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ADDRESSING THE RISK OF WASTE, FRAUD, AND ABUSE IN THE FEDERAL COMMUNICATIONS COMMISSION'S LIFELINE PROGRAM

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

SEPTEMBER 6, 2017

Printed for the use of the Committee on Commerce, Science, and Transportation

Available online: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

35–458 PDF WASHINGTON : 2019

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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ADDRESSING THE RISK OF WASTE, FRAUD, AND ABUSE IN THE FEDERAL COMMUNICATIONS COMMISSION'S LIFELINE PROGRAM

WEDNESDAY, SEPTEMBER 6, 2017

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:02 a.m. in room SR–253, Russell Senate Office Building, Hon. John Thune, Chairman of the Committee, presiding.

Present: Senators Thune [presiding], Schatz, Wicker, Klobuchar, Markey, Cortez Masto, Peters, Blumenthal, and Duckworth.

OPENING STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

The CHAIRMAN. Well, good morning. Welcome to today's hearing on the Federal Communications Commission's Lifeline program.

What began some 32 years ago as a program to help protect consumers from increases in telephone charges following the break-up of AT&T has morphed, as many government programs tend to do, into something much broader and more expensive, a one-and-a-half billion dollar a year program with no budget limit that provides, among other things, free phones and free service to millions.

Let me be clear: the bipartisan principle of universal service has been the bedrock of our nation's communications policies for more than 80 years, and programs that efficiently and prudently further the goal of universal service have contributed greatly to our nation's economy, and to the safety and well-being of Americans.

As someone who represents a rural state, which also includes nine Indian reservations, I am especially committed to the notion that consumers in all parts of the country should have access to communications services that are comparable, in both service availability and price, to those services provided in urban areas.

Even when services and rates are reasonably comparable, there is value in efforts to ensure access for low-income Americans. Connectivity is necessary for health and welfare, and for full participation in the economy. A carefully designed, properly administered program to help those American who, without a subsidy, would be unable to afford a reasonable level of connectivity is an important part of universal service.

Unfortunately, as has been demonstrated time and time again, the FCC's Lifeline program has not lived up to this promise, espe-

cially to those that rely on these services. The American people deserve better than a program so plagued by fraud, waste, and abuse. This marks our second hearing in as many years on those problems in the Lifeline program.

Over the last 7 years, the Government Accountability Office has repeatedly documented the FCC's failure to properly oversee the billions of dollars paid by American families to provide Lifeline support. GAO has also highlighted the Commission's failure to assess whether the Lifeline program is meeting its stated goals. While much attention has rightly been focused on rampant fraud, duplicative payments, and unverified payments, an even more fundamental question has gone largely ignored: Is the Lifeline program an effective means of increasing telephone subscribership among low-income consumers?

In 2010, GAO noted that the FCC has not prioritized the development of performance goals and measures for Lifeline, and as a result, the Commission has limited insight on what the program is actually accomplishing. FCC action in this regard is long overdue, and I call upon the Commission to undertake this fundamental analysis of the program.

There is substantial evidence to indicate that even without the well-documented fraud, duplication, and unverified payments that have plagued the program, the Lifeline program could be an ineffective means of increasing telephone subscribership among low-income consumers. As it is currently designed, for example, the Lifeline program appears to do a poor job of directing support to those who truly need it namely, those who would not get service without a Lifeline subsidy.

One study estimated that, because most Lifeline subscribers would have purchased telecommunications services even without the subsidy, it costs the program $1,100 annually for each truly new subscriber, and over $2,800 annually for each new prepaid wireless subscriber. That would mean Lifeline is costing American consumers between eight and twenty times the benefit amount actually received by program participants for each new low-income subscriber.

The FCC's long-standing failure to make performance goals a priority is a failure to meet its obligation to American consumers. Let me put it another way: I have no doubt that the Lifeline program provides a critical service for many low-income Americans, including my constituents, but I think we need an honest assessment of how best to deliver such services to those who need them the most.

At the request of Senators Portman and McCaskill, the GAO completed a report earlier this year highlighting these and other issues in the administration of the Lifeline program. The report does note some areas of improvement. For example, under Chairman Pai, the FCC is finally taking the long-overdue step to move fees collected for the Universal Service Fund from a private bank account to the Federal Treasury, where they will benefit from the management practices and regulatory safeguards applied to other Federal funds. In addition, the number of duplicate subscribers, once a problem costing an estimated $160 million per year, appears to have been reduced significantly.

Separately, our colleagues Senators Fischer and Udall introduced legislation to overturn an Obama-era effort at the FCC to usurp state authority in designating eligibility for participation in the Lifeline program. Chairman Pai has disavowed the Commission's prior effort in favor of reform—I should say returning authority to the states. The states have long played a key role in preventing waste, fraud, and abuse, and so this move is an important one and why I'm especially pleased to have Commissioner Chris Nelson from the South Dakota Public Utilities Commission here as a witness today.

Finally, the FCC announced last week that, by the end of this year, it will begin rolling out to a few states the National Lifeline Eligibility Verifier. We need to understand how this new tool will address the problems identified in the GAO report.

Chairman Pai is making real progress toward improving oversight of the Lifeline program, but many serious issues remain. I look forward to hearing from our diverse panel of experts as we explore ways to fulfill the promise of universal service for all Americans.

With that, I will yield to our Ranking Member, Senator Schatz, for an opening statement.

STATEMENT OF HON. BRIAN SCHATZ,
U.S. SENATOR FROM HAWAII

Senator SCHATZ. Thank you, Mr. Chairman, for convening this hearing on the Lifeline program. Unfortunately, the Ranking Member of the Full Committee, Senator Nelson, cannot be with us this morning. He went home to Florida to assist with the state's preparations for the hurricane. We wish him and his constituents Godspeed. And we are all thinking of him and the people of Florida during this time of anxiety and preparation.

Emergencies remind us just how important it is to be able to make a phone call or go online, but even without a hurricane, we know that in today's world, people need access to affordable communications services to participate in all aspects of society, whether it's paying a bill, accessing a government service, finding a new job, or even dialing 911.

In 1985, under President Reagan, the FCC established the Lifeline program to provide discounted phone service for people who otherwise couldn't afford it. The goal was simple: give all Americans the security and opportunities that phone service brings. Following Hurricane Katrina, the Bush administration recognized the importance of this program and expanded it to include wireless services. Then in 2016, the Obama administration's FCC extended Lifeline to include broadband Internet service because we know that a broadband connection is necessary to society today, as phone service was in the 1980s.

Lifeline is an essential part of our Nation's USF Universal Service Program. It complements the other Universal Service Programs that support service for rural and hard-to-reach areas, including health care facilities and schools and libraries. But just because it's necessary does not mean that Lifeline is perfect. The GAO report that is the subject of this hearing highlighted many areas where the Lifeline program fell short of our expectations. The program's

administration needs to improve, and that includes accountability. Waste, fraud, or abuse within a government program must always be stopped and fixed going forward.

It's worth nothing, however, the context of this report. Lifeline is a 30-year-old program that has continued to evolve. So while the data from the 2014 year is useful, it's also in the past. For example, the report doesn't fully account for the ongoing efforts of the FCC to modernize, reform, and strengthen the Lifeline program. The report itself acknowledges that some of these reform efforts could already be making an impact in solving some of those problems.

In 1996, a group of bipartisan Senators came together to codify the Lifeline program as part of the Telecommunications Act of 1996. We should follow their example and work together to improve this important program, and we should do it for the millions of American families that have come to depend on it. The takeaway from the GAO report should be that more work remains to be done, not that we should give up on this program.

I thank today's witnesses for joining us at this hearing, and I look forward to the discussion.

The CHAIRMAN. Thank you, Senator Schatz. And I thank all members of this Committee and all the people in this room. We'll be watching carefully, and our thoughts and prayers will be with the people of Florida as they anticipate what may be coming their way and also with those who have already been impacted by Hurricane Harvey that swept through Texas.

But we will continue with our panel today, and I want to say that we're grateful to all of you for your willingness to be here and to share your thoughts and perspectives about this issue. It's an important one and one that we need to make sure we're doing appropriate oversight of. And so we're going to start.

We have Mr. Seto Bagdoyan, the Director of Audit Services for Foreign Audits and Investigative Services for the U.S. Government Accountability Office; Ms. Deborah Collier, who is the Director of Technology and Telecommunications Policy for Citizens Against Government Waste; Dr. Jeffrey Eisenach, a Visiting Scholar at the American Enterprise Institute; and Commissioner Chris Nelson, as I mentioned, of the South Dakota Public Utilities Commission; and Ms. Jessica González, who is Deputy Director and Senior Counsel at Free Press.

So we'll start on my left and your right with Mr. Bagdoyan, and then proceed, and would ask each of you, if you can, to confine your oral remarks as close to 5 minutes as possible. Your entire statements will be included in the record, but it will maximize the opportunity for members of the Committee to ask questions. So thank you again for being here.

Mr. Bagdoyan, please proceed.

STATEMENT OF SETO BAGDOYAN, DIRECTOR, FORENSIC AUDITS AND INVESTIGATIVE SERVICE, UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE

Mr. BAGDOYAN. Thank you, Mr. Chairman. Chairman Thune, Ranking Member Schatz, and members of the Committee, I am

pleased to appear before you today to discuss GAO's May 2017 report on FCC's Lifeline program.

The program's expenditures currently total about $1.5 billion annually, covering over 12 million beneficiaries. Given its scope and scale, Lifeline is inherently vulnerable to fraud. In this regard, our findings highlight multiple significant risks involving, for example, the program's financial management and beneficiary enrollment controls.

Accordingly, today I'll highlight two of our report's principal takeaways regarding these particular risks. First, FCC and USAC, the not-for-profit corporation which administers Lifeline, have taken some steps to enhance controls over program finances. For example, FCC and USAC established financial management controls regarding billing, collection, and disbursement of funds for Lifeline and related USF programs. However, FCC maintains the USF with a cash balance of over $7 billion in net assets of about $8 billion as of June 2017 outside of Treasury in a private bank account. In 2005, we recommended that FCC reconsider this arrangement, given that the USF consists of Federal funds.

In addition to addressing any risks associated with having the funds outside the Treasury, where they do not enjoy the same rigorous financial management practices and regulatory safeguards as other Federal programs, FCC identified potential benefits of moving these funds, for example, by having the funds in Treasury, USAC would have better tools for fiscal management of the funds. In March 2017, FCC developed a preliminary plan to move the USF to Treasury.

Second, to enhance Lifeline's ability to detect and prevent ineligible subscribers from enrolling, FCC, in 2014, established a database with a real-time list of subscribers. In 2015, the agency adopted a rule requiring Lifeline providers to retain eligibility documentation used to qualify consumers for program support to improve the auditability and enforcement of FCC rules.

Nevertheless, we found weaknesses in several key control areas. For example, the program structure relies on over 2,000 Lifeline service providers to implement key program functions, such as verifying subscriber eligibility. This devolved internal control environment could actually exacerbate fraud risk, as companies may have financial incentives to enroll as many customers as possible. In this regard, based on data matching and related analyses, we were unable to confirm whether about 1.2 million individuals of the approximately 3.5 million we reviewed, or 36 percent, participated in a qualifying program, such as Medicaid, as claimed on their Lifeline enrollment applications. Since we were able to review only about 28 percent of all subscribers due to methodological limitations, we believe that this number is actually understated. In terms of costs, providers would have received about $137 million in USAC disbursements annually for delivering Lifeline phone services to these individuals.

To address enrollment control weaknesses, FCC's 2016 Order calls for the implementation of a third-party National Eligibility Verifier by 2019 to determine subscriber eligibility. In addition to data analyses, we covertly tested provider enrollment controls. Specifically, we made 21 attempts to enroll in Lifeline through 19 dif-

ferent providers using fictitious identities and documentation, and we were successful in 12 such attempts. Five providers we enrolled through were among the top 30 recipients of Lifeline disbursements from USAC in Calendar Year 2014, totaling about $494 million. One of these providers, who did not actually send us a Lifeline phone upon enrollment, collected almost $10 million in such disbursements.

In closing, I would underscore that it's essential for FCC to place a high policy and operational priority on deploying effective preventative enrollment and other controls to help mitigate the risk for potential fraudulent activity in Lifeline, including the broadband expansion, and safeguard the government's substantial investment in this program. Fully and timely implementing our report's seven recommendations, in addition to any other actions FCC is taking independently, would be vital in this regard. To its credit, FCC has agreed to implement all of our seven recommendations.

Chairman Thune, this concludes my remarks. I look forward to the Committee's questions. Thank you.

[The prepared statement of Mr. Bagdoyan follows:]

PREPARED STATEMENT OF SETO BAGDOYAN, DIRECTOR, FORENSIC AUDITS AND INVESTIGATIVE SERVICE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Telecommunications

Additional Action Needed to Address Significant Risks in FCC's Lifeline Program

Chairman Thune, Ranking Member Nelson, and Members of the Committee,

I am pleased to be here today to discuss the Federal Communications Commission's (FCC) oversight of the Lifeline program (Lifeline). Over the past two decades, telecommunications carriers and their customers have paid over $100 billion to support the Federal policy of "universal service." Universal service is the principle that all Americans should have access to communications services. FCC carries out this policy through four programs, including Lifeline.[1] Lifeline was created in the mid-1980s to promote telephone subscribership among low-income households. In the mid-2000s, such service came to include wireless communications, and, in December 2016, FCC also began including broadband service. Average Lifeline enrollment as of the fourth quarter of calendar year 2016 was approximately 12.3 million subscribers.

To participate in Lifeline, households must either have an income that is at or below 135 percent of the Federal Poverty Guidelines or participate in one of several qualifying assistance programs, such as Medicaid or the Supplemental Nutrition Assistance Program (SNAP).[2] After subscribers are enrolled in Lifeline, they receive a monthly benefit on home or wireless phone and broadband service. The Lifeline benefit can lower or eliminate the cost of a subscriber's monthly phone or Internet bill.

By statute, every telecommunications carrier providing interstate telecommunications services—including Lifeline providers—must contribute to Federal universal service unless exempted by FCC.[3] Contributions are deposited into the Universal Service Fund (USF). Although not required to do so, carriers typically pass on the cost of USF fees as a separate line item to their customers' phone bills. A not-for-profit, private corporation designated by FCC as the administrator of universal service programs, the Universal Service Administrative Company (USAC) pays Lifeline

[1] The other three programs are (1) the High-Cost Program, which assists telecommunications carriers serving high-cost, rural, or insular areas; (2) the Schools and Libraries Program, which assists eligible schools and libraries in procuring telecommunications services, Internet access services, internal connections, and basic maintenance of internal connections; and (3) the Rural Health Care Program, which provides support to eligible health-care providers through discounts for broadband and telecommunications services.

[2] Medicaid is a joint federal–state health-coverage program for certain low-income and medically needy individuals. SNAP, previously known as the Food Stamp Program, offers nutrition assistance to eligible, low-income individuals and families.

[3] 47 U.S.C. § 254(d).

providers a subsidy from the USF for each subscriber to offset forgone revenues.[4] From calendar year 1998 through 2016, USAC had disbursed approximately $20.2 billion to Lifeline providers.

In May 2017, we published a report on FCC's oversight of Lifeline that identified steps FCC has taken in the last few years to enhance the integrity of the program and stated the weaknesses that remained.[5] We also made seven recommendations to improve FCC's oversight of the program, which the agency agreed to implement.

My statement today discusses key findings from our May 2017 report, as well as steps FCC has taken and the related recommendations we made. Specifically, this testimony discusses (1) the extent to which Lifeline demonstrates effective performance towards program goals; (2) steps FCC and USAC have taken to improve financial controls in place for Lifeline and the USF, and any remaining weaknesses that might exist; (3) steps FCC and USAC have taken to improve subscriber eligibility verification, and any remaining weaknesses that might exist; and (4) steps FCC and USAC have taken to improve oversight of Lifeline providers, and any remaining weaknesses that might exist.

For our May 2017 report, we reviewed documents and interviewed multiple stakeholders associated with Lifeline, including FCC, FCC's Office of Inspector General (OIG), and USAC, among others. We also examined USAC financial data, including USF bank account statements and payment data, and interviewed USF account managers at the bank that holds USF funding. Further, we reviewed internal financial controls established by FCC and USAC and performed data matching and analysis to identify potential improper payments using Lifeline's enrollment data from the National Lifeline Accountability Database (NLAD) and relevant beneficiary databases. The results of the data analysis are illustrative rather than generalizable. We also performed undercover work to test the vulnerability for improper payments of funds disbursed to both subscribers and Lifeline providers. For example, we submitted 21 Lifeline applications using false information and fabricated supporting documents to determine whether we could obtain Lifeline benefits. These undercover tests were for illustrative purposes to highlight any potential internal control vulnerabilities and are not generalizable to the broader universe of subscribers and providers. Additional information on our scope and methodology is available in our May 2017 report. Our audit work was performed in accordance with generally accepted government auditing standards, and our related investigative work was done in accordance with investigative standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

FCC Has Not Evaluated Lifeline's Performance in Meeting Program Goals but Has Taken Recent Steps toward Evaluation

FCC has not evaluated Lifeline's performance in meeting program goals but, as we found in May 2017, has taken recent steps toward evaluation. According to GAO's Cost Estimating and Assessment Guide, to use public funds effectively the government must meet the demands of today's changing world by employing effective management practices and processes, including the measurement of government program performance.[6] In the past, FCC has called for program evaluations to review the administration of universal service generally, including Lifeline, but has not completed such evaluations. For example, FCC specified that it would review USAC 1 year after USAC was appointed as the permanent administrator to determine whether the universal service programs were being administered effectively. This review, which was planned to have been completed by 1999, was never done. In 2005, FCC awarded a contract to the National Academy of Public Administration to study the administration of the USF programs generally, examine the tradeoffs of continuing with the current structure, and identify ways to improve the oversight and operation of universal service programs. However, we reported in May 2017 that FCC officials stated FCC subsequently terminated the contract and the study was not conducted.

In March 2015, we found that FCC had not evaluated Lifeline's effectiveness in achieving its performance goals of ensuring the availability of voice service for low-income Americans, while minimizing the burden on those who contribute to the

[4] According to USAC documents, USAC is not a Federal agency, government corporation, government-controlled corporation, or other establishment in the Executive Branch of the U.S. government. USAC is also not a contractor to the Federal government, but is an independent, Delaware, not-for-profit, private corporation, subject to all applicable federal, state, and local taxes.

[5] GAO, *Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program,* GAO–17–538 (Washington, D.C.: May 30, 2017).

[6] GAO, *GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs,* GAO–09–3SP (Washington, D.C.: March 2009).

USF.[7] We recommended, and FCC agreed, to conduct a program evaluation to determine the extent to which Lifeline is efficiently and effectively reaching its performance goals.

Our May 2017 report raised additional questions about Lifeline's effectiveness in meeting its program goals. For example, we reported that:

- FCC did not know how many of the 12.3 million households receiving Lifeline as of December 2016 also have non-Lifeline phone service (for which they pay out of pocket) along with their Lifeline benefit. Without knowing whether participants are using Lifeline as a primary or secondary phone service, we concluded that it is difficult for FCC to determine whether it is achieving the program's goal of increasing telephone subscribership among low-income consumers while minimizing the USF contribution burden.
- FCC revamped Lifeline in March 2016 to focus on broadband adoption and generally phase out phone service, in part because FCC recognized that most eligible consumers have phones without Lifeline and to also close the "digital divide" of broadband adoption between low-income households and the rest of the country. However, broadband adoption rates have steadily increased for the low-income population absent a Lifeline subsidy for broadband. We found that at least two companies operating in a total of at least 21 states had begun offering in-home non-Lifeline broadband wireline support for less than $10 per month to individuals that participate in public-assistance programs, such as SNAP or public housing.[8] The offered rate of these providers' own low-income broadband service of $10 per month was less expensive than FCC's broadband reasonable-comparability cost benchmark of approximately $55 per month, which Lifeline subscribers would be paying for a similar level of service.

Our May 2017 report also found that FCC has recently taken some steps toward evaluating Lifeline's performance in meeting program goals. Specifically, in the 2016 Lifeline Modernization Order, FCC instructed USAC to hire an outside, independent, third-party evaluator to complete a program evaluation of Lifeline's design, function, and administration. The order stipulated the outside evaluator must complete the evaluation and USAC must submit the findings to FCC by December 2020. As FCC expects Lifeline enrollment to increase as the program is expanded to include broadband service, this expansion could carry with it increased risks for fraud, waste, and abuse, as was the case with past expansions of the program. Completing the program evaluation as planned, and as we recommended in 2015, would help FCC determine whether Lifeline is meeting its stated goals of increasing telephone and broadband subscribership among low-income consumers, while minimizing the burden on those who contribute to the USF.

Financial Controls Exist, with Others Planned, for the Lifeline Program, but Weaknesses Remain

In our May 2017 report we found that FCC and USAC have established financial controls for Lifeline, including obtaining and reviewing information about billing, collecting, and disbursing funds. They have also developed plans to establish other controls, such as establishing a national eligibility verifier (National Verifier) for Lifeline providers to determine the eligibility of applicants seeking Lifeline service. However, as discussed in our May 2017 report, we found that weaknesses remain, including the lack of requirements to effectively control program expenditures above approved levels, concerns about the transparency of fees on customers' telephone bills, and a lack of FCC guidance that could result in Lifeline and other providers paying inconsistent USF contributions. To address these concerns, we recommended the Chairman of FCC (1) require Commissioners to review and approve, as appropriate, spending above the budget in a timely manner; (2) require a review of customer bills as part of the contribution audit to include an assessment of whether the charges, including USF fees, meet FCC Truth-in-billing rules with regard to labeling, so customer bills are transparent, and appropriately labeled and described, to help consumers detect and prevent unauthorized changes; and (3) respond to USAC requests for guidance and address pending requests concerning USF contribution requirements to ensure the contribution factor is based on complete information and that USF pass-through charges are equitable. FCC generally agreed with those recommendations.

In addition, we found that USAC's banking practices for the USF result in oversight and accountability risks that FCC has plans to mitigate. Specifically, FCC

[7] GAO, *Telecommunications: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program,* GAO–15–335 (Washington, D.C.: Mar. 24, 2015).

[8] These advertised prices do not include taxes.

maintains USF funds—whose net assets as of September 2016 exceeded $9 billion—outside of the U.S. Treasury pursuant to Office of Management and Budget (OMB) advice provided in April 2000. OMB had concluded that the USF does not constitute public money subject to the Miscellaneous Receipts Statute, 31 U.S.C. § 3302, a statute that requires that money received for the use of the United States be deposited in the Treasury unless otherwise authorized by law. As such, USF balances are held in a private bank account. However, subsequent to this OMB advice, in February 2005 we reported that FCC should reconsider this determination in light of the status of universal service monies as Federal funds.[9]

As discussed in our May report, according to correspondence we received from the FCC Chairman's Senior Legal Counsel, as of March 2017, FCC had decided to move the funds to the Treasury. FCC identified potential benefits of moving the funds to the Treasury. For example, FCC explained that having the funds in the Treasury would provide USAC with better tools for fiscal management of the funds, including access to real-time data and more accurate and transparent data. According to FCC, until the USF is moved into the Treasury, there are also some oversight risks associated with holding the fund in a private account. For example, the contract governing the account does not provide FCC with authority to direct bank activities with respect to the funds in the event USAC ceases to be the administrator of the USF. After we raised this matter with FCC officials during the course of our review, beginning in November 2016, FCC sought to amend the contract between USAC and the bank to enable the bank to act on FCC instructions independently of USAC in the event USAC ceases to be the administrator. However, as of May 2017, the amended contract had not yet been signed.

While FCC has put in place a preliminary plan to move the USF funds to the Treasury, as well as plans to amend the existing contract with the bank as an interim measure, several years have passed since this issue was brought to FCC's attention without corrective actions being implemented. Further, under FCC's preliminary plan, it would not be until next year, at the earliest, that the funds would be moved to the Treasury. In May 2017, while reviewing a draft of this report, a senior FCC official informed us that FCC experienced some challenges associated with moving the funds to the Treasury, such as coordinating across the various entities involved, which raised some questions as to when and perhaps whether the funds would be moved. Until FCC finalizes and implements its plan and moves the USF funds, the risks that FCC identified will persist and the benefits of having the funds in the Treasury will not be realized. As a result, in our May 2017 report, we recommended that the Chairman of FCC take action to ensure that the preliminary plans to transfer the USF funds from the private bank to the Treasury are finalized and implemented as expeditiously as possible. FCC agreed with this recommendation.

FCC and USAC Have Implemented Some Controls to Improve Subscriber Eligibility Verification, but Weaknesses Remain

FCC and USAC have implemented controls to improve subscriber eligibility verification, such as implementing the NLAD database in 2014, which helps carriers identify and resolve duplicate claims for Lifeline-supported services. However, as discussed in our May 2017 report, our analysis of data from 2014, as well as our undercover attempts to obtain Lifeline service, revealed significant weaknesses in subscriber eligibility verification. Lifeline providers are generally responsible for verifying the eligibility of potential subscribers, but we found that their ability to do so is hindered by a lack of access to, or awareness of, state eligibility databases that can be used to confirm eligibility prior to enrollment. For example, not all states have databases that Lifeline providers can use to confirm eligibility and some providers with whom we spoke were unaware of databases that were potentially available to them. These challenges might be overcome if FCC establishes a National Verifier, as it plans to do nationwide by the end of 2019, to remove responsibility for verifying eligibility from the providers. Additionally, since USAC was not maintaining and providing information to providers about these databases, we recommended they maintain and disseminate an updated list of state eligibility databases available to Lifeline providers that includes the qualifying programs those databases access to confirm eligibility, to help ensure Lifeline providers are aware of state eligibility databases and USAC audits of Lifeline providers can verify that available state databases are being utilized to verify subscriber eligibility. FCC agreed with the recommendation.

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[9] GAO, *Telecommunications: Greater Involvement Needed by FCC in the Management and Oversight of the E-Rate Program,* GAO–05–151 (Washington, D.C.: Feb. 9, 2005).

For our May 2017 report, to identify Lifeline subscribers who were potentially ineligible to participate in the program, we tested the eligibility of subscribers who claimed participation in Medicaid, SNAP, and Supplemental Security Income (SSI) using NLAD data as of November 2014. We focused our analysis on these three programs because FCC reported in 2012 that these were the three qualifying programs through which most subscribers qualify for Lifeline. We compared approximately 3.4 million subscribers who, according to information entered in NLAD, were eligible for Lifeline due to enrollment in one of these three programs to eligibility data for these programs.[10]

On the basis of our analysis of NLAD and public-assistance data, we could not confirm that a substantial portion of selected Lifeline beneficiaries were enrolled in the Medicaid, SNAP, and SSI programs, even though, according to the data, they qualified for Lifeline by stating on their applications that they participated in one of these programs.[11] In total, we were unable to confirm whether 1,234,929 subscribers out of the 3,474,672 who we reviewed, or about 36 percent, participated in the qualifying benefit programs they stated on their Lifeline enrollment applications or were recorded as such by Lifeline providers.[12]

If providers claimed and received reimbursement for each of the 1.2 million subscribers, then the subsidy amount associated with these individuals equals $11.4 million per month, or $137 million annually, at the current subsidy rate of $9.25 per subscriber. Because Lifeline disbursements are based on providers' reimbursement claims, not the number of subscribers a provider has in NLAD, our analysis of NLAD data could not confirm actual disbursements associated with these individuals. Given that our review was limited to those enrolled in SNAP or Medicaid in selected case-study states, and SSI in states that participated in NLAD at the time of our analysis, our data results are likely understated compared to the entire population of Lifeline subscribers. These results indicate that potential improper payments have occurred and have gone undetected. We plan to refer potentially ineligible subscribers identified through our analysis for appropriate action as warranted.

Our undercover testing, as discussed in our May 2017 report, also found that Lifeline may be vulnerable to ineligible subscribers obtaining service and the testing found examples of Lifeline providers being nonresponsive, or providing inaccurate information. To conduct our 21 tests, we contacted 19 separate providers to apply for Lifeline service. We applied using documentation fictitiously stating that we were enrolled in an eligible public-assistance program or met the Lifeline income requirements. We were approved to receive Lifeline services by 12 of the 19 Lifeline

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[10] The six states selected for our Medicaid analysis had eligibility dates from the third quarter of 2012 through the most-recent eligibility fiscal quarter available for each state—at the time of our data analysis—which ranged from the third quarter of 2012 to the fourth quarter of 2014. For our analysis of NLAD and Medicaid data, we only matched against Lifeline subscribers who enrolled prior to the latest Medicaid eligibility data available for each state. Our nationwide SSI eligibility data ranged from October 2012 to December 2014, and each of the five selected states' SNAP data ranged from October 2013 to December 2014. Therefore, it was not necessary to exclude any Lifeline subscribers prior to matching. To ensure a conservative estimate of unconfirmed eligibility, in the event that any of the Lifeline subscribers were only shown as eligible for the month of December 2014, they were nevertheless counted as a match and deemed likely eligible for Lifeline, even though NLAD data were only as of November 2014. For more information about our scope and methodology, see the full report, GAO–17–538.

[11] When matching NLAD data against each of the qualifying programs that we tested, we used the number of subscribers listed in NLAD as belonging to each program at the state level and matched it to the corresponding state's qualifying program's eligibility database. We took the difference between the subscribers listed as belonging to SNAP, SSI, and Medicaid at the state level in NLAD and our confirmed matches to determine the number of subscribers who could not be confirmed to qualify for the benefit program.

[12] For the purpose of our analysis, we considered a subscriber in NLAD to be a likely match and enrolled in SNAP if at least four of the following fields matched between NLAD and SNAP data from each state: subscriber first name; subscriber last name; subscriber date of birth; last four digits of the subscriber's Social Security number (SSN); and an exact address, zip-code, state match. We considered a subscriber listed in NLAD to be a likely match and enrolled in SSI if the subscriber first name, last name, date of birth, and last four digits of the SSN matched exactly with SSI program data. To ensure that our tabulations of unconfirmed eligibility do not overstate potential problems with the data, we counted as a "likely match" for both SNAP and SSI data matching. Specifically, for SNAP and SSI we counted first and last name matches with inexact, but similar, spelling to be a likely match and enrolled in the qualifying programs. Whereas, for Medicaid, we considered a subscriber listed in NLAD as a likely match enrolled in the qualifying program if the date of birth, last four digits of the SSN, and zip code matched exactly with Medicaid data for each state, because the Medicaid data we utilized did not contain first or last name. By not requiring the first or last name as part of the NLAD/Medicaid matching, we may understate the unconfirmed eligibility rate for NLAD subscribers coded as eligible via Medicaid.

providers using fictitious eligibility documentation. We also experienced instances during our undercover tests where our calls to providers were disconnected, and where Lifeline provider representatives transmitted erroneous information, or were unable to provide assistance on questions about the status of our application. For example, one Lifeline provider told us that our application was not accepted by the company because our signature had eraser marks; however our application had been submitted via an electronic form on the provider's website and was not physically signed. While our tests are illustrative and not representative of all Lifeline providers or applications submitted, these results suggest that Lifeline providers do not always properly verify eligibility and that applicants may potentially encounter similar difficulties when applying for Lifeline benefits. As described above, these challenges might be overcome if FCC establishes a National Verifier, as it plans to do nationwide by the end of 2019, to remove responsibility for verifying eligibility from the providers.

FCC and USAC Have Taken Some Steps to Improve Oversight of Lifeline Providers, but Remaining Gaps Could Allow Noncompliance with Program Rules

FCC and USAC have implemented some mechanisms to enhance oversight of Lifeline providers, as discussed in our May 2017 report, but we found that remaining gaps could allow noncompliance with program rules. For example, in July 2014, FCC took additional measures to combat fraud, waste, and abuse by creating a strike force to investigate violations of USF program rules and laws. According to FCC, the creation of the strike force is part of the agency's commitment to stopping fraud, waste, and abuse and policing the integrity of USF programs and funds. Similarly, in June 2015, FCC adopted a rule requiring Lifeline providers to retain eligibility documentation used to qualify consumers for Lifeline support to improve the auditability and enforcement of FCC rules.

However, we found FCC and USAC have limited oversight of Lifeline provider operations and the internal controls used to manage those operations. The current structure of the program relied throughout 2015 and 2016 on over 2,000 Eligible Telecommunication Carriers (ETC) to provide Lifeline service to eligible beneficiaries. These companies are relied on to not only provide telephone service, but also to create Lifeline applications, train employees and subcontractors, and make eligibility determinations for millions of applicants. USAC's reliance on Lifeline providers to determine eligibility and subsequently submit accurate and factual invoices is a significant risk for allowing potentially improper payments to occur, and under current reporting guidelines these occurrences would likely go undetected and unreported. Federal internal control standards state that management retains responsibility for the performance and processes assigned to service organizations performing operational functions. Consistent with internal control standards, FCC and USAC would need to understand the extent to which a sample of these internal controls are designed and implemented effectively to ensure these controls are sufficient to address program risks and achieve the program's objectives.

We identified key Lifeline functions for which FCC and USAC had limited visibility. For example, we found instances of Lifeline providers utilizing domestic or foreign-operated call centers for Lifeline enrollment. When we asked FCC officials about Lifeline providers that outsource program functions to call centers, including those overseas, they told us that such information is not tracked by FCC or USAC. With no visibility over these call centers, FCC and USAC do not have a way to verify whether such call centers comply with Lifeline rules. FCC and USAC have limited knowledge about potentially adverse incentives that providers might offer employees to enroll subscribers. For example, some Lifeline providers pay commissions to third-party agents to enroll subscribers, creating a financial incentive to enroll as many subscribers as possible. Companies responsible for distributing Lifeline phones and service that use incentives for employees to enroll subscribers for monetary benefit increase the possibility of fictitious or ineligible individuals being enrolled into Lifeline. Highlighting the extent of the potential risk for companies, in April 2016 FCC announced approximately $51 million in proposed fines against one Lifeline provider, due to, among other things, its sales agents purposely enrolling tens of thousands of ineligible and duplicate subscribers in Lifeline using shared or improper eligibility documentation.

To test internal controls over employees associated with Lifeline for our May 2017 report, we sought employment with a company that enrolls individuals to Lifeline. We were hired by a company and were allowed to enroll individuals in Lifeline without ever meeting any company representatives, conducting an employment interview, or completing a background check. After we were hired, we completed two fictitious Lifeline applications as an employee of the company, successfully enrolled

both of these fictitious subscribers into Lifeline using fabricated eligibility documentation, and received compensation for these enrollments. The results of these tests are illustrative and cannot be generalized to any other Lifeline provider. We plan to refer this company for appropriate action as warranted. As stated above, these challenges might be overcome if FCC establishes a National Verifier, as it plans to do nationwide by the end of 2019, to remove responsibility for verifying eligibility from the providers. In addition, in May 2017, we made two recommendations to help address control weaknesses and related program-integrity risks. Specifically, we recommended that FCC establish time frames to evaluate compliance plans and develop instructions with criteria for FCC reviewers how to evaluate these plans to meet Lifeline's program goals. We also recommended that FCC develop an enforcement strategy that details what violations lead to penalties and apply this as consistently as possible to all Lifeline providers to ensure consistent enforcement of program violations. FCC generally agreed with these recommendations.

In conclusion, Lifeline's large and diffuse administrative structure creates a complex internal control environment susceptible to significant risk of fraud, waste, and abuse. FCC's and USAC's limited oversight of important aspects of program operations further complicates the control environment—heightening program risk. We are encouraged by FCC's recent steps to address weaknesses we identified, such as the 2016 order establishing a National Verifier, which, if implemented as planned, could further help to address weaknesses in the eligibility-determination process. We also plan to monitor the implementation status of the recommendations we made in May 2017.

Chairman Thune, Ranking Member Nelson, and members of the Committee, this concludes my prepared remarks. I would be happy to answer any questions that you may have at this time.

The CHAIRMAN. Thank you, Mr. Bagdoyan.

Ms. Collier.

STATEMENT OF DEBORAH COLLIER, DIRECTOR, TECHNOLOGY AND TELECOMMUNICATIONS POLICY, CITIZENS AGAINST GOVERNMENT WASTE

Ms. COLLIER. Good morning, Chairman Thune, Ranking Member Schatz, and members of the Committee. Thank you for inviting me to speak about the risk of waste, fraud, and abuse within the Federal Government's Lifeline program.

Issues of waste, fraud, and abuse within the Lifeline program have been well documented. In October 2010, the GAO revealed multiple instrument—incidences of programmatic fraud and abuse, noticing that some recipients use Craigslist to advertise the sale of Lifeline-subsidized phones and services while other beneficiaries violated the one-phone-line restriction of the program by signing up for service for multiple carriers.

On June 29, 2011, in response to the GAO report, the FCC issued final rules to address the fraud and eligibility issues by restricting eligible low-income consumers to one Lifeline-supported service at a time, and ordered the removal of any subscriber receiving multiple benefits in violation of the rule from the program.

On January 12, 2012, the FCC further reformed the Lifeline program by creating the National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscriber and ensuring the one-per-household rule would be enforced.

On March 24, 2015, GAO released another report, finding many of the FCC's 2012 reforms were not working, and the agency needed to do more to address deficiencies within the program. GAO recommended the agency determine whether the Lifeline program was efficiently and effectively reaching its goals of ensuring the avail-

ability of voice service for low-income Americans while minimizing the contribution burden on consumers and businesses.

On June 12, 2015, a *Consumer Reports* exposé revealed how easy it was to get around the 2012 reforms. Investigators found that, in some cases, Lifeline plans were registered with forged signatures, assigned to vacant homes, or given to individuals with fake credentials. The investigative team also found that salesmen were routinely accepting fake food stamp cards, including one clearly marked as a training card, and another printed from the Internet.

On March 31, 2016, the FCC further reformed the Lifeline program by creating a National Lifeline Eligibility Verifier System to help determine subscriber eligibility in the future.

On December 22, 2016, the FCC fined Total Call Mobile $30 million for overbilling the Lifeline program. The FCC found that Total Call Mobile had enrolled tens of thousands of duplicate and ineligible customers onto the Lifeline program, with 99.8 percent of Total Call Mobile's enrollment occurring during the fourth quarter of 2014, and overriding the third-party verification system.

On May 30, 2017, GAO released its most recent report, which found that the National Database structure to verify eligibility continues to be susceptible to waste, fraud, and abuse, and creates an incentive for companies to enroll as many subscribers into the program as possible. Of the 3.5 million subscribers reviewed in GAO's investigation, the agency was unable to confirm the eligibility of 36 percent of its enrollees. Along with the inability of the Universal Service Administration Company's ability to coordinate efforts to reduce improper payments, GAO also noted that USAC currently uses a "pay and chase" model of oversight to check any noncompliance or improper payments rather than verifying eligibility for the program at the front end.

On January 19, 2017, USAC awarded a contract to develop the verifier system to Accenture Federal Services. It is the hope of CHEW that as the USAC develops the verifier system, a front-end approach will be instituted to further reduce incidents of fraud and abuse in the program.

CHEW also strongly recommends that the FCC continue to engage in more stringent enforcement actions against companies that actively register ineligible or duplicate recipients into the program and skirting around the verification process.

Again, thank you, Chairman Thune, Ranking Member Schatz, and the members of the Committee. I appreciate your review of the Lifeline program and hope that my testimony will help eliminate waste, fraud, and abuse within the Lifeline program. I look forward to your questions.

[The prepared statement of Ms. Collier follows:]

PREPARED STATEMENT OF DEBORAH COLLIER, DIRECTOR, TECHNOLOGY AND TELECOMMUNICATIONS POLICY, CITIZENS AGAINST GOVERNMENT WASTE

Mr. Chairman and members of the Committee. Thank you for the opportunity to speak to you today. My name is Deborah Collier, and I am the technology and telecommunications policy director for Citizens Against Government Waste, a nonpartisan, nonprofit organization dedicated to eliminating waste, fraud, and abuse in government. Citizens Against Government Waste has not received at any time any Federal grant and we do not wish to receive any in the future.

Many Americans have heard of the "Obamaphones," made infamous by the viral 2012 video of a Cleveland woman touting the "free" Lifeline program.[1] However, few Americans realize is that Lifeline is part of the Low-Income support program, which was created in 1985 to provide subsidies for low-income households to obtain a telephone enabling them to communicate in emergencies. Following the enactment of the Telecommunications Act of 1996, the Low-Income support program became part of the Universal Service Fund (USF), which is administered by the Universal Service Administrative Company (USAC). Participation in the program is based on eligibility for one of the following Federal or tribal assistance programs: Medicaid; Supplemental Nutrition Assistance Program (Food Stamps or SNAP); Supplemental Security Income; Federal Public Housing Assistance (Section 8); Bureau of Indian Affairs General Assistance; Tribally-Administered Temporary Assistance for Needy Families; Food Distribution Program on Indian Reservations; or Head Start (subject to income eligibility criteria).[2] Over the years, the Lifeline program has evolved from initially providing one landline telephone per household in need, to offering low-income, qualified subscribers a choice between a landline telephone, a wireless phone, or broadband Internet service at a reduced cost (with a limit of one per household).

The USF is funded through fees on consumer telephone bills, and is used to support the following four programs: the Schools and Libraries program (also known as E-Rate); the High Cost program, which provides grants to build out telecommunications infrastructure in underserved or unserved areas of the country; the Rural Healthcare program, which provides telecommunications services, including broadband, to eligible health care providers; and, the Low-Income Support program, which includes Lifeline and Link-Up.

In October 2010, the Government Accountability Office (GAO) published a report on the Lifeline and Link-Up programs that showed a significant increase in demand for the program from 2008 to 2009, attributable in part to the increased availability of discounted wireless service for eligible individuals.[3] From 2005 to 2008, payments ranged from between $802 million to $823 million annually. However, in 2009, these payments increased to approximately $1 billion.[4]

GAO also revealed multiple instances of fraud and abuse within the program. For example, some recipients were using Craigslist to advertise the sale of Lifeline-subsidized phones and service. In other instances, Lifeline beneficiaries violated the one phone line restriction of the program by signing up for service from multiple carriers. On June 29, 2011, the FCC published final rules to address the fraud and eligibility issues highlighted in the GAO report, by restricting eligible low-income consumers to one Lifeline-supported service at a time and ordering that any subscriber receiving multiple benefits in violation of the rule must be removed from the program.[5]

In remarks before Third Way on January 9, 2012, then-FCC Chairman Julius Genachowski laid out plans to close loopholes in the program's eligibility requirements and strengthen cost controls to further reduce the amount of waste, fraud and abuse.[6] He also suggested expanding the Lifeline program choices to include broadband services, emphasizing that he believed the current service options were outdated by providing only telephone service.

On January 31, 2012, the FCC approved a report and order ("2012 Reform Order) to reform and modernize the Lifeline and Linkup programs.[7] The rulemaking set

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[1] Joshua Rhett Miller, "Viral Video Touting Free 'Obama Phone' puts spotlight on Federal program, Fox News, September 29, 2012, *http://www.foxnews.com/politics/2012/09/28/viral-video-touting-obama-phone-puts-spotlight-on-16-billion-federal-program.html.*

[2] "How Lifeline Works," Lifeline Program Overview, Federal Communications Commission, viewed: July 31, 2017, *https://www.fcc.gov/consumers/guides/lifeline-support-affordable-communications.*

[3] "Telecommunications: Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program," U.S. Government Accountability Office, GAO–11–11, October 28, 2010, *http://www.gao.gov/assets/320/312708.pdf.*

[4] Ibid.

[5] "Federal Communications Commission, Lifeline and Link-up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link-up, Final Rule," Federal Register, Volume 76, Number 125, Federal Communications Commission, June 29, 2011, *http://www.gpo.gov/fdsys/pkg/FR-2011-06-29/pdf/2011-16312.pdf.*

[6] "FCC Chairman Genachowski Addresses Smart, Responsible Government and Reforms to Modernize the Lifeline Program for Broadband," Remarks before Third Way, Washington, D.C., January 9, 2012, *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0109/DOC-311894A1.pdf.*

[7] In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11–42), Lifeline and Link Up (WC Docket No. 03–109), Federal-State Joint Board on Universal Service (CC Docket No. 96–45), Advancing Broadband Availability Through Digital Literacy Training

a savings target of $200 million for 2012; created the National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same subscriber; created an eligibility database; established a one-per-household rule applicable to all providers in the program; established clear goals and metrics to measure the program's performance and effectiveness; phased out support for certain services, such as toll limitations; and, established a uniform, interim flat rate of reimbursement.

The FCC also began a pilot program for a broadband initiative and proposed transforming the USF High Cost program into the Connect America Fund. According to the FCC, by July 31, 2012, the reforms had generated $43 million in savings, and were on track to save the USF fund a total of $200 million by the end of December 2012.

However, despite the efforts made at the FCC to rein in fraud and abuse within the Lifeline program, some companies offering Lifeline phone services, known as Eligible Telecommunications Carriers (ETCs), found ways to skirt around the agency's new verification system.

On February 11, 2013, *The Wall Street Journal* reported that government spending on the Lifeline program had reached $2.2 billion despite the efforts to reduce costs through stronger enforcement measures.[8] The article showed "that a large number of those who received the phones haven't proved they are eligible to receive them."

Lack of accountability in the Lifeline program was described by Charles C.W. Cooke in a March 11, 2013 *National Review* article.[9] Cooke noted that in response to an inquiry by Senator Claire McCaskill (D-Mo.), the FCC confessed that in the 15 years the program had been operational, the agency had yet to build a database of subscribers that could have helped companies avoid adding duplicate recipients to the rolls.[10]

On November 1, 2013, the FCC proposed imposing $33 million in penalties against three Lifeline providers for seeking duplicate payments for ineligible subscribers.[11]

On February 13, 2015, FCC Commissioner Michael O'Rielly recommended further reforms of the Lifeline program, including a budget with a cap on spending.[12] Noting that GAO's 2010 report also highlighted the lack of a budget cap, Commissioner O'Rielly concluded, "setting a ceiling on reimbursements is a prudent step to protect ratepayers. Dollars lost to fraud may be returned to the Federal government, but not to ratepayers who have already footed the bill." He also recommended maintaining the existing reimbursement rate for broadband; limiting services eligible for support; prohibiting double dipping; improving the targeting of funding to those who really need it, tightening eligibility requirements; requiring a minimum contribution from beneficiaries; making carrier participation voluntary; implementing automatic safeguards against abuse; and, requiring document retention by providers to reduce abuse and fraud.[13]

On March 24, 2015, GAO released another report finding that many of the FCC's 2012 reforms were not working, and the agency needed to do more to address deficiencies within the Lifeline program.[14] GAO found that at its peak in 2012, the Lifeline program served about 18 million households following the introduction of prepaid wireless phone service. Following the 2012 Reform Order, that number was reduced to approximately 12 million households and disbursements in the program declined from $2.2 billion in 2012 to $1.7 billion in 2014 due to the elimination of many ineligible households. However, GAO determined that the FCC lacked an evaluation plan for the data it had gathered from its Lifeline broadband pilot pro-

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(WC Docket No. 12–23), Federal Communications Commission, Adopted January 31, 2012, Released February 6, 2012, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1_Rcd.pdf.*

[8] Spencer E. Ante, "Millions Improperly Claimed U.S. Phone Subsidies," *The Wall Street Journal,* February 11, 2013, *https://www.wsj.com/news/articles/SB10001424127887323511804578296001368122888.*

[9] Charles C.W. Cooke, "Life, Liberty, and a Free Phone," *National Review,* March 11, 2013, *https://www.nationalreview.com/magazine/2013-02-19-2300/life-liberty-and-free-phone.*

[10] Ibid.

[11] "FCC Proposes Nearly $33 Million in Penalties Against Lifeline Providers That Sought Duplicate Payments for Ineligible Subscribers," Federal Communications Commission, Press Release, November 1, 2013, *https://apps.fcc.gov/edocs_public/attachmatch/DOC-323852A1.pdf.*

[12] Michael O'Rielly, Commissioner, "Sound Principles for Lifeline Reform," Federal Communications Commission, February 13, 2015, *https://www.fcc.gov/news-events/blog/2015/02/13/sound-principles-lifeline-reform.*

[13] Ibid.

[14] "Telecommunications: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program," U.S. Government Accountability Office, GAO–15–335, March 24, 2015, *http://www.gao.gov/assets/670/669209.pdf.*

gram, and recommended the agency "conduct a program evaluation prior to determine the extent to which the Lifeline program is efficiently and effectively reaching its performance goals of ensuring the availability of voice service for low-income Americans while minimizing the contribution burden on consumers and businesses." [15]

On June 12, 2015, a *Consumer Reports (CR)* exposé revealed how easy it was to get around the restrictions imposed in the 2012 reforms.[16] *CR* investigators in Oklahoma and Indiana found that in some cases Lifeline plans were registered with forged signatures, assigned to vacant homes, or given to individuals with fake credentials. In Colorado, the *CR* investigators and a Denver news team found that salesmen "routinely accepted fake food stamp cards, including one with 'training card' on it and another clearly printed from an Internet file." [17] While the FCC continued to fine carriers and vendors (more than $96 million by the time the *CR* report was filed), the violations continued.

On March 3, 2016, as the FCC considered further expansion of the Lifeline program, Commissioner O'Rielly again called on the agency to put Lifeline on a strict budget to halt its runaway spending to allow for proper alignment with other USF programs, and limit its costs to consumers.[18] Otherwise, Commissioner O'Rielly noted, "the FCC is preparing to expand the size and scope of the Lifeline Program without the necessary inclusion of a hard budget or financial constraints." [19]

Despite Commissioner O'Rielly's entreaties, on March 31, 2016, the FCC adopted another expansion of the Lifeline program by adding subsidized broadband Internet service at the amount of $9.25 per month per eligible household, and increased the annual budget for Lifeline from $1.75 billion to $2.25 billion, without a spending limit or cap.[20] The decision also stripped the ability of states to designate ETCs to administer the USF, and gave that responsibility to the FCC. This provision runs contrary to Section 214 of the Communications Act of 1934, which gave that authority to the states. The FCC also established a National Verifier System to assist in ensuring that only qualified households can participate in the Lifeline program.

In statements prior to the March 31 meeting, Commissioner O'Rielly noted that an expansion of the Lifeline program to broadband Internet would cost $750 million.[21] Commissioner Ajit Pai stated, "It's telling that the agency is already spending money in anticipation of getting a greater amount of revenue from the Universal Service Fund . . . That money is already being spent, and it has to come from somewhere. I would respectfully submit to you that ultimately, it's going to be in the form of a broadband tax." [22]

On April 7, 2016, the FCC announced it would impose a fine of more than $51 million on Total Call Mobile for overbilling the Lifeline program.[23] According to the FCC, Total Call Mobile had enrolled tens of thousands of duplicate and ineligible customers onto the Lifeline program, with 99.8 percent of Total Call Mobile's enrollment during the fourth quarter of 2014 overriding the NLAD third-party verification system designed to catch duplicate enrollments. Ultimately, Total Call Mobile resolved the enforcement action by settling on a fine of $30 million, after admitting

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[15] Ibid.

[16] Chris Raymond, "FCC Lifeline Program has a Problem: This subsidized phone program for low-income Americans struggles with abuse," *Consumer Reports,* June 12, 2015, *https://www.consumerreports.org/cro/news/2015/06/fcc-lifeline-program-problems/index.htm.*

[17] Ibid.

[18] Michael O'Rielly, Commissioner, "Lifeline Reform: Add a Hard Budget," Federal Communications Commission, March 3, 2016, *https://www.fcc.gov/news-events/blog/2016/03/03/lifeline-reform-add-hard-budget.*

[19] Ibid.

[20] Third Report and Order, Further Report and Order, and Order on Reconsideration, 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), and Connect America Fund (WC Docket No. 10–90), Adopted March 31, 2016, Released April 27, 2016, Federal Communications Commission, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf.*

[21] "Statement of Commissioner Michael O'Rielly on Circulation of Lifeline Expansion Order," Federal Communications Commission, March 8, 2016, *http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0308/DOC-338130A1.pdf.*

[22] Rudy Takala, "FCC Commissioner: Expect a Broadband Internet Tax," *The Washington Examiner,* March 2, 2016, *http://www.washingtonexaminer.com/fcc-commissioner-expect-a-broad band-internet-tax/article/2584747.*

[23] "FCC Charges Total Call Mobile with Overbilling the Lifeline Program, Plans $51 million Fine," Federal Communications Commission, April 7, 2016, *https://apps.fcc.gov/edocs_public/attachmatch/DOC-338774A1.pdf.*

its field agents engaged in "fraudulent practices," and the company lost its authorization to participate in the Lifeline program anywhere in the United States.[24]

Following the verification issues raised by the Total Call Mobile enforcement action, Commissioner Pai contacted the four states that do not utilize the NLAD verification program—California,, [25] Oregon,[26] Texas,[27] and Vermont [28]—to ask them to review their own processes to prevent fraud.

On May 30, 2017, the GAO released its most recent report to Congress on Lifeline's verification system, detailing the continued need for reform and accountability within the Lifeline program.[29] GAO found that the NLAD system, created in 2012, is susceptible to risk of fraud, waste, and abuse, as companies have an incentive to enroll as many subscribers under the program as possible. GAO was unable to confirm 1.2 million individuals of the 3.5 million it reviewed, or 36 percent of the enrollees. As noted in a June 29, 2017 *Washington Post* article, "It is unclear how many ineligible subscribers may be in the remaining pool of 8.9 million subscribers GAO did not study." [30]

CAGW is concerned about the inability of the USAC to coordinate its database with the Social Security Death Master File, and other efforts to reduce vulnerabilities within the system to combat improper payments. GAO noted that the USAC currently uses a "pay-and-chase" model of oversight to check for any noncompliance or improper payments, rather than verifying eligibility for the program at the front end. Without verifying eligibility at the front end, further fraud and abuse of the program will continue.

CAGW supports GAO's recommendation that the USAC conform with GAO's Framework for Managing Fraud Risks in Federal Programs by conducting data matching to "verify key information, including self-reporting data and information necessary to determine eligibility, prior to enrollment to avoid the 'pay-and-chase' approach to risk management, which is typically a less cost-effective use of resources." [31] GAO also noted that states play a role in helping to verify eligibility, however, information sharing between the states and the Federal government will require data-sharing agreements to enable an automated eligibility confirmation process, which may be prohibited by some state privacy laws.[32]

On July 11, 2017, FCC Chairman Pai wrote to the USAC ordering it to take action to address the myriad of problems found in the GAO report, his own investigations, and those of the FCC Office of Inspector General. He called upon the USAC to address the deficiencies in the NLAD system; identify and refer oversubscribed addresses to NLAD; identify and ask eligible telecommunications carriers with unexplained discrepancies in subscribers to take action to remediate the issues; check the Social Security Death Master File each quarter to avoid recertifying individuals into the program who have passed away, and recover Lifeline payments associated with those deceased subscribers; identify and remediate new exact duplicate subscriber entries; and, create a registration of sales agents to help reduce fraudulent activities, such as inappropriate data manipulation.[33]

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[24] "Total Call Mobile to Pay $30 Million and End Lifeline Participation to Settle Fraud Investigations," Federal Communications Commission, December 22, 2016, *https://apps.fcc.gov/edocs_public/attachmatch/DOC-342666A1.pdf.*

[25] Letter from Federal Communications Commissioner Ajit Pai to Mr. Michael Picker, President, California Public Utilities Commission, July 5, 2016, *https://apps.fcc.gov/edocs_public/attachmatch/DOC-340181A1.pdf.*

[26] Letter from Federal Communications Commissioner Ajit Pai to Ms. Lisa Hardie, Chair, Public Utility Commission of Oregon, July 5, 2016, *https://apps.fcc.gov/edocs_public/attachmatch/DOC-340182A1.pdf.*

[27] Letter from Federal Communications Commissioner Ajit Pai to Ms. Donna L. Nelson, Chairman, Public Utility Commission of Texas, July 5, 2016, *https://apps.fcc.gov/edocs_public/attachmatch/DOC-340181A1.pdf.*

[28] Letter from Federal Communications Commissioner Ajit Pai to Mr. Christopher Recchia, Commissioner of the Vermont Public Service Department, July 5, 2016, *https://apps.fcc.gov/edocs_public/attachmatch/DOC-340180A1.pdf.*

[29] "Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program," U.S. Government Accountability Office, GAO–17–538, May 30, 2017, *http://www.gao.gov/assets/690/684974.pdf.*

[30] Brian Fung, "This low-cost phone and Internet program wastes millions in Federal funding, auditors say," *The Washington Post,* June 29, 2017, *https://www.washingtonpost.com/news/the-switch/wp/2017/06/29/critics-say-this-low-cost-phone-and-internet-program-is-riddled-with-waste-and-abuse-theyre-right/?utm_term=.17e3a76b9e30.*

[31] GAO–17–538, p. 25.

[32] Ibid, p. 26.

[33] Letter from Federal Communications Commission Chairman Ajit Pai to Ms. Vickie Robinson, Acting Chief Executive Officer and General Counsel, Universal Service Administrative Company regarding his findings from his internal investigations, the FCC's Office of Inspector

Continued

Continued fraud and abuse within the Lifeline program has continued despite efforts to reform the verification process in 2012 and again in 2015. If Congress intends for the Lifeline program to continue and be sustainable in the future, CAGW strongly recommends that the USAC be required to implement a front end verification process, and the FCC engage in more stringent enforcement actions against companies that actively register ineligible or duplicate recipients into the program, and skirt around the verification process.

I appreciate the Committee's review of the Lifeline program, and hope that my testimony will help eliminate waste, fraud, and abuse.

Again, thank you for the opportunity to testify.

DEBORAH S. COLLIER, DIRECTOR, TECHNOLOGY AND TELECOMMUNICATIONS POLICY, CITIZENS AGAINST GOVERNMENT WASTE

Deborah S. Collier is the technology and telecommunications policy director for Citizens Against Government Waste (CAGW). She specializes in information technology (IT) and telecommunications policy including cloud computing, IT procurement, information security, data privacy, broadband spectrum allocations, network neutrality, cable industry issues, e-commerce, and emerging technologies.

Since joining CAGW in July 2011, Ms. Collier has authored numerous educational issue briefs; articles and blogs on technology and telecommunications policy, including three reports relating to cloud computing; and a report on the development of government mobile apps. In 2014, Ms. Collier joined with CAGW President Tom Schatz in co-authoring "Telecom Unplugged: Ushering in a New Digital Era." In November 2014, CAGW released a report she co-authored with Mr. Schatz entitled "Intellectual Property: Making It Personal." She has been a guest on radio and television news programs to discuss Internet taxes, Title II reclassification of the internet, IT procurement reform, and other technology related issues.

Prior to her work at CAGW, Ms. Collier spent 24 years on Capitol Hill working in IT and legislative arenas. From 1986 to 1992, she worked for Rep. Clarence Miller (R-Ohio) as a caseworker, legislative aide, and system administrator. In 1993, she joined the staff of Rep. Steve Buyer (R-Ind.) as his director of information technology. From 2005 to 2010, she served on the House Committee on Veterans' Affairs as the Republican Legislative Director. Ms. Collier was a member of the House Systems Administrators Association, a congressional staff organization dedicated to improving information technology systems in Member offices, from 1989 until 2005; and served as the organization's president from 2002 to 2005.

Ms. Collier holds a Bachelor of Arts (AB) degree in History from Ohio University.

The CHAIRMAN. Thank you, Ms. Collier.

Next up is Mr. Eisenach.

STATEMENT OF JEFFREY A. EISENACH, PH.D., VISITING SCHOLAR, AMERICAN ENTERPRISE INSTITUTE

Dr. EISENACH. Chairman Thune, Ranking Member Schatz, members of the Committee, thank you for the opportunity to appear before you today.

Before beginning, I just want to mention that I'm appearing today solely on my own behalf, and the views and opinions I express are and should not be attributed to any of the organizations with which I'm affiliated.

I can summarize my testimony in three sentences. First, promoting universal access to modern communication services and the Internet, especially for low-income and disadvantaged Americans, is a noble cause and a pragmatic objective which deserves Federal support. Second, the Federal Communications Commission's current Lifeline program is not an effective or an efficient means of achieving these goals, and it's not likely to become one. Third, we

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General Findings and the recent GAO report on waste, fraud, and abuse within the Lifeline Program, Federal Communications Commission, July 11, 2017, *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0711/DOC-345729A1.pdf.*

can't give up. The doors of digital opportunity must be open for low-income and disadvantaged Americans, and it's therefore incumbent on policymakers to develop a new approach that's both effective and a good investment for taxpayers.

Let me briefly address each point.

First, the evidence regarding the positive effects of expanding availability and adoption of broadband communications services is incontrovertible. I cite some recent research in my written testimony, and while academics will always quibble on the margins, there is just no doubt that promoting broadband availability and Internet access is a legitimate Federal purpose and worth the objectives for public policy.

My second point, directly addressing the main focus of today's hearing, is that the FCC's Lifeline program is both ineffective and inefficient as a means of promoting online access for the poor and disadvantaged Americans. Let me be clear what I mean by each of these words.

It's ineffective because it has little, if any, impact, as you said, Chairman Thune, in your opening remarks, on behavior. There is no compelling evidence that Lifeline causes any significant number of people to get communications services they would not already have in the absence of the subsidy.

Second, it's inefficient because it is extremely wasteful and prone to fraud and abuse, meaning that it costs communications users who pay for it, including low-income households, far more than it should.

Thinking about the way the program is designed, these results are hardly surprising. Lifeline, after all, pays communications companies to identify people who are eligible for Federal income support programs, and if they are, gives them free or subsidized phone service. It does not reward the companies for signing up new subscribers; that is, subscribers who do not already have communications services. Nor does it provide funding or in any way encourage companies to reach out to difficult-to-serve populations. As my AEI colleague Daniel Lyons has noted, the 2016 expansion of the program does nothing to change these incentives, it just extends the availability of the $9.25 subsidy to broadband without any evidence that broadband subscribership will be measurably increased as a result.

Now, if someone had to set out to design a Federal program that would be prone to waste, fraud, and abuse, it's hard to imagine how they could have done a better job than with the FCC's Lifeline program. The program is administered by over 2,000 private companies, most of them resellers of services actually provided by others, which can be certified for participation by any of 55 or so state or territorial entities, or until lately, the FCC.

The companies receive checks from the Universal Service Administrative Company based on how many qualifying customers they claim to serve. And once the customer is signed up—and I know this supposedly changed at the end of December—the check keeps coming in perpetuity until the company reports that the customer is no longer using the service.

The companies self-certify that the participants are eligible, but as Mr. Bagdoyan has reported, in just over a third of the cases it

recently reviewed, the GAO could not verify that the subscriber actually qualified for the subsidy.

As Senator McCaskill put it after reviewing the most recent GAO report, a complete lack of oversight is causing this program to fail the American taxpayer, everything that could go wrong is going wrong. We're currently letting phone companies cash a government check every month with little more than the honor system to hold them accountable.

Now, in my written testimony, I go through the history of a little bit of the abuse of the Universal Service Program, and I will skip that here, but as you've heard from the two prior witnesses, and I'm sure we'll get into in our questions, this is not a new problem. The FCC is a repeat offender.

The history of the Lifeline program to me raises an important question, which is whether there is ever a point at which Congress will hold an agency accountable for gross, repeated, ongoing, systematic mismanagement of a multibillion dollar Federal program, because if there is such a point, this is the program, this is the agency, and this is the time.

Now, this brings me to my third point, and I've run out of time, so I'll be very brief, but we do need an alternative. It's not enough to walk away. It is important and a legitimate Federal purpose that we seek to open the doors of digital opportunity to poor and disadvantaged and elderly Americans who are not online as much as we would like them to be and/or don't have the skills to make full use of the Internet, but the Lifeline program isn't achieving that objective.

I outline in my written testimony four principles for how we can do a better job of doing that. I won't go over those here, except I will conclude by saying respectfully that it's time to consider a new delivery mechanism for these services, one that involves neither the Federal regulatory agency which has so grossly mismanaged the Lifeline program nor the telephone companies which have profited so handsomely from that mismanagement. If we want to help poor and disadvantaged Americans use the Internet and access the Internet, let's stop writing checks to telephone companies because it's not working.

Mr. Chairman and members of the Committee, thank you very much.

[The prepared statement of Dr. Eisenach follows:]

PREPARED STATEMENT OF JEFFREY A. EISENACH, PH.D., VISITING SCHOLAR, AMERICAN ENTERPRISE INSTITUTE

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you at today's hearing on Addressing the Risk of Waste, Fraud, and Abuse in the Federal Communications Commission's Lifeline Program.

I have had the opportunity to study communications, media and Internet policy issues over the course of many years and in several capacities, including in my current positions as Co-Chair of the Communications Media and Internet Practice at NERA Economic Consulting, as an adjunct professor at George Mason University Law School, and as a Visiting Scholar at the American Enterprise Institute. While I am proud to be affiliated with these organizations, I am appearing today solely on my own behalf, and the views and opinions I express should not be attributed to any of the organizations with which I am or have been affiliated.

I can summarize my testimony in three sentences. First, promoting universal access to modern communication services and the Internet, especially for low-income and disadvantaged Americans, is a noble cause and a pragmatic objective which de-

serves Federal support. Second, the Federal Communications Commission's (FCC) current lifeline program is not an effective or efficient means of achieving these goals, nor are current reform efforts likely to make it so. Third, we cannot give up: the doors of digital opportunity must be opened for low-income and disadvantaged Americans, and it is therefore incumbent on policymakers to develop a new approach that is both effective and a good investment for the American taxpayer.

Let me address each point in turn.

First, the evidence regarding the positive effects of expanding availability and adoption of broadband communications services and Internet access on economic progress and personal opportunity is incontrovertible. There is a broad and deep literature on overall economic effects which has consistently demonstrated a positive relationship between broadband and economic growth, employment and productivity.[1] Research is also increasingly demonstrating the socioeconomic benefits of broadband for disadvantaged populations. For example, new research published in the *Journal of Medical Internet Research* shows that when people from low socioeconomic positions begin using the Internet they use it for a variety of capital enhancing activities, including education, job seeking and obtaining health information.[2] Recent research from the Pew Internet Center also shows that broadband plays an important role in facilitating job search activity.[3] There is also substantial research demonstrating the benefits of broadband expansion in rural areas. For example, Atasoy found that gaining access to broadband in a county increased the employment rate by approximately 1.8 percentage points, with larger effects in rural areas.[4] A 2016 Hudson Institute study found that the rural broadband industry supported over 69,000 jobs and $100 billion in e-commerce in 2015.[5]

Academics will always quibble about the details and the magnitudes, but there is widespread agreement that broadband availability and Internet access generate significant socioeconomic benefits and that expanding both availability and adoption are worthy objectives for public policy.

My second point, directly addressing the main focus of today's hearing, is that the FCC's Lifeline program is both ineffective and inefficient as a means of promoting online access for poor and disadvantaged Americans. Let me be clear what I mean by each of those words. It is ineffective because it has little if any impact on behavior. Indeed, there is no compelling evidence that Lifeline causes a significant number of people to get communications services they would not already have in the absence of the subsidy. It is inefficient because it is extremely wasteful and prone to fraud and abuse, meaning that it costs the communications users who pay for it—including low income households—far more than it should.

If Lifeline were effective in opening the doors of digital opportunity to low-income and disadvantaged populations, it could be argued that at least some reasonable level of waste or inefficiency should be tolerated. But it is not. When asked by Government Accountability Office (GAO) for evidence that the program achieves its public policy goals, the FCC could only produce to two academic studies, both of which suggest the program is ineffective in increasing subscribership. As the GAO explained:

> The studies that FCC referred us to suggest . . . that many low-income households would choose to subscribe to telephone service in the absence of the Lifeline subsidy. . . . As such, the Lifeline program, as currently structured, may be a rather inefficient and costly mechanism to increase telephone subscribership among low-income households, because several households re-

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[1] See *e.g.,* I. Bertschek *et al,* "The Economic Impacts of Broadband Internet: A Survey," *Review of Network Economics* 14(4) (2015) 201–227 at 222 ("In sum, we find strong evidence for positive impacts of broadband Internet on economic outcomes.").

[2] See R. McCloud *et al,* "Entertainment or Health? Exploring the Internet Usage Patterns of the Urban Poor: A Secondary Analysis of a Randomized Controlled Trial," *Journal of Medical Internet Research* 18:3 (2016) (available at *http://www.jmir.org/2016/3/e46/f*). (The study also finds that "familiarity and skills in using the Internet enhance the capacity to use it for diverse purposes, including health and to increase capital. . . .")

[3] See Aaron Smith, "Lack of Broadband Can Be a Key Obstacle, Especially for Job Seekers," Pew Research Center (October 28, 2015) (available at *http://www.pewresearch.org/fact-tank/2015/12/28/lack-of-broadband-can-be-a-key-obstacle-especially-for-job-seekers/*). See also Council of Economic Advisers, "The Digital Divide and Economic Benefits of Broadband Access," (March 2016).

[4] See Hilal Atasoy, "The Effects of Broadband Internet Expansion on Labor Market Outcomes," *ILRReview* 66(32) (April 2013) 315–345.

[5] See Hanns Kuttner, *The Economic Impact of Rural Broadband* (Hudson Institute, 2016) (available at *https://s3.amazonaws.com/media.hudson.org/files/publications/20160419KuttnerTheEconomicImpactofRuralBroadband.pdf*)

> ceive the subsidy for every additional household that subscribes to telephone service due to the subsidy.[6]

In fact, one of the studies produced by the FCC found that only one out of twenty households enrolled in the wireless Lifeline program subscribes to telephone service because of the subsidy,[7] and the other found that while the Link Up program had a modest effect on wireline penetration, Lifeline—though much more expensive—had very little effect.[8]

Thinking about the way the program is designed, these results are hardly surprising. Lifeline, after all, pays telephone companies to identify people who are eligible for Federal income support programs and, if they are, gives them free or subsidized phone service. It does not reward the companies for signing up new subscribers—that is subscribers who do not already have telephone service. Nor does it provide funding or in any way encourage companies to reach out to difficult to serve populations. Further, as my AEI colleague Professor Daniel Lyons has noted, the 2016 extension of the program to broadband services does nothing to change these incentives—it just extends the availability of the $9.25 subsidy to broadband, without any evidence that broadband subscribership will be increased measurably as a result.[9]

If someone had set out to design a Federal program that would be prone to waste, fraud and abuse, it is hard to imagine how they could have done a better job than with the FCC Lifeline program. The program is administered by over 2,000 companies, most of them resellers of services actually provided by others, which can be certified for participation by any of 55 or so state and territorial entities, plus the FCC. The companies receive checks from the Universal Service Administrative Company (USAC) based on how many qualifying customers they claim to serve. Once a customer is signed up, the payments—about $9.25 per month, unless one happens to be serving a customer on an Indian reservation, in which case the amount is tripled—keep coming, even if the customer never actually uses the service. The companies self-certify that the participants are eligible, but in just over a third of the cases it recently reviewed, the GAO could not verify that the subscriber actually qualified for the subsidy.[10]

As Senator McCaskill put it after reviewing the most recent GAO report:

> A complete lack of oversight is causing this program to fail the American taxpayer—everything that could go wrong is going wrong. We're currently letting phone companies cash a government check every month with little more than the honor system to hold them accountable, and that simply can't continue.[11]

It should be noted that the FCC's mismanagement of the Lifeline program is not an outlier. The universal service program has been rife with waste, fraud and abuse throughout its history. For example, when the Commission first began subsidizing wireless competitive communications carriers in the mid-2000s, it ended up writing checks for hundreds of millions of dollars to cell phone carriers for serving cus-

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[6] See U.S. Government Accountability Office, *FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program,* (GAO–15–335, March 24, 2015) at 14 (available at *http://www.gao.gov/products/GAO-15-335*) (hereafter GAO 2015 Report). See also Daniel A. Lyons, *To Narrow the Digital Divide, the FCC Should Not Simply Extend Lifeline to Broadband* (American Enterprise Institute, March 2016) at 33 (hereafter Lyons 2016).

[7] See Olga Ukhaneva, "Universal Service in a Wireless World" (Georgetown University, November 2015).

[8] See Daniel A. Ackerberg, *et al,* "Estimating the Impact of Low-Income Universal Service Programs*," International Journal of Industrial Organization* 37 (2014) 84–98. Ackerberg *et al* found that while Link Up (which covers set up costs for new telephone subscriptions) was far more effective than Lifeline, which covers monthly bills. Link Up subsidies were eliminated except in tribal areas in 2012 *Lifeline and Link Up Reform and Modernization, Order* (27 FCC Rcd 15842 (WCB 2012)) (hereafter 2012 Reform Order).

[9] Lyons 2016 at 1.

[10] See Government Accountability Office, *Additional Action Needed to Address Significant Risks in FCC's Lifeline Program* (May 2017) at Exec. Summary ("Lifeline's structure relies on over 2,000 Eligible Telecommunication Carriers that are Lifeline providers to implement key program functions, such as verifying subscriber eligibility. This complex internal control environment is susceptible to risk of fraud, waste, and abuse as companies may have financial incentives to enroll as many customers as possible. Based on its matching of subscriber to benefit data, GAO was unable to confirm whether about 1.2 million individuals of the 3.5 million it reviewed, or 36 percent, participated in a qualifying benefit program, such as Medicaid, as stated on their Lifeline enrollment application.") (hereafter GAO 2017).

[11] Press Release, "McCaskill-Requested Report Shows Massive Fraud, Waste in 'Lifeline' Phone Program," (June 29, 2017) (available at *https://www.mccaskill.senate.gov/media-center/news-releases/breaking-mccaskill-requested-report-shows-massive-fraud-waste-in-lifeline-phone-program*).

tomers they were already serving without a subsidy.[12] Reviewing the FCC's high-cost programs in 2008, the GAO found that: the "FCC has not established performance goals or measures" for the program; "while some internal control mechanisms exist. . .these mechanisms are limited and exhibit weaknesses that hinder FCC's ability to assess the risk of non-compliance;" "the carrier certification process exhibits inconsistency across states that certify carriers;" and, "carrier audits have been limited in number and reported findings, and carrier data validation focuses primarily on completeness, not accuracy." [13]

The history of the Lifeline program, of course, is even more disturbing, especially as it relates to subsidies for mobile subscriptions from non-facilities based carriers.[14] Almost immediately reports began emerging of rampant fraud and abuse as fly-by-night operators took advantage of the same sorts of management failings that have characterized the Commission's oversight of other universal service programs.[15] For example, in its 2010 report on the Commission's low-income programs, the GAO found:

> Although FCC and USAC have some mechanisms in place to identify and evaluate risks and monitor compliance with program rules, [T]he Low-Income Program lacks key features of effective internal controls. FCC and USAC primarily use audit findings to monitor compliance with program rules. However, the number and scope of USAC's audits have been limited and there is no systematic process in place to review the findings of those audits that are conducted. Further, FCC and USAC have not conducted a risk assessment specific to the Low-Income Program that includes consideration of all program vulnerabilities, such as the possibility that multiple carriers may claim support for the same telephone line and that households may receive more than one discount, contrary to program rules.[16]

The FCC did react to the 2010 GAO study by adopting its February 2012 Reform Order, which the Commission claimed would "substantially strengthen protections against waste, fraud and abuse" and "improve program administration and accountability." [17] It is true that the 2012 Order resulted in removing a significant number of ineligible subscribers from the roles—29 percent of them. As then Commissioner Pai pointed out, the Commission's mismanagement of the program resulted in paying out approximately $1.3 billion in subsidies to phone companies for serving subscribers who were later decertified.[18]

Of course, we now know that the 2012 Order did not end waste fraud and abuse. Five years after releasing its 2010 study, in March 2015, the GAO again looked at the Lifeline program and found that of the 11 key reforms adopted in the 2012 Order, the FCC had implemented only seven, and that the Commission still had not—as noted above, evaluated the effectiveness of the program. The 2015 GAO study also noted that the 2012 Order included a Further Notice of Proposed Rulemaking on how best to implement an automated eligibility verification system—but three years later—found that "the FCC has not met the time-frame established in

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[12] See *e.g.,* Kevin W. Caves and Jeffrey A. Eisenach, "The Effects of Providing Universal Service Subsidies to Wireless Carriers" (Criterion Economics, June 2007). The study found "no statistically significant relationship between subsidies and either the availability of wireless service from any carrier or the number of carriers offering service" and concluded that "USF funding does not significantly increase the availability of mobile telephone service in high cost areas.").

[13] See Government Accountability Office, *Telecommunications: FCC Needs to Improve Performance Management and Strengthen Oversight of the High-Cost Program* (GAO–08–633, June 2008) (available at *https://www.gao.gov/assets/280/276644.html*).

[14] For a concise history of the FCC's expansion of Lifeline to non-facilities-based wireless carriers, see Government Accountability Office, *Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program* (GAO 11–11, October 2010) (available at *http://www.gao.gov/assets/320/312708.pdf*) at 16–17 (hereafter GAO 2010).

[15] See *e.g.,* Phil Goldstein, "TracFone, Icon and Others Face Fines in FCC Lifeline Crackdown," *Fierce Wireless* (October 1, 2013) (available at *http://www.fiercewireless.com/wireless/tracfone-icon-and-others-face-fines-fcc-lifeline-crackdown*); see also "Remarks of FCC Commissioner Ajit Pai at the Citizens Against Government Waste Policy Breakfast" (July 28, 2014) (available at *https://www.fcc.gov/document/commissioner-pai-remarks-citizens-against-government-waste-bfast*).

[16] See GAO 2010 at Highlights.

[17] Federal Communications Commission, *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking,* WC Docket 11–42 (February 6, 2012) at ¶ 1 (hereafter 2012 Reform Order).

[18] Federal Communications Commission, *In the Matter of Lifeline and Link Up Reform and Modernization, Third Report and Order, Further Report and order, and Order on Reconsideration* (WC Docket No. 11–42, April 27, 2016), Dissenting Statement of Commissioner Ajit Pai (hereafter 2016 Reform Order); dissenting Statement of Commissioner Ajit Pai at 4161 (hereafter Pai Dissent).

the Order or revised any timeframes for when or how this automated means would be available."[19]

With this history in mind, the notion that the FCC's April 2016 Lifeline Reform and Modernization Order is going to result in a well-managed, cost-effective program represents the triumph of hope over experience. Indeed, the 2016 Order exhibits the same lack of seriousness, let alone urgency, that have brought us to where we are today. As then Commission Pai said at the time, the 2016 Order "does not clean up the waste, fraud and abuse," "does not address known loopholes that let unscrupulous carriers exploit the program," and even "eliminates checks against waste, fraud, and abuse," such as safeguards against lifeline trafficking. [20] Almost comically, the Order also does not contain a budget, but rather a non-binding trigger mechanism calling for further study.[21]

The Order did put in place a process for launching a National Verifier database, and the current Commission is to be credited with following through with that effort. But even assuming a best-case scenario, the National Verifier system will not be "hard launched" even in the six trial states until at least March 31, 2018—two years after the Order was signed. It will not be fully deployed until sometime in 2019 at the earliest—seven years after the Commission set out to create such a system in its 2011 Lifeline and Linkup NPRM.[22] And given the loopholes and other shortcomings in the Order's other enforcement mechanisms, there is no reason to believe the National Verifier, even if it works, will bring an end to the waste, fraud and abuse of Lifeline.

For me, the history of the Lifeline program raises an important question: Is there is ever a point at which Congress will hold an agency accountable for gross, repeated, ongoing, systematic mismanagement of a multi-billion dollar Federal program. Because if there is such a point, this is the program, this is the agency and this is the time.

This brings me to my third point: The need for an alternative. As I said above and deeply believe, it is essential that we continue working to open the doors of digital opportunity to low income and disadvantaged Americans. That means we need to design and implement something a lot better than Lifeline. While it is not within this scope of this testimony to lay out a complete program, let me suggest four principles for replacing Lifeline with a more effective approach to advancing digital opportunity.

First, Federal and state governments should work to reduce barriers to broadband deployment and adoption, and to the efficient functioning of the broadband marketplace, so as to lower prices and increase the availability of affordable broadband services. That specifically includes reducing taxes—including universal service fees—on broadband services. Taxes and fees overall account for 18.6 percent of the average consumer's monthly bill, and while some of those are general sales taxes, Federal USF fees alone account for more than a third of the total, 6.64 percent.[23] Financing communications subsidies by taxing communications users makes no economic sense—it is literally putting money into one pocket after taking it from the other. If universal service programs are worth funding—and I believe that properly constructed programs are worth funding—they are worth financing out of general tax revenues.

Second, regardless whether Lifeline is replaced or reformed, support should be targeted to those who do not already have service. As Commissioner O'Rielly put it in his dissenting statement on the 2016 Order, the refusal to target support means that "the agency prefers to give away money to people who already have broadband while other hard-working Americans that sit just above the eligibility threshold pay ever higher fees to fund the program, possibly at the expense of being able to afford broadband themselves."[24]

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[19] GAO 2015 Report at 12. The need for an eligibility database was actually raised in the 2011 NPRM that led to the 2012 Order. See *Lifeline and Link Up Reform and Modernization* WC Dkt. No. 11–42, *Notice of Proposed Rulemaking*, 26 FCC Rcd 2770 at ¶207 (hereafter 2011 NPRM).

[20] Pai Dissent *passim*.

[21] As Commissioner O'Rielly put it in his dissent to the 2016 Reform Order: "A joke. Not a budget." (O'Rielly dissent at 4181).

[22] See Federal Communications Commission, "Wireline Competition Bureau Announces Initial Launch of the National Lifeline Eligibility Verifier" (August 31, 2017) available at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0831/DA-17-816A1.pdf*).

[23] See Scott Mackey and Joseph Henchman, *Wireless Tax Burdens Rise for Second Straight Year in 2016,* Tax Foundation (October 2016) (available at *https://taxfoundation.org/wireless-tax-burdens-rise-second-straight-year-2016*).

[24] O'Reilly Dissent at 4182.

Third, the replacement for lifeline should reflect an assessment of who needs help, and of what sort. What we know with certainty is that throwing more than a billion dollars a year at the problem in the form of $9.65 monthly checks written to telephone companies for serving anyone eligible for a Federal assistance program is not achieving the desired goal. A more effective approach would begin by realizing that the Americans most likely to be offline today are the elderly and those with low educational attainment, and that these populations likely need more than a free phone to make real use of the Internet.[25] Similarly, while blacks and Hispanics are as nearly likely to own smart phones and tablets as whites, they are more than twice as likely as whites to say that training would help them use the Internet more effectively in making important decisions.[26] And, as my colleague Daniel Lyons has suggested, a Lifeline replacement program "should include ways for low-income recipients to acquire computers and other equipment they need to get online," perhaps drawing lessons from the old Link Up program.[27]

Fourth, and finally, I would like to respectfully suggest that it is time to consider a new delivery mechanism—one that involves neither the Federal regulatory agency which has so grossly mismanaged the Lifeline program nor the telephone companies that have profited so handsomely from that mismanagement. I hold Chairman Pad and the other members of the FCC in high regard, but the FCC has demonstrated repeatedly, under talented management from both political parties, that it is not very good at the low-income assistance business. Maybe it's time to try another path.

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Mr. Chairman and Members of the Committee, this completes my testimony. I look forward to answering any questions you may have.

The CHAIRMAN. Thank you, Mr. Eisenach.

Commissioner Nelson.

STATEMENT OF CHRIS NELSON, COMMISSIONER, SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

Mr. NELSON. Thank you. Chairman Thune, Ranking Member Schatz, Committee members, it's an honor for me to be here to visit with you all about a topic that I and my fellow utility commissioners across the country deal with on a regular basis.

Why do we have Lifeline? A 2015 FCC Lifeline Order put it very well, and I quote, "The purpose of the Lifeline program is to provide a hand up, not a hand out, to those low-income consumers who truly need assistance connecting to and remaining connected to telecommunications and information services."

So what are the priorities of state utility commissioners? First, states must remain involved in the Eligible Telecommunications Carrier, or ETC, designation process. Telecom carriers must receive an ETC designation before receiving Lifeline disbursements. Federal law mandates that states determine ETC designations. State involvement allows those of us with the hands and the eyes on the ground to make those determinations and have that oversight.

Last year, the FCC sought to remove states from a part of that designation process, which only would have removed critical oversight of the program. Fortunately, Chairman Pai reversed that ill-

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[25] Monica Anderson and Andrew Perrin, "13 percent of Americans Don't Use the Internet: Who Are They?" Pew Research Center (September 7, 2016) (available at *http://www.pewresearch.org/fact-tank/2016/09/07/some-americans-dont-use-the-internet-who-are-they/*).

[26] Andrew Perrin, "Smartphones Help Blacks, Hispanics Bridge Some—But Not All—Digital Gaps with Whites," Pew Research Center, August 31, 2017 (available at *http://www.pewresearch.org/fact-tank/2017/08/31/smartphones-help-blacks-hispanics-bridge-some-but-not-all-digital-gaps-with-whites/*).

[27] Lyons 2016 at 6–7.

conceived attempt to jettison state oversight. Simply put, states must remain involved in Lifeline oversight.

Second, all involved must remain relentless at rooting out the waste, fraud, and abuse that we've heard about in this program. Every fraudulent Lifeline subscription is literally a theft from the consumers who pay into the Universal Service Fund. It takes dollars away from legitimate Lifeline subscribers, and dollars away that could be used for other Universal Service programs, like high-cost support, E-rate, and rural health.

History has shown us that when strong action has been taken with the Lifeline programs, improvements can be dramatic. And I reference the FCC's 2012 reform order that required recertification of Lifeline participants. In that one requirement that dropped annual outlay from the program from $2.2 billion to $1.5 billion, Chairman Pai estimated that fully $1.3 billion was wasted through that time period by the fraud and abuse taking place. And to put that into context, those dollars could have incentivized the buildout of over 100,000 broadband connections to people in this country that today have access to the—no access to the Internet whatsoever.

Third, we need to make sure that the Federal program can work synergistically with the 23 states that have their own Lifeline programs.

The GAO report raises some important issues, and I'll highlight four briefly.

First, we need to determine the effectiveness of this program. Asking simple questions, like, How many of these folks would sign up for telecom services anyway? To what extent does this program lead to job attainment and upward mobility? And how important is this program to access 911 services?

Second, the report made clear that the National Verifier System is essential to truly eliminate fraud and abuse. I've reviewed the USAC National Verifier plan, and it appears to me to be a good plan. However, developing a system that will literally ping hundreds of different state databases will be extremely complex. It's imperative that the FCC and USAC continue to push hard to complete that task.

Third, the report showed the need for increased audits of Lifeline providers. I commend Chairman Pai for his recent letter asking for some very specific crosschecks in the system.

And, fourth, there was a notation in the report about questions and confusion by some telecom providers regarding Universal Service Fund contribution requirements. The question of contribution methodology was referred by the FCC to the Universal Service Joint Board several years ago. I am a Member of that Board, and I can tell you that we had been making good progress working with Commissioner Rosenworcel toward a solution. Today, we've transitioned to a new leader, Commissioner Mike O'Rielly, and I look forward to working with him to quickly provide a recommendation to the FCC that hopefully will eliminate many of those questions that are being asked today.

In closing, all of this can best be done with cooperative federalism, and that means the FCC and USAC working with states,

as the Telecommunications Act provides, to accomplish these objectives.

I look forward to your questions today, and thank you.

[The prepared statement of Mr. Nelson follows:]

PREPARED STATEMENT OF CHRIS NELSON, COMMISSIONER, SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

My thanks to Chairman Thune, Ranking Member Nelson, and committee members for allowing me the opportunity to visit with you about important issues relating to the Lifeline program as seen from a state utility regulator's perspective.

By way of introduction, I am a public utilities commissioner in South Dakota, having been elected twice to this position in statewide elections. I have served six years as a commissioner. While not formally representing the National Association of Regulatory Utility Commissioners (NARUC) today, I am the immediate past chairman of the association's Committee on Telecommunications and serve on its board of directors. I also serve as one of five state members on the FCC's Joint Board on Universal Service.

It is an honor for me to share my thoughts with this committee on a topic that I and my fellow utility commissioners across the country work with on a daily basis.

Why do we have Lifeline? A 2015 FCC Lifeline Order[1] states it well: "The purpose of the Lifeline program is to provide a hand up, not a hand out, to those low-income consumers who truly need assistance connecting to and remaining connected to telecommunications and information services." It is imperative that we keep that mission in mind during these discussions.

What do I see as the priorities of state utility commissioners with regard to lifeline? I will highlight three.

First, states must remain involved in the Eligible Telecommunications Carrier (ETC) designation process. Telecommunications carriers must receive an ETC designation before receiving Lifeline disbursements. Federal law[2] provides state utility regulators with the sole authority (with one narrow exception[3]) for determining and granting ETC designations.

There is good reason for that Federal law requirement. State regulator involvement provides oversight by the hands and eyes closest to where these companies operate. Obviously state regulators are in a good position to provide effective policing of these carriers.

Unfortunately, the FCC in 2016 sought to remove states from part of that designation process,[4] which would only have had the outcome of lessening critical oversight of the program. Fortunately Chairman Ajit Pai reversed that ill-conceived attempt to jettison state oversight.[5]

State commissioners believe in cooperative federalism. That means we believe that state and Federal regulators share a role in properly managing programs such as Lifeline. That also means that each side, state and federal, must respect the role of the other and not attempt to usurp that role especially when doing so contravenes Federal law and effective policing of the program.

A second priority is for all involved to remain relentless at rooting out waste, fraud, and abuse from the Lifeline program.

Every fraudulent Lifeline subscription is literally a theft from the millions of hard working consumers who pay in to the Universal Service Fund. Fraudulent subscriptions take away from legitimate Lifeline subscribers. Those ill-gotten subscriptions also take crucial dollars away from the other Universal Service Fund programs such as high cost support, E-rate, and rural health.

Lastly, it should be a priority to make sure the Federal Lifeline program can work synergistically with the 23 states (not South Dakota) that have state Lifeline programs. Those state program managers have a track record of being effective in finding and reporting fraud and waste in their programs.

It is important to understand that when strong action has been taken in the past to deal with waste and abuse within the Lifeline program, the results have been

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[1] FCC 15–71 released June 22, 2015, Paragraph 1. *https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-71A1.pdf*

[2] 47 U.S.C. § 214(e)(2)

[3] 47 U.S.C. § 214(e)(6)

[4] FCC 16–38 released April 27, 2016, paragraph 229. *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf*

[5] Statement of FCC Chairman Ajit Pai on the Future of Broadband in the Lifeline Program released March 29, 2017. *https://apps.fcc.gov/edocs_public/attachmatch/DOC-344129A1.pdf*

dramatic. The best example is the FCC's 2012 reform order[6] which required recertification of participants.

That singular requirement dropped the annual Lifeline outlay from $2.2 billion to $1.5 billion. Chairman Pai estimated that prior to that action, $1.3 billion[7] was absolutely wasted by the fraud and abuse taking place. To put that dollar figure into perspective, that wasted money could have incentivized the buildout of 116,000[8] broadband connections in places that have absolutely zero access to the Internet today.

The GAO report on the Lifeline program raises many important issues. I will highlight four.

First is the need to determine the effectiveness of the Lifeline program. The report encourages finding answers to important questions such as "How many Lifeline participants would subscribe to telecommunication services without the program?" I would add several other questions such as "To what extend does this offering play a part in upward mobility and job attainment?" and "How important are Lifeline phones for 911 access?"

Anecdotal conversations with staff in the South Dakota PUC's consumer assistance division who assist Lifeline subscribers as part of their job tell me that those subscribers range from those who would truly be in desperate circumstances without a Lifeline phone to those who are simply looking for another "freebie."

Second, the report makes it clear the National Verifier system is essential to effectively eliminate fraud and abuse. I have reviewed USAC's Lifeline National Verifier Plan and it appears to me to be a sound program with many positive features.

Developing a system that will ping literally hundreds of different state-held databases is extremely complex. I am concerned there has been an underestimation on the part of USAC in how difficult it will be to obtain agreements from hundreds of different state agencies to access their databases and to design the computer interfaces for that access.

For me the description of this system hearkens back to 2003 when I was South Dakota's Secretary of State charged with implementing the Federal Help America Vote Act, which required verifying voter registration data. Designing the interface with other databases within our own state government was challenging but relatively easy compared to the requirement to ping the Federal social security database. Obtaining permissions and complying with protocols from another government jurisdiction was a large hurdle. I expect that USAC is experiencing that same challenge in developing the National Verifier.

It is imperative that the FCC and USAC continue to push hard to complete this task.

Third, the report highlights the need for increased audits of Lifeline providers. I commend Chairman Pai for his recent letter[9] asking for some very specific crosschecks within the Lifeline system.

Lastly, there is a notation in the GAO report about questions and confusion among some telecommunications providers regarding Universal Service Fund contribution requirements. The question of appropriate contribution methodology was referred by the FCC to the Joint Board on Universal Service several years ago.[10] As mentioned earlier, I am one of the state members on that board and currently serve as the state members' chairman.

Prior to this year, the board had been working with the Federal chair, Commissioner Jessica Rosenworcel, making progress toward a recommendation to the FCC on an appropriate contribution methodology. We have now transitioned to a new Federal chairman, Commissioner Michael O'Rielly, and are working with him to resume our forward progress. I look forward to working with Commissioner O'Rielly to bring this referral to a close with a recommendation that will eliminate many of the questions the GAO referenced.

My final point is this. All of the things I have highlighted in my testimony can best be accomplished through cooperative federalism. That means the FCC and USAC working with states as the Telecommunications Act provides to accomplish

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[6] FCC 12–11 released February 6, 2012, paragraphs 129–130. *https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf*

[7] FCC 16–38 released April 27, 2016, dissenting statement of Commissioner Ajit Pai, pages 202–203. *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf*

[8] $1,300,000,000 divided by the estimated ten-year ACAM disbursement per new broadband connection.

[9] Chairman Pai Orders Immediate Action on Lifeline Waste, Fraud & Abuse. Letter to Universal Service Administrative Company on July 11, 2017. *https://apps.fcc.gov/edocs_public/attachmatch/DOC-345729A1.pdf*

[10] FCC 14–116 released August 7, 2014. *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0807/FCC-14-116A1.pdf*

the objective of a Lifeline program that serves as a "hand up" and is devoid of waste, fraud, and abuse.

Thank you for your consideration.

The CHAIRMAN. Thank you, Commissioner Nelson.

Next up is Ms. González.

STATEMENT OF JESSICA J. GONZÁLEZ, DEPUTY DIRECTOR AND SENIOR COUNSEL, FREE PRESS AND FREE PRESS ACTION FUND

Ms. González: Thank you. Chairman Thune, Ranking Member Schatz, and members of the Committee, thank you for having me.

Thirty years ago, a bipartisan group of visionary leaders came together to create Lifeline to connect people to the essential communications service of the day, the telephone. The program has created opportunity for millions of Americans, including me. I was on Lifeline for a short while after I was laid off from my teaching job. My Lifeline connection ensured that I had a reliable phone number on my résumé and that I was able to communicate with the law school admissions and financial aid offices at the school that I ultimately attended.

Last year, the FCC modernized Lifeline for the digital age, recognizing that broadband helps people to meet their basic needs. Its 2016 order adopted reforms, building on those it enacted in 2012 to curb waste, fraud, and abuse.

Modernizing Lifeline for broadband is critical for poor people and people of color, who are more likely to be on the wrong side of the digital divide and who cite cost as a major adoption barrier. Lifeline is the only Federal program poised to increase broadband adoption and provide a pathway out of poverty for millions of Americans.

In May, the Voices for Internet Freedom Coalition, of which Free Press is a founding member, hosted a public forum in Skid Row to hear from Los Angelinos about why communications access matters. I promised to bring their stories to Washington.

Susan explained that she had to track down an Internet connection even to find a homeless shelter. Marcos shared that the Internet allows him to access mental health services. Lourdes, a senior citizen and caregiver, told us that she struggles to afford a mobile connection, but needs it to find work. Takouie said that without Lifeline, she wouldn't be able to afford phone service, which she has used to access emergency services and other health care needs. Fifth grade teacher Melissa said parents shouldn't have to choose between Internet access and food for their families.

L.A. residents are not alone in needing these supports. I can't help but wonder how many in Houston have used their Lifeline connections to call for help and access vital emergency information in the face of Hurricane Harvey, and how many more Puerto Ricans and Floridians will do the same with Hurricane Irma. We must protect Lifeline to ensure that everyone has access to information and emergency services in times like these.

When talking about Lifeline, we hear a lot about waste, fraud, and abuse, but this narrative is often overblown and, frankly, offensive. There's a tendency to wage war on the poor, to demonize and assume the worst about Lifeline recipients. And I cannot sit

here today, especially as white supremacy is on the rise around the country and in the White House, without directly confronting the racist undertones of these assumptions. We should avoid inflated stories of waste, fraud, and abuse at the expense of poor people and people of color, who rely on Lifeline to meet basic needs. We should not allow this narrative to excuse the FCC's new leadership, which is stalling implementation of the 2016 order. The FCC's foot-dragging is stranding over 17,000 recipients who had already started receiving service and denying potential service to countless others.

Nor should we tolerate the sensationalized narrative surrounding the 2017 GAO report. The outdated report's findings are an old snapshot of a program already modernized and improved several times over. The investigation period predates implementation of much of the FCC's 2012 and nearly all of its 2016 reforms to address waste, fraud, and abuse. Indeed, as GAO states in the report, the FCC's planned National Verifier may address many of the issues we identified if it is fully implemented by the current plan date of 2019. And according to the FCC, it's on track to do just that.

Our first priority should be expedient implementation of the 2016 order. We should reject radical measures, such as moving USF funds to the U.S. Treasury to offset other national debts, as the FCC Chair's office evidently suggested to the GAO. This could undermine all USF programs, including Lifeline and others designed to connect rural Americans, schools, and libraries.

As I read about how people stranded by hurricanes are using the cell phone, their cell phones, as literal lifelines, I am reminded that, yes, we should strive towards a prudent program, but we also must ensure that everyone has access.

Thank you.

[The prepared statement of Ms. González follows:]

PREPARED STATEMENT OF JESSICA J. GONZÁLEZ, DEPUTY DIRECTOR AND SENIOR COUNSEL, FREE PRESS AND FREE PRESS ACTION FUND

Chairman Thune, Ranking Member Nelson, and esteemed members of the Committee, thank you for inviting me to testify.

A little over thirty years ago, a bipartisan group of visionary leaders came together to create the Lifeline program, to connect poor people to the essential communications service of the day—the telephone. Over the past three decades, this program has created opportunity for millions of Americans, including me. I was a Lifeline subscriber for a short while in 2004, after being laid off from my job as a teacher. When times were tough, my Lifeline phone connection ensured that I had a reliable phone number on my resume, and it let me communicate with the admissions and financial aid offices at the law school that I ultimately attended.

The FCC's 2016 Lifeline Modernization Order Directly Addresses the Digital Divide

Last year, the FCC, with support from many on this committee, modernized Lifeline for the digital age, recognizing that Americans need broadband to meet their basic needs and to participate in our society.[1] Its 2016 order adopted an additional set of reforms beyond those it had already adopted in 2012[2] to curb waste, fraud and abuse.

[1] *Lifeline and Link Up Reform and Modernization* et al., WC Docket No. 11–42 *et al.,* Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) ("*2016 Lifeline Modernization Order*").

[2] *Lifeline and Link Up Reform and Modernization* et al., WC Docket No. 11–42 *et al.,* Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) ("*2012 Lifeline Reform Order*"). "In 2011 and 2012 the Commission, with the help of the Federal-State Joint

I cannot overstate how critical this Lifeline modernization is for poor people and people of color, who are more likely to be on the wrong side of the digital divide, and who cite the high cost of broadband as a major adoption barrier.[3]

The digital divide disproportionately affects low-income people and people of color. As of mid-2015, 81 percent of non-Hispanic Whites were connected to home broadband, compared to only 70 percent of Hispanics and 68 percent of Blacks.[4] Only 49 percent of households with annual family incomes below $20,000 have Internet in the home, compared to nearly 90 percent of households with incomes above $100,000.[5] But income inequality and other socio-economic factors alone do not explain the disparity in home broadband adoption. Free Press's report *Digital Denied* found that the "racial and ethnic adoption gap persists [even] among the poorest households"[6] suggesting that "structural racial discrimination or other structural factors beyond simple income differences" are to blame for the disparity in home broadband adoption.[7] *Digital Denied* found that, "58 percent of [ ] low-income Whites have home Internet access, versus just 51 percent of Hispanics and 50 percent of Black people in the same income bracket."[8]

Furthermore, the data indicates that increasing the availability and affordability of pre-paid broadband services would have a substantial impact on adoption in low-income communities of color.[9] Thus "all efforts that reduce the price of home Internet access and increase its affordability will help overcome the impacts of income inequality and systemic discrimination in other areas of American society."[10] As the Federal program that most directly addresses the affordability barrier to home broadband adoption, Lifeline is positioned to increase adoption and provide a pathway out of poverty for millions of people, opening doors that otherwise would remain closed to economic and educational opportunities.

Stories from Around the Nation Demonstrate That We All Benefit When Everyone Is Connected to Essential Communications Services

In May, the Voices for Internet Freedom Coalition hosted a public forum with FCC Commissioner Clyburn in the Skid Row neighborhood of Los Angeles, to hear from members of the community about why Internet access matters.[11] I promised to bring their stories to Washington.

Susan explained that when she was unhoused, she had to track down an Internet connection first to find a homeless shelter.

Marco, who's currently unhoused, shared that he couldn't find a culturally-competent therapist in his area, but that the Internet has allowed him to access a good therapist who lives far away from him, to address his mental-health issues.

Lourdes, a senior citizen, told us that she struggles to afford a mobile Internet connection, but she needs one so that she can find work as a caregiver.

Takouie said that without the FCC's Lifeline program she wouldn't be able to afford even telephone service, which she has used to access emergency medical assistance and other healthcare services.

Fifth-grade teacher Melissa said the families of many of her students cannot afford home Internet access, which places their children at an educational disadvantage. She explained that all testing has moved online, which has greatly increased barriers for poor students to succeed. As she rightly noted, "Parents shouldn't have to choose between Internet access and food for their families."

And finally, a writer, poet and Skid Row resident said she lives off of $221 a month, and relies solely on her Lifeline connection for phone and Internet access. She said that she wants to blog, write poetry and access mental health services online, but she does not have adequate access.

Board on Universal Service, comprehensively reformed the program to address waste and abuse." *2016 Lifeline Modernization Order* at 3970.

[3] *See, generally,* S. Derek Turner, Free Press, *Digital Denied: The Impact of Systemic Racial Discrimination on Home-Internet Adoption* (Dec. 2016) ("*Digital Denied*").

[4] *Id.* at 27.

[5] *Id.* at 25; *see also id.* at 26, Fig. 3.

[6] *Id.* at 63.

[7] *Id.*

[8] *Id.* at 4.

[9] *See id.* at 6, 8, 12, 15.

[10] *Id.* at 76.

[11] *See* Letter from Joseph Torres and Jessica J. González, Free Press, and Carmen Scurato, National Hispanic Media Coalition, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11–42, 17–108, 16–106, 13–184, 12–375 (filed May 12, 2017). This testimony contains a non-exhaustive summary of the issues discussed at that Forum. The *ex parte* letter cited above and the corresponding video of that event provide much greater detail.

Los Angeles residents are not alone in needing these supports to thrive and survive. I can't help but wonder how many Houstonians have used their Lifeline connections to call for help and access vital emergency information as the city faced Hurricane Harvey and continues its recovery. Indeed, the evidence is clear: poor people are disproportionately impacted by natural disasters.[12] We must protect Lifeline—the primary Federal program that addresses the communications affordability gap faced by tens of millions of people—to ensure that everyone has access to communications and emergency services in times like these.

Outside of the emergency services context too, universal adoption of telecommunications services has positive economic and social externalities that extend beyond the transaction to purchase the service.[13] So as we honestly assess and analyze the successes of the Lifeline program and the policy changes made to modernize it, that discussion must focus first and foremost on these facts: our collective well-being, our public safety, and our economy as well, are all improved by giving a hand-up to others.

The Waste, Fraud and Abuse Narrative Is Overblown and Offensive, and the GAO Report Cited to Support It Relies on Outdated Data

I have long been troubled by the tenor of the Lifeline debate: there's a tendency to wage war on the poor, to demonize and make assumptions about Lifeline recipients. And I cannot sit here today, especially in this moment of rising white supremacy around the country and in the Oval Office, without directly confronting that these assumptions often have racist undertones.

This narrative dehumanizes people to undermine a program that we should all be proud of, and working together to improve. But the narrative predominant in so many critiques of the program excuses policymakers now at the FCC for stalling implementation of the agency's *2016 Lifeline Modernization Order.* For instance, that 2016 decision created a streamlined Federal process for broadband providers to participate in the Lifeline program. The goal was to facilitate innovative business models providing low-cost, high quality services for low-income people, and to increase carrier participation in the program, thereby spurring competition. Starting in December of last year, the FCC approved nine Lifeline Broadband Providers (or "LBPs") to begin providing service. In February however, shortly after Chairman Pai took over, the Commission revoked those approvals,[14] stranding over 17,000 subscribers who had already started receiving service from one of the providers[15] and denying potential service to countless others. Until the Commission addresses these issues and then restarts this LBP approval process, providers are on hold and Lifeline broadband competition will remain limited.[16]

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[12] *See, e.g.,* David W. Moore, Gallup, *Katrina Hurt Blacks and Poor Victims Most* (Oct. 2005); Charles D. Ellison, *Race and Class Are the Biggest Issues Around Hurricane Harvey and We Need to Start Talking About Them,* THE ROOT (Aug. 29, 2017, 1:10 PM), *http://www.theroot.com/race-and-class-are-the-biggest-issues-around-hurricane-1798536183;* Daniel J. Weiss, Jackie Weidman, & Mackenzie Bronso, Center for American Progress, *Heavy Weather: How Climate Destruction Harms Middle-and Lower-Income Americans* (Nov. 2012).

[13] *See, e.g.,* "The Impact of Broadband on the Economy: Research to Date and Policy Issues," International Telecommunications Union, pp. 104–109 (Apr. 2012), *https://www.itu.int/ITU-D/treg/broadband/ITU-BB-Reports_Impact-of-Broadband-on-the-Economy.pdf.*

[14] *See Telecommunications Carriers Eligible for Universal Service Support, Lifeline and Link-Up Reform and Modernization,* WC Docket Nos. 09–197, 11–42, Order on Reconsideration, 32 FCC Rcd 1095 (2017) (*"Revocation Order"*).

[15] See Letter from John J. Heitmann and Joshua Guyan, Kelley Drye & Warren LLP, Counsel to Boomerang Wireless, LLC d/b/a enTouch Wireless, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 09–197, 11–42 (filed Feb. 15, 2017).

[16] In February, I sent a letter to the FCC on behalf of 37 organizations requesting reversal of the *Revocation Order.* The letter explained that, if properly and expediently executed, modernization of the Lifeline program to support broadband would help to close the affordability gap. The lack of affordable options is the driving force behind an ongoing digital divide that disproportionately harms poor people and people of color. Contrary to that goal of closing the digital divide, the *Revocation Order* erodes Lifeline's promise by eliminating subsidized broadband opportunities and introducing uncertainty into the program—chilling the type of robust competition contemplated in the *2016 Lifeline Modernization Order.* We requested that the FCC immediately take two integral steps to bridge the digital divide: (1) rescind the *Revocation Order,* reinstating the nine LBPs that it had previously approved; and (2) commit, unequivocally, to immediately implementing the *2016 Lifeline Modernization Order* and rejecting any future attempts to undermine it. *See* Letter from Jessica J. González, Free Press *et al.,* to Chairman Pai, Commissioner Clyburn, Commissioner O'Rielly, WC Docket No. 11–42 (filed Feb. 23, 2017).

In response, the FCC sought comment on that letter. *See Wireline Competition Bureau Seeks Comment on Request for Reconsideration Concerning Lifeline Broadband Providers,* WC Docket Nos. 09–197, 11–42, 32 FCC Rcd 1533 (2017). The Voices for Internet Freedom Coalition filed a comment responding to that request, explaining that "the *Revocation Order* had an immediate negative impact: it harmed existing and potential Lifeline subscribers, generated uncertainty in

I am frustrated, too, with the sensationalized narrative surrounding the May 2017 report "Additional Action Needed to Address Significant Risks in FCC's Lifeline Program" prepared by GAO's Forensic Audits and Investigative Service team. In short, while the report highlights the importance of Lifeline and does not change the fact that millions of people rely on the program to access essential communications services, it fails to demonstrate systemic fraud. The investigation period also predated the FCC's 2016 Lifeline reforms, calling into question the current validity of some of its findings, which do not account for the "Additional Action" that the FCC has already taken.

Unfortunately, some staunch opponents of any program that helps the poor have exploited this report to escalate their attacks on Lifeline and malign users. These critics will continue to disdain the tremendous opportunities Lifeline has provided for millions of people—and the millions more whose lives can improve with the Commission's newly minted broadband Lifeline offerings—so long as it serves their agenda.

But let's review the facts about this report.

The GAO analyzed data from 2012 through 2014 in its attempt to confirm participant eligibility and examine the processes that carriers use to confirm such eligibility.[17] But the data gathered during this time period was compiled before and during implementation of the FCC's 2012 reforms to reduce waste, fraud and abuse of these signup processes. GAO's work also was done long before the FCC had even adopted its 2016 reforms, which made Internet services part of the subsidy program.[18] The 2016 reforms also initiated additional efforts to make the program more prudent.

So the report's findings are a snapshot of a program since modernized and improved several times over. But is there anything to learn from its findings, even putting aside this historical context? While the GAO was unable to confirm the eligibility of 30 percent of Lifeline users it examined, it did not determine that these individuals were in fact ineligible. Indeed, GAO only examined three of the programs people can use to prove their eligibility (SNAP, Supplemental Security Income and Medicaid) from what the GAO describes as a "nongeneralizable selection of states,"[19] but in fact there are many other ways to qualify for Lifeline besides participation in those three programs.[20] In addition, the *GAO Report* explains that states collect and maintain their own Medicaid data, that they "can take up to 3 years to update their Medicaid data, and as a result beneficiaries can be excluded or included retroactively,"[21] and "the consistency, quality and completeness of the data can vary from state to state."[22] The *GAO Report* clarifies:

> [t]he results of our data matching are not generalizable to any other state or qualifying Lifeline program. It is not possible to determine from data matching

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the LBP marketplace, and relied on outdated and unsupported 'waste, fraud, and abuse' claims." We also explained that the "*Revocation Order* has undermined Lifeline's promise and directly abridged opportunities for poor people to connect to broadband. The *Revocation Order* has reduced Lifeline options in all fifty states and Puerto Rico, diminishing service options for the nearly 45 million households and over 126 million people eligible for Lifeline. In his first speech as Chairman, Ajit Pai stated that one of the Commission's 'core priorities going forward should be to bridge the digital divide' in order 'to bring the benefits of the digital age to all Americans.' Yet the *Revocation Order* frustrates efforts to bridge the digital divide, making it more likely for people in marginalized communities and school-aged children to remain disconnected." Comments of Voices for Internet Freedom Members, WC Docket Nos. 11–42 & 09–197, at 2–3 (filed Mar. 16, 2017) (internal citations omitted). The vast majority of commenters in those dockets agreed that the FCC should reverse the *Revocation Order* and swiftly move to implement the *2016 Lifeline Modernization Order. See* Reply Comments of Voices for Internet Freedom Members, WC Docket Nos. 11–42 & 09–197, at 2–6 (filed Mar. 23, 2017). Support for the *Revocation Order* was limited, and rested primarily on a misreading of state jurisdiction over interstate broadband. *See id.* at 6–8. To date, the FCC has not acted to address our request, reversed the *Revocation Order,* nor granted any still-pending LBP applications.

[17] USAC, GAO–17–538, ADDITIONAL ACTION NEEDED TO ADDRESS SIGNIFICANT RISKS IN FCC'S LIFELINE PROGRAM at 69, 71 (2017) ("*GAO Report*").

[18] *See generally 2016 Lifeline Modernization Order.*

[19] *GAO Report* at 69–71.

[20] *Lifeline: Do I Qualify?,* USAC (Sept. 4, 2017, 7:10 AM), *http://www.usac.org/ls/do-i-qualify/default.aspx#programs.* One may qualify for Lifeline if they or someone in their household uses SNAP, SSI, Medicaid, Federal Public Housing Assistance, Veterans Pension and Survivors Benefit, Tribal Programs, or if their income level is at or below 135 percent of the Federal poverty guidelines. In addition, during the time period of GAO's investigation, one could also qualify for Lifeline if they were on the Low Income Home Energy Assistance Program ("LIHEAP"), Temporary Assistance for Needy Families ("TANF"), or the National School Lunch Program ("NSLP").

[21] *GAO Report* at 71.

[22] *Id.*

alone whether these matches definitively identify recipients who were not eligible for Lifeline benefits without reviewing the facts and circumstances of each case. For example, we could not identify based on the data alone whether there were data-entry errors at the time of enrollment incorrectly stating the qualifying Lifeline program presented by the subscriber at the time of enrollment.[23]

The GAO also conducted undercover investigations from June 2014 through May 2017,[24] a period that predates implementation of the most critical *2016 Lifeline Modernization Order* reforms.[25] It submitted 21 Lifeline applications using false information and falsified supporting documents.[26] According to the GAO, it procured service from 12 of the 19 Lifeline providers to whom it submitted under these false pretenses.[27] Yet the GAO itself underscored that the "undercover tests were for illustrative purposes and are not generalizable."[28] And although it was able to leverage its expertise to deceive certain Lifeline providers, by its own admission GAO's result doesn't prove that this essential program is plagued by fraud.

Indeed, as GAO plainly states, the "*FCC's planned National Verifier may address many of the issues we identified with the FCC's and USAC's oversight of the Lifeline provider operations if it is fully implemented by the current planned date of 2019.*"[29]

The National Verifier System Adopted in the 2016 Lifeline Modernization Order and other Program Integrity Measures Will Significantly Reduce Waste, Fraud and Abuse

The FCC established this National Lifeline Eligibility Verifier ("National Verifier"), to which the *GAO Report* refers, in the *2016 Lifeline Modernization Order*. It did so to make eligibility determinations and perform a variety of other functions necessary to enroll subscribers in the Lifeline program.[30] The National Verifier will verify subscriber eligibility, conduct checks to prevent duplicate benefits, recertify subscriber eligibility, and calculate support payments to eligible telecommunications carriers ("ETCs").[31] The National Verifier service provider portal will track activities down to the level of individual sales agents, and ETCs will be held liable for the actions of their agents.[32] During the transition period, for carriers in states not yet in the National Verifier, USAC will monitor and track the activity of individual sales agents.[33]

Last week, the FCC announced a controlled roll out of the National Verifier in six states to begin in December,[34] with at least 25 states migrated to the National Verifier by the end of 2018 and the rest of the states and territories by the end of 2019.[35] To the extent there has been fraud in enrollments due to sales agents' bad actions, this monitoring and tracking will help flag problems early and create better accountability.

In addition, the following Program Integrity Measures have been put in place:

- ETC reimbursements will be based on a snapshot report of participants using the National Lifeline Accountability Database ("NLAD") to weed out duplicates.[36]

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[23] *Id.* at 72.
[24] *Id.* at 73.
[25] *See, e.g.,* infra nn. 30–39 and accompanying text.
[26] *GAO Report* at 72–73.
[27] *Id.* at 44. The GAO does not explain the distribution of the 21 applications it submitted, as described on page 73 of the *GAO Report,* between the 19 providers it reported about on page 44. We presume that GAO submitted multiple applications to certain of these providers.
[28] *Id.* at 73.
[29] *Id.* at 57–58 (emphasis added).
[30] *See 2016 Lifeline Modernization Order* at 4006–4021, ¶¶ 126–166 (comprehensively detailing the National Verifier, including performance management tools, and a reporting and internal controls component).
[31] *See Wireline Competition Bureau Announces Initial Launch of the National Lifeline Eligibility Verifier,* Public Notice, WC Docket No. 11–42, DA 17–816, at 1 (rel. Aug. 31, 2017), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0831/DA-17-816A1.pdf* ("*National Verifier Launch Notice*"); *see also 2016 Lifeline Modernization Order* at 4006, 4009–10, ¶¶ 126, 132–134; *see also* USAC, *Lifeline National Verifier* (last visited Sept. 4, 2017), *https://usac.org/li/tools/national-verifier/default.aspx.*
[32] Letter from Chairman Ajit Pai, FCC, to Senator Debbie Stabenow, at 2 (Aug. 21, 2017), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0830/DOC-346443A1.pdf* ("*Pai Letter*").
[33] *Id.*
[34] The first six are Colorado, Mississippi, Montana, New Mexico, Utah and Wyoming.
[35] *National Verifier Launch Notice* at 1.
[36] USAC, Lifeline National Verifier Plan, WC Docket Nos. 11–42, 09–197 and 10–90, at 19 (filed July 31, 2017), *https://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf.*

- As existing Lifeline recipients are migrated into the National Verifier, there will be an eligibility check performed by the National Verifier.[37] Lifeline advocates have explained that this process may actually be *too stringent* and result in eligible households being de-enrolled if eligible households do not realize that they must respond to requests for documentation to certify eligibility yet again.
- During the transition enrollment being handled by the National Verifier, ETCs must keep copies of eligibility and identity verification.[38]
- USAC, under FCC oversight, is developing a comprehensive list of available state and Federal eligibility databases that ETCs will need to check until that particular state is migrated to the National Verifier.[39]

Conclusion

Comparatively speaking, Lifeline is an incredibly lean Universal Service Fund program. And the FCC's 2016 reforms, most notably the National Verifier, are still in early implementation stages. I only hope that the current FCC leadership will continue to implement them rather than stall them.

Everyone is against fraud in government programs, and certainly the GAO report illuminates a few problems that the FCC has already endeavored to work out; but the time period for the GAO investigation predates the 2016 reforms—as the *GAO Report* itself makes clear—making its analysis less relevant as we look to Lifeline's future.

We must put politics aside and devote ourselves to expedient implementation of the FCC's *2016 Lifeline Modernization Order*. We shouldn't use this report to yet again concoct and inflate stories of waste, fraud and abuse at the expense of poor people, many of whom are people of color, and who rely on Lifeline to meet their basic needs.

Nor should we frantically resort to radical measures such as moving USF funds to the U.S. Treasury to potentially not even cover communications, but rather "to offset other national debts," as indicated in correspondence that GAO received from the "FCC Chairman's Senior Legal Counsel."[40] Connecting people to communications services is an important government priority, and we should not take USF funds away from their intended purpose and intended beneficiaries.

As I read stories about how people stranded in Houston are using their cellphones and smartphones as literal lifelines, I am reminded that yes, that we should ensure the program works as well as it can; but we must remain absolutely committed in those efforts to ensuring that the poorest amongst us have access.

Thank you for this opportunity to testify, and I look forward to your questions.

The CHAIRMAN. Thank you, Ms. González.

Mr. Bagdoyan, of the three and a half million Lifeline applicants it reviewed, GAO wasn't able to confirm whether 1.2 million of them actually participated in a qualifying benefit program, such as Medicaid, as was stated on their Lifeline enrollment applications. What steps has the FCC taken since those applicants were deemed qualified to ensure that only eligible low-income consumers receive Lifeline benefits? What do those changes mean for your conclusions? Perhaps it gives you an opportunity to elaborate on Ms. González's point that things have changed since your findings in your study. So tell us what steps the FCC has taken and whether or not you think those have been effective.

Mr. BAGDOYAN. Sure. Thank you, Mr. Chairman, for your question. Our data analysis, first of all, to put it in context, is based on 2014 data. We spent about a year analyzing those datasets in

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[37] *Id.* at 57–58.

[38] *See Lifeline and Link Up Reform and Modernization* et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818, 7891–7897, ¶¶ 224–237 (2015); *GAO Report* at 52.

[39] *Pai Letter* at 5.

[40] *GAO Report* at 23. The FCC has not formally introduced this proposal to the public, and I first learned of the idea from the *GAO Report*. I would expect the FCC to pursue a transparent process that includes public comment for an extreme change like this that could undermine not only Lifeline but also other important Universal Service Fund programs such as E-rate (which subsidizes essential communications services in schools and libraries) and the High Cost Fund (which subsidizes access to essential communications services in rural areas).

various forms, and we identified the 1.2 million people who did not appear to be enrolled in the programs they selected on their Lifeline applications.

There have been steps taken by the FCC, most of which are still unfolding, including the deployment of the National Verifier. The 2019 deadline is probably ambitious in my personal view, but we'll see how that plays out. Plus it looks like by the time it's fully functional, the National Verifier may not actually have access to all databases at the state level because of various privacy and other restrictions. But I think the states and the agency are in the process of working through those.

Now, separately, the 1.2 million individuals we identified were in the process of essentially reengineering that analysis to provide the FCC and its Office of Inspector General with referrals of those and for their additional review to determine what exactly happened in each one of those cases to the extent that they can. So for those 1.2 million individuals, based on our interactions with the FCC, not much has been done. It is possible that as a result of an elimination of duplication in the program that was done in 2015, I believe, approximately 400,000 additional duplicate enrollments were purged from the rolls, so to speak, that some of those purges actually were also part of our universe of 1.2 million.

So on balance, I think FCC has taken some steps in the right direction. Execution is obviously the key here. National Verifier is clearly a good step forward, but its full implementation is going to be very important.

The CHAIRMAN. Thank you. I would point out, too, that this Committee, we wouldn't be doing our job of oversight of Federal programs had we not attempted to try and get some of these answers to see how this program is working effectively, particularly in light of the reports like the GAO report, which was requested, I might add, by bipartisan Senators.

Commissioner Nelson, you noted that states play an important role in preventing waste, fraud, and abuse in the Lifeline program. Can you describe what actions South Dakota has taken in this regard? Second, are there changes to the Commission's rules that would empower states to be more effective in combating waste, fraud, and abuse in the Lifeline program?

Mr. NELSON. Thank you, Mr. Chairman. First of all, per Federal law, before a telecom provider can become an ETC, they must be reviewed by the state commissions. And we get to ask the hard questions about the integrity of the company, the plans that they have for serving within the state, the infrastructure that they may have or have to acquire in order to serve the state. And so we get to ask those hard questions before we actually grant that designation. And so that's really the first line that we have with those companies.

And then, second, we get an annual review to determine, "Are you serving properly? Are things being done with integrity?" And we've found just recently one of our providers that was having some issues, and so then we're able to deal with that and get those companies back on track. We feel that that's the kind of oversight that probably would not be effective coming from the FCC. And that's why I'm so insistent that states remain involved in that.

I'll go one step further and talk about my counterparts in other states that have their own Lifeline programs, South Dakota does not, but those states then have additional ability to look at their Lifeline programs at the state level and find those instances of fraud and abuse and deal with those at that level.

The CHAIRMAN. The follow-up was, are there any proposed changes to the Commission's rule that you think would empower states to be more effective in combating waste? Is there anything that they could do in terms—it sounds like a lot of it has to do with delegation and allowing states to have more involvement.

Mr. NELSON. Absolutely. I don't have any specific recommendation other than we were obviously very disappointed a year ago when the FCC sought to remove states from a portion of that process. Now that has been restored. Hopefully, that will be a permanent restoration per Federal law, and we can remain involved.

The CHAIRMAN. Thank you.

Senator Schatz.

Senator SCHATZ. Thank you, Mr. Chairman.

Mr. Bagdoyan, can you, as quickly as possible, walk me through the seven recommendations in the report?

Mr. BAGDOYAN. Sure. Yes, I'd be happy to do that. Let me refer to my notes, Senator, just to make sure that I have all these lined up appropriately for you.

The first one is to complete the transfer of the USF account into Treasury from the private bank. The second one is to figure out a way for the Commission to review and approve any spending above a preset budget. The third one is to provide the carriers a list of databases that they have access to so that that clarifies their knowledge in that regard. The fourth one is evaluation of compliance plans. Fifth is to come up with an enforcement strategy, which is key to make everything else flow better.

Senator SCHATZ. What does that one mean?

Mr. BAGDOYAN. It's an enforcement strategy for——

Senator SCHATZ. At the FCC level or for the carriers?

Mr. BAGDOYAN. It's essentially for the universe of players, essentially the carriers on the beneficiaries' side as well. So that's a good question.

Then a review of customer bills to make sure that they are charged an appropriate amount rather than an inflated amount, or periodically amounts that are lower than what they should be. And then, finally, respond to USAC's request for various types of guidance. And I think our report details those recommendations at a high level. But as I mentioned earlier, the FCC has concurred with all seven of them and has efforts underway, to my understanding, to implement those.

Senator SCHATZ. And so my sense is that the FCC did what they should do, which is say, "Audits are helpful. We will implement your recommendations." Rather than, you know, getting into a knife fight over your recommendations, they've just decided, "Look, we're going to try to fix this program."

My question is—I guess it's a two-part question. First, where are we with the implementation? I know you said 2019 is an ambitious deadline for the establishment of the database.

Mr. BAGDOYAN. That's my personal view, yes.

Senator SCHATZ. Sure. But I guess my question is twofold. Where are we with the implementation of the rest of it? And how far—how much confidence do you have that that would settle it, that we won't be here 3, 4, 5 years from now with a new GAO report and a new set of issues?

Because to Dr. Eisenach's question, I mean, his question is actually structural and public policy oriented, which is, to the extent that you set up a program where the subsidy goes to the carrier, and the carrier is enlisting participants, it's set up wrong because there's just too much money at stake, and if you want to help individuals who need universal service, then we ought to help individuals who need universal service rather than have a booth somewhere saying, "Free Cell Phones." And that, I have to say, as sympathetic as I am to the principle involved, that rings true to me, that I can just imagine that if you're on the ground and your job is signing up people for free cell phones, you sign up people for free cell phones.

And so I guess I'll ask this question to both of you, Where are we with implementation? And how do you address Dr. Eisenach's assertion that all of these reforms are fine, but they're not enough?

Mr. BAGDOYAN. Sure.

Senator SCHATZ. And I'll give you a minute, and you 30 seconds, Dr. Eisenach.

[Laughter.]

Mr. BAGDOYAN. OK. All right. Very good. Fair enough.

In terms of the National Verifier, it's supposed to come out in a phased approach, I think either five or seven states by the end of this year, an additional 20 or so states by the end of 2018, and the final remaining however many there are will be by the end of 2019.

Two caveats on that. First, the testing of the system will occur while it's being deployed. And second, there is no guarantee that all available state-level databases will be integrated into the Verifier, meaning that there were potentially gaps still out there by the end of it all.

Senator SCHATZ. Sure, more data is better, so even if——

Mr. BAGDOYAN. Correct, but I think in terms of a strategy, part of a strategy, it's clearly a step in the right direction, and if implemented, as intended, should go quite a ways to tightening things up.

Senator SCHATZ. Dr. Eisenach.

Dr. EISENACH. First of all, Senator, thank you very much for capturing precisely I think my deeper concerns about the program. I would love to believe—and certainly I have tremendous respect for Chairman Pai and all of the members of the current FCC, but looking back historically, the mismanagement that's gone on in this program has taken place over decades with talented management and oversight and leadership from members of both political parties, not a partisan problem.

The National Verifier was first proposed by the FCC in 2011, and we're now hearing it's unlikely to be up and running in 2019. How many billions of dollars will not have gone to help people in need during that period of time, and instead into the pockets of unscrupulous operators?

Senator SCHATZ. Thank you.

The CHAIRMAN. Thank you, Senator Schatz.

Senator Wicker.

STATEMENT OF HON. ROGER F. WICKER, U.S. SENATOR FROM MISSISSIPPI

Senator WICKER. Commissioner Nelson, you made a good point, and Dr. Eisenach just reiterated that. The money that is spent improperly could have been used to build out broadband. This is part of the infrastructure program that we need to be doing, as Americans. So this is really a stunning report actually, and takes money away from deserving people.

Now, Dr. Eisenach, you mentioned oversight that we should be exercising, but also you seem to be really making a larger point. Do I understand really that it is your view that this whole program was just misdesigned from the start, and what we ought to do is go back and design and start from the ground up and design something that actually is more likely to work? Is that point of view? What would be the outline of that sort of program?

Dr. EISENACH. Well, Senator, thank you for the question. And, yes, that is my view. And I outlined in my testimony four principles I think that we should follow in designing such a program. The first is just getting out of the way, and, you know, part of that is taxing telecommunications services. About 18 percent on average is what is paid on mobile device, mobile broadband service bills. Nationwide, about 7 percent of that is directly from the U.S. Universal Service Fund taxes at the Federal level. That and other things ought to be done to stop taxing. It's an extremely regressive tax, so we ought to get out of the way in that regard, and in other respects, allowing broadband deployment to occur and prices to go down.

Second, there is a question of targeting whatever we do, better targeting support. So the fact that 19 out of the 20 people who were receiving subsidies already had a cell phone or already had Lifeline service, that's not an effective program. We ought to use the money more effectively.

Third, and I think this is the hard part, and I don't want to suggest it's easy, but the type of support that is needed by the vast majority of people who are offline today is much more qualitative than simply writing a $10 check. And so I cite in my testimony a number of studies which show that people who are not sufficiently connected to the Internet today need training. They need personal assistance. We're talking about elderly people. We're talking about ethnic minorities who have problems with cultural and language issues. Those people need a lot more than a free or reduced price cell phone.

And then, you know, last, as I say, I do think it's time to realize the FCC is just not the right vehicle for this, and certainly writing checks to communications companies is not the right way to go.

Senator WICKER. Ms. Collier, Dr. Eisenach is speaking for himself, according to his testimony. I take it you are here speaking on behalf of Citizens Against Government Waste.

Ms. COLLIER. Yes.

Senator WICKER. Can we summarize that you largely agree with the position that Dr. Eisenach has taken?

Ms. COLLIER. Over the years, we've seen a lot of waste, fraud, and abuse within the Lifeline program, and the way the system is set up, it's setting it up to induce fraud in the program. We've seen that across the board with companies sending salesmen out in Colorado and Indiana and other states just ginning up subscribership.

So there does need to be a deep dive into the program to see where it can evolve. I think the National Verifier program that's been initiated, that's a good start. If we can have Memorandums of Understanding with the different states and the Universal Service program that will allow them to data share, I understand there are privacy concerns within states, but overall there does need to be an effective revamp of the program.

Senator WICKER. Mr. Bagdoyan, Dr. Eisenach said we need to quit writing checks to phone companies. What did the phone companies say to GAO?

Mr. BAGDOYAN. Well, we did not have any contact with them other than when we performed our undercover work, which was essentially trying to enroll in the program and obtain the phone service.

Senator WICKER. Do you think that would have been a good idea?

Mr. BAGDOYAN. I'm sorry?

Senator WICKER. Do you think that would have been a good idea to hear their take on the situation?

Mr. BAGDOYAN. Well, the scope of our work was designed in a way that did not include extensive contact with the phone companies.

Senator WICKER. Dr. Eisenach, what do you say to that?

Dr. EISENACH. Well, one really important caveat I think we don't want to paint with too broad a brush here, there are a lot of people in this business who are doing the right thing for the right reasons, and I don't want to suggest every Lifeline provider out there is fly by-night, corrupt, or doing anything other than the Lord's work.

Senator WICKER. Well, thank you for pointing that out.

Dr. EISENACH. So that's number one. I don't want to be interpreted as painting with too broad a brush. But it is certainly true that there is a systematic incentive problem here. We have the fox guarding the henhouse. And all of these reforms essentially amount to, you know, let's find a better class of fox or put up more chicken wire around the henhouse. But the basic dynamics of foxes and henhouses isn't going to stop until we change the structure of the program.

Senator WICKER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Wicker.

Senator Klobuchar.

STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Thank you to all of you today. In 2016, the FCC, as we have discussed here, directed the Universal Service Administrative Company to develop this Eligibility Verifier. It helps with reducing fraud within Lifeline.

And, Mr. Nelson, what components exactly do you think are going to be helpful to reducing fraud?

Mr. NELSON. As I said, as I reviewed the USAC's plan, I think it's a solid plan to ultimately reduce the fraud that we've been talking about. The concern that I've got with it, and you've heard it already, is the fact that the way this is going to be set up is the Verifier will ping hundreds of different state databases. And so USAC is going to have to contact social services departments in all 50 states and say, "Can I have access to this database and this database?" and those social services agencies are going to say, "And you are who? And you want into our database why? I don't think so." And so I think that's the challenge that they are going to be facing to get those kinds of permissions to actually access the databases.

Senator KLOBUCHAR. How do you think you could fix that?

Mr. NELSON. Well, as I mentioned, you know, I'm big on cooperative federalism. I think Federal agencies need to work with State agencies, and vice versa, and so that's perhaps where state utility commissioners can come into the play in that we can work with our fellow state agencies to understand why this is important. Now, that said, there are some states where there are still going to have to be changes in state law and state rule to allow this Federal agency to access into a state database.

Senator KLOBUCHAR. Mr. Bagdoyan, as it's being rolled out, what steps do you think that USAC can take to ensure that the transition goes smoothly?

Mr. BAGDOYAN. Thank you for your question, Senator. I am not deeply familiar with the National Verifier strategy. I think the key, as Commissioner Nelson said, is to obtain access to as many databases as possible. And based on some correspondence between Chairman Pai and I believe Senators Peters and McCaskill, he has noted that the FCC and USAC are working very hard along with a contractor to get those agreements in place. I think, you know, the deployment schedule of late 2019 may allow those negotiations to continue and close as many of them as possible successfully. But without access to data, I think the rest of the system would be ineffective.

Senator KLOBUCHAR. And do you think the FCC has sufficiently evaluated the effectiveness of the program?

Mr. BAGDOYAN. It has not—we have a longstanding recommendation that they do so. They do have plans to do that by engaging a third party to independently take a look at the totality of the program. That was not part of our charge in this regard.

Senator KLOBUCHAR. What do you think they should be measuring? Are going to measure the effect?

Mr. BAGDOYAN. Well, I mean, the metrics area is a tricky one. You're looking for outcome over activity and output certainly. I think one way to look at it is, Would people have a phone notwithstanding the program? For example, right now no one can tell us definitively how many of the 12 million or so subscribers to Lifeline also have alternative phones. So that would be one area to start in.

Senator KLOBUCHAR. OK. Thank you.

Ms. González, a little related but different subject about the homework gap. And Commissioner Rosenworcel and I have talked about this in the past, and we've had this issue especially in some

of our tribal lands in Minnesota. One house gets Wi-Fi, all the kids go there to do their homework because there's no other Wi-Fi. How has the changing nature of the classroom increased the need for students to have an Internet connection at home?

Ms. GONZÁLEZ. Thank you, Senator, for the question. I used to be a teacher before I went back to law school, and a lot of friends are still teaching in low-income communities, and with the Common Core, a lot of the testing is moving online. Textbooks, at least a third of the assignments involve going online, doing research, gathering data. We are leaving our kids who do not have access at home way far behind if we are not addressing their Internet needs.

And if I may take the liberty, I'm a little concerned about measuring a program's effectiveness based on whether someone would have that service, but for the Lifeline subsidy, it's well——

Senator KLOBUCHAR. That's what I was asking, what the metrics would be.

Ms. GONZÁLEZ. Yes, yes. I mean, it's well established that people need telecommunications service and would forego other basic necessities in order to get it because people are making hard choices between food and clothing and Internet, and because it is so critical for families to make sure that their kids have access to the Internet, just it's like the paper and pencil of when I was a kid. If they don't have it, they cannot—they can't learn.

Senator KLOBUCHAR. All right. Thank you.

The CHAIRMAN. Thank you, Senator Klobuchar.

Senator Markey.

STATEMENT OF HON. EDWARD MARKEY, U.S. SENATOR FROM MASSACHUSETTS

Senator MARKEY. Thank you, Mr. Chairman, very much. A very important hearing.

You know, kind of the constitution of the Federal Communications Commission Act is Universal Service and affordability, and it's worked very well since 1934. I know that my father, a milkman, you know, he paid higher telephone rates for probably 60 years to subsidize rural. He paid higher; rural got it. OK? My father, the milkman, didn't have any extra money, but it was to ensure there is universal service. Everyone gets it. It's all part of it. And ultimately the Telecommunications Act is Medicaid for telecommunications service. That's what it is, just to make sure everyone gets it. And there the rural people needed it, so we gave it to them. And inner-city people needed it, you know, we gave it to them. So that's the heart of it, the essence of it.

We codified it in the 1996 Telecommunications Act, which I'm very proud of, and it was a necessary step for us to have to do it. But it's evolved, since there were kind of party line phones in 1934. No one could have anticipated, you know, kind of something that moved up to a computer in your pocket, but it left room for innovation, left room for an evolution of what was a service that you needed to have access to. So this is kind of the heart and soul of our telecommunications policy. And the Lifeline modernization that took place in 2016 created a National Eligibility Verifier, and many here today have cited a GAO study has proved that the program is not working.

But, Ms. González, did the GAO report factor in this National Eligibility Verifier program in terms of whether or not the program is working?

Ms. GONZÁLEZ. Senator Markey, the GAO report states that the National Verifier may in fact address many of the concerns that it raised in its report.

Senator MARKEY. So the GAO report, to a certain extent, is out of date because it doesn't factor in the E-Verifier program that is meant to in fact solve many of the problems that were raised, is that correct?

Ms. GONZÁLEZ. I think it looks at a data period before many of the reforms took place. So I think it's fair to say that in many respects, it is out of date. It also—if you read through the methodology section, the GAO explains in rather great detail that some of the underlying data on which it relies is not reliable and that it is not generalizable to the Lifeline program generally.

Senator MARKEY. So what do you mean by that, saying that the information is not——

Ms. GONZÁLEZ. This was a snapshot, but it's not able to be extrapolated as an overall conclusion about shortcomings of the program.

Senator MARKEY. Yes. So what's your sense, Ms. González, if the E—the National Eligibility Verifier is put into place? I think it's 2019 is the date for implementation in terms of solving many of the problems that were raised in the GAO report.

Ms. GONZÁLEZ. Well, I can share with you what it's intended to do, which is to make eligibility determinations and perform a wide variety of other functions, conduct checks to prevent duplicate benefits, or certify subscriber eligibility, calculate support payments to eligible telecommunications carriers. And, in fact, the Chairman of the FCC recently said that they will actually track the actions of the sales agents and hold companies accountable for their activities.

I'd also just like to point out that if you look at the Lifeline program and the improper payment rate, it's much lower than the improper payment rates across the Federal Government. The average improper payment rate across the Federal Government, according to the GAO, is between—has been between 4 percent and 4.67 percent in the last few years. In comparison, the 2016 Lifeline rate was 2.93 percent, and the 2015 rate was .45 percent. The 2014 rate was .32 percent. So I think we should be working to make sure that this is a prudent program and that we're on track.

Senator MARKEY. Again, just let me make sure that we put this on the record. And the National Eligibility Verifier program is meant to lower that number even further.

Ms. GONZÁLEZ. That's correct.

Senator MARKEY. Right. So we already have a number which is much lower than all other Federal programs, I mean, by a substantial percentage, and there is already a reform on the books. So to a certain extent—and we give the GAO credit for all of their great work because they were kind of handicapped by the fact that it's hard to factor in the answer to the problems that had been identified, but there are answers that have already been put on the books in 2016 by the FCC. And I think we just have to take note

of that and understand that it's already a better program than any other program that is in this category, and that the reforms are already in place to knock that number down even more. And I just think that we shouldn't be making modifications to the Lifeline program, which helps so many millions of Americans, until we allow these reforms to be given a chance to work.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Markey.

Senator Cortez Masto.

STATEMENT OF HON. CATHERINE CORTEZ MASTO, U.S. SENATOR FROM NEVADA

Senator CORTEZ MASTO. Thank you, Mr. Chairman.

Ms. González, can you confirm for me whether you agree with Commissioner Clyburn that Chairman Pai's early action to cut broadband providers from the Lifeline program reduced competition in this space and could lead to minority-owned businesses and tribal residents, for example, from utilizing Lifeline effectively?

Ms. GONZÁLEZ. Yes, Senator, I do agree with her. Basically, the FCC has stalled the implementation of the 2016 order by revoking nine Lifeline broadband providers that were providing broadband-only Lifeline services that had already received a go-ahead from the FCC to begin providing service. One of those providers, Boomerang, already had 17,000 subscribers enrolled. So those people are in limbo. In addition, the other eight companies were in progress and about to launch new competitive innovated options for Lifeline service, including one African American-owned business that was set to do some really interesting things in Illinois to help address affordability of telecom services there.

And, you know, from—while I do think the states play an incredibly important role, when it comes to Lifeline broadband only, the Chair of the FCC and I have a different interpretation of the law. Broadband-only is an interstate service and, therefore, the FCC, the Federal Government, is in charge of overseeing that; whereas, you know, the other parts of the program that are not broadband-only, the states play a very important role in overseeing them.

Senator CORTEZ MASTO. Thank you.

And then, Commissioner Nelson, and also as well, Ms. González, my understanding is that providers are offering discounts on their own low-cost Internet service to low-income households. Is that enough to bridge the digital divide, or is there a reasonable alternative to that?

Mr. NELSON. They're all pieces of a puzzle. The way I like to explain it is access to broadband takes a lot of different solutions. In South Dakota, as with a lot of rural states, we have places that simply do not have any opportunity for access because the infrastructure isn't there yet. That has to be priority number one, to actually get the infrastructure there so folks have the availability.

And then we look at programs such as you've mentioned where the telecom companies offer their own low-cost entry points into broadband access, and then what the FCC has done by extending broadband into the Lifeline program. They're all pieces of the puzzle to try to solve this access. And referring back to the homework gap that Commissioner Rosenworcel has been working on, I mean,

that's a tremendous problem that has to be overcome. And this is all part of the answer.

Senator CORTEZ MASTO. And so would you say Lifeline also is an important or essential service as part of that puzzle as well?

Mr. NELSON. Absolutely.

Senator CORTEZ MASTO. Thank you.

And then I guess let me ask Mr. Bagdoyan—is that it?—is there—you report that there is a lack of FCC guidance to staff on how to evaluate the Lifeline provider compliance plans. Is that the only problem, or are there other issues that the FCC may be addressing or dealing with, such as not enough staff to address the FCC reviews and the backlog? Are staffing levels adequate to address some of the concerns? Or is that not an issue at all?

Mr. BAGDOYAN. Sure. Thanks for your question. We did not look at staffing per se. That is essentially an agency determination once they figure out what they have to do and then work back to staff up to that capability. So I would answer it in that regard.

Senator CORTEZ MASTO. OK. So that wasn't considered.

Mr. BAGDOYAN. We did not consider it in our—it was essentially out of scope for our audit.

Senator CORTEZ MASTO. OK. That's helpful for me to know.

And then to Commissioner Nelson or Mr. Bagdoyan—and, listen, I'm all for data and metrics, I believe in audits and reviews, that is an important part of how we make sure that we are holding taxpayer money—we're spending it correctly, and we're holding agencies accountable, I think it's important. But I also think it's important that we allow companies, after those audits, to engage in reform, to learn from the audits, move forward. I don't think we scrap the whole program just because there was a bad audit. I think we learn from it, implement those reforms, and move forward, and that's what I'm hearing from you as well.

And so let me throw that out there. Are there any concerns that you have right now that this program should be completely scrapped from what you're hearing?

Mr. NELSON. That would certainly be—not be what I am advocating today. And this hearkens back to Senator Markey's question. We're in a transition period right now, a period from which we've had a lot of problems to a period with once the National Verifier is up and running, I am cautiously optimistic that that will solve a lot of those problems. But we are several years from getting there. And I think, again, it's going to be tougher to get there than what USAC originally anticipated. And so we're in a transition period, and until we get there and that is up and running, I don't know that we can make any firm determinations on exactly how this is going to work.

Senator CORTEZ MASTO. Thank you.

Mr. BAGDOYAN. Yes, in terms of the policy choice, obviously, that's not my charge. That's for Congress and the Commission to figure out. But I think National Verifier, as Commissioner Nelson mentioned, is part of the solution. This is a systems approach; you have to have multiple parts of your strategy. But it is a policy choice to take program integrity, which includes fraud, very seriously and then go from there.

Senator CORTEZ MASTO. Thank you. I notice my time is up. Thank you very much for the conversation today.

The CHAIRMAN. Thank you, Senator Cortez Masto.

Mr. Bagdoyan, just as a follow-up, there has been some discussion about improper payments that are verified between this program and other Federal programs. In your analysis of this program, was it your conclusion that there are, which there are obviously those payments that can be verified that were improper, but there is a lot of unknown out there. Could you kind of comment on that with respect to your analysis?

Mr. BAGDOYAN. Yes, sure, Mr. Chairman. Thank you for your question. We did not look exclusively or explicitly at improper payments. We did touch on them as part of our overall review. I would note that some of the rates that we referenced in our report, and I believe Ms. González also mentioned, while they may appear to be relatively low to, let's say, the national average or compared to other programs, the FCC's Office of Inspector General has questioned those estimates over a period of time, both in terms of data reliability and the overall methodology used to arrive at those estimates.

So I would take them at least at face value, but based on what we looked at, I would not conclude that they are definitive since they are questioned by essentially a sister agency to GAO.

The CHAIRMAN. You report in a case because the majority of Lifeline-eligible Americans pay for communications services out of pocket, and pay USF fees on those services, the net benefit to low-income Americans is even less than it would appear. Could you maybe discuss that in a little bit more detail, elaborate on that?

Mr. BAGDOYAN. I'm not sure I'm following your question.

The CHAIRMAN. Well, just that the majority of Lifeline-eligible Americans pay for communications services out of pocket, so they pay USF fees.

Mr. BAGDOYAN. Correct. Right.

The CHAIRMAN. So what I'm asking is, what is the net benefit to low-income Americans given that they also have to pay fees on that?

Mr. BAGDOYAN. Well, yes. Thank you. So we looked at essentially the eligible universe is approximately 48 million or so households or individuals. You have about 12 million people enrolled. So the bulk of the eligible population is essentially subsidizing a subset of that population that is actually enrolled. So there is definitely an inefficiency there, and that's what some of the academic studies that we've looked at and we cite in our report also mention as part of their analysis.

The CHAIRMAN. One of the things that has been pointed out which I think is—in terms of the National Verifier and how quickly it can get online, because that seems to be the thing that everybody is sort of holding out there as the holy grail, how we're going to get rid of some of the well-documented problems with this program. The point that Commissioner Nelson raised about getting access to those databases seems to be a very valid one. It would also strike me that it would make sense to have the state public utilities commissions, or whatever that equivalent agency is in individual states, very involved in working with the FCC to get that access

to make that program work. Just an observation, I guess, in terms of how that might work going forward, but clearly there is a lot of confidence, or at least hope, that the National Verifier is going to be effective in rooting out some of the fraudulent aspects, again, in the program.

So this would be just a general question for members of the panel, and it is based on the GAO's good work or perhaps on your own expertise. Do any of you have recommendations about whether we ought to seek to improve the existing lifeline model or fundamentally rethink how we ensure that low-income Americans can participate more fully in our communications-dependent society, which I think we all agree is something that we need to support? Is there another model? Is there something that would be more effective than what we have today or do we try to continue to tweak and make this thing work better?

Mr. BAGDOYAN. Yes. Mr. Chairman, we did not look at any of that, as I mentioned to Senator Cortez Masto. That is ultimately a policy choice. We took a narrow-slice look at fraud, waste, and abuse program integrity, so I wouldn't be able to comment on that. All right?

The CHAIRMAN. I understand that's outside your lane, so to speak, of what you do, and I appreciate that. Feel free to speak on your own if you'd like to.

For the other members, you know, we talked a lot today about some of the flaws over time in this program and perhaps dollars have been wasted over time that could have been more effectively deployed in terms of actually providing access and delivering services to low-income Americans. Can this program be fixed? Can it work with the improvements that have been proposed? Or do you have in your minds perhaps a different way of delivering a service, a different model, that might be more effective?

Ms. Collier.

Ms. COLLIER. Yes, Senator Thune. To me, it seems like the best way right now is to see how the National Verifier system is going to be implemented. I realize that it's not going to occur until 2019 as far as full implementation. However, there do need to be Memorandums of Understanding with the different states, whether they work with the public utility commissions or other entities within the state, to develop a sharing program of the data. There are key data points that have to be shared that only the state has. So those Memorandums of Understanding are really going to need to be in place, but until we see how the National Verifier system is going to work, we really don't know its impact. It also does need to be set up as a front-end verifier, not a "pay and chase," as described the current system being.

The CHAIRMAN. All right. Thank you.

Mr. Eisenach.

Dr. EISENACH. Chairman Thune, thank you for the question. I guess I think my views, my bottom line is clear, I think. And I would direct people to Chairman Pai's dissent on the 2016 order where he called out its weaknesses, which are present and remain present and will remain present into the future.

I have spent a little time looking at the National Verifier Plan, and what I can tell you is that there are a lot of 75-page

PowerPoint decks on the Internet with lots of colors and arrows and promise dates and processes and procedures and so forth, all of which, in my experience, are unlikely to lead to a working program by 2019, or maybe ever, for the reasons that have been talked about here.

The Lifeline program is a long way from effective today, or efficient. We think 1 in 20 of the recipients have broadband or telephone service because of the program. We think a little more than 1 out of 3 of the recipients that the GAO audited it could not find—it could not verify they were eligible in the first place.

We haven't talked about it today, but the estimates of the administrative overhead of the program, there's a raging debate whether it's 40 percent or 60-some percent. Whichever it is, if you take those three numbers, 1 out of 20 are benefiting from the program in the sense of using a service they wouldn't otherwise use; 1 out of 3 or more are not eligible; and 50 percent on the dollar is going to administrative overhead. That just can't be a model for a Federal income support program.

Now, there are other models. And the Link Up program, for example, there is actually academic research which suggests that Link Up, which was terminated by the FCC except for tribal lands in 2012, was a program which supported the original signing up of someone to a new subscription. So a program which said, "Let's support your getting online," is one concept that ought to be looked at.

And one clear barrier is that people don't have computers, don't have the device that they need in order to connect. Another aspect is digital literacy and the need for training. And all of the evidence suggests that low-income and disadvantaged populations, the people who we need to help—and I'll come back to schools and the homework gap—that those people need something other than a $10-a-month subsidy, they need a more hands-on approach. A lot of times programs like that are best handled through state programs, state level social service agencies.

Certainly in the schools, the homework gap is a serious problem and ought to be addressed, but we could give an awful lot of mobile broadband-connected laptop computers to children without broadband at home for the amount of money that we're spending, wasting, on Lifeline today. So those are some of the examples I've encouraged——

The CHAIRMAN. Well, in your earlier testimony, it seemed to me at least, yours was sort of an indictment of the delivery mechanism being payments to carrier—or to providers.

Dr. EISENACH. It's a recipe for——

The CHAIRMAN. Right.

Dr. EISENACH.—the incentives are all wrong.

The CHAIRMAN. Right. OK.

Very quickly, Commissioner Nelson.

Mr. NELSON. Yes, as I've mentioned, if USAC can actually pull off implementing the Verifier as they've planned, I think that's going to go a long way toward solving the problems in the program. I would strongly recommend, though, the talk about needing to evaluate the effectiveness of the program can't be understated.

And I'll just share with you anecdotal stories that come from our consumer assistance people in our commission, and most commissions have those. And what I'm told—and these are the folks that talk to Lifeline subscribers daily—is that there are those that are truly destitute, and without this program would have no means of telecommunication, and there are others they talk to that are simply looking for another freebie. And they talk to both. And if we can figure out a way to sort that out, I think that would go a long way toward helping the program also.

The CHAIRMAN. Ms. González?

Ms. GONZÁLEZ. So right now it's the only Federal program poised to address this. I'm loathe to repeal without replacing with better ideas. I'm open to more innovative ways to ensuring that all people have access to communications, but at this point, I think we really ought to see out the National Verifier. We've invested a lot of resources in developing it and building it out, and I think it has a really good shot of addressing the waste, fraud, and abuse raised here today.

The CHAIRMAN. Thank you.

We've been joined by other members of the Committee, and I think recognizing them in the order of their appearance, Senator Peters was here first this morning.

Senator Peters.

STATEMENT OF HON. GARY PETERS,
U.S. SENATOR FROM MICHIGAN

Senator PETERS. Thank you, Chairman Thune. Thank you for holding this hearing.

And thanks to the witnesses for coming here as well. We appreciate your testimony.

I also want to agree with the opening statement that Chairman Thune made about your strong convictions that we need to make sure that everybody has access to telecommunications in this country. Hopefully, that's never something that we waver from, though, we have to understand that in this digital economy, if you don't have access to these services, you are at a significant disadvantage.

And I think the way to look at this and this effort that we are undertaking here is similar to the electrification of our country, to make sure that everybody had access to electricity. Even if sometimes the economics of stringing that wire to that house out in the rural area didn't make a lot of sense from a dollars and cents perspective, it made a world of difference to that family and a world of difference to the entire country to be electrified. So the same concept is in place here with telecommunications.

Having said that, we have to make sure we're doing it efficiently and effectively and making the kinds of reforms to make the Lifeline program work. And I agree with you, Ms. González, that we don't want to throw out something unless you have some sort of tangible replacement that is seeking out to achieve the ends that I mentioned. So let's fix what we have. And I think there are some concrete fixes that are going forward. Let's try those out, but let's never stop seeking better ways to do it.

I was certainly troubled, though, when the GAO report came out, as I think everybody was, very troubled, but I was particularly con-

cerned about the GAO's inability to verify the eligibility of a considerable amount of Lifeline beneficiaries. So following the release of that report, I wrote a letter to the FCC as well as the USAC to explain many aspects of the report.

And, Mr. Chairman, I would like to enter into the record, or whoever is chairing now——

[Laughter.]

Senator PETERS. We'll leave that hanging out there for the Chairman to come back in. But I would like to introduce into the record the letter that I sent to the USAC and to Mr. Pai for the FCC and enter it into the record. And I would like to use my time to kind of follow up on the soon-to-be-entered-into-the-record letters.

Mr. Bagdoyan, the GAO report reveals that despite FCC efforts to curb waste, fraud, and abuse in the Lifeline program, the FCC Enforcement Bureau hasn't been consistent in taking action against fraudulent service providers, which, looking at the report, hold a great deal of the responsibility for the program's current structure and some of the problems associated with it.

Why is it important for the FCC to develop a consistent enforcement strategy for Lifeline providers in violation of the rules? And do you believe that providers have a clear understanding of how the FCC will respond if they are found engaging in bad conduct?

Mr. BAGDOYAN. Thank you, Senator Peters, for your question. Where we come from at GAO's strategy is key. It drives everything else. It essentially implements the policy choice that has been made to keep the program on the books, so to speak. That's the premise we did our audit.

So if there is inconsistency and lack of guidance, vis-à-vis those who have been charged to verify enrollment eligibility, that type of gap, if you will, and knowledge and conveying of responsibility trickles down to what kinds of processes and procedures those providers themselves are going to put in place to manage fraud risk.

So strategy is key. And I think, as we mentioned in the report, it has been absent, and because of that, the Commission itself has been unable at times to enforce its own rules across the board, so to speak. So I would not be overemphasizing strategy enough for that purpose.

Senator PETERS. What ways do you think the FCC and USAC could collaborate to enhance enforcement? Do you have any suggestions?

Mr. BAGDOYAN. Well, obviously, communication is key. It has to be, as I mentioned in my opening statement, at the very conclusion, it has to be a clear and unambiguous policy choice that fraud risk is going to be taken seriously, assuming that, again, the program will remain on the books so to speak to provide access to those who need it. So they have to make that commitment and also make sure that their respective staffs and executives work together to craft a strategy, and that's one of our recommendations.

Senator PETERS. Right. Thank you.

And, Mr. Chairman, I have three letters to enter into the record with—ask for consent to enter into the record.

The CHAIRMAN. They'll be added without objection.

[The letters referred to follow:]

UNITED STATES SENATE
Washington, DC, July 19, 2017

Hon. AJIT V. PAI,
Chairman,
Federal Communications Commission,
Washington, DC.

Ms. VICKIE ROBINSON,
Acting CEO and General Counsel,
Universal Service Administrative Company,
Washington, DC.

Dear Chairman Pai and Ms. Robinson:

We are writing with regard to the Lifeline program, which helps provide basic telecommunications and broadband services to eligible low-income Americans who may not otherwise be able to afford these services. The Lifeline program is one important component of the Federal Communications Commission's (FCC) commitment to the policy of universal service [1] and affords Americans in every state the opportunity to stay connected and succeed in today's interconnected digital economy. Unfortunately, a recently released report from the Government Accountability Office (GAO) documents troubling instances of waste, fraud, and abuse in the Lifeline program.[2] We are concerned that the risks to program integrity outlined in this report threaten a service that is essential to ensuring that low-income Americans can connect to employment opportunities, family members, and emergency services.

Current policy places the responsibility of verifying program eligibility with the diffuse network of over 2,000 Eligible Telecommunications Carriers (ETCs), who often subcontract further with third-party entities in order to approve or deny Lifeline benefits.[3] In conducting an analysis of subscriber data in select states, however, GAO was unable to independently verify the eligibility of a considerable number of Lifeline beneficiaries.[4] FCC's ongoing development of a National Verifier eligibility system is a positive sign, but both FCC and the Universal Service Administrative Company (USAC) are well-positioned to take immediate steps to improve provider oversight and overall program integrity.

Given the problems identified in the current administration of the Lifeline program, we ask that you provide answers to the following questions as soon as possible but no later than August 18, 2017:

1. How do FCC and USAC measure the effectiveness of the various compliance and enforcement mechanisms that have been developed to improve oversight of Lifeline providers and sales agents?
   a. What training and guidance on the Lifeline program is offered to or required for ETCs and sales agents?
   b. Has FCC instituted criteria and timelines for evaluating individual ETC compliance plans?
   c. What is the extent of FCC and USAC's oversight of third-party entities contracted by ETCs to determine program eligibility?
   d. How many times has FCC determined that an ETC is no longer qualified to provide Lifeline benefits, and what is the process for making this determination?
2. What steps are being taken to ensure that ETCs and subcontractors are aware of the Federal and state databases and other information available to them in order to determine program eligibility?
3. What is your projected timeline for testing and implementing the National Verifier system?
   a. What are your projected costs?
   b. What impediments, if any, have you encountered with state and local jurisdictions in acquiring the information you believe is necessary to implement the National Verifier system?
   c. To what extent will the existing National Lifeline Accountability Database (NLAD) be utilized in the development and implementation of the National Verifier system?

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[1] See 47 U .S.C. § 254.
[2] Government Accountability Office, *Additional Action Needed to Address Significant Risks in FCC's Lifeline Program* (May 2017) (GA0–17–538).
[3] *Id.,* p. 15.
[4] *Id.,* p. 37.

4. Chairman Pai's July 11, 2017, letter to USAC regarding the Lifeline program establishes a number of new USAC review and audit requirements.[5] GAO's report, however, states that in at least one instance, USAC's routine audit functions have been constrained by "limited audit resources."[6] Is USAC adequately resourced and staffed to conduct the reviews and audits of ETC and subscriber data outlined in the July 11 letter?

Diligent and continuous efforts to improve the integrity of the Lifeline program will ensure that the funds collected from providers and consumers are administered appropriately and that all Americans stand to benefit from the opportunities of the global digital economy.

If you have any questions about this request, please contact Sydney Paul of Senator Peters's staff at Sydney_Paul@peters.senate.gov or Lot Kwarteng of Senator Stabenow's staff at Lot_Kwarteng@stabenow.senate.gov. We share your goal of reducing waste and fraud in the administration of Federal programs and look forward to your prompt response.

Sincerely,

GARY C. PETERS.
United States Senator.

DEBBIE STABENOW,
United States Senator.

[5] Letter from Ajit V. Pai, Chairman, Federal Communications Commission, to Vickie Robinson, Acting CEO and General Counsel, Universal Service Administrative Company (July II, 2017).

[6] Government Accountability Office, *supra* at p. 28.

August 18, 2017

Senator Gary C. Peters
United States Senate
Hart Senate Office Building, Suite 724
Washington, DC 20510

Senator Debbie Stabenow
United States Senate
Hart Senate Office Building, Suite 731
Washington, DC 20510

Dear Senator Peters and Senator Stabenow:

Thank you for your July 19, 2017 letter concerning the Universal Service Fund's (USF) Lifeline program and the related report issued by the Government Accountability Office (GAO). The Universal Service Administrative Company (USAC) is dedicated to the important work of ensuring access to vital communications and broadband services while combatting waste, fraud, and abuse in the USF programs. We welcome your questions and interest in the Lifeline program.

USAC has been working diligently on the development and launch of the National Lifeline Eligibility Verifier (National Verifier), which will remove verification of subscriber eligibility from the service providers and place it in USAC's control as the neutral administrator. As detailed in our response below, we are working with the Federal Communications Commission (FCC or Commission) to announce the initial five states to be rolled into the National Verifier at the end of this year. The National Verifier will be a vital tool in helping to ensure program integrity. In addition, USAC has continued to take a multi-pronged approach to strengthening Lifeline program integrity and increasing compliance. Specifically, USAC has continued to improve the National Lifeline Accountability Database (NLAD) by refining its processes, adding additional data collection to support investigations into non-compliance, and increasing the use of data for analysis and detection of potentially improper actions. In response to Chairman Pai's July 11, 2017 letter, USAC also developed a detailed plan to study the results issued by the GAO and are working to implement immediate changes. In addition to these internal improvements, USAC has been working to develop a deeper partnership with the FCC to improve communications and transparency, including better coordination on referring possible non-compliance to the appropriate offices or bureaus of the FCC for further investigation and enforcement.

Below are USAC's responses to your specific questions. This letter details how we are working to measure compliance and enforcement mechanisms, ensure Lifeline service providers and agents are aware of available state and federal databases, develop and implement the National Verifier, and respond to the GAO's findings and recommendations. We look forward to continued discussions with you on these issues.

1. *How do FCC and USAC measure the effectiveness of the various compliance and enforcement mechanisms that have been developed to improve oversight of Lifeline providers and sales agents?*

USAC's Lifeline Program team, Internal Audit Division (IAD) and Compliance and Risk group in the Office of General Counsel (OGC) have staff focused on monitoring Lifeline service provider compliance with the FCC's rules and requirements. Pursuant to the FCC's rules, Lifeline eligible telecommunications carriers (ETCs) may only claim Lifeline support for eligible subscribers.[1] In addition, Lifeline ETCs are required to enter each potential subscriber into the NLAD before claiming the subscriber for reimbursement in order to ensure the individual is not already receiving service.[2] The FCC's rules also require ETCs to retain all documents they relied upon to verify a subscriber's eligibility, which USAC and the FCC review through audits and other checks to ensure compliance.[3]

Lifeline Program Team

The Lifeline Program team generates monthly operational metrics (discussed below) that are used to identify possible non-compliance with program rules by Lifeline ETCs. Among other efforts and developments, USAC would like to highlight three key metrics used by the Lifeline Program team to measure effectiveness of compliance and enforcement mechanisms.

Variance Between FCC Form 497 and NLAD Subscriber Numbers: ETCs must enroll all subscribers into the NLAD system and request reimbursement for Lifeline support for eligible subscribers using the FCC Form 497. Generally, the number of subscribers in the NLAD and the number of subscribers listed on the FCC Form 497 should be approximately the same; however, the Lifeline Program team has identified variances between these numbers in some cases. As such, the team monitors the variances and then prioritizes such Lifeline ETCs with reporting discrepancies for appropriate follow up individually. From January through June 2017, USAC resolved issues with approximately 30 Lifeline ETCs who claimed more subscribers on the FCC Form 497 than were enrolled in the NLAD.

Effective with the January 2018 data month (February 2018 disbursements), all Lifeline program reimbursement claims will be calculated based on the subscribers recorded in the NLAD, eliminating the FCC Form 497, and therefore eliminating the risk of this variance. Beginning in September 2017, and until the FCC Form 497 is eliminated, USAC will reject any FCC Form 497 that is filed with subscriber counts in excess of the NLAD. Upon elimination of the FCC Form 497, USAC will continue to monitor activity in the NLAD to address any unusual trends in reimbursements.

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[1] 47 C.F.R. § 54.407(a).
[2] 47 C.F.R. § 54.404(b).
[3] 47 C.F.R. § 54.417.

Number of Manual Disputes Submitted to NLAD: The FCC requires that all subscribers be entered into the NLAD to verify identity and address information as well as perform duplicate checking. Since the NLAD's automated processes cannot verify all subscriber identities or addresses, a dispute resolution process allows subscribers to prove their identities or addresses through a manual review of documentation.[4] The manual review of documentation is currently conducted by Lifeline ETCs, but will transition to the National Verifier. The Lifeline Program team reviews the percent of enrolled Lifeline subscribers requiring manual review of documentation, including analyzing the data to detect unusual trends or anomalies that might indicate non-compliant behavior by the Lifeline ETCs. Although these manual disputes are permissible under the FCC's rules, they do introduce risk to the program and must be monitored closely. When USAC detects unusual trends or anomalies, it takes corrective action, as appropriate, such as: reaching out to the Lifeline ETC for an explanation; notifying the FCC to collaborate on possible next steps, such as a targeted audit of a Lifeline ETC; or referring the matter to the FCC's Office of Inspector General (OIG) or Enforcement Bureau (EB). In addition to monitoring these metrics, USAC will begin requesting documentation from ETCs that shows they reviewed eligibility documentation for manual disputes in compliance with the FCC's rules starting in the third quarter of 2017.

[redacted]

In addition to these processes, USAC has also identified ETCs who have used the system for unauthorized purposes. [redacted] USAC was able to identify an ETC that had obtained a list of consumers from a particular eligibility program and was using the NLAD to look each consumer up for marketing purposes. This was a clear violation of the NLAD terms and conditions, which prohibit using the database for any purpose beyond those set forth in the FCC rules, as well as a violation of the consumers' privacy, and USAC worked with the FCC to follow up appropriately.

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[4] *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6749, para. 217 (2012).

Sales Agent Tracking Process: In addition to the three metrics discussed above, USAC's Lifeline Program team is implementing a sales agent tracking process in its database systems. Beginning with the launch of the National Verifier in five states in December 2017, sales agent activity will be tracked with each transaction. In addition, USAC will build functionality to collect information on sales agents and employees who interact with Lifeline subscribers and perform enrollment and transfer functions within the NLAD. This functionality, at a minimum, will have the following attributes: (1) ability to generate a unique identifier that is linked to the service provider identification number (SPIN) and study area code (SAC) combination; (2) [redacted]; (3) lockout agents who perform too many invalid enrollment attempts; and (4) [redacted]

Internal Audit Division

USAC's IAD also plays an important role in monitoring the effectiveness of compliance for Lifeline ETCs and has recently enhanced its audit processes to improve and better address high-risk compliance areas. IAD is responsible for conducting in-depth audits of Lifeline ETC compliance with the rules. Specifically, IAD, in consultation with the FCC's Office of Managing Director (OMD) and Wireline Competition Bureau (WCB), jointly developed a new audit program that is designed to focus audit resources on USF participants with the highest risk of non-compliance with FCC rules. Starting with the Fiscal Year 2016 audit plan, the audit plans are now "risk-based" and centered on the following key principles: (1) detect and deter noncompliance; (2) promote and enhance compliance; (3) reduce burden on lower risk ETCs; and (4) advance the audit selection process and procedures. Because USAC IAD's audit methodology recently shifted from a random to risk-based approach, there is insufficient data to provide an accurate conclusion or make inferences at this time regarding the success of the risk-based audit plan. However, IAD will continue to analyze the results of the risk-based audits to further clarify the approach and ensure the audit plan provides the greatest value and oversight of the USF.

In addition to audits, IAD performs assessments through its Payment Quality Assurance (PQA) reviews to assist the FCC in meeting its federal reporting obligations.[5] In conjunction with OMD, IAD's PQA team develops procedures and performs payment verification on a statistically valid sample of selected Lifeline ETCs to determine if these payments were made in accordance with FCC rules. IAD uses the results of these assessments to calculate estimated improper payment rates and provides this information to the FCC. Unlike the risk-based audits, PQA does not measure the effectiveness of reviews based on the outcomes of the ETCs selected for review, but rather measures its effectiveness based on the operational impact on USAC and

[5] *See* Improper Payments Elimination and Recovery Act of 2010, Pub. L. No. 111-204, 124 Stat. 2224, as amended by the Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112-248, 126 Stat. 2390 (Jan. 10, 2013).

its stakeholders. Further details regarding IAD's audit functions and efforts are set forth below in response to question 4.

In addition, in 2016, USAC established its "circle of life" initiative. This initiative was designed to provide feedback to USAC and external stakeholders about audit results in an attempt to reduce non-compliance. Through this initiative, IAD provides USAC Financial Operations and Lifeline Program teams with detailed information on the findings identified during audits and PQA assessments, and those teams use this information to prepare action plans designed to reduce future instances of those findings thus improving program integrity and success. USAC's Office of General Counsel tracks the progress of these action plans and reports this information to the FCC on an annual basis.

Compliance and Risk Group

Finally, USAC's Compliance and Risk group works to facilitate risk discussions and coordinate enforcement actions with all divisions of USAC. Among other things, this team manages the circle of life initiative, works with program teams, including Lifeline, to develop corrective actions plans, and manages whistleblower reports and referrals. This work is integral to our efforts to track compliance and enforcement and track our effectiveness in ensuring compliance and facilitating enforcement in our role as the USF administrator.

a. *What training and guidance on the Lifeline program is offered to or required for ETCs and sales agents?*

USAC provides various voluntary training opportunities to Lifeline ETCs, as well as numerous outreach efforts. These trainings and outreach efforts are used primarily to remind providers of existing processes, educate providers about new or changing processes, and highlight how to avoid common mistakes or errors made by providers in the Lifeline program. These training efforts include: (1) monthly webinars; (2) regular newsletters; (3) website updates including common audit findings; and (4) user guides for the NLAD and other Lifeline systems.

b. *Has FCC instituted criteria and timelines for evaluating individual ETC compliance plans?*

It is USAC's understanding that the FCC will respond separately to this question.

c. *What is the extent of FCC and USAC's oversight of third-party entities contracted by ETCs to determine program eligibility?*

Regarding USAC's oversight of third-party entities contracted by ETCs, IAD includes the review of a sample of subscribers in its audits and PQA assessments and requires ETCs to provide copies of the documentation obtained by either the ETC or their third-party contractors to determine the selected subscribers' eligibility for the Lifeline program. IAD examines this

documentation to determine whether the ETC or its third-party contractor properly determined the selected subscribers' eligibility for the Lifeline program in compliance with FCC rules. If IAD identifies any situation where the subscribers' eligibility was not properly determined, an audit finding is issued with a recommended recovery for each of the subscribers and a requirement that the ETC de-enroll the subscribers from the Lifeline program. If significant anomalies or non-compliance are identified during the audit or PQA, IAD works with USAC's OGC to refer these findings to the FCC's OIG and EB.

[redacted] USAC will add additional technical functions to the NLAD, which will allow USAC to identify and track data entries by sales agents, including third-party contractors. Once the data is entered into the NLAD, [redacted] If IAD identifies any situations where the subscribers' eligibility was not properly determined, an audit finding will be issued with a recommended recovery for each of the subscribers and a requirement that the ETC de-enroll these subscribers from the Lifeline program. Further, if significant anomalies or non-compliance are identified, IAD will work with USAC's OGC to refer such matters to the FCC's OIG and EB.

d. *How many times has FCC determined that an ETC is no longer qualified to provide Lifeline benefits, and what is the process for making this determination?*

It is USAC's understanding that the FCC will respond separately to this question.

2. *What steps are being taken to ensure that ETCs and subcontractors are aware of the federal and state databases and other information available to them in order to determine program eligibility?*

USAC is not aware of any federal databases that are currently accessible to ETCs for purposes of determining subscriber eligibility for the Lifeline program. Regarding state databases, USAC is leveraging the relationships it has built through efforts to establish the National Verifier to work with state agencies to compile a comprehensive list of those databases available to Lifeline ETCs to verify Lifeline subscriber eligibility. By the end of September 2017, USAC will post a listing on its website that indicates whether a state has such a database, and what agency can be contacted for access to the database. USAC will also email Lifeline ETCs regarding the availability of this list and will send email reminders periodically to encourage ETCs' use of these databases as required under the FCC's rules. USAC will also work routinely with state agencies to keep the list updated until such time that the National Verifier is fully implemented nationwide.

3. *What is your projected timeline for testing and implementing the National Verifier system?*

The FCC directed USAC to implement the National Verifier in phases beginning in December 2017 through December 2019.[6] Pursuant to the *2016 Lifeline Modernization Order*, USAC is currently preparing for the initial launch of the system in at least five states in December 2017.[7] This will begin a "soft launch" period, during which the system is available but not required for use by Lifeline ETCs in those states. The soft launch allows ETCs time to ensure that their processes and systems are aligned with the National Verifier. USAC will also independently verify the eligibility of all existing subscribers enrolled in the Lifeline program in the applicable states during the soft launch. In March 2018, the soft launch period will close, and USAC will "hard launch" the system, making it required for use by all providers in the applicable states. Leading up to these launch dates, USAC is tracking against several key milestones to ensure a successful implementation. In the first half of this year, USAC conducted a series of feedback sessions with providers, state agencies, and consumers and consumer groups to solicit input for consideration in the processes and system design. By the end of August 2017, USAC and the FCC will announce the states included in the initial launch, as well as additional details on technical or process requirements, so that providers in those states may begin to prepare. In October 2017, USAC will begin training the users of the National Verifier on the processes and systems.

This initial launch offers USAC and the FCC the opportunity to learn what works well during implementation and where refinements to the project approach would benefit future launches. As a result, the specific timelines for 2018 and 2019 are not yet defined and will be informed by the completion of the first launch. The following website provides routine updates and access to various resources to stay abreast of National Verifier project information, including the National Verifier Plan (July 31, 2017 version), which provides a more detailed overview of the project: http://www.usac.org/li/tools/national-verifier/default.aspx.

a. *What are your projected costs?*

The initial launch of the National Verifier, through March 2018, is projected to cost approximately $21 million. This includes costs associated with the outsourced systems integrator procured to develop the National Verifier system, the business process outsourcing vendor that USAC is procuring to stand up the manual review, the call center processes that will support the National Verifier, and USAC employees. Although this predominantly reflects actual and anticipated build costs, this estimate includes a small portion of production processing during the soft launch period. Because the initial launch will inform future implementation

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[6] *Lifeline and Link Up Reform and Modernization, et al.,* WC Docket No. 11-42, *et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4020, para. 164 (2016) (*Lifeline Modernization Order*).
[7] *Id.*

decisions, the budget for 2018 and beyond is not yet finalized. However, a very high level estimate of potential costs is available in the National Verifier Plan, estimating total build costs over three years to be approximately $35 million and ongoing operational costs of $40 million per year. USAC believes this to be a conservative estimate, as it assumes that interfaces would be built to several federal databases as well as databases in all 56 states and territories, which may not be realistic or cost-effective, as described in our response below.

b. *What impediments, if any, have you encountered with state and local jurisdictions in acquiring the information you believe is necessary to implement the National Verifier system?*

USAC is pursuing computer matching agreements and related technical interfaces with both federal and state or territory agencies that administer Lifeline-qualifying programs. As an initial matter, it is not always cost-effective to develop a computer matching agreement and technical interface with each state agency. Given the nationwide verification available through potential federal interfaces, and the fact that lower subscribership in certain states could be more efficiently managed through manual verification, USAC is not expecting to pursue a connection to every state and territory. In addition, USAC has encountered resource prioritization or legal considerations while working with state or territory agencies. From a prioritization perspective, some agencies may not be able to provide access to their data due to resource constraints or due to technical constraints within their systems. From a legal perspective, states have different existing statutes defining what data they can share, and new legislation has been required in some cases to allow the National Verifier access to the data. Notwithstanding these challenges, USAC has signed computer matching agreements with four states and is actively working to complete agreements with several more.

c. *To what extent will the existing National Lifeline Accountability Database (NLAD) be utilized in the development and implementation of the National Verifier system?*

The functions of the NLAD, including identity and address verification, duplicate checking, and management of enrollment, de-enrollment, and transfer of a subscriber between Lifeline ETCs, continue to be critical to Lifeline program administration. The NLAD system, however, is not designed as a portal to intake new applications for Lifeline service, or to interface with other systems for automated eligibility verification, which are functions essential to the National Verifier framework. USAC's system design aims to retain the best features of the NLAD while building new eligibility checking functionality in the new National Verifier system. The two systems are designed to interface with one another to provide a comprehensive review of a potential subscriber to the Lifeline program. This integration balances increased costs to the program with the necessary development of eligibility verification systems to improve the integrity of the program. As it has done with the NLAD since its initial implementation, USAC will continue to review the NLAD and National Verifier systems on a continuous basis to make improvements to its efficiency and effectiveness.

4. *Chairman Pai's July 11, 2017, letter to USAC regarding the Lifeline program establishes a number of new USAC review and audit requirements. GAO's report, however, states that in at least one instance, USAC's routine audit functions have been constrained by "limited audit resources." Is USAC adequately resourced and staffed to conduct the review and audits of ETC and subscriber data outlined in the July 11 letter?*

In GAO's report on the Lifeline program, the GAO made reference to "limited audit resources."[8] In making this reference, USAC believes the GAO was referring specifically to USAC's IAD contributor revenue audits. Contributor revenue audits focus on entities that make contributions to the USF ("contributors") and assess whether these entities contributed the appropriate amount. Because Lifeline program disbursements are derived from USF contributions, the GAO included its findings concerning contributor revenue audits in its report. USAC clarifies that a separate IAD team is responsible for performing Lifeline audits.

Each year, USAC's IAD and the FCC's OMD and WCB meet to discuss the risk-based methodology used to select entities for audits as well as the appropriate count of Lifeline audits for the next fiscal year audit plan. This decision is driven by the level of other oversight activities related to the Lifeline program, including PQA assessments, Lifeline program management reviews, and biennial audits of Lifeline ETCs that receive $5 million or more annually in Lifeline program support as required by the Commission's rules. After IAD, OMD, and WCB determine the appropriate level of Lifeline audits and activity for the next fiscal year audit plan, IAD determines the number of auditors necessary to perform these audits. To the extent that IAD does not have the resources to internally perform these audits, IAD contracts with an external audit firm to conduct these audits on IAD's behalf. USAC will ensure that it has sufficient resources to conduct all audits, utilizing a mix of internal and external auditors as necessary in consultation with the Commission.

While IAD performs the audits identified in the FCC Chairman's letter, the Lifeline Program team will resolve the subscribers noted by GAO as requiring de-enrollment from the program as well as the ongoing monthly or quarterly sampling of subscriber records going forward. USAC's Lifeline Program team will work closely with the Commission to prioritize these activities, ensuring that existing resources are used effectively to get the most impact from the reviews performed.

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[8] Government Accountability Office, *Additional Action Needed to Address Significant Risks in FCC's Lifeline Program,* at p. 28 (May 2017).

Senators, I thank you for your leadership on these important issues. I look forward to continuing our work with members of Congress, the FCC, and other stakeholders to continue our collective efforts to improve the integrity of the Lifeline program and ensure that universal service supports the global digital economy.

Sincerely,

Vickie S. Robinson
Acting Chief Executive Officer and General Counsel
Universal Service Administrative Company

FEDERAL COMMUNICATIONS COMMISSION WASHINGTON
Washington, DC, August 21, 2017

Hon. GARY PETERS,
United States Senate,
Washington, DC.

Dear Senator Peters:

Thank you for your letter requesting information related to the recent Government Accountability Office (GAO) report identifying waste, fraud, and abuse in the Lifeline program.

I share your views on the overall importance of the Lifeline program. It's vital that low income Americans have access to communications services, including broadband Internet. My focus has been—and will continue to be so long as I have the privilege of serving as Chairman—doing everything within the Commission's power to close the digital divide. I also believe that it is critical to strengthen the Lifeline program's efficacy and integrity by respecting the states' role in the program, ensuring the program is fiscally responsible, and reducing waste, fraud, and abuse. Addressing these issues—especially those identified in the GAO report—would ensure the program is actually advancing the Commission's goal of ensuring low-income Americans have access to affordable communications service.

Below, please find the responses to the specific questions included in your letter.

1. How do FCC and USAC measure the effectiveness of the various compliance and enforcement mechanisms that have been developed to improve oversight of Lifeline providers and sales agents?

Response: To measure the effectiveness of existing compliance and enforcement mechanisms, on a monthly basis, USAC tracks program metrics, including the percentage of Lifeline subscribers enrolled through carrier manual review of eligibility or identity documentation,[1] the ratio of service provider name look-ups in the National Lifeline Accountability Database (NLAD) to actual NLAD enrollments, and the variance between the number of subscribers in NLAD and the number of subscribers for which service providers claim reimbursement on their FCC Forms 497.[2] USAC provides reports to FCC staff on these metrics on a quarterly basis. USAC, under the oversight of the FCC, then takes steps to address any waste, fraud, or abuse concerns indicated in the metrics and refer issues to the FCC's Enforcement Bureau and Office of Inspector General, when appropriate. USAC and the FCC also maintain whistleblower hotlines, and USAC refers any allegations of waste, fraud and abuse in the Lifeline program to the Enforcement Bureau and Office of Inspector General.

The FCC and USAC also use the results of USAC's Payment Quality Assurance (PQA) reviews and Beneficiary and Contributor Audit Program (BCAP) audits to measure the effectiveness of existing compliance and enforcement measures. USAC tracks common audit findings for Lifeline service provider audits, annually analyzes the root cause of each audit finding, and takes steps or makes recommendations to address the root causes. USAC provides FCC staff with a copy of the root cause analysis.

At the Commission's direction, USAC is currently implementing mechanisms by which to monitor and track the activity of individual sales agents to more quickly detect and address potential fraud or abuse.

a. What training and guidance on the Lifeline program is offered to or required for ETCs and sales agents'?

Response: USAC, overseen by FCC staff, provides guidance and training materials for service providers and their agents, including summaries of the Lifeline program rules and common audit findings on USAC's website, monthly webinars on Lifeline program rules, a quarterly Lifeline newsletter, and e-mail news briefs.[3] Service pro-

[1] As the National Verifier is rolled out, eligibility reviews will shift from carriers to the National Verifier.

[2] Beginning with the January 2018 data period (for Lifeline support payments to be issued in February 2018), USAC, under the oversight of the FCC, will disburse Lifeline support to service providers based on the number of subscribers enrolled in NLAD instead of issuing disbursements based on the FCC Form 497.

[3] *See, e.g.,* Program Requirements, *http://www.usac.org/li/program-requirements/default.aspx* (last visited July 31, 2017); Rules and Orders, *https://usac.org/li/tools/rules-orders/2015-lifeline-order.aspx* (last visited July 31, 2017); Common Audit Findings: Lifeline Program, *http://usac.org/about/about/program-integrity/findings/common-audit-li.aspx* (last visited July 31, 2017); Lifeline Program Update Webinars, *http://www.usac.org/li/about/outreach/*

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viders and their agents can subscribe to a Rich Site Summary (RSS) feed to receive the latest news from USAC concerning the Lifeline program, including information on new FCC orders or guidance, program deadlines, and upcoming webinars.[4] USAC also conducts regular service provider outreach to identify areas where additional guidance or training is needed. In addition, service providers and their agents can directly contact USAC and FCC staff with questions about specific Lifeline program rules or requirements.

The FCC's audit plan for Lifeline service providers that must obtain third party biennial audits requires an examination of the service providers' training for employees and agents concerning the Lifeline eligibility rules.[5] In addition, when the FCC enters into consent decrees with Lifeline service providers to resolve violations of the Lifeline program rules, the consent decrees typically require service providers to develop and distribute Lifeline compliance manuals and establish and implement Lifeline compliance training for employees and third-party employees covered under the consent decree.[6]

b. Has FCC instituted criteria and timelines for evaluating individual ETC compliance plans?

Response: The Wireline Competition Bureau conducts reviews of non-facilities-based providers' proposed compliance plans to participate in the Lifeline program as a way of seeking to prevent improper payments from non-facilities based providers.. These reviews focus on a number of factors, including the service provider's proposed Lifeline offerings, internal procedures, service history, past compliance with Commission rules, and financial and technical ability to provide Lifeline service in compliance with Lifeline program rules.[7] The FCC has not established a specific time-frame for completing reviews of Lifeline compliance plans.[8]

c. What is the extent of FCC and USAC's oversight of third-party entities contracted by ETCs to determine program eligibility?

Response: The Commission has made clear that Lifeline service providers are liable for any conduct by their employees, agents, contractors, or representatives (acting within the scope of their employment) that violates the Lifeline program rules.[9] In addition, the Enforcement Bureau has taken action against Lifeline service providers for rule violations committed by sales agents.[10] As noted above, at the FCC's direction, USAC is currently implementing mechanisms by which to directly monitor and track the activity of individual sales agents to more quickly detect and address potential fraud or abuse.

d. How many times has FCC determined that an ETC is no longer qualified to provide Lifeline benefits, and what is the process for making this determination?

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training/lifeline-program-update-webinars.aspx (last visited July 31, 2017); Newsletter, *http://www.usac.org/li/about/outreach/newsletters/default.aspx* (last visited July 31, 2017).

[4] *See* Subscription Center, *https://usac.org/about/tools/publications/subscription-center.aspx* (last visited July 31, 2017).

[5] *See Wireline Competition Bureau Announces Release of Final Lifeline Biennial Audit Plan,* Public Notice, 29 FCC Rcd 3568,3602, Attachment 3, Biennial Audit Plan (WCB 2014). *See also* 47 CFR § 54.420(a) (requiring companies receiving $5 million or more in Lifeline reimbursements annually in the aggregate, on a holding company basis, to obtain third party biennial audits).

[6] *See, e.g.,* Blue Jay Wireless. LLC, Consent Decree, 31 FCC Red 7605, 7610–11, para, 20 (EB 2016); *YourTel America, Inc..* Consent Decree. 28 FCC Reel 1539, 1545–46, para. 14 (EB 2013); *TerraCom, Inc.,* Consent Decree, 28 FCC Reel 1529, I533–34, para. 14 (EB 2013).

[7] *See 2012 Lifeline Reform Order, 27* FCC Reel at 6816–6817, paras. 379–8 I (20 I 2); *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order,* Public Notice, 27 FCC Reel at 2188 (WCB 20 12).

[8] The Commission requires non-facilities-based service providers to submit compliance plans for the Wireline Competition Bureau's review and approval before they can receive Lifeline support. *See Lifeline and Link Up Reform and Modernization et al.,* Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Reel 6656, 6813–6814, 6816–6817, paras 386–369, 379–381 (2012) (*2012 Lifeline Reform Order); Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order,* Public Notice, 27 FCC Red 2186, 2187 (WCB 20 12).

[9] *See, e.g., 2012 Lifeline Reform Order,* 27 FCC Rcd at 6709, para. 110 ("ETCs may permit agents or representatives to review documentation of consumer program eligibility for Lifeline. However, the ETC remains liable for ensuring the agent or representative's compliance with the Lifeline program rules."); *Lifeline Providers are Liable if Their Agents or Representatives Violate the FCC's Lifeline Program Rules,* Public Notice, 28 FCC Rcd 9022, 9022, para. 1 (EB 2013) ("The FCC's Enforcement Bureau reminds Eligible Telecommunications Carriers (ETCs) receiving federal universal service support from the Lifeline program that they are liable for any conduct by their agents, contractors, or representatives (acting within the scope of their employment) that violates the FCC's Lifeline rules.").

[10] *See generally Total Call NAL* 31 FCC Rcd 4191.

Response: The Commission has terminated or denied the participation of two service providers that the FCC determined to be unqualified to participate in the Lifeline program. In December 2016. following an Enforcement Bureau investigation of Total Call Mobile, Inc. (Total Call) for violation of Lifeline program rules, Total Call agreed via a consent decree to cease participating in the Lifeline program, relinquish all of its ETC designations, and withdraw its pending ETC designation applications.[11] In October 2015, the Commission prohibited Icon Telecom, Inc. (Icon) from participating in the Lifeline program for a three-year period. after Icon was convicted of making a false statement in violation of Federal law in connection with fraudulent claims involving the Lifeline program.[12]

Enforcement Process

The FCC's Enforcement Bureau may open an investigation upon receiving timely information about actionable Lifeline rule violations and gathers additional information through a Letter of Inquiry (LOI).[13] If the Enforcement Bureau determines that violations of applicable statutes and FCC rules have occurred, the Enforcement Bureau may take enforcement actions that include issuing a Notice of Apparent Liability for Forfeiture (NAL), which identifies the apparent violations and proposes penalties, including monetary penalties.[14] or resolving the investigation through a settlement agreement in a consent decree. If an NAL is issued, the service provider has an opportunity to respond to the allegations in the NAL.[15] If the service provider does not pay the penalty or demonstrate that a forfeiture penalty should not be imposed, the Enforcement Bureau issues a forfeiture order.[16] If the violations are instead resolved through a consent decree the service provider may be required to return improperly claimed reimbursements to the Universal Service Fund, make an appropriate financial contribution to the U.S. Treasury, and adhere to a compliance plan to prevent the recurrence of the rule violations.[17]

Suspension and Debarment Process

The Commission may suspend and debar persons [18] from participating in the Lifeline upon a criminal conviction of, or civil judgment for fraud against a USF program, including the Lifeline program.[19] When cause exists for suspension and debarment, the FCC suspends that person and begins a proceeding to debar the person from future participation in the USF program, including providing thirty (30) days in which to respond to the suspension and proposed debarment.[20] Within ninety (90) days of the response date, the Commission may issue a notice of debarment to the service provider.[21] The debarment period is generally three years, but the Commission can set a longer period of debarment if necessary to protect the public interest.[22]

Compliance Plan Review Process

To promote program integrity, the Wireline Competition Bureau conducts a thorough review of compliance plans submitted by non-facilities-based ETCs. If the ETC fails to provide the required information,[23] the Wireline Competition Bureau notifies

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[11] *See Total Call Mobile, Inc.*. Consent Decree, 31 FCC Rcd 13204, 13214, para. 27 (EB 2016). The Consent Decree resolved the Notice of Apparent Liability concerning Total Call's violation of Lifeline program rules by enrolling duplicate and ineligible subscribers. *See Total Call NAL,* 31 FCC Rcd at 4211–13, paras. 74–83.

[12] *See* Letter from Jeffrey Gee, Chief Investigations and Hearings Division, Enforcement Bureau, to Wes Yui Chew, President Icon Telecom, Inc.. 30 FCC Rcd 10939 (EB 2015).

[13] Enforcement Primer, *https://www.fcc.gov.general/enforcement-primer* (last visited July 31, 2017).

[14] *See id. See also* 47 U.S.C. § 503(b)(1)(B): 47 CFR § 1.80(a)(1), (f).

[15] *See* 47 U.S.C. § 503(b)(4); 47 CFR § 1.80(f)(3): Enforcement Primer *https://www.fcc.gov/general/enforcement-primer* (last visited July 31, 2017).

[16] *See* 47 CFR § 1.80(f)(4); Enforcement Primer, *https://www.fcc.gov/general/enforcement-primer* (last visited July 31, 2017).

[17] *See* Enforcement Primer, *https://www.fcc.gov/general/enforcement-primer* (last visited July 31, 2017).

[18] The FCC's debarment rules define a "person" as "[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized." 47 CFR § 54.8(a)(6).

[19] *See* 47 CFR § 54.8(c).

[20] *See* 47 CFR § 54.8(e)(1), (3).

[21] *See* 47 CFR § 54.8(e)(5).

[22] *See* 47 CFR § 54.8(g).

[23] *See 2012 Lifeline Reform Order,* 27 FCC Rcd at 6816–17, paras. 379–81; *Wireline Competition Bureau Provides Guidance/or the Submission of Compliance Plans Pursuant to the Lifeline Reform Order,* Public Notice, 27 FCC Rcd at 2188 (WCB *20* 12).

the ETC and the ETC has an opportunity to submit a revised compliance plan.[24] The Wireline Competition Bureau may issue an order denying the compliance plan if the ETC fails to respond to an inquiry to the Wireline Competition Bureau's satisfaction or otherwise fails to demonstrate that it has met the requirements for compliance plan approval established in the *2012 Lifeline Order.*[25] In addition to the information required in the compliance plan, information from the FCC's Enforcement Bureau, Office of Inspector General, or state commissions concerning the service provider may also inform the Wireline Competition Bureau's decision on a compliance plan.[26] In the event the Wireline Competition Bureau denies a compliance plan, the ETC cannot receive Lifeline support as a non-facilities-based provider.[27]

2. What steps are being taken to ensure that ETCs and subcontractors are aware of the Federal and state databases and other information available to them in order to determine program eligibility?

Response: USAC, under the oversight of the FCC's Wireline Competition Bureau and Office of Managing Director, is developing a comprehensive list of available state and Federal eligibility databases that service providers must check while the National Verifier is still being implemented. This list will be posted on USAC's website, and USAC will update this list every six months and regularly e-mail the list to service providers.

As the National Verifier is rolled out, starting with five states in December 2017, eligibility determinations will shift from service providers to the National Verifier.

3. What is your projected timeline for testing and implementing the National Verifier System?

Response: The technical build of the National Verifier is already underway, and the initial system launch in at least five states will occur in December 2017.[28] Testing will occur throughout the build process. From December 2017 through February 2018, service providers in the initial states will be able to test the system and transition to the National Verifier.[29] During this period. USAC will be verifying the eligibility of all existing subscribers in these states as they are migrated to the National Verifier. By March 2018, all enrollments and recertifications in the initial states will be conducted by the National Verifier.[30] The National Verifier will be expanded to at least 25 states by the end of 2018, and in all remaining states and territories by December 31, 2019.[31]

(a) What are your projected costs?

Response: Through March 2018 (the initial launch), the projected costs associated with implementing National Verifier are $21 million. This total includes the costs associated with the development of the core system (consumer and service provider application portals), Federal and state interface implementation for the initial launch, user support (including training, standup, and operation of a call center), compensation and benefits of all full-time USAC staff dedicated to implementing and managing the National Verifier, and three months of operations of the National Verifier during the soft launch period.

(b) What impediments, if any, have you encountered with state and local jurisdictions in acquiring the information you believe is necessary to implement the National Verifier system?

Response: USAC, overseen by Commission staff, has been coordinating extensively with states to obtain the information necessary to implement the National Verifier. The process of reaching a computer matching agreement varies depending on the state. Some states have required legislative changes prior to being able to share data with USAC, while others have complex procurement processes that USAC

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[24] *See 2012 Lifeline Reform Order,* 27 FCC Rcd at 6816, para. 380, n.1000.

[25] *See id.; Conexions Compliance Plan Order.* 29 FCC Rcd at 14430–32, paras. 8–11.

[26] *See 2012 Lifeline Reform Order,* 27 FCC Rcd at 6818, para. 388.

[27] *See id.* 27 FCC Rcd at 6816, para. 380: *Conexions Compliance Plan Order,* 29 FCC Rcd at 14432, para. 12.

[28] *See* Lifeline Program Update, National Verifier Updates at 11 (May 27, 2017), *http:www.lifelinesupport.org_res/documents/li/training/2017/May-Lifeline-Program-Update-Webinar.pdf;* Lifeline National Verifier Plan, at 23 (as updated July 31, 2017), *http://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf.*

[29] *See* Lifeline National Verifier Plan, at 104 (as updated July 31, 2017), *http://usac.org_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf; See* Lifeline Program Update, National Verifier Updates at 11 (May 27, 2017), *http://www.lifelinesupport.org_res/documents/li/training/2017/May-Lifeline-Program-Update-Webinar.pdf.*

[30] *See* Lifeline Program Update. National Verifier Updates at 12 (May 27, 2017), *http://www.lifelinessupport.org/_res/documents/li/training/2017-May-Lifeline-Program-Update-Webinar.pdf.*

[31] *See* Lifeline National Verifier Plan, at 23 (as updated July 31, 2017), *http://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf.*

must navigate. Some state agencies are unable to provide access to their data due to technical challenges, such as a lack of resources necessary to make system modifications.

We note that while the goal is to automate eligibility verifications as much as possible, it may not be cost-effective to build a connection to all state databases. especially if the National Verifier has automated connections to Federal databases.[32]

(c) To what extent will the existing National Lifeline Accountability Database (NLAD) be utilized in the development and implementation of the National Verifier system?

The National Lifeline Accountability Database (NLAD) will be fully integrated into the National Verifier. NLAD will continue to perform identity, address, and duplicate checks for Lifeline subscribers.[33] NLAD will also continue to serve as the official record of enrolled Lifeline subscribers, and service providers will still be required to update subscriber information in NLAD (*e.g.,* address changes, service provider changes, de enrollments).[34] The NLAD will produce monthly reports of each service provider's Lifeline subscribers and service providers will certify and request reimbursement based on that list instead of the program's current practice of reimbursing service providers based on their FCC Form 497 submissions.[35]

4. Chairman Pai's July 11, 2017, letter to USAC regarding the Lifeline program establishes a number of new USAC review and audit requirements.[36] GAO's report, however, states that in at least one instance, USAC's routine audit functions have been constrained by "limited audit resources."[37] Is USAC adequately resourced and staffed to conduct the reviews and audits of ETC and subscriber data outlined in the July 11 letter?

Response: USAC is adequately resourced and staffed to conduct the reviews and audits of ETC and subscriber data outlined in my July 11, 2017 letter to USAC. In addition, FCC staff continues to coordinate with USAC to prioritize and strengthen efficiencies in conducting audits and reviews.

I further note that USAC's routine audit functions for the Lifeline program are not constrained by "limited resources." In Fiscal Years 2014 through 2016, USAC and external auditors overseen by USAC completed 94 Beneficiary and Contributor Audit Program (BCAP) audits of Lifeline service providers, and in Fiscal Years 2015 and 2016 USAC completed 600 Payment Quality Assurance (PQA) reviews of Lifeline service providers.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

AJIT V. PAI

T.S. Senator, good to hear from you. Please feel free to get in touch about any FCC-related matters of interest to you and/or Michiganders—or to talk Harleys in the U.P.

The CHAIRMAN. Thank you, Senator Peters.

Senator Blumenthal is up next.

STATEMENT OF HON. RICHARD BLUMENTHAL, U.S. SENATOR FROM CONNECTICUT

Senator BLUMENTHAL. Thank you, Mr. Chairman, and thank you for holding this hearing. Thank you to all the witnesses for being here today.

All of us are watching with horror and heartbreak the recovery in the Gulf Coast from Harvey and the potential for another similar natural disaster striking Florida or the same region. And all of us are aware of how these natural disasters disproportionately affect people who are in poverty. In particular, it will be very difficult

[32] *See id.* at 31.
[33] *See id* at 12, 20.
[34] *See id.* at 19, 20.
[35] *See id.* at 19, 20, 49–50.
[36] Letter from Ajit V. Pai. Chairman. Federal Communications Commission, to Vickie Robinson, Acting CEO and General Counsel, Universal Service Administrative Company (July 11, 2017).
[37] Government Accountability Office, *supra* at p. 28.

for Houston's lower income population, and I'm told that nearly 30 percent of residents in that city are below the poverty level, to get back on their feet.

And I noted, Ms. González, particularly that you focused on this issue. You said in your testimony, I'm quoting, "The evidence is clear, poor people are disproportionately impacted by natural disasters," end quote. I take it also that poor people are particularly in need of Lifeline in the wake of these natural disasters. Would you agree?

Ms. GONZÁLEZ. I would agree. And, in fact, after Hurricane Katrina, we saw the FCC and folks on the Hill here really coming together to think creatively about how to get service to folks who were displaced by the hurricane. And that was the reason for the transition of the program that was at that time landline only to provide wireless services, understanding that people are displaced by natural disasters, but that poor people generally are on the move.

Senator BLUMENTHAL. And what would be the effect of budget restrictions or caps on the recovery in the Gulf Coast or any other natural disaster similar to it?

Ms. GONZÁLEZ. Well, I'm not an economist, but I have a moral objection to a cap. If we're really trying to reach the hardest-to-reach people—and I spent years doing this in California—we can't put an arbitrary, artificial limit. If there are folks who need access, we need to make sure that we're not standing in the way.

Senator BLUMENTHAL. All of us are in favor—I mean, I can't say all of us because there are always people who disagree, but I don't know anyone who's in favor of waste, fraud, and abuse. But this program seems to offer a real lifeline to folks who are in the midst of natural disasters, which can strike people even when there isn't a major weather event, even without hurricanes or tornadoes or earthquakes, and those earthquakes may be financial in nature, like health care issues, which are the most frequent cause of bankruptcy in the United States.

So as much as I personally, and I think many members of the Committee favor efforts to root out waste, fraud, and abuse, at the same time, it seems to me that budget restrictions, and most particularly caps, are an arbitrary and capricious way to root out fraud or waste or abuse.

Maybe, Mr. Nelson, I can ask you because you were very pointed in your focus on waste, fraud, and abuse in your testimony, how you feel about those caps or budget restrictions.

Mr. NELSON. You know, I have no problem with a budgetary cap. As a matter of fact, I think it's a good idea. But here's my observation: Given the level of waste and abuse that the GAO report found, if that is truly the level that we're involved in here, and with the advent of the National Verifier, if that can be eliminated, this program will have more than enough dollars to serve those that are applying for it. And so I think both of those things can work together.

Senator BLUMENTHAL. Would you be willing to wait in imposing a cap until we know what the results of the National Verifier is?

Mr. NELSON. I wouldn't because, at this point, I think we're far enough below the budgetary level that's been talked about of like

$2.2 billion, that I think it's still going to work even if we put a cap in today.

Senator BLUMENTHAL. Do other members of the Committee have any view—any other witnesses have any view on that topic?

Dr. EISENACH. Just very briefly, I think it's important to realize that this program is paid for by communications consumers. So every dollar that gets passed through shows up on somebody's phone bill. So I think it is appropriate for policymakers to make a decision about the balance between the increased taxes paid by communications consumers, including low-income communications consumers, and the amount of the benefit and the effectiveness of the benefit that's going to the beneficiaries of the program.

Senator BLUMENTHAL. Thank you. My time is expired, but again my thanks for being here.

The CHAIRMAN. Thank you, Senator Blumenthal.

Senator Duckworth.

STATEMENT OF HON. TAMMY DUCKWORTH, U.S. SENATOR FROM ILLINOIS

Senator DUCKWORTH. Thank you, Mr. Chairman.

I do want to thank the chair and ranking member for convening today's very important hearing. And thank you to the witnesses for coming.

I've made making sure every hard-earned taxpayer dollar being used appropriately in the most effective and efficient manner a cornerstone of my service, especially with Federal procurement reform, which is why I'm especially concerned about the waste that's happening within this program. And while I do understand how valuable Lifeline is for thousands of Illinois families who play by the rules and rely on the program to access services that many of us take for granted, I am concerned about the fraud and the abuse.

So I am deeply troubled by the abuse that GAO uncovered in 2014. And I do agree with Mr. Nelson that we have to figure out how to separate out those who legitimately need this program and those who are gaming the system and taking advantage of it.

I do recognize that the FCC is already working to improve the program integrity through enhanced oversight. But clearly we can do more to strengthen Lifeline to make every dollar invested in this critical service—to make sure that it reaches those who need it.

Ms. González, you've already touched on this a little bit, but I'm sure you would agree that as we work to improve the Lifeline program, it's important to establish proper context as we develop performance metrics. As you know, the FCC calculates the Lifeline program's improper payment rate, which has ranged from 2.93 percent, just under 3 percent, in 2016, to .32 percent in 2017. And my understanding is that this compares favorably to the annual improper payment rates across Federal Government, which in recent years has hovered between 4 and 5 percent. Now, that is still astonishingly a large amount of taxpayer dollars that is being wasted, but in comparison, it is actually doing OK, relatively well. While wasteful spending is absolutely not acceptable at any level, it does appear that Lifeline program's improper payment rate is actually lower than the governmentwide average. Is this a correct statement?

Ms. GONZÁLEZ. That is correct. I'd also like to just put in context the GAO report a bit for you, Senator. Much of the data was gathered before the reforms. While the 2012 reforms were being put in place, and before the 2016 reforms have gone into effect. The GAO report itself states that it believes the National Verifier could solve many of the problems that it addressed in the report.

I also just want to touch on the fact that failure of the GAO to verify Lifeline user eligibility does not mean that those people were in fact ineligible. The GAO only examined three of the programs that people can use to prove their eligibility. It said that the data gathered was non-generalizable, from a non-generalizable selection of states. It also explains that states collect and maintain their own Medicaid data, which can take up to 3 years to verify. And so beneficiaries can be excluded or included retroactively. And the GAO report also notes that the consistency, quality, and completeness of that data can vary from state to state. And so while those findings were very disturbing at face value, when you look at the methodology of how you were—they were collected, you can see that they're not terribly relevant to Lifeline's future.

Senator DUCKWORTH. So the improper payment rates that I just quoted for 2016 actually are after the Verifier—sorry—the National Verifier System had begun to be implemented. Is that correct or—I guess my question is, Is it fair to assume that Lifeline program's improper payment rate will drop after the National Verifier System is fully implemented?

Ms. GONZÁLEZ. I think that's fair because the Verifier will not go into effect until December of this year. And so the drop that we see—or, you know, we're not sure whether 2016—you know, whether 2016 was an outlier or what's going on there with that number that's higher than a .45 percent from 2015 and similar rate for 2014. But what we are seeing there is that the rate is already lower than the average for government programs, and the National Verifier hasn't even taken hold yet.

Senator DUCKWORTH. OK. Sorry, I keep doing—I'm approaching 50, and I'm sort of trying to learn to use bifocals, and I'm not very good at it. So they just make me dizzy.

[Laughter.]

[Voice.]

Senator DUCKWORTH. OK, you, too.

[Laughter.]

Senator DUCKWORTH. Exactly.

According to the 2015 National Lifeline Accountability Database, Illinois had over 1.4 million program-eligible individuals, but only 36 percent subscribed, which amounts to about 500,000–522,000 subscribers. Similarly, 936,000 Illinois households do not have Internet access, of which 423, so over half, are eligible for the Lifeline program. I am incredibly concerned about this disparity.

And, Ms. González, you know, I believe that as a nation, we must prioritize delivering high-speed Internet to all families in the 21st century just as we delivered electricity to all in the 20th century.

I spent August traveling throughout Illinois. People don't know that far southern Illinois is further south than Richmond, Virginia. And when I go across, especially into the rural parts of Illinois, I have children who can't do their homework because they don't have

access to broadband. They can't do their homework. So how do they keep up and remain competitive?

And for me, it's unacceptable that nearly 60 percent of Americans making less than $20,000 a year lack access to broadband. Many of those are farming families across my state. Moving forward, what would be your top three recommendations to the FCC on how they can continue to improve and modernize Lifeline to make sure that this program helps us achieve the goal of universal access to broadband, but also still keeping in mind that we need to reduce the fraud and waste rate?

Ms. GONZÁLEZ. Thanks for the question, Senator. I think there's one big thing that the FCC can do right away, because the Lifeline broadband implementation that was supposed to take place pursuant to the 2016 order has largely been stalled by the FCC's actions in February of this year to revoke the designations of nine Lifeline broadband providers, including one in Illinois owned by an African American man who was set to provide innovative services to address the homework gap that you raise in your remarks.

And so this is freezing competition, innovation, and opportunity to get more Lifeline broadband providers into the program. The reason that the 2016 order developed this National Verification System was so that it would make it easier for broadband providers to participate. Folks who know Free Press know we're not big fans of making things easier for the telecommunication companies. But this makes sense because it ensures that there is as robust competition as possible and that we're able to reach those folks in your state and all the states who really need the access most.

Senator DUCKWORTH. Thank you.

I'm well over time, Mr. Chairman. You've been incredibly generous. Thank you.

The CHAIRMAN. Thank you, Senator Duckworth.

We're okay. I think we're going to wrap. To conclude, again, I want to thank the panel. I think it has been a great discussion. Again, I think most of us approach this issue with a recognition that the goal, objective, is to make sure that people of all incomes, and irrespective of where they live geographically, have access. The question is how to do that most effectively and make sure that the taxpayer is getting the best bang for their buck.

I guess one of the things that—one of the biggest problems I think that's been identified with the program is that it's not getting—it's not focused, I should say, on getting service to those most in need. The study that Mr. Bagdoyan quoted, that Lifeline has only helped one person who truly needs that phone for nearly—or I should say for every 20 people who it has subsidized, and that's not something I think the National Verifier program will fix.

I think we all want to get at improper payments and make sure that the program is running efficiently as possible, and the National Verifier seems to me at least helps us with that. But in terms of the overall goals and what this program is designed to do, who it's designed to help, it doesn't answer that fundamental question.

So we'll continue to look at this and other programs that are under this Committee's jurisdiction, but I think the testimony today has been very helpful. The questions and the interaction with

members of the Committee as well. And it will all be part of the record. And I would simply say if members have questions, if you could submit them as quickly as possible for the record, and we would ask our panelists to respond to those, if possible, within a 2-week time period, they'll be made part of the permanent record.

And if there's nothing else, this hearing is adjourned.

[Whereupon, at 11:44 a.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM FLORIDA

What the Government Accountability Office (GAO) uncovered in the course of its investigation into the FCC's Lifeline program is deeply troubling. There can be no tolerance of waste, fraud and abuse in this important program.

Based upon GAO's findings, Lifeline providers need to do a better job training their employees and ensuring robust accountability measures to combat the problems documented in the report. The Universal Service Administrative Company, the FCC and the states all must engage in more effective, ongoing oversight of the program.

But it is also important to acknowledge that many of the concerns raised in GAO's report reflect data that represent a snapshot in time. Over the last several years, the FCC has adopted significant Lifeline reform measures that are addressing—and promise to further address—the problems uncovered by GAO, including through a National Verifier Database. And the agency has engaged in enforcement actions where warranted to penalize bad actors—including launching an investigation into GAO's findings.

Even more importantly, we cannot lose sight of the significance of the Lifeline program to low-income consumers throughout the country. This program has had strong bipartisan support throughout its existence. Lifeline was created during the Reagan administration, expanded to wireless services under President George W. Bush and again to broadband under President Obama. And it was Congress, on a bipartisan basis, that enshrined the notion of a Lifeline program into law as part of the Telecommunications Act of 1996.

Lifeline has helped connect millions of Americans to services—like voice communications and broadband—that have become essential to everyday life—both in Florida and around the Nation. While the GAO's findings offer everyone a chance to reflect on the program and make it better, the report should not be used as a political tool to eliminate the program or undercut its successes. Doing so would render a disservice to millions who use the critical subsidy provided by Lifeline to make sure that they are able to contact emergency services, and remain connected to family, community, work, and the rest of the world.

We must redouble our collective efforts to rid and insulate this program from waste, fraud, and abuse. But we also must maintain this program that has done so much good throughout its life. And we must ensure that Lifeline remains robust into the digital age where broadband has become the means for social, economic, political, and educational engagement. To act otherwise would perpetuate the lingering digital divide in this country—a divide I know that we all want to close as soon as possible.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MAGGIE HASSAN TO JESSICA J. GONZÁLEZ

Question. In your testimony, you outline several examples of the Lifeline program's phone subsidy helping to connect people to resources. You discuss someone in need being connected to shelter, you describe how Lifeline helped a gentlemen with mental-health issues connect with a therapist who could meet his needs, and how it helped a senior citizen find employment. Last December, the Federal Communications Commission approved a number of Lifeline Broadband Providers to begin providing Internet service. In your testimony, you note that over 17,000 subscribers had been receiving this service, only to have it taken away when the Commissioner revoked these approvals. Not only does the Chairman's actions to revoke the approvals for the Lifeline Broadband Providers hurt the 17,000 Americans who were benefiting from the program, but it also limits the growth in competition among providers, which may ultimately bring down costs. Are the actions of the Chairman consistent with his stated goals of closing the digital divide? And what

can be done to improve the program, while still allowing competition among Lifeline Broadband Providers to continue?

Answer. No, the Chairman's actions are not consistent with his stated goal of closing the digital divide. Not only did the Chairman revoke the service of 17,000 active subscribers, he also cut off imminent Lifeline offerings from eight other Lifeline Broadband providers that the FCC had previously approved for launch, and introduced a level of uncertainty into the LBP approval process that could scare off other potential Lifeline carriers.

As I noted in my testimony, the main reason that poor people and people of color are not online is cost, and Lifeline is the only Federal program situated to address the affordability gap. The Chairman's stalled Lifeline implementation efforts suggest that he is not genuinely committed to connecting poor folks and people of color to the internet. To improve the program and prove me wrong (which I hope he does), the Chairman should expediently implement the 2016 Lifeline Modernization Order, including the reforms, the National Verifier system, and the national LBP approval process.

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