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 MICHIGAN PUBLIC SERVICE COMMISSION

On December 1, 2017, the Federal Communications Commission (FCC) issued a Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry in the above-captioned proceedings regarding the federal Lifeline Program. (FCC 17-155). In this order, the FCC issued a Notice of Proposed Rulemaking (NPRM) seeking comment on reforms to ensure that the Commission is administering the Lifeline Program on sound legal grounds, recognizing the important and congressionally mandated role of states in Lifeline Program administration, and rooting out waste, fraud, and abuse in the program. The order also included a Notice of Inquiry (NOI) seeking comment on the ultimate purposes of the Lifeline Program and the policies that would best accomplish those purposes. The comment deadline is January 24, 2018.

The Michigan Public Service Commission (MPSC) offers the following comments on specific questions and concepts discussed in the NPRM and NOI. The MPSC's comments are organized to parallel the topic areas in the NPRM and NOI. The MPSC reserves the right to discuss additional questions and topics raised in the NPRM and NOI not addressed in these comments during the reply comment period. The MPSC has provided the section and/or paragraph number in the NPRM and NOI that coincides with the MPSC's comments.

V. NOTICE OF PROPOSED RULEMAKING

A. Respecting the States' Role in Program Administration

1. Reauthorizing State Commissions to Designate Lifeline ETCs

Paragraphs 56-58. Historically, the FCC and the states have cooperated on the designation, oversight, and enforcement of the Eligible Telecommunications Carrier (ETC) certification process to reduce waste, fraud, and abuse. To have consistency throughout the ETC designation process, for both voice and Lifeline Broadband Providers (LBPs), the MPSC believes that **all** ETCs should be designated through the traditional state and federal roles for the purposes of both the high-cost and Lifeline programs. The FCC will need to update the designation rules to appropriately incorporate LBPs. This will allow the states to designate these providers, especially since broadband is not regulated in many states (if any), like the wireless designation. The FCC proposes to eliminate stand-alone LBP designations to better reflect the structure, operation, and goals of the Lifeline Program, as set forth in the Communications Act, as well as related state programs.

The MPSC agrees that removing stand-alone LBP designation would simplify the designation and re-certification process of ETCs. However, as already stated, many (if any) states do not have any regulatory authority over broadband. The FCC will need to create rules that direct providers to submit specific and sufficient information to states for the states to be able to appropriately designate ETCs. In addition, the FCC should create rules that allow the states to request and collect information from the broadband ETC applicant to ensure that they meet the qualifications of both state and federal laws, just as the voice providers are required to provide. Also, annual recertification should be conducted by states with the use of Form 481, with ETCs required to provide state-specific data. This form may need to be modified to incorporate these types of providers. It is important for maintaining the integrity of the Lifeline Program that states are provided with appropriate and adequate information and are able to collect additional information (if needed) to be able to properly certify and re-certify providers as an ETC. Information submitted by broadband providers should be specific to the state that they are providing service in. The MPSC has previously expressed similar concerns to the FCC regarding the importance of information and the states' roles in the ETC process in its comments[1] on August 31, 2015 and letter[2] to the FCC on February 8, 2016.

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[1] MPSC August 31, 2015 Comments to the FCC (See pages 12-13): http://www.michigan.gov/documents/mpsc/comments_08-31-15_558576_7.pdf

[2] MPSC February 8, 2016 Letter to the FCC: http://www.michigan.gov/documents/mpsc/letter-02-08-16_558621_7.pdf

2. Partnering with States for the Successful Implementation of the National Verifier

Paragraphs 60-61. The MPSC opposes halting Lifeline enrollments should there be an unnecessary delay of the launch of the National Verifier. Potential Lifeline customers should not be penalized because there are delays with the National Verifier. Potential Lifeline customers should still be allowed to enroll, using a paper method until the National Verifier is operational.

The Universal Service Administrative Company (USAC) should work closely with states regarding the construction and integration of state databases into the national eligibility database. A number of factors may impact progress toward the integration of state databases into the national database. Those factors include: technical parameters, financial costs, staffing levels, time required for construction and testing, contractual issues, as well as prioritization with other internal state projects that are currently ongoing within a state. The speed and progress toward the completion of the National Verifier will also be determined by the funding that is available from USAC for the project. The costs that are associated with the development and maintenance of the National Verifier should be the responsibility of USAC. If USAC is unwilling or unable to financially support the costs associated with developing the National Verifier, then the FCC should provide states with the financial support needed to cover any construction, development, and maintenance costs that are required on the state side for access to state databases.

B. Improving Lifeline's Effectiveness for Consumers

1. Focusing Lifeline Support to Encourage Investment in Broadband-Capable Networks

Paragraphs 65-66. The MPSC is concerned about the potential impact of the proposal to discontinue Lifeline support for non-facilities-based service. In Michigan, approximately 68% of all Lifeline customers obtain their Lifeline service from a non-facilities-based service provider. If the FCC were to eliminate support for these types of service providers, it could harm a significant portion of the Lifeline customers in Michigan, by potentially causing them to lose their Lifeline service benefits. Eliminating support for non-facilities-based service providers could cause wireless providers in the state to exit the Lifeline market, reduce service options for Lifeline customers, and potentially cause existing Lifeline customers to lose their service.

Paragraph 67. The MPSC is concerned that if Lifeline providers that are partially facilities-based are able to obtain ETC designation, who will be responsible for ensuring that the support that they are receiving is going specifically toward the service that they provide and not to the facilities that they own?

The MPSC also has concerns about the potential for some broadband providers to try to manipulate the term "facilities" to help them obtain ETC designation. The way that the term "facilities" is defined or used by some providers could lead to waste, fraud, and abuse as some of these providers may not have their own facilities and attempt to claim that they have. If the FCC decides to restrict Lifeline to facilities-based providers, the FCC needs to be specific and consistent with the term “facilities”. It is important that the FCC clarify or re-define the term “facilities-based” ETC’s. If non-facilities based ETC’s are eliminated, there may be some wireless companies who try to devise a “get-around” or use a loophole to try and obtain facilities-based status, to continue providing Lifeline service and receive support.

Paragraph 68. If the facilities-based provider formed a joint venture with a reseller to offer Lifeline service, does that reseller have to become an ETC? To ensure waste, fraud, and abuse are not occurring, only the facilities-based provider should be collecting reimbursement. If both the facilities-based provider and reseller collect support, they would be double dipping into the Lifeline fund. Who will be responsible for ensuring that this doesn’t happen?

Paragraph 71. As the MPSC has stated, it does not support eliminating support for non-facilities-based Lifeline providers. However, if the FCC makes this determination, then the MPSC recommends that the transition period be long enough to ensure consumers have proper notification and time to transition to alternative providers. The MPSC recommends at least one year for this transition. Non-facilities-based Lifeline providers represent a large majority of the Lifeline customers in Michigan. A short transition period may not provide seniors and low-income customers with sufficient time to become fully aware they are losing their service and to obtain a new provider (if possible).

Paragraph 72. Since USAC is charged with overseeing the Lifeline fund, the MPSC believes that USAC should be responsible for ensuring proper auditing procedures and methods are followed. To ensure that federal funds are being appropriately spent on facilities and services, the USAC audits should review how funds are being spent and applied.

Paragraph 75. While the MPSC acknowledges the FCC's comments on the lower cost of fixed voice-only service, it also is important to acknowledge that the availability of fixed voice-only service is declining. The MPSC continues to believe that customers should have the option to continue receiving Lifeline support for voice-only service. If the only option for customers to obtain Lifeline voice is by combining the service with broadband without increasing financial support, the additional costs associated with acquiring two services may prohibit customers from obtaining service. Also, the low-income or elderly Lifeline customer may not have the means to obtain broadband service because of equipment or financial reasons, and they may also not have a need for broadband service. The MPSC recommends that Lifeline customers be offered stand-alone voice, stand-alone broadband, and a combination of both voice and LBP services.

Paragraph 76. The MPSC supports eliminating the phase down of voice-only service in rural areas, and also supports eliminating the phase down of voice-only service in urban areas. We support retaining the option of voice-only Lifeline service for **all** Lifeline customers and those customers should all continue to receive the $9.25 support.[3]

2. Enabling Consumer Choice

Paragraph 80. Allowing providers to meet the minimum service standards through plans that provide subscribers with a number of "units" that can be used for either voice minutes or broadband service may cause confusion for the Lifeline customer. If these plans are allowed, it is imperative that Lifeline customers fully understand what "units" are and how they can be used. Also, if this approach is adopted, the additional accounting burden for USAC could create the possibility for waste, fraud, and abuse. The MPSC reiterates that it opposes a phase-down of the voice-only Lifeline service. We believe that the option of voice-only Lifeline service should remain for **all** Lifeline customers and those customers should all continue to receive the $9.25 support.

Paragraph 81. The MPSC believes that the devices that are provided to Lifeline customers for broadband should be Wi-Fi enabled. Also, Lifeline providers should prohibit tethering charges if the device is capable of being used as a hotspot.

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[3] While the FCC did not seek comment regarding issues related to Lifeline eligibility requirements in this specific NPRM/NOI, the MPSC's preference would be to allow Michigan to return to our 150% poverty level as an eligibility requirement due to administrative efficiencies and aligning with other low-income program eligibility and verification processes. We have raised these concerns in previous filings with the FCC. See: http://www.michigan.gov/documents/mpsc/letter-08-24-16_558622_7.pdf and http://www.michigan.gov/documents/mpsc/comments-10-21-16_558587_7.pdf

However, the MPSC doesn't believe that those devices need to be hotspot-enabled. It should not be assumed that most Americans who own Wi-Fi enabled smartphones are Lifeline customers. If the FCC allows voice-only Lifeline service to continue, we believe it would be fair for those customers to only receive basic / non-smartphones for that service. We recommend that the FCC retain the equipment mandate in the rules because low-income and elderly Lifeline customers may not own the proper equipment or have the means to purchase equipment. An additional equipment concern involves the type of equipment that is being provided to Lifeline customers. If refurbished and previously used equipment is being provided to Lifeline customers, that type of equipment may not function efficiently and effectively. The MPSC recommends that the FCC review this issue to determine if any action is warranted.

3. Removing Unnecessary Regulation

Paragraph 82. We agree with the FCC that elimination of Section 54.418 of the Commission's rules would be beneficial.

C. Steps to Address Waste, Fraud, and Abuse

1. Improving Program Audits

Paragraph 88. The MPSC agrees with the FCC's auditing proposal and believes this would be a good step towards combatting waste, fraud, and abuse of the Lifeline Program. Alternatively, the "undercover work" could be conducted by a third party as part of the on-going evaluation of the program.

Paragraph 89. The MPSC suggests that an auditor or evaluator could call, text, or e-mail a randomly selected group of Lifeline customers to ensure the customers are able to use the relevant services.

2. Improving Program Integrity in Eligibility Verification

Paragraph 91. The MPSC recommends that before action is taken regarding the prohibition of agent commissions related to enrolling subscribers into the Lifeline Program, that the FCC or USAC make a determination that these commissions are in fact creating a problem with the integrity of the Lifeline Program. If there are significant issues and problems with the payment of commissions, then the MPSC would support the FCC's proposal to prohibit agent commissions related to enrolling subscribers in the Lifeline Program, and on codifying a requirement that ETC representatives who participate in customer enrollment register with USAC. However, enhancing audit procedures by USAC and the use of the National Verifier may eliminate issues with unethical enrollments. The MPSC supports prohibiting agents from being able to conduct overrides for customers applying for Lifeline service, but if this practice is allowed, then USAC should be directed to monitor it to ensure that waste, fraud, and abuse is not occurring.

Paragraph 94. Again, the MPSC agrees and supports the FCC's proposal to prohibit commissions of ETC personnel if it appears there are significant issues and problems occurring due to the commissions. The MPSC is concerned that if commissions are eliminated, providers may begin mandating quotas for Lifeline enrollments for their personnel. If a provider's personnel do not meet quotas, will they then be dismissed from the company? If mandatory quotas are instituted by providers, the potential exists for the same negative impacts that paying commissions may have on the integrity of the Lifeline fund.

Paragraph 97. The MPSC supports requiring that documentation be submitted when the subscriber attempts to recertify by self-certification only when the subscriber seeks to recertify under a different program than the one through which they initially demonstrated eligibility and cannot be recertified through an eligibility database.

3. Transparency and State Partnerships

Paragraph 102. The MPSC supports the FCC's proposal to direct USAC to periodically report suspicious activity or trends to the Wireline Competition and Enforcement Bureau, as well as the Office of Managing Director, and any relevant state agencies. If there are bad actors or the possibility of bad actors, it is important for states to know who they are in their states. If USAC is aware of this information, it should be shared with impacted states.

D. Adopting a Self-Enforcing Budget

Paragraph 105. The MPSC recommends that the FCC continue to use and follow the approach that was adopted in the 2016 Lifeline Order and does not think there is a need for the FCC to change this process. In the 2016 Lifeline Order, a budget of $2.25 billion was set. If total disbursements reach 90% ($2.025 billion) then the "Bureau" will issue a report evaluating the causes of growth and offer recommendations about what should be done. These recommendations include making adjustments to the minimum service standards, changing support levels or even modifying the budget amount. The 2016 approach seems to be a more reasonable way to handle the budget situation, as opposed to ending any disbursements once a certain budget limit has been reached.

Paragraph 107. The MPSC believes that the self-enforcing budget approach that the FCC is proposing would create instability and uncertainty in the program for both Lifeline customers and ETCs.

Paragraph 108. The MPSC is concerned about prioritization of Lifeline spending if the Lifeline budget cap is reached. In the proposed prioritization hierarchy when the cap is reached, there may be Lifeline customers unable to obtain assistance because they have lower priority than other Lifeline customers.

Paragraph 109. As mentioned earlier, the MPSC believes the FCC should continue to use and follow the approach that was adopted in the 2016 Lifeline Order and does not think there is a need for the FCC to change this process. However, if the FCC does decide to establish a Lifeline budget cap, the MPSC encourages the FCC to not establish a budget cap amount that is so low that it would cause a negative impact on Lifeline customers.

E. Improving Provider Incentives for Lifeline Service

Paragraphs 112-113. The MPSC opposes establishing a maximum discount level. The wireless voice service that is fully covered by the $9.25 subsidy is the only service where this is an issue—customers already pay portions of some Lifeline wireless, landline voice and broadband services because the cost exceeds $9.25. The FCC has taken many steps to curb fraud, waste and abuse in the Lifeline Program and is proposing additional steps in this proceeding. We do not see the need for taking this step and doing so could complicate the program. For example, a maximum discount level would cause wireless providers to start billing customers on a monthly basis. Additional billing increases costs for providers, which are eventually passed on to consumers.

Paragraph 117. The FCC seeks comment on what changes could be made to target consumers who have not yet adopted broadband, and to what extent the FCC should weigh efforts that facilitate reaching those consumers specifically. The MPSC offers the following: while the $9.25 Lifeline support may be beneficial for those Lifeline customers receiving voice, this support amount may be too low for Lifeline broadband service. Lifeline broadband service may be costlier than Lifeline voice service. The FCC should conduct a cost comparison between voice and broadband, and if broadband service is higher than voice, then the FCC should consider increasing the $9.25 Lifeline support amount. The FCC could also offer, to those who qualify for Lifeline broadband, to cover the initial costs of the broadband equipment. If Lifeline broadband is more affordable for the low-income and elderly population, it may encourage more potential Lifeline customers to acquire Lifeline broadband service.

VI. Notice of Inquiry

B. Benefit Limits

Paragraph 130. The MPSC opposes adopting a benefit limit for the Lifeline Program. If the customer / household meets the Lifeline eligibility criteria, they should continue to receive the Lifeline service and benefits, regardless of how long they have been a part of the program.

Conclusion

In this NPRM and NOI, the FCC seeks comment on numerous issues involving the federal Lifeline Program. While there are some portions that the MPSC supports, there are other issues that raise concern for the MPSC which are explained in the body of these comments. The MPSC appreciates the opportunity the FCC is providing to submit comments on such important issues involving the federal Lifeline Program.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

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