



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

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WIRELINE COMPETITION BUREAU PROVIDES GUIDANCE REGARDING DESIGNATION AS A LIFELINE BROADBAND PROVIDER AND LIFELINE BROADBAND MINIMUM SERVICE STANDARDS

WC Docket Nos. 11-42, 09-197

1. In this Public Notice, the Wireline Competition Bureau (Bureau) provides guidance to entities seeking designation as Lifeline Broadband Providers for the purpose of receiving reimbursement through the Lifeline program for qualifying broadband Internet access service (BIAS) provided to eligible low-income consumers. The Bureau also provides additional guidance regarding the implementation of the Commission's minimum service standards for Lifeline-supported BIAS, which is applicable to Lifeline Broadband Providers (LBPs) and also other eligible telecommunications carriers (ETCs) seeking Lifeline reimbursement for BIAS provided to qualifying low-income consumers.

2. In the *Lifeline Modernization Order*, the Commission established a designation process for LBPs, a sub-set of ETCs that will be eligible for reimbursement through the Lifeline program for qualifying BIAS provided to eligible low-income consumers.¹ In light of multiple requests for clarification regarding LBP designation, obligations, and oversight,² the Bureau issues this Public Notice to provide guidance on the rules regarding LBP participation in the Lifeline program.³

I. OBTAINING DESIGNATION AS A LIFELINE BROADBAND PROVIDER

3. *Designating Entity*. LBPs will be designated by the Wireline Competition Bureau,⁴ and may qualify for a streamlined designation process, designed to encourage broader provider participation

¹ See *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, 4040-68, paras. 217-89 (2016) (*Lifeline Modernization Order*). Unless noted otherwise, all citations to the Lifeline program rules contained in this Public Notice will refer to the rules as amended by the *Lifeline Modernization Order*.

² See Joint Lifeline ETC Petitioners' Petition for Partial Reconsideration and Clarification (filed June 23, 2016) (Joint Lifeline ETCs Petition); United States Telecom Association Petition for Reconsideration and Clarification (filed June 23, 2016) (USTelecom Petition); Comments of Q Link Wireless LLC (filed July 29, 2016); Comments of Sacred Wind Communications, Inc. on Petitions for Reconsideration (filed July 29, 2016); Consolidated Opposition of the Greenlining Institute et al. (filed July 29, 2016).

³ See 47 CFR §§ 0.91(b), 0.291; *Lifeline Modernization Order*, 31 FCC Rcd at 4065, 4120, paras. 278, 433. Except to the extent that we expressly provide clarification regarding certain issues here, we do not address any of the petitions discussed in the Public Notice, and they remain pending.

⁴ See 47 CFR §§ 0.91, 0.291; *Lifeline Modernization Order*, 31 FCC Rcd at 4065-66, paras. 278, 281 ("We delegate to the Bureau the responsibility for implementing this process and the authority to clarify how carriers may establish that they meet the criteria set out in this framework."); *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947, 22948 (1997) (delegating to the Bureau the authority to designate ETCs).

and competition in the program while protecting consumers and the integrity of the Universal Service Fund (Fund).⁵ All petitions for LBP designation must be sent to the Bureau.

4. *Effective Date.* The LBP designation process will become effective upon announcement in the Federal Register of the Office of Management and Budget (OMB)'s approval of the revised information collection.⁶ The Bureau will not accept, or treat petitions for designation as an LBP as submitted until that announcement of OMB approval. We expect that this will permit prospective LBPs to receive LBP designations, when appropriate under the rules, in time to be prepared to offer Lifeline-supported BIAS by the effective date for the rules introducing BIAS as a Lifeline-supported service.

5. *Evaluation of Completeness.* The Commission has directed the Bureau to act on petitions for designation as an LBP "within six months of the submission of a completed filing."⁷ However, if a provider seeking designation as an LBP qualifies for streamlined treatment, that provider's petition shall be deemed granted 60 days after the submission "of a completed filing" unless the Commission notifies the applicant that the grant will not be automatically effective.⁸ If the application is complete, the 60-day period will run from the date of submission. In the event the application is not complete, the Bureau will notify the applicant and the 60-day period will not begin to run unless and until a completed application is filed.⁹

6. *Qualifying for Streamlined Treatment.* Under the Lifeline Modernization Order, a provider's petition for designation as an LBP will receive expedited review and will be deemed granted 60 days after submission of a completed filing¹⁰ if the provider: (1) serves at least 1,000 non-Lifeline customers with voice telephone service and/or BIAS at the time of the filing; and (2) has offered broadband services to the public for at least the two years preceding the filing, without interruption.¹¹ The Bureau now provides guidance regarding how carriers may establish that they meet the criteria set out in this framework.¹²

⁵ See *Lifeline Modernization Order*, 31 FCC Rcd at 4065-67, paras. 277-85.

⁶ See *id.* at 4123, para. 444.

⁷ *Id.* at 4066, para. 281.

⁸ *Id.* at 4065, para. 278.

⁹ As discussed above, in no case shall a petition for designation as an LBP be reviewed for completeness nor released for public comment prior to announcement of OMB approval of the relevant Commission rules under the PRA.

¹⁰ The Bureau will remove a petition from this streamlined treatment or otherwise stop the review period and notify the provider that the petition will not be automatically granted if the Bureau requires additional time to thoroughly review issues arising from the petition or the petition is otherwise discovered to be deficient. In order to timely review streamlined LBP designation petitions, the Bureau expects carrier cooperation and prompt, complete answers to questions that arise during the review. The Bureau will stop a streamlined review timeline if a carrier does not provide full or complete answers. Further, the Bureau may deny a petition for lack of a response, or lack of a complete responses if a carrier does not cooperate with the Bureau regarding any material issue. See *id.* at 4065, para. 278.

¹¹ See 47 CFR § 54.202(d)(1); *Lifeline Modernization Order*, 31 FCC Rcd at 4065, para. 278. The *Order* also establishes streamlined treatment for Tribally-owned and -controlled facilities-based providers. See 47 CFR § 54.202(d)(2); *Lifeline Modernization Order*, 31 FCC Rcd at 4065, para. 279.

¹² See *Lifeline Modernization Order*, 31 FCC Rcd at 4065, para. 278 (delegating to the Bureau authority to implement the process of reviewing petitions for LBP designation and establishing the criteria required for streamlined treatment).

7. With regard to the first criteria, the provider must be serving at least 1,000 non-Lifeline voice telephony and/or BIAS customers at the time of the filing.¹³ The number of customers a provider has served over a span of time preceding the date of filing is not sufficient. Rather, the carrier’s certification as to the number of voice telephony and/or BIAS customers that it serves should be a “snapshot” measurement taken as of the time of the filing.

8. The Bureau also clarifies what services qualify as BIAS for the purposes of both criteria used to establish a provider’s qualification for streamlined treatment. A provider may qualify for streamlined treatment using mobile and/or fixed broadband service.¹⁴ The petitioning provider is not required to establish that such prior service would have met the minimum service standards for Lifeline-supported services, but the Bureau will consider whether the provider’s current plan descriptions meet the relevant minimum service standards during the substantive review of any petition for LBP designation.

9. *Entities Seeking LBP Designation in Addition to Another ETC Designation.* The *Lifeline Modernization Order* does not preclude providers from obtaining designation as an LBP in addition to holding an existing or seeking future designations as another type of ETC, such as a Lifeline-only ETC. Providers may accordingly seek designation as an LBP even if the provider already holds an ETC designation in other geographic areas within the same state or additional states, including areas in which the ETC has previously availed itself of forbearance¹⁵ from the obligation to offer Lifeline-supported

¹³ See 47 CFR § 54.202(d)(1); *Lifeline Modernization Order*, 31 FCC Rcd at 4065, para. 278. Providers certifying that they are facilities-based providers of broadband connections to end user locations for purposes of consideration for an LBP designation must be compliant with their obligation to timely file FCC Form 477. See *Modernizing the FCC Form 477 Data Program*, Report and Order, 28 FCC Rcd 9887 (2013); *Form 477 Reporting*, Federal Communications Commission (last visited Aug. 15, 2016), <https://www.fcc.gov/general/form-477-reporting>. This obligation is especially important in light of the Commission’s reliance on Form 477 data to update the Lifeline program’s minimum service standards. See 47 CFR § 54.408(c); *Lifeline Modernization Order*, 31 FCC Rcd at 3992-97, paras. 81-98.

¹⁴ See 47 CFR § 8.2(d) (defining fixed BIAS as “[a] broadband Internet access service that serves end users primarily at fixed endpoints using stationary equipment. Fixed broadband Internet access service includes fixed wireless services (including fixed unlicensed wireless services), and fixed satellite services.”). Stationary equipment may include “the modem that connects an end user’s home router, computer, or other Internet access device to the network.” See *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601, 5683, para. 188 (2015) (*Open Internet Order*). See also 47 CFR § 8.2(e) (defining mobile BIAS as “[a] broadband Internet access service that serves end users primarily using mobile stations.”); 47 U.S.C. § 153(34) (“The term ‘mobile station’ means a radio-communication station capable of being moved and which ordinarily does move.”). Mobile BIAS includes “services that use smartphones or mobile-network-enabled tablets as the primary endpoints for connection to the Internet, as well as mobile satellite broadband services.” *Open Internet Order*, 30 FCC Rcd at 5683, para. 188.

¹⁵ The Commission forbears from “requiring existing ETCs that are not Lifeline-only to offer Lifeline-supported BIAS in areas where they do not commercially offer such service or do not receive high-cost support.” *Lifeline Modernization Order*, 31 FCC Rcd at 4074, para. 311. The forbearance is not available to “ETCs that are not Lifeline-only ... in areas where the ETC commercially offers qualifying BIAS pursuant to the ETC’s obligations under the high-cost rules.” *Id.* at 4075, para. 312. To elect this forbearance, “ETCs ... must file a notification with the FCC that they are availing themselves of this relief and to identify those areas by Census block where they intend to avail themselves of this forbearance relief.” *Id.* The *Lifeline Modernization Order* specified the timing of the forbearance notice in several scenarios where elections can be made at those triggering events—*i.e.*, it must be filed 60 days after announcement OMB approval of the *Order*, or 30 days after a carrier receives designation as an ETC. *Id.* at 4075, para. 313. The Bureau clarifies that existing and newly designated ETCs must file a forbearance notice for any Census block where the ETC is availing itself of the forbearance, otherwise the obligation to provide Lifeline-support broadband will attach. Additionally, the forbearance notice is not a one-time requirement. Given the reasoning of the relevant forbearance decision in the *Lifeline Modernization Order*, we interpret that forbearance also to encompass ETCs that only can elect forbearance for census blocks once the obligations and circumstances

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BIAS.¹⁶ However, if a provider obtains designation as an LBP in a geographic area in which that provider already holds another ETC designation, the provider's LBP designation does not release the provider from any of its obligations under the non-LBP ETC designation. For example, if a provider is already designated as a Lifeline-only ETC in a geographic area and obtains designation as an LBP in that same area, the provider is still obligated to offer Lifeline-supported voice service under its Lifeline-only ETC designation until the provider has relinquished that Lifeline-only ETC designation or the designating entity otherwise modifies the Lifeline-only designation.¹⁷

II. CONTENTS OF A PETITION FOR DESIGNATION AS A LIFELINE BROADBAND PROVIDER.

10. Under its delegated authority to implement the LBP designation process,¹⁸ the Bureau provides the following guidance to providers with regard to the contents of a petition for designation as an LBP. As the *Lifeline Modernization Order* states, providers seeking designation as an LBP must meet the requirements for designation as an LBP established in section 214(e) of the Act and sections 54.201 and 54.202 of the Commission's rules.¹⁹

- First, the provider must certify that it will comply with the service requirements applicable to the support that it receives, including any applicable minimum service standards.²⁰ Providers should demonstrate an understanding that all ETCs, including LBPs, must continue to comply with any future additions to or amendments of the Lifeline program rules unless a provider has relinquished its relevant designation(s) pursuant to section 214(e)(4) of the Act. For example, LBPs must continue to offer plans that include qualifying BIAS throughout their designated service areas even as the minimum service standards for qualifying BIAS are updated annually.²¹
- Second, the provider must demonstrate its ability to remain functional in emergency situations, including that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.²² A provider may demonstrate this

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materially change. For example, certain high-cost support mechanisms have support terms that last for a specified number of years, like Connect America Phase II model-based support for price-cap carriers or certain competitive bidding processes like the Connect America Phase II auction or the rural broadband experiments. The end of the support term may be a qualifying material change that would allow a carrier to file a new forbearance notice if the carrier does not otherwise receive some form of high-cost support in the relevant areas. Similarly, Bureau determination or other Commission action that states high-cost support is no longer available in a particular Census block would be a qualifying material change. Because the *Lifeline Modernization Order* did not expressly address the timing of such filings, we clarify that the carrier must file the forbearance notice within 30 days of the material change to an ETC's high-cost obligations, consistent with the Commission's approach when the later triggering event is an ETC designation. The notice must include the date and reason of the material change along with a description of the Census blocks where the carrier seeks the forbearance.

¹⁶ See also USTelecom Petition at 22-23 (requesting clarification that an ETC may seek designation as an LBP after availing itself of the obligation to offer Lifeline-supported BIAS under its existing ETC designation).

¹⁷ See 47 CFR § 54.205.

¹⁸ See *Lifeline Modernization Order*, 31 FCC Rcd at 4065, para. 278.

¹⁹ See *id.* at 4067, para. 284 (citing 47 U.S.C. § 214(e), 47 CFR §§ 54.201, 54.202).

²⁰ See 47 CFR § 54.202(a)(1)(i); *Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282.

²¹ See 47 CFR § 54.408(c).

²² See 47 CFR § 54.202(a)(2); *Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282.

ability by certifying that its network or the network over which the Lifeline-supported service is provided is capable of remaining functional in emergency situations.

- Third, the provider must demonstrate that it will satisfy applicable consumer protection and service quality standards.²³ A provider may demonstrate this by certifying that it understands its consumer protection obligations under the Communications Act and its implementing rules, and is prepared to comply with those obligations and any future amendments or additions thereto. Applicable consumer protection rules include, but are not limited to, any applicable rules regarding unjust or unreasonable practices, discrimination, and relevant enforcement provisions in the Act and the Commission’s rules.²⁴ For applicants offering wireless service, a commitment to comply with the Cellular Telecommunications and Internet Association’s Consumer Code for Wireless Service and any amendments thereto will satisfy this requirement.²⁵
- Fourth, the carrier must demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of Part 54 of the Commission’s rules.²⁶ In reviewing a petitioner’s financial capabilities to provide Lifeline service, the Bureau will consider the extent to which the entity will rely on Lifeline reimbursements to continue operations and the financial stability of the petitioner and any entities with an ownership stake in the petitioner, as supported by appropriate financial statements or documents. In reviewing a petitioner’s technical capabilities to provide Lifeline service, the Bureau will consider the structure and status of the petitioner’s physical network, the petitioner’s ability to maintain and repair its network, and the petitioner’s arrangements to offer BIAS over another entity’s network, as appropriate. The Bureau will examine whether the petitioner is technically prepared to offer Lifeline-supported BIAS that meets the program’s minimum service standards throughout its entire proposed service area.²⁷
- Fifth, the carrier must describe the terms and conditions of the BIAS plans it will offer to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each plan.²⁸ To the extent the provider will offer plans to Lifeline subscribers that are also generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.²⁹

11. *Establishing an LBP’s Designated Service Area.* Entities seeking designation as an LBP should describe their proposed service areas by identifying the Census blocks, Census block groups, Census tracts, Postal ZIP Codes, or Counties in which they will offer Lifeline-discounted BIAS service.³⁰

²³ See 47 CFR § 54.202(a)(3); *Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282.

²⁴ See 47 U.S.C. §§ 201, 202, 206-209, 216-217, 222, 225, 251(a)(2), 255, 617, 619; 47 CFR §§ 1.80, 1.701-1.736, 6.3, 6.5, 6.9, 7.1, 7.5, 8.3, 8.5, 8.7, 8.9, 8.12-8.17, 14.20(c), 64.604-64.605. See also *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601, 5808-38, paras. 440-92 (2015) (*Open Internet Order*) (finding that, with respect to BIAS, the standard for forbearance is not met for certain provisions of the Communications Act and certain implementing regulations).

²⁵ See *Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282 n.742.

²⁶ See 47 CFR § 54.202(a)(4).

²⁷ See 47 U.S.C. § 214(e)(1)(A).

²⁸ See 47 CFR § 54.202(a)(6).

²⁹ See 47 CFR § 54.202(a)(6).

³⁰ In the case of a designation made by the Commission under section 214(e)(6) of the Act, a “service area” is “a geographic area established by . . . the Commission . . . for the purpose of determining universal service obligations

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Alternatively, petitioning entities may identify their proposed designated service areas by submitting a shapefile delineating the relevant geographic area. Petitioners should be aware that they are required to offer Lifeline-supported BIAS service *throughout the entire designated service area*,³¹ and so they should not include geographic areas in their proposed designated service areas if they do not intend to offer Lifeline-supported BIAS in the entirety of that geographic area upon grant of the petition.³²

III. OBLIGATIONS OF A LIFELINE BROADBAND PROVIDER.

12. In the *Lifeline Modernization Order*, the Commission established the service obligations of Lifeline Broadband Providers.³³ As a category of eligible telecommunications carriers (ETCs), LBPs are also subject to the Lifeline program rules, including rules regarding subscriber eligibility verification, certification and recordkeeping, and auditing requirements.³⁴ The Bureau provides the following clarifications on specific aspects of LBPs' obligations to comply with the Lifeline program rules.

13. *Role of the National Verifier.* Any ETC, including an LBP that has obtained designation in a state in which the National Verifier has not yet launched must certify and recertify subscribers' eligibility in accordance with the Commission's rules. If the National Verifier has not launched in a particular state, ETCs offering Lifeline service in that state remain responsible for verifying and confirming subscribers' eligibility pursuant to the existing rules.³⁵ Once the Commission has announced the launch of the National Verifier in a particular state, the ETCs, including LBPs, designated in that state must enroll subscribers through the National Verifier and in accordance with any enrollment guidance provided by the Commission or USAC, as set out in the Commission's rules.³⁶

14. *Minimum Service Standards.* The *Lifeline Modernization Order* took the important step of establishing minimum service standards for fixed BIAS, mobile BIAS, and mobile voice telephony service supported through the Lifeline program.³⁷ The Bureau provides guidance on the minimum service standard requirements in light of the importance to LBPs of the minimum service standards applicable to fixed and mobile BIAS offerings, although this guidance is applicable to all ETCs, including Lifeline-only ETCs, seeking reimbursement for Lifeline-supported BIAS provided to qualifying consumers.

15. *Substitution or Decrement Bundled Offerings.* The Bureau also clarifies that "substitution" or "decremented" bundled offerings do not fulfill the requirements of the Lifeline minimum service standards if they restrict a customer's access to the supported service for which the

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and support mechanisms." 47 U.S.C. § 214(e)(5). For the terms "Census blocks, Census block groups, Census tracts, Postal ZIP Codes, or Counties," the Bureau relies on the definitions provided by the United States Census Bureau. See United States Census Bureau, *2010 Geographic Terms and Concepts*, <https://www.census.gov/geo/reference/terms.html> (last visited Sept. 2, 2016).

³¹ See 47 U.S.C. § 214(e)(1)(A).

³² If an entity obtains designation as an LBP and later wishes to expand its designated service area, it may do so under a streamlined process. Under this process, the LBP can submit a request identifying the service area in which the LBP plans to offer Lifeline-supported service and a certification that there has been no material change to the information submitted in the LBP's petition which it received the designation. Such a request shall be deemed granted five business days after it is submitted to the Commission, unless the Commission notifies the LBP the grant will not be automatically effective. See 47 CFR § 54.202(e).

³³ See *Lifeline Modernization Order*, 31 FCC Rcd at 4077-78, 4094-95, paras. 320-23, 361-65.

³⁴ See *id.* at 4041-44, paras. 223-28; 47 CFR §§ 54.400-54.422.

³⁵ See 47 CFR § 54.410.

³⁶ See 47 CFR § 54.410(h).

³⁷ See *Lifeline Modernization Order*, 31 FCC Rcd at 3988-4002, paras. 69-113; 47 CFR § 54.408.

provider is claiming Lifeline reimbursement below the minimum service standard applicable to that supported service as a result of the customer's usage of some other service included in the bundled offering.³⁸ Service offerings that, for example, "decrement the broadband offering using data, voice minutes or text messages"³⁹ do not meet the minimum service standard for broadband because they do not provide a guaranteed level of voice minutes or data and they condition subscribers' access to the Lifeline-supported service on the subscriber's use of other services provided in the bundle. A mobile offering must include at least 500 minutes of mobile voice telephony or 500 MB of mobile BIAS in order to be eligible to receive reimbursement from the Lifeline program. Under the terms of a substitution plan that provides the consumer with 600 "units," the actual amount of voice or BIAS service the consumer receives is conditioned on the consumer's use of the other service, and may not meet either the voice or data minimum service standard. These types of plans would improperly allow Lifeline support for an offering that may not meet any minimum service standard.⁴⁰

16. *Exceptions for Certain Fixed Broadband Providers.* The *Lifeline Modernization Order* established an exception to the minimum service standards for fixed broadband providers that have yet to deploy broadband-capable networks in specific geographic areas that meet the minimum service standards.⁴¹ Some providers have sought clarification with regard to whether ETCs providing subscribers with BIAS at a particular speed tier under 10/1 Mbps pursuant to this exception are "grandfathered" into continued Lifeline reimbursement for service provided at that speed to that customers even after the provider upgrades its network, despite the fact that the subscriber is then no longer receiving the "highest performing generally available residential offering" under the Commission's rules.⁴² Providers may not "grandfather" subscribers and seek Lifeline reimbursement for service provided that was previously the provider's "highest performing generally available residential offering" in that area, but no longer is. When a provider offering Lifeline-supported service under this exception upgrades the speed of its offerings in a given area, it may only seek Lifeline reimbursement for the highest performing residential offering that is generally available in that area after the upgrade. This interpretation is in keeping with the limited nature of the *Lifeline Modernization Order's* exception to the minimum service standards and with the Commission's more general objective to ensure that Lifeline subscribers are not receiving "second class" service or un-innovative offerings.⁴³

17. The Bureau also clarifies that the "given area" in which the exception to the minimum service standard for fixed BIAS applies is not determined on a location-by-location basis, but should be determined on a Census block basis.⁴⁴ The *Lifeline Modernization Order* limits the exception to "specific

³⁸ Section 54.408(a)(1) of the Commission's rules defines a "minimum service standard" as "[t]he level of service which an eligible telecommunications carrier must provide to an end user in order to receive the Lifeline support amount." 47 CFR § 54.408(a)(1).

³⁹ See Joint Lifeline ETC Petitioners at 11-12; see also Comments of Q Link Wireless LLC at 3-5. *But see* Consolidated Opposition of the Greenlining Institute, et al. at 6-7 (arguing that a decremented bundled option does not meet the minimum service standard for either voice or broadband service).

⁴⁰ However, a service offering providing the subscriber a guaranteed amount of data or voice that meets or exceeds the relevant minimum service standard may receive Lifeline support even if it also provides a "decremented" option for *additional* data, voice minutes, or text messages provided over and above the amount required by the relevant minimum service rule. For example, a service offering that includes 500 MB of mobile BIAS *and* 100 "units" that may be redeemed as MB of mobile data, mobile voice minutes, or text messages may receive Lifeline support because the subscriber at all times has access to at least 500 MB of mobile BIAS.

⁴¹ See 47 CFR § 54.408(d); *Lifeline Modernization Order*, 31 FCC Rcd at 4001-4002, paras. 107-113.

⁴² 47 CFR § 54.408(d)(3). See also USTelecom Petition at 16.

⁴³ See *Lifeline Modernization Order*, 31 FCC Rcd at 4000-4002, paras. 104-113.

⁴⁴ *Contra* USTelecom Petition at 16; Sacred Wind Comments at 7-8.

geographic areas,”⁴⁵ but the provider’s speed obligation is also determined in part by “its highest performing generally available residential offering” in that “given area,”⁴⁶ so the “given area” cannot be a single location if the given area must conceptually be large enough for a provider to be able to offer a generally available residential offering within it. Under this interpretation, a fixed BIAS provider may receive Lifeline reimbursement for the highest performing BIAS service it offers that is generally available throughout the Census block, if all of the other conditions of the exception are met.⁴⁷ By applying the term “given area” to be determined based on a Census block basis aligns with the administration of provider’s service areas, provider service obligation forbearance,⁴⁸ and continuing provider obligations for stand-alone voice.⁴⁹ The Commission has directed the Bureau and USAC to collect the necessary data to facilitate these objectives by Census Block.⁵⁰ Providers will already be submitting service areas by Census Block and running the minimum service obligations and exceptions consistent with Census Block descriptions improves the administrative efficiencies of these related objectives.

IV. THE CONTINUING STATE ROLE IN THE LIFELINE PROGRAM.

18. *State-Based Low-Income Programs.* As the *Lifeline Modernization Order* acknowledges, some states operate their own state-based Lifeline programs to provide further support for services provided to qualifying low-income consumers.⁵¹ The *Lifeline Modernization Order* does not restrict states’ ability to create and administer such programs, whether those programs support voice telephony service, BIAS, or both.⁵² Accordingly, states possess the roles or authorities states have traditionally exercised power over in the Lifeline marketplace.

19. *State Designation of Non-LBP ETCs.* States retain the ability to designate ETCs other than LBPs, unless state commissions lack jurisdiction over the carriers,⁵³ even if the ETCs seek Lifeline reimbursement from the federal Lifeline program for BIAS provided to qualifying low-income consumers.⁵⁴ States continue to retain authority over the ETC relinquishment process for all non-LBP ETCs as well, to the same extent as they had in the past. Additionally, the Bureau clarifies that a provider’s designation as an LBP does not supersede any obligations the provider must fulfill as a result of any other ETC designation it has obtained.⁵⁵ Similarly, the *Lifeline Modernization Order’s* creation of LBPs does not affect the authority states previously exercised over the Lifeline marketplace. Indeed, the *Lifeline Modernization Order* preserved the “roles that states have traditionally played in Lifeline” and

⁴⁵ See *Lifeline Modernization Order*, 31 FCC Rcd at 4001, para. 107.

⁴⁶ See 47 CFR § 54.408(d)(3).

⁴⁷ See 47 CFR § 54.408.

⁴⁸ See *Lifeline Modernization Order*, 31 FCC Rcd at 3973-3974, para. 34.

⁴⁹ See *id.* at 3979, 3985, 4003, paras. 48, 61, 118.

⁵⁰ *Id.* at 3973-3974, 3979, 3985, 4003, paras. 34, 48, 61, 118.

⁵¹ See *Lifeline Modernization Order*, 31 FCC Rcd at 4067-68, para. 287.

⁵² *Id.*

⁵³ 47 U.S.C. § 214(e)(6).

⁵⁴ See *Lifeline Modernization Order*, 31 FCC Rcd at 4068, para. 288. This authority is unchanged by the transition phasing down support for voice telephony service, because providers will still be able to seek non-LBP designations and receive Lifeline support for BIAS through those designations. See *Lifeline Modernization Order*, 31 FCC Rcd at 4003-4005, paras. 117-22 (establishing transition for support levels for voice-only service).

⁵⁵ See *supra* at 4.

recognized the states' ability to regulate ETCs subject to the states jurisdiction and applicable state laws.⁵⁶

20. *Filing Process for Petitions for Designation as an LBP.* Carriers must file their petitions for designation as an LBP in **WC Docket No. 09-197**. Petitions may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁵⁷

- Electronic Filers: Petitions may be filed electronically using the Internet by accessing the ECFS <http://appsint.fcc.gov/ecfs/upload/display>
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, D.C. 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington D.C. 20554.

In addition, one copy must be sent via email or mail to the following:

- Christian Hoefly, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-B441A, Washington, D.C. 20554; e-mail: Christian.Hoefly@fcc.gov.

For further information, please contact Christian Hoefly, Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418-3607 or via e-mail at Christian.Hoefly@fcc.gov.

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⁵⁶ *Lifeline Modernization Order*, 31 FCC Rcd at 4068, paras. 288-89.

⁵⁷ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).