM/NOI at ¶ 68.

[40] *See, e.g.* Comments of the Free State Foundation, *In the Matter of Lifeline and Link Up Reform and Modernization,* WC Docket No. 11-42 at 1-2 (Aug. 26, 2011).

Some of those providers have not acted as they should, and the Commission has, and should, continue to work to address bad actors in the Lifeline ecosystem. It must take care, however, to ensure that its actions in combatting waste, fraud, and abuse are carefully and narrowly targeted to avoid creating a restrictive regulatory regime which harms the efficacy of the Lifeline program. A 2015 GAO report found that in 2012, approximately 40 million households were eligible for Lifeline; in that year, the largest in Lifeline's history by number of subscribers, only 18.1 million households subscribed to Lifeline.[41] There continues to be a substantial gap between the number of eligible households, and the number of households making use of the program.[42] That GAO report noted, among other challenges facing potential Lifeline subscribers, that awareness, access, and the difficulty in documenting and recertifying eligibility served as impediments to expansion of the program to serve more of the people eligible for support.[43] That GAO reported noted further that "[o]ther challenges stem from FCC reforms, such as initial eligibility verification and annual recertification, which may inadvertently hinder participation by some eligible households while attempting to prevent participation by ineligible households."[44]

Despite this, the Commission proposes to expand the regulatory burden it places upon potential Lifeline subscribers, while taking actions which may reduce or eliminate ETC incentives to maximize promotion of the Lifeline program to potential subscribers. The Commission seeks to strip ETCs of many means by which they are incentivized to promote the

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[41] Government Accountability Office, *FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program*, GAO-15-335, at 15, 24 (Mar. 2015), *available at* https://www.gao.gov/assets/670/669209.pdf.

[42] *Id.*

[43] *Id.* at 27.

[44] *Id.*

program, educate the public about its availability, and help consumers get verified. It is possible, and even probable in some cases, that some providers may take advantage of these practices. Where documented, the Commission can and should punish these bad actors. It should not, however, cut out that cancer with a chainsaw when a scalpel would do. The risk of harm is too great.

The Commission, though, goes further. In the midst of a broadly deregulatory agenda agency-wide, the Commission here finds itself proposing that Lifeline subscribers meet new documentation and recertification requirements on an annual basis, raising further barriers of the precise sort described by the GAO report.[45] Low-income Americans often work multiple jobs, have limited access to information (thus the need for Lifeline), and may otherwise struggle to meet the administrative burdens placed upon them under this program. Eliminating waste, fraud, and abuse is important, and should be pursued. Looking upon the needy with suspicion, and burdening those in need of help with the obligation to repeatedly prove their need, heaps further burden upon those most in need of help, and risks undermining the progress made by the Commission, USAC, and Lifeline ETCs nationwide in connecting the unserved. The Cities urge the Commission to narrowly and with exacting precision adopt only those limited requirements absolutely and unequivocally necessary *and* whose potential harm is minimal or nonexistent, if it pursues this dangerous path. The Cities furthermore urge the Commission, instead of adding additional burdens and further curtailing the Lifeline program's reach, to instead swiftly implement the National Verifier adopted in the 2016 Lifeline Modernization Order, which will directly address waste, fraud, and abuse concerns tied to eligibility verification.

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[45] 2017 NPRM/NOI at ¶¶ 97-98.

III. THE ELIMINATION OF THE DEVICE REQUIREMENTS UNDERMINES LOCAL GOVERNMENTS' ABILITY TO CONTRIBUTE TO CLOSING THE DIGITAL DIVIDE THROUGH ANCHOR INSTITUTIONS

Broadband access enables consumers to connect to the rest of the world, access employment, further their educations, and engage in society generally. In addition to the cost of service, however, many consumers need assistance with equipment. Smartphones and tablets, while cheaper than ever, remain expensive, as do laptop computers. While home access is of course preferable, such service is not realistic for all consumers, and the device requirements in the Lifeline program help tackle that challenge. By requiring hardware provided by Lifeline carriers to be WiFi-capable and able to serve as a tethered or hotspot connection, consumers are able to better access connectivity and are able to bring their Lifeline service home to share with their families. Citing "consumer choice," the Commission now proposes to abandon this requirement.[46] The Cities strongly object.

In addition to directly accessing fixed and mobile networks, American consumers routinely rely on WiFi networks to expand their broadband access, particularly on mobile devices. Some analysts estimate that up to 80% of mobile device data traffic is carried over WiFi, rather than mobile carrier networks.[47] WiFi offload enhances wireless network resilience and capacity while allowing consumers to make much more robust use of their hardware at more affordable prices, and the rapid spread of WiFi has enabled the growth of new business models including WiFi-focused mobile carriers like Google Fi, Xfinity Mobile, and others.

Local governments nationwide, including the Cities, have invested tens of millions of dollars, sometimes with USF support, in providing robust broadband access through community

[46] 2017 NPRM/NOI at ¶ 81.

[47] Sean Kinney, *Analyst: Wi-Fi carries 80% of mobile data traffic.* RCR Wireless (Jul. 7, 2016), https://www.rcrwireless.com/20160707/network-infrastructure/wi-fi/analyst-wi-fi-carriers-80-mobile-data-tag17.

anchor institutions. Schools, libraries, hospitals, public parks, community centers, and other municipal buildings can and do provide critical access to broadband through open-access WiFi. These services are meant to help bridge the homework gap, provide connectivity for those with challenging work schedules, and otherwise ensure that connectivity is available and accessible to all. That connectivity is only available on a WiFi-enabled device.

The Commission argues that these requirements are unnecessary since a majority of Americans have smartphones already.[48] However, Pew Research data indicates that, among US adults making less than $30,000 a year, one in three doesn't have a smartphone, nearly half don't have a computer, and only one in three has a tablet.[49] The Commission's position further ignores the Lifeline providers that do not offer WiFi services, and the providers who prohibit or charge for tethering. The Commission dismisses the benefits of WiFi access as irrelevant in closing the homework gap, yet news reports of parents taking their kids to McDonald's so they can do their homework abound. by ensuring that a parent subscribing to Lifeline can use their device to provide broadband for their kids at home, rather than travelling to a fast food restaurant, or a school or library parking lot after hours.

The device requirements also further the central goal of the Lifeline program: promoting affordable access to connectivity. The Commission ignores the findings in its 2016 Order which support the device requirements, including that "[f]orty-eight percent of Americans found the cost of maintaining wireless services to be a financial hardship" and that "users frequently

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[48] 2017 NPRM/NOI at ¶ 81.

[49] Monica Anderson, *Digital divide persists even as lower-income Americans make gains in tech adoption*, Pew Research Center (Mar. 22, 2017), *available at* http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/.

reached their data caps as part of their monthly plan."[50] The Commission's Sixth International Broadband Data Report found an average per-gigabyte wireless service price of $20.02 – more than double the monthly Lifeline subsidy amount.[51] The equipment requirements help keep broadband access affordable for low-income individuals by ensuring that Lifeline subscribers have the ability to make use of public services, including those the Cities provide, to maximize the utility of their broadband connection without either imposing additional costs on providers, or incurring unaffordable data charges themselves.

The equipment requirements, including WiFi capability help the most needy among us overcome these challenges and make the most of their Lifeline support. Lifeline device requirements also make the program more accessible to potential providers with WiFi-focused business models, and help close the homework gap and the digital divide. Local governments have spent millions providing public access to WiFi for all our citizens, and strenuously disagree with the Commission's proposal to disregard these concerns and give consumers the "choice" to be left further behind.

IV. DECREASING THE AMOUNT LIFELINE AIDS EACH NEEDY CONSUMER, AS THE NUMBER OF NEEDY SUBSCRIBERS INCREASES, IS NOT WORKABLE.

The Commission proposes to adopt a "self-enforcing" budget cap to ensure "the efficient use of limited funds."[52] The Commission makes no factual case for how a self-enforcing cap would be more efficient than the current system. In fact, a self-enforcing cap would be less efficient than the current system. The Commission largely ignores the significant and continuing

[50] 2016 Lifeline Modernization Order at ¶ 20.

[51] Sixth International Broadband Report at App'x C Table 7.

[52] 2017 NPRM/NOI at ¶ 105.

decline in Lifeline participation since the Commission modernized the program in 2012 and 2016.[53]

The Commission seeks comment on two mechanisms for a self-enforcing cap. The first option would project the anticipated Lifeline expenditure over a six-month period and proportionally reduce all payments to stay below the cap. The Commission's second proposal is to permit Lifeline to go over the cap and then cut payments proportionally the following disbursement quarter. Finally, the Commission proposes favoring tribal lands and rural areas over urban and suburban areas if Lifeline exceeded a cap.

The complex system laid out by the Commission evidences that such a process would not be a more "efficient" use of funds. Considerable public and private funds would be used to determine how to pro-rate Lifeline allocations. Further, the Commission makes no proposal for how individual consumers would be treated under the program. Would individuals be placed on waiting lists? Would the cost of a Lifeline phone suddenly increase, imposing price-shocks on consumers? The cost of administration would be very difficult, particularly as the Commission moves to the much-needed independent eligibility-verification system.[54] The Commission is proposing a mechanism that would dedicate a significantly greater proportion of funds to administration and much less to program delivery. The Commission should not adopt such a plan.

Most important, the most likely reason that Lifeline would increase over any adopted cap would be if the country experienced an economic downturn. In fact, the report cited by the Commission in support of a cap on funds indicates that a significant portion of the increase in

[53] Federal Communications Commission, Universal Service Monitoring Report at 30, Non-Facilities Based Low-Income Subscribers by State in 2015, Table 2.6 (2016).

[54] See, e.g., 2017 NPRM/NOI at ¶¶ 59-61 (describing process to collaborate with states in implementing eligibility verifier).

Lifeline use in 2008 was because of the economic recession at that time.[55] At a time of economic distress, low-income families will increase and the program should likewise expand to meet the temporary economic need. The importance of communications access in improving individual economic achievement is unquestionable. And yet the Commission is proposing to pull the rug out from under the American people at the time of their greatest need.

The unreliability of a Lifeline support would likely drive all corporate participation from the program except where it is mandated by the Commission. Few corporate actors of any kind—particularly those who are contemplating infrastructure capital investment—are likely to develop business models with the uncertain promise of a fluctuating Lifeline payment.

The Commission is unjustifiably proposing that rural areas receive preference over urban and suburban America in the event of an economic downturn. When the country suffers economic challenges, all people in the U.S. suffer. It is just as important for the residents of cities and urban areas to receive economic support during these times as rural areas. In essence, the Commission proposes to dial down assistance at the time of greatest need.

The Commission's proposal to adopt a cap has nothing to do with eliminating waste, fraud and abuse. The vast majority of allegations of fraud are focused on the interplay between a company and a potential Lifeline customer, and, on the records of the Lifeline provider itself. If fraud is to occur, it could occur when a Lifeline customer misunderstands or deliberately tries to show he or she is eligible for the program when she is not. Another possible occurrence is when Lifeline providers deliberately or inadvertently maintain inaccurate records and seek unauthorized reimbursement form the Lifeline program. In both cases, fraud is caused when

[55] *See* Jerry Ellig, *Reforming the FCC's Low-Income Phone Subsidies*, at 2-3, figure 2, Mercatus Center at George Mason University (2013), *available at* https://www.mercatus.org/system/files/Ellig_FCC-phonesubsidy_MOP_101813.pdf.

Lifeline participants misapply the Commission rules in order to obtain service or revenue. The existence of a national cap on Lifeline will do nothing to change the incentives of the Lifeline participants seeking service or revenue, and will do nothing to catch fraud when it occurs. The Commission's current effort to move eligibility verification to an independent administrator will ensure that Lifeline subscribers understand the rules and submit the proper verification. Commission audits and other reviews will check Lifeline providers to ensure program integrity. A national cap will not impact either the opportunity or incentive to defraud the Lifeline program.

V. IMPLEMENTING A COPAY REQUIREMENT DIRECTLY CONTRADICTS LIFELINE'S PURPOSE, AND RAISES THE COST OF ACCESS FOR LOW-INCOME AMERICANS.

A. A Copay Will Not Improve the Lifeline Program.

The Commission seeks comment on imposing a co-pay requirement on Lifeline subscribers, shifting the program away from its current structure under which, as the Commission notes, the vast majority (85%) of all Lifeline subscribers use zero-cost-to-consumer services.[56] It offers no direct evidence of any failure in the current system which might justify such a move. The Commission asks, in particular, what impact such a copay would have on "the affordability, availability, and quality" of service for low-income consumers.[57] The answer is obvious. Imposing a copay cannot possibly improve the affordability of the Lifeline program as by its very nature such a requirement would impose new, direct costs on the very recipients of the subsidy. To the extent a subscriber wishes to augment its Lifeline subsidy with additional investment of his or her own, they may do so under current rules, as indicated by the 15% of

[56] 2017 NPRM/NOI at ¶ 112

[57] *Id.* at ¶ 113.

subscribers whose service is *not* at no cost to the consumer.[58] The Commission, furthermore, has previously found that "requiring low-income consumers to pay a minimum charge for service creates difficulties for particularly hard-hit communities such as the un-banked."[59]

And such a requirement would similarly fail to improve the availability and quality of service available under the program as well. Providers do not have a mechanism for collecting fees from Lifeline subscribers currently, and the imposition of such a mandate would necessitate substantial new regulatory compliance costs and overhead requirements for ETCs.[60] Every dollar spent on such developments raises the cost of providing Lifeline service, discouraging ETCs from entering and directing funds toward administration which could otherwise be spent on improving service or investing in infrastructure. While additional dollars may be generated to offset those costs through a copay, that wouldn't, as the Commission hopes, drive greater infrastructure investment. Some or all of the additional revenue would instead be lost to compliance and overhead. Even if a copay requirement were appropriate in this context, the costs it would create would diminish or outweigh any real benefit, while reducing Lifeline uptake. It is unlikely *more* subscribers would sign up for the program if it began to cost *more* money than it currently does.

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[58] *See id.* at ¶ 112 (stating that "[…]85 percent of all Lifeline program participants[] subscribed to plans providing free-to-the-end-user Lifeline service"; accordingly, it stands to reason that 15% of subscribers' plans were *not* free to the end user.)

[59] *Ex Parte* Letter from CTIA, WC Docket No. 17-287, at 4 (Nov. 8, 2017) (citing *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd. 6656, 6672-73 ¶¶ 267-68 (2012).)

[60] *See, e.g. Ex Parte* Letter from Sprint Communications, WC Docket No. 17-287 (Nov. 9, 2017) ("requiring a monthly payment from a Lifeline subscriber is not feasible for service providers […] and extremely problematic for low income Lifeline customers.")

B. "Maximum Discount Levels" To Compel Beneficiary Investment May Be Appropriate for Infrastructure Programs, but Lifeline is Not an Infrastructure Program.

The Commission seeks comment on a proposal to create a "maximum discount level."[61] This proposal seems to suggest the commission should offer a percentage discount off the retail price of a service to low-income consumers, similar to the E-rate program's 20 percent to 90 percent discount.[62] The Commission asks whether a discount would "help ensure that Lifeline funds are targeted at high-quality broadband service offerings."[63] While Boston, Portland, and Oregon, all E-rate recipients, recognize the value of maximum discount levels to encourage partnership in broadband deployment, such an approach is inappropriate for the Lifeline program.

The E-rate program offers discounts to schools and libraries.[64] It scales the discount offered based on the community poverty level of the school or library served.[65] Thus, the lowest income e-rate fund recipients receive a 90 percent discount for the services that qualify for the program. A 90 percent discount might very well go a long way toward encouraging low-income consumers to subscribe to high-quality high speed home broadband service. However, because the rest of the Commission's proposal is geared toward reducing the total size and scope of the Lifeline program, it seems highly unlikely that the Commission is now proposing a 90 percent discount for all broadband or voice services. Even at a more modest level a discount level would run counter to the current Commission's goal of a predictable budget for the Lifeline program. If

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[61] 2017 NPRM/NOI at ¶¶ 111-116.

[62] *Id.* at ¶ 112.

[63] *Id.* at ¶ 113.

[64] 47 C.F.R. § 54.501.

[65] 47 C.F.R. § 54.505(b).

consumers were able to apply the discount to any service available in the market, it is highly likely that the program's budget would increase substantially, particularly if they are used—as the Commission suggests—for "high-quality broadband service offerings." Moreover, as discussed above, the most popular high quality fixed broadband service offerings are cable industry products. At this time the cable industry does not participate in Lifeline and therefore these discounts would not be available to the vast majority of projects the Commission has under consideration.

Furthermore, the Commission's proposals in this regard ignore the reality of the lowest-income families. Many families who meet Lifeline's eligibility standards are unbanked. They do not have access to financial institutions. For example, the Federal Reserve completed a study in 2016 finding that 9 percent of all consumers are unbanked, but forty percent of the unbanked had access to a smartphone, 28 percent had access to a feature phone, and 32 percent lacked access to any type of mobile phone.[66] Or, in some cases they may be quickly evacuating in the face of a hurricane or escaping domestic violence.

A maximum discount level approach is appropriate for infrastructure programs, and projects which seek to mobilize private capital to amplify the effect of public funds. Lifeline fits neither of those definitions. Lifeline supports the neediest among us, providing essential access while imposing minimal burdens on low-income individuals. Implementing a copay or a maximum discount level would severely limit the utility of the Lifeline program in the eyes of those it is intended to help.

[66] Board of Governors of the Federal Reserve, *Consumers and Mobile Financial Services 2016* at 2 (2016), *available at* https://www.federalreserve.gov/econresdata/consumers-and-mobile-financial-services-report-201603.pdf.

PART III:
THE NOTICE OF INQUIRY POINTS THE COMMISSION EVEN FURTHER AWAY FROM REALIZING THE LIFELINE PROGRAM'S GOALS

I. BENEFIT CAPS NEEDLESSLY PUNISH LOW-INCOME CONSUMERS

The Commission asks whether "the Commission should implement a benefit limit that restricts the amount of support a household may receive or the amount of time a household may participate in the program."[67] Cities oppose such a benefit cap, as it is unnecessary and regressive. The Lifeline program exists to help consumers in need to gain access to essential communications services. Eligibility is conditioned solely upon need, and no other factors. The Commission's proposal here inquires whether it ought to limit the extent to which the country is willing to help the needy, as though after some period of time, continuing to be needy is not acceptable and must be punished. The Commission wrongly argues that such caps might "encourag[e] broadband adoption without reliance on the Lifeline subsidy" while also minimizing expenditures.[68]

The NPRM and NOI appear to contemplate a broad array of reforms which would have the effect of narrowing the availability and utility of the Lifeline program, with an eye toward providing minimal support and pushing consumers to eschew Lifeline entirely. Furthermore, this approach dismisses the substantial network effects created by increasing subscribership to the network. Companies and consumers alike garner substantial value from the ever-increasing size of the nation's communications networks, and an expanded user base promotes investment, innovation, and economic growth and opportunity for all network users. The more users a network has, the greater the value of that network to all other users, including service providers.

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[67] 2017 NPRM/NOI at ¶ 130.

[68] *Id.*

The Commission's goal of furthering long-term broadband adoption is best served by fostering those network effects, not limiting them. Cutting off support on the basis of time or total benefit received will simply lead to short-term increases in broadband adoption, followed by drops as subscribers reach their limit and are forced to make difficult decisions.

Lifetime caps also limit the Lifeline program's utility over the course of a person's life. Over the past twelve months, natural disasters affected Americans in numerous regions of the country, imposing unanticipated hardships and upending otherwise successful lives. Were the Commission to implement lifetime caps on Lifeline eligibility, subscribers who faced a disaster in their youth may be ineligible for support should events repeat themselves in the future. Survivors of 2017's wildfires in California, Oregon, and other western states may need Lifeline to find work and information to help rebuild their home, yet later in life would be ineligible for support while retired and living on a low fixed income. Seniors and people with disabilities, who may need support over a long period of time, would be relatively quickly capped out and disconnected. Such a cap therefore runs counter to Congressional goals of encouraging service adoption; it would be telling Americans that help is available, but it's a limited offer and they better hope they're not in need again, or for too long. Any policy that might lead to such a result should not be contemplated, let alone adopted, by the Commission.

Finally, the Commission fails to acknowledge the immense administrative costs inherent in implementing a lifetime cap. How will eligibility and lifetime consumption be tracked? How will caps be calculated as the definition of a "household" changes through life events like marriage, divorce, birth, and death? While the Commission asks questions about these concerns, it is concerning that in an era of deregulation, it shows substantial interest in imposing heavy regulatory burdens on programs meant to help the neediest among us. The Cities strongly oppose such caps, as they stand in stark contrast to the principles which define the Lifeline program and our nation's commitment to helping those most in need, wherever they may be.

CONCLUSION

Congress and the Commission have, for decades, recognized the value Lifeline plays in promoting access to communications among low-income Americans, wherever they live. The Commission's proposals do not further these public interest, are inconsistent with agency precedent and runs counter to Congressional directive. For the reasons discussed above, the Cities oppose the Commission's plan to radically overhaul the Lifeline program and urge the Commission to reconsider its efforts.

Respectfully Submitted,

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February 21, 2018

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