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

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

COMMENTS OF THE MULTICULTURAL MEDIA, TELECOM AND INTERNET COUNCIL AND THE "LIFELINE SUPPORTERS"

African American Mayors Association
Asian Americans Advancing Justice | AAJC
Consumer Policy Solutions
Hispanic Technology and Telecommunications Partnership
Multicultural Media, Telecom and Internet Council
National Black Caucus of State Legislators
National Coalition on Black Civic Participation
National Congress of Black Women
National Organization of Black County Officials
National Organization of Black Elected Legislative (NOBEL) Women
National Puerto Rican Chamber of Commerce
National Urban League
U.S. Black Chambers, Inc.

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TABLE OF CONTENTS

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SUMMARY

The Multicultural Media, Telecom and Internet Council (MMTC), along with 12 other national civil rights, consumer advocate, social service, and professional organizations that represent millions of constituents from across the country (collectively, "Lifeline Supporters"), oppose many of the proposals contained in the Federal Communications Commission's Lifeline Notice of Proposed Rulemaking ("NPRM"). Lifeline Supporters urge the Commission to rethink its proposals and ensure the millions of Americans who rely on the Lifeline Program are not left without access to the tools necessary to thrive in a 21st century society.

The history of the Lifeline program shows that the program was designed to tackle the affordability of telecommunications services for vulnerable, low-income consumers, not to fund buildout of telecommunications networks, unless such funding is incidental and necessary to the promotion of affordability.

We strongly oppose the Commission's "facilities-based-carriers-only" proposal. The NPRM suggests excluding resellers – which serve over 70% of Lifeline subscribers – from the Lifeline program without providing incentives for facilities-based carriers to participate in the program. Stripping resellers of their ability to continue providing Lifeline service, while doing nothing to provide incentives for the facilities-based carriers to participate, will unnecessarily and unfairly reduce the size of and ultimately eviscerate the program.

Further, the Commission's characterization of the Lifeline program as riddled with waste, fraud, and abuse is unnecessarily misleading and, at best, based on old, faulty, pre-reform data. These concerns have been addressed with recent Lifeline reforms. Additionally, even if using this data, the level and scope of the so-called "waste, fraud, and abuse" pales in comparison to other programs that have improper payment rates that are significantly higher than those of Lifeline.

Finally, the NPRM seeks to instill budget caps through a "self-enforcing" budget mechanism to limit funds disbursed to the Lifeline program. Budget caps for the Lifeline program are unneeded when participation in the program has never materially exceeded fifty percent (50%) of the eligible low-income population. Additionally, the Commission is unclear on the specifics of how a "self-enforcing" budget mechanism would operate in practice.

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COMMENTS OF THE
MULTICULTURAL MEDIA, TELECOM AND INTERNET COUNCIL AND THE LIFELINE SUPPORTERS

The Multicultural Media, Telecom and Internet Council, Inc. ("MMTC"), along with 12 other national civil rights, consumer advocate, social service, and professional organizations that represent millions of constituents from across the country (African American Mayors Association, Asian Americans Advancing Justice | AAJC, Consumer Policy Solutions, Hispanic Technology and Telecommunications Partnership, National Black Caucus of State Legislators, National Coalition on Black Civic Participation, National Congress of Black Women, National Organization of Black County Officials, National Organization of Black Elected Legislative (NOBEL) Women, National Puerto Rican Chamber of Commerce, National Urban League, and U.S. Black Chambers, Inc.; collectively, "**Lifeline Supporters**"), respectfully submit these Comments on the Notice of Proposed Rulemaking ("NPRM") in the above-reference proceedings.[1]

[1] *Bridging the Digital Divide for Low-Income Consumers et al.*, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FCC Rcd 10475 (2017) ("NPRM").

Lifeline Supporters urge the Commission to maintain the Lifeline program's focus on "help[ing] low-income Americans afford access to today's vital communications network[s]"[2] by permitting non-facilities-based carriers to continue participating in the Lifeline program, and by providing incentives for facilities-based carriers to participate as well. The Commission's proposed course of action of imposing a facilities-based-carrier-only requirement without providing incentives for these carriers to participate would eviscerate the program.

The Commission has inaccurately characterized the Lifeline program as one riddled with waste, fraud, and abuse. Due to the reforms that the Commission adopted in the 2016 Lifeline Order, and that eligible telecommunications carriers ("ETC") have implemented, the Lifeline program already has resolved the significant issues cited in the NPRM.[3] The program functions today as a critical tool in providing access to 21st century telecommunications networks for low-income minorities and other vulnerable segments of society, such as seniors. The Commission must ensure that all low-income Americans are able to access critical broadband services. Therefore, Lifeline Supporters oppose many of the proposals in the NPRM, and we urge the Commission to ensure that low-income minorities and other vulnerable populations have access to broadband to participate meaningfully in society.

I. Background

The Multicultural Media, Telecom and Internet Council is a non-partisan, national nonprofit organization dedicated to promoting and preserving equal opportunity and civil rights in the mass media, telecom, and broadband industries, and closing the digital divide. MMTC is generally recognized as the nation's leading advocate for minority advancement in

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[2] *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3963, para. 1 (2016) ("*2016 Lifeline Modernization Order*").
[3] *Id.*

communications. Refer to page 18 for information on the 12 other Lifeline Supporters that support these Comments.

A. The History of the Lifeline Program

The Lifeline program always has been designed to tackle affordability of telecommunications services for low-income consumers. The Lifeline program was implemented in 1985 in the wake of the 1984 divestiture of the Bell system. Prior to the breakup of the Bell system, the Commission allowed a single phone company, AT&T, to provide long-distance service at above-cost rates, with AT&T applying the extra revenue to maintain low rates for local phone service. After the breakup of the Bell system, local and long-distance services were required to be offered through separate companies. Therefore, the old system of internal cross-subsidization within a single company to keep rates for local phone service affordable was no longer feasible. It was necessary to create explicit subsidies managed by a third party. Consequently, the Reagan Administration created the Lifeline program to ensure that any increase in local telephone rates would not put the cost of local phone service out of reach for low-income households and result in service disconnections.[4]

Later, in the Telecommunications Act of 1996 ("1996 Act"), Congress codified the Commission's and the states' commitment to advancing the availability of telecommunications services to all of America, and established principles upon which "the Commission shall base policies for the preservation and advancement of universal service."[5] Central to the principles articulated by Congress was that telecommunications should be available at "affordable" rates and

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[4] *Lifeline and Link Up Reform and Modernization et al*., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6662, para. 12. (2012) ("*2012 Lifeline Reform Order*").
[5] 47 U.S.C. § 254(b).

that "consumers in all regions of the nation, including low-income consumers, … should have access to telecommunications and information services."[6]

Subsequent to the 1996 Act, the Commission expanded the Lifeline program, and participation in the program steadily increased. Throughout the entirety of its history, the Lifeline program has primarily functioned as a revenue replacement mechanism to support reduced rates for phone service and, recently, broadband services,[7] for low-income consumers across the country. Only the most vulnerable segments of society qualify for Lifeline-supported telecommunications services, a point demonstrated by Lifeline's income qualification standards, which currently are set at 135% of the federal poverty guidelines. To put this into perspective, in order to qualify for Lifeline benefits, a family of four seeking to qualify on the basis of income may make no more than $33,885 in the continental U.S. in 2018.[8] Importantly, any American, regardless of whether they live in urban or rural areas, can receive Lifeline support as long as they meet its strict qualification standards.

The Lifeline program's primary goal is to ensure affordable telecommunications services for the country's most vulnerable consumers. Its purpose has never been to fund the <u>buildout</u> of telecommunications networks, **unless buildout is incidental and necessary to the promotion of affordability**. Buildout is the role of the Commission's High-Cost Universal Service Fund (USF) program, now the Connect America Fund, a roughly $4.5 billion annual fund, which is explicitly tasked with subsidizing the buildout of telecommunications network facilities. High-Cost USF

[6] *See* 47 U.S.C. § 254(b)(1),(3); *see also* 47 U.S.C. § 151. *2012 Lifeline Reform Order*, 27 FCC Rcd at 6663, para. 13.

[7] *See generally Lifeline Modernization Order*. The NPRM erroneously states that network buildout has been a primary goal of the program, but since its inception the program's "primary goal is to reduce the monthly cost of service." *Federal-State Joint Board on Universal Service et al.*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12231, para. 44 (2000).

[8] *See* 2018 Federal Poverty Guidelines – 135%, USAC, *available at* https://www.usac.org/_res/documents/li/pdf/handouts/Income_Requirements.pdf (last visited Jan. 21, 2018).

support is distributed to private telecommunications providers without regard to the income of the consumers the providers serve. The Commission also uses the E-Rate and Rural Healthcare USF programs to fund the buildout of telecommunications networks to schools, libraries, and rural healthcare facilities, which account for roughly $4.3 billion in universal service fund disbursements when combined.[9] These three programs account for almost $9 billion in universal service disbursements aimed at subsidizing the deployment of telecommunications networks. The Lifeline program has been the only Universal Service Fund program focused primarily on affordability, with funds that go directly to low-income and vulnerable consumers; yet the NPRM proposes to utilize Lifeline's $2.25 billion in disbursements to fund infrastructure deployment. We disagree with this approach. The focus of the Lifeline program should be on affordability.

II. The Commission Should Continue to Permit Non-Facilities-Based Providers to Participate in the Lifeline Program

The Commission's proposal to limit participation in the Lifeline program to facilities-based providers[10] is deeply flawed and will result in considerable harm to low-income minorities and other vulnerable segments of society. In support of its proposal to limit participation to facilities-based providers, the Commission claims that it "believe[s] Lifeline support will best promote access to advanced communications services if it is focused to encourage investment in broadband-capable [facilities-based] networks."[11] This justification is at odds with the National Association of Regulatory Utility Commissioners' (NARUC) 2018 Resolution, which urges the FCC to "continue to allow non-facilities based carriers to receive Lifeline funds" and also urges the

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[9] *See E-Rate – Schools & Libraries USF Program*, FCC, *available at* https://www.fcc.gov/general/e-rate-schools-libraries-usf-program#block-menu-block-4 (last visited Jan. 21, 2018); *Rural Health Care Program*, FCC, *available at* https://www.fcc.gov/general/rural-health-care-program#block-menu-block-4 (last visited Jan. 21, 2018).

[10] *See NPRM*, paras. 63-73.

[11] *See NPRM*, para. 65.

Commission to ensure that "qualified households that are current subscribers do not lose their eligible Lifeline benefit."[12]

In support of its proposal, the Commission cites the requirement in Section 254(b) of the 1996 Act promoting access to advanced telecommunications and information services, and states that it "believe[s] Lifeline support will best promote access to advanced communications services if it is focused to encourage investment in broadband-capable [facilities-based] networks."[13] Furthermore, the Commission argues that indirectly supporting facilities-based providers by limiting Lifeline funding to their subscribers, will encourage yet more facilities deployment, thereby ultimately reducing costs to low income Americans.[14] The Commission provides no data to support its conclusion that the deployment of additional facilities is the key to solving the affordability problem facing low-income Americans. In fact, the highest concentrations of Lifeline recipients are found in urban areas, where there is no lack of facilities-based options.

Moreover, the Commission's justification neglects to account for the fact that the vast majority – over seventy percent (70%) – of Lifeline subscribers[15] currently are served by resellers.[16] By eliminating resellers from the Lifeline program without providing incentives for facilities-based carriers to participate in Lifeline, the Commission will effectively reduce access to broadband by leaving a significant void in the program where resellers once provided valuable telecommunications and broadband services to low-income minorities and other vulnerable

[12] *See Resolution to Ensure that the Federal Lifeline Program Continues to Provide Service to Households*, NARUC, *available at* https://pubs.naruc.org/pub/E0D49A02-AAAA-6EDE-79A1-9D97B1C6E393 (last visited February 20, 2018).
[13] *See NPRM*, para. 65.
[14] *Id.*
[15] *See Dissenting Statement of Commissioner Mignon L. Clyburn*, FCC 17-155 (November 16, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-347792A3.pdf (last visited Feb. 20, 2018). Commissioner Clyburn states that "[o]ver 70% of wireless Lifeline consumers will be told they cannot use their preferred carrier and preferred plan, and on top of that, they may not have a carrier to turn to after that happens."
[16] A "reseller" contracts with facilities-based network owners to provide "resold" services.

segments of society. Limiting Lifeline to facilities-based carriers would eviscerate the program and widen the digital divide by needlessly depriving millions of low-income consumers of essential telephone service. Accordingly, the Commission must not adopt its proposal to limit Lifeline support to facilities-based networks.

A. The Principal Goal of the Lifeline Program is Affordability, Not Deployment

The Commission's proposal to restrict Lifeline support to facilities-based providers fundamentally changes the premise of the Lifeline program from one of addressing *affordability* to one of *broadband deployment*. As is described *supra*, Lifeline is a program that is, and always has been, a mechanism to replace foregone end-user revenues for services provided – not to pay for specific cost inputs such as buildout. In the NPRM, the Commission conflates the structure of the Lifeline program with that of the High Cost Fund. This shift in direction of the Lifeline program is fundamentally at odds with why the Lifeline program was created. Therefore, the Commission's inquiry into whether Lifeline resellers have "passed through all Lifeline funding to their underlying carriers to ensure federal funding is appropriately spent on the required 'facilities and services'"[17] is misguided. The fact that the Lifeline subsidy is used to replace foregone end-user revenues for *services* provided to qualifying subscribers inherently means that Lifeline providers are utilizing Lifeline support in a manner consistent with Section 254(e), which states: "[a] carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and *services* for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section [emphasis added]."[18]

[17] *See NPRM*, para. 72.
[18] *See* 47 U.S.C. § 254(e).

The participation of resellers in the Lifeline program is critical to providing access to telecommunications services for low-income minorities and other vulnerable segments of society. Traditional facilities-based carriers have resisted providing Lifeline on the basis that customer eligibility verification requirements, document retention, and minimum service requirements do not support the high regulatory risk and cost of compliance that have plagued the program. For example, at least one facilities-based carrier has explicitly stated that the regulatory obligations of being a Lifeline carrier are not justified by the small margins generated from the program.[19] If the Commission prevents resellers from participating in the Lifeline program, and traditional facilities-based carriers do not have any regulatory incentives to participate in the program, low-income segments of society (which include a disproportionate number of racial and ethnic minorities and seniors) will be left behind in a broadband-dependent world.

The Lifeline program is crucial in providing low-income minorities and other vulnerable segments of society with opportunities that would not otherwise be available, but for broadband. Therefore, Lifeline Supporters urge the Commission to fully evaluate any such action that eliminates the participation of resellers in the Lifeline program. Rather, the Commission should encourage participation by both resellers and facilities-based carriers to support the most vulnerable members of society.

[19] *AT&T wants to end "Lifeline" service*, Jim Gallagher, St. Louis Post-Dispatch, (Nov. 16, 2016) *available at* http://www.stltoday.com/business/local/at-t-wants-to-end-lifeline-service/article_7e7bcd62-b9f6-5e88-bbd3-e05ffef4a6d6.html (last visited February 21, 2018); *AT&T will drop Lifeline program in Kansas, Missouri*, Brian Kaberline, Kansas City Business Journal (May 1, 2017) *available at* https://www.bizjournals.com/kansascity/news/2017/05/01/at-t-will-drop-lifeline-program-in-kansas-missouri.html (last visited February 21, 2018).

B. Reducing the Size of the Lifeline Program Will Only Provide a Small, Temporary Boost to Other Commission Goals

The Commission's proposal to restrict participation in the Lifeline program to facilities-based carriers will reduce the size of the program and may, at least temporarily, reduce the Commission's sense of urgency to reform the rules governing consumer contributions to the Universal Service Fund. The assessable base of providers' revenues to generate Universal Service fees is drastically shrinking as more consumers cease using traditional telecommunications services in favor of broadband services and therefore are not subject to the Universal Service Fee. This decline in assessable revenues has caused the Universal Service contribution factor to rise significantly over the course of the past few years. In fact, the contribution factor for the first quarter of 2018 is 19.5%.[20] The dramatic rise in the contribution factor has many in the telecommunications industry alarmed, and the call for universal service contribution reform, a notoriously difficult proposition, has never been louder. Reducing the Universal Service support allocated to the Lifeline program could temporarily reduce the contribution factor and quell the desire for immediate reform of universal service contributions. But such a change would be temporary at best. The biggest factor by far has been the ever-shrinking pool of assessable revenues, not the growth in Lifeline spending, which has decreased every year since 2012. In any event, under no circumstances do we recommend that Lifeline broadband subscribers should have to pay the difference between the lost subsidy and the cost of their service subscription, as any increased costs for Lifeline broadband subscribers would only hurt broadband adoption efforts and ability.

[20] *Contribution Factor & Quarterly Filings - Universal Service Fund (USF) Management Support*, Managing Director, FCC, *available at* https://www.fcc.gov/general/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support (last visited Jan. 22, 2018).

Alternatively, it may be that the Commission seeks to shift support from the Lifeline program to broadband infrastructure deployment, a priority of the administration.[21] While Lifeline Supporters favor the deployment of broadband infrastructure across rural America, such deployment should not come at the expense of affordable access to critical telecommunications and broadband services for low-income minorities and other vulnerable segments of society, especially when the Commission already spends $4.5 billion annually specifically to do that through the High Cost Fund.

Another rationale for the current proposals may be that the Commission would be able to claim total victory in its efforts to eliminate waste, fraud, and abuse from the program. However, as described in more detail below, the improper payment rate for the Lifeline program has been historically quite low in comparison to other federal subsidy programs, suggesting that the references to waste, fraud, and abuse in the Lifeline program have been either based on old data or overblown.

The Improper Payments Elimination and Recovery Act ("IPERIA")[22] requires federal agencies to review programs and activities they administer to identify those programs that may be susceptible to improper payments. In particular, IPERIA is structured to calibrate remediation in proportion to the level of improper payments associated with a program. For example, IPERIA requires systematic review of programs to identify improper payments when the level of improper payments in any given program is 1.5%, and it requires stepped-up measures, such as being designated as a "high-priority program" and requiring an agency to report to its Inspector General,

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[21] *Presidential Executive Order on Streamlining and Expediting Requests to Locate Broadband Facilities in Rural America*, President Trump, Executive Order (Jan. 8, 2018) *available at* https://www.whitehouse.gov/presidential-actions/presidential-executive-order-streamlining-expediting-requests-locate-broadband-facilities-rural-america/ (last visited February 21, 2018); *Presidential Memorandum for the Secretary of the Interior*, President Trump, Presidential Memoranda (Jan. 8, 2018), *available at* https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-interior/ (last visited February 21, 2018).

[22] The Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. Law 112-248 (2012).

when the level of improper payments surpasses $750 million. In this respect, the Commission's approach to the Lifeline program appears to be redundant, unnecessarily harsh, and focused on issues that have already been resolved, or that are based on faulty data.

Lifeline Supporters agree that the Commission should combat waste, fraud, and abuse, but when the Lifeline program's improper payment rate is compared to that of other federal programs, the time and resources the Commission proposes to spend to "reform" the Lifeline program is disproportionate to the measured harm. Therefore, Lifeline Supporters question whether the Commission must focus so intently on reducing the size of the Lifeline program, when the benefits it provides are invaluable to low-income minorities and other vulnerable segments of society.

III. The Characterization in the NPRM of the Lifeline Program as Riddled with Waste, Fraud, and Abuse is, at Best, Based on Old, Faulty Data

Lifeline's flaws are not to the scale described in the NPRM[23] or the 2017 Government Accountability Office's ("GAO") Report on Lifeline.[24] IPERIA, which requires that the federal government gather data on improper payments by federal agencies, provides a more accurate metric by which to evaluate the integrity of this program.

According to IPERIA data, the Lifeline program is far superior to other federal benefit programs when comparing improper payment rates. The average estimated improper payment rate for Lifeline from 2014 to 2016 was 1.23%.[25] In the Commission's 2016 Financial Report to

[23] *See NPRM*, paras. 83-101.

[24] See GAO, Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program, GAO-17-538, (2017), *available at* http://www.gao.gov/products/GAO-17-538 (last visited February 21, 2018) ("2017 GAO Report").

[25] It was not until 2013 that the FCC determined that the Lifeline program was susceptible to improper payment. Therefore, the Commission did not begin collecting data on improper payments in the Lifeline program until 2013, and first reported the improper payment rate for Lifeline in 2014. *Agency Financial Report, Fiscal Year 2013*, Federal Communications Commission at 90 (2013), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-324733A1.pdf (last visited February 21, 2018); *Agency Financial Report, Fiscal Year 2014*, Federal Communications Commission at 90 (2014), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-330527A1.pdf (last visited February 21, 2018); *Agency*

Congress, the estimated improper payment rate for Lifeline was 2.93%[26] compared to an estimated improper payment rate for E-Rate of 5.70%.[27] Yet, Lifeline faces significantly harsher levels of criticism than E-Rate, which is universally considered to be a well-run program.

The disproportionate level of scrutiny given to the Lifeline program is further illustrated when comparing Lifeline's improper payment rate to the improper payment rates of other large federal benefit programs. For example, the improper payment rate of the Veterans Health Administration Community Care Program is 93.40%.[28] Therefore, the Commission's attempts to justify its drastic proposals to reform the Lifeline program on the presence of waste, fraud, and abuse within the program are misplaced, particularly in light of the recent reforms. This data creates the appearance of an unfortunate double standard where there is a lack of accountability in some programs versus a microscope approach to programs specifically designed to help low-income, minority, and otherwise vulnerable communities.

Furthermore, the 2017 GAO Report that the Commission cites to justify the presence of waste, fraud, and abuse in the Lifeline program is deeply flawed and unreliable. For example, much of the report was based on comparisons of Lifeline subscriber data with state Supplemental

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Financial Report, Fiscal Year 2015, Federal Communications Commission at 87 (2015), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-336480A1.pdf (last visited February 21, 2018); *Agency Financial Report, Fiscal Year 2016*, Federal Communications Commission at 79 (2016), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-342186A1.pdf (last visited February 21, 2018).

[26] *Agency Financial Report, Fiscal Year 2016*, Federal Communications Commission at 81 (2016), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-342186A1.pdf (last visited February 21, 2018). Interestingly, after the most recent leadership transitions, the Commission estimated the improper payment for Lifeline to be 21.93% in its 2017 financial report. *Agency Financial Report, Fiscal Year 2017*, Federal Communications Commission at 75 (2017), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-347780A1.pdf (last visited February 21, 2018). This jump of roughly *seven times* the estimate from the previous year – and, indeed, a significant variance from the average of *the past five years* – is striking considering that the improper payment rate did not vary more than a percentage point or two over the course of several years prior to 2017. The drastically increased rate could be a reflection of agency goals for the Lifeline program, and an outlier that should be reviewed.

[27] *See id.* at 79.

[28] *Id.* The improper payment rate for the Veterans Health Administration Community Care Program is even more striking when considering that improper payments totaled roughly $5.3 billion, more than double the size of the current Lifeline program.

Nutrition Assistance Program ("SNAP") databases.[29] While participation in SNAP is a means of qualifying for Lifeline, the GAO report itself indicated that these databases can be ***three years*** out of date.[30] It is unclear what GAO can reasonably glean by comparing Lifeline subscriber enrollments to databases that may not account for someone who was enrolled in SNAP in the past three years, someone who was de-enrolled from SNAP in the past three years, or someone who may have died in the past three years. It is important to note that most Lifeline ETCs do not use these state SNAP databases to qualify individuals, but instead, obtain scans of SNAP cards from the individual applicants themselves.

Additionally, the 2017 GAO Report failed to take into account several aspects of low-income communities that resulted in defective data. For example, vulnerabilities in the process to override the "one per household" restriction in the enrollment process are not indicative of waste, fraud, and abuse, but rather are indicative of the multiple family housing choices that very low-income families are often compelled to make to avoid homelessness, in which two nearly destitute families must share a single apartment without individual apartment sub-addresses. By failing to account for this desperate affordable housing shortage in low-income communities, the 2017 GAO Report made findings of waste, fraud, and abuse that are not indicative of such troubles while, further punishing the poor for their own poverty.

Regardless of the fact that the Commission may be overstating the troubles in the Lifeline program, Lifeline Supporters are wholeheartedly in favor of the Commission's continued

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[29] In fact, the FCC and the Food and Nutrition Service, the division of the United States Department of Agriculture that administers SNAP, have tried for several years to encourage state administrators of SNAP data to provide real-time access to SNAP databases for the purpose of qualifying Lifeline subscribers for the program. *See* Letter from Julie Veach, Bureau Chief, Wireline Competition Bureau, FCC, and Audrey Rowe, Administrator, Food and Nutrition Service, to Regional Directors, Supplemental Nutrition Assistance Program (SNAP) (June 13, 2014).
[30] 2017 GAO Report at 69.

enforcement against carriers that violate the Commission's rules. However, overstating Lifeline's problems do not justify the excessive actions the Commission has proposed in its NPRM.[31]

For example, the National Lifeline Accountability Database has been a tremendous success in eliminating duplicate subscribers in the Lifeline program. Additionally, Lifeline Supporters encourage the adoption of the National Lifeline Eligibility Verifier ("National Verifier") and the expedited deployment of the National Verifier to make consumer eligibility determinations. As referenced *infra*, traditional facilities-based carriers have cited customer eligibility verification requirements and document retention as burdens to their ability to provide Lifeline service, and they have resisted providing Lifeline on that basis. Expedited deployment of the National Verifier would relieve these burdens and encourage carrier participation. Further, the Commission has stated that the National Verifier will "remove many opportunities for Lifeline providers to inappropriately enroll subscribers."[32] In light of this, Lifeline Supporters urge the Commission to reconsider the state of the Lifeline program, and adjust its proposals accordingly.

IV. The Proposed "Self-Enforcing" Budget Mechanism is Punitive and Will be Difficult to Administer

The Commission should refrain from adopting its proposal to create a "self-enforcing" budget mechanism to limit funds disbursed to the Lifeline program. The Commission is unclear on the specifics of how a "self-enforcing" budget mechanism would operate in practice. In describing how the budget mechanism would operate, the Commission states that the Universal Service Administrative Company ("USAC") would forecast Lifeline disbursements over a defined period, and if projected disbursements are expected to exceed the cap, the disbursements would be proportionately reduced.[33] However, implementation of such a hard cap will result in significant

[31] *See NPRM*, paras. 83-101.
[32] *2016 Lifeline Modernization Order*, 31 FCC Rcd at 3964, para. 7.
[33] *See NPRM*, paras. 105-106.

harm to low-income minorities and other vulnerable segments of society that rely on their Lifeline-supported telecommunications services to actively engage in society.

In particular, it is difficult to justify a budget cap for the Lifeline program when participation in the program has never materially exceeded fifty percent (50%) of the eligible low-income population.[34] Further, a hard, annual cap on universal service disbursements in the Lifeline program is difficult to structure because support is distributed on a monthly basis, in contrast to the other universal service programs whose funding mechanisms more naturally lend themselves to an annual cap.

The lack of details included in the Commission's proposal regarding the "self-enforcing" budget mechanism is evidence of the difficulty associated with implementing a cap in the Lifeline program. In almost every possible scenario in which a hard, annual cap could be implemented by the Commission, low-income minorities and other vulnerable segments of society are losers. Once the cap is hit, Lifeline funds will become unavailable for a given period of time, and eligible low-income consumers will not be able to access critical telecommunications and broadband services to participate meaningfully in society. Therefore, Lifeline Supporters encourage the Commission to eliminate any consideration of adopting a "self-enforcing" budget mechanism to limit funds disbursed through the Lifeline program.

V. Conclusion

The Lifeline program has been a story of great success, and it has been the vehicle for low-income individuals to obtain telecommunications services that enable them to connect to the world.

[34] As explained *supra*, the Commission seems intent on reducing the size of the Lifeline program without considering the harm such a reduction may cause to low income minorities and vulnerable communities. *See supra* § II(B).

For low-income minorities and other vulnerable communities to continue to fully engage in society, they must have access to broadband. If implemented, some of the proposals the Commission advances in the NPRM will cause significant harm to low-income Americans across the country. In particular, the Commission should not refocus the Lifeline program from one that ensures affordability of services to one that is focused on deployment, unless buildout is incidental and necessary to the promotion of affordability. Resellers of Lifeline services have played a critical role in fostering broadband adoption in low-income communities that facilities-based providers have had no incentives to serve. And absent incentives for facilities-based carriers to provide Lifeline, the Commission's facilities-based-only proposal would eviscerate the program. Therefore, Lifeline Supporters urge the Commission to continue to allow Lifeline resellers to continue to participate in the program. The Commission's assertion that the Lifeline program is riddled by waste, fraud, and abuse is not supported by the data.

At a time when access to broadband is a key element to economic empowerment and access to quality employment, educational and entrepreneurial opportunities, healthcare, civic engagement, and social services, the Commission should continue its focus on how to make broadband more affordable for all Americans. Therefore, Lifeline Supporters strongly encourage the Commission to refocus its proposals to promote affordability.

Respectfully submitted,

Multicultural Media, Telecom and Internet Council,
on Behalf of the Lifeline Supporters

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The Lifeline Supporters
African American Mayors Association
Asian Americans Advancing Justice | AAJC
Consumer Policy Solutions
Hispanic Technology and Telecommunications Partnership
Multicultural Media, Telecom and Internet Council
National Black Caucus of State Legislators
National Coalition on Black Civic Participation
National Congress of Black Women
National Organization of Black County Officials
National Organization of Black Elected Legislative Women
National Puerto Rican Chamber of Commerce
National Urban League
U.S. Black Chambers, Inc.

February 21, 2018

<u>Attachment A</u>

The Lifeline Supporters
African American Mayors Association
Asian Americans Advancing Justice | AAJC
Consumer Policy Solutions
Hispanic Technology and Telecommunications Partnership
Multicultural Media, Telecom and Internet Council
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About the Lifeline Supporters

<u>African American Mayors Association</u>
The African American Mayors Association (AAMA) is the only organization exclusively representing African-American mayors in the United States. AAMA exists to empower local leaders for the benefit of their citizens. The role of the African American Mayors Association includes taking positions on public policies that impact the vitality and sustainability of cities; providing mayors with leadership and management tools; and creating a forum for member mayors to share best practices related to municipal management.

<u>Asian Americans Advancing Justice | AAJC</u>
Since 1991, Asian Americans Advancing Justice | AAJC has fought for Asian Americans in the national conversations that determine policies that shape our lives. Its mission is to advance civil and human rights for Asian Americans and to build and promote a fair and equitable society for all.

<u>Consumer Policy Solutions</u>
Consumer Policy Solutions operates as a public affairs and advocacy company. One of its major projects is Project GOAL (Project to Get Older Adults onLine), which works to promote the benefits of broadband adoption within the older adult community.

<u>Hispanic Technology and Telecommunications Partnership</u>
The Hispanic Technology and Telecommunications Partnership (HTTP) is the leading national Latino voice on telecommunications and technology policy issues. It is a nonpartisan coalition of national Latino organizations working to ensure that the full array of technological and telecommunications advancements are available to all Latinos in the United States. HTTP members are nonprofit organizations that support the social, political, and economic advancement

of over 50 million Americans of Hispanic descent by facilitating access to high quality education, economic opportunity and effective health care through the use of technology tools and resources.

Multicultural Media, Telecom and Internet Council

The Multicultural Media, Telecom and Internet Council (MMTC) is a non-partisan, national nonprofit organization dedicated to promoting and preserving equal opportunity and civil rights in the mass media, telecom, and broadband industries, and closing the digital divide. MMTC is generally recognized as the nation's leading advocate for minority advancement in communications.

National Black Caucus of State Legislators

The National Black Caucus of State Legislators (NBCSL) is the nation's premier organization representing and serving the interests of African American State legislators. NBCSL's primary mission is to develop, conduct and promote educational, research and training programs designed to enhance the effectiveness of its members, as they consider legislation and issues of public policy which impact, either directly or indirectly upon "the general welfare" of African American constituents within their respective jurisdictions.

National Coalition on Black Civic Participation

The National Coalition envisions a nation in which all people, from youth to seniors, have the tools to participate fully in the democratic process at the local, state, national and global levels. By continuing to lead the fight to eliminate barriers to civic participation, the Coalition will promote greater social and economic justice to enhance the quality of African American life.

National Congress of Black Women

The National Congress of Black Women (NCBW) is a 501(c)(3) nonprofit organization. NCBW serves as a nonpartisan voice of advocacy on issues affecting the appointment of women at all levels of government with a goal to increase the participation of women of color in the educational, political, economic, and social arenas.

National Organization of Black County Officials

The National Organization of Black County Officials, Inc. (NOBCO) is a nonpartisan, nonprofit 501(c)3 founded in 1982 in order to provide resources to empower and transform populations into more sustainable communities. NOBCO supports the service to counties and communities of elected and appointed county officials throughout the United States by providing education, training and a clearinghouse of best practices in government. The primary focus areas of NOBCO are health equity, civil rights, economic development, public safety, and environmental justice.

National Organization of Black Elected Legislative Women

The National Organization of Black Elected Legislative Women (NOBEL Women) is a non-profit, non-partisan organization primarily composed of current and former black women legislators as well as many appointed officials. Originally established in 1985 as a national organization to increase and promote the presence of black women in government, NOBEL Women in recent years has expanded its vision to serve as a global voice to address a myriad of issues affecting the lives of all women.

National Puerto Rican Chamber of Commerce

The National Puerto Rican Chamber of Commerce is a 501(c)3 non-profit organization created to support the development of entrepreneurship, innovation, and business expansion throughout Puerto Rico and the U.S. mainland by providing a comprehensive resource for incubating business ideas, leveraging new markets, taking advantage of new opportunities, and advocating for policies that help our communities grow.

National Urban League

The National Urban League is an historic civil rights organization dedicated to economic empowerment in order to elevate the standard of living in historically underserved urban communities. Founded in 1910 and headquartered in New York City, the National Urban League spearheads the efforts of its local affiliates through the development of programs, public policy research and advocacy. Today, the National Urban League has 88 affiliates serving 300 communities, in 36 states and the District of Columbia, providing direct services that impact and improve the lives of more than 2 million people nationwide.

U.S. Black Chambers, Inc.

The U.S. Black Chambers, Inc. (USBC), provides committed, visionary leadership and advocacy in the realization of economic empowerment. Through the creation of resources and initiatives, USBC supports African American Chambers of Commerce and business organizations in their work of developing and growing Black enterprises.