

**STATEMENT OF  
CHAIRMAN RAY BAUM  
CONCURRING IN PART, DISSENTING IN PART**

*In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link Up, WC Docket No. 03-109*

In 2007, the Joint Board took a fresh look at the high-cost component of the federal universal service fund and adopted several guiding principles. Among those principles were cost control, accountability, and state participation. Today, the Joint Board is focusing needed attention on the low-income fund and I believe the same principles should be applied here.

As the high-cost fund spiraled ever higher, the Joint Board recommended, and the FCC adopted, a cap on the amount of support available to competitive providers. Today it is the low-income fund's alarming growth rate that demands attention. In the past two years, the low-income fund has increased at an annualized rate of 30%. Left unchecked, the fund will easily reach \$2 billion within the next two years. To date, much of the attention given to the low-income program has been focused on increasing participation rates. In this referral, we were asked to consider widening eligibility requirements by making all states follow federal eligibility requirements as a minimum and by expanding the qualifying income levels. Given the recent efforts to relax the low-income fund requirements, and the stated desire to transition support to broadband services, it may be time to ask whether the program has sufficiently met its goals of enabling universal service. FCC data shows that 95.7 percent of all households in the country have phone service. Among low-income households, 90.4 percent have phone service, up from 80 percent when Lifeline was first established in 1985. Even among households with income under \$5000, 88 percent have phone service available. Rather than adopting less stringent income eligibility standards or forcing states to adopt expanded eligibility requirements, we should be focusing our efforts on determining why those customers who are currently eligible for support have chosen not to seek Lifeline service, and how to remove barriers to participation for eligible customers.

The tremendous growth rate of the low-income fund can be attributed to the FCC's granting of forbearance to wireless resellers, and the designation of new ETCs for the sole purpose of obtaining low-income support funds. Several of these ETCs offer prepaid wireless Lifeline services at no cost to the low-income consumer. This business model has arguably been successful in increasing Lifeline program participation rates among eligible low-income consumers. However, several states have reported that a significant number (nearly half in some cases) of the Lifeline customers of these new participants are not eligible to receive support. Providing public support to ineligible customers represents a waste of public support funds and is unacceptable. This waste not only harms the customers who pay into the low-income fund, but potentially denies needed support for those who are truly eligible. We must ensure there is accountability for those who benefit from the low-income fund.

I am disappointed that we did not offer specific recommendations for tougher eligibility verification standards, to be implemented now, to stem the waste, fraud and abuse that appears to be occurring. Taking more comments on the subject only prolongs the period before action will be taken. Meanwhile, the waste of support funds will likely continue. We should require that eligibility be based on participation in qualifying programs, and not on the household's income alone. We must maximize the amount of support funds that go to eligible low-income consumers and make sure that those customers are receiving those services from providers on just and reasonable terms that represent an efficient use of ratepayer dollars. I urge the Commission to act

quickly and implement the measures necessary to stem this tide. States have taken the lead role in investigating and addressing these problems. The FCC must do the same and be forthcoming with the data necessary to determine whether the problems lie with all carriers, or just a very few.

The third guiding principle - state participation - could yield a large part of the solution. States such as California, Florida, Oregon, and others have been on the forefront of the battle against fraud, waste and abuse and ensuring only eligible consumers receive Lifeline support. Even if a national database were to be constructed to minimize such problems, state involvement would still be key to determining individual consumers' eligibility. While such a database would significantly decrease administrative costs for the carriers, it could not be successfully implemented without the efforts and diligence of the states where the benefiting consumers reside. Furthermore, the majority of states already provide matching state funds for Lifeline customers and therefore have a vested interest in the integrity of their funds and the welfare of their state residents. A partnership between the FCC and the states is the best way to ensure the integrity of the program. In states that are willing and capable of reviewing eligibility requirements, the FCC should be willing to pay its fair share of the costs. In states that cannot provide this assistance, the FCC should take reasonable steps to protect against waste, fraud, and abuse of the program.

In short, at this juncture, the Commission should focus on how to minimize the fraud, waste, and abuse in the current system in order to free up funds for those who are eligible to receive support, and to make funds available for the transition to broadband services without increasing the current funding level for the overall universal service fund.

More particularly, I concur in the concerns raised by Commissioner Landis in his separate statement as it relates to the potential impact of the growth of the low-income portion of the fund on the amount of support available to carriers that currently serve high cost rural areas and their customers under the high cost portion of the fund, as well as the other host of issues he raises that if not handled properly could hinder support of broadband deployment in those high cost areas. I also join in Commissioner Cawley's comments concerning the need to manage the impacts on the over-all size of the fund and the need for clarity in the regulatory treatment of broadband. Finally, I join in Commissioner Burke's separate statement in its entirety, and more particularly, as it relates to the need by the FCC to avoid creating a digital divide between urban and rural America.