

**Before the
FEDERAL COMMUNICATIONS INDIANA 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 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	

**COMMENTS OF
THE INDIANA UTILITY REGULATORY COMMISSION**

I. Introduction

On December 1, 2017, the Federal Communications Commission (“FCC” or “Commission”) released its Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking (“FNPRM”), and Notice of Inquiry (“NOI”) regarding the Lifeline program and the process to designate Eligible Telecommunications Carriers (“ETCs”). In the comprehensive NPRM, the FCC is considering many changes to the Lifeline program and the ETC designation process.

The Indiana Utility Regulatory Commission (“Indiana Commission”) appreciates the opportunity to comment on potential changes to the Lifeline program and the process and standards to designate carriers eligible to provide Lifeline services and to increase access to affordable broadband and voice service. All of the issues being contemplated in the NPRM and NOI are challenging and worthy of in-depth analysis and discussion. Given time and resource constraints, the Indiana Commission will not attempt to address each potential policy change in these initial comments. Instead, the Indiana Commission will provide Indiana specific background and comments regarding the FCC’s proposal to discontinue Lifeline support for non-facilities-based networks. The Indiana Commission acknowledges and understands the importance of addressing waste, fraud, and abuse in the federal Lifeline program. In fact, in 2013 the Indiana Commission

opened an investigation¹ and found instances of waste and abuse of the Lifeline program regarding a non-facilities based ETC and ordered necessary corrections to its procedures. However, for the reasons described herein, the Indiana Commission urges the FCC to use caution in its proposal, in order to avoid eliminating Lifeline in areas that need it but where there are no facilities-based ETCs.

II. Indiana Specific Background on the ETC Designation Process

Although Lifeline providers serving Indiana customers are reimbursed solely by federal funds, the Indiana Commission takes seriously its responsibility to designate ETCs and fulfill its duties under 214(e) of the Telecommunications Act of 1996 (“Act”). Responsible implementation of federal universal service programs, both Lifeline and high-cost, requires the FCC to work in partnership with states and their utility commissions. The Indiana Commission’s goal is to remove unnecessary burdens from the ETC petition process while doing its due diligence to ensure ETCs’ designated service areas are defined,² ETC applicants meet federal criteria, and Lifeline support is available where needed.

There are currently three types of ETCs in Indiana:

1. Incumbent Local Exchange Carriers (“ILECs”) – These facilities-based providers were designated as ETCs by the Indiana Commission in 1997 after the passage of the Act and are required to provide Lifeline services due to their ETC status. Indiana currently has forty-one (41) ILECs that provide Lifeline service, with certain exceptions due to forbearance granted in the *2016 Lifeline Reform Order*.³
2. Competitive Facilities-based Carriers – These consist of wireless or competitive local exchange carriers (“CLECs”) that wish to receive high-cost⁴ support to build and maintain their networks. Indiana currently has four (4) CLEC ETCs that fall into this category. Three were designated under the legacy high-cost program and one from the National Broadband Experiments program. Formerly, two facilities-based wireless carriers also fell into this category, but those companies have both subsequently relinquished their ETC designations.
3. Wireless Lifeline-only ETCs – These carriers seek ETC status only for the purpose of receiving support from the Lifeline fund. They are usually wireless resellers that do not have their own facilities and they offer a prepaid plan that appears to be free to the Lifeline

¹ Indiana Utility Regulatory Commission Cause No. 44332.

² 47 C.F.R. 54.207

³ See *2016 Lifeline Reform Order*, ¶¶ 326-360

⁴ The term “high-cost support” is used to describe several funding mechanisms as defined in 47 CFR 54.4

customer. Indiana currently has ten (10) Lifeline providers that fall into this category. Only one provider is classified by the FCC as a facilities-based provider.⁵

ETC Relinquishments - Until recently, the only Indiana designated ETCs that have sought to relinquish their ETC designation have been wireless providers, most of which held ETC designations for the limited purpose of providing Lifeline service. Over the last two and a half years, the Indiana Commission has approved relinquishments of Lifeline-only ETC designations for two facilities-based wireless carriers and two wireless resellers, also known as Mobile Virtual Network Operators (“MVNO”).

Recently, the Indiana Commission approved the relinquishment by an ILEC ETC for portions of its service area.⁶ Pursuant to sections 214(e)(4) of the Act and 47 C.F.R. 54.205 of the FCC’s rules, the Indiana Commission was required to “permit an eligible telecommunications carrier to relinquish its designation as such in any area served by more than one eligible telecommunications carrier.” In this case, in each wire center of the relinquishment area, the only ETCs remaining to offer service were Lifeline-only wireless ETCs, most of which are non-facilities-based ETCs.

III. Caution Urged Before Discontinuing Lifeline Support for Non-Facilities-Based Services

The FCC proposes that Lifeline ETCs meet the facilities requirement in 214(e)(1)(A) of the Act. Generally, the NPRM explores facilities standards for Lifeline providers that would affect future ETC applicants and existing ETCs, which have received forbearance from the 214(e)(1)(A) of the Act. The Indiana Commission encourages the FCC to be cautious regarding discontinuing Lifeline support for services provided by non-facilities-based ETCs.

While the Indiana Commission understands the rationale for encouraging facilities-based ETCs, the landscape of the Lifeline market has changed significantly due to years of non-facilities-based, prepaid wireless providers offering Lifeline. These types of carriers serve the majority of Lifeline customers in Indiana today. Facilities-based ETCs have left the Lifeline market already, in part, because of competition from non-facilities-based ETCs.

As mentioned above, one of Indiana’s dominant ILECs recently relinquished its ETC designation in portions of its service territory. In this case, in each wire center of the relinquishment area, the only ETCs remaining to offer service were Lifeline-only wireless ETCs. Only one of these ETCs has been recognized as facilities-based carrier by the FCC. However, that ETC may or may not qualify as providing Lifeline services over the last mile as the FCC is

⁵ In the Matter of Telecommunications Carriers Eligible for Support, WC Docket No. 09-197, DA 10-2433, Released, December 29, 2010.

⁶ See Cause No. 41052 ETC 39 S1

considering. In addition, this ETC did not serve all the relinquishment areas, leaving only ETCs that have received forbearance from 214(e)(1)(A) to provide Lifeline service in some areas of the state. Therefore, the Indiana Commission is concerned that if the FCC rescinds the forbearance from 214(e)(4) granted to existing Lifeline-only ETCs, many would exit the market rather than take steps to meet the facilities requirement. As a result, many areas of Indiana would not only be without a Lifeline provider, but also without any ETC. The citizens of those areas of Indiana deserve to have the opportunity for Lifeline support if they otherwise qualify, as well as the services and support of an ETC.

IV. Conclusion


Again, the Indiana Commission understands the importance of addressing waste, fraud, and abuse in protecting Lifeline support, and appreciates this opportunity to comment. The Indiana Commission urges the FCC to move cautiously as it formulates new federal rules, in order to prevent the unintended consequence of creating areas of the country that are not served by an ETC and are without Lifeline support. The Indiana Commission looks forward to continuing the coordinated state-federal partnership with the FCC.

Respectfully submitted this 24th day of January, 2018


James F. Huston, Interim Chairman


Sarah E. Freeman, Commissioner


Angela Rapp Weber, Commissioner


David E. Ziegner, Commissioner