Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
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

COMMENTS OF INCOMPAS

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INCOMPAS, by its undersigned counsel, submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") *Notice of Proposed Rulemaking* and *Notice of Inquiry* in its proceeding on reforms to the administration of the Lifeline program that will help close the digital divide for low-income consumers.[1]

I. INTRODUCTION & SUMMARY

INCOMPAS, the Internet and competitive networks association, represents Lifeline providers offering both voice and broadband services, on both a prepaid and postpaid basis, to eligible families, seniors, veterans, the disabled, and other eligible low-income consumers in urban, suburban, rural, and tribal areas throughout the nation. INCOMPAS members strongly supported the Commission's previous actions to modernize the Lifeline program, including an

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[1] *Bridging the Digital Divide for Low-Income Consumers, et al.*, WC Docket No. 17-287 et al., Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (rel. Dec. 1, 2017) ("NPRM" or "NOI").

assessment of how the program could eliminate waste, fraud, and abuse in 2012, as well as the transformative decision in 2016 to create an enhanced, robust Lifeline program that enables low-income Americans to access both broadband and voice services in order to navigate a "pathway out of poverty"[2] and to close the homework gap.

Unfortunately, the Commission's proposal to eliminate Lifeline support for non-facilities-based providers[3] stands in direct contrast to the competitive principles of the Telecommunications Act and conveniently ignores recent history. While incumbent providers have contributed to ensuring the availability of Lifeline service, the fact is that the program began to reach increased numbers of eligible consumers when competitive providers began to focus on providing Lifeline services. This happened because when they entered the Lifeline market, the competitive providers did what they do best: compete. They were leaders in innovation, created targeted service packages for different Lifeline-eligible groups, and engaged in price, features, and quality competition. Experience shows that the most effective way to achieve the Commission's goal of bringing "digital opportunity to those who are currently on the wrong side of the digital divide"[4] is to promote competition while ensuring that all providers have the same opportunities to serve low-income consumers.

In the instant proceeding, INCOMPAS strongly urges the Commission to reject its proposal to discontinue Lifeline support for non-facilities-based providers. These providers

[2] *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket 11-42, *et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. June 22, 2015). Statement of Commissioner Clyburn at 2.

[3] NPRM at ¶ 67 *et seq*.

[4] *Id*. at ¶ 53.

currently serve over 73% of the program's subscribers, and the Commission's decision to focus Lifeline support on facilities-based services could strand their customers without adequate competitive choices and needlessly eliminate innovative and reliable options for Lifeline subscribers. Since its release, this proposal has been subject to widespread opposition, not just from wireless resellers that would be affected by the change, but by state regulators who value the contributions that non-facilities-based providers make to connecting the most vulnerable populations, like single mothers, the elderly, minorities, and veterans, to telecommunications services. In direct response to the NPRM, the National Association of Rural Utility Commissioners recently passed a resolution urging the Commission "to continue to allow non-facilities based carriers to receive Lifeline funds" while emphasizing that these providers serve over 8.3 million low-income households and are bringing critical services to underserved communities.[5]

Furthermore, the Commission should not require an out-of-pocket payment by low-income participants or enforce a maximum discount level, which could have a particularly disastrous impact on the Commission's efforts to bridge the digital divide. It is also not necessary and may be counterproductive for the Commission to adopt a self-enforcing budget for the Lifeline program at this time—especially because the Commission's prior reforms have significantly aided in decreasing the costs of the program and reigning in cases of waste, fraud, and abuse. Finally, the Commission should not condition providers' receipt of Lifeline support on the development and deployment of next generation networks.

[5] Resolutions Passed by the Bd. of Dirs. at the 2018 Winter Policy Summit, Nat'l Ass'n of Regulatory Util. Comm'rs, Resolution to Ensure that the Fed. Lifeline Program Continues to Provide Service to Low-Income Households (Feb. 14, 2018), at 9-10, *available at* https://pubs.naruc.org/pub/D7A0572B-B26C-51F5-1A9F-4B1C44635B86.

II. THE COMMISSION SHOULD REJECT THE PROPOSAL TO REMOVE NON-FACILITIES BASED PROVIDERS FROM THE LIFELINE PROGRAM

The Commission's proposal to limit Lifeline support to facilities-based broadband service[6] is not only a stark departure from years of Commission precedent in which non-facilities-based providers worked in concert with their wholesale partners to deliver critical communications service to low-income Americans through the Lifeline program, but it also abandons the competitive principles inherent in the Telecommunications Act of 1996. Competition in the Lifeline program has brought new, innovative, and more affordable services to market.[7] Indeed, as more competition was injected into the Lifeline program, more eligible consumers were signed up in the program, ensuring that more low-income consumers could obtain the services they need that are critical to functioning in today's economy and society. As explained further below, the Commission should reject its proposal to rely *solely* on facilities-based providers in the Lifeline program.

Since 2008, competitive providers have used the excess capacity on the networks of facilities-based providers to deliver reliable and affordable services with targeted service packages for different Lifeline-eligible groups, and engaged in fierce competition along the dimensions of price, features, and quality.[8] Under the Commission's first reform efforts in 2012,

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[6] NPRM at ¶¶ 63 *et seq*.

[7] *See Lifeline and Link Up Reform and Modernization et al*., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4009, ¶ 129 (2016) ("2016 Lifeline Order") (asserting that the entry of non-facilities based wireless providers in 2008 turned Lifeline into a "modern, dynamic, multi-provider program with wireline, wireless, and broadband service").

[8] The Commission's own discussion of the impact of facilities-based competition in the NPRM and footnote 151 is instructive. *See* NPRM at ¶ 65, n. 151 (providing an example of consumer price declines resulting from increased competition). The Commission's analysis stands for the proposition that consumer prices decline with increased competition and this assertion should not

the agency noted how wireless resellers were adding new offerings and plans due to competition from other providers.[9] Indeed, the Commission's decision to expand the Lifeline program to support broadband services was embraced by competitive providers who immediately devised affordable ways to make broadband and voice available at the minimum services standards set by the agency.

Given the positive contributions that competitors have made to the program, the Commission's insistence that limiting Lifeline support to facilities-based providers "would do more than the current reimbursement structure to encourage access to quality, affordable broadband services for low-income households"[10] does not hold up to scrutiny. Eliminating support for non-facilities-based providers will not necessarily reduce the program's costs (given the number of households that are eligible, but do not participate in the program), but it will reduce competitive choice and leave over 73% of the current program's subscribers potentially stranded for affordable communications services. At a time when the Commission has been actively trying to bridge the homework gap for students without a dedicated broadband connection at home and harness the power of the Internet for job seekers, cutting off their access

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be limited to facilities-based competition. In fact, INCOMPAS is concerned that the Commission's proposal could lead to consumer price *increases* (and the unavailability of service options), rather than price reductions, if the total number of eligible providers is restricted.

[9] *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket 11-42, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶ 50 (2012) (discussing how pre-paid wireless ETCs are increasing the number of minutes offered to consumers). *See also* Comments of COMPTEL, WC Docket No. 11-42, et al., (filed Aug. 31, 2015), at 8 (describing how most wireless Lifeline carriers have nearly tripled the number of minutes provided since 2011).

[10] NPRM at ¶ 65.

to these services by eliminating reseller options in the marketplace sends an anomalous message about the Commission's true broadband priorities.

While the Commission's proposal is premised on the idea that it will bring more funding to facilities-based providers, the item seems to overlook several important considerations. The removal of non-facilities-based competitors, operating in this context as mobile virtual network operators ("MVNOs"), will have a significant impact on those operators who offer network-based services for the Lifeline program. MVNOs buy minutes wholesale from existing wireless carriers. Those MVNOs, whose business plans focus on delivering affordable service to Lifeline consumers, potentially will not be able to fulfill their contractual obligations to their wholesale carrier if the Commission eliminates their ability to participate in the Lifeline program. In turn, facilities-based providers that sell their excess capacity via wholesale will be affected. The Commission's proposal to make networks more economically viable, but it will in fact extinguish a valuable revenue stream for network owners. These carriers amortize their costs over the entire customer base, including MVNO end users, and if these users are permanently removed from the underlying network, the wholesalers would be left with a smaller base to cover their current costs, potentially threatening their network deployment plans or future customer segments on which they might not otherwise focus.

The Commission's ill-conceived proposal also eliminates a segment of the broadband and voice services industry without any guarantees that the $9.25 subsidy will be enough to draw facilities-based providers back to the Lifeline program. Incumbents and other large carriers have abandoned the Lifeline program in recent years, shedding their eligible telecommunications carrier authorizations in states across the country. Yet, without raising the subsidy level from its current level of $9.25, the Commission believes that focused support of the program "can make deployment of the networks more economically viable" and "help promote more facilities."[11] However, the unfortunate reality is that incumbents and other facilities-based providers have already considered the business case for Lifeline, and those companies that have left the program likely will not be persuaded to return and build to unserved and underserved areas just because the subsidy is now "focused." Particularly with the advent of the agency's minimum service standards, the Commission will have a difficult time engaging with large providers that have previously shown little interest in the Lifeline program.

Finally, the Commission fails to address in the NPRM how the transition of customers from non-facilities-based providers to facilities-based providers would be handled. The logistics involved in this transition will be staggering, as Commissioner Clyburn predicts that over 70% of Lifeline customers would be stranded and left without service.[12] Should the Commission choose to abandon subscribers without a prearranged alternative, the transition will swamp the customer services representatives at new and exiting providers, as well as the Universal Service Administrative Company and even the FCC. Should the Commission continue with its ill-conceived proposal to eliminate three quarters of its current Lifeline subscribers' provider from the program, it must include a satisfactory transition plan in its final Report and Order.

III. NO MAXIMUM DISCOUNT LEVEL SHOULD BE IMPOSED ON LOW-INCOME CONSUMERS

INCOMPAS cautions against the Commission's *Notice of Inquiry* where it asks if Lifeline beneficiaries should contribute to covering some of the cost of the service, and also

[11] *See* NPRM at ¶ 65.

[12] *See id*. at 10557 (writing that "[o]ver 70% of wireless Lifeline customers will be told they cannot use their preferred carrier and preferred plan, and on top of that, they may not have a carrier to turn to after that happens").

inquires as to whether there is a maximum support amount that should be enforced, disqualifying users from the program after a certain period of time.[13] While INCOMPAS understands the facile appeal of the concept of requiring some "skin in the game" on the part of Lifeline subscribers or of trying to save money for the program by requiring low-income subscribers to bear some minimum out-of-pocket cost or limiting the total benefits, the apparent advantages are illusory, and the Commission should not take this course. With due respect, these proposals ignore the lived experience of low-income consumers who—when compared to middle-class and more affluent Americans—lack the money, time, and social capital to undertake what seems like a simple task—paying a few dollars a month for service.

Under the prepaid, "no-bill" business model that has been adopted by many wireless Lifeline ETCs—which has become enormously popular among low-income subscribers—the carrier does not send bills to its Lifeline subscribers. This popularity reflects the harsh economic reality that a no-cost basic Lifeline service with a limited but substantial number of voice minutes has, for perhaps millions of needy individuals, meant the difference between benefiting from such a valuable service and doing without it—and the economic, educational and life opportunities it enables.

How can it be difficult for a low-income consumer to have to pay $1.00 or $3.00 for such a useful and indeed essential service? First, of course, is simply finding the money. The budgets of many low-income consumers have no margin for error and no stash of "rainy day" funds to cover emergencies. The last available dollar literally can disappear into bus fare to get to an unexpected medical appointment for a child (or a co-pay for that medical appointment), or the need to buy a shirt to wear to a new job, or simply into food, rent, or utility bills. In addition,

[13] *See id*. at ¶¶ 111-118.

academic research shows that this situation of constantly having to trade off one need (medicine, clothes, bus fare) against others (food, rent, utilities, and phone service) results in minor errors in judgment that can cascade into large (and sometimes catastrophic) financial problems.[14] As numerous commentators have reported, it is expensive to be poor.[15]

But even a low-income consumer who is a budgeting wizard, able to allocate extremely limited funds to a set of extremely urgent needs, month after month, down to the last dollar, will still face challenges that more affluent Americans do not. Another harsh reality of low-income America is that many consumers are "unbanked"—that is, they do not have a checking account or a credit or debit card.[16] This creates the intensely practical problem of how to actually pay a

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[14] *See, e.g.,* S. Mullainathan & E. Shafir, SCARCITY: WHY HAVING TOO LITTLE MEANS SO MUCH (Holt, Henry & Co. 2013).

[15] *See, e.g.,* Barbara Ehrenreich, *It Is Expensive to Be Poor*, THE ATLANTIC MONTHLY, Jan. 13, 2014 (*available at* http://www.theatlantic.com/business/archive/2014/01/it-is-expensive-to-be-poor/282979/); Charles M. Blow, *How Expensive It Is to Be Poor*, N. Y. TIMES, Jan. 18, 2015 (*available at* http://www.nytimes.com/2015/01/19/opinion/charles-blow-how-expensive-it-is-to-be-poor.html); DeNeen L. Brown, *The High Cost of Poverty: Why the Poor Pay More*, WASH. POST, (May 18, 2009), *available at* http://www.washingtonpost.com/wp-dyn/content/article/2009/05/17/AR2009051702053.html.

[16] According to the Federal Deposit Insurance Corporation ("FDIC"), 25.6 percent of the households with less than $15,000 in income (a proxy for Lifeline qualification) are unbanked (*i.e.*, have no banking relationship at all). *See* 2015 FED. DEPOSIT INS. CORP., DIV. OF DEPOSITOR AND CONSUMER PROTECTION, FDIC NATIONAL SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 15, Table 3.2 (2016). Another 24.3 percent of the households are "underbanked." *Ibid* at 16, Table 3.3. A household is considered "underbanked" if the household has an account at an insured institution, but also obtained financial services and products outside of the banking system. "Specifically, a household is categorized as underbanked if it had a checking or savings account and used one of the following products or services from an alternative financial services (AFS) provider in the past 12 months: money orders, check cashing, international remittances, payday loans, refund anticipation loans, rent-to-own services, pawn shop loans, or auto title loans." *Ibid* at 1.

service provider for Lifeline service. In order to make an actual payment, these customers would have to use expensive money transfer services or purchase money orders to make the payment. Putting aside the additional demand on the consumer's time that this obligation imposes—and low-income consumers are often just as time-constrained as they are resource-constrained, balancing one or more jobs, childcare responsibilities, etc.—an indigent subscriber would have to pay more—proportionally, much more—over and above whatever minimum rate the Commission might set, in order to actually deliver payment to the service provider. Many unbanked consumers pay their bills via check cashing stores, which often add charges of $3.00-$5.00 per payment. In a Lifeline minimum payment scenario, that would mean that a $1 payment will cost the low-income consumer as much as $6.00.[17]

Requiring an out-of-pocket payment could have a particularly disastrous impact on the Commission's efforts to close the digital divide. Even more than for traditional voice services, broadband service must be made as low cost as possible to permit low-income Americans to participate in meaningful numbers. Unlike basic voice service, whose characteristics are familiar to virtually every American, the benefits of broadband often only become fully apparent after the consumer has experience with using the service. The results of the Commission's Lifeline broadband pilot program, which asked low-income citizens to set aside $10, or even $5 a month for a service of unknown value, potential risks, and a high upfront cost for a device, are consistent

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[17] *See, e.g.*, Tyler Desmond & Charles Sprenger, Federal Reserve Bank of Boston, *Estimating the Costs of Being Unbanked*, *available at* https://www.bostonfed.org/commdev/c&b/2007/spring/article9.pdf; *see also generally* https://www.firstdata.com/en_us/insights/3762-Unbanked-Underbanked-Market-Insight.html; http://www.bill2pay.com/355/reaching-unbanked-underbanked-customers-easier-payment-solutions; http://recode.net/2014/09/16/a-day-in-the-life-of-the-unbanked-consumer-and-how-mobile-can-help/.

with the points made above: this appears to be asking too much of too many low-income Americans.[18] The projects tested adoption strategies such as varying subsidy levels, varying levels of out-of-pocket costs to the consumer for monthly recurring charges and equipment, and offerings of digital literacy training. The results of the pilot confirm that cost continues to be a significant factor in adoption rates among low-income consumers. In all but one of the projects, there was some out-of-pocket cost to the consumer, with the perhaps unsurprising result that overall participation rates were far lower than hoped. Only Virgin Mobile's project appeared to have included offerings in which the monthly recurring charge was entirely covered by the subsidy. The report notes that these offerings attracted the most consumers—which is not a surprise to service providers that participated in the pilot program or, indeed, those with experience with the low-income market.

Moreover, adding a payment requirement would also impose additional and unnecessary burdens on some current providers. Many prepaid wireless ETCs do not currently have systems with the capability to bill, invoice and collect from every subscriber, for the simple reason that under the prepaid business model, none of these functions is necessary. Even when such providers permit subscribers to pay for additional airtime that is handled without a formal bill as well. Such providers would have to develop new billing and accounting systems, as well as change their terms of service, and would in all likelihood have to increase the rates for their service plans in order to recoup these new billing costs, which may amount to as much as $2.00 per bill issued, causing immediate harm to thousands of Lifeline subscribers who would face the potential loss of their essential Lifeline service.

[18] *Wireline Competition Bureau Low-Income Broadband Pilot Program*, WC Docket No. 11-42, Staff Report, 30 FCC Rcd 4960 (WCB May 22, 2015).

In short, the proposal to require low-income consumers to make a monthly payment is something that sounds appealing from one perspective, but that, in practice, would impose costs—both on consumers and on some providers—that vastly outweigh whatever benefits could reasonably be ascribed to it. Furthermore, a limit on the total benefit amount would only harm consumers who need the service to stay connected. As the Commission's record in many proceedings show, broadband is no longer a luxury. It is a necessity. Low-income consumers should not be penalized for being poor. INCOMPAS strongly urges the Commission to reject the proposals to require these consumers to contribute to paying towards the cost of the service and to limit the total benefits available after a certain period of time.

IV. THE COMMISSION SHOULD NOT ADOPT A SELF-ENFORCING BUDGET

The NPRM asks for comment on a possible self-enforcing budget mechanism for the Lifeline program.[19] Fiscal responsibility is important to the continued effectiveness of the program. However, responsible program management requires the Commission to proceed only after performing adequate contingency planning and impact estimates. The Commission's proposal fails to quantify the expected disruption of service to customers. Thus, INCOMPAS recommends that the Commission estimate the number of Lifeline users who are likely to be affected and left without support for service if the proposal, in its current form, is adopted. Performing an analysis of expected outcomes and contingency plans before instituting an immoderate new approach is a common sense step that the Commission should consider before advancing this proposal.

[19] *See* NPRM at ¶¶ 104 *et seq.*

To the extent that a budget is intended to control costs, INCOMPAS believes that the Commission has taken significant strides in bringing the cost of the program under control through its earlier reform actions. In fact, the reforms and efficiencies adopted in the *2012 Lifeline Report Order* had the effect of reducing Lifeline disbursements from $2.1 billion in 2012 to $1.5 billion in 2015.[20] In 2016, the Commission established a National Lifeline Eligibility Verifier to make subscriber eligibility determinations and to reduce, waste, fraud, and abuse in the program.[21]

The Commission also established a budget mechanism that would require Commissioners to review and approve additional spending for the program in a timely manner.[22] In its review of this development, the U.S. Government Accountability Office ("GAO") report on risks in the Lifeline program did not call for changes to the current budget mechanism.[23] Instead it recommended that the Commission "require Commissioners to review and approve, as appropriate, spending above the budget in a timely manner" in order to "control weaknesses and related program-integrity risks."[24] Given this impartial analysis, INCOMPAS cannot support taking drastic, program-wide measures, such as a self-enforcing budget, in a misguided effort to make systemic "corrections" to a program that is largely in compliance with Commission rules.[25]

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[20] *See* 2016 Lifeline Order at 4110, ¶¶ 396-398.

[21] *Id*. at 4007, ¶¶ 126 *et seq*.

[22] *Id*. at 4008, ¶ 402.

[23] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-17-538, ADDITIONAL ACTION NEEDED TO ADDRESS SIGNIFICANT RISKS IN FCC'S LIFELINE PROGRAM (2017).

[24] *Id*. at 64.

[25] For the same reasons described in this section, INCOMPAS also opposes a cap on the program.

More importantly, a budget would predictably have the unfair and, for some, disastrous practical effect of excluding many eligible and deserving low-income participants from the "lifeline" to economic and educational opportunity and emergency and health services that the program currently provides. According to estimates, the program remains substantially undersubscribed and, as a result, trying to impose a self-enforcing budget at this time would likely make the problem worse, not better. Additionally, the NPRM fails to explain why Lifeline funding would need to be prioritized in the event that the cap is reached.[26] This approach bears no connection to the statutory goals of the program and reducing support to the point that subscribers would be left without broadband service would be similarly inconsistent with statutory obligations that the Commission is required to execute.

There is also the question of how a six month, self-enforcing budget would work in practical terms. Unlike other USF programs, such as E-rate, where funding is disbursed on an annual basis, Lifeline subsidies are disbursed monthly. This is how it should be, given that a beneficiary's eligibility status can change in a relatively short period of time. In this turbulent context, it is hard to see how the Commission could forecast expected Lifeline and Link Up disbursements with consistent accuracy. In sum, there is neither a compelling need for a self-enforcing budget for the Lifeline program at this time, nor a rationale for imposing one (in light of the cost savings and efficiencies wrought by earlier reform actions), nor a practical means to do so.

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[26] *See* NPRM at 10511, ¶ 108 (proposing to prioritize funding to rural Tribal lands, rural areas, and urban areas, in that order, if disbursements are projected to exceed the program cap).

V. THE COMMISSION SHOULD NOT CONDITION LIFELINE SUPPORT ON THE BUILDOUT OF NEW NETWORKS

Finally, the Commission seeks comment on how the Lifeline support structure could be changed to "bring digital opportunity to low-income Americans who have not yet adopted broadband and low-income Americans residing in rural or Tribal areas who typically experience difficulty obtaining access to affordable, quality broadband."[27] Here the Commission appears interested in how it can further incent or "leverage" the Lifeline program to encourage facilities-based providers to buildout their networks to reach unserved and underserved communities.[28]

INCOMPAS would urge the Commission not to condition payment of Lifeline benefits on network buildout. Providers do not determine their network assets based on the availability of the Lifeline benefit, even if the Commission were to offer enhanced Lifeline support. Instead, a variety of different factors—such as customer availability and rate of return across the base of all its customers—are ultimately taken into consideration when determining how a provider's network will be established. Additionally, the Lifeline program is not structured to encourage the type of network deployment that the Commission envisions in the NOI. With the $9.25 subsidy tied to the subscriber, it can be difficult for Lifeline providers to retain subscribers, much less plan large scale deployments. Additionally, current and potential ETCs must justify services based on the modest subsidy. With revenues and margins so low for each subscriber, most providers focus on bridging the affordability gap—which is what the Lifeline program is intended to do. Relatively few ETCs, even facilities-based providers will deploy scarce capital with the focus of expanding their services to Lifeline customers.

[27] NOI at ¶ 122.

[28] *Id*. at ¶ 123.

Finally, if the Commission is truly interested in bridging the digital and broadband divide through the deployment of new networks, there are other Universal Service programs that can help them achieve this goal. Both the Connect America Fund and the Mobility Fund are better avenues to encouraging broadband deployment and the creation of next generation networks in areas with no network. The Commission should allow ETCs, and non-facilities-based providers in particular, to focus on filling the affordability gap with reliable and affordable services for low-income Americans through participation in the Lifeline program.

VI. CONCLUSION

For the reasons stated herein, INCOMPAS urges the Commission to adopt the recommendations in its Comments in this proceeding, as it considers the issues raised in the NPRM and NOI.

Respectfully submitted,

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