

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Lifeline and Link Up Reform and Modernization |) | WC Docket No. 11-42 |
| |) | |
| Telecommunications Carriers Eligible for Universal Service Support |) | WC Docket No. 09-197 |
| |) | |
| Connect America Fund |) | WC Docket No. 10-90 |
| |) | |
| Information Collections Being Submitted for Review and Approval to the Office of Management and Budget |) | OMB Control Numbers: |
| |) | 3060-0298 |
| |) | 3060-0400 |
| |) | 3060-0819 |

**COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTelecom) respectfully responds to the request of the Federal Communications Commission (Commission),¹ pursuant to the Paperwork Reduction Act of 1995 (PRA), for comments on the implications of the information collection requirements in its *Lifeline and Link Up Reform and Modernization, Third Report and Order, Further Report and Order, and Order on Reconsideration* (Lifeline Order).² The PRA review is a critical part of the regulatory process, enabling federal agencies to fully appreciate and weigh the burdens and benefits of information collections on industry and the public.³ The analysis is

¹ See, Federal Register Notice, Information Collections Being Submitted for Review and Approval to the Office of Management and Budget, OMB 3060-0298, 3060-0400, 3060-0819, 81 F.R. 48419 (July 25, 2016).

² Third Report and Order, Further Report and Order, and Order on Reconsideration, *Lifeline and Link Up Reform and Modernization*, FCC 16-38, 31 FCC Rcd. 3962, 81 FR 33025 (2016) (*Lifeline Order*).

³ The stated purposes of the PRA include: (1) minimizing the burden of federal paperwork on individuals, small businesses, state and local governments, and others; (2) ensuring the greatest

essential to ensuring that the central purpose of the PRA – to “*minimize the paperwork burden*” for reporting entities – has been met.⁴

The Commission’s estimates detailed in its PRA submission⁵ substantially underestimate the actual burdens of information collections associated with its Lifeline Order. The Commission, however, can address some of the flaws of its proposed information collections through expeditious grant of USTelecom’s Petition for Reconsideration (USTelecom Petition)⁶ submitted in this proceeding. Absent such changes, the Commission’s proposed information collections fail to achieve the PRA’s primary purpose to “reduce, minimize and control burdens and maximize the practical utility and public benefit” of information collected by the Federal Government,⁷ and should not be approved.

I. The Commission’s Burden Estimates Are Flawed.

In determining the burden associated with a particular information collection, the Commission is required to consider the time, effort, and cost required to train personnel to be able to respond to the collection; to acquire, install, and develop systems and technology to collect, validate, and verify the requested information; to process and maintain the required

public benefit from federal information; (3) coordinating federal information resources management policies; and (4) improving the quality and use of federal information. 44 U.S.C. § 3501(1).

⁴ 44 U.S.C. § 3501(1) (emphasis added).

⁵ See, Supporting Statement, *Lifeline Reform and Modernization*, 3060-0819 (July 2016) (available at: http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201606-3060-029) (visited August 21, 2016) (*FCC PRA Submission*).

⁶ See, United States Telecom Association Petition for Reconsideration and Clarification, WC Docket No. 11-42; WC Docket No. 09-197; WC Docket No. 10-90 (June 23, 2016) (*USTelecom Lifeline Petition*).

⁷ 5 C.F.R. § 1320.1.

information; and to provide the required information.⁸ None of these tasks is reflected accurately in the Commission’s burden estimates.

To take just one example, the Commission need look no further than the time and costs associated with its forms regarding Certification of Eligibility Upon Enrollment⁹ and Verification of Continued Eligibility.¹⁰ The Certification of Eligibility Upon Enrollment form requires eligible telecommunications carriers (ETCs) to “check the program-based eligibility of new Lifeline subscribers,”¹¹ and identify the “underlying income-based or program-based eligibility.”¹² Similarly, the Verification of Continued Eligibility form requires ETCs to “confirm the eligibility of all their Lifeline subscribers on a rolling basis.”¹³

However, as noted in the USTelecom Petition, due to the misalignment between federal and state Lifeline eligibility criteria, ETCs will be required to potentially have to manage three different sets of Lifeline subscribers: 1) those eligible for both federal and state discounts; 2) those eligible for only the federal discount (such as a subscriber relying on Veterans and Survivors Pension Benefit or purchasing stand-alone broadband); and 3) those eligible for only the state discount (such as a subscriber relying on a state program or higher income threshold). As noted by USTelecom, this “complicates the application and intake process, eligibility determinations, recertifications, customer counts, rate plans (which now must proliferate – with potentially three sets of discounted rates for every one discounted rate previously provided) and

⁸ 5 C.F.R. § 1320.3(b)(1).

⁹ *FCC PRA Submission*, pp. 4 – 5; 12.

¹⁰ *Id.*, pp. 5, 13.

¹¹ *Id.*, p. 4.

¹² *Id.*

¹³ *See, FCC PRA Submission*, p. 5.

every other aspect of managing the Lifeline program.”¹⁴ Many of these administrative categories (e.g., customer counts, eligibility determinations, etc.) must be addressed in each of the referenced forms.

The Commission’s burden estimates thus grossly underestimate the administrative complexities associated with these certifications. For example, the Commission estimates that ETCs will spend no more than 20 minutes (to query a database), or one hour to review certifying documentation for completing the Certification of Eligibility Upon Enrollment.¹⁵ The Commission proposes a similar estimate for its Verification of Continued Eligibility form.¹⁶ However, such estimates do not address the administrative complexities of processing and verifying Lifeline customers in the approximately 30 states that have their own state-mandated Lifeline discounts. Indeed, the Commission’s estimates do not take into account the mechanisms that ETCs will need to establish and maintain just to *track* these numerous state requirements that will likely be undergoing continual change in order to synchronize with the Commission’s updates to its Lifeline program.

Moreover, a number of the forms identified in the Commission’s PRA submission fail to account for the substantial administrative burden associated with rolling recertification.¹⁷ As discussed in the USTelecom Petition,¹⁸ the Commission’s new requirements to move to a rolling process for recertification impose significant additional administrative burdens on Lifeline

¹⁴ See, *USTelecom Lifeline Petition*, p. 8.

¹⁵ *FCC PRA Submission*, p. 12.

¹⁶ *FCC PRA Submission*, p. 13 (in that instance, the Commission estimates that the ETC officer will take no longer than 45 minutes to contact each subscriber and obtain a response spend “no more than 15 minutes” querying eligibility databases to re-certify eligibility).

¹⁷ See e.g., *FCC PRA Submission*, p. 11 (discussing burden estimates for Form 497, and Form 555); *Id.*, p. 13 (discussing burden estimates for the Verification of Continued Eligibility Form).

¹⁸ See e.g., *USTelecom Lifeline Petition*, pp. 2 – 4.

providers who already have processes in place for managing recertifications under the existing Lifeline rules. For example, some states require the provider to first query their state databases to determine ongoing eligibility.¹⁹ As opposed to submitting a file for an entire state, the new rules require the provider to query the state database based on the service initiation date of each customer. This potentially requires the provider to submit daily database queries rather than one monthly batch query. In other states, providers must contact subscribers directly to verify program participation or income qualification. While the order claims that giving the subscriber 60 days to respond allows “batching of daily subscriber recertification deadlines into more manageable weekly or monthly groupings” by the provider,²⁰ the fact that each subscriber must be given exactly 60 days to respond appears to eliminate the ability of providers to batch the recertifications.²¹

The Commission’s PRA submission reflects this mistaken assumption for batching. For example, the Commission’s frequency of response for its Form 497 assumes a monthly estimate of 2.5 hours, for a total of 30 hours annually.²² However, absent the ability to batch such recertifications, it is unclear whether Lifeline BIAS providers would be required to submit the Form 497 on a more frequent basis. Indeed, the Commission’s supporting documentation on its PRA submission notes that Form 497 should be submitted on a monthly or “on occasion” basis.²³ Furthermore, the Commission’s 2.5-hour estimate is most assuredly incorrect. At a minimum, just to satisfy the Commission’s 60-day recertification window, each ETC will need to track

¹⁹ *Lifeline Order*, ¶ 416.

²⁰ *Id.*, ¶ 420.

²¹ *See*, §54.405(e)(4).

²² *FCC PRA Submission*, p. 11.

²³ *Id.*

when each customer's recertification form is sent, and when (or whether) they are received back from the subscriber. This added administrative component is nowhere reflected in the Commission's burden estimates, and should significantly add to the hourly burdens associated with the collection.

II. The Commission's Estimates for Employee Hourly Wages are Unrealistic.

The Commission's burden estimates also rely on unrealistic assumptions that every task required for completing associated paperwork is limited to \$40-per-hour employees. For example, the Commission's PRA notice includes such estimates for the Form 497, Form 555, Form 481 and the Verification of Continued Eligibility. Such estimates fail to account for the fact that many tasks associated with completing the Commission's forms will require a broad range of employees, most of whom would exceed the \$40-per-hour threshold.

For example, many of the tasks associated with the Commission's forms will require input from legal staff from the reporting ETC. Both the Certification of Eligibility Upon Enrollment and the Verification of Continued Eligibility will require ongoing analysis of any changes in the current misalignment between federal and state Lifeline eligibility criteria. In order for ETCs to determine whether subscribers are initially eligible and continue to be eligible, such ETCs will need to determine the status of state regulations and statutes governing Lifeline eligibility. Until such time as states align their requirements with federal Lifeline requirements, ETCs will need to continually analyze and update their own internal eligibility mechanisms. It is safe to assume that such analysis will be completed by outside consultants or licensed legal professionals, who are presumably earning more than \$40 per hour.

Similarly, Form 555 requires ETCs to report on the "number of subscribers that did not respond to the re-certification request and those that responded that are not eligible to receive

Lifeline support.”²⁴ In order for ETCs to report this number, program staff will need to calculate the number of subscribers that did not recertify. This task requires a fairly detailed analysis by ETCs in order to determine the specific subscribers within the existing subscriber base that did not recertify. ETCs must also make a more complex analysis of determining the exact number of respondents that are no longer eligible to receive Lifeline support. This determination will be fairly detailed for ETCs, and will clearly require managerial input. Moreover, given the eligibility determination that must be made, participation by legal staff may also be required. The Commission’s burden estimate fails to account for such participation, and should be adjusted to reflect such burdens.

In another example, the Commission’s Certification of Eligibility Upon Enrollment form requires ETCs to maintain a significant amount of paperwork. This paperwork may include individual subscriber documentation of income-based or program-based eligibility, documentation related to the National Lifeline Accountability Database (NLAD) dispute resolution processes and “information and documents” provided by the state Lifeline administrator or other state agency.²⁵ The Commission’s burden estimate fails to account for the substantial administrative and managerial requirements associated with collecting, recording, and maintaining such information.

Nor does the Commission’s estimate account for the time associated with developing systems and procedures for cataloguing, indexing and updating such information. In order to develop the systems and procedures to implement this significant document retention policy, ETCs will need to engage a wide range of personnel – including system engineers, regulatory

²⁴ *FCC PRA Submission*, pp. 3 – 4.

²⁵ *FCC PRA Submission*, pp. 4 – 5.

advisors, in-house and outside counsel, and other employees – to ensure the development of a document retention framework that satisfies these obligations.

III. The Information Collection Mandating Certification by an Officer of the ETC Fails to Account for Accompanying Administrative Burdens.

Although the Commission's information collection includes one that mandates certification by an officer of the ETC, it fails to account for the substantial burden this imposes.²⁶ The Commission's PRA notice fails to account for the fact that the certification requirement is onerous and will vastly increase the administrative burden for service providers participating in the Lifeline BIAS program. By expanding the Lifeline BIAS program to include certification requirements to officers of the service providers, the Commission will increase – by orders of significant magnitude – the time needed to complete the relevant forms. If service providers are required to review and obtain officer approval of the relevant forms to satisfy the proposed certifications, the time required to coordinate and to conduct review will dwarf the Commission's current projections.

Moreover, the Commission once again lists a single \$40-per-hour employee as the only individual necessary to fulfill all the requirements of the information collection, including the officer certification. The Commission's projection ignores the requirements associated with obtaining the required officer certification.

To begin with, before any certification documentation arrives at the desk of an ETC officer, numerous administrative steps are taken to ensure the integrity of the officer certification. First, attorneys, managerial and administrative staff will need to collaborate in order to gather and review the relevant information supporting the certification by the company

²⁶ See, *FCC PRA Submission*, pp. 4, 11 – 12 (discussing officer certification requirements for Form 481).

officer. Given the significance of the officer certification, legal staff and members of the company's management team need to finalize the package of materials associated with the certification and confirm their accuracy. Finally, it is safe to assume that any ETC officer making such a certification will likely want to spend additional time reviewing and verifying the certification to which they will be affixing their signature.

The Commission's proposed information collection fails to account for the fact that most of the individuals involved in this process would be earning far more than the stated earnings of \$40 per hour. The Commission should therefore adjust its information collection accordingly in order to account for the administrative and legal requirements accompanying any officer certification.

IV. Conclusion

The Commission's burden estimates detailed in its PRA submission substantially underestimate the actual burdens of information collections associated with its Lifeline Order, and should be rejected. The Commission, however, can address some of the flaws of its proposed information collections through expeditious grant of USTelecom's Petition for Reconsideration submitted in this proceeding.

Respectfully submitted,

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August 24, 2016