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

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
	)	

COMMENT OF JSI, NTCA – THE RURAL BROADBAND ASSOCIATION and WTA – ADVOCATES FOR RURAL BROADBAND IN SUPPORT OF WIRELESS ETC PETITIONERS' PETITION FOR RECONSIDERATION

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I. INTRODUCTION & SUMMARY

John Staurulakis, Inc. ("JSI"), NTCA–The Rural Broadband Association ("NTCA") and WTA – Advocates for Rural Broadband ("Respondents") respectfully submit these comments on behalf of their Lifeline provider member companies in support of the Wireless ETC Petitioners Petition for Reconsideration.[1] Specifically, Respondents agree with the Wireless ETC Petitioners' and Total Call Mobile, Inc.'s assertions that the *Snapshot Rule*[2] as written would force eligible telecommunications carriers ("ETCs") to "incur costs and provide service without

[1] JSI is a telecommunications consulting firm offering a full spectrum of regulatory, financial and operational services to over 275 primarily rural independent telecommunications providers in 45 states and the U.S. territory of Guam. NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers ("RLECs"). All of NTCA's members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities. WTA – Advocates for Rural Broadband (formerly known as "Western Telecommunications Alliance") is a national trade association representing more than 280 rural telecommunications providers offering voice, broadband and video services in rural America. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities.

[2] *See* Lifeline and Link Up Reform and Modernization, et al., WC Docket 11-42, et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. June 22, 2015) (*Second Report and Order*).

reimbursement."[3] In their petition, the Wireless ETC Petitioners astutely recognize that the Commission's method for establishing a uniform Lifeline snapshot date proposed in the *Lifeline Second Report and Order* would "result in many situations where ETCs provide Lifeline benefits to eligible low-income consumers without receiving reimbursement for such services."[4] Total Call Mobile, Inc. corroborated this assertion during its *ex parte* meeting.[5]

Although the Respondents and their members understand the Commission's desire for consistency in completing FCC Form 497, the proposed *Snapshot Rule* is especially problematic for RLEC ETCs, who make up the largest percentage of Lifeline providers (see figure 1).[6] RLEC ETCs, on average, have approximately 25 total employees. Typically, these providers process bills for the first of the month during the latter half of the previous month (usually five to 10 days before the end of the month).[7] Lifeline customers, who account for a small percentage of RLECs' overall customer base (in some instances, less than 1 percent[8]) will receive the credit on the bill dated the first of the month.

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[3] *See* Wireless ETC Petitioners' Petition for Reconsideration and Clarification, at 8; FCC, WC Docket No. 11-42;
WC Docket No. 09-197; WC Docket No. 10-90 (filed Aug. 13, 2015).

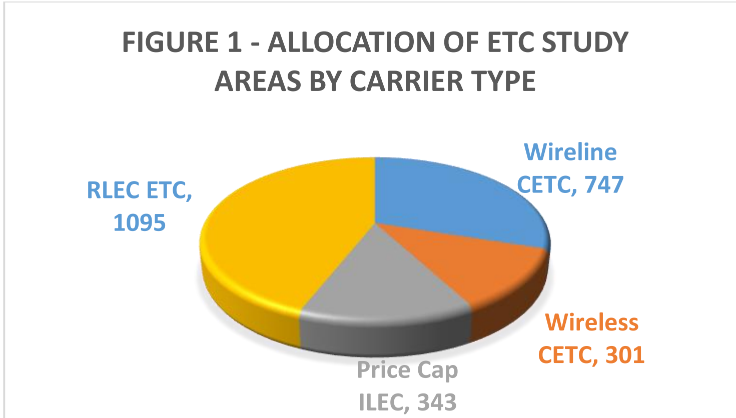
[4] *Id.*

[5] *See* Total Call Mobile, Inc. *ex parte* WC Docket No. 11-42; (filed September 16).

[6] *See* Federal Universal Service Support Mechanisms Quarterly Contribution Base for the Fourth Quarter 2015, available at (filed September 1, 2015), Appendices LI03 and HC01 (*USAC Filing for Fourth Quarter 2015 Contribution Base*) (last accessed September 17, 2015).

[7] In some instances, a rural ETC may have more than one billing cycle during a month. In a few instances, rural ETCs do not pre-bill.

[8] To be clear, the fact that Lifeline customers make up a small percentage of an individual RLEC's customer base does not mitigate the costs of upgrading or modifying billing systems and retraining staff; simply put, these fixed costs must be incurred whether Lifeline customers comprise 1 percent or 50 percent of a RLEC's total customer base.



The *Snapshot Rule* negatively affects RLECs by failing to consider that these providers typically bill all of their customers on a monthly basis, including Lifeline customers. In addition to potentially not being reimbursed monthly for "each qualifying low-income consumer served" [9] as the current rules mandate, the *Snapshot Rule* will require companies that bill their Lifeline customers on a monthly basis to either undergo costly billing system changes or implement a manual process which would increase the time required of their small administrative staffs to prepare Form 497, increase the risk of ministerial errors, and unduly complicate reporting and audits procedures. Moreover, these changes will be necessary to accommodate what appears to be an interim measure, as the Commission in the Second Further Notice has begun a proceeding for more permanent changes to the provider reimbursement process. Thus, NTCA, WTA, and JSI request that the Commission allow billing carriers the option of taking a snapshot of the number of subscribers as of their carrier-specific billing dates.

II. ESTABLISHMENT OF A UNIFORM SNAPSHOT DATE IS PREMATURE

The Commission should hold off on requiring ETCs to make costly changes until: (1) it determines whether or not ETCs will continue to be responsible for completing FCC Form 497

[9] *See Second Report and Order*, Appendix D – Final Regulatory Flexibility Analysis

or if Lifeline reimbursements will be generated automatically from the National Lifeline Accountability Database ("NLAD"); and (2) it details system changes that will be required as part of rules adopted from the Further Notice of Proposed Rulemaking ("*FNPRM*"). If the FCC is intent on using a uniform snapshot date during this interim period, it should permit ETCs to continue to use the number of Lifeline subscribers who will receive the Lifeline credit on their bills to determine who will be claimed on FCC Form 497. To use the Commission's example from the *Second Report and Order,* rather than taking a snapshot of customers "*in their system on May 1,*"[10] billing carriers would have the option of taking a snapshot of the number of subscribers *billed on May 1*, which they would use to populate the FCC Form 497 for the April data month. This minor adjustment would not require ETCs to modify their processes until the Commission finalizes the permanent method for claiming Lifeline support and other administrative changes.

III. THE COMMISSION UNDERESTIMATES THE FINANCIAL IMPACT ON RURAL ETCs OF TRANSITIONING TO THE SNAPSHOT RULE

As part of the normal billing process, nearly all RLECs bill their customers on a monthly basis. Those customers eligible for Lifeline receive the Lifeline discount as a credit on their bill. The *Snapshot Rule* will require these providers to modify their billing practices to accommodate a small subset of customers and, in some instances, will require companies to provide the discount without being adequately reimbursed.[11]

A. The Snapshot Rule Imposes Significant Administrative Costs

[10] *See* FN 478

[11] RLECs would agree that it would be simpler to provide prorated Lifeline discounts and claim those amounts on the Form 497 as the ability to pro-rate already exists in many of their billing systems. An option to claim pro-rated Lifeline support would create less waste in the Lifeline program as ETCs would be able to provide and claim a more accurate Lifeline discount.

RLECs have already expended considerable resources in efforts to comply with the *2012 Lifeline Reform Order*, namely integrating NLAD into their administrative processes. Indeed, incorporating NLAD required costly changes to billing systems, new procedures and staff training, and considerable customer outreach; some of these expenses are ongoing. It is unreasonable to expect RLECs now to bear the additional costs of further piecemeal modifications for what the Commission has described as an *interim* step that will go away if and when Lifeline "transitions to a reimbursement process that calculates support based on the number or subscribers claimed in NLAD." [12] As noted above, for many RLECs, Lifeline customers make up only a small percentage of their overall customer base. Yet this fact does not mitigate the costs of upgrading or modifying billing systems and retraining staff; simply put, these fixed costs must be incurred whether Lifeline customers comprise 1 percent or 50 percent of an RLEC's total customer base. When allocating resources (both financial and staff), RLECs must prioritize projects wisely and efficiently. As such, if changes adopted in the FNPRM will necessitate substantial changes to the billing system and administrative practices, it is more cost effective and efficient for RLECs to adopt the changes simultaneously rather than incrementally.

B. ETCs Must Be Reimbursed Properly for Providing the Lifeline Discount

As the Wireless Petitioners pointed out, by relying on a specific 'as of' date, ETCs run the risk of not capturing all of their customers on the Form 497. This aspect is of particular concern for RLECs for several reasons. Because of how the billing cycle works, under the *Snapshot Rule*, there will be instances where a RLEC provides the Lifeline credit to a customer on their May 1st bill, but is not reimbursed for providing the discount to that customer. First, a

[12] *See Second Report and Order*, Para. 242.

customer could disconnect prior to the May 1st snapshot date – this will be especially pronounced during the recertification process.

Second, many billing systems only use closed service orders for monthly billing as there is no guarantee that a pending order will actually activate service. In this scenario, it is possible that a customer completes his Lifeline application, NLAD is queried, and the phone is installed on April 15th. The connect order however is not closed on May 1st so the customer does not receive a bill for May 1st and is not claimed on the Original April Form 497. However, when that customer receives his June 1st bill, he will receive the Lifeline credits for April and May. Under the existing rules, the RLEC can file a Revised April Form 497 to claim support for this customer.[13] However, under the *Snapshot Rule*, the provider will provide the customer with the credit on their bill but end up "eating the difference."

Finally, RLECs are required to allocate the Lifeline credit first to the equivalent of the end user common line charge ("EUCL") and then to the local service charge.[14] Regardless of whether the provider is reimbursed for the Subscriber Line Charge and the Local Service Charge, it will still have to remit the amount to the National Exchange Carrier Association ("NECA").

Although the Commission (and a subset of ETCs who experience high churn) may believe "it is *possible* that subscribers who initiate service may offset those who terminate service mid-month"[15] (emphasis added) or it will "come out in the wash," this possibility is not guaranteed under all business models, nor is it sound bookkeeping. Indeed, given the nature of the areas they serve, RLECs generally suffer more attrition than churn within their customer bases as a whole, and will therefore almost certainly be on the losing end of the *Snapshot Rule*.

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[13] *See* FCC Form 497 - Lifeline Worksheet, Line 7c.
[14] *See* 47 C.F.R. §54.403(b).
[15] *See Second Report and Order*, para. 241.

IV. IF THE FCC IS INTENT ON USING A UNIFORM SNAPSHOT DATE DURING THIS INTERIM PERIOD, IT SHOULD PERMIT ETCS TO CONTINUE TO REPORT ON FORM 497 THEIR NUMBER OF LIFELINE SUBSCRIBERS AS OF THEIR CARRIER-SPECIFIC BILLING DATES

Contrary to the Commission's assertion, transitioning to a uniform first-of-the month snapshot date will increase waste in the Lifeline program and complicate the audit process. The proposed snapshot date, rather than easing the burden associated with regulatory and audit compliance, actually adds to the burden and increases potential waste. Many RLECs rely on their system-generated billing reports to populate the subscriber numbers on FCC Form 497 and other monthly regulatory filings. By using billing reports, ETCs have reliable, static data that they can go back and replicate for any past bill cycle, and ensure that the numbers will be consistent. Transitioning to the *Snapshot Rule* will cause RLECs to either manually compile data for FCC form 497 or pull their subscribers numbers from less reliable reports that will not be as accurate as those produced from the monthly billing process, nor will they be consistent with other regulatory reports filed with federal and state agencies.

Moreover, reliance on a report other than that used to generate customer bills will result in variances when recreating a past subscriber dataset for audit purposes and the inability to tie subscribers claimed on Form 497 to customers' bills for the same period. This is especially concerning given the number of audits and Low Income payment quality assurance ("PQA") reviews companies are required to respond to each year and the audit requirement to tie subscriber-billing information to subscribers reported on a past 497. Indeed, "it comes out in the wash" would not be a satisfactory response to a finding during an audit or PQA.

V. CONCLUSION

For all of the reasons discussed above, the Commission should reconsider using a snapshot date for Lifeline reimbursement until the conclusion of ongoing Lifeline proceeding. If, however, the FCC is intent on using a uniform snapshot date during this interim period, it should permit ETCs to continue to report on Form 497 their number of Lifeline subscribers as of their carrier-specific billing dates.

Respectfully submitted,

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