

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) WC Docket No. 09-197
Service Support)
Connect America Fund) WC Docket No. 10-90

ORDER

Adopted: July 7, 2023

Released: July 7, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) extends, for an additional year, the waiver pausing both the phase-out of Lifeline support for voice-only services and the increase in Lifeline minimum service standards for mobile broadband data capacity. Without this decision, support for services that meet only the voice minimum service standard, which currently stands at \$5.25 per month, would be eliminated in most areas on December 1, 2023.1 Additionally, the minimum service standard for mobile broadband data capacity would rise from 4.5 GB to 20 GB per month beginning December 1, 2023.2

2. Last year, when considering the then-newly established Affordable Connectivity Program (ACP) and the prospect of the Commission's since-released Future of USF Report,3 we found good cause to pause the scheduled changes to the Lifeline program for one year to consider whether longer-term changes to the program were warranted.4 As discussed below, we find good cause to extend this pause for an additional year to understand the impact of the ACP on Lifeline subscribers' use of their Lifeline benefit. Additionally, this pause will give the Commission the opportunity to fully consider the results of the inaugural ACP transparency data collection5 and the recommendations presented in the Future of USF Report.6 This pause will extend until December 1, 2024.

1 See 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).

2 2016 Lifeline Order, 31 FCC Rcd at 3997, paras. 94, 97.

3 See Report on the Future of the Universal Service Fund, WC Docket No. 21-476, Report, FCC 22-67 (2022) (Future of USF Report).

4 See Lifeline and Link Up Reform and Modernization et al., WC Docket No. 11-42, Order, DA 22-706, at 5-8, paras. 12-22 (WCB 2022) (2022 Waiver Order).

5 See Affordable Connectivity Program, WC Docket No. 21-450, Fourth Report and Order and Further Notice of Proposed Rulemaking, FCC 22-87, at 4-30, paras. 8-56, 59 (2022) (ACP Transparency Data Collection Order).

6 See Future of USF Report at 31-40, paras. 58-74.

II. BACKGROUND

3. In the *2016 Lifeline Order*, the Commission adopted changes to the Lifeline program meant to expand low-income consumers' access to robust and affordable broadband services.⁷ 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.⁸ This effort 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.”⁹

4. The *2016 Lifeline Order* scheduled the first step of the phase-down in Lifeline support for voice-only services to begin on December 1, 2019, when support was reduced from \$9.25 to \$7.25.¹⁰ The next step was taken on December 1, 2020, when support was reduced from \$7.25 to \$5.25.¹¹ The *2016 Lifeline Order* contemplated a complete phase-out of Lifeline support for such services on December 1, 2021, when support for voice-only services was to be eliminated in most areas.¹² The Bureau, however, took action to pause the phase-out of voice-only services for one year, until December 1, 2022, recognizing the importance that voice service plays to some Lifeline subscribers and the role it plays in ensuring consumers' access to emergency services during the pandemic.¹³ The Bureau again paused the phase-out of voice-only services for one year, until December 1, 2023, citing similar reasons, in addition to the need to understand how the ACP impacts Lifeline and to thoroughly evaluate the future of USF programs.¹⁴

5. The mobile broadband data capacity minimum service standards were created to provide services that allow consumers to experience modern day connectivity, without mandating the purchase of prohibitively expensive offerings.¹⁵ To this end, the *2016 Lifeline Order* adopted a gradual increase in minimum service standards until December 1, 2019.¹⁶ Starting in 2019, the Bureau was to use a formula for future annual minimum service standard increases for mobile broadband data capacity with data contained in the Commission's annual Mobile Wireless Competition Report.¹⁷ 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 hundredth 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.¹⁸

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

⁸ *Id.* at 3985-86, paras. 62-65.

⁹ *Id.* at 3985, para. 62.

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

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

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

¹³ *See Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Order, DA 21-1389, at 6-8, paras. 13-18 (WCB 2021) (*2021 Waiver Order*).

¹⁴ *See 2022 Waiver Order* at 5-8, paras. 12-22.

¹⁵ *See 2016 Lifeline Order*, 31 FCC Rcd at 3989, para. 71.

¹⁶ *See* 47 CFR § 54.408(b)(2)(ii).

¹⁷ *See* 47 CFR § 54.408(b)(2)(ii).

¹⁸ *See 2016 Lifeline Order*, 31 FCC Rcd at 3995-96, paras. 93-94; 47 CFR § 54.408(c)(2)(ii).

6. In 2019, the Commission found good cause to partially grant a petition from CTIA and others to waive the impending increase in the minimum service standard for mobile broadband data capacity, which would have seen the standard increase from 2 GB per month to 8.75 GB per month, and to establish a minimum service standard of 3 GB per month.¹⁹ In 2020, when the minimum service standard was set to increase from 3 GB per month to 11.75 GB per month, the Bureau acted 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.²⁰ In both 2019 and 2020, the Commission and Bureau respectively 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.²¹ In 2021, absent Bureau action, the primary formula would have yielded an increase in the minimum service standard for mobile broadband data capacity to 18 GB per month.²² Instead, the Bureau found good cause to pause the increase for one year, until December 1, 2022.²³ In 2022, the Bureau again found good cause to pause the increase for a year, until December 1, 2023.²⁴ This year, based on the typical formula for calculating increases, the minimum service standard for mobile broadband data capacity will increase to 20 GB per month beginning December 1, 2023.²⁵

7. On January 14, 2022, the Commission adopted rules for the ACP.²⁶ The ACP provides a monthly discount of up to \$30 for broadband service, and up to \$75 a month for households on qualifying Tribal lands.²⁷ Under the ACP, participating providers, in addition to providing an ACP-supported broadband service to the household, can also offer a reimbursement up to \$100 for a connected device per household, provided that the household contributes more than \$10 but less than \$50 for such connected

¹⁹ 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).

²⁰ 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).

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

²² See 47 CFR § 54.408(b)(2)(ii)(D); see also *2021 Waiver Order* at 1, para 1.

²³ See *2021 Waiver Order* at 6-8, paras. 13-18.

²⁴ See *2022 Waiver Order* at 6-7, paras. 14-17. Absent Bureau action, the minimum service standards for mobile broadband data capacity would have increased to 6.5 GB per month on December 1, 2022, as the most recent Communications Marketplace Report at the time of the *2022 Waiver Order's* release was older than 18 months, and the year over year change in average mobile data usage per smartphone user reported in the then most recent, Communications Marketplace Report was roughly 40 percent. See Federal Communications Commission, 2020 Communications Marketplace Report at 19. Fig. II.A.8 (Dec. 31, 2020); 54 CFR § 54.408(c)(2)(iii). The *2020*, *2021*, and *2022 Waiver Orders* each relied on the COVID-19 pandemic as one of several justifications for waiving increases in minimum service standards and the elimination of support for voice-only service. The Federal COVID-19 Public Health Emergency Declaration, which was effective when each of these three *Orders* were adopted, has ended. See *2020 Waiver Order*, 35 FCC Rcd at 12958, 12961-12962, paras. 2, 12, 14; *2021 Waiver Order* at 1, 4-8, paras. 1, 9, 12-17; *2022 Waiver Order* at 4-6, paras. 8, 13-14; see also Centers for Disease Control and Prevention, *End of the Federal COVID-19 Public Health Emergency (PHE) Declaration*, <https://www.cdc.gov/coronavirus/2019-ncov/your-health/end-of-phe.html> (last visited July 7, 2023).

²⁵ See 47 CFR § 54.408(b)(2)(ii)(D).

²⁶ See *Affordable Connectivity Program*, WC Docket No. 21-450, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484, 484, para. 1 (2022) (*ACP Order*).

²⁷ See 47 CFR § 54.1803(a).

device.²⁸ A connected device is defined in the Infrastructure Act as a laptop, desktop computer, or a tablet, and excludes cellular phones, smartphones, and tablets with cellular calling capabilities.²⁹

8. The Infrastructure Act also instructed the Commission to initiate two additional actions: issue final rules for an ACP transparency data collection of information about the price and subscription rates of each Internet service offering received by households enrolled in the ACP;³⁰ and issue “a report [to Congress] on the options of the Commission for improving its effectiveness in achieving the universal service goals for broadband”³¹ In November 2022, the Commission adopted final rules in its *ACP Transparency Data Collection Order*.³² The rules require all providers participating in the ACP with enrolled subscribers³³ to submit aggregate ZIP code-level data on each plan where there is one or more ACP subscriber.³⁴

9. The *Future of USF Report*, which was adopted on August 12, 2022,³⁵ found that a persistent minority of Lifeline consumers opt for voice-only Lifeline plans.³⁶ It also recommended that the Commission “initiate a rulemaking to evaluate how the Lifeline program can best operate with the Affordable Connectivity Program and examine lessons learned from implementation of the EBB Program and the Affordable Connectivity Program that may be able to be applied to Lifeline.”³⁷ The *Report* further recommended that the Commission “consider continuing Lifeline support for voice-only service based on strong support in the record”³⁸ and “consider how best to revisit the minimum service standards prescribed by the *2016 Lifeline Order*.”³⁹ The Commission has not had an opportunity to fully consider these recommendations.

III. DISCUSSION

10. The Bureau acts on its own motion to extend its waiver of 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 for one additional year, until December 1, 2024. In evaluating whether good cause exists for waiver of its rules,⁴⁰ the Commission considers whether the particular facts make strict compliance inconsistent with the public interest.⁴¹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation

²⁸ See *ACP Order*, 37 FCC Rcd at 538-539, paras. 110-12.

²⁹ 47 U.S.C. § 1752(b)(5).

³⁰ See Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. F, tit. V, § 60502(c) (Infrastructure Act); *Affordable Connectivity Program*, WC Docket No 21-450, Notice of Proposed Rulemaking, FCC 22-44 (rel. June 8, 2022), <https://www.fcc.gov/document/fcc-proposes-transparency-rules-affordable-connectivity-program>.

³¹ Infrastructure Act, div. F, tit. I, § 60104(c).

³² *ACP Transparency Data Collection Order* at 54, paras. 128-130.

³³ *Id.* at 3-4, para. 7.

³⁴ The data submitted is meant to include information regarding service plan price, speed, and data caps, in addition to any equipment fees and the number of ACP subscribers for each plan. *ACP Transparency Data Collection Order* at 8-26, paras. 8-52.

³⁵ See *Future of USF Report* at 58, para. 121.

³⁶ See *id.* at 29-30, 35, paras. 55, 67.

³⁷ See *id.* at 31-32, para. 58.

³⁸ See *id.* at 35-36, paras. 67-68.

³⁹ See *id.* at 36-37, para. 69.

⁴⁰ See 47 CFR § 1.3.

⁴¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

of policy on an individual basis.⁴² 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.⁴³ As further discussed below, the Bureau finds good cause to act on delegated authority to waive the Lifeline rules as described herein.⁴⁴

11. Our decision to further extend this waiver stems from careful consideration of the ACP's impact on Lifeline subscribers and the affordable broadband market more broadly. Moreover, there is good cause to maintain the status quo until the Commission has the opportunity to consider the recommendations found in the *Future of USF Report*⁴⁵ and analyze the inaugural ACP transparency data collection.⁴⁶ These factors, as well as information showing a continued reliance on voice-only services among a subset of Lifeline subscribers,⁴⁷ warrant special consideration to avoid undue consumer disruption in the Lifeline marketplace. Thus, we find good cause to pause, until December 1, 2024, both the elimination of voice-only support and the increase in minimum service standards for mobile broadband data capacity.

12. *Voice Support Phase-Out.* Last year, we paused the scheduled phase-out in Lifeline support for voice-only services due to a heightened reliance on voice service,⁴⁸ the need for further understanding of how the ACP impacts the low-income communications market,⁴⁹ and the need to consider the findings of the *Future of USF Report*.⁵⁰ We continue to see a persistent minority of households still relying on qualifying Lifeline voice service for their connection needs. Indeed, approximately 350,000 Lifeline subscribers continue to subscribe to a voice-only plan.⁵¹ It is unclear what effect the elimination of voice support would have on this population's ability to retain an affordable voice-service plan. Our action today ensures that these subscribers are not forced to subscribe to broadband bundled plans—which may be cost prohibitive and not useful to them—to maintain their access to a Lifeline-supported service. Our action also permits these households to maintain access to voice service that bridges a gap in the pursuit of universal service.⁵² Further, we are particularly cognizant of the potential harm if a Lifeline subscriber loses their voice service and their access to services such as 911, 988, and other critical support hotlines.⁵³

13. Also contributing to our decision for a further pause is the ACP. While the ACP

⁴² *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

⁴³ *Northeast Cellular*, 897 F.2d at 1166.

⁴⁴ See 47 CFR § 0.291; *2016 Lifeline Order*, 31 FCC Rcd at 4120, para. 433.

⁴⁵ See *Future of USF Report* at 31-39, paras. 58-71.

⁴⁶ See *ACP Transparency Data Collection Order* at 27, para. 54.

⁴⁷ See USAC, Board Materials for April 2023, *High Cost & Low Income Committee Briefing Book* at 60-61 (2023), <https://www.usac.org/wp-content/uploads/about/documents/leadership/materials/hcli/2023/2023.04.20-HCLI-Briefing-Book-Open-Session.pdf> (*High Cost & Low Income Committee Briefing Book*) (2023) (noting that as of April 2023, there remains approximately 5 percent of Lifeline subscribers relying only on qualified voice service options).

⁴⁸ *2022 Waiver Order* at 6, para. 15.

⁴⁹ *Id.* at 6, para. 16.

⁵⁰ *Id.* at 6-7, para. 17.

⁵¹ *High Cost & Low Income Committee Briefing Book* at 60-61.

⁵² See *2021 Waiver Order* at 7, para. 16 (finding that “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,” which could require some Lifeline subscribers “to either move to a more expensive bundled broadband plan, or forego voice service altogether.”).

⁵³ See, e.g., National Domestic Violence Hotline, <https://www.thehotline.org/> (last visited July 7, 2023).

currently serves more households⁵⁴ and provides a larger monthly reimbursement than Lifeline,⁵⁵ the ACP does not support voice-only services. We find that it is in the public interest to maintain access to a voice subsidy to meet the needs of non-broadband subscribers who do not or will not benefit from the ACP.⁵⁶ As such, we believe that a further pause in the complete phase-out of voice-only support is appropriate to allow the Commission to fully consider the future of its low-income affordability programs. Additionally, the *Future of USF Report* recommended that the Commission consider continuing Lifeline support for qualifying voice services.⁵⁷ Pausing the phase-out of voice-only support maintains the status quo and gives the Commission an opportunity to consider a more comprehensive approach for addressing this issue.

14. *Mobile Broadband Data Capacity Minimum Service Standards.* Last year, the Bureau paused the increase in the minimum service standard for mobile broadband data capacity, in part due to potential cost barriers that an increase would bring and data showing that Lifeline subscribers may not benefit from an increase in the usage allowance.⁵⁸ While this factor continues to influence our decision to extend the pause in minimum service standards for mobile broadband data capacity, the size of the increase in broadband data capacity indicated by the current formula and the results of the inaugural ACP transparency data collection add to our calculation that a further pause is in the public interest.

15. The data capacity minimum service standard for mobile broadband aims to balance the dueling goals of access and affordability, ensuring consumers have access to the robust service needed to participate in modern society while also ensuring consumers are able to afford such access. Absent our action, the current minimum service standard for mobile broadband data capacity would increase by roughly 344 percent to 20 GB per month.⁵⁹ Increasing the current minimum service standard by nearly four times its current level risks a standard so greatly increased that many Lifeline subscribers may not be able to afford a plan that offers qualifying broadband service, even with the Lifeline benefit.⁶⁰

16. At the same time, Commission staff are currently implementing the ACP Transparency Data Collection consistent with the requirements of the Commission's Order⁶¹ and the Infrastructure

⁵⁴ See *High Cost & Low Income Committee Briefing Book* at 61; USAC, ACP Enrollment and Claims Tracker, <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/> (last visited July 7, 2023).

⁵⁵ See 47 CFR § 54.1803; see 47 CFR § 54.403; *2022 Waiver Order* at 1, 6-7, paras. 1, 14-17.

⁵⁶ See *2022 Waiver Order* at 5-6 paras. 13, 16 (“Moreover, the creation of a longer-term, broadband-focused program—the Affordable Connectivity Program—serves a primary policy goal of the *2016 Lifeline Order*: encouraging the Commission’s low-income program to embrace broadband services, thereby raising significant questions about the further need of the Lifeline program in meeting low-income consumers’ broadband needs”); See also *Future of USF Report* at 31, 35, paras. 58, 67 (“We recommend that the Commission initiate a rulemaking to evaluate how the Lifeline program can best operate with the Affordable Connectivity Program and examine lessons learned from implementation of the EBB Program and the Affordable Connectivity Program that may be able to be applied to Lifeline.”).

⁵⁷ See *Future of USF Report* at 35-36, paras. 67-68.

⁵⁸ See *2022 Waiver Order* at 7, paras. 18-19.

⁵⁹ 47 CFR § 54.408(c)(2)(ii).

⁶⁰ *2022 Waiver Order* at 3, para. 7 (“Relying on limited data provided by Lifeline service providers, the Marketplace Report found that 93 percent of Lifeline subscribers use less than 4 GB of data per month, and 76 percent of all reported Lifeline subscribers use less than 1 GB per month.”).

⁶¹ See *ACP Transparency Data Collection Order* at 30-31, para. 60; see also Federal Communications Commission, Information Collection Being Submitted for Review and Approval to Office of Management and Budget, 88 FR 37243 (June 7, 2023) (issuing 30-day notice on the information collection submitted to OMB); Federal Communications Commission, Information Collection Being Submitted for Review and Approval to Office of

(continued....)

Act.⁶² The Commission anticipates that “[d]ata on the price and characteristics of plans with ACP enrolled households will help the Commission understand the value that ACP enrolled households are obtaining from the federal subsidy, including which plan characteristics are covered by the benefit, and whether the plans being subsidized are of adequate quality to engage in telework, telehealth, or remote education.”⁶³ The data collected on the types of plans ACP households take today can help inform future Commission decisions about Lifeline minimum service standards. Allowing the Commission time to act after benefiting from this potentially valuable data source merits waiving an increase in minimum service standards.

17. Additionally, the *Future of USF Report* recommended that the Commission further consider revisions to the Lifeline program’s minimum service standards.⁶⁴ Maintaining the current minimum service standards for mobile broadband data capacity allows the Commission time to consider how to establish a minimum service standard that evolves with changing technology and usage patterns. Further, a temporary pause here will ensure that qualifying service is affordable and meets the connectivity needs of low-income consumers on an ongoing basis. For all of these reasons, we find good cause to pause the Lifeline minimum service standards for mobile broadband data capacity.

IV. ORDERING CLAUSES

18. 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. 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

Trent B. Harkrader
Chief
Wireline Competition Bureau

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Management and Budget, 88 FR 15716 (Mar. 14, 2023) (issuing 60-day request for comment on information collection).

⁶² Infrastructure Act, div. F, title V, § 60502(c).

⁶³ *ACP Transparency Data Collection Order* at 27, para. 54.

⁶⁴ See *Future of USF Report* at 36-37, para. 69.