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INTRODUCTION

Since 1984, the Lifeline Assistance program ("Lifeline") has been the centerpiece of efforts by U.S. telecommunications regulators to ensure that traditional local telephone service is affordable for low-income households.¹ Lifeline reduces monthly local telephone bills for customers who sign up for the benefit through a credit on their basic service charge. The Federal Communications Commission's ("FCC") rules² establish the amount of the discount, which averaged \$11.22 in 2004.³ The Link-Up America ("Link-Up") program, a companion program to Lifeline, reduces the cost of telephone installation by fifty percent. The Link-Up reduction assumes the form of a credit to the service installation charge.⁴ A third program, toll limitation support, compensates eligible telecommunications carriers for offering no-cost toll limitation service.⁵

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1. The programs originated in 1984 and 1985 under the FCC's general authority under 47 U.S.C. §§ 151, 154(i), 201 & 205 (1934). The first of two Lifeline plans adopted by the Federal Communications Commission in 1984 reduced an eligible subscriber's monthly telephone bill by an amount equal to the subscriber line charge ("SLC") of \$3.50, with half the reduction coming from a 50% waiver of the SLC, and the rest from the participating state. The second Lifeline plan, adopted by the FCC in 1985, waived the entire SLC of \$3.50, and was matched by the state, so a subscriber's bill was reduced by a total of \$7.00. These programs were subsequently established as explicit universal support mechanisms in response to the federal Telecommunications Act of 1996. See 47 U.S.C. § 254 (b)(1), (2) & (5) (2000); 47 C.F.R. § 54.400-904.

2. See § 54.403 for Lifeline support reductions.

3. Universal Service Monitoring Report, CC Dkt. 98-202, tbl. 2.3,

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-262986A1.pdf (2005) [hereinafter 2005 Universal Service Monitoring Report].

4. See § 54.411 for Link-Up reductions.

5. "Toll limitation" is defined in § 54.400 (d) as denoting "either toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. 0502_007_HOLTJAMISON_PRODUCTION.DOC 2/4/2007 9:23:13 PM 394 J. ON TELECOMM. & HIGH TECH. L. [Vol. 5

For eligible telecommunications carriers that are capable of providing both services, 'toll limitation' denotes both toll blocking and toll control." In § 54.400 (b) "toll blocking" is defined as "a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel." In § 54.400 (c), "toll control" is defined as "a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle."

Lifeline, Link-Up, and toll limitation are the three support mechanisms in the low-income program financed from contributions to the federal Universal Service Fund (“USF”) by telecommunications carriers. Prior to 1996, USF was funded by the long distance companies, such as AT&T and MCI, but is now funded by assessments against all telecommunications companies that provide interstate services. In addition to supporting the low-income program, the federal USF also provides support for three other programs: (1) predominantly small, high-cost companies serving remote and rural areas; (2) discounts for telecommunications and Internet access services for eligible schools, school districts, libraries, and consortia; and (3) reduced telecommunications and Internet service rates to rural health care providers so that their payments for those services are no more than their urban counterparts for the same or similar services.⁶ A basic level of federal funding for Lifeline is currently provided from the federal USF for all states. States may receive additional federal support if they elect to provide matching support either through state universal service funds or state assessments against eligible telecommunications carriers (“ETCs”).⁷ This additional federal support is provided directly to the ETCs and can only be used for Lifeline and Link-Up. Although the low-income program represents approximately \$820 million, or 11.2 percent, of total national USF support of \$7.3

6. See Universal Service Administrative Company (USAC),

<http://www.usac.org/default.aspx>, (last visited Sept. 17, 2006) (describing the programs). USAC administers the USF.

7. The term “eligible telecommunications carrier” or ETC has a specific meaning in the 1996 Act. To be designated an ETC, a company must meet conditions prescribed in § 214 (e). With respect to the maximum federal and matching support for Lifeline, there are currently four tiers of federal support on a monthly basis for the federal Lifeline component of the program. The first tier of federal support is a \$6.50 credit which is available to all eligible subscribers. The second tier of federal support is a \$1.75 credit which is available to subscribers in those states that have approved the credit. All 50 states have approved this tier of support. The third tier of federal support is one-half of the amount of additional support up to a maximum of \$1.75 in federal support. All states, except for seven, match that tier of support. The maximum monthly Lifeline discount for low-income consumers not living on reservations is currently \$13.50, with \$10.00 in federal support and \$3.50 in matching state support. States can provide more support than \$3.50, but it is not matched. In addition, a fourth tier of federal support is available for eligible residents of tribal lands as long as that amount does not bring the basic local residential rate below \$1.00 per month per qualifying low-income subscriber. For consumers living on reservations, the maximum monthly Lifeline support is currently \$38.50, with \$35.00 in federal support and \$3.50 in state matching support. See § 54.403 (2000). 0502_007_HOLTJAMISON_PRODUCTION.DOC 2/4/2007 9:23:13 PM 2007] *RE-EVALUATING FCC POLICIES* 395

billion estimated for 2006, it attracts considerable political attention because of the low participation rates and because it is the only USF program that is targeted to people and not to faceless institutions or companies.⁸

In this article, we examine the evolution of policy objectives for Lifeline and Link-Up that were first developed by the FCC,⁹ outlined in the Telecommunications Act of 1996 and subsequently reaffirmed in the FCC's 1997 Universal Service *Report & Order*,¹⁰ and the FCC's subsequent decisions that have shaped state strategies for meeting those objectives. We also analyze whether the mechanism for funding Lifeline and Link-Up is appropriate given rapidly changing technologies and services.¹¹ Finally, we examine whether there might be better ways to implement Lifeline and Link-Up. To that end, we apply findings from recent research conducted for the Public Utility Research Center (PURC) at the University of Florida.¹² We also apply complementary findings from research conducted by Mark Burton and John W. Mayo.¹³

8. The national participation rate was 33.7 percent of eligible households in 2002. Lifeline and Link-Up, *Report & Order & Further Notice of Proposed Rulemaking*, 19 FCC Rcd. 8,302, app. K, tbl. 1.A, (2004). [hereinafter Lifeline and Link-Up NPRM].

9. The FCC's initial policy objectives for universal service did not refer explicitly to universal service. The 1934 Communications Act envisioned the benefits of a universally accessible network in the Act that created the Federal Communications Commission:

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is created a commission to be known as the "Federal Communications Commission," which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this chapter.

Communications Act of 1934, 47 U.S.C. § 151 (1936).

10. Federal-State Joint Board on Universal Service, *Report & Order*, 12 FCC Rcd. 8,776 (1997). [hereinafter 1997 Universal Service Report].

11. We do not address the toll limitation component of the low-income program in this article. In 2005, only \$5.8 million or less than 1% of all funding for low-income support was used for that purpose.

12. See Lynne Holt & Mark Jamison, *Making Telephone Service Affordable for Low-Income Households: An Analysis of Lifeline and Link-Up Telephone Programs in Florida* (Univ. of Florida Pub. Util. Research Ctr. Report 2006), available at http://bear.cba.ufl.edu/centers/purc/documents/LifelineFinalReportcorrected3_04_05.pdf.

13. Mark Burton & John W. Mayo, *Understanding Participation in Social Programs: Why Don't Households Pick up the Lifeline?* (Univ. of Florida Pub. Util. Research Ctr. Report 2006) http://www.purc.ufl.edu/documents/Burton-Mayo-UnderstandingParticipationinSocialPrograms2005_000.pdf.