

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90

**ORDER**

**Adopted: November 5, 2021**

**Released: November 5, 2021**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, the Wireline Competition Bureau (Bureau) addresses the scheduled phase-out in Lifeline support for voice-only services<sup>1</sup> and the scheduled increase in the mobile broadband data capacity minimum service standards for the Lifeline program.<sup>2</sup> As directed by the Commission in the *2016 Lifeline Order*, support for services that meet only the voice minimum service standard is scheduled to be eliminated in most areas on December 1, 2021.<sup>3</sup> The *2016 Lifeline Order* also created a formula to determine annual increases to the minimum service standard for mobile broadband data capacity, which would result in an increase to 18 GB per month beginning December 1, 2021.<sup>4</sup> As discussed below, we find that the creation of the Emergency Benefit Broadband Program (EBB Program), the ongoing COVID-19 pandemic, and new data collected as part of the Bureau’s State of the Lifeline Marketplace Report<sup>5</sup> (Marketplace Report) provide good cause for the Bureau to pause both the phase-out in support for voice-only services and the increase in minimum service standards for mobile broadband data capacity.<sup>6</sup> This pause will last for one year, until December 1, 2022, to give the Commission time to evaluate whether the changed circumstances noted above warrant longer-term modifications of the Lifeline program.

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<sup>1</sup> Throughout this Order, references to phasing down the support amount for “voice-only service” relate to a phase-down in support for Lifeline offerings that do not meet the Lifeline broadband minimum service standards.

<sup>2</sup> See *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, Public Notice, DA 21-930, 2021 WL 3288197 (WCB July 30, 2021) (*July 2021 Minimum Service Standards Update*); see also 47 CFR §§ 54.403(a)(2)(iv), 54.408(b)(2)(D).

<sup>3</sup> *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3989-97, paras. 73-98 (2016) (*2016 Lifeline Order*); 47 CFR § 54.403(a)(2)(iv), (v).

<sup>4</sup> *2016 Lifeline Order*, 31 FCC Rcd at 3995-96, para. 94; 47 CFR § 54.408(b)(2)(ii)(D).

<sup>5</sup> Wireline Competition Bureau, Report on the State of the Lifeline Marketplace (June 2021), <https://docs.fcc.gov/public/attachments/DOC-373779A1.pdf> (Marketplace Report).

<sup>6</sup> As further detailed below, we specifically waive 47 CFR §§ 54.401(b), 54.403(a)(2)(iv), 54.408(b)(2)(ii)(D), which codify the scheduled phase-out in voice-only support and increase in minimum service standards.

## II. BACKGROUND

2. In 2016, the Commission adopted several changes to the Lifeline program, including changes meant to expand low-income consumers' access to robust and affordable broadband services.<sup>7</sup> Specifically, the Commission coupled a phase-in of higher mobile broadband data capacity minimum service standards with a phase-down in Lifeline support for voice-only services.<sup>8</sup> This dual approach was meant to “avoid undue consumer disruption and to allow Lifeline providers sufficient time to adjust operations as the Commission moves from a primarily voice-only Lifeline program to a Lifeline program embracing broadband services.”<sup>9</sup>

3. For the phase-down in Lifeline support for voice-only services, the *2016 Lifeline Order* scheduled the first step to occur on December 1, 2019, when support was reduced from \$9.25 to \$7.25.<sup>10</sup> The next step was taken on December 1, 2020, when support was reduced from \$7.25 to \$5.25.<sup>11</sup> The *2016 Lifeline Order* contemplated completing the phase-down on December 1, 2021, when support for voice-only services would be eliminated in most areas.<sup>12</sup>

4. The mobile broadband data capacity minimum service standards were created to strike “a balance between the demands of affordability and reasonable comparability,”<sup>13</sup> consistent with the Commission’s relevant governing statute,<sup>14</sup> by providing consumers with services that allow them to experience many of the Internet’s offerings, but not mandating the purchase of prohibitively expensive offerings. To serve this goal, the *2016 Lifeline Order* scheduled a gradual increase in minimum service standards until December 1, 2019.<sup>15</sup> Starting in 2019, the Bureau was to use a formula for future annual minimum service standard increases for mobile broadband data capacity.<sup>16</sup> Specifically, the formula requires the Bureau to: (1) divide the total number of mobile-cellular subscriptions in the United States by the total number of American households and round to the nearest hundredths place before multiplying by; (2) the percentage of Americans who own a smartphone, and rounding this number to the nearest hundredths before multiplying by; (3) the average data used per mobile smartphone subscriber. The product of (1)-(3) is rounded to the nearest hundredths and then multiplied by 0.7, and the result is rounded up to the nearest 250 MB.<sup>17</sup> The *2016 Lifeline Order* noted that an updating mechanism was necessary “[b]ecause technology develops at a rapid pace, [and] any minimum standards [the Commission] set[s] would quickly become outdated.”<sup>18</sup>

5. In 2019, the first year that the formula was to be used for updating the minimum service standard for mobile broadband data capacity, the standard was set to increase from 2 GB per month to 8.75 GB per month; however, the Commission found good cause to partially grant a petition of CTIA and others to waive this increase and establish a minimum service standard for mobile broadband data

<sup>7</sup> *2016 Lifeline Order*, 31 FCC Rcd at 3966-77, 3989-97, paras. 12-43, 73-98.

<sup>8</sup> *Id.* at 3985-86, paras. 62-65.

<sup>9</sup> *Id.* at 3985, para. 62.

<sup>10</sup> *Id.* at 3986, para. 64; 47 CFR § 54.403(a)(2)(ii).

<sup>11</sup> *2016 Lifeline Order*, 31 FCC Rcd at 3986, para. 64; 47 CFR § 54.403(a)(2)(iii).

<sup>12</sup> *2016 Lifeline Order*, 31 FCC Rcd at 3986, para. 64; 47 CFR § 54.403(a)(2)(iv).

<sup>13</sup> *2016 Lifeline Order*, 31 FCC Rcd at 3989, para. 71.

<sup>14</sup> See 47 U.S.C. § 254(b)(1), (3) (directing the Commission to base policies on the principles of ensuring affordable rates and reasonably comparable services, respectively).

<sup>15</sup> See 47 CFR § 54.408(b)(2)(ii).

<sup>16</sup> See 47 CFR § 54.408(b)(2)(ii)(D).

<sup>17</sup> See *2016 Lifeline Order*, 31 FCC Rcd at 3995-96, paras. 93-94.

<sup>18</sup> *Id.* at 3990-91, para. 77.

capacity of 3 GB per month.<sup>19</sup> In 2020, when the minimum service standard was set to increase from 3 GB per month to 11.75 GB per month, the Bureau found good cause to partially grant a petition from the National Lifeline Association to waive the formula-defined increase and establish a minimum service standard of 4.5 GB per month.<sup>20</sup> In both 2019 and 2020, the Commission and Bureau noted the difficulty of fully considering the affordability of increases in the minimum service standard for mobile broadband data capacity due to the failure of providers to provide cost data.<sup>21</sup> Using the current formula, the Bureau has calculated that beginning December 1, 2021, the minimum service standard for mobile broadband data capacity will increase to 18 GB per month.<sup>22</sup>

6. On December 27, 2020, the Consolidated Appropriations Act, 2021 became law.<sup>23</sup> Among other actions intended to provide relief during the COVID-19 pandemic, the Consolidated Appropriations Act establishes an Emergency Broadband Connectivity Fund of \$3.2 billion in the Treasury of the United States for the fiscal year 2021,<sup>24</sup> to remain available until expended. The Consolidated Appropriations Act directed the Commission to use that fund to establish the EBB Program, under which eligible low-income households may receive a discount off the cost of broadband service and certain connected devices during an emergency period relating to the pandemic, and participating providers can receive a reimbursement for such discounts.<sup>25</sup>

7. Pursuant to that directive, on February 25, 2021, the Commission launched the EBB Program, which provides a discount of up to \$50 per month towards broadband service for eligible households and up to \$75 per month for households on qualifying Tribal lands.<sup>26</sup> Significantly, participants in the Lifeline program automatically qualify for the EBB Program.<sup>27</sup> As of October 24, 6,829,442 households have enrolled in the EBB Program.<sup>28</sup> The EBB Program is set to last until funding

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<sup>19</sup> See *Lifeline and Link Up Reform and Modernization et. al.*, WC Docket No. 11-42, Order, 34 FCC Rcd 11020, 11020, 11024, paras. 2, 13 (2019) (*2019 Waiver Order*); see also Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, 09-197, 10-90 (filed June 27, 2019).

<sup>20</sup> See *Lifeline and Link Up Reform and Modernization et. al.*, WC Docket No. 11-42, Order, 35 FCC Rcd 12958, para. 2 (WCB 2020) (*2020 Waiver Order*); see also National Lifeline Association Petition for Waiver of Lifeline Mobile Broadband Minimum Service standard and Voice Support Phase-Down, WC Docket No. 11-42 et. al. (filed Aug. 27, 2020).

<sup>21</sup> See *2019 Waiver Order*, 34 FCC Rcd at 11023, para. 10; *2020 Waiver Order*, 35 FCC Rcd at 12963, para. 16.

<sup>22</sup> See 47 CFR § 54.408(b)(2)(ii)(D); see also *July 2021 Minimum Service Standards Update* at \*1, para 1.

<sup>23</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020), available at <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (Consolidated Appropriations Act).

<sup>24</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904(i), 134 Stat. 2130, 2135.

<sup>25</sup> *Id.* § 904(b)(1). Under section 904, the emergency period “ends on the date that is 6 months after the date on which the determination by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act (42 U.S.C. § 247d) that a public health emergency exists as a result of COVID-19, including any renewal thereof, terminates.” *Id.* § 904(a)(8).

<sup>26</sup> *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Report and Order, 36 FCC Rcd 4612, 4614, para. 4 (2021) (*EBB Program Order*).

<sup>27</sup> *Id.* at 4631, para. 43.

<sup>28</sup> See Universal Service Administration Co., *Emergency Broadband Benefit Program Enrollments and Claims Tracker*, <https://www.usac.org/about/emergency-broadband-benefit-program/emergency-broadband-benefit-program-enrollments-and-claims-tracker/> (last visited Oct. 4, 2021).

is exhausted, or six months after the Department of Health and Human Services declares the end of the pandemic, whichever comes first.<sup>29</sup>

8. On July 2, 2021, the Bureau released the Marketplace Report, which highlighted the fact that, while Americans are increasingly relying on smartphones for their broadband needs, a persistent minority of Lifeline subscribers opt for voice-only Lifeline plans.<sup>30</sup> Specifically, the Marketplace Report found that approximately 8% of Lifeline subscribers still subscribe to either a voice-only plan or a bundle plan that only meets the voice minimum service standard.<sup>31</sup> The Marketplace Report further analyzed the impact that the phase-out in support for voice-only Lifeline service would have on Lifeline subscribers.<sup>32</sup> In doing so, the Bureau noted that one implication for eliminating Lifeline support for voice-only service would be forcing consumers who only desire voice service to migrate to a potentially more expensive, broadband and voice bundled plan. The Marketplace Report questioned whether “the removal of Lifeline support for voice-only services may push some Lifeline consumers into bundled plans that they are unable to afford.”<sup>33</sup> Further, based on available data, the Marketplace Report concluded that it was unclear if customers who could not afford a bundled plan would be able to find an affordable voice service absent their Lifeline discount.<sup>34</sup>

9. The concerns raised in the Marketplace Report are heightened by the ongoing pandemic and Delta variant that has proven to be far more infectious and easily transmissible than the original strain of COVID-19. The pandemic continues to dramatically disrupt many aspects of Americans’ lives, with low-income Americans facing a particularly difficult time, according to one commenter, as “[l]ow-income assistance program intake sites in many areas remain closed or have restricted ability to serve walk-in customers, thus [making] voice Lifeline minutes more critical than ever, particularly where call wait times are long.”<sup>35</sup> For example, “[a]ccess to voice is critical for low-income access to telehealth services” and, with respect to the first round of Emergency Rental Assistance Programs (ERAP), a collaborator noted that “one common barriers to tenant access to this important eviction and utility assistance was that ‘cellphone minutes often run out for low-income households before the end of the month, making contact [with tenant applicants] more difficult.’”<sup>36</sup> Indeed, the Marketplace Report pointed to comments from key stakeholders that highlighted the importance of maintaining critical connections to emergency services,

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<sup>29</sup> While the EBB Program is temporary in nature, Congress is considering a bill to establish a longer-term program, known as the Affordable Connectivity Program (ACP). This bill, the Infrastructure Investment and Jobs Act, would allocate \$14.2 billion to extend the subsidy provided through the EBB Program. Similar to the EBB Program, households currently eligible for the Lifeline program would be eligible for the ACP. *See* Infrastructure Investment and Jobs Act, H.R.3684, 117<sup>th</sup> Cong., tit. V, § 60502 at 2152 (2021) (as passed by the Senate, Aug. 10, 2021), <https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684eas.pdf>.

<sup>30</sup> Marketplace Report at 21.

<sup>31</sup> *Id.*

<sup>32</sup> *See id.* at 23.

<sup>33</sup> *Id.*

<sup>34</sup> *See id.* at 23-24.

<sup>35</sup> *See* Letter from Olivia Wein, Staff Attorney, National Consumer Law Center, et al., to Kris Monteith, Chief, Wireline Competition Bureau, WC Docket No. 11-42, et al., at 2 (filed Oct. 27, 2021), <https://ecfsapi.fcc.gov/file/1027193511137/Ex%20parte%20re%20pause%20of%20LL%20MSS%20and%20voice%20phase%20out.pdf> (NCLC Letter). We note that while the National Consumer Law Center, United Church of Christ Media Justice Ministry, and Common Cause also seek a restoration of the Lifeline voice support to \$9.25 per month, such action presents additional considerations and consequences for the Commission’s evaluation.

<sup>36</sup> *Id.* (citing Claudia Aiken, et al, *Learning from Emergency Rental Assistance Programs: Lessons from Fifteen Case Studies*, Housing Initiative at Penn, National Low Income Housing Coalition, NYU Furman Center, Housing Crisis Research Collaborative, at 9 (Feb. 1, 2021), <https://nlihc.org/sites/default/files/ERA-Programs-Case-Study.pdf>).

often connected through 911 and 988, and other community resources.<sup>37</sup> The Marketplace Report also cited data showing that consumer reliance on voice services was shown to be even more evident during the COVID-19 pandemic.<sup>38</sup>

10. With respect to the minimum service standards for mobile broadband data capacity, the Marketplace Report found that 93% of Lifeline subscribers use less than 4 GB of data per month, and 76% of all reported Lifeline subscribers use less than 1 GB per month.<sup>39</sup> The Marketplace Report also analyzed the number of Lifeline subscribers in the months leading up to and just after December 2019 and December 2020—when minimum service standard changes took effect—which were consistent with overall trends in Lifeline subscriber numbers.<sup>40</sup> The Marketplace Report further noted that, while the data does not indicate the minimum service standards have resulted in decreased Lifeline enrollment, many commenters were generally supportive of the Commission taking some action to address the minimum service standards—particularly for mobile service—and several commenters expressed concern that the minimum service standards may make Lifeline service unaffordable, with ETCs forced to pass on increased costs associated with higher minimum standards to Lifeline subscribers.<sup>41</sup> In sum, the Marketplace Report predicted that the current formula for calculating updates to minimum service standards for mobile broadband data capacity will continue to yield increasingly high results given broader market increases in mobile broadband data consumption and the greater prevalence of unlimited data plans.<sup>42</sup>

### III. DISCUSSION

11. The Bureau acts on its own motion to waive, for a period of one year, until December 1, 2022, the implementation of the phase-out in Lifeline support for voice-only services and the increase in the Lifeline minimum service standards for mobile broadband data capacity. In evaluating whether good cause exists for waiver of its rules,<sup>43</sup> the Commission considers whether the particular facts make strict compliance inconsistent with the public interest.<sup>44</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of policy on an overall basis.<sup>45</sup> Waiver of the Commission's rules is therefore only appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>46</sup> As further discussed below, the Bureau finds good cause to act on delegated authority to waive the Lifeline rules as described herein.<sup>47</sup>

12. Specifically, we find that new circumstances support pausing both the phase-down of support for voice-only service and the increase in the minimum service standard for mobile broadband data capacity. The *2016 Lifeline Order*'s dual approach of the phase-down in support for voice-only

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<sup>37</sup> See Marketplace Report at 22 (citing comments filed from the National Lifeline Association (NaLA), National Consumer Law Center, Next Century Cities, Public Knowledge, and NTCA).

<sup>38</sup> See *id.*

<sup>39</sup> See *id.* at 17.

<sup>40</sup> *Id.*

<sup>41</sup> See *id.* (citing comments from the Competitive Carriers Association Comments, Next Century Cities, NaLA, Public Knowledge, Internet Society, and the Open Technology Institute).

<sup>42</sup> See *id.* at 18.

<sup>43</sup> See 47 CFR § 1.3.

<sup>44</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>45</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>46</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>47</sup> See 47 CFR § 0.291; *2016 Lifeline Order*, 31 FCC Rcd at 4120, para. 433.

service coupled with the phase-in of minimum service standards aimed to redirect Lifeline funds in a way that reflects the marketplace evolution toward increased adoption of robust broadband services. Recent data, however, shows that a persistent percentage of Lifeline subscribers still rely on voice-only support for their connectivity needs. Moreover, the ongoing COVID-19 pandemic provides unique justifications for continuing voice-only support, and the newly formed EBB Program, which also provides support for broadband service for low-income consumers, present new considerations for the future role of the Lifeline program.<sup>48</sup> Today's action will prevent any unwanted harmful effects that would result from the continued application of the rules while the Commission takes the necessary time to gather additional data to evaluate how the Lifeline program can best achieve the goals articulated in the *2016 Lifeline Order*.

13. *Voice Support Phase-Down.* The *2016 Lifeline Order* scheduled a phase-down in Lifeline support for voice-only services. This phase-down was meant to promote the adoption of broadband, modernize the Lifeline program due to the growing importance of broadband, and to narrow the digital divide.<sup>49</sup> The persistent subscriptions to voice-only service offerings, pace of adoption of broadband, and net benefits of continuing voice-only support, however, provide strong considerations for maintaining Lifeline support for voice-only services for at least one additional year. Additionally, new data from the Marketplace Report and extenuating circumstances unforeseen until this year—that is, the creation of the EBB Program and ongoing pandemic—provide additional evidence in favor of pausing the phase-down in support for voice-only service to further study whether the goals of the *2016 Lifeline Order* would be best served by continuing on the path to eliminate Lifeline support for voice-only services.

14. First, data from the ongoing COVID-19 pandemic has revealed a heightened reliance on voice service. Several providers have shown a dramatic increase in voice traffic during the pandemic.<sup>50</sup> As a trusted and well-known method for connecting to 911, 988, and other community resources, voice service plays a critical role as a safety net for many low-income Americans. What is more, voice service is a popular communication channel for older Americans,<sup>51</sup> and the elimination of Lifeline support for voice-only service plans may particularly hamper the ability of those unable or unwilling to adopt emerging technologies to connect to emergency services. This is particularly concerning during a pandemic that presents significant challenges, including the fact that “[l]ow-income assistance program intake sites in many areas remain closed or have restricted ability to serve walk-in customers.”<sup>52</sup>

15. Additionally, we take into consideration the impact of the newly created EBB Program due to its similarities to and overlap with the Lifeline program. Much of the rationale for the phase-down in Lifeline support for voice-only services as described in the *2016 Lifeline Order* was the desire to allow the Lifeline program to shift scarce resources towards broadband Internet access services.<sup>53</sup> The existence of the EBB Program, and its potential successor program, is relevant as to whether an elimination of

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<sup>48</sup> We also note that the EBB Program's potential longer-term successor program, the ACP, would similarly provide support for broadband service for low-income consumers. See Infrastructure Investment and Jobs Act, H.R.3684, 117<sup>th</sup> Cong., tit. V, § 60502 at 2152 (2021) (as passed by the Senate, Aug. 10, 2021), <https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684eas.pdf>.

<sup>49</sup> See *2016 Lifeline Order*, 31 FCC Rcd at 3966-69, paras. 12-22.

<sup>50</sup> Verizon reported historic numbers in wireless phone calls, and AT&T saw a 35% increase in such traffic. See Cecilia Kang, *The Humble Phone Call Has Made a Comeback* (Apr. 9, 2020), <https://www.nytimes.com/2020/04/09/technology/phone-calls-voice-virus.html>.

<sup>51</sup> See Pew Research Center, *Mobile Technology and Home Broadband 2021*, (June 3, 2021) (“June 2021 Pew Report”), <https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/>.

<sup>52</sup> See NCLC Letter at 2.

<sup>53</sup> See *2016 Lifeline Order*, 31 FCC Rcd at 3985, para. 61 (stating that the phase-down in voice-only support was adopted to “ensure that future Lifeline offerings are sufficient for consumers to participate in the 21<sup>st</sup> Century economy at affordable rates, and to obtain the most value possible from the Lifeline benefit”).

Lifeline support for voice-only services is still necessary or desirable, given the significant percentage of Lifeline consumers who continue to prioritize voice-only service. What is more, the phase-down in voice-only support was also put in place to incentivize the transition to broadband services and to narrow the digital divide;<sup>54</sup> however, the EBB Program maintains a common goal of ensuring low-income consumers have access to broadband during the pandemic, albeit with a larger subsidy.<sup>55</sup> There may be a benefit in continuing Lifeline support for voice-only services while these other programs offer enhanced support for broadband Internet access service. As such, the recent creation of the EBB Program, and the potential creation of a longer-term program, plays an integral role in our decision here today to pause the phase-down in Lifeline support for voice-only services. Such a pause will allow the Commission to consider how these programs may impact the goals outlined in the *2016 Lifeline Order*.

16. Moreover, while we did not find that the pandemic justified a pause of the phase-down in voice-only support from \$7.25 to \$5.25 last year, the potential *elimination* of voice-only support poses a heightened threat to the safety of low-income Americans during the pandemic.<sup>56</sup> In reducing the amount of support in 2019 and 2020, our analysis turned largely on the affordability of a voice-only plan and whether a decrease in the subsidy amount would impede low-income consumers' access to affordable communications services.<sup>57</sup> As shown in the Marketplace Report, approximately 8% of Lifeline subscribers still subscribe to either a voice-only plan or a bundle plan that only meets the voice minimum service standard,<sup>58</sup> and we estimate that the overwhelming majority of these subscribers will be unable to take advantage of an exception to the phase-out of voice-only support.<sup>59</sup> What is more, retail rates for bundled broadband plans that would meet the Lifeline program's current minimum service standards for broadband data capacity far exceed the cost of plans that would qualify as Lifeline voice-only plans.<sup>60</sup> As such, an elimination of voice-only support may force subscribers seeking voice-only services to either move to a more expensive bundled broadband plan, or forego voice service altogether.

17. Thus, we find good cause to pause the phase-down of voice-only support for one year to allow the Commission to further analyze the future role of Lifeline support for voice-only services, given the creation of the EBB program; the apparent ongoing importance of voice-only service to a significant minority of Lifeline subscribers, particularly during the COVID-19 pandemic; and the lack of data regarding the options for affordable service that will be available to low-income consumers if voice-only support is eliminated. Indeed, the *2016 Lifeline Order* intended to direct Lifeline funds toward services in

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<sup>54</sup> See generally *2016 Lifeline Order*, 31 FCC Rcd at 3966-69, paras. 12-22.

<sup>55</sup> See *EBB Program Order*, 36 FCC Rcd at 4613-14, paras. 1, 4.

<sup>56</sup> While we note that last year the Commission discussed some of the effects of a phase-out in support for voice-only services in the context of supporting broadband Internet access service through the Lifeline program, such action was taken before the creation of the EBB Program and during the relatively early stages of the pandemic. Significantly, the Commission specifically declined to address whether or not to pause the phase-out of voice support and instead limited its discussion to the discrete issues remanded by the U.S. Court of Appeals for the D.C. Circuit. See *Restoring Internet Freedom et al.*, WC Docket No. 17-108, Order on Remand, 35 FCC Rcd 12328, 12384-85, paras. 94-95 (2020).

<sup>57</sup> See *2019 Waiver Order*, 34 FCC Rcd at 11026-27, para. 18-20; *2020 Waiver Order*, 35 FCC Rcd at 12965-66, para. 21-23.

<sup>58</sup> See Marketplace Report at 21.

<sup>59</sup> See 47 CFR § 54.403(a)(2)(v) (permitting continued Lifeline support for voice-only services where there is only one Lifeline eligible telecommunications carrier serving a specific Census block).

<sup>60</sup> See, e.g., Letter from John J. Heitmann, Counsel, National Lifeline Association, to Marlene H. Dortch, Secretary FCC, WC Docket Nos. 11-42, et al., Exhibit B (filed Oct. 6, 2021), [https://ecfsapi.fcc.gov/file/1007003413241/NaLA%20Lifeline%20and%20EBB%20OCH%20Ex%20Parte%20\(Oct%202021\).pdf](https://ecfsapi.fcc.gov/file/1007003413241/NaLA%20Lifeline%20and%20EBB%20OCH%20Ex%20Parte%20(Oct%202021).pdf) (showing retail plans from various Lifeline providers that meet only the voice minimum service standards to be less expensive than bundled broadband plans that also contain a voice component).

a way that reflects the technological and marketplace evolution toward data services and to promote a forward-looking Lifeline program. This pause is consistent with those goals.<sup>61</sup>

18. We note that in waiving the phase-down in voice-only support set forth in section 54.403(a)(2)(iv) of our rules, we also must waive for one year the requirement at section 54.401(b) that Lifeline eligible telecommunications carriers must provide broadband Internet access service meeting the minimum service standards in every Lifeline offering after December 1, 2021.<sup>62</sup>

19. *Mobile Broadband Data Capacity Minimum Service Standards.* In determining the appropriate data capacity minimum service standard, the Commission in the *2016 Lifeline Order* recognized that it must balance the dueling goals of affordability and accessibility, “providing consumers with services that allow them to experience many of the Internet’s offerings, but not mandating the purchase of prohibitively expensive offerings.”<sup>63</sup> Absent our action, the minimum service standard for mobile broadband data capacity will rise dramatically, from 4.5 GB per month to 18 GB per month, threatening the affordability of Lifeline mobile broadband services. New data also indicate that most Lifeline subscribers do not require an increase in the usage allowance.<sup>64</sup> Therefore, we find that pausing the usage standard for one year will best serve the public interest and allow the Commission to gather more relevant data and to consider whether a different long-term approach is warranted.

20. As the Commission noted in the *2016 Lifeline Order*, there is inherent difficulty in predicting marketplace evolution,<sup>65</sup> particularly in an arena where technology often develops at a rapid pace. What is more, there is inherent difficulty in predicting, years in advance, the correct intersection between providing sufficient access to technology, while protecting against a requirement that leads to prohibitively expensive plans. Publicly available information shows that some providers—such as Assurance Wireless and i-wireless, doing business as Access Wireless—currently offer free plans that meet the mobile broadband minimum service standards to eligible Lifeline subscribers.<sup>66</sup> However, these plans are tied to both Lifeline and the EBB Program, so we do not know the long-term viability of such plans and how they might be impacted by the sunset of the EBB Program or its replacement with a potential successor program. Moreover, some studies have raised concerns about cost-barriers in the Lifeline program and emphasize a growing concern about consumers’ ability to pay rather than their willingness to pay.<sup>67</sup> Further, the Benton Institute indicates that many broadband plans that meet the mobile broadband minimum service standards are not free-to-the-user.<sup>68</sup> We too have seen evidence of Lifeline providers passing on a significant co-pay to Lifeline subscribers, which may be tied to past

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<sup>61</sup> As a result of the pause in the phase-down of voice-only support today, we note that providers will no longer need to identify whether they qualify for continued voice-only support pursuant to the census block exemption expounded upon in our June 1, 2021 Public Notice. See *Wireline Competition Bureau Announces Census Blocks in Which Eligible Lifeline Consumers Can Continue to Receive Discounted Voice-only Lifeline Services*, WC Dockets No. 11-42, et al., Order, DA 21-640, 2021 WL 2261586, at \*1 (WCB June 1, 2021).

<sup>62</sup> See 47 CFR § 54.401(b)(2),(4).

<sup>63</sup> See *2016 Lifeline Order*, 31 FCC Rcd at 3989, para. 71.

<sup>64</sup> See Marketplace Report at 17.

<sup>65</sup> See *2016 Lifeline Order*, 31 FCC Rcd at 3987, para. 66.

<sup>66</sup> See Assurance Wireless, *District of Columbia Lifeline Program*, <https://www.assurancewireless.com/lifeline-services/states/district-of-columbia-lifeline-free-government-phone-service> (last visited Oct. 27, 2021); Access Wireless, *The Lifeline Program*, <https://www.accesswireless.com/lifeline/state?zipcode=33330> (last visited Oct. 27, 2021).

<sup>67</sup> See, e.g., Marketplace Report at 23 (citing Colin Rhinesmith, Digital Inclusion and Meaningful Broadband Adoption Initiatives (2016), <https://www.benton.org/sites/default/files/broadbandinclusion.pdf>).

<sup>68</sup> *Id.*

increases in the Lifeline minimum service standards.<sup>69</sup> As such, we are cognizant that further increasing the minimum service standard for mobile broadband data capacity could price many Lifeline subscribers out of the program.

21. Through our efforts to collect relevant data for the Marketplace Report, we did receive sufficient information to provide a glimpse into Lifeline subscriber data usage.<sup>70</sup> From that information, which was weighted to account for varying sizes in the subscriber bases of respondents, we estimated that roughly 93% of the Lifeline subscriber population uses less than 4 GB of data per month, with 76% of all reported Lifeline subscribers using less than 1 GB per month.<sup>71</sup> Of course, we must be cognizant of the ongoing pandemic and ever-increasing reliance on broadband for work, school, healthcare, and social life, but we believe the current standard adequately captures these concerns and provides the appropriate level of service for Lifeline subscribers when balanced against the potential for increased cost of services that may result from an increase in the minimum service standard for mobile broadband data capacity.

22. A new consideration in our balancing of the affordability and accessibility of mobile broadband service is the creation of the EBB Program. As Lifeline subscribers automatically qualify for the EBB Program, the program's current discount of up to \$50 is likely to have large implications on the affordability of broadband service for Lifeline-eligible households. The relatively new nature of the program—as well as the potentially forthcoming longer-term ACP—underscores the need for more data to adequately assess the effects on the Lifeline program and its role in shaping the broadband market for low-income Americans.

23. As in previous years, the lack of cost data has made the task of carefully balancing the affordability and accessibility of mobile broadband service difficult. Nevertheless, given the new data that provides insight into the mobile broadband data usage of Lifeline subscribers, the uncertainty revolving around the EBB Program and the potential forthcoming legislation regarding a longer-term broadband program counsel towards maintaining the current minimum service standard for mobile broadband data capacity. Thus, we find good cause for pausing the mobile broadband minimum service standard at 4.5 GB per month, for one year.

#### **IV. ORDERING CLAUSES**

24. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that section 47 CFR § 54.401(b), 47 CFR § 54.403(a)(2), and 47 CFR § 54.408(b)(2)(ii)(D) of the Commission's rules ARE WAIVED to the limited extent provided herein.

25. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief  
Wireline Competition Bureau

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<sup>69</sup> See *id.* at 17-18.

<sup>70</sup> See *id.* at 17.

<sup>71</sup> *Id.*