

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20220

In the Matter of

Lifeline and Link Up Reform and
Modernization

Telecommunications Carriers Eligible for
Universal Service Support

Connect America Fund

WC Docket No. 11-42

WC Docket No. 09-197

WC Docket No. 10-90

REPLY COMMENTS OF NEW AMERICA'S OPEN TECHNOLOGY INSTITUTE

Amir Nasr
Claire Park
New America's Open Technology Institute
740 15th Street NW, Suite 900
Washington, D.C. 20005

August 16, 2021

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New America’s Open Technology Institute (“OTI”) hereby submits its reply comments on the Wireline Competition Bureau’s (WCB’s) Public Notice seeking comment on the 2016 Petition for Reconsideration filed by the National Association of State Utility Consumer Advocates (NASUCA).¹ As WCB notes in the Public Notice, “NASCUA’s petition seeks reconsideration of several changes implemented in the 2016 Lifeline Order, including the phasedown of voice-only support.” We submit these reply comments in support of the points raised by NASUCA, and to highlight the vast support in the record calling for the Commission to halt its phase-out of voice-only support in the Lifeline program.

¹ See Wireline Competition Bureau Seeks Comment on a Petition for Reconsideration filed by the National Association of State Utility Consumer Advocates, WC Docket No. 11-42, Public Notice, DA 21-641 (WCB June 1, 2021) (Public Notice); See National Association of State Utility Consumer Advocates Petition for Reconsideration, WC Docket No. 11-42 et al., 3-4 (June 23, 2016) (NASUCA Petition for Reconsideration).

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I. Introduction

The record shows nearly unanimous consensus since 2016 that voice-only support should not be phased out of the Lifeline program. The National Lifeline Association noted that earlier this year, commenters on the State of the Lifeline Marketplace Report (“Lifeline Marketplace Report”) Public Notice unanimously supported retaining or reinstating full Lifeline support for voice service and no stakeholder argued for its phase out. Additionally, following the release of the 2016 order, several parties filed petitions for reconsideration asking the Commission not to phase down support for Lifeline voice service.² The Commission should therefore retain support for voice-only service.

Removing voice-only support will harm a consistent percentage of low-income customers who have demonstrated that is the service they most desire with the help of the Lifeline subsidy. These households will face unnecessary financial burdens as they will instead have to purchase either more expensive broadband bundles or voice-only services without Lifeline’s support.

Additionally, voice services are critical for emergency situations and services, and removing the support needed to access voice services will endanger low-income households who currently rely on voice-only Lifeline support.

² Comments of the National Lifeline Association on Petition for Reconsideration Filed By the National Association of State Utility Consumer Advocates, WC Docket No. 11-42, p. 3, [https://ecfsapi.fcc.gov/file/1080363813400/NaLA%20Comments%20on%20NASUCA%20PFR%20\(Aug%202%202021\).pdf](https://ecfsapi.fcc.gov/file/1080363813400/NaLA%20Comments%20on%20NASUCA%20PFR%20(Aug%202%202021).pdf); Joint Public Interest Comments in Support of NALA Petition of Waiver of Lifeline Mobile Broadband Minimum Standard and Voice Support Phase-Down, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, <https://ecfsapi.fcc.gov/file/10914217783411/Comments%20supporting%20NALA%20MSS%20petition.Final.pdf>.

II. Eliminating a Voice-Only Option Leaves Behind a Stable Customer Base Which Only Wants Voice-Only Service.

The “Lifeline Marketplace Report” released earlier this year confirms that despite a phase-down of voice-only support during 2019, “a persistent minority of Lifeline subscribers opt for voice-only Lifeline plans.”³ The record reflects broad agreement on this point. Free Press points out in their comments as well that the number of Lifeline participants subscribed to voice-only and voice-qualifying plans only “budged minimally” despite two consecutive phase-downs in support, reflecting that some portion of low-income households are only interested in subscribing to voice-only service.⁴

The Public Service Commission of the District of Columbia notes that while the size of Lifeline subscribers in the District of Columbia (D.C.) is small, during 2020 and the first two quarters of 2021, the number of customers aged under 65 remained stable, while the number of customers aged 65 and older increased and then remained stable, showing that there is a stable demand for standalone voice Lifeline service in D.C.⁵ The New York State Public Service Commission flagged a similar concern for their constant population of Lifeline subscribers who only want voice-only support, assessing that as of May 2021, there were approximately 58,000 voice-only wireline Lifeline customers in New York, with data indicating that a significant number of wireline Lifeline customers would continue to rely on voice-only service.⁶

³ Wireline Competition Bureau, Report on the State of the Lifeline Marketplace, June 2021, <https://docs.fcc.gov/public/attachments/DOC-373779A1.pdf> at 21 (“State of the Lifeline Marketplace Report”).

⁴ Comments of Free Press, WC Docket No. 11-42, August 2, 2021, <https://ecfsapi.fcc.gov/file/10803116326030/2021.08.02%20Free%20Press%20Comments%20on%20NASUCA%20Petition%20for%20Reconsideration%20WC%20Docket%20No.%2011-42.pdf>.

⁵ Comments of the Public Service Commission of the District of Columbia, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, August 2, 2021, <https://ecfsapi.fcc.gov/file/108022430603517/DCPSC%20Comments%20to%20NASUCA%20Petition%20for%20Reconsideration%20WC%20Docket%2011-42.pdf>.

⁶ Comments of the New York State Public Service Commission, WC Docket No. 11-42, August 2, 2021, <https://ecfsapi.fcc.gov/file/10802516507360/2021%2008%2002%20FCC%20NASUCA%20Refresh%20the%20Record%20Comments.pdf> at 2.

CTIA also agreed that certain communities may prefer voice-only services, including seniors who may find voice services easier to use and allows them to accomplish all that they need, and cited their research that showed while mobile wireless prices have continue to decline, low-income consumers and other U.S. residents continue to use mobile wireless data, text and voice services more and more.⁷ CTIA also reiterated that the Commission itself had found in the Lifeline Marketplace Report that “it is clear that voice service remains a desired service for both Lifeline subscribers and the general American consumer.”

Free Press astutely notes that few commenters in this proceeding would disagree that everyone requires access to high-speed internet access to fully participate in society today, but emphasizes that, “the path to satisfy this important demand should not be an exclusive one that requires us to abandon offering choices for people who too often have little or no choice due to financial insecurity... the Commission should adapt to the reality of the present Lifeline marketplace and the present needs of its subscribers too.”⁸

III. Eliminating Voice-Only Support Would Threaten to Increase Financial Burdens for Low-Income Consumers

The record shows broad support for retaining voice-only support in Lifeline due to the detrimental impact it would have on low-income consumers for whom the program is designed to benefit. Eliminating support for voice-only services in the Lifeline program would threaten to impose additional financial burdens for consumers who seek to only purchase and use voice services through Lifeline. These low-income consumers will subsequently have to purchase such

⁷ Comments of CTIA, WC Docket No. 11-42, August 2, 2021, <https://ecfsapi.fcc.gov/file/108022439011608/210802%20CTIA%20NASUCA%20Lifeline%20Voice%20Comments.pdf> at 6.

⁸Comments of Free Press, WC Docket No. 11-42, August 2, 2021, <https://ecfsapi.fcc.gov/file/10803116326030/2021.08.02%20Free%20Press%20Comments%20on%20NASUCA%20Petition%20for%20Reconsideration%20WC%20Docket%20No.%2011-42.pdf> at 3.

services—absolutely necessary not only in modern society but even society of two decades ago—without the support of the Lifeline program.

As detailed above, the Commission now knows that there is a consistent percentage of Lifeline subscribers who require and prefer voice-only services to the other program offerings even despite the reduced subsidy they enjoy for the services today. The Wireline Competition Bureau’s State of the Lifeline Marketplace Report found that a “persistent minority of Lifeline subscribers opt for voice-only Lifeline plans,” with roughly eight percent of Lifeline subscribers choosing a voice-only offering as of May 2021.⁹ Separately, an independent investigation into Lifeline conducted by Grant Thornton at the behest of the Universal Service Administrative Company reported that one of its “key observations” was that the “phase-down and ultimate phase-out of voice services by December 1, 2021 may negatively impact 797,454 (9.95 percent) consumers who use voice-only services for fundamental needs.”¹⁰ OTI agrees with Free Press’ observation: “Even after the first two phases of the scheduled phasedown, to \$7.25 and then to \$5.25, the number of Lifeline participants subscribed to voice-only and voice-qualifying plans budged minimally.”¹¹

If the Commission were to follow through on the phase-out of voice-only support, consumers who only seek voice services would be forced to either 1) Pay out of pocket for such services without Lifeline support, at the expense of other essential services and goods, or 2) Pay more for a bundle of voice and broadband services that similarly would siphon money away from other necessities. OTI agrees with the Public Service Commission of the District of Columbia that “ending support for voice-only Lifeline service would place consumers in an

⁹ State of the Lifeline Marketplace Report at 7-8 and 21.

¹⁰ Grant Thornton Public Sector LLC, “Lifeline Program 2020 Program Evaluation” (Feb. 5, 2021), <https://www.neca.org/docs/default-source/wwpdf/public/7121usac.pdf> at 37.

¹¹ Comments of Free Press at 5-6.

untenable position of paying for broadband bundled services that they do not want or cannot afford, or losing access to voice services altogether.”¹²

The Wireline Competition Bureau predicted the second effect in the State of the Lifeline Marketplace report, noting that the “removal of Lifeline support for voice-only services may push some Lifeline consumers into bundled plans that they are unable to afford.”¹³ Both of these choices would lead to increased monthly financial burdens for low-income households seeking a voice-only connection via Lifeline during a pandemic which has left millions without employment and the economy still reeling from a COVID-19-fueled recession. OTI agrees with Free Press that as the Commission is set to completely eliminate voice-only support, the data showing consistent popularity for voice-only plans demonstrates that a percentage of low-income participants could purchase voice-only service even after the Commission cuts off its support for the service.¹⁴

Low-income consumers should have the choice to purchase voice-only service if that best fits their communications needs, as the Lifeline program is a Congressionally-mandated public service to ensure low-income consumers have access to modern-day telecommunications services needed for work, education, personal life, health care, and more. OTI urges the Commission to heed the argument of Public Knowledge that both internet and voice services are critical and are “not always substitutes for one another,” and that “[i]nstead of deciding for consumers, the Commission should let consumers decide for themselves which service or services will best meet their unique needs.”¹⁵ OTI agrees with Free Press that households that choose to subscribe to voice-only service with their Lifeline subsidy “shouldn’t have to make

¹² Comments of Public Service Commission of the District of Columbia at 1.

¹³ State of the Lifeline Marketplace Report at 23.

¹⁴ Comments of Free Press at 6.

¹⁵ Comments of Public Knowledge, WC Docket No. 11-42, (Apr. 19, 2021) at 1.

this choice and go without the support for which they are eligible simply because the Commission chose in 2016 to eliminate this funding.”¹⁶ Broadband services are an important aspect of modern telecommunications services, but should not preclude the Commission’s support for voice services upon which low-income consumers depend.

The record reflects genuine concern from local interests that eliminating voice-only support as part of the Lifeline program will have damaging effects on consumers of all income levels, not just Lifeline subscribers. Consider the warning of Public Service Commission of the District of Columbia:

[A] total elimination of federal USF support could place greater strain on the DC USTF to fund voice-only wireline Lifeline service in the District for those customers who need it most. To cover the elimination of federal USF support, the DCPSC could approve increased contributions to the DC USTF, rate increases on Lifeline customers, or both... An increase in wireline voice-only Lifeline rates would adversely impact those Lifeline customers, who still want and need voice-only service but may not be able to afford the increased rates. **The elimination of federal support for standalone voice Lifeline service could jeopardize not only the District’s Lifeline customers but also other customers in the District of Columbia, who could be paying larger DC USTF surcharges.** Increasing rates and surcharges during the Covid-19 pandemic and its immediate aftermath would lead to additional financial strain on both Lifeline customers and other ratepayers.¹⁷

In particular, OTI urges the Commission to consider the financial challenges that removing support for voice-only services would impose on low-income consumers.

As NTCA explains, even though support for voice service would be available through bundled voice and broadband, it “offers little to low-income rural consumers who are effectively forced to purchase a broadband service they may not want or cannot afford.”¹⁸ For “many rural low-income consumers served by NTCA members, broadband even when bundled with voice service will continue to be unaffordable despite the availability of the Lifeline discount,” and

¹⁶ Comments of Free Press at 6.

¹⁷ Comments of Public Service Commission of the District of Columbia at 3. Emphasis added.

¹⁸ Comments of NTCA at 3.

these customers will subsequently be “forced to decide between subscribing to a more expensive broadband and voice bundle or forgoing Lifeline support altogether.”¹⁹ The New York State Public Service Commission further details the challenges rural areas of the state face due to the lack of reliable broadband service that would match the Commission’s minimum service standards would result in “many rural customers would not currently be able to obtain an adequate Lifeline broadband alternative in the event that support for voice-only Lifeline services is eliminated.”²⁰

However, the issue of expensive bundles is not restricted just to rural areas, and the impact of eliminating voice-only services will lead to additional financial burdens and unnecessary extra costs for low-income consumers in all areas, both rural and urban. The New York State Public Service Commission explains that the planned ending voice-only support at the end of the year will “force voice-only Lifeline customers to migrate to more expensive voice-broadband bundled services,” and these bundles will “be subject to disconnection for nonpayment if the customer cannot afford the entire bundle long-term and customers will be at risk to lose all the services – including voice – upon disconnection.”²¹ The California Public Utilities Commission illustrates this threat to low-income households further, noting that without voice-only support, “before applying state and federal discounts, many households will need to pay as much as \$100/month for the cheapest available broadband bundle” and that “some households that purchase a Lifeline broadband bundle may experience being “upsold” to a plan that meets the MSS.”²² OTI strongly recommends the Commission heed the warning posed by these entities, which work directly with impacted consumers and households participating in the

¹⁹ *Id.*

²⁰ Comments of the New York State Public Service Commission at 2.

²¹ Comments of New York State Public Service Commission at 1-2.

²² Comments of the California Public Utilities Commission at 3-4.

Lifeline program and know the risks associated with ending voice-only support, and rescind the decision made in the 2016 Order. Forcing low-income consumers seeking only voice service onto more expensive bundles would contradict the very purpose of the Lifeline program.

In the 2016 Lifeline Modernization Order, the Commission implemented a transition period to “avoid undue consumer disruption and to allow Lifeline providers sufficient time to adjust operations as the Commission moves from a primarily voice-only Lifeline program to a Lifeline program embracing broadband services.”²³ The Commission in 2021 has been armed with years of vast, broad-sweeping feedback highlighting how eliminating voice-only service would harm the low-income consumers that Congress mandated the Commission to support through this very program. As the National Lifeline Association notes, agreement on this matter includes not only OTI, but “AARP, NAACP, several major cities, the Oklahoma, Pennsylvania, Michigan, Minnesota, Missouri, Nebraska, Florida and California public service commissions, GVNW Consulting, NASUCA, NARUC, Sacred Wind, General Communication, Inc., NTCA and WTA, the Leadership Conference on Civil and Human Rights, Q Link and TracFone, in addition to the Free State Foundation and the 2019 petitioners to pause the minimum service standards – CTIA, the National Consumer Law Center, National Hispanic Media Coalition, OCA –The Asian Pacific American Advocates, and United Church of Christ, OC, Inc.”²⁴ The Commission now also has additional data provided by the Wireline Competition Bureau and Grant Thornton detailing the importance of voice-only support to a consistent and notable percentage of Lifeline participants.

This additional information in 2021 should confirm to the Commission what advocates argued in the buildup to the 2016 Order—this policy at its core will cause undue burdens and

²³ Lifeline Modernization Order ¶ 62.

²⁴ National Lifeline Association Comments at 7.

financial disruption to the lives of the low-income consumers who rely on Lifeline support for voice-only services. The Commission should grant the petition and reconsider its phase-down and phase-out of voice-only support in the Lifeline program.

IV. Eliminating Voice Service Would Endanger Low-Income Consumers Who Require It for Emergency Services

The record reflects the threat that eliminating voice-only support would pose for low-income consumers' access to emergency services. Voice support is crucial for Lifeline participants being able to access 911 services, healthcare that has become particularly important during the COVID-19 pandemic, and more emergency needs such as amid natural disasters. OTI agrees with Public Knowledge that “standalone voice service is particularly important for public safety” due to the fact that “you can’t call 911 through Whatsapp.”²⁵

The ability for low-income consumers to access 911 emergency services is a critical aspect of the Lifeline program, and undermining households' ability to procure this service due to additional costs imposed by eliminating voice-only service puts each of these people in jeopardy. OTI agrees with the California Public Utilities Commission that “wireline voice service offers public safety benefits as it can help reliably reach E911 services and other emergency services, especially in rural areas during events such as wildfires and related power outages.”²⁶ Next Century Cities makes the important observation that voice services are often “the only link that consumers have to emergency services” and that “voice services are critical for domestic violence survivors or those in emergency situations...”²⁷

Further, during the COVID-19 pandemic access to voice services have been crucial to provide people with the access to healthcare services, contact tracing, and communicating with

²⁵ Comments of Public Knowledge, WC Docket No. 11-42, (Apr. 19, 2021) at 5.

²⁶ Comments of the California Public Utilities Commission at 2.

²⁷ Comments of Next Century Cities, WC Docket No. 11-42, (Apr. 19, 2021) at 6.

loved ones that they have needed since March 2020 when the onset of the virus hit the U.S. The Pew Research Center found that 36 percent of respondents who make less than \$30,000 annually experienced problems paying for cellphone services during the pandemic.²⁸ OTI joined more than 250 organizations alerting the Commission to the importance of voice services, along with text, during the COVID-19 pandemic, to ensure that people did not have to go in person to clinics to seek medical attention and put themselves and others at risk of contracting and spreading the virus.²⁹ The need to stay remote not only increased the need for broadband, but for basic voice services as well. Particularly for contact tracing, it becomes nearly impossible to let someone know they might have been exposed to COVID-19 or for them to let others know if they lack voice service to receive or make those calls.

OTI agrees with Free Press that “the COVID-19 pandemic alone ought to have provided sufficient changed circumstances for the Commission to reassess whether to maintain the scheduled total phasedown for standalone voice,” particularly now that the Commission has seen proof showing that “households relied on voice services (and on broadband telecommunications services too) more than ever in response to the shelter-in-place mandates and encouragement of telehealth alternatives to in-person health services.”³⁰ The Wireline Competition Bureau reported that the data from 2020 demonstrate that “in times of crisis – in this case during the COVID-19 pandemic – consumers rely heavily on mobile voice to meet their communications needs.”³¹ The

²⁸ Colleen McClain, “34% of lower-income home broadband users have had trouble paying for their service amid COVID-19,” Pew Research Center (June 3, 2021), <https://www.pewresearch.org/fact-tank/2021/06/03/34-of-lower-income-home-broadband-users-have-had-trouble-paying-for-their-service-amid-covid-19/>.

²⁹ See Emergency Request for Increased Lifeline Support During the COVID-19 Crisis, Docket Nos. 11-42, 09-197, 96-45, 17-287 (March 23, 2020) <https://mediajustice.org/wp-content/uploads/2020/03/Final3-23-20-Lifeline-Emergency-Request-FCC-25-2-signers-updated.pdf>.

³⁰ Comments of Free Press at 6. Emphasis in original.

³¹ State of the Lifeline Marketplace Report at 10.

Wireline Competition Bureau further noted that “voice-only services, particularly for those populations that do not have an interest in receiving broadband services, are often Lifeline subscribers’ only connection to their communities and emergency services, which is more pronounced during national emergencies such as the COVID-19 pandemic.”³² OTI agrees with NTCA that “a reliable and affordable voice service is and will remain critical for many consumers for the foreseeable future, particularly with respect to public safety.”³³

Further, access to voice-only services to call 911 during emergencies related to natural disasters such as wildfires and hurricanes are essential and represent a genuine life-saving resource. The California Public Utilities Commission highlights the importance of the ability to call 911 to act during wildfires and power outages.³⁴ OTI further agrees with Free Press about the importance of voice-only service support during emergencies:

... [T]he Commission must consider how important voice services remain for people surviving long-lasting crises like the pandemic and shorter-term disasters too, such as wildfires and hurricanes. Those events demonstrate the importance of voice-only service too, as a generally more reliable access point for 911 and other emergency services. Evidence suggests that voice-only service subscribers value the unique public safety benefits of voice offerings.³⁵

V. Conclusion

The record and the Commission have demonstrated that low-income households need Lifeline voice-only support. The Commission should grant NASUCA’s petition to reconsider the phase-down of Lifeline support for voice-only services and instead reinstate full support.

Respectfully submitted,

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³² State of the Lifeline Marketplace Report at 24.

³³ Comments of NTCA at 2.

³⁴ Comments of the California Public Utilities Commission at 2.

³⁵ Comments of Free Press at 7.