

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

Resolution 2018-01

**URGING THE FCC AND STATES TO ASSURE THAT
LIFELINE ELIGIBLE HOUSEHOLDS IN ALL REGIONS OF THE NATION
HAVE ACCESS TO VOICE AND BROADBAND INTERNET ACCESS SERVICES
FROM A CHOICE OF PROVIDERS AND NETWORKS,
MADE MORE AFFORDABLE WITH LIFELINE SUPPORT**

WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) has encouraged States and the Federal Communications Commission (FCC) to take steps to add more broadband internet access service providers as designated Eligible Telecommunications Carriers (ETCs), for the benefit of Lifeline eligible households (NASUCA Resolution 2017-05);

WHEREAS, NASUCA has committed to support Federal and State efforts to improve the availability and affordability of broadband internet access service, without erosion of long-standing requirements to ensure universal access to all essential communications services that are reliable and affordable for all consumers (NASUCA Resolution 2017-04);

WHEREAS, in 2010 NASUCA recognized the public benefits provided by wireless ETCs offering Lifeline service on a prepaid basis, while recommending certain reforms, such as minimum Lifeline service standards which the FCC has since adopted (NASUCA Resolution 2010-02);

WHEREAS, the federal Lifeline program has its origins in 1985 in an era when low income consumers had one choice for voice service – the incumbent local exchange carrier (ILEC) – and faced connection charges, monthly charges, and reconnection fees as barriers to obtaining and keeping telephone service;

WHEREAS, today’s Lifeline program offers eligible households the opportunity to obtain voice and/or broadband internet access services made more affordable by the availability of \$9.25 per month in federal Universal Service Fund Lifeline support or \$9.25 plus \$25.00 per month for Tribal Lifeline support;

WHEREAS, today’s Lifeline program advances the universal principles of Section 254(b) that “Consumers in all regions in the Nation, including low-income consumers ... should have access to telecommunications and information services ...” by focusing federal Universal Service Fund support on making telecommunications and information services more affordable for income qualified households;

WHEREAS, pursuant to Section 214(e)(1), an entity designated as an ETC “shall,” throughout its designated service area, offer the supported universal services “either using its own facilities or a combination of its own facilities and resale of another carrier's services;”

WHEREAS, pursuant to Section 214(e), the designation by the States or the FCC of additional ETCs for an urban or rural service area is favored, but depends first on the voluntary application for designation by a common carrier;

WHEREAS, the FCC has determined that it is in the public interest to grant forbearance to wireless and other common carriers, subject to conditions, so the carriers may obtain ETC designation limited to Lifeline support, without examination of whether or to what degree the carrier might use its “own facilities” to provision the Lifeline service;

WHEREAS, States and the FCC have designated wireless common carriers as ETCs, whether facilities-based or resellers, to offer Lifeline service in areas covered by the underlying wireless networks;

WHEREAS, the FCC has determined broadband internet access service to be an essential telecommunications service that qualifies for federal universal service support;

WHEREAS, some ILEC ETCs and wireless ETCs offer fixed or mobile Lifeline broadband internet access services, where some broadband capable network is available, whether owned by the ETC, an affiliate, or other third party;

WHEREAS, Lifeline eligible households without a permanent residential address or without a wired “last mile connection” benefit in particular from the availability of Lifeline voice and broadband internet access services offered by wireless Lifeline ETCs;

WHEREAS, today’s Lifeline program provides many eligible households with a choice of voice and/or broadband internet access services available over today’s modern communications networks;

WHEREAS, based on data as of September 2017, over 10.4 million households, including tribal households, were receiving Lifeline voice and/or broadband internet access services;

WHEREAS, on December 1, 2017, the FCC released a Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking (NPRM), and Notice of Inquiry (NOI), captioned “Bridging the Digital Divide for Low-Income Consumers”;

WHEREAS, the FCC has commenced to change the federal Lifeline program in ways that will diminish the ability of low income households to obtain and keep voice and broadband internet access services over today’s modern communications network with Lifeline support from the federal Universal Service Fund;

WHEREAS, through the Fourth Report and Order, the FCC has ordered changes that will reduce and restrict federal Universal Service Fund support for Lifeline eligible households in Tribal areas, by limiting Lifeline Tribal support to facilities-based ETCs and to households in rural Tribal areas;

WHEREAS, the FCC's NPRM proposes to restrict or channel Lifeline support to broadband internet access services provided over networks owned by the ETC ("facilities-based broadband services"), as a means to encourage investment in broadband-capable networks;

WHEREAS, the FCC's NPRM proposes to discontinue Lifeline support for service provided over non-facilities-based networks, as a means to focus Lifeline support to encourage investment in voice- and broadband-capable networks;

WHEREAS, the FCC's NPRM proposes to limit Lifeline support to ETC services provided over ETC-owned "last mile" facilities or some other measure of facilities-based service;

WHEREAS, the FCC's NPRM invites comment on whether to continue or reverse prior conditional grants of forbearance from the Section 214(e)(1)(A) requirement that common carriers must offer facilities-based services to qualify for designation as an ETC;

WHEREAS, the FCC's NPRM proposes to continue to reduce the Lifeline discount for voice services, action which may reduce the options for Lifeline eligible households to obtain affordable communications services to make and receive calls, contact 911, and for other purposes, or may reduce the ability of Lifeline eligible households in rural areas to obtain affordable services reasonably comparable to services available in urban areas;

WHEREAS, the FCC's NPRM proposes to eliminate the concept of a federally designated "Lifeline Broadband Provider" and acknowledge the role of States under Section 214 in the ETC designation process, outcomes which would be consistent with NASUCA Resolution 2017-05 and NASUCA appellate advocacy;

WHEREAS, the FCC's NPRM proposes changes to enrollment, verification, audit and other processes for the purpose of eliminating fraud, waste, and abuse;

WHEREAS, the FCC's NPRM proposes to impose a "self-enforcing budget cap" on the Lifeline program which could lead to a curtailment of Lifeline reimbursements and prevent eligible households from receiving Lifeline support;

WHEREAS, the FCC's NPRM proposes adoption of a "maximum discount" approach to require Lifeline eligible households to pay a portion of the cost of Lifeline voice and broadband internet access services;

WHEREAS, the FCC’s NOI seeks comment on how the FCC should change the Lifeline program to help bridge the digital divide experienced by Lifeline eligible households, such as time limitations on a household’s eligibility, or targeting enhanced Lifeline support to underserved areas without broadband networks and services;

WHEREAS, the FCC’s proposed changes to the Lifeline program and eligibility of ETCs to receive Lifeline and Lifeline Tribal reimbursement hold the potential to reduce the number and variety of ETCs qualified or obligated to offer voice and/or broadband internet access Lifeline services, thereby reducing competitive pressure and choice of service offerings with federal Lifeline support;

WHEREAS, the FCC’s proposals to change the Lifeline program so as to encourage prospective investment in broadband-capable networks, if adopted, would make voice and broadband internet access services less available and less affordable to meet the immediate needs of Lifeline eligible households;

WHEREAS, the FCC’s proposed changes to the Lifeline program, if adopted, would harm and impair the ability of Lifeline eligible households to obtain and keep the Lifeline supported services which meet their particular needs;

WHEREAS, the FCC’s proposed changes to the Lifeline program, if adopted, would increase the cost of voice or broadband internet access services for Lifeline eligible households, making such services less affordable and increase the likelihood of such households going without any communications services;

NOW, THEREFORE BE IT RESOLVED that NASUCA supports the continuation of the federal Lifeline program as an important means to help income eligible households obtain and keep vital voice and/or broadband internet access services by making them more affordable with federal Universal Service Fund Lifeline support;

BE IT FURTHER RESOLVED that NASUCA supports continuation of the FCC’s prior determinations that forbearance from the Section 214(e) “facilities-based” requirement is in the public interest as encouraging entry by additional ETCs to offer Lifeline services;

BE IT FURTHER RESOLVED that NASUCA supports the continued obligation of ILEC ETCs, wireless ETCs, and other ETCs to offer Lifeline services consistent with their existing State or FCC grant of ETC designation;

BE IT FURTHER RESOLVED that NASUCA supports the designation by States and the FCC of additional ETCs to provide Lifeline voice and/or broadband internet access services, based on their ability to offer the services eligible for federal Universal Service Fund support;

BE IT FURTHER RESOLVED that NASUCA urges the FCC and States to continue to focus on ways to make the Lifeline program better meet the immediate needs of Lifeline eligible households for affordable voice and broadband internet access services, comparable to those services available to other consumers over today's modern communications networks;

BE IT FURTHER RESOLVED that NASUCA urges the FCC and States to take steps to encourage private and public investment in future development of broadband-capable networks as a public policy goal for the benefit of all consumers, but without compromising the needs and interests of Lifeline eligible low income households for affordable services over today's communications networks;

BE IT FURTHER RESOLVED that NASUCA urges the FCC to refrain from adopting a policy of steering investment in network facilities as the controlling principle for modifying the Lifeline program and ETC designation;

BE IT FURTHER RESOLVED that NASUCA supports reforms to the Lifeline program and State and federal oversight of ETCs which improve the efficiency and accountability of the Lifeline program, but without diminishing the variety of Lifeline services available to meet the needs of eligible households for more affordable voice and/or broadband internet access services; and

BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions, including litigation, consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to the resolution.

Submitted by Telecommunications Committee

Approved by Special Vote of the Membership
January 19, 2018

Abstaining

Indiana

Arkansas

Nebraska

North Carolina

Pennsylvania Small Business

Minnesota CUB