Before the
Federal Communications Commission
Washington, D.C.

In the Matter of	:	
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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
SUBMITTED ON BEHALF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION

The principle that everyone should have access to telecommunications service has long-been established as the national policy of the United States.[1] Since its inception in 1985, the federal Lifeline program (Lifeline) has been instrumental in promoting this policy, particularly through assistance to low-income telephone consumers.[2] Originally implemented through monthly discounts to traditional landline services offered by the incumbent local exchange carriers (ILECs), the program was expanded in 2005 to include

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1 *See* 47 U.S.C. § 151.

2 *See* FCC "Lifeline Program for Low-Income Consumers" available at: https://www.fcc.gov/general/lifeline-program-low-income-consumers.

non-facilities based wireless carriers when the Federal Communications Commission (FCC) granted a forbearance of the facilities-based requirement contained in the Telecommunications Act of 1996.[3] Since that time, wireless Lifeline providers have become the primary providers of Lifeline service.[4] Nonetheless, in an effort to further curb waste, fraud and abuse in the program, the FCC recently issued a Notice of Proposed Rulemaking seeking comment on its proposal to rescind its forbearance of the facilities-based requirement.[5] This proposal, if adopted, would eliminate support for most wireless Lifeline service providers, affecting the vast majority of Lifeline sub-scribers today. In addition, it also appears to be a solution in search of a problem that does not exist to any significant extent.

The Public Utilities Commission of Ohio (Ohio Commission) certainly supports the FCC's goal of eliminating waste, fraud and abuse in the Lifeline program, but not at such a cost. The Ohio Commission believes that it would not be in the public interest to rescind the forbearance of the facilities-based requirement. The Ohio Commission

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[3] *See* Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), Order, 20 FCC Rcd. 15095 (2005).

[4] According to the data from the Universal Service Administrative Company (USAC), nearly 96 percent of Ohio's Lifeline subscribers obtain their service from a Lifeline provider other than their ILEC. Data is available at: http:www.usac.org/li/tools/disbursements/results.aspx . The latest national data from USAC is as of 2015 and indicates that 88.97% of Lifeline support went to non-ILEC ETCs. Data available at: http://www.usac.org/li/about/process-overview/stats/total-support.aspx.

[5] Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and *Modernization*, *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (rel. Dec. 1, 2017).

appreciates the opportunity to comment on this important subject and to have its position given studied consideration by the FCC.

DISCUSSION

From a policy perspective, rescinding the forbearance of the facilities-based requirement would not be in the interest of the public, particularly for those who may be most vulnerable and in need of the services offered by the non-facilities based Lifeline service providers. The existence of non-facilities based Lifeline service providers has made numerous service options and choices accessible to Lifeline subscribers that would not have been available as part of traditional Lifeline service provided by the ILEC. Perhaps most important among these is the availability of mobile Lifeline service that low-income customers simply cannot obtain from their ILECs. In Ohio, the vast majority of Lifeline customers have chosen to take advantage of wireless Lifeline availability. As of November 2017, 78 percent[6] of Ohio Lifeline customers obtained their service from a non-facilities based wireless eligible telecommunications carrier (ETC).[7] Should the FCC define "facilities" such that the definition does not apply to services provisioned through a combination of facilities-based and resale services or through the facilities of a

[6] The percentage is derived from data obtained from the USAC. Most data is as of November 2017 as reported in December 2017. Data for Arcadia Telephone Company, The Champaign Telephone Company, Conneaut Telephone Company, Continental Telephone Company, Little Miami Communications Corporation, Oakwood Telephone Company, Sherwood Mutual Telephone Association Inc., The Vanlue Telephone Company, Wabash Mutual Telephone Company, Budget Prepay Inc., Nexus Communications Inc., and Tempo Telecom LLC is as of November 2017 as reported in January 2018. Data for Nova Telephone Company is as of September 2017 as reported in November 2017. All data is available at http://www.usac.org/li/tools/disbursements/default.aspx.

[7] The 78 percent includes all wireless Lifeline service providers excluding the subscribers of Virgin Mobile USA, LP, dba Assurance Wireless, which has indicated that it is a facilities-based Lifeline service provider providing service through the facilities of its parent company Sprint Nextel Corporation.

parent company, then the percentage in Ohio jumps to nearly 96 percent.[8] Even if "facilities" is defined to include services provisioned in these manners, such services will certainly not be available to all customers currently subscribed to a non-facilities-based Lifeline provider. Many of these customers likely will be faced with either struggling to pay for non-Lifeline mobile service or obtaining stationary landline Lifeline service through their ILEC.

Following the TracFone forbearance in 2005, the FCC granted additional non-facilities based service providers forbearance of the facilities-based requirement on a case-by-case basis until it granted a blanket forbearance in 2012.[9] The Ohio Commission designated its first wireless ETC, TracFone, in 2009 and then several others shortly thereafter.[10] Clearly, then, wireless Lifeline service is not new. Quite to the contrary, it is an established service offering with a long history behind it. It is something that is built into the lifestyles of hundreds of thousands of Lifeline customers not only in Ohio, but across the United States. It is a service that these customers rely upon to maintain their connections to an ever-increasing mobile world. Should the FCC proceed with its

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8 This figure includes all wireless Lifeline service providers as well as the subscribers of Virgin Mobile USA, LP dba Assurance Wireless.

9 Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd. 6656, 6810-6811, 6813 (2012).

10 In the Matter of the Petition of TracFone Wireless, Inc. dba Safelink Wireless for Designation as *an Eligible Telecommunications Carrier*, Case No. 10-624-TP-UNC (Supplemental Finding and Order) (May 21, 2009). TracFone's application for designation as an ETC was originally filed in Case No. 97-632-TP-COI, which was the Ohio Commission's general docket regarding intrastate Universal Service discounts. The docket number was changed during the rehearing process following the Commission's designation of TracFone. Examples of subsequent designations include, among others, Nexus Communications Inc. dba Reachout Wireless (Case No. 10-0432-TP-UNC, June 22, 2011, relinquished on May 25, 2016), i-wireless dba K-Wireless, LLC (Case No. 11-0571-TP-UNC, Nov. 11, 2011) and Total Call Mobile, Inc. (Case No. 12-1883-TP-UNC, May 15, 2013).

proposal to rescind its forbearance of the facilities-based requirement and without the widespread availability of facilities-based wireless Lifeline service, these customers will essentially find themselves tethered to their homes when needing to communicate. In today's world, this is not a plausible option for many people.

As the FCC considers this rulemaking, the telecommunications industry continues to move forward with its transition to advanced communications networks. With the vast majority of Lifeline customers choosing to obtain service from a provider other than their ILEC – nearly 96 percent in Ohio – ILECs have begun seeking to relinquish their ETC designation to focus on this transition. In doing so, ILECs are relying upon the non-facilities based providers to fill this market need. Further, state regulators across the country have relied on the FCC's forbearance of the facilities requirement in designating non-facilities based ETCs. As the industry transitions, state regulators have relied, and continue to rely, on the availability of the non-facilities based Lifeline providers in carrying out their duties set forth in 47 U.S.C. § 214(e). The FCC's proposal, if adopted, will undoubtedly create a significant amount of uncertainty for state regulators such as the Ohio Commission.

CONCLUSION

The Ohio Commission appreciates the FCC's efforts to combat waste, fraud an abuse in the Lifeline program. Nonetheless, the Ohio Commission urges the FCC to refrain from rescinding its forbearance of the facilities requirement for the reasons stated above. Many stakeholders have come to rely on the forbearance and the Lifeline market is largely built around it now. To abruptly eliminate it would both harm the most vulnerable of customers and cause a significant market disruption. The Ohio Commission respectfully asks the FCC to maintain the forbearance of the facilities requirement and appreciates the opportunity to provide its comments for the FCC's studied consideration.

Respectfully submitted,

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