COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE	**)**	
UNIVERSAL SERVICE FUND	**)**	**CASE NO. 2016-00059**
	)	

THE RLECs', ETC-CLECs', and non-ETC CLECs
COMMENTS PURSUANT TO MAY 20, 2019 ORDER

The RLECs,[1] ETC-CLECs,[2] and non-ETC CLECs[3] (collectively, the "Exchange Carriers") by counsel and pursuant to the Commission's May 20, 2019 order ("Order") in the above-captioned matter, respectfully provide the following comments regarding the specific Lifeline service issues outlined in the Order.

As the landline telephone providers primarily serving Kentucky's rural areas, the Exchange Carriers believe they provide a unique perspective regarding landline Lifeline services in rural areas of Kentucky, especially for those Lifeline customers without a broadband connection. The Exchange Carriers appreciate the Commission's attentiveness to these customers and the Commission's desire to protect "customers that rely upon landline Lifeline service from increasing rates due to a decrease and ultimate elimination of federal subsidies for voice-only (primarily landline) Lifeline service."[4] Furthermore, the Exchange Carriers applaud the Commission's prior decision (now stayed) to protect these citizens by increasing the support

---

[1] Ballard Rural Telephone Cooperative Corporation, Inc.; Brandenburg Telephone Company; Duo County Telephone Cooperative, Inc.; Foothills Rural Telephone Cooperative, Inc.; Gearheart Communications Co., Inc.; Highland Telephone Cooperative, Inc.; Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative, Inc.; North Central Telephone Cooperative Corporation; Peoples Rural Telephone Cooperative, Inc.; South Central Rural Telephone Cooperative Corporation, Inc.; Thacker-Grigsby Telephone Company, Inc.; and West Kentucky Rural Telephone Cooperative Corporation, Inc. (collectively, the "RLECs").
[2] Cumberland Cellular, Inc. d/b/a Duo Broadband; North Central Communications; and South Central Telcom, LLC (collectively, the "ETC-CLECs").
[3] Brandenburg Telecom, LLC; Cellular Services, LLC; Inter Mountain Cable, Inc.; Peoples Telecom, LLC; and TV Services, Inc. (collectively, the "non-ETC CLECs").
[4] Order, at 1.

for landline Lifeline service to a maximum of $7.50, which the Exchange Carriers believe is an important safeguard against the threat that critical landline Lifeline services may be otherwise effectively regulated out of existence by the federal government.[5]

The decrease in the number of landline Lifeline customers and the corresponding decline in support sought from the KUSF since the Commission stayed its March 10, 2017 Order, has prompted the Commission to seek further comment. At the core of this inquiry appears to be the policy question of whether landline Lifeline assistance continues to serve a public good that the Commonwealth should support, notwithstanding the federal government's decision to ultimately shift financial support to broadband services. The RLECs, in particular, are carriers-of-last-resort for many of the most rural and economically challenged parts of the Commonwealth. Consequently, they and their CLEC affiliates see and understand the ongoing demand for landline-only services among certain groups of customers, despite prevailing national or even state trends.

There are still significant groups of Lifeline customers who either do not want or need broadband services. As the Commission previously recognized, 56% of landline Lifeline customers are over the age of 65.[6] In the Exchange Carriers' experience, the vast majority of these elderly customers are living on a fixed income, and many do not subscribe to broadband services. Thus, for these customers, Lifeline support is essential to affording the basic communications services necessary to contact emergency services, make doctor's appointments, and keep in touch with family. The ultimate elimination of federal USF support of landline voice-only services will have a significant impact on these customers, unless the Commission acts to protect them.

---

[5] *Id.* at 1; *see also In the Matter of: An Inquiry Into the State Universal Service Fund*, Case No. 2016-00059, March 10, 2017 Order, at 10 (the "March 10, 2017 Order").
[6] March 10, 2017 Order, at 8.

The Exchange Carriers are pleased to hear about the improved financial health of the KUSF. It suggests that remedial measures to combat fraud have been helpful in forestalling the biggest historical drain on the system. That effort should continue. But, it also suggests that the Commission should monitor trends and consider whether some increase in the present support for landline-only Lifeline may eventually be warranted. If these trends continue, the Commission may find that it has an opportunity to not only retain the low cost financial health of the KUSF, but to address the needs of its landline subscribers who lack the desire or the need for a broadband service and continue to receive crucial connectivity to their communities from their landline Lifeline service.

The first impact of the FCC's step down in voice support will occur on December 1, 2019 when the federal support of voice services will be reduced by $2.00, with two annual reductions of the same amount occurring until December 1, 2021, when all support for voice services will cease. Absent Commission action, the only support for these voice-only subscribers will be limited to the $3.50 in KUSF support.

Given the step-down removal of federal support for landline-only Lifeline, if the Commission lifts the stay on the portion of its March 10, 2017 Order increasing KUSF support commensurate with the decrease in federal support, the Commission could ensure the Commonwealth's landline Lifeline customers without a broadband connection do not lose critical support, and the Commission would have some additional time to monitor how demand against the KUSF trends over that same period before issuing additional orders in this proceeding. If a declining demand frees additional resources, then there may be a "zero sum" solution that requires no action other than a modification of the KUSF support amount to protect this limited (and decreasing) subset of Lifeline customers. If other questions remain (and absent an unanticipated increase in demands on the KUSF), they could still be addressed at that time.

Accordingly, the Exchange Carriers believe the Commission should lift the stay of the portion of its March 10, 2017 Order increasing the KUSF support "commensurate with the federal support decrease cent for cent from the current $3.50 until KUSF support reaches a maximum of $7.50,"[7] which will ensure that the landline-only Lifeline customers are able to continue to afford vital communications services after the first decrease in federal support for voice-only services on December 1, 2019 and will also allow the Commission to continue to monitor the demand against KUSF trends to determine whether additional increases in KUSF support are necessary to mitigate the effects decreased support from the federal USF will have on Kentucky's landline-only Lifeline customers.

1. The FCC's elimination of the "rate floor" will have a positive impact on the price of landline Lifeline service.

The Exchange Carriers expect that the elimination of the "rate floor" will positively impact the cost of landline Lifeline service, especially for landline Lifeline customers in Kentucky's rural areas, because it will not require any further federally-mandated increase in the cost of landline service. The FCC's "rate floor" was heavily influenced by competitive rates in urban areas, which it had found to be higher than rates in rural areas. While most of the Exchange Carriers attempted to offset the impact of this increase through expanded local calling areas and the inclusion of additional features for many of their customers, the "rate floor" often led to increased costs for landline Lifeline customers in rural areas of Kentucky. Accordingly, the Exchange Carriers believe the elimination of the "rate floor" on landline Lifeline services will benefit Lifeline-eligible customers in rural parts of Kentucky because it will allow the

[7] March 10, 2017 Order, at 11.

Exchange Carriers to forgo the federally mandated increases that have driven rates increasingly higher.

However, the Exchange Carriers also note that the FCC's elimination of the "rate floor" on landline Lifeline service may soon be a moot consideration because, unless the FCC reconsiders its decision to phase out voice-only support, the federal USF support will only be available on broadband services. Thus, going forward, and assuming the Commission does not make any additional changes to the KUSF, many landline Lifeline customers may only receive the current credit from the KUSF, which would not fully offset the loss of federal funding and, consequently, drive the effective price of landline voice-only service up for such customers. And while it is possible that the customer could ultimately switch from voice-only to broadband service, it would be surprising for the Exchange Carriers to see their current Lifeline customers switch in large numbers to broadband service, given the percentages of current Lifeline customers who have no broadband service at all.

2. Numerous Factors, Including Changes to Lifeline Eligibility Verification, Have Likely Contributed to the Decline in the Number of Landline Lifeline Customers.

While there are likely many factors that have contributed to the decline in the number of landline Lifeline customers, and the Exchange Carriers cannot determine with certainty what has contributed to that decline, the Exchange Carriers believe the following factors may have contributed to this trend:

a. As a general market trend, there is a decreasing demand for traditional landline telephone service as many customers have transitioned to wireless-only or broadband-IP phone products.

b. Lifeline providers have generally sought a single multi-state ETC designation from the FCC and are foregoing state certification and eligibility to draw from the KUSF, focusing instead on broadband services.

b. Broadband-only services (without a bundled landline telephone) are increasingly available to customers in rural areas. Many customers are taking advantage of these plans and subsequently removing their traditional landline telephone.

c. The FCC has altered the eligibility requirements for participation in the Lifeline program, including by removing Low-Income Home Energy Assistance Program (LIHEAP); the National School Lunch Program's free lunch program (NSLP); and the Temporary Assistance for Needy Families (TANF) as qualifications for eligibility to participate in the Lifeline program. This has led to a decreased number of Lifeline-eligible citizens, as many of the Exchange Carriers' customers only qualified for the Lifeline program as a result of their participation in one of these programs. Indeed, many of the Exchange Carriers' customers only qualified for the Lifeline program due to participation in the NSLP, as many schools in the Exchange Carriers' service areas offer free lunch for all students.

d. Since the implementation of standardized verification of Lifeline eligibility through the Universal Service Administrative Company ("USAC"), rather than local verification, the Exchange Carriers have seen a lower response rate among their Lifeline customers, which has resulted in many customers failing to qualify for Lifeline support. Based on feedback provided by potential Lifeline-eligible customers, the Exchange Carriers believe it is possible many Lifeline eligible customers have been intimidated by the enhanced USAC recertification process, including the transition to the Lifeline National Eligibility Verifier, which has led to them failing to submit the required information and losing their Lifeline eligibility. Furthermore, the Lifeline National Eligibility Verifier, which is primarily an online service, has, anecdotally, proven difficult for the Exchange Carriers to successfully navigate and nearly impossible for potential subscribers to navigate, as it requires such customers to scan and upload documents – capabilities non-existent to most of these customers.

e. Moreover, a more focused effort from USAC on ensuring all Lifeline customers are eligible to participate in the program has led to many Lifeline customers being removed from the program as they were deemed ineligible to participate primarily due to duplicate credits per household, in contravention of the regulations governing the Lifeline program. While many of the customers receiving multiple federal credits likely chose to keep the credit on wireless or broadband services and declined a credit on their landline, others were forced to remain with a competing Lifeline provider due to the "minimum months of service" requirement (aka "port freeze") in effect until March 2018.

Based on the general market trend toward customers transitioning to wireless-only or broadband-IP voice products, the Exchange Carriers believe it is likely that the Commission can expect a continuation of the declining trend in the number of traditional landline Lifeline customers, although likely not as rapid as the recent decline. Despite the likely continued decline, the Exchange Carriers believe the Commission should continue to provide support to landline Lifeline customers, many of whom are elderly individuals living on fixed incomes and who do not have wireless or broadband services.

3. Many of the Same Factors Contributing to the Decline in the Number of Landline Lifeline Customers Have Likely Contributed to the Decline in Requests for Payment from the KUSF.

The Exchange Carriers believe the factors identified in response to Request for Comment No. 2 are likely also contributing to the decline in requests for payments from the KUSF. Simply put: (1) there is a general decrease in demand for landline telephone access; (2) fewer customers are eligible for Lifeline support as a result of recent FCC modifications to the Lifeline program; and (3) more customers are moving to broadband-only services. All of these factors have likely contributed to fewer requests for payments from the KUSF.

Furthermore, the Exchange Carriers believe that this trend has been intensified by the FCC's and the Commission's recent efforts to discourage Lifeline service providers from engaging in business practices that can lead to customers fraudulently or incorrectly being provided Lifeline benefits. This enhanced focused on actual program eligibility has also likely contributed to the decline in requests for payments from the KUSF.

4. In Addition to Considering Expanding KUSF Support to Voice-Only Wireline and Wireless Offerings, the Exchange Carriers Believe the Commission Should Consider Further Increasing KUSF Support for Voice-Only Wireline Customers that Do Not Have a Broadband Connection.

Due to the apparent success of the fraud mitigation efforts implemented by the Commission and the FCC, if the Commission determines that the KUSF should continue to only be available for voice-only Lifeline offerings, the Exchange Carriers have no objection to the support being provided to wireline and wireless voice-only products. However, the Exchange Carriers emphasize that the Commission should be mindful that any such expansion not undermine a broader concern for helping offset the eventual elimination of federal Lifeline assistance for the primarily elderly and rural Kentuckians who receive voice-only services.

As the Commission has recognized throughout this proceeding, the FCC is phasing out federal support for voice-only services and only providing federal USF support for broadband services. Unless reevaluated by the FCC, federal support for voice-only services will drop by $2.00 on December 1, 2019 and December 1, 2020, and federal support for voice-only services will be eliminated entirely on December 1, 2021. Thus, to get full federal USF support moving forward, a voice-only Lifeline subscriber will need to purchase a qualifying broadband product and hope that the broadband product, including whatever equipment may be required, coupled with a separately purchased voice service, will provide the voice functionality the subscriber wishes at a rate lower than a voice-only connection.

As the Commission noted, "the overwhelming majority of Kentucky Lifeline customers subscribe to voice."[8] To continue being provided federal USF support, Kentucky's Lifeline voice-only customers will be forced to enroll in a more expensive broadband product or lose all federal support. In the Exchange Carriers' experience, many of those affected are likely to be elderly citizens living on a fixed income or those citizens with the most limited resources. Indeed, the Commission's March 10, 2017 Order recognized that 56% of landline Lifeline customers are over the age of 65 and these "generally older customers . . . will be adversely affected by FCC action."[9] For many of these reasons, the Commission's now-stayed March 10, 2017 Order appropriately ordered that the "KUSF support for landline Lifeline will increase commensurate with the federal support decrease on a cent for cent basis, until the KUSF support reaches a maximum of $7.50."[10]

Due to the expected age and limited resources of these Lifeline subscribers, the Exchange Carriers believe it is unlikely they will enroll in an often more expensive, eligible broadband product in order to continue receiving the full federal USF support. Based upon the recent decline in KUSF reimbursement requests, the Exchange Carriers believe the Commission may have an opportunity to further fulfill the goals of the KUSF by providing stronger support to landline Lifeline customers without a broadband connection by directly filling the entire void left by the reduction in federal USF support for these citizens.

---

[8] Order, at 3.
[9] March 10, 2017 Order, at 8.
[10] *Id.* at 10.

Based upon a representative sampling of the Exchange Carriers' Lifeline customers as of June 2019, approximately 33% of the Exchange Carriers' Lifeline customers subscribe to voice-only landline service and do not have a broadband connection. Indeed, in some instances, as many as 50% of individual carriers' Lifeline customers subscribe to voice-only landline service and do not have a broadband connection. The Exchange Carriers believe that the vast majority of these Lifeline customers receiving traditional wireline, voice-only services are elderly members of the Exchange Carriers' service areas who depend on their telephone line to communicate with friends and family, schedule necessary doctor's appointments, and contact emergency services, when necessary. Voice-only landline services continue to play a vital role in the lives and safety of these customers. Unless the FCC reevaluates its prior orders, these Lifeline customers will soon start to lose necessary support from the federal program.

While, if the stay is lifted, the KUSF's prior order would minimize this impact by increasing support on a cent for cent basis up to $7.50, the Exchange Carriers believe the Commission should continue monitoring demands on the KUSF and (if appropriate) consider exploring the possibility of providing additional support to offset the oncoming elimination of federal support for voice-only services by 2021. As many of the Exchange Carriers' Lifeline customers without broadband services live on a fixed income, the loss of federal support above the maximum amount of $7.50 from the KUSF could have a negative impact on these citizens' ability to afford the "opportunit[y] and security that phone service brings, including being able to connect to jobs, family and emergency services," which is the main goal of the Lifeline program.[11]

---

[11] Lifeline Program for Low-Income Consumers, https://www.fcc.gov/general/lifeline-program-low-income-consumers (last visited June 10, 2019) ("Since 1985, the Lifeline program has provided a discount on phone service for qualifying low-income consumers to ensure that all Americans have the opportunities and security that phone service brings, including being able to connect to jobs, family and emergency services.").

The Commission's prior Orders in this proceeding suggest that demand on the KUSF has decreased and that the KUSF is sufficiently funded at present. With federal support for voice-only Lifeline service scheduled to sunset in 2021, the Commission has an opportunity to fill that void. Reduced demands on the KUSF may allow for increased contributions to offset the loss of federal funding for voice-only Lifeline service. Similarly, the Commission's ongoing monitoring of demand trends on the KUSF will help ensure that support levels and KUSF charges are appropriately metered to the changing landscape of telecommunications and the inevitable evolution of customer service requirements over time. The Exchange Carriers believe that lifting the stay of the portion of the March 10, 2017 Order increasing the KUSF support to a maximum of $7.50, commensurate with the decrease in the amount of federal support, and continuing to monitor the trends among Lifeline customers is a prudent decision to offset the impending reduction in federal funding for voice-only Lifeline customers. Otherwise, the neediest of the customers in the Exchange Carriers' service areas may lose access to vital telephone services.

This the 19th day of June, 2019.

Respectfully submitted,

/s/ Edward T. Depp
John E. Selent
Edward T. Depp
R. Brooks Herrick
DINSMORE & SHOHL LLP
101 S. Fifth St., Suite 2500
Louisville, KY 40202
(502) 540-2300
(502) 585-2207 (fax)
john.selent@dinsmore.com
tip.depp@dinsmore.com
brooks.herrick@dinsmore.com

Counsel to the Exchange Carriers

Certification

I hereby certify that the electronic version of this filing made with the Commission on June 19, 2019, is a true and accurate copy of the document filed herewith in paper form, and the electronic version of the filing has been transmitted to the Commission. A copy of these comments have been served electronically on all parties of record for whom an e-mail address is given in the online Service List for this proceeding, and there are currently no parties that the Commission has excused from participation by electronic means.

/s/ Edward T. Depp
Counsel to the Exchange Carriers

15095952v1