

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Repository Case in Which to)
Gather Information About the Lifeline Program) **File No. TW-2014-0012**
And Evaluate the Purposes and Goals of the)
Missouri Universal Service Fund)

COMMENTS OF T-MOBILE CENTRAL, LLC

T-Mobile Central, LLC (T-Mobile or Company) submits Comments on certain questions posed by Commission Staff in this repository case.

1. What should be the purposes and goals of the Missouri USF?

The purpose of universal service should be to permit all consumers to have access to communications services at affordable rates. Thus, to the extent consumers do not have access to service at affordable rates, a universal service fund (USF) should be made available to enable carriers to provide service at affordable rates. Equally important, the Missouri USF should not be used as a vehicle for companies who are experiencing revenue losses resulting from competition, the implementation of regulatory reforms or any other reason to supplement or replace their revenues. The goal should be a fund that benefits consumers, not carriers.

2. What problems should be addressed in the administration and operation of the Missouri USF?

To accomplish the objectives stated above, the Commission should adopt a technologically neutral approach to the Missouri USF that enables all carriers serving a geographic area to compete on a level playing field. Consumers should be able to choose the services and service provider that best suits their needs based upon the dynamics of a competitive marketplace, not based upon the carrier receiving the most USF support. In particular, by authorizing only wireline carriers to receive state USF support for qualifying low-

income and disabled consumers, the Commission would be unfairly influencing the competitive marketplace and limiting consumer choice.

As the Commission is aware, all incumbent local exchange carriers are authorized to receive and pass through federal Low Income support to qualified consumers. The Commission has also granted several applications designating competitive carriers (including wireless service providers) as eligible telecommunications carriers (ETCs), thereby allowing them to similarly receive and pass through federal Low Income support to qualified consumers. However, the state support amount of \$3.50 that Missouri offers to consumers who qualify as low-income or disabled is limited to consumers choosing wireline options. Thus, a qualifying low-income consumer may have a choice in service providers, but if they choose a wireless ETC instead of a wireline carrier, the amount of support that they receive will be a maximum of \$9.25 instead of a maximum of \$12.75, and similarly qualifying disabled consumers would receive nothing from a wireless service provider versus \$3.50 from a wireline carrier, which prohibits consumers in need from choosing the service and service provider that best meets their needs.

3. What changes should be made to the Missouri USF?

The Commission should consider eliminating state high cost funding in areas of the state where consumers have a competitive choice, which would be similar to the approach taken by the Federal Communications Commission (FCC) in its reform of the federal universal service fund. Allowing a single carrier to receive state high-cost support will inhibit competition because it is not financially feasible for an unsubsidized carrier to compete for a consumer with a carrier that is being subsidized to serve that customer. The Commission should limit high cost support from the Missouri USF to only those areas without a competitive telecommunications marketplace. Consumers would be denied the benefits of a competitive marketplace if the Missouri USF is not carefully designed and administered.

With respect to Lifeline support, the Commission should consider adopting rules enabling wireless carriers to receive support from the Missouri USF, which would enable competitive carriers to pass through additional state Lifeline discounts to qualifying low-income and disabled consumers. The Commission should implement changes to the state USF to mirror the federal USF, which would ensure that all ETCs receive the same amount of Lifeline universal service support.

4. Should wireless carriers be required to contribute to the Missouri USF and also be able to receive Missouri USF support?

To the extent that wireless carriers are prohibited from drawing support from the Missouri USF, wireless carriers should not be required to contribute to the Missouri USF. Indeed, it is unfair and discriminatory [perhaps illegal] to require wireless carriers to contribute to the Missouri USF fund if the fund is only accessible by wireline carriers. If the Commission considers allowing wireless carriers to draw from the Missouri USF based on pass through support provided to qualifying low-income and disabled consumers, the Commission could consider a limited contribution equal to the demand of wireless carriers on the fund, but in no event should wireless carriers be required to contribute to a fund that solely supports the deployment of wireline services.

5. Should the Lifeline program be expanded in Missouri to ensure qualifying low-income consumers have access to broadband service? If yes, how should the program be expanded?

The Commission should mirror the FCC on using Lifeline to support broadband connectivity for low-income consumers, which the FCC adopted as part of its Lifeline reform package in February 2012. For instance, the Missouri PSC should permit Lifeline providers to offer bundled voice and broadband packages to Lifeline eligible subscribers. Beyond that initial modification, however, T-Mobile suggests that the Commission may benefit by waiting for the

FCC to conclude and provide findings from its Broadband adoption pilot program that is currently in progress before implementing other reforms to expand Lifeline to support broadband connectivity.

6. Should eligibility criteria for consumers to qualify for the Lifeline program be expanded? If so, how?

T-Mobile believes that the uniform eligibility criteria established by the FCC as part of its February 2012 reform package is based on a fairly complete assessment of many of the programs that economically disadvantaged consumers are likely to utilize and, therefore, that the current list is sufficient. However, as T-Mobile has previously stated elsewhere, to the extent that any party is interested in augmenting the eligibility criteria, there should be a transparent and cooperative process to evaluate such a request, including that both the state and federal commissions should participate, and all interested parties should have an opportunity to provide comments and review supporting data, so that all interests can be fairly represented.

7. Should the Missouri USF support amount of \$3.50 be increased, decreased or remain the same?

With respect to the \$3.50 support amount provided to qualifying disabled consumers, T-Mobile submits that an answer to that question cannot be known without a thorough examination of whether the total funds generated by the current USF assessment is necessary to maintain the goals and objectives of universal service in Missouri. The guiding principle before adjusting the assessment is that there must be a showing of a clear and quantified nexus between support and maintenance of universal service.

With respect to Low Income support, the federal Lifeline support amount remains at the \$9.25 interim flat rate that was established by the FCC in its February 2012 reforms package and, as the Commission is likely aware, there are some questions and concerns about the interim flat rate and whether it should be increased, decreased or remain the same. T-Mobile submits that

the Commission may benefit from waiting to examine the issue until after the FCC has addressed the federal support amount for Lifeline.

8. Do you anticipate the FCC’s reforms, when fully implemented, will adequately address fraud, abuse and waste within the Lifeline program? Why or why not?

It is impossible to predict with certainty whether the FCC’s reforms will adequately address fraud, abuse and waste within the Lifeline program. However, initial indications are promising. Notably, there has been a significant reduction in the amount of Lifeline disbursements since the FCC’s reforms were adopted. The FCC’s reformed rules clearly prohibit ETCs from seeking Lifeline reimbursement for a subscriber unless the ETC has received and reviewed documentation demonstrating the subscriber’s eligibility.¹ Recently, the FCC took further action to eliminate any doubt that it is unlawful for Lifeline providers to activate Lifeline service before they have verified the customer’s eligibility.² The FCC also released an Enforcement Advisory reminding Lifeline carriers of their responsibilities to follow the Lifeline rules and their liability for the actions of their agents.³

Additional protection against fraud will occur when the FCC deploys its centralized databases that are aimed at preventing customers from receiving duplicate Lifeline benefits and ineligible customers from receiving Lifeline benefits.⁴ The FCC is in the process of deploying

¹47 C.F.R. §§ 54.410(b)(i), 54.410(c)(i).

²*Lifeline and Link Up Modernization and Reform*, WC Docket No. 11-42, Order, DA 13-1441 (rel. June 25, 2013).

³“Lifeline Providers Are Liable If Their Agents or Representatives Violate the Lifeline Program Rules,” Enforcement Advisory, DA 13-1435 (rel. June 25, 2013).

⁴*Lifeline Reform Order*, 27 FCC Rcd at 6734-55, 6822-27 ¶¶ 179-226, 399-415.

the duplicates-prevention database,⁵ and has sought comment on how to develop an eligibility database or databases.⁶ These databases will be powerful mechanisms to prevent waste, fraud and abuse in the program and T-Mobile and others have encouraged the FCC to continue to focus significant resources on their deployment.⁷

The *Lifeline Reform Order* also adopted another important safeguard that has not yet been fully implemented. Non-facilities-based carriers were required to obtain Wireline Competition Bureau approval of “compliance plans” before they could begin providing Lifeline services.⁸ The compliance plan requirement should be a helpful tool for weeding out bad actors. That being said, T-Mobile has expressed concern to the FCC that non-facilities-based carriers can risk violating FCC rules without jeopardizing valuable licenses or infrastructure investments.⁹ Accordingly, T-Mobile has encouraged the FCC to expeditiously review pending compliance plans to weed out the bad actors sooner rather than later, and asked the Bureau to reject compliance plans where the review process raises questions about the applicant’s capacity or inclination to comply with the new rules and to establish steps to review continued obedience with approved compliance plans.

⁵See, e.g., USAC, National Lifeline Accountability Database Webinar June 19, 2013, *available at* <http://www.usac.org/li/about/outreach/training/061913.aspx>.

⁶*Lifeline Reform Order*, 27 FCC Rcd at 6822-27 ¶¶ 399-415.

⁷ In the meantime, the Commission of course should continue to identify and take enforcement action against carriers and consumers that are not complying with the rules under the Industry Duplicate Resolution Process.

⁸*Lifeline Reform Order*, 27 FCC Rcd at 6813 ¶ 368.

⁹Letter from Kathleen O’Brien Ham, T-Mobile, to Marlene H. Dortch, FCC, WC Docket No. 11-42 (filed Dec. 16, 2011) (“T-Mobile Dec. 16, 2011 Ex Parte”) at 7.

Finally, it is important for appropriate enforcement actions to be established and applied to any and all ETCs who demonstrate non-compliance. As the FCC and USAC continue to clarify the procedures used to implement the reforms adopted in the February 2012 Order, more information related to audits and other enforcement activities should surface and carriers, state commissions and others should continue to be involved in the development of rules that provide powerful protections for the fund and are fair to consumers as well as the providers who service their needs.

9. What specific compliance efforts would be easy to implement to ensure companies and consumers comply with Lifeline program requirements?

As T-Mobile suggested to the FCC, it is important to promptly review the proposed compliance plans of non-facilities-based carriers. One potential tool that the Commission could adopt would be to delay the approval of an ETC request of a non-facilities-based provider until such time as their compliance plan has been approved by the FCC's Wireline Competition Bureau.

10. Should the State of Missouri strive to implement a database to confirm Lifeline subscriber eligibility? If yes, how should it be funded?

T-Mobile believes it would not be prudent for the State of Missouri to now independently implement its own Lifeline subscriber eligibility database. The FCC is in the process of developing a national database for this very same purpose, and there is every reason to believe that the national database will adequately verify the eligibility of consumers in the State of Missouri. Additionally, because industry providers will likely need to develop their internal systems and procedures to interface with the national database to permit querying of current subscribers to verify the eligibility of prospective Lifeline customers, it would be wasteful to duplicate that development now to interface with a newly developed state database or other administrator databases to perform the same query when such databases may be out of date or

replaced by the anticipated national eligibility database. Moreover, multiple state databases will require additional development requirements and training to make sure a company's internal systems and personnel are querying all of the necessary databases.

11. What other issues should be considered in this workshop proceeding?

T-Mobile continues to believe that it should be permitted to use its own Lifeline Application form rather than the form mandated by the State USF Board. T-Mobile is using its own Lifeline Application form in all other states in which it is a Lifeline provider, including states where it was designated as an ETC by the FCC.

During the course of its designation as an ETC, T-Mobile worked with the FCC to ensure its application met all requirements for the states in which it was designated by the FCC, and T-Mobile thereafter used that application form as the basis for its application in states where the state commissions designated T-Mobile, which ensures that T-Mobile meets all federal requirements and then supplements its basic form to meet any state requirements. And while T-Mobile has received and incorporated state agency suggestions to its form as appropriate, no state agency has suggested that T-Mobile's form is non-compliant with FCC or state Lifeline requirements.

The Commission should also consider revising its rules related to ETC designation and certification for purposes of being authorized to receive federal USF support to reference the applicable FCC rules. T-Mobile submits that the FCC has drastically overhauled its rules in a way that offers a comprehensive approach to designation and certification such that additional or unique state requirements may not now offer any incremental benefit and, conversely, may serve to add ambiguity to the requirements and stymie competition and consumer choice. Additionally, if and when the FCC adopts further reforms, those reforms would then apply

immediately to Missouri ETCs, negating the need for Commission action to clarify, modify, add or remove Missouri specific requirements which may conflict.

CONCLUSION

Wherefore, T-Mobile respectfully submits the above comments in response to Staff's questions in the above-captioned case.

Respectfully submitted,

/s/ Susan B. Cunningham

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 30th day of August, 2013.

Susan B. Cunningham
