

**Before the
Kentucky Public Service Commission**

In the Matter of)
)
An Inquiry into the State Universal Service) Case No. 2016-00059
Fund)

**TELRITE CORPORATION AND GLOBAL CONNECTION INC. OF AMERICA
COMMENTS ON KENTUCKY UNIVERSAL SERVICE FUND LIFELINE PROGRAM**

Telrite Corporation d/b/a Life Wireless (Telrite) and Global Connection Inc. of America d/b/a Stand Up Wireless (Global), both wireless eligible telecommunications carriers (ETCs) designated to provide Lifeline services in Kentucky, hereby respond to the Kentucky Public Service Commission's (Commission's) Order in the above docket seeking comment on the Kentucky Universal Service Fund (KUSF) Lifeline program.¹ The Commission seeks comment on the decline in requests for payments from the Kentucky Lifeline program, in particular for landline services and on possibly supporting both wireless and wireline voice-only services. The decline in Lifeline subscribership in Kentucky, particularly for landline services, reflects an overall nationwide trend in favor of wireless communications services over landline, and a nationwide decline in the Lifeline program due to regulatory restrictions and neglect. To meet its express universal service goals, the Commission should support wireless and wireline voice and broadband Lifeline services.

I. The Decline in the Number of Landline Lifeline Customers in Kentucky Follows a National Trend from Wireline to Wireless Communications Services

We are in the midst of a nationwide trend away from wireline home phone services and toward wireless or mobile phone services. Over half of American homes now rely exclusively on

¹ *An Inquiry into the State Universal Service Fund*, Case No. 2016-00059, Order (May 20, 2019) (Order).

wireless telephones.² The Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention, noted this fact in comments filed in this docket more than two years ago.³ At that time the Center for Disease Control and Prevention (CDC) reported that 50.8 percent of homes were wireless only. The trend has continued and that number is now 54.9 percent.

This trend is reflected in the Lifeline program as well. According to a Lifeline industry consultant, approximately 93 percent of Lifeline services nationwide are wireless and approximately 94 percent of Lifeline services in Kentucky are wireless.⁴ There are only about 9,200 wireline Lifeline subscribers in the federal Lifeline program in Kentucky, but there are over 136,600 wireless Lifeline subscribers in the federal Lifeline program in Kentucky.⁵ In March 2018, the Commission granted AT&T Kentucky’s petition to relinquish its ETC status in Kentucky in part because AT&T Kentucky explained that “its wireline residential customer base, which includes wireline Lifeline subscribers, has decreased substantially because customers are replacing wireline service with wireless and voice over Internet protocol services.”⁶ Lifeline-eligible low-income Kentuckians, much like their counterparts nationwide, have signaled a strong and increasing preference for wireless communications services.

² See National Center for Health Statistics, National Health Interview Survey Early Release Program, Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January-June 2018 at 2, available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf> (reporting that 54.9 percent of households did not have a landline phone but did have at least one wireless telephone and 55.2 percent of adults and 64.9% of all children lived in households with only wireless telephones).

³ See Attorney General’s Comments on Rehearing of the Commission’s Order, Case No. 00059 (May 10, 2017).

⁴ According to Lifeline industry consultant CGM, LLC, which collects data from the Universal Service Administrative Company.

⁵ *Id.*

⁶ *Petition of AT&T Kentucky for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas*, Case No. 2017-00416, Order (Mar. 23, 2018).

Moreover, states that provide additional state support for Lifeline subscribers generally enjoy much higher participation rates in the program. The Kentucky participation rate (percentage of eligible consumers that participate in the Lifeline program) is 21 percent, which is about the national average.⁷ On the other hand, the participation rates in California and Puerto Rico, where additional state Lifeline funding is also available for wireless service providers, are 36 percent and 49 percent, respectively.⁸

With its additional state funding, Kentucky's participation rate should be higher, however, this proceeding and in particular the March 10, 2017 order restricting KUSF support to only landline services,⁹ which has been stayed¹⁰ but remains a threat, has caused regulatory and economic uncertainty for wireless ETCs in Kentucky. Therefore, wireless ETCs have been reluctant to invest in the handsets and enrollment efforts necessary to add subscribers in the state in the same way that capital has been scarce in states where no additional funding is available. If the Commission decides to re-affirm its commitment to universal service and support wireless Lifeline services for low-income Kentuckians with state support, the Commission will put itself in the best position to see increased wireless Lifeline subscribership in the state.

II. The Decline in the Number of Kentucky Lifeline Customers Follows a National Lifeline Subscribership Decline Due to Regulatory Restrictions

The decline in Kentucky Lifeline subscribership since the May 10, 2017 stay follows a nationwide decline in the Lifeline program due to a series of regulatory restrictions and neglect.

⁷ According to CGM, LLC.

⁸ *Id.*

⁹ *An Inquiry into the State Universal Service Fund*, Case No. 2016-00059, Order (Mar 10, 2017) (March 2017 Order).

¹⁰ *An Inquiry into the State Universal Service Fund*, Case No. 2016-00059, Order (May 10, 2017) (May 2017 Order).

Lifeline subscribership nationwide is down from over 11 million subscribers in December 2016 to under 8.7 million subscribers as of April 2019,¹¹ which is a decline of 21 percent.¹² The nationwide participation rate has declined from a reported 32 percent in the Federal Communications Commission's (FCC's) 2016 Lifeline Modernization Order¹³ to 22 percent as of April 2019. There are many reasons for this decline.

One primary reason for the decline is the regulatory uncertainty introduced by the FCC in its 2017 Notice of Proposed Rulemaking proposing to eliminate wireless resellers from the Lifeline program nationwide.¹⁴ Although the FCC had its decision to eliminate wireless resellers from the Tribal Lifeline program vacated by the Court of Appeals for the District of Columbia Circuit earlier this year,¹⁵ and the FCC has not followed through with its threat to eliminate resellers program-wide likely due to overwhelming opposition in the docket, the proposal continues to hang over the program and suppress capital investment nationwide.

In addition, the manner in which the FCC has implemented the Lifeline National Verifier thus far has de-enrolled many Lifeline subscribers and put thousands more at risk because of a lack

¹¹ According to CGM, LLC.

¹² However, the decline in Kentucky wireline Lifeline subscribers (41 percent) is nearly double the nationwide Lifeline wireless and wireline decline, further reflecting the trend amongst low-income consumers away from landline services and toward wireless. *See* Order at 2.

¹³ *See Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, n.145 (rel. Apr. 27, 2016) (2016 Lifeline Modernization Order).

¹⁴ *See Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, 09-197, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (2017).

¹⁵ *See Nat'l Lifeline Ass'n v. Fed. Commc'ns Comm'n*, 915 F.3d 19 (D.C. Cir. 2019).

of adequate state eligibility database access and a flawed reverification process.¹⁶ Although the Universal Service Administrative Company (USAC) has secured good state eligibility database access in the state (SNAP, Medicaid and HUD), Kentucky can still expect to see substantial losses of Lifeline subscribers in the reverification process.¹⁷

Further, the lack of adequate state eligibility database access and lack of a service provider application programming interface (API) with the National Verifier has slowed enrollments to a trickle after hard launch (meaning all enrollments must be approved through the National Verifier) in a state. Kentucky hard launched on June 11, 2019, which unfortunately means the Commission should expect a precipitous drop in Lifeline enrollments in the coming months until a service provider API can be implemented.

Finally, annual increases to the Lifeline broadband and voice minimum service standards have decimated profit margins and suppressed investment in Lifeline capital expenditures to conduct enrollment activities and increase subscribership.¹⁸ Currently wireless Lifeline ETCs must provide at least 1,000 voice minutes or 2 GB of data,¹⁹ and based on the mobile broadband formula in Section 54.408(c)(2)(ii) of the FCC's rules, on December 1, 2019, we expect the minimum

¹⁶ See National Lifeline Association Notice of Oral *Ex Parte* Presentation; WC Docket Nos. 17-287, 11-42 and 09-197 at 2-4 (Apr. 4, 2019). Note that the reverification process is different from the annual recertification process. The annual recertification process has been in place since 2012 and does not require subscribers to provide proof of eligibility again (which they did at enrollment). The reverification process was created by the FCC and the Universal Service Administrative Company to verify subscribers' eligibility in each state as the National Verifier rolls out. It requires that subscribers be found in an eligibility database or provide proof of eligibility to retain their Lifeline service.

¹⁷ Based on estimated reverification failure rates in Colorado (29 percent), Utah (45 percent), Missouri (27 percent) and Pennsylvania (15 percent) in which USAC also had access to SNAP, Medicaid and HUD databases.

¹⁸ See NaLA *Ex Parte* at 5-6.

¹⁹ See 47 C.F.R. § 54.408(b)(2)(ii)(C), (3)(iii).

requirement to rise from the current 2 GB to 9.75 GB of data. At the same time, the reimbursement for 1,000 voice minutes is scheduled to decrease to \$7.25.²⁰ Although we expect the FCC will recognize the need to freeze the minimum service standards and reimbursement amount pending further study of the Lifeline marketplace,²¹ the currently scheduled minimum service standard increases have chilled Lifeline investment and depressed enrollments nationwide, including in Kentucky.

III. The Commission Should Support Wireless Voice and Broadband Lifeline Services to Meet its Universal Service Goals

In a 1995 proceeding, the Commission established the goal of the KUSF to “promote, through wireline *and wireless* technology, connection to the telecommunications network...” and to “promote basic connectivity to the network...”²² The Commission specifically included wireless technology in its universal service goals. To exclude wireless carriers from the Lifeline program would run contrary to these longstanding universal service goals. Further, “the KUSF is funded by a per-access line surcharge collected from all *wireless carriers* and local exchange carriers.”²³ It would be fundamentally unfair for the Commission to collect USF surcharges from wireless carriers in the state and then exclude all wireless carriers from participation in the KUSF Lifeline program. Because of this history, and the fact that the Commission’s insolvency concern from 2016 has dissipated as demands on the KUSF have declined, the Commission now wisely seeks comments on providing KUSF support to both wireline and wireless ETCs.

²⁰ See 47 C.F.R. § 54.403(a)(2)(ii).

²¹ The Commission notes in the Order that “the FCC has expressed reservations of its decision to phase out voice-only support in the *Lifeline Modernization Order*.” Order at 3.

²² March 2017 Order at 2 (quoting September 26, 1996 Order).

²³ March 2017 Order at 4.

However, the Commission proposes in the Order to support only voice-only offerings and not bundled offerings.²⁴ The Commission may be under the mistaken impression that subscribers listed in the National Lifeline Accountability Database (NLAD) by USAC as “voice” subscribers receive only voice services. In fact, they are listed as “voice” subscribers because the plan they receive meets the minimum service standard for voice service (i.e., 1,000 minutes), even though the wireless subscribers most likely receive a bundled service offering of voice minutes, texts and some broadband data.²⁵ Therefore, the Commission should not limit KUSF support to offerings that do not include any broadband data. Rather, it should support any service offering that meets the FCC’s voice minimum service standard, regardless of how many megabytes of broadband data are included in the bundle to benefit consumers. Moreover, the Commission should also support bundles that meet the broadband minimum service standard because such bundles also include voice minutes and allow low-income Kentuckians to take advantage of modern broadband communications to connect with employers, healthcare providers, educational institutions and family.²⁶

²⁴ See Order at 3.

²⁵ For example, Global provides Lifeline subscribers in Kentucky 1,300 voice minutes and 500 MB of broadband data.

²⁶ For example, Telrite offers Lifeline subscribers in Kentucky 2 GB of broadband data and 750 voice minutes.

IV. Conclusion

The decline in Lifeline subscribership in Kentucky, particularly for landline services, reflects an overall nationwide trend in favor of wireless communications services over landline, and nationwide declines in the Lifeline program due to regulatory restrictions and neglect. To meet Kentucky's express universal service goals, the Commission should provide additional state support for wireless and wireline voice and broadband Lifeline services.

Respectfully submitted,

By:  _____

John J. Heitmann

Joshua Guyan

KELLEY DRYE & WARREN LLP

3050 K Street NW, Suite 400

Washington, D.C. 20007

(202) 342-8400 (voice)

(202) 342-8451 (facsimile)

jheitmann@kelleydrye.com

*Counsel for Telrite Corporation and Global
Connection Inc. of America*

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