

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
DISSENTING IN PART, CONCURRING IN PART**

Re: *Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287; *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42; *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197.

Over nearly four decades, the Lifeline program has provided millions of Americans with the opportunity to access a whole range of services through communications. This program has made it possible for low-income consumers to reach out in crisis; seek employment; secure healthcare; and interact with local, state, and federal government. But in the last few years the Federal Communications Commission has failed to recognize that Lifeline is about opportunity. That's regrettable because in its place this agency has consistently offered cruelty, harming a program whose primary purpose is to lend a hand and help.

To be clear, this means cruelty to as many as 2 million elderly Americans who rely on this program for basic connectivity. It means cruelty to the roughly 1.3 million veterans who have served our country and rely on Lifeline service to stay in touch. It means cruelty to those recovering from disaster, like the half a million residents of Puerto Rico who are still rebuilding their lives and communities in the wake of Hurricane Maria and rely on this program to communicate. It means cruelty to the more than 20,000 women, men and children across the country who call a domestic violence hotline every day because many of the organizations behind those hotlines depend on Lifeline to help protect those who call from future harm. And it means cruelty to the 650,000 homeless youth who identify as lesbian, gay, bisexual, or transgender and may rely on discounted access to wireless service to stay safe.

To understand how we got here, a bit of history is required. The Lifeline program got its start in 1985 during the Reagan Administration, when telephone calls required a cord and a jack in the wall. Over time, the FCC updated the program. This included, for instance, during the Bush Administration following Hurricane Katrina, when the FCC made wireless service eligible for support from Lifeline. Later, to curb the efforts of some providers seeking to exploit the program, the FCC put in place new program controls. During the Obama Administration this included requiring new auditing procedures, creating a National Lifeline Accountability Database, and developing a National Verifier designed to take the eligibility determination out of the hands of carriers. These were important measures to reduce waste and abuse. At the same time, the FCC refocused the program on internet access, recognizing that dial tone in the digital age is broadband.

These updates were smart. They were modern. They reflected a bipartisan consensus that mending the program was important but so was ensuring it had a future. After all, the Lifeline program has been an important part of connecting the least among us for almost forty years.

But in 2017, the FCC abruptly changed course. Right out of the gate it cut the Lifeline reforms designed to refocus the program on broadband, rescinding the ability of a bunch of companies seeking to offer internet access through the program. Next, it proposed slashing the program by as much as 70 percent. On top of this, it took a cruel swipe at the program on Tribal Lands, where it cut off providers and acted like up is down by suggesting that this would increase access to communications in our least connected communities.

Thankfully, a court saw through this dishonesty and vacated the FCC's effort to dismantle the program on Tribal Lands. It found that the agency acted in an arbitrary and capricious fashion by "not providing a reasoned explanation for its change of policy that is supported by record evidence." At the same time, the FCC's proposal to gut the program has been panned by everyone from the AARP to the American Association of People with Disabilities to the National Network to End Domestic Violence to the NAACP and the National Grange.

This brings us to the present and the decision before us today.

I believe the cruelty that has informed the FCC's approach to Lifeline is unacceptable. The desire to demonize those who rely on it fails to recognize the humanity of those who count on this program, including the elderly, veterans, those recovering from disaster, those suffering from domestic violence, and homeless youth. That is why I called for the FCC to shut down this proceeding and start over. Because we do not, I dissent.

In addition, I dissent because the missteps this decision makes with respect to the future of this program are problematic. For starters, the effort to put eligible telecommunications carrier designation for Lifeline with state public service commissions grants those closer to service with an important role. But it doesn't clearly square with the FCC's decision to reclassify broadband and roll back net neutrality. It was, after all, this agency that tried to take authority out of the states when it pronounced broadband an information service. Here the FCC tries to jump over this logic in order to determine that states have full authority over Lifeline designations. How this works when it comes to standalone broadband is hard to follow. That's because the relevant statutory language in Section 214 regarding eligible telecommunications carriers describes them as common carriers, which this agency now understands to provide telecommunications services and not information services. This is a legal quagmire that is unfortunate and I fear it means even greater uncertainty for Lifeline in the future.

This decision also requires that eligible telecommunications carriers offering Lifeline service register the personally identifiable information of their workforce in a new database. That means we will entrust the Universal Service Administrative Company with holding information about employees from companies providing Lifeline service that range from names to dates of birth to residential addresses to even social security numbers. This presents an unnecessary risk for data breach. While an effort to increase oversight of those signing up subscribers has clear merit, this is a mess in the making. We could have pursued this objective while also minimizing the sensitive data required to ensure its success. Because we do not, I dissent.

I further dissent because the rulemaking appended to this decision adds to the uncertainty hanging over this program—and more importantly, the people who count on it.

To this end, the rulemaking seeks comment on prohibiting Lifeline providers from offering handsets to consumers at no cost. This makes no sense because the Lifeline program does not pay for handsets. Instead, it provides an offset against the cost of service. But by adding to the restrictions on this program we would decrease access to the service for those who need it most.

Next, this rulemaking seeks comment on a new programmatic goal: increasing broadband adoption for consumers “who without a Lifeline benefit, would not subscribe to broadband.” To do this, the agency suggests surveying Lifeline recipients—all of who have already been means-tested for eligibility—whether they would be able to afford service without Lifeline. This does not add up, unless the real goal is to further restrict participation in the program. So let's be honest about what is really going on because this feels like a backhanded effort to keep alive the notion that broadband is not truly necessary for a fair shot in today's economy.

Moreover, this rulemaking comes on the heels of a two-year effort by the agency to set up a National Verifier and then only very recently admit that to do so fairly requires an application programming interface. In the meantime, this important effort to prevent waste and abuse in the program has been waylaid by the fact that it has serious gaps in the databases it uses to determine eligibility. In fact, these gaps are so substantial that state public service commissions in Georgia, Nebraska, Connecticut, Vermont, and New York have been pleading with the agency to fix the verifier and get it right. Until we do, this system risks pushing away applicants who are otherwise eligible and hanging up on those who have a legal right to access this program.

At this risk of being technocratic, I do support several discrete aspects of today's decision. For example, I believe that adopting a regime that puts a premium on risk-based auditing, as we do here, is a smart move. I also believe eliminating commission-based incentives for sales agents is the right thing to do because it will provide a structural guard against waste and abuse. Moreover, efforts to terminate

accounts for those who are deceased make clear sense. But because these thoughtful changes are surrounded by so much that is misguided, I concur.

In other respects I dissent because instead of taking this four-decade-old program and modernizing it, our approach has been to diminish it—with cruel disregard for those who need it most.