The Lifeline Program:

Examining Recent Allegations of Waste, Fraud, and Abuse

Interim Report

U.S. House of Representatives
Committee on Energy and Commerce
Ranking Member Frank Pallone, Jr.
Democratic Staff Report

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EXECUTIVE SUMMARY

This interim report reviews the veracity of recent allegations of waste, fraud, and abuse in the Lifeline program. Additionally, this report seeks to examine what has been done – and what more can be done – by the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) to address waste, fraud, and abuse. This review has included requests for information from USAC, a review of relevant documents, communications, and briefings with numerous Lifeline experts, including: non-confidential communications with officials from the FCC's Wireline Bureau, Wireless Bureau, Enforcement Bureau, Office of the General Counsel, and Office of the Inspector General; officials from USAC; and representatives from five companies that offer Lifeline service.

Energy and Commerce Chairman Fred Upton announced on May 26, 2016, that he was granting a request from Rep. Austin Scott and Rep. Mike Pompeo for the Committee to examine mismanagement of the Lifeline program. Several days later, House Republicans pointed to allegations of $500 million in waste, fraud, and abuse to justify a vote on a bill introduced by Rep. Scott to dismantle over 80percent of the Lifeline program. Communications and Technology Subcommittee Chairman Greg Walden announced on June 21, 2016, that he would hold an FCC oversight hearing on July 12, 2016, to follow up on Rep. Scott's and Rep. Pompeo's investigation and "seek an update from the commissioners on the mismanagement of the Lifeline program."

Despite the seriousness of these allegations, Committee Democrats have not been included in—nor were they informed of—the Republican investigation. The Democratic staff therefore sought to conduct its own examination of the management of the Lifeline program and investigate allegations of waste, fraud, and abuse.

The following are preliminary findings. This interim report and supporting documentation will be turned over to the FCC's Office of General Counsel and Office of Inspector General for further review.

Key Findings:

The evidence does not show $500 million of abuse of "IEH Overrides." The evidence does confirm that a key assumption underlying this allegation—that every IEH Worksheet resulted in a duplicate phone being fraudulently subsidized—is wrong.

Republicans recently stated on the floor of the House of Representatives that legislation to undo large portions of the Lifeline program was necessary to eliminate "approximately $500 million a year worth of waste, fraud, and abuse." This claim stems from the alleged abuse of a mechanism called the Independent Economic Household (IEH) Worksheet (which has been mislabeled as the "IEH Override"). The IEH Worksheet is the primary mechanism used to provide phones to eligible Lifeline customers who live at multi-household addresses. These multi-household addresses include homeless shelters, veteran group homes, multi-generational residences, and nursing homes.

The recent allegations of fraud in the Lifeline program rely on the broad assumption that every IEH worksheet was fraudulent. Democratic staff has uncovered no evidence to support this assumption. Indeed, USAC reports that 43 percent of IEH Worksheets filed were submitted in an abundance of caution for subscribers whose information had already been verified.

Moreover, several states—including the State of Oregon, whose residents received more than $7 million in Lifeline benefits in 2015—use data-driven verification systems that ensure that the information in the worksheets is accurate. States like Oregon demonstrate the legitimate need for people living in group homes to have access to Lifeline. Additionally, the evidence demonstrates that legitimate eligible customers from multi-household addresses have received Lifeline benefits. For instance, one hundred of the 2,100 residents who lived at the Louisville Rescue Mission, in Louisville, Kentucky last year used the shelter as their address to enroll for Lifeline service.

Lack of adequate safeguards in the 2008 Lifeline expansion created the environment that led to increased waste, fraud, and abuse.

A major jump in Lifeline claims followed the FCC's 2008 decision to allow non-facilities based, wireless carriers to receive Lifeline support. Had the FCC given greater consideration at several key decision points before this 2008 change, the Lifeline program could have incorporated more protections, while still providing an increase in service offerings for consumers. The FCC missed an opportunity to address some potential issues as part of its comprehensive review of its Universal Service programs in 2007, before the first wireless carrier was designated eligible to receive support.

Since 2010 the FCC and USAC have reined in a billion dollars in waste, fraud, and abuse. Nonetheless, more can be done.

Soon after the transition to the new Administration in 2009, the FCC acted to respond to the enormous growth in the program. By 2010, the FCC took its initial steps to reform the program to address concerns about waste, fraud, and abuse. Since the FCC adopted its Lifeline Reform Order in 2012, the FCC has eliminated a billion dollars in waste, fraud, and abuse.

But the potential for fraud still exists. For instance, the IEH Worksheet does not require additional documentation to verify its accuracy. While good reasons exist to support this policy, such as the difficulty many eligible recipients may have in producing such documentation, the FCC and USAC should still look for ways to improve this mechanism.

Lifeline continues to provide essential service to low-income Americans.

Lifeline has been a bipartisan success story, connecting millions of Americans who would otherwise be left behind. The program has been celebrated by Administrations from both parties, FCC Chairs from both parties, Commissioners from both parties, industry, civil and human rights groups, and others. The Lifeline program continues to serve over ten million low-income consumers. The FCC's recent actions to modernize the program for broadband have made the program more important than ever.

Recommendations:

- USAC should continue targeted audits and In-Depth Data Validations (IDVs).
- The FCC should periodically review Lifeline program data for new trends.
- The FCC and USAC should work to ensure that the National Verifier implementation adequately addresses misuse of eligibility documentation as seen in the Total Call Mobile case.
- The FCC and USAC should review the use of the IEH worksheet and trends related to its use.
- The FCC should consider possible revisions to program safeguards.
- The FCC Office of General Counsel and the FCC Office of Inspector General should continue the investigation into these allegations.

I. BACKGROUND – THE LIFELINE PROGRAM

The FCC's Lifeline program is one of four programs supported through its Universal Service Fund (USF).[1] The Lifeline program has provided discounted and no-charge phone service for low-income Americans for over three decades.[2] To qualify for the program, Lifeline subscribers must either have an income that is at or below 135 percent of the federal poverty guidelines or they must participate in certain assistance programs.[3] When carriers sign up eligible consumers in the Lifeline program, the carriers can apply a $9.25 per month discount toward wireline or wireless service.[4] Eligible subscribers may receive the discount for either wireline or wireless service, but cannot receive benefits for both.[5]

Recipients are generally required to submit information to support their enrollment, including their name, address, data of birth, the last four digits of their social security number, and documentation supporting eligibility.[6] A recipient is not required to submit a full social security number, however.[7]

FCC rules limit benefits to one phone per household from eligible telecommunications carriers (ETCs).[8] More than one eligible individual living at the same address can receive Lifeline support only if they do not contribute to or share in the income and expenses of the same household.[9] As an added safeguard, Lifeline subscribers must recertify continued eligibility on an annual basis to their ETC.[10]

USF is supported through contributions from telecommunications providers, which are calculated based on a percentage of the carrier's interstate and international end-user revenues

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[1] 47 U.S.C. § 254. The largest program supported through the Universal Service Fund is the High Cost program, also known as the Connect America Fund. USF also supports the Rural Health Care program and the Schools and Libraries program, also called E-Rate. Universal Service Administrative Company, 2015 Annual Report, at 41 (online at usac.org/_res/documents/about/pdf/annual-reports/usac-annual-report-interactive-2015.pdf).

[2] Federal Communications Commission, News Release, FCC Modernizes Lifeline Program for the Digital Age, WC Docket 11-42 (Rel. Mar. 31, 2016) (online at fcc.gov/Daily_Releases/Daily_Business/2016/db0404/DOC-338676A1.pdf) [hereinafter "Lifeline Modernization Order News Release"].

[3] 47 C.F.R. §54.409.

[4] 47 C.F.R. §54.403(a)(1).

[5] *See* Briefing from FCC Staff (June 23, 2016).

[6] *Id*.

[7] Briefing from FCC Inspector General (June 28, 2016).

[8] 47 C.F.R. §54.405(e)(2).

[9] *See* 47 C.F.R §54.400(h).

[10] 47 C.F.R. §54.410(f).

from traditional telephone calls.[11] Providers are allowed to recover these costs directly from their consumers.[12] For fiscal year 2015, authorized support to Lifeline recipients was $1,494,010,000—slightly less than 18 percent of total authorized USF support for the year.[13]

The vast majority of Lifeline benefits support wireless services, with the program serving 9.8 million wireless subscribers last year.[14] Nearly 13 million low-income Americans used the program as of October 2015, which is approximately 33 percent of those eligible.[15] According to USAC, there are approximately 1,200 to 1,300 companies that provide Lifeline services to consumers.[16]

II. THE HISTORY OF THE LIFELINE PROGRAM: EXPANSION THEN OVERSIGHT

A. Lifeline During the Reagan Administration: The Creation of the Program

The FCC established the Lifeline program in 1985 to ensure that low-income households could maintain basic wireline telephone service after the break-up of the AT&T Bell system.[17] There were concerns at the time that increases in local telephone rates would negatively impact low-income households.[18] A former Reagan Administration official described the goal as

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[11] 47 C.F.R. §54.709. *See also Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, at ¶ 58, 30 FCC Rcd. 5601 (2015) (forbearing from requiring telecommunications carriers to contribute to the USF based on broadband internet access service revenues).

[12] Federal Communications Commission, Consumer Guide, Universal Service Support Mechanisms (Rel. Nov. 7, 2015) (online at fcc.gov/consumers/guides/universal-service-support-mechanisms).

[13] USAC 2015 Annual Report at 41 (online at usac.org/_res/documents/about/pdf/annual-reports/usac-annual-report-interactive-2015.pdf).

[14] *Id.* at 11.

[15] Letter from Universal Service Administrative Company to Federal Communications Commission, Docket No. 11-42 (Mar. 6, 2016).

[16] Briefing from USAC Officials (Jun. 29, 2016).

[17] Federal Communications Commission, Report and Order and Further Notice of Proposed Rulemaking, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 (Rel. Feb. 6, 2012) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf).

[18] *Id.*

helping low-income Americans "get back on their feet"[19] and that the Lifeline program was to be "part of our country's social safety net for those with very low incomes or out of work."[20]

B. Lifeline During the Clinton Administration: Expansion to All States

When Congress created the USF as part of the Telecommunications Act of 1996, it codified the FCC's authority to administer the Lifeline program as part of the fund.[21] Following this Congressional action, the FCC modified the Lifeline program in 1997 to (1) extend the benefits to all 50 states, regardless of whether those states provided matching funds; (2) require all eligible telecommunications carriers (ETCs) provide Lifeline service to low-income households, and (3) establish that Lifeline would be supported through contributions to USF.[22] The decision to extend benefits to all states resulted in an increase in claims from approximately $147.5 million in 1997 to $422 million in 1998.[23]

C. Lifeline During the Bush Administration: Increases in Participation but Limited Oversight and Safeguards

During the Bush Administration, the FCC took some steps to increase participation, but provided little oversight or protections against waste, fraud, and abuse. In particular, the FCC opened the doors for substantial growth in the program by granting non-facilities based wireless carriers status as ETCs in 2008, without adequate safeguards.[24]

i. 2004 Expansion of Eligibility Criteria

The FCC expanded eligibility criteria for the Lifeline program in 2004 to increase participation by eligible low-income households.[25] The changes added income-based criterion

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[19] Jim Cicconi, *A 21st Century Safety Net*, AT&T Policy Blog (Jun. 1, 2015) (online at attpublicpolicy.com/fcc/a-21st-century-safety-net/).

[20] *Id.*

[21] 47 U.S.C. § 254(b)(3).

[22] Federal Communications Commission, Report and Order, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, at ¶ 326 *et seq*. (Rel. May 8, 1997) (online at https://apps.fcc.gov/edocs_public/attachmatch/FCC-97-157A1.pdf).

[23] Universal Service Monitoring Report 2015 at 25 (online at apps.fcc.gov/edocs_public/attachmatch/DOC-337019A1.pdf) [hereinafter "Monitoring Report"].

[24] Federal Communications Commission, Order, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (Rel. Apr. 11, 2008) (online at universalservice.org/_res/documents/about/pdf/fcc-orders/2008-fcc-orders/FCC-08-100.pdf).

[25] Federal Communications Commission, Report and Order and Further Notice of Proposed Rulemaking, Lifeline and Link-Up, WC Docket No. 03-109 (Rel. Apr. 29, 2004) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-04-87A1.pdf).

and additional means-tested programs to the federal default eligibility criteria.[26] The FCC required supporting documentation to accompany certifications of income-based eligibility at enrollment due to the increased potential for fraud and abuse with the difficulty verifying income eligibility.[27] The FCC also required all states to establish procedures to verify continued eligibility for Lifeline participants.[28] The changes made in 2004 did not result in a significant increase in claims in the following years.[29]

ii. Comprehensive Review Provided Limited Oversight

The FCC started a comprehensive review of management, administration, and oversight of USF in 2005. It released a Report and Order in 2007 that addressed few of the issues raised in the proceeding, leaving others unresolved.[30] The FCC declined to add targeted independent audit requirements for all USF programs, instead relying on the existing audit programs through USAC and the FCC's Office of Inspector General's (OIG).[31] The FCC decided that the audits being conducted by the OIG should provide a baseline to determine if targeted audits should be necessary in the future.[32] Specific to Lifeline, the FCC maintained the existing three-year document retention standards in place at the time,[33] and required retention for an additional three years after a recipient terminated service to allow for potential audits.[34]

The FCC concluded it had insufficient data in 2008 to adopt specific goals for the performance measurements it adopted for the Lifeline program,[35] but required USAC to provide

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[26] *Id.* at ¶¶ 10, 13.

[27] *Id.* at ¶ 28.

[28] *Id.* at ¶ 33.

[29] *See* Monitoring Report, supra n. 23, at 25.

[30] Federal Communications Commission, Report and Order, Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, WC Docket No. 05-195 (Rel. Aug. 29, 2007) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-07-150A1.pdf).

[31] *Id.* at ¶ 19.

[32] *Id.* at ¶ 21.

[33] According to the FCC during a June 29, 2016 interview with staff, the documents retained under the rules at the time related to documents that the ETC would have in its possession. There was not any requirement at that time for ETCs to collect and retain documents from consumers.

[34] *Id.* at ¶ 25. The FCC also required retention of documents after completion of an audit.

[35] *Id.* at ¶ 51. The performance measurements adopted for Lifeline included: (1) Number of program beneficiaries (i.e. carriers); (2) Number of low-income customers for which each carrier receives low-income support; (3) Number of connections supported; (4) Time to process support payments and authorize disbursements; (5) Average (mean) dollar amount awarded and median dollar amount awarded, per carrier; (6) Total amount disbursed.

summary information for Qwest, Verizon, and AT&T from those carriers' annual verification results surveys of Lifeline customers.[36]

The FCC did not adopt any additional orders related to the comprehensive review proceeding, but did seek additional comment as part of a Notice of Inquiry in 2008.[37] At that time, the FCC determined that adoption of the record retention requirements in 2007 would resolve many of the audit findings, along with better outreach and education to resolve other concerns.[38]

iii. Unconditioned Expansion to Include Wireless ETCs

The FCC took its first step to transition the Lifeline program into a primarily wireless service in 2005. The FCC granted a request by TracFone that would allow wireless ETCs to provide service and receive USF support without using its own facilities.[39] Further, the FCC conditioned its decision to allow TracFone to receive USF support only for Lifeline services if TracFone achieved ETC status, with two additional conditions to safeguard against abuse.[40] The FCC required that TracFone (1) compel a customer to self-certify at activation (and annually thereafter) that he or she is the head of the household and receives Lifeline-supported service only from TracFone, and (2) establish "safeguards to prevent its customers from receiving multiple TracFone Lifeline subsidies at the same address."[41] TracFone received its conditioned ETC designation in April 2008.[42] Numerous wireless companies followed the path of TracFone in receiving ETC designation for Lifeline-only, non-facilities based service.[43]

D. Lifeline Program During the Obama Administration: Increased Oversight and Reform

Following the rule changes in 2008, subscriptions using the Lifeline program began to skyrocket. Hence, soon after the transition to the new Administration in 2009, the FCC

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[36] *Id.* at ¶ 52.

[37] Federal Communications Commission, Notice of Inquiry, Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, WC Docket No. 05-195 (Rel. Sept. 12, 2008) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-08-189A1.pdf).

[38] *Id.* at ¶ 18.

[39] Federal Communications Commission, Order, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (Rel. Sept. 8, 2005) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-05-165A1.pdf).

[40] *Id.* at ¶ 6.

[41] *Id.*

[42] Federal Communications Commission, Order, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (Rel. Apr. 11, 2008) (online at universalservice.org/_res/documents/about/pdf/fcc-orders/2008-fcc-orders/FCC-08-100.pdf).

[43] Briefing with FCC Officials (June 28, 2016).

recognized the potential for waste, fraud, and abuse in the program and took initial steps to rein in excess spending. Over the next seven years, the FCC made reforming the program a priority.

i. 2010 Federal-State Joint Board Order and Recommendations

The FCC sought guidance in 2010 from the Federal-State Joint Board on Universal Service (Joint Board) on how to address the increase in benefits paid.[44] The Joint Board released its recommendations regarding the Lifeline program in November 2010.[45] In its decision, the Joint Board recommended, among other things: (1) automatic enrollment as a best practice for all states;[46] (2) uniform minimum verification procedures and criteria for all ETCs in all states;[47] (3) states be allowed to have different or additional verification procedures if they are effective in detecting waste, fraud, and abuse;[48] (4) all ETCs submit verification sampling data and that the results be publicly available.[49] The Joint Board also recommended that the FCC seek comment on other issues, including possible modifications to income eligibility thresholds,[50] the potential impact of minimum uniform eligibility requirements,[51] and the costs and benefits of a database for certification and verification of eligibility.[52]

ii. 2010 GAO Report

The Government Accountability Office (GAO) released a report in October 2010 that recommended the FCC establish performance goals and measures for the Lifeline program in order to effectively manage the program.[53] GAO also recommended that the FCC conduct a robust risk assessment and implement a "systematic process for considering the results of ETC

[44] Federal Communications Commission, Order, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (Rel. May 4, 2010) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-10-72A1.pdf).

[45] Federal Communications Commission, Recommended Decision, Federal-State Joint Board on Universal Service, CC docket No. 96-45 (Rel. Nov. 4, 2010) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-10J-3A1.pdf).

[46] *Id.* at ¶ 18.

[47] *Id.* at ¶ 26.

[48] *Id.* at ¶ 28.

[49] *Id.* at ¶ 27.

[50] *Id.* at ¶ 10.

[51] *Id.* at ¶ 33.

[52] *Id.* at ¶ 36 *et seq*.

[53] Government Accountability Office, *Telecommunications: Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program*, (Oct. 2010) (GAO 11-11) at 42 (online at gao.gov/assets/320/312708.pdf).

audits and improper payment assessments in evaluating internal controls of the Low-Income Program."[54]

The GAO found that the marked increases in payments to ETCs in 2009 were due to the introduction of free, prepaid wireless cell service in 2008,[55] and that Lifeline was the fastest growing USF program at that time.[56] GAO determined that the FCC had not made it a priority to develop performance goals and measures, but having them would allow the FCC to "assess changes, such as the addition of prepaid wireless, and more effectively manage the current and future direction of the program."[57]

The FCC therefore directed USAC to "take steps to implement the recommendations" in the GAO report.[58] Specifically, the FCC asked USAC to conduct a risk assessment to consider program vulnerabilities and consequences, and how to mitigate the risks.[59] After completion of the risk assessment, the FCC instructed USAC to examine the design of the program's internal control structure and "recommend modifications to business practices and internal controls that are necessary to cost-effectively address programmatic risks."[60]

iii. USAC In-Depth Data Validations and the FCC's Lifeline Duplicative Payments Order

The FCC's Managing Director's Office directed USAC to start in-depth data validations (IDVs) in May 2011 to uncover duplicative claim support.[61] The IDVs are "streamlined inquiries of Lifeline recipients targeted at uncovering duplicative claims for Lifeline support in select states."[62] The FCC provided additional guidance to USAC in June 2011 regarding the

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[54] *Id.*

[55] *Id.* at 16.

[56] *Id.* at 14.

[57] *Id.* at 26.

[58] Letter from Mr. Steven VanRoekel, FCC Managing Director, to Mr. Scott Barash, Acting CEO, Universal Service Administrative Company (Jan. 25, 2011) (online at apps.fcc.gov/edocs_public/attachmatch/DA-11-128A1.pdf).

[59] *Id.*

[60] *Id.*

[61] Letter from Ms. Sharon E. Gillett, Chief, Wireline Competition Bureau to Mr. Scott Barash, Acting CEO, USAC, DA 11-1082 (Jun. 21, 2011). Around that same time, the FCC also instructed USAC to develop a proposal to disburse Lifeline support based on actual claims as opposed to projected claims of support. *See* Letter from Ms. Dana R. Shaffer, FCC Deputy Managing Director, to Mr. Scott Barash, Acting CEO, USAC (May 13, 2011) (online at apps.fcc.gov/edocs_public/attachmatch/DA-11-872A1.pdf).

[62] Federal Communications Commission, Report and Order, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 (Rel. Jun. 21, 2011) (online at

process to follow when duplicative Lifeline claims were found through the IDVs or through other means.[63]

Simultaneously, the FCC took additional action to prohibit duplicative payments for multiple Lifeline-supported services to the same individual and to clarify that eligible low-income consumers can receive only a single Lifeline benefit.[64] The FCC explicitly said for the first time that eligible households can have only one phone line or service. Such action was necessary after the 2008 decision to allow wireless ETCs in the Lifeline program to ensure that consumers did not receive both wireline and wireless Lifeline service, or multiple wireless Lifeline services.[65] The FCC also required an ETC to de-enroll any subscriber receiving multiple benefits upon notification from USAC.[66]

In December 2011, the FCC directed USAC to take additional action to conduct further targeted IDVs, given the success of the IDV process in reducing duplicative Lifeline support.[67] The FCC's Enforcement Bureau also released an enforcement advisory in December 2011, reminding ETCs that they must confirm eligibility and ensure that consumers they enroll are not already receiving Lifeline service from another provider.[68] The initial IDV duplicates review resulted in a $35 million annual savings.[69]

iv. Lifeline Reform Proceeding

The FCC took action to significantly reform the Lifeline program in January 2012 when it adopted an order in its Lifeline and Link Up Reform and Modernization proceeding.[70] The FCC formally established performance goals and measures for the program, namely to ensure availability of service for low-income Americans while minimizing the contribution burden on

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apps.fcc.gov/edocs_public/attachmatch/FCC-11-97A1.pdf) [hereinafter "Lifeline Duplicative Payments Order"].

[63] Letter from Ms. Sharon E. Gillett, Chief, Wireline Competition Bureau to Mr. Scott Barash, Acting CEO, USAC, DA 11-1082 (Jun. 21, 2011).

[64] Lifeline Duplicative Payments Order, *supra* n. 62, at ¶ 8.

[65] *Id.* at ¶ 9.

[66] *Id.* at ¶ 15.

[67] Letter from Ms. Sharon E. Gillett, Chief, Wireline Competition Bureau to Mr. Scott Barash, Acting CEO, USAC, DA 11-1986 (Dec. 6, 2011).

[68] Federal Communications Commission, Enforcement Advisory, Eligible Telecommunications Carriers Offering Lifeline Service Are Reminded of Their Obligation to Confirm Consumers' Eligibility and to Avoid Providing Duplicative Service, DA 11-1971 (Rel. Dec. 5, 2011) (online at apps.fcc.gov/edocs_public/attachmatch/DA-11-1971A1.pdf).

[69] Briefing from FCC Officials (Jun. 24, 2016).

[70] Federal Communications Commission, Report and Order and Further Notice of Proposed Rulemaking, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 (Rel. Feb. 6, 2012) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf).

consumers and businesses.[71] Major changes to help curb waste, fraud, and abuse in the program included: (1) the creation of the National Lifeline Accountability Database (NLAD) to help eliminate duplicates in the program;[72] (2) enhancement of the initial and annual certification requirements;[73] (3) confirmation of the one-per-household rule;[74] (4) imposing independent audit requirements on carriers that receive more than $5 million in support per year;[75] and (5) de-enrollment of subscribers who have not used their service for 60 days.[76]

The FCC also clarified that a household for purposes of the Lifeline program is "any individual or group of individuals who are living together at the same address as one economic unit," and an economic unit consists of "all adult individuals contributing to and sharing in the income and expenses of a household."[77] In instances where more than one economic unit resides at the same address, applicants must self-certify they are separate economic units.[78] The FCC estimated that the 2012 reforms could save up to $2 billion over the following three years.[79]

A year later, the Wireline Competition Bureau issued its final report on the implementation of the reforms adopted in 2012.[80] The Bureau reported a savings of over $213 million in 2012 as a direct result of the FCC's reforms.[81]

v. Implementation of NLAD

NLAD began accepting subscriber information in December 2013.[82] At that point and thereafter, ETCs were required to provide existing subscriber information to NLAD by state, and

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[71] *Id.* at ¶ 24 *et seq.*

[72] *Id.* at ¶ 179 *et seq.*

[73] *Id.* at ¶ 111.

[74] *Id.* at ¶ 76.

[75] *Id.* at ¶ 291.

[76] *Id.* at ¶ 257.

[77] *Id.* at ¶ 74.

[78] *Id.* at ¶ 77.

[79] *Id.* at ¶ 2.

[80] Federal Communications Commission, Public Notice, Wireline Competition Bureau Issues Final Report on Lifeline Program Savings Target, WC Docket No. 11-42 (Rel. Jan. 31, 2013) (online at apps.fcc.gov/edocs_public/attachmatch/DA-13-130A1.pdf).

[81] *Id.* at 2.

[82] Federal Communications Commission, Public Notice, Wireline Competition Bureau Announces that the National Lifeline Accountability Database Will Begin Accepting Subscriber Data in December, WC Docket No. 11-42 (Rel. Oct. 23, 2013) (online at apps.fcc.gov/edocs_public/attachmatch/DA-13-2052A1.pdf) [hereinafter "NLAD Public Notice"].

eliminate intra-company duplicates before transmitting into NLAD.[83] USAC established a state schedule for the migration, along with additional guidance for ETCs.[84] The FCC and USAC held a series of webinars and workshops on implementation and features of NLAD for ETCs.[85] Completion of the migration occurred at the end of March 2014.[86] NLAD specifically provided ETCs with the ability to electronically check whether an applicant already receives Lifeline support and to confirm the applicant's identity through a third party identity verification (TPIV) before enrollment.[87]

To add an entry to NLAD, sales agents are generally not required to log in and entries in NLAD do not specify which agent made the entry.[88] When making an entry, a sales agent must provide a Lifeline applicant's (1) name, (2) address, (3) date of birth, (4) last four digits of their social security number, and (5) eligibility supporting information.[89] During its duplication review, NLAD checks to make sure that a valid address has been offered. [90] Some addresses, such as those in tribal or rural areas may not be found valid as part of this check, and the FCC has created an exception for such addresses as a result.[91] According to some stakeholders, however, some non-residential addresses may satisfy the address check.[92]

The FCC released a Public Notice in September 2014 that described the procedures that the FCC and USAC implemented for the transfer of benefits, exceptions management, and dispute resolution within NLAD.[93] For transfers, the ETC to which the subscriber is transferring benefits initiates the transfer transaction within NLAD after obtaining the affirmative consent to

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[83] *Id.* at 1.

[84] Universal Service Administrative Company, National Lifeline Accountability Database, NLAD Migration (online at usac.org/li/tools/nlad/nlad-migration.aspx) (accessed Jun. 30, 2016).

[85] NLAD Public Notice, *supra* n. 82, at 2.

[86] Briefing from FCC Officials (June 23, 2016).

[87] Federal Communications Commission, Wireline Competition Bureau Reminds Eligible Telecommunications Carriers of NLAD Process Regarding Benefit Transfers, Exceptions Management and Dispute Resolution, Public Notice, WC Docket No. 11-42 (Rel. Sept. 25, 2014) (online at apps.fcc.gov/edocs_public/attachmatch/DA-14-1390A1.pdf).

[88] Briefing from FCC Inspector General (June 28, 2016).

[89] Briefing from FCC Officials (June 23, 2016).

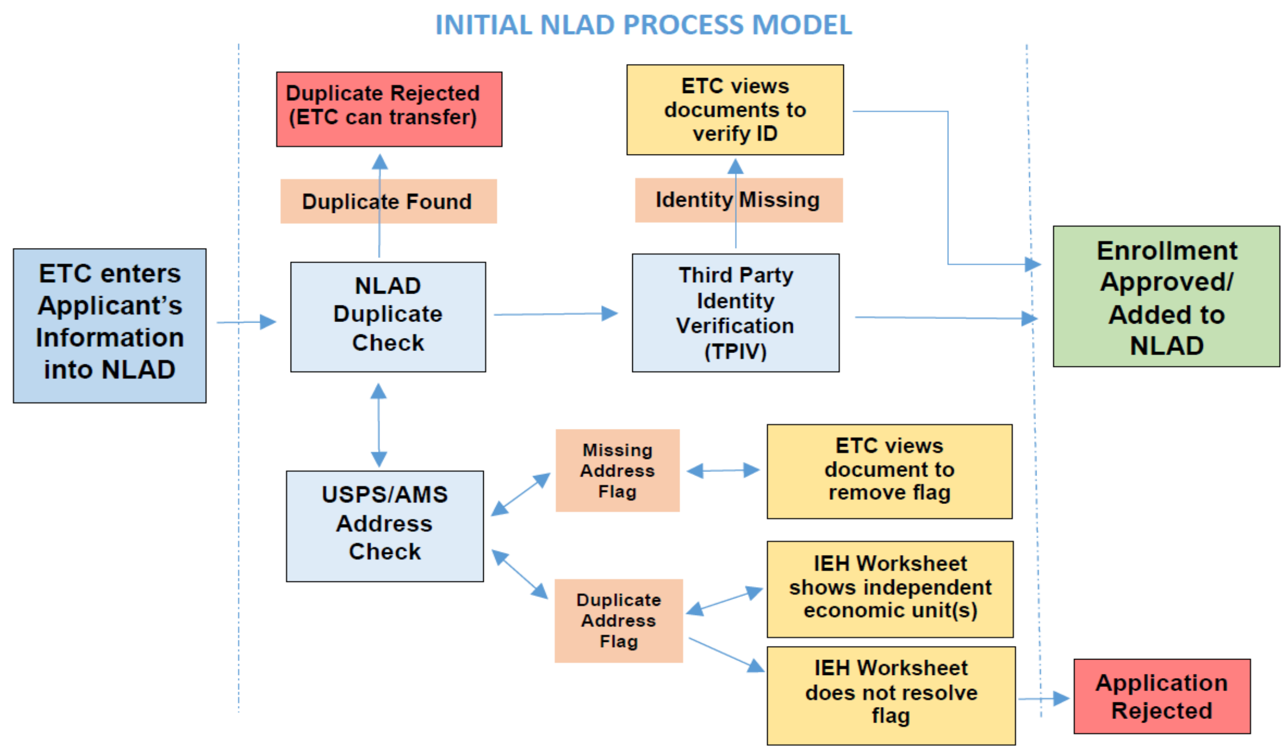
[90] *Id.*

[91] Briefing from Lifeline Next Coalition (June 29, 2016).

[92] *See id*.

[93] Federal Communications Commission, Public Notice, Wireline Competition Bureau Reminds Eligible Telecommunications Carriers of NLAD Processes Regarding Benefit Transfers, exceptions Management and Dispute Resolution, WC Docket No. 11-42 (Rel. Sept. 25, 2014) (online at https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1390A1.pdf).

transfer from the subscriber.[94] The ETC must maintain a record of all communications with the subscriber.[95] The process for exceptions and dispute resolutions at that time required that when an applicant cannot be verified or is rejected through the TPIV, USAC provides specific information regarding the error in NLAD. ETCs can view documentation to verify that the failure is a mistake and override by submitting a code through NLAD.[96]



According to the FCC, the duplicate resolution process through NLAD implementation resulted in de-enrollment of 2.43 million duplicate subscribers from March 2014 to December 2014.[97]

vi. USAC Modifications to NLAD Process

USAC has made several modifications to the NLAD process to improve the override process and duplicate resolution. With regard to the TPIV override process, in February 2015,

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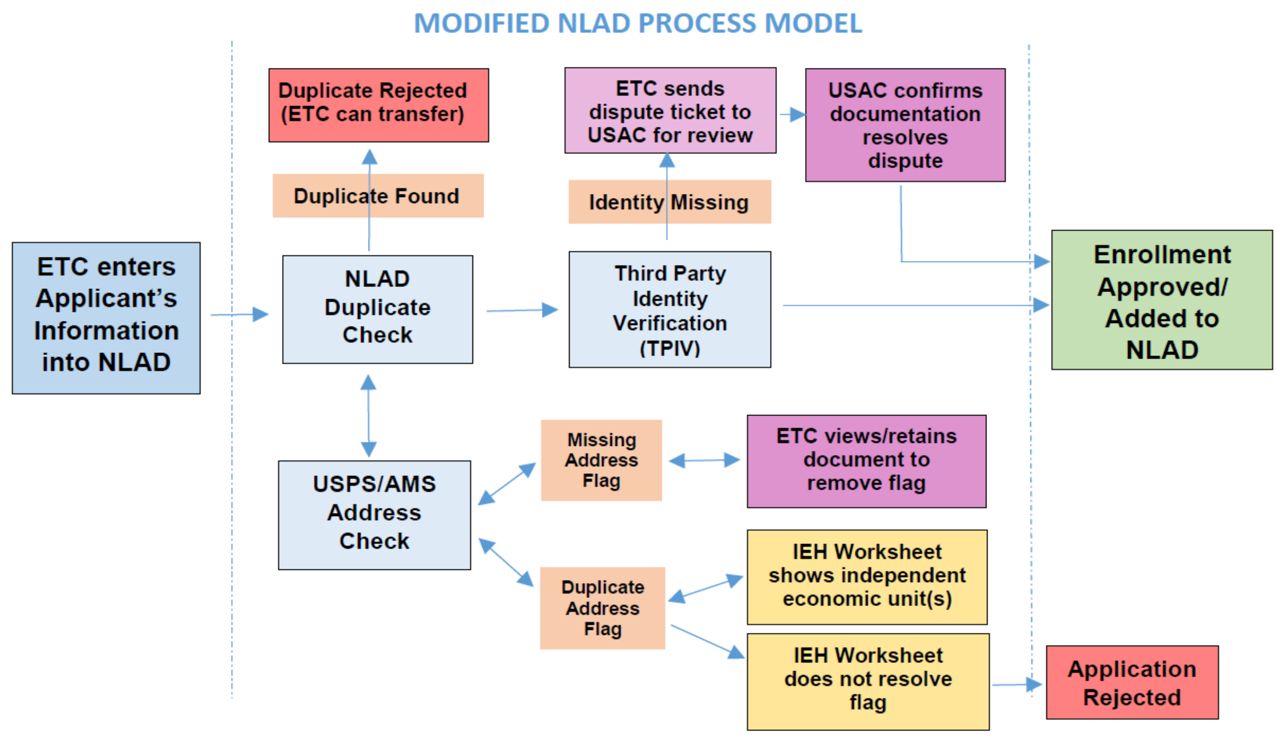
[94] *Id.* at 2.

[95] *Id.*

[96] *Id.* For example, the ETC may view the applicant's driver's license to confirm identity. ETCs also can use a manual process by working with USAC to override failures. ETCs required to keep a record of the documents viewed in the override, but at that time were not required to keep a copy of the documents. *Id.*

[97] Briefing from FCC Officials (Jun. 23, 2016).

USAC changed the process so that an ETC can no longer independently override the TPIV.[98] ETC agents continue to review the documentation relevant to the error code provided, but also must now provide agent information and confirmation to USAC in requesting an override.[99] Before an override code is provided, USAC confirms that the documentation reviewed appropriately resolves the error message from NLAD.[100] USAC further refined the override process in February 2016, when it required ETCs to retain copies of the documents viewed by ETCs as part of an override.[101]



USAC also modified the algorithm used to identify duplicates within NLAD in March 2015.[102] According to the FCC, the revisions improved effectiveness of duplicate prevention, which resulted in the de-enrollment of approximately 373,000 duplicate subscribers.[103]

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[98] Briefing from USAC Officials (Jun. 29, 2016).

[99] *Id.*

[100] *Id.*

[101] Universal Service Administrative Company, National Lifeline Accountability Database, Third Party Identity Verification (TPIV) Failure Resolution (online at usac.org/li/tools/nlad/dispute-resolution/tpiv-failure-dr.aspx) (accessed Jun. 30, 2016).

[102] Briefing from USAC Officials (Jun. 30, 2016).

[103] Briefing from FCC Officials (Jun. 24, 2016).

vii. Lifeline Modernization Order

The FCC continued its modernization and reform effort in 2015 when it adopted eligibility documentation retention requirements and sought comment on whether to create a national eligibility verification system, among other things.[104] The FCC also established a rule that requires ETCs to use the first day of the month to determine eligible consumers in which to seek reimbursement for that month.[105] Such a modest change reduces the likelihood that two ETCs would receive full support for the same subscriber in that month and assist USAC to adopt uniform audit procedures.[106] The FCC also addressed another potential source of waste and abuse by limiting reimbursement to those ETCs that provide Lifeline service directly to consumers.[107]

The FCC took its most recent steps to curb abuse in the Lifeline program in March 2016 when it established the National Eligibility Verifier.[108] The National Verifier will make eligibility determinations and perform other functions to enroll eligible subscribers into the Lifeline program, and close off "one of the main avenues historically leading to fraud and abuse in the Lifeline program."[109]

The FCC directed USAC, with FCC oversight, to procure the necessary parts of the National Verifier.[110] The FCC envisions the National Verifier to have both electronic and manual methods using a Lifeline Eligibility Database that will contain records of all eligible subscribers.[111] USAC released a Request for Information regarding the potential establishment of a National Verifier in September 2015, after the FCC proposal and in anticipation of FCC action,[112] and must submit a "Draft National Verifier Plan" to the FCC before December 1,

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[104] Federal Communications Commission, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 (Rel. Jun. 22, 2015) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-15-71A1.pdf).

[105] *Id.* at ¶ 242.

[106] *Id.*

[107] *Id.* at ¶ 244.

[108] Federal Communications Commission, Third Report and Order, Further Report and Order, and Order on Reconsideration, Lifeline and Link Up Reform Modernization, WC Docket 11-42 (Rel. Apr. 27, 2016) at ¶ 126 (online at https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf) [hereinafter "Lifeline Modernization Order"].

[109] *Id.* at ¶ 129

[110] *Id.* at ¶ 126.

[111] *Id.*

[112] Universal Service Administrative Company, Summary Report of Responses to USAC Request for Information (Rel. Mar. 4, 2016) (online at usac.org/_res/documents/about/quarterly-stats/LI/RFI-Implementation-of-a-Potential-National-Verifier.pdf).

2016.[113] The FCC established a staggered implementation for the National Verifier, with deployment in at least five states by December 31, 2017, in an additional 20 states by December 31, 2018, and full deployment by December 31, 2019.[114]

III. FINDINGS

A. The Evidence Does Not Show $500 Million of Waste Stemming From "IEH Overrides." The evidence Does Confirm That A Key Assumption Underlying This Allegation—That Every IEH Worksheet Resulted in a Duplicate Phone Being Fraudulently Subsidized—Is Wrong.

Proponents of proposed legislation to dismantle the Lifeline program argue that their efforts are necessary to eliminate nearly $500 million a year in fraudulent duplicate charges.[115] For instance, Rep. Peter Sessions recently argued on the floor of the House of Representatives that Congress should dismantle the wireless portions of Lifeline because "it would cost taxpayers of this country $500 million a year in fraud."[116] This figure results from a straight-forward, yet faulty calculation. To arrive at this figure, they claim that carriers used an "Independent Economic Household (IEH) Override" to enroll 4,291,647 subscribers over the year-and-a-half between October 2014 and April 2016.[117] They then multiplied the number of IEH Overrides by the benefits that a subscriber receives in a year.[118] Hence:

(4,291,647 "IEH Overrides") X ($9.25 in monthly benefits) X (12 months) =

$476,372,817 in total costs

Evidence received by the Committee thus far demonstrates that this conclusion is verifiably false. This calculation relies on incorrect assumptions and bad data.

As an initial matter, some confusion has arisen from the term "IEH Override." No part of the Lifeline approval process uses an "IEH Override"—rather this term seems to conflate distinct mechanisms.[119] The following analysis assumes that Republicans intend to allege that all uses of the IEH Worksheet were fraudulent duplicates.

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113 Lifeline Modernization Order, *supra* n. 108, at ¶ 162.

114 *Id.* at ¶ 164.

115 Cong. Rec. H3980 - H3982 (June 12, 2016).

116 Cong. Rec. H3980.

117 *Id.*

118 Cong. Rec. H3981.

119 The other mechanisms include the TPIV Override and the Rural and Tribal Address Flag. All three mechanisms are distinct.

<u>TPIV Override:</u> In certain circumstances, Carriers may "override" a failure of the NLAD TPIV. *See* Federal Communications Commission, Wireline Competition Bureau Reminds

i. The evidence confirms that not every person who received benefits after filling out an IEH Worksheet committed fraud

The FCC codified a rule in its 2012 Lifeline Reform Order limiting Lifeline support to one subscription per household.[120] The agency found that this one-per-household approach would make sure phone service was available to low-income consumers while minimizing the contribution burden.[121] At the same time, the Commission recognized that many low-income households live at the same address.[122] Republican FCC Commissioner Robert McDowell stated about the entire order that although he "would have preferred a longer-term fixed budget or cap, what we are rendering today is virtually unheard of in Washington: fiscally responsible entitlement reform."[123]

USAC subsequently developed an Independent Economic Household (IEH) Worksheet as part of NLAD that was rolled out by March 2014.[124] This worksheet allows carriers to subscribe a new customer who lives in an independent economic household, even if that

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Eligible Telecommunications Carriers of NLAD Process Regarding Benefit Transfers, Exceptions Management and Dispute Resolution, Public Notice, WC Docket No. 11-42 (Rel. Sept. 25, 2014) (online at apps.fcc.gov/edocs_public/attachmatch/DA-14-1390A1.pdf). According to Briefings with FCC staff, 12-15percent of submissions to the TPIV can come back with false negative results that incorrectly reject an applicant for the program. In these cases, the carrier must collect documentation from the applicant to ensure the application is a not a duplicate. Effective February 17, 2016, carriers must securely retain copies of documentation reviewed to override the NLAD TPIV failure. 47 C.F.R. § 54.404 (b)(11).

Rural and Tribal Address Flags: Subscriber addresses are validated through the USPS Address Matching Service (AMS). *See* Universal Service Administrative Company, National Lifeline Accountability Database (NLAD) (Accessed July 10, 2016) (online at www.usac.org/li/tools/nlad/dispute-resolution/address-resolution.aspx). But residents of rural and tribal areas often do not have addresses that fit within the AMS format, for instance they may use P.O. Boxes. The Rural and Tribal Flags allow Carriers to enroll applicants to the program from rural and tribal areas. *See* Universal Service Administrative Company, NLAD Field Descriptions, at pg. 3 (online at www.usac.org/_res/documents/li/pdf/nlad/NLAD-Field-Descriptions.pdf), Effective February 17, 2016, carriers must securely retain copies of documentation reviewed to override the NLAD TPIV failure. 47 C.F.R. § 54.404 (b)(11).

[120] Federal Communications Commission, Report and Order and Further Notice of Proposed Rulemaking, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 (Rel. Feb. 6, 2012) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf).

[121] *Id.* at ¶ 74.

[122] *Id.* at ¶ 77.

[123] Statement of Commissioner Robert McDowell, *Report and Order and Further Notice of Proposed Rulemaking in re: Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 *et al.* (Jan. 31, 2012).

[124] Universal Service Administrative Company, Reference Area, FCC Forms and Worksheets (online at http://usac.org/li/tools/reference-area.aspx).

household resides at the same address as another Lifeline subscriber.[125] For instance, the IEH worksheet would be necessary to enroll customers who live in homeless shelters, in Tribal communities, in veteran group homes, in nursing homes, in multi-generational homes, or in other situations.

Those alleging that the IEH Worksheet has resulted in $500 million of abuse assume that all of the customers who relied on this worksheet received their phones as a result of fraud. To justify his bill targeting Lifeline, Rep. Austin Scott stated "carriers enrolled 4,291,647 *duplicate subscribers* to the Lifeline program by widespread use of this targeted exception to the program's one-person household rule" (emphasis added).[126] They base this assumption on the fact that carriers are not required to collect supporting documentation to verify the information contained in a completed IEH Worksheet. The decision not to require documentation may be based on sound policy considerations (people who do not have income may not have tax returns). Still, this lack of documentation could lead to potential fraud. At this point Committee staff has not found any data to quantify how much the IEH Worksheet has been abused—if at all.

Nonetheless, evidence collected by Committee staff proves there is a legitimate need for the IEH process. For instance, a number of states, including California, Oregon, Texas, and Vermont, have opted out of the NLAD system.[127] At least one of these states—Oregon—uses a separate data-driven verification system. This system confirms when consumers in the State of Oregon live at the same address as another Lifeline recipient but are still part of a separate Independent Economic Household.[128] Customers in the state of Oregon alone received over $7 million of Lifeline support in 2015.[129] States like Oregon demonstrate the legitimate need for people living in group homes to have access to Lifeline.

Moreover, many of the very people that Congress intended to participate in the Lifeline program must rely on the IEH Worksheet to receive their benefits. For instance, 20 Lifeline subscribers listed a facility in Camden, New Jersey, called the Volunteers of America, Delaware Valley, as their address.[130] The facility houses people struggling to find affordable housing, including 300 veterans and their families last year. One hundred and thirty four Lifeline subscribers registered their address as the Mesilla Valley Community of Hope in Las Cruces, New Mexico.[131] This shelter encourages its residents, which also includes veterans, to list the shelter as their address. One hundred Lifeline subscribers listed their address as the Louisville

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[125] Universal Service Administrative Company, National Lifeline Accountability Database, (online at http://www.usac.org/li/about/faqs/faq-nlad.aspx#).

[126] Cong. Rec. H3979.

[127] Universal Service Administrative Company, 2014 Annual Report, (online at http://www.usac.org/_res/documents/about/pdf/annual-reports/2014/2014-Annual-Report-LI-Spread.pdf).

[128] Briefing from USAC Officials (Jun. 29, 2016).

[129] USAC 2015 Annual Report, *supra* n. 13 at 45.

[130] Lifeline IEH Data (July 8, 2016) (on file with Committee Staff).

[131] *Id*.

Rescue Mission, in Louisville, Kentucky—a shelter that serves 2,100 homeless people annually.[132] These customers would not be able to receive Lifeline support without using an IEH Worksheet.

ii. The evidence shows that the allegations overstate the benefits paid out using the IEH Worksheet.

The calculations on which the allegations are based uses the number of IEH Worksheets *filed*—not the *benefits paid* as a result of this form having been filed. This calculation depends on an assumption that whenever an IEH Worksheet is filed, any benefits paid depended on falsified information contained in the worksheet.[133] This assumption is wrong.[134] Instead, carriers often file an IEH Worksheet even when it is not necessary. USAC reports that 43 percent of subscribers submitting an IEH worksheet did not actually reside with another subscriber, meaning all of their information had already been verified.[135] Hence, even assuming that every IEH Worksheet that resulted in benefits being paid out was fraudulent, a vast portion of the IEH worksheets were not necessary to support benefits and were instead submitted out of an abundance of caution. Therefore, the allegations overstate any fraud by at least 43percent ($204,840,311).

iii. The benefits paid out to recipients who used the IEH Worksheet are in line with trends from analysis of census data.

Committee staff has not yet collected data to quantify the level of fraud—if any—that may have resulted from IEH Worksheets, but substantial research indicates that the number of IEH Worksheets used to establish Lifeline benefits are in line with national housing trends. According to analysis conducted by the Census Bureau, 38.6 percent of adults lived in "doubled-up" housing in 2010, meaning a household that includes an adult outside the nuclear family.[136] Doubled-up housing is admittedly not a perfect proxy for households that would require an IEH worksheet. Nonetheless, the trend towards doubling up shows that Americans—particularly those who are disadvantaged—live in housing situations that are not squarely addressed by the data in NLAD.

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[132] *Id.*

[133] Cong. Rec. H3980 - H3981.

[134] Briefing from USAC Officials (Jun. 29, 2016).

[135] Letter from Vickie S. Robinson, Vice President and General Counsel, USAC to David Goldman, Chief Counsel, Subcommittee on Communications and Technology, Committee on Energy and Commerce Democratic Staff (July 6, 2016) (on file with Committee Staff).

[136] Laryssa Mykyta and Natasha Pilauska, *The Effects of Recession on Household Composition: "Doubling Up" and Economic Well-Being*, U.S. Census Bureau Social, Economic & Housing Statistics Division, at 9 (2016) [hereinafter "Doubling Up Report"].

Approximately 19 percent of all households in 2010 were doubled-up.[137] The trend toward doubling up has been increasing over the past 10 to 15 years.[138] The conditions are even worse among low-income households, with nearly half of economically disadvantaged children living in doubled-up households between birth and 9 years old.[139] Doubled-up households were more likely to include someone that has not completed high school, is unemployed, or lives below the poverty level.[140] The adults living in these households were more likely to be unemployed than the average adult.[141]

Given these national housing trends, at least a third of low-income consumers would likely live in multi-household addresses—even if they are economically independent. These consumers are the ones that Congress intended to benefit when it codified the Lifeline Program. Rather than showing an outbreak of fraud, therefore, use of the IEH Worksheet likely actually demonstrates that the program is appropriately targeting the intended recipients.

B. Lack of Adequate Safeguards in the 2008 Lifeline Expansion Created the Environment That Led to Increased Waste, Fraud, and Abuse.

The Lifeline program showed moderate increases in annual claims following the expansion of the program to all 50 states in 1998, as shown in the chart below. The major jump in claims began in 2009, after the FCC began allowing non-facilities based, wireless ETCs to receive Lifeline support. Claims topped out in 2012 with $2.1 billion distributed.

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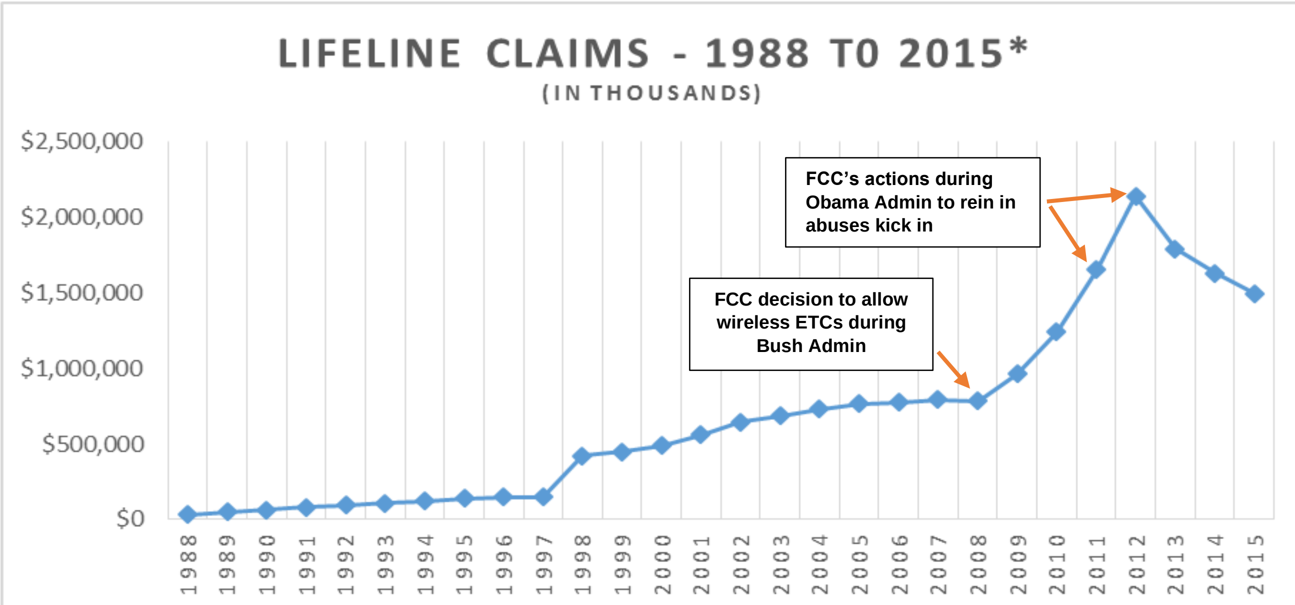
[137] Laryssa Mykyta and Natasha Pilauska, *Household Composition and Family Wellbeing: Exploring the Relationship Between Doubling Up and Hardship*, U.S. Census Bureau Social, Economic & Housing Statistics Division, at 2 (2016).

[138] *Id.*

[139] *Id.*

[140] Doubling Up Report, *supra* n.136 at 10.

[141] *Id.* at 11.



***Source:** Universal Service Monitoring Report 2015 at 25.

The FCC's decision to provide more options for Lifeline-eligible consumers through wireless service provided greater reach and benefits to beneficiaries. But the FCC provided only minimal safeguards in 2008 to protect against risks that could lead to waste, fraud, and abuse in the program.

At several key decision points, more consideration could have resulted in more protections, while still providing an increase in service offerings for consumers. At the time the FCC expanded Lifeline to include wireless ETCs, there were varying standards for proof of eligibility and few controls to stop subsidies when circumstances change that could impact eligibility. It was foreseeable that the expansion could result in a substantial number of new subscribers, but there was no attempt to modify or review how to determine eligibility. Additionally, the commissioned-agent sales model used by ETCs provides more incentive to sign up as many customers as possible, as opposed to providing incentives to comply with eligibility rules.

Additionally, although the FCC initially provided conditions on wireless ETC to provide safeguards against duplicate support to consumers, there was no easy way at that time for ETCs to check if an applicant was already receiving Lifeline support from other ETCs. Further, the FCC did not require any check for inter-company duplicates after the initial sign-up.

These risk factors appear to be directly tied to the explosion of claims beginning in 2009. The FCC had an opportunity to address some of these potential issues as part of its comprehensive review of the USF programs in 2007, before the first wireless carrier received its ETC designation. This missed opportunity left Lifeline without adequate controls regarding eligibility and duplication prevention, and the size of the Lifeline program grew by nearly $1 billion in the span of four years.

C. Since 2010, the FCC and USAC Have Reined in a Billion Dollars in Waste, Fraud, and Abuse. Nonetheless, More Can Be Done.

Committee Republicans announced their investigation was in response to one recent enforcement action. Specifically, Republicans identified a Notice of Apparent Liability (NAL) issued by the FCC against a company called Total Call Mobile (TCM) for defrauding the Lifeline program. The FCC's NAL identified two main types of alleged fraud committed by TCM: (1) agent or "Agent-Teams" apparent intentional enrollment of duplicate consumers, and (2) apparent enrollment of ineligible Lifeline consumers through the misuse of eligibility documents.[142]

Evidence collected by Democratic Committee Staff indicates that as early as February 2015, the FCC and USAC closed a number of loopholes in the TPIV override process that were used by TCM. The FCC and USAC then acted again in early 2016 to eliminate several other avenues for potential fraud, including establishing the National Verifier.[143]

While thieves will always search for new ways to defraud the program, since 2010, the FCC, the Federal-State Joint Boards, and USAC have worked together to root out waste, fraud, and abuse while continuing to serve low-income consumers. Soon after the transition to the new Administration in 2009, the initial steps were taken to address concerns about waste, fraud, and abuse in the Lifeline program given the enormous growth in the previous year. The FCC made reforming the program a priority, as shown by the number of actions taken over the last few years.

The FCC's quick recognition that the pace of growth starting in 2008 would be unsustainable appears to be the catalyst for the significant changes to the program. The FCC and USAC systematically addressed problems as they were identified:

Issue	Resolution
Lack of Controls and Risk Assessment	*2011:* FCC directs USAC to take steps to assess and mitigate risks.
Lack of Initial Eligibility Verification	*2012:* FCC requires the use of databases and documents to verify eligibility. *2016:* FCC creates National Verifier to remove provider or consumer certification.

[142] Federal Communications Commission, Notice of Apparent Liability for Forfeiture and Order, Total Call Mobile, Inc., (Rel. Apr. 7, 2016) at ¶ 3-4 (online at apps.fcc.gov/edocs_public/attachmatch/FCC-16-44A1.pdf).

[143] Although the National Verifier is not yet operational, the FCC recently took steps to temporarily hold payments to TCM from the Lifeline program until TCM provides a complete response to the FCC as directed in the NAL regarding compliance issues and why the FCC should not permanently suspend Lifeline reimbursements to TCM. *See id.* at ¶ 102. *See also*, Federal Communications Commission, Order Directing Temporary Hold of Payments, Total Call Mobile, Inc., WC Docket No. 11-42 (Rel. Jun. 22, 2016) (online at transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0622/DA-16-708A1.pdf).

Issue	Resolution
	2016: FCC expands document retention and audits.
Lack of On-going Eligibility Verification	*2012:* FCC requires ETCs to annually re-certify eligibility for all subscribers.
Lack of Rule to Prevent Duplicate Service	*2011:* FCC limits one benefit per consumer and requires de-enrollment of duplicates.
Lack of System to Identify Duplicates	*2011:* FCC directs USAC to begin IDVs to prevent duplicates. *2012:* FCC creates NLAD. *2014:* USAC launches NLAD. *2015:* USAC makes adjustments to NLAD algorithms to tighten review.

The impact of these actions is shown in the results. The FCC indicates that there has been over $1 billion in cumulative waste eliminated since 2012, a removal of over 22 million ineligible or duplicative accounts, and the rate of purged duplicates is holding steady at three percent.[144]

D. The Lifeline Program Continues to Provide Essential Service to Low-Income Americans.

Lifeline has been a bipartisan success story. The program has connected millions of Americans who would otherwise be left behind. It has been celebrated by Administrations from both parties,[145] FCC Chairs from both parties,[146] Commissioners from both parties,[147] industry,[148] civil and human rights groups,[149] and others. The Lifeline program continues to serve over ten

[144] Briefing from FCC Officials (Jun. 23, 2016).

[145] Jim Cicconi, *A 21st Century Safety Net*, AT&T Policy Blog (Jun. 1, 2015) (online at attpublicpolicy.com/fcc/a-21st-century-safety-net/); *see also*, "FACT SHEET: President Obama Announces ConnectALL Initiative" (Mar. 9, 2016) (online at whitehouse.gov/the-press-office/2016/03/09/fact-sheet-president-obama-announces-connectall-initiative).

[146] Statement of FCC Chairman Michael Powell, *Report and Order and Further Notice of Proposed Rulemaking in re: Lifeline and Link Up*, WC Docket No. 03-109 (Apr. 29, 2004) (online at apps.fcc.gov/edocs_public/attachmatch/FCC-04-87A1.pdf); Statement of FCC Chairman Tom Wheeler, 2016 Lifeline Modernization Order.

[147] Statement of Commissioner Robert McDowell, *Report and Order and Further Notice of Proposed Rulemaking in re: Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 *et al.*, (Jan. 31, 2012); Statement of Commissioner Mignon Clyburn, 2016 Lifeline Modernization Order.

[148] *See, e.g.*, Letter from Meredith Atwell Baker, President and CEO of CTIA to Rep. Kevin McCarthy and Rep. Nancy Pelosi (Jun. 21, 2016) ("A cap on the Lifeline program will inherently exclude an undetermined number of the eligible low-income consumers.")

[149] *See, e.g.*, Letter from The Leadership Conference on Civil and Human Rights to members of Congress (Jun. 20, 2016) ("[I[t is essential to ensure that people of color, low-income people, and other vulnerable populations have access to broadband….Accordingly, we were a strong supporter of the Federal Communications Commission's proposed modernization

million low-income consumers.[150] With the FCC's recent actions to modernize the program for broadband, Lifeline has become more important than ever. Because, as the FCC recognized, broadband is the essential communications tool of our time.

Without Lifeline support, many struggling Americans could be left without a way to look for work, do their homework, or call for help in an emergency. Nearly four out of five Americans surveyed reported having used the Internet to look for a job.[151] As many as 70 percent of teachers assign homework that requires access to broadband.[152] But one-third of American households do not subscribe to broadband, partly because they cannot afford it.[153] Those without access to broadband tend to be minorities, economically disadvantaged, without formal education, non-English speaking, and older.[154] The Lifeline program has lived up to its name, and continues to be an essential tool to help bridge the digital divide for low-income Americans.

IV. RECOMMENDATIONS

A. USAC Should Continue Targeted Audits and In-Depth Data Validations (IDVs).

The targeted audits and IDVs conducted by USAC appear to be successful in identifying areas of concern and interest in the Lifeline program. Continuation of this practice likely will provide additional data and possible areas for reform as necessary.

B. The FCC Should Periodically Review Lifeline Program Data for New Trends.

The FCC has shown that it can quickly address issues as they are identified. An established, periodic review could help identify additional issues for consideration. Additionally, implementation of the National Verifier likely will provide additional data and insight into how the Lifeline program functions and likely could be instructive in these additional reviews.

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of the Lifeline program to include broadband, to address the persistent digital divide between those who have a broadband Internet connection and those who do not.")

[150] USAC 2015 Annual Report, *supra* n. 13, at 11.

[151] Pew Research Center, *Searching for Work in the Digital Era* at 2 (Rel. Nov. 19, 2015) (online at pewinternet.org/files/2015/11/PI_2015-11-19-Internet-and-Job-Seeking_FINAL.pdf).

[152] Remarks of FCC Commissioner Jessica Rosenworcel, "Closing the Homework Gap" (March 17, 2016) (online at apps.fcc.gov/edocs_public/attachmatch/DOC-338474A1.pdf).

[153] John B. Horrigan and Maeve Duggan, PEW Research Center, *Home Broadband 2015* at p. 4 (Dec. 21, 2015) (online at pewinternet.org/2015/12/21/home-broadband-2015/).

[154] *See* 2016 Lifeline Modernization Order, *supra* n. 108, at ¶ 16.

C. The FCC and USAC Should Work to Ensure that the National Verifier Implementation Adequately Addresses Misuse of Eligibility Documentation as Seen in the Total Call Mobile Case.

The implementation of the National Verifier is intended to address an on-going issue within the program—providing independent eligibility verification. How the National Verifier will deal with temporary eligibility documents remains unclear. As noted in the report, the FCC and USAC have already corrected most of the mechanisms that TCM abused—but not all of them. Specifically, TCM allegedly misused temporary SNAP eligibility cards when enrolling Lifeline subscribers. The FCC and USAC should take this into account with the development of the National Verifier. A careful balance must be struck to ensure that newly eligible individuals are not denied Lifeline benefits, while ensuring that carriers do not take advantage of the system as alleged in the TCM case.

D. The FCC and USAC Should Review the Use of the IEH Worksheet and Trends Related to Its Use.

While staff has found that the specific allegations of waste, fraud, and abuse using the IEH worksheet are not valid, some level of abuse of the IEH Worksheets may still be taking place. Staff encourages the development of any new processes that could assist in monitoring current use of the IEH Worksheet to identify any trends that may need to be addressed and prosecute violators.

E. The FCC Should Consider Possible Revisions to Program Safeguards.

Four states (and Puerto Rico until recently) have independent systems to verify applications for the program. The FCC and USAC should study these systems and consider using successful safeguards nationally.

Additionally, during briefings with Democratic Committee staff, the FCC's OIG recommended a number of thoughtful updates to the Lifeline program that the FCC should consider, including:

- Requiring that the NLAD record which sales agent make each entry. To help facilitate this tracking, the FCC should consider requiring that each sales agent be issued an individualized login for accessing NLAD;
- Requiring that Lifeline applicants be required to submit their full social security number as an additional means of verifying eligibility;
- Reviewing whether commission-based sales agent compensation and/or distribution of Lifeline benefits at the point of sale are significant risk factors; and
- Reviewing which addresses should be permissible to satisfy the address check feature.

F. The FCC Office of General Counsel and the FCC Office of Inspector General Should Continue the Investigation into these Allegations.

This report and all of the supporting documentation will be delivered to the FCC's General Counsel and Inspector General for further investigation.

APPENDIX A

THE ROLES OF GOVERNMENT IN THE LIFELINE PROGRAM

Role of the Federal Communications Commission

Wireline Competition Bureau

The Telecommunications Access Policy Division (TAPD), housed within WCB, oversees the Universal Service Fund programs, including the Lifeline program. The Division's primary mission is to advance the goals of universal service, and develop policies for the administration and oversight of the federal Universal Service Fund (USF).[155]

Office of Managing Director

The Office of the Managing Director (OMD) provides management and oversight of the Lifeline program through a Memorandum of Understanding with the Universal Service Administrative Company (USAC).[156]

Enforcement Bureau

The Enforcement Bureau (EB) is responsible for enforcing provisions of the Communications Act, the Commission's orders, and its rules.[157] In order to address waste, fraud, and abuse in USF programs, including the Lifeline program, the FCC created the Universal Service Strike Force within EB in July 2014. The Strike Force investigates violations of the FCC rules pertaining to USF programs and contributions. It also coordinates with the FCC's Office of Inspector General, the U.S. Department of Justice, and other law enforcement agencies to prosecute criminal conduct.

Office of the Inspector General

The Office of the Inspector General (IG) provides objective and independent investigations, audits, and reviews of the FCC's programs and operations.[158] The office takes on investigations of criminal and civil fraud in the USF programs, including the Lifeline program,

[155] Federal Communications Commission, *Telecommunications Access Policy Division* (Accessed June 29, 2016) (online at fcc.gov/general/telecommunications-access-policy-division#block-menu-block-4).

[156] Federal Communications Commission, Universal Service Fund General Management and Oversight (online at fcc.gov/general/universal-service-fund-general-management-and-oversight) (Accessed June 30, 2016).

[157] Federal Communications Commission, Enforcement Bureau (online at transition.fcc.gov/eb/) (Accessed June 29, 2016).

[158] Federal Communications Commission, Office of Inspector General (online at transition.fcc.gov/oig/) (Accessed June 30, 2016).

under Title 18 of the U.S. Code, as well as the Federal False Claims Act. Criminal matters are referred to the Department of Justice for prosecution.

Role of the Universal Service Administrative Company

The Universal Service Administrative Company is an independent, non-for-profit company designated by the FCC to administer the USF program. The company is responsible for the administration of the fund including collecting contributions from telecommunications companies, dispensing payments, conducting audits of contributors and recipients, and filing quarterly reports to the Commission.[159]

Role of State Public Utility Commissions

State Public Utility Commissions (PUCs) are responsible for designating carriers as Eligible Telecommunications Carriers (ETCs).[160] In states that provide intrastate Lifeline support, the State PUCs set eligibility criteria and develop certification and verification procedures.[161]

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[159] Universal Service Administrative Company, Universal Service Frequently Asked Questions (online at usac.org/about/about/universal-service/faqs.aspx) (Accessed June 30, 2016).

[160] Government Accountability Office, *Telecommunications: Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program*, (Oct. 2010) (GAO 11-11) at 12 (online at gao.gov/assets/320/312708.pdf).

[161] *Id.*