

VIII. SUPPORT FOR LOW-INCOME CONSUMERS

A. Overview

326. We agree with the Joint Board that the Commission's low-income programs, Lifeline Assistance ("Lifeline") and Lifeline Connection Assistance ("Link Up"), should be revised in order to achieve three primary goals. First, we adopt the Joint Board's recommendation that Lifeline service should be made available to low-income consumers nationwide, even in states that currently do not participate in Lifeline. To that end, we adopt the Joint Board's recommendations that Lifeline service should be provided to low-income consumers in every state, irrespective of whether the state provides matching funds, and that all eligible telecommunications carriers should be required to provide Lifeline service. We also agree with the Joint Board's recommendation to increase the federal Lifeline support amount, but condition such an increase on the state permitting its carriers to reduce intrastate charges paid by the end user.

327. Second, we adopt the Joint Board's recommendation to make the collection and distribution of support for Lifeline and Link Up competitively neutral. Therefore, we find that support for Lifeline and Link Up should be provided by contributions from all interstate telecommunications carriers, and all eligible telecommunications carriers should be permitted to receive support for offering Lifeline service to qualifying low-income customers or reduced service-connection charges through Link Up.

328. Third, as the Joint Board recommended, we conclude that Lifeline consumers should have the benefit of certain basic services and policies. We therefore find, as did the Joint Board, that Lifeline service should include: single-party service, voice grade access to the public switched telephone network (PSTN), DTMF or its functional digital equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation. We also adopt the Joint Board's recommendation to prohibit disconnection of Lifeline service for non-payment of toll charges and service deposit requirements for customers who accept toll limitation.

B. Authority to Revise Lifeline and Link Up Programs

1. Background

329. Since 1985, the Commission, pursuant to its general authority under sections 1,⁸²³ 4(i),⁸²⁴ 201,⁸²⁵ and 205⁸²⁶ of the Act and in cooperation with state regulators and local

⁸²³ The Commission's regulations should "make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate facilities at reasonable charges." 47 U.S.C. § 151.

telephone companies, has administered two programs designed to increase subscribership by reducing charges to low-income consumers. The Commission's Lifeline program reduces qualifying consumers' monthly charges, and Link Up provides federal support to reduce eligible consumers' initial connection charges by up to one half.

330. Pursuant to its authority in sections 1, 4(i), 201, and 205, the Commission has amended Lifeline and Link Up on numerous occasions since 1985. In July 1995, the Commission issued an NPRM to review Lifeline and Link Up in light of its statutory mandate to make telecommunications service available to all Americans.⁸²⁷ After passage of the 1996 Act, the Commission sought comment in this proceeding on the effect of the new legislation on its low-income programs.⁸²⁸ The Commission noted in particular section 254(j),⁸²⁹ which states that "[n]othing in [section 254] shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission under regulations set forth in section 69.117 of Title 47, Code of Federal Regulations, and other related sections of such title."⁸³⁰ The Commission asked if section 254(j) prevented it from making any changes in the Lifeline program.⁸³¹

331. In its Recommended Decision, the Joint Board determined that section 254(j) could be reconciled with other portions of section 254 regarding competitive neutrality and support for low-income consumers in all regions of the nation.⁸³² The Joint Board found that Congress did not intend for section 254(j) to codify the existing Lifeline program, but that it intended to give the Joint Board and the Commission *permission* to leave the Lifeline program in place without modification, despite Lifeline's inconsistency with other portions of

⁸²⁴ "The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." 47 U.S.C. § 154(i).

⁸²⁵ 47 U.S.C. § 201 (Commission's general authority to regulate common carriers' rates and service offerings).

⁸²⁶ 47 U.S.C. § 205.

⁸²⁷ See generally *Subscribership Notice*, 10 FCC Rcd at 13003.

⁸²⁸ NPRM at paras. 50-65.

⁸²⁹ NPRM at para. 63.

⁸³⁰ 47 U.S.C. § 254(j). Section 69.117 of the Commission's rules addresses the conditions and mechanisms for waiver of the subscriber line charge for Lifeline participants. 47 C.F.R. § 69.117.

⁸³¹ NPRM at paras. 63-65.

⁸³² Recommended Decision, 12 FCC Rcd at 283.

the 1996 Act. The Joint Board further concluded that it had the authority to recommend, and that the Commission has the authority to adopt, changes to the Lifeline program to make it more consistent with the 1996 Act.⁸³³

2. Discussion

332. We agree with the Joint Board that section 254(j) allows us to adopt certain changes to the Lifeline program in order to make it consistent with the goals of the 1996 Act.⁸³⁴ We thus concur with the Joint Board's finding that Congress did not intend for section 254(j) to codify every detail of the existing Lifeline program, but that it intended to give the Joint Board and the Commission *permission* to leave the Lifeline program in place without modification, despite Lifeline's inconsistency with other portions of the 1996 Act.

333. Our authority to alter the existing low-income assistance programs must be understood in light of our general authority to preserve and advance universal service under section 254. As we describe in detail in section XIII.F below, we find that section 254 clarifies the scope of the Commission's universal service responsibilities in several fundamental respects. Most notably, universal service as defined by section 254 is both intrastate and interstate in nature. This feature of universal service is evident, for example, in the case of low-income support programs. Affordability of basic telephone service is necessary to ensure that low-income consumers have access not only to intrastate services but to interstate telecommunications as well.

334. Thus, as discussed in section XIII.F below, we agree with the Joint Board that state and federal governments have overlapping obligations to strengthen and advance universal service. We further conclude that section 254 grants us authority to ensure that states satisfy these obligations. That authority is reflected, among other places, in Congress's directive that the Commission ensure that support is "sufficient" to meet universal service obligations.⁸³⁵ Although states also must ensure that their support mechanisms are "sufficient," they may only do so to the extent that such mechanisms are not "inconsistent with the Commission's rules to preserve and advance universal service."⁸³⁶ Of course, in identifying a sufficient amount of Lifeline support, the Commission must consider support provided by state universal service programs.

⁸³³ Recommended Decision, 12 FCC Rcd at 284.

⁸³⁴ Recommended Decision, 12 FCC Rcd at 283.

⁸³⁵ 47 U.S.C. § 254(d).

⁸³⁶ 47 U.S.C. § 254(f).

335. In fulfilling our responsibility to preserve and advance universal service, we find that the 1996 Act clarifies not only the scope of the Commission's authority, but also the specific nature of our obligations. With respect to the Lifeline and Link-Up programs, we observe that the Act evinces a renewed concern for the needs of low-income citizens. Thus, for the first time, Congress expresses the principle that rates should be "affordable," and that access should be provided to "low-income consumers" in all regions of the nation.⁸³⁷ These principles strengthen and reinforce the Commission's preexisting interest in ensuring that telecommunications service is available "to all the people of the United States."⁸³⁸ Under these directives, all consumers, including low-income consumers, are equally entitled to universal service as defined by this Commission under section 254(c)(1). Even prior to the passage of the 1996 Act, we expressed a desire to reexamine the effectiveness of low-income programs.⁸³⁹ We find that the principles in section 254 that the Joint Board endorsed provide further impetus to undertake that review.

336. We thus adopt the recommendation of the Joint Board⁸⁴⁰ to reject the view offered by some commenters⁸⁴¹ that section 254(j) prevents the Commission from making any change to the Lifeline program. As the Joint Board concluded, we find that Congress did not intend to codify the existing Lifeline program so as to immunize it from *any* future changes or improvements.⁸⁴² We therefore conclude, as did the Joint Board, that Congress intended in section 254(j) to permit the Commission to leave the Lifeline program in place, notwithstanding that the program may conflict with the pro-competitive provisions of the 1996 Act.⁸⁴³

337. Moreover, by its own terms, section 254(j) applies only to changes made pursuant to section 254 itself. Our authority to restrict, expand, or otherwise modify the Lifeline program through provisions other than section 254 has been well established over the past decade. In 1985, we created Lifeline under the general authority of sections 1, 4(i), 201, and 205 of the Act. Since then, we have relied on those provisions to modify the program on several occasions. Just months before the passage of the 1996 Act, we issued an NPRM

⁸³⁷ NPRM at para. 14.

⁸³⁸ 47 U.S.C. § 151.

⁸³⁹ See generally *Subscribership Notice*, 10 FCC Rcd at 13003.

⁸⁴⁰ Recommended Decision, 12 FCC Rcd at 283-284.

⁸⁴¹ See, e.g., Georgia PSC reply comments at 19; BellSouth comments at 18.

⁸⁴² Recommended Decision, 12 FCC Rcd at 283-284.

⁸⁴³ Recommended Decision, 12 FCC Rcd at 283-284.

announcing our intention to re-examine whether "additional measures may now be necessary to carry out our statutory mandate of making universal service available to all Americans."⁸⁴⁴ We must assume that Congress was aware of the Commission's authority under Titles I and II to amend Lifeline.⁸⁴⁵ Consequently, we agree with the Joint Board that we retain the authority to revise the Lifeline program.

338. We also agree with the Joint Board that we are not barred from relying on the authority of section 254 itself when modifying the Lifeline program. Although section 254(j) provides that nothing in section 254 "shall affect" the Lifeline program, nonetheless, like the Joint Board, we do not believe that section 254(j) can reasonably be read to prevent us from changing Lifeline to bring it into conformity with the principles of section 254. Section 254 clearly gives the Commission independent statutory authority to establish federal mechanisms to provide universal service support to low-income consumers, and section 254(j) in no way can be read to usurp the Commission's authority under section 254 to establish such mechanisms. Were section 254 to be interpreted to prohibit us from revising our rules establishing the Lifeline program, we could, pursuant to section 254, establish new low-income universal service support mechanisms and then, acting pursuant to sections 1, 4(i), and 201, simply abolish the Lifeline program as duplicative. We do not believe that Congress drafted section 254(j) to require the Commission to elevate form over substance in this manner.

339. Like the Joint Board, we believe that a more plausible interpretation of section 254(j) exists. Section 254(j) indicates that Congress did not intend to require a change to the Lifeline program in adopting the new universal service principles. Presumably, Congress did not want to be viewed as *mandating* modifications to this worthy and popular program. Congress did not intend, however, to prevent the Commission from making changes to Lifeline that are sensible and clearly in the public interest. Thus, we agree with the Joint Board that it "has the authority to recommend, and the Commission has authority to adopt, changes to the Lifeline program to make it more consistent with Congress's mandates in section 254 if such changes would serve the public interest."⁸⁴⁶

340. In this section, we make changes to the Lifeline program that we believe are necessary, are in the public interest, and advance universal service. We emphasize that, in

⁸⁴⁴ *Subscribership Notice*, 10 FCC Rcd at 13004.

⁸⁴⁵ See *Goodyear Atomic Corp v. Miller*, 486 U.S. 174, 184 (1988) (Congress is presumed to know the existing law pertinent to the legislation it enacts). See also *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 114 S. Ct. 1023, 1030 (1994), citing *Lorillard v. Pons*, 434 U.S. 575, 580 (1978) (Congress is presumed to be aware of an administrative or judicial interpretation of a statute).

⁸⁴⁶ Recommended Decision, 12 FCC Rcd at 284.

doing so, we are relying principally upon our preexisting authority under Titles I and II of the Communications Act (particularly sections 1, 4(i), 201, and 205). To the extent that we act on the basis of the principles of section 254(b), however, we rely on the authority of that section as well.

C. Changes to Structure of Lifeline and Link Up

1. Background

a. Lifeline

341. As noted in the NPRM, the Commission's Lifeline program currently reduces end-user charges that low-income consumers in participating jurisdictions pay for some state-specified level of local service that includes access to the PSTN and some local calling.⁸⁴⁷ Support is provided in the form of a waiver of the federal SLC;⁸⁴⁸ to participate, states are required to generate a matching reduction in intrastate end-user charges. States may choose to participate in either of two Lifeline Assistance plans. Under Plan 1,⁸⁴⁹ a qualifying subscriber's monthly telephone bill is reduced through a waiver of one half of the \$3.50 federal SLC. The customer's ILEC receives the waived amount from the Lifeline Assistance fund. The subscriber's bill is further reduced by state support that must match or exceed the federal contribution, which may be generated from any intrastate source.⁸⁵⁰ Under Plan 2, which expands Plan 1 to provide for waiver of the entire residential SLC (up to the amount matched by the state), a subscriber's bill may be reduced by twice the SLC (or more, if the state more than matches the value of the federal waiver).⁸⁵¹ As with Plan 1, the state contribution may come from any intrastate source. Under either plan, qualifying subscribers may receive assistance for a single telephone line in their principal residence. NECA bills the interstate costs of both programs to IXC's with more than 0.05 percent of presubscribed

⁸⁴⁷ 47 C.F.R. § 69.104(j)-(l). Currently, 44 states (including the U.S. Virgin Islands and the District of Columbia) participate.

⁸⁴⁸ The SLC, which is capped at \$3.50, is assessed on subscribers as a way for ILECs to recover a portion of the subscriber loops costs assigned to the interstate jurisdiction. For a more detailed discussion of the SLC, *see infra* section XII.

⁸⁴⁹ 47 C.F.R. § 69.104(j).

⁸⁵⁰ Intrastate sources of funding include, for example, state assistance for basic local telephone service, connection charges, or customer service deposits. These intrastate matching contributions, along with the federal contribution, are disbursed to ILECs.

⁸⁵¹ 47 C.F.R. § 69.104(k).

lines.⁸⁵² While Plan 2 requires the verification of participating subscribers' qualifications, Plan 1 requires only that subscribers' qualifications be "subject to verification."⁸⁵³ Of the 44 states participating in Lifeline, only California offers a Lifeline program under Plan 1.⁸⁵⁴

342. The Joint Board recommended expanding Lifeline to every state and requiring all eligible telecommunications carriers, as defined in section 214(e), to offer Lifeline service.⁸⁵⁵ The Joint Board recommended that the Commission eliminate the state matching requirement and provide for an increased baseline level of federal support in the amount of \$5.25 per primary residential connection, plus one half of any support generated from the intrastate jurisdiction, with federal support not to exceed \$7.00 per primary residential connection.⁸⁵⁶ To make Lifeline competitively neutral, the Joint Board recommended that the program be supported by a universal service support mechanism to which all telecommunications carriers that provide interstate telecommunications services contribute on an equitable and nondiscriminatory basis, with their contributions being a function of their revenues.⁸⁵⁷ The Joint Board also recommended enabling all eligible telecommunications carriers, not just ILECs, to be eligible to receive support for providing Lifeline service.⁸⁵⁸ With regard to customer qualification to receive Lifeline service, the Joint Board recommended that the Commission maintain the current framework for administering Lifeline qualification in states that provide matching support for Lifeline,⁸⁵⁹ with the criteria to be based solely on income or factors directly related to income.⁸⁶⁰ The Joint Board recommended that for states that choose not to match support from the intrastate jurisdiction, the Commission should adopt default means-tested qualification standards.⁸⁶¹

⁸⁵² 47 C.F.R. § 69.117.

⁸⁵³ 47 C.F.R. § 69.104(j).

⁸⁵⁴ Indus. Analysis Div., *FCC Monitoring Report May 1996 CC Docket No. 87-339* at tbl. 2.1 (1996) (*1996 Monitoring Report*). California allows subscribers to self-certify their eligibility to participate in the Lifeline program, which is only allowed under Plan 1.

⁸⁵⁵ Recommended Decision, 12 FCC Rcd at 300.

⁸⁵⁶ Recommended Decision, 12 FCC Rcd at 301.

⁸⁵⁷ Recommended Decision, 12 FCC Rcd at 302.

⁸⁵⁸ Recommended Decision, 12 FCC Rcd at 302.

⁸⁵⁹ Recommended Decision, 12 FCC Rcd at 303.

⁸⁶⁰ Recommended Decision, 12 FCC Rcd at 303.

⁸⁶¹ Recommended Decision, 12 FCC Rcd at 303.

343. Pursuant to the Joint Board's recommendation that state members of the Joint Board submit a report to the Commission on low-income issues prior to the Commission issuing its final Order,⁸⁶² the state members submitted their report on March 27, 1997.⁸⁶³ The state Joint Board members assert that the Federal-State Joint Board on Universal Service should closely monitor the new low-income support programs to ensure effective implementation of our policy goals with regard to low-income consumers.⁸⁶⁴

b. Link Up

344. The Commission's existing Link Up program helps low-income subscribers initiate telephone service by paying half of the first \$60.00 of installation charges.⁸⁶⁵ Where an ILEC has a deferred payment plan, Link Up also will pay the interest on any balance up to \$200.00, for up to one year.⁸⁶⁶ To be eligible for this program, a subscriber must meet a state-established means test, and may not, unless over 60 years old, be another's dependent for federal income tax purposes.⁸⁶⁷ Link Up currently is funded through an expense adjustment that allocates ILECs' Link Up costs to the interstate jurisdiction, effectively passing them on to IXCs.⁸⁶⁸

345. The Joint Board recommended that, in order to make the program competitively neutral, the Link Up funding mechanism should be removed from the jurisdictional separations rules and funded through contributions from all eligible interstate telecommunications carriers.⁸⁶⁹ The Joint Board also recommended that the Commission amend its rules to eliminate the requirement that the commencement-of-service charges eligible for support be filed in a state tariff.⁸⁷⁰ The Joint Board recommended⁸⁷¹ that the

⁸⁶² Recommended Decision, 12 FCC Rcd at 301.

⁸⁶³ State Members' Report on Low-Income Services, CC Docket No. 96-45 (Mar. 27, 1997) (*State Low-Income Report*).

⁸⁶⁴ *State Low-Income Report* at 4-5.

⁸⁶⁵ 47 C.F.R. § 36.711.

⁸⁶⁶ 47 C.F.R. § 36.711(a)(2).

⁸⁶⁷ 47 C.F.R. § 36.711(b).

⁸⁶⁸ See 47 C.F.R. § 36.741.

⁸⁶⁹ Recommended Decision, 12 FCC Rcd at 304.

⁸⁷⁰ Recommended Decision, 12 FCC Rcd at 304.

present level of Link Up support remain the same.⁸⁷² The Joint Board further recommended that for customer qualification, the same modifications be made to Link Up as were recommended for Lifeline.⁸⁷³ Additionally, the Joint Board recommended that the Commission prohibit states from restricting the number of service connections per year for which low-income consumers who relocate can receive Link Up support.⁸⁷⁴

2. Discussion

a. Expanding Lifeline Nationwide

346. We share the Joint Board's concern over the low subscribership levels among low-income consumers⁸⁷⁵ and agree that changes in the current Lifeline program are warranted. Like the Joint Board, we are particularly concerned that two factors deter subscribership among low-income consumers. First, several states do not participate in the Lifeline program, and therefore low-income consumers in those regions do not have access to Lifeline.⁸⁷⁶ Second, some low-income consumers in states that participate in the Lifeline program receive no assistance because not all carriers in those areas are obligated to offer Lifeline. We find that the unavailability of Lifeline to low-income consumers in these areas runs counter to our duty to "make available, so far as possible, to all the people of the United States . . . a rapid, efficient Nationwide . . . wire and radio communication service."⁸⁷⁷ The unavailability of Lifeline to many low-income consumers also conflicts with the statutory principle that access to telecommunications services should be extended to "[c]onsumers in all regions of the Nation, including low-income consumers."⁸⁷⁸ For these reasons, we revise the Lifeline program pursuant to our authority under sections 1, 4(i), 201, 205, and 254 to promote access to telecommunications service for all consumers.

⁸⁷¹ Recommended Decision, 12 FCC Rcd at 304.

⁸⁷² That is, any eligible telecommunications carrier may receive support for providing Link Up if that carrier offers a reduction in the eligible customer's connection charge equal to one half of the carrier's customary connection charge or \$30.00, whichever is less.

⁸⁷³ Recommended Decision, 12 FCC Rcd at 304.

⁸⁷⁴ Recommended Decision, 12 FCC Rcd at 304.

⁸⁷⁵ Recommended Decision, 12 FCC Rcd at 299.

⁸⁷⁶ The states without Lifeline programs are: the Commonwealth of the Northern Mariana Islands; Delaware; Guam; Indiana; Iowa; Kentucky; Louisiana; Nebraska; New Hampshire; New Jersey; and Puerto Rico.

⁸⁷⁷ 47 U.S.C. § 151.

⁸⁷⁸ 47 U.S.C. § 254(b)(3).

347. Carriers' Obligation to Offer Lifeline. We concur with the Joint Board's conclusion and reasoning that, to increase subscribership among low-income consumers, we should modify the Lifeline program so that qualifying low-income consumers can receive Lifeline service from all eligible telecommunications carriers.⁸⁷⁹ Our determination arises from a concern that, in certain regions of the nation, carriers may not offer Lifeline service unless compelled to do so. In requiring all eligible telecommunications carriers to offer Lifeline service to qualifying low-income consumers, we make Lifeline part of our universal service support mechanisms. We emphasize, however, that in imposing this obligation, we are acting under our general authority in sections 1, 4(i), 201, and 205 of the Act, as well as our authority under section 254.

348. Expanding Lifeline to Every State and Modifying Matching Requirements. We also agree with the Joint Board that the Lifeline program should be amended so that qualifying low-income consumers throughout the nation can receive Lifeline service. Presently, only 44 states (including the District of Columbia and the U.S. Virgin Islands) participate in Lifeline.⁸⁸⁰ Because the Lifeline program currently requires states to make a matching reduction in intrastate rates in order to qualify for the SLC waiver, a state's decision not to participate means that federal support will not be available in that state. We agree with the Joint Board that a baseline amount of federal support should be available in all states irrespective of whether the state generates support from the intrastate jurisdiction. We agree with the Joint Board, however, that state participation in Lifeline historically has been an important aspect of the program. As a result, we agree with the Joint Board that matching incentives should not be eliminated entirely. As discussed below and as the Joint Board recommended, we will provide a baseline federal support amount to qualifying low-income consumers in all states, with a matching component above the baseline level.

349. We recognize that the Joint Board, along with several commenters,⁸⁸¹ has expressed concern that eliminating the matching requirement might reduce states' incentives to provide intrastate support to reduce Lifeline rates further.⁸⁸² If that result were to occur, total Lifeline support in participating states might decrease below current levels. We have no reason to believe, however, that states will reduce their current support levels if we do not require state matching of federal support. Consequently, we fully expect that the support provided in states currently participating in Lifeline will continue at least at their present levels. We expect, however, that the Joint Board will continue to monitor this situation and

⁸⁷⁹ See Recommended Decision, 12 FCC Rcd at 300.

⁸⁸⁰ 1996 *Monitoring Report* at tbl. 2.1.

⁸⁸¹ See, e.g., CPI comments at 4; NYNEX comments at 9.

⁸⁸² Recommended Decision, 12 FCC Rcd at 300.

recommend appropriate action if states do not provide adequate Lifeline support.

350. Lifeline Support Amount. The Further Comment Public Notice asked: (1) whether the new universal service support mechanisms should provide support for Lifeline in order to make the support technologically and competitively neutral; and (2) if so, whether the amount of the Lifeline support still should be tied to the amount of the SLC.⁸⁸³ In determining the appropriate amount of support for Lifeline, the Joint Board indicated that it was uncertain whether a federal support amount equal to the level of the SLC (currently a maximum of \$3.50), absent any state support, would be a sufficient baseline federal support amount. Although the Lifeline program currently provides federal support in the form of a SLC waiver (i.e., up to \$3.50), that support must be matched by equal or greater reductions in intrastate rates. Thus, Lifeline customers currently receive overall reductions in their charges of \$7.00 or more, depending upon state participation. Our revised Lifeline program, as recommended by the Joint Board, will be available in all states, irrespective of state participation. Thus, as the Joint Board noted, the baseline support must provide a sufficient level of support even in states that generate no support from the intrastate jurisdiction. The Joint Board therefore proposed a baseline amount of \$5.25 in federal support, which is half-way between the current maximum federal support level of \$3.50 and the \$7.00 reduction in charges that a Lifeline customer would receive assuming full state matching.⁸⁸⁴ In general, we believe that the record supports adopting the Joint Board's proposal. Furthermore, we note that a number of commenters, including parties with much knowledge about the needs of low-income consumers, such as state regulators, consumer advocates, and advocacy groups for the poor, support the Joint Board's proposal.⁸⁸⁵ Sprint contends that an increased federal support amount is especially necessary as basic local service rates move closer to cost due to rate rebalancing, access charge reform, and changes in universal service policy.⁸⁸⁶ While some commenters oppose increasing the support amount,⁸⁸⁷ others advocate even greater increases

⁸⁸³ Further Comment Public Notice at Question 71.

⁸⁸⁴ In the Recommended Decision Public Notice, the Commission asked whether the \$5.25 baseline amount suggested in the Recommended Decision was likely to be adequate. The Commission further asked in the Public Notice how the FCC could avoid the unintended consequence that the increased federal support amount has no direct effect on Lifeline subscribers' rates in many populous states with Lifeline programs and instead results only in a larger percentage of the total support being generated from federal sources. *See* Recommended Decision Public Notice at 1.

⁸⁸⁵ *See, e.g.*, Catholic Conference comments at 9; DC OPC comments at 2-3; Florida PSC comments at 2; Kansas CC comments at 2-3; NASUCA comments at 11; NCTA comments at 16; NYNEX comments at 9; Washington UTC comments at 10.

⁸⁸⁶ Sprint reply comments at 6-7.

⁸⁸⁷ *See, e.g.*, AT&T comments at 16; BellSouth comments at 18; Fred Williamson comments at 4; MCI comments at 13-14; MFS comments at 29; SBC comments at 7-8.

in support. We therefore conclude that the \$5.25 amount represents a sound compromise and a pragmatic balancing of the goals of extending Lifeline to states that currently do not participate and maintaining incentives for states to provide matching funds.

351. We adopt the Joint Board's recommendation regarding federal Lifeline support amounts in virtually all respects. Lifeline consumers will continue to receive the \$3.50 in federal support that is currently available. Further, as the Joint Board recommended, we will provide for additional federal support in the amount of \$1.75 above the current \$3.50 level. For Lifeline consumers in a given state to receive the additional \$1.75 in federal support, that state need only approve the reduction in the portion of the intrastate rate paid by the end user; no state matching is required. The requirement of state consent before we make available federal Lifeline support in excess of the federal SLC is consistent with our overall deference to the states in areas of traditional state expertise and authority.⁸⁸⁸ This approach is consistent with the Joint Board's recommendation because it raises to \$5.25 the level of federal Lifeline support that is available even if the state generates no support from the intrastate jurisdiction. Because the states need not provide matching funds to receive this amount, but only approve the reduction of \$1.75 in the portion of the intrastate rate that is paid by the end user, we believe that the states will participate in this aspect of the program.

352. We also adopt the Joint Board's recommendation that we "provide for additional federal support equal to one half of any support generated from the intrastate jurisdiction, up to a maximum of \$7.00 in federal support."⁸⁸⁹ Thus, if a state provides the minimum amount of matching support to receive the full federal support amount, the total reduction in end user charges would increase from \$7.00 under the current system to \$10.50.⁸⁹⁰ We believe that this increase in total support will affect positively the low subscribership levels among low-income consumers that concerned the Joint Board. As with the \$1.75 in federal support above \$3.50, states will have to approve this reduction in intrastate rates provided by the additional federal support amount.

353. We conclude that our approach accomplishes the Joint Board's goals of increasing subscribership and maximizing matching incentives. We conclude that providing Lifeline support in all states, irrespective of state participation, will help increase

⁸⁸⁸ See 47 U.S.C. § 152(b). For example, the Link Up program currently provides federal support to reduce state-tariffed connection charges, and operates by allocating carriers' expenses in providing the reduced charges to the interstate jurisdiction. See 47 C.F.R. §§ 67.701, 67.711. *But see* BellSouth comments at 18 (arguing that a federal Lifeline support amount in excess of the SLC would constitute an improper infringement on state ratemaking authority).

⁸⁸⁹ Recommended Decision, 12 FCC Rcd at 301.

⁸⁹⁰ We acknowledge that a number of states currently generate intrastate support that exceeds the \$3.50 federal SLC waiver.

subscribership in those states that presently do not participate in the Lifeline program. At the same time, we conclude that our additional support offers states an incentive to generate intrastate support to receive the additional \$1.75 (over \$5.25) in federal support and thus will increase support in many states. We have no reason to conclude that states will not participate in the modified Lifeline program.⁸⁹¹ The 1996 Act embraces the principle that universal service should be provided to all Americans at affordable rates, and we believe that states will respond to meet this goal. The 1996 Act envisions a federal-state partnership in preserving and advancing universal service.⁸⁹² Thus, we conclude that it is important for states to retain a role in assessing and responding to low subscribership levels. Moreover, states may have greater familiarity than we with income levels, demographic patterns, and factors affecting low-income subscribership. We also recognize that many states are in the process of determining their spending priorities for universal service. Until these procedures are completed, we will continue to evaluate our Lifeline program and to look to the Joint Board for guidance.

354. A few parties suggest that the Commission should not offer additional federal support in currently participating states that, in response to the availability of additional federal support, reduce their matching contribution below existing levels.⁸⁹³ According to these commenters, the provision of additional federal support will give currently participating states an incentive to reduce their present levels of support. We agree with Oregon PUC,⁸⁹⁴ however, that we should not penalize qualifying low-income consumers based on the actions taken by the state in which they live. While Lifeline customers will receive varying support amounts depending on how much support their state provides, we believe that all low-income consumers throughout the country should have the opportunity to receive the same minimum federal support amount. For this same reason, we reject Kansas CC's proposal to condition the entire amount of federal support on state participation.⁸⁹⁵

355. CPI asserts that providing additional federal support in states such as New York, which has a Lifeline rate of \$1.00, could cause the Lifeline rate to drop below zero (to negative \$0.75).⁸⁹⁶ Similarly, MCI opposes the provision of additional federal support

⁸⁹¹ Under our new plan, low-income consumers will receive the full \$10.50 in support if their state provides \$3.50 in intrastate support, as now occurs in 44 jurisdictions.

⁸⁹² See 47 U.S.C. §§ 254(b)(5), 254(f).

⁸⁹³ See, e.g., CPI comments at 4; NYNEX comments at 9; SBC reply comments at 14.

⁸⁹⁴ Oregon PUC comments at 4.

⁸⁹⁵ Kansas CC comments at 3-4.

⁸⁹⁶ CPI comments at 3.

because, it reasons, \$5.25 in federal support would be greater than some states' Lifeline rates of between \$3.00 and \$10.00.⁸⁹⁷ We conclude that the federal support amount in no case should exceed the Lifeline rate.

356. MCI also asserts that, rather than offering additional federal support in order to provide residents of non-participating states with a sufficient level of assistance, the Commission should offer additional federal support only in states without Lifeline programs.⁸⁹⁸ We conclude, however, that MCI's proposal effectively would penalize states that do generate Lifeline funds. The Commission seeks to encourage states to generate Lifeline support; providing additional federal support in only states that do not participate would create incentives for currently participating states to cease providing matching funds and discourage currently non-participating states from beginning.

357. Some commenters express concern,⁸⁹⁹ as did the Joint Board, that offering additional federal support may have no direct effect on Lifeline subscribers' rates in many populous states with established Lifeline programs and instead may result only in shifting the burden of supporting low-income consumers from the state to the federal jurisdiction. We recognize that offering additional federal support may shift the burden of supporting Lifeline consumers to the federal jurisdiction. The Commission could avoid this result by not offering additional federal support in states that currently participate; we do not wish, however, to penalize states that have implemented Lifeline programs or to penalize low-income consumers based on the state in which they live.

358. A number of commenters assert that the Commission should not offer additional federal Lifeline support absent evidence that such additional support would increase subscribership levels among low-income consumers.⁹⁰⁰ Some of these parties contend that the main reason low-income consumers lose access to telecommunications services is not because local telephone service is unaffordable, but rather because they have not paid their toll bills. While we agree, as discussed below, that some low-income consumers may lose access to telecommunications services because they did not pay their toll charges, we also conclude that the existing Lifeline program has generally made telephone service more affordable for low-income consumers. In a recently released report on telephone subscribership, we found that although subscribership rates are comparable in states with and without Lifeline programs, increases in subscribership among low-income households have been greater on average in

⁸⁹⁷ MCI comments at 14.

⁸⁹⁸ MCI comments at 13-14.

⁸⁹⁹ *See, e.g.*, California PUC comments at 10; Citizens Utilities comments at 19.

⁹⁰⁰ *See, e.g.*, AT&T comments at 15; Centennial comments at 11-12; Georgia PSC comments at 17.

states with Lifeline programs than in states without Lifeline programs over the last 10 years.⁹⁰¹ The report found that the overall subscribership rate for states with Lifeline increased by 2.5 percent, while, in states without Lifeline, subscribership increased by only 0.5 percent. For households with incomes under \$10,000 (expressed in 1984 dollars), which would comprise the households primarily affected by Lifeline, the average increase in subscribership was 6.4 percent in states with Lifeline compared to 2.2 percent in states without Lifeline. These data suggest that the Lifeline program appears to help increase and sustain subscribership levels, despite the study's showing that subscribership rates among low-income consumers in states without Lifeline are similar to those in states with Lifeline. Furthermore, the fact that 44 states (including the District of Columbia and the U.S. Virgin Islands) currently generate intrastate support to participate in Lifeline demonstrates that most states find that Lifeline is an effective program.

359. Some commenters express concern that the Joint Board's proposed expansion of Lifeline would increase the size of the federal support mechanisms excessively.⁹⁰² We observe, however, that even with their expansion to the states currently not participating, Lifeline and Link Up will continue to account for a relatively small percentage of total universal service funding.⁹⁰³ Lifeline and Link Up are narrowly targeted, explicit, and important for maintaining and increasing subscribership in a competitive marketplace. We agree with Washington UTC⁹⁰⁴ that the \$7.00 per-person cap on federal Lifeline support will guard against an excessive burden on federal support mechanisms. We therefore decline to

⁹⁰¹ See Telephone Penetration by Income by State, Common Carrier Bureau, FCC, mimeo 72418 (rel. Feb. 24, 1997).

⁹⁰² See, e.g., New York DPS comments at 14-15; USTA comments at 33; Georgia PSC reply comments at 17.

⁹⁰³ Currently, approximately 4.4 million consumers participate in Lifeline, and the size of the Lifeline fund is approximately \$137 million. By expanding Lifeline to states currently not participating in Lifeline and assuming full participation by all Medicaid participants in those states (the largest low-income assistance program on which we are basing Lifeline qualification, as discussed *infra*), we estimate that the number of Lifeline consumers could increase by approximately 1.9 million. This, in addition to the increased federal support amount, could result in an approximately \$489.3 million Lifeline support mechanism (assuming that states currently providing matching funds continue to provide matching support, and that all state commissions approve the maximum federal support amount). The Link Up support mechanism will remain at \$18.4 million if there is no change in consumer participation and assuming consumers receive only one reduced service connection charge per year (although, as discussed *infra*, they will be permitted to receive more than one reduced connection charge). For each consumer receiving an additional reduced connection charge, the size of the federal funding mechanisms will increase by \$30.00. If California, the only state currently not participating in Link Up, begins to participate, the Link Up funding mechanism will increase to approximately \$23.6 million. Thus, the new Lifeline and Link Up support mechanisms could amount to approximately \$512.9 million of support from the interstate jurisdiction.

⁹⁰⁴ Washington UTC comments at 12.

adopt Citizens Utilities' suggestion⁹⁰⁵ that, in all cases, Lifeline subscribers should receive only \$3.50 in federal support, supplemented by an additional \$1.75 for every \$1.75 provided by the state, because we find that \$3.50 is insufficient support for Lifeline customers residing in states that choose not to provide matching support.

360. We reject commenters' arguments that the federal Lifeline support amount should vary according to state-specific circumstances, such as telephone rates, economic status, and demographics.⁹⁰⁶ CPI, for example, proposes setting the federal support amount at one half of the national average rate or one half of the area's prevailing rate for the designated services, whichever is lower.⁹⁰⁷ CPI uses a current national average rate of approximately \$18.00 to conclude that the resulting maximum Lifeline rate, and the federal support amount, would be \$9.00. As CPI acknowledges, its recommendation would result in a federal support amount that greatly exceeds \$5.25.⁹⁰⁸ We conclude that setting the federal support at \$9.00 for each low-income subscriber would increase the size of the Lifeline support mechanisms more than necessary to achieve our goal of assuring an adequate level of support nationwide. Moreover, we note that the proposal we adopt today actually results in a combination of state and federal funding of \$10.50 per consumer, if the state provides funding sufficient to generate the maximum amount of federal support, rather than the \$9.00 in support that CPI suggests. Further, we decline to adopt a proposal in which the federal support amount would vary by state, because this variation could make the size of the universal service support mechanisms unpredictable and the program difficult to administer.⁹⁰⁹ Additionally, CPI's proposal would not entail significant state involvement in determining and achieving affordable rates for low-income consumers. As for commenters concerned about the amount of support for low-income individuals living in high cost areas,⁹¹⁰ we are confident that the support mechanisms we adopt today for high cost, rural, and insular areas, combined with Lifeline, will achieve sufficient assistance for low-income consumers in high cost areas.

361. The Joint Board observed that many states currently generate their matching

⁹⁰⁵ Citizens Utilities comments at 19-20.

⁹⁰⁶ See, e.g., CPI comments at 2-4; Puerto Rico Tel. Co. comments at 15; South Carolina comments at 14-15; Vermont PSB comments at 11; Wyoming PSC comments at 10.

⁹⁰⁷ CPI comments at 2-4.

⁹⁰⁸ CPI comments at 1-2.

⁹⁰⁹ As discussed *supra*, however, the federal baseline support amount would be reduced in states in which providing the full support amount would result in Lifeline rates below zero.

⁹¹⁰ See, e.g., Vermont PSB comments at 12; Wyoming PSC comments at 10.

funds through the state rate-regulation process.⁹¹¹ These states allow incumbent LECs to recover the revenue the carriers lose from charging Lifeline customers less by charging other subscribers more. Florida PSC points out that this method of generating Lifeline support from the intrastate jurisdiction could result in some carriers (i.e., ILECs) bearing an unreasonable share of the program's costs.⁹¹² We see no reason at this time to intrude in the first instance on states' decisions about how to generate intrastate support for Lifeline. We do not currently prescribe the methods states must use to generate intrastate Lifeline support, nor does this Order contain any such prescriptions. Many methods exist, including competitively neutral surcharges on all carriers or the use of general revenues, that would not place the burden on any single group of carriers. We note, however, that states must meet the requirements of section 254(e) in providing equitable and non-discriminatory support for state universal service support mechanisms.

362. We also conclude that we must seek further guidance from the Joint Board on how to ensure the integrity of the Lifeline program in light of changes we make today to our access charge rules. In the *Access Charge Reform Order*, as part of our effort to implement the Joint Board's suggestion that the current per-minute CCL charge be modified to reflect the non-traffic sensitive nature of loop costs, we implement a flat charge per primary residential line that is to be assessed against the PIC. If the customer does not select a PIC, however, the presubscribed interexchange carrier charge (PICC) will be assessed against the end user.⁹¹³

363. We wish to ensure that these changes to our Part 69 rules, which were not contemplated when the Joint Board made its recommendations,⁹¹⁴ will not have an adverse impact on Lifeline customers. Specifically, we are concerned that the PICC may be assessed against Lifeline customers who elect to receive toll blocking (for which federal support will now be provided) because they will have no PIC associated with their lines. Accordingly, we seek further guidance from the Joint Board on how to maintain the integrity of the Lifeline program and ensure competitive neutrality in light of these changes to our Part 69 rules.

b. Making Lifeline Competitively Neutral

364. Section 254(b)(7) gives the Joint Board and Commission the authority to adopt

⁹¹¹ Recommended Decision, 12 FCC Rcd at 302.

⁹¹² Florida PSC comments at 6.

⁹¹³ See *Access Charge Reform Order* at § III.A.3.

⁹¹⁴ We initiated our access charge reform proceeding on December 24, 1997. See *Access Charge Reform NPRM*.

additional principles upon which to base the preservation and advancement of universal service. In this Order, we endorse the Joint Board's recommendation that we adopt the principle of "competitive neutrality" and conclude that universal service support mechanisms and rules should not unfairly advantage one provider, nor favor one technology.⁹¹⁵ Consistent with this principle, we agree with the Joint Board⁹¹⁶ that the funding mechanisms for Lifeline should be made more competitively neutral. Like the Joint Board, we find no statutory justification for continuing to fund the federal Lifeline program through charges levied only on some IXC.⁹¹⁷ As required by section 254, all carriers that provide interstate telecommunications service now will contribute on an equitable and nondiscriminatory basis. Thus, for example, LECs, wireless carriers, and other interstate telecommunications service providers will contribute.⁹¹⁸ In response to the NPRM, several commenters oppose changing the current contribution mechanisms because the current programs are specifically targeted to individual subscribers.⁹¹⁹ We conclude, however, as do many commenters,⁹²⁰ that the new funding mechanisms recommended by the Joint Board will be more competitively neutral than the current system, which passes the entire federal burden of low-income support to IXCs, without sacrificing the targeting that has characterized the current program. We also conclude that low-income consumers will continue to benefit directly under these funding mechanisms.

365. In addition, we concur with the Joint Board's recommendation that all eligible telecommunications carriers, not just ILECs, should be able to receive support for serving qualifying low-income consumers.⁹²¹ Currently, only ILECs, which charge SLCs and waive such charges for low-income consumers, can receive support under most circumstances.⁹²² We find, however, that eligible telecommunications carriers other than ILECs also should

⁹¹⁵ See *supra* Section II.

⁹¹⁶ Recommended Decision, 12 FCC Rcd at 302.

⁹¹⁷ Recommended Decision, 12 FCC Rcd at 302.

⁹¹⁸ See section XIII (Administration), *infra*, for a complete discussion of the telecommunications providers that must contribute to the universal service support mechanisms.

⁹¹⁹ See, e.g., PacTel NPRM further comments at 59; SNET NPRM further comments at 7.

⁹²⁰ See, e.g., AT&T comments at 15; California PUC comments at 10; MCI comments at 12; New York DPS comments at 13-14; North Dakota PSC comments at 2; Ohio PUC comments at 13; Sprint comments at 4; Washington UTC comments at 11; WorldCom comments at 22-23.

⁹²¹ Recommended Decision, 12 FCC Rcd at 302.

⁹²² Since the passage of the 1996 Act, the Commission's Common Carrier Bureau has certified some CLECs to offer Lifeline. Generally, these carriers have been required to stipulate to requirements that mirror those imposed on ILECs, including that the CLEC charge a federal SLC.

have the opportunity to compete to offer Lifeline service to low-income consumers and in turn receive support in a manner similar to the current program. Support will be provided directly to carriers under administrative procedures determined by the universal service administrator in direct consultation with the Commission.

366. We acknowledge that the distribution of support to non-ILEC carriers cannot be achieved simply by waiving the SLC. Carriers other than ILECs do not participate in the formal separations process that our rules mandate for ILECs and hence do not charge SLCs nor distinguish between the interstate and intrastate portion of their charges and costs. With respect to these carriers, we conclude that Lifeline support must be passed through directly to the consumer in the form of a reduction in the total amount due. Indeed, sections 254(e) and (k) require eligible telecommunications carriers to pass through Lifeline support directly to consumers.⁹²³ Furthermore, we do not believe that requiring carriers to pass through the support amount conflicts with our desire to establish mechanisms that are respectful of traditional state authority. Rather, we note that a portion of every carrier's charge can be attributed to the interstate jurisdiction, whether or not the carrier formally participates in the separations procedure. We could, of course, calculate the precise amount of the interstate portion by requiring all carriers seeking to offer Lifeline service to stipulate to regulatory and rate-structure requirements that would not otherwise apply to them, such as a requirement to charge a federal SLC. Given the deregulatory objectives of the 1996 Act, however, we do not wish to impose regulations on carriers that would not, because of their comparative lack of market power, otherwise be subject to them. In any event, we find such a step to be unnecessary.

367. The interstate portion of ILECs' rates to recover loop costs is, almost without exception, greater than the amount of the SLC cap for residential subscribers; we are therefore confident that this amount is a reasonable proxy for the interstate portion of other eligible telecommunications carriers' costs. Thus, we conclude that we may require an amount equal to the SLC cap for primary residential and single-line business connections to be deducted from carriers' end-user charges without infringing on state ratemaking authority. Furthermore, we find that providing the same amount of Lifeline support to all eligible telecommunications carriers, including those that do not charge SLCs, advances competitive neutrality. In sum, we conclude that breaking the link between Lifeline and the Commission's Part 69 rules will promote competitive neutrality by allowing eligible carriers that are not required to charge SLCs, such as CLECs and wireless providers, to receive federal support for providing Lifeline. We therefore reject BellSouth's argument that the Lifeline program should continue

⁹²³ See 47 U.S.C. §§ 254(e) ("A carrier that receives [universal service] support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.") and 254(k) ("A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition.")

to operate exclusively as a SLC waiver.⁹²⁴

368. The precise mechanisms for distributing and collecting Lifeline funds will be determined by the universal service administrator in direct consultation with the Commission. In general, however, any carrier seeking to receive Lifeline support will be required to demonstrate to the public utility commission of the state in which it operates that it offers Lifeline service in compliance with the rules we adopt today. These rules require that carriers offer qualified low-income consumers the services that must be included within Lifeline service, as discussed more fully below, including toll-limitation service. ILECs providing Lifeline service will be required to waive Lifeline customers' federal SLCs and, conditioned on state approval, to pass through to Lifeline consumers an additional \$1.75 in federal support. ILECs will then receive a corresponding amount of support from the new support mechanisms. Other eligible telecommunications carriers will receive, for each qualifying low-income consumer served, support equal to the federal SLC cap for primary residential and single-line business connections, plus \$1.75 in additional federal support conditioned on state approval. The federal support amount must be passed through to the consumer in its entirety. In addition, all carriers providing Lifeline service will be reimbursed from the new universal service support mechanisms for their incremental cost of providing toll-limitation services to Lifeline customers who elect to receive them. The remaining services included in Lifeline⁹²⁵ must be provided to qualifying low-income consumers at the carrier's lowest tariffed (or otherwise generally available) rate for those services, or at the state's mandated Lifeline rate, if the state mandates such a rate for low-income consumers.⁹²⁶

369. California PUC argues that all carriers, not just eligible telecommunications carriers, should be able to participate in Lifeline.⁹²⁷ We believe that we have the authority under sections 1, 4(i), 201, 205, and 254 to extend Lifeline to include carriers other than eligible telecommunications carriers. We agree with the Joint Board, however, and decline to do so at the present time. Elsewhere in this Order, we express our intention to incorporate Lifeline into our broader universal service mechanisms adopted in this proceeding. We believe that a single support mechanism with a single administrator following similar rules will have significant advantages in terms of administrative convenience and efficiency. Furthermore, in deciding which carriers may participate in Lifeline, we note that section 254(e) allows universal service support to be provided only to carriers deemed eligible

⁹²⁴ BellSouth comments at 18.

⁹²⁵ The services that must be included in Lifeline are discussed *infra* in section VIII.D.

⁹²⁶ If the state-mandated Lifeline rate does not reflect a reduction in a CLEC's rate equal to the applicable federal support amount, the federal support amount will be reduced accordingly to avoid double recovery.

⁹²⁷ California PUC comments at 12.

pursuant to section 214(e).

370. We further observe that, contrary to the fears of some commenters,⁹²⁸ a large class of carriers that will not be eligible to receive universal service support -- those providing service purely by reselling another carrier's services purchased on a wholesale basis pursuant to section 251(c)(4) -- will nevertheless be able to offer Lifeline service. The *Local Competition Order* provides that all retail services, including below-cost and residential services, are subject to wholesale rate obligations under section 251(c)(4).⁹²⁹ Resellers therefore could obtain Lifeline service at wholesale rates that include the Lifeline support amounts and can pass these discounts through to qualifying low-income consumers.⁹³⁰ We are hopeful that states will take the steps required to ensure that low-income consumers can receive Lifeline service from resellers. Further, we find that we can rely on the states to ensure that at least one eligible telecommunications carrier is certified in all areas.⁹³¹ As a result, low-income consumers always will have access to a Lifeline program from at least one carrier. We will reassess this approach in the future if it appears that the revised Lifeline program is not being made available to low-income consumers nationwide.

371. WinStar contends that it would not be competitively neutral for the Commission to deny Lifeline support to wireless providers that are technologically unable to provide Lifeline to certain customers or areas.⁹³² WinStar suggests that because of its 38 GHz technology, for example, it would be unable to reach low-income consumers whose access to its network is blocked by buildings or other obstructions. Under the 1996 Act, the only carriers eligible to receive universal service support are those that provide service throughout a geographic service area.⁹³³ Just as the Joint Board urged states to define reasonably small service areas, in part to avoid precluding competition from carriers with limited geographic scope, we also urge states to define service areas⁹³⁴ in a way that will promote competitive

⁹²⁸ See, e.g., California PUC comments at 12; TURN comments at 6; California Dept. of Consumer Affairs reply comments at 5.

⁹²⁹ See *Local Competition Order*, 11 FCC Rcd at 15723-15724. Although the *Local Competition Order's* pricing provisions and "pick and choose" rule have been stayed by the 8th Circuit, its resale rules remain valid.

⁹³⁰ As discussed in the *Local Competition Order*, however, section 251(c)(4)(B) allows states to prohibit the resale of Lifeline or any other means-tested service to end users not eligible to subscribe to such services. See *Local Competition Order*, 11 FCC Rcd at 15724.

⁹³¹ See 47 U.S.C. § 214(e)(3).

⁹³² WinStar comments at 4, 12-13.

⁹³³ See 47 U.S.C. § 214(e)(2).

⁹³⁴ See 47 U.S.C. § 214(e)(1).

neutrality by allowing carriers, such as WinStar, to serve some high cost consumers efficiently.

372. We agree with the Joint Board that a voucher system, as proposed by some commenters in response to the NPRM, would be administratively burdensome.⁹³⁵ Under this proposal, Lifeline consumers would receive the Lifeline support amount in the form of a voucher that could be used with the eligible telecommunications provider of their choice. As discussed above, however, Lifeline support will be provided directly to carriers that offer Lifeline service to qualifying low-income consumers.

c. Consumer Qualifications for Lifeline

373. We agree with the Joint Board that the Commission should maintain this basic framework for administering Lifeline qualification in states that provide intrastate support for the Lifeline program.⁹³⁶ State agencies or telephone companies currently determine consumer qualifications for Lifeline pursuant to standards set by narrowly targeted programs approved by the Commission.⁹³⁷ We believe such criteria leave states sufficient flexibility to target support based on that state's particular needs and circumstances. We also concur with the Joint Board's recommendation⁹³⁸ that the Commission require states that provide intrastate matching funds to base eligibility criteria solely on income or factors directly related to income (such as participation in a low-income assistance program). Currently, some states only make Lifeline assistance available to low-income individuals who, for example, are elderly or have disabilities.⁹³⁹ We agree with the Joint Board's finding that the goal of increasing low-income subscribership will best be met if the qualifications to receive Lifeline assistance are based solely on income or factors directly related to income.

374. We also adopt the Joint Board's recommendation⁹⁴⁰ that the Commission apply a specific means-tested eligibility standard, such as participation in a low-income assistance program, in states that choose not to provide matching support from the intrastate jurisdiction.

⁹³⁵ Recommended Decision, 12 FCC Rcd at 303.

⁹³⁶ Recommended Decision, 12 FCC Rcd at 303.

⁹³⁷ See 47 C.F.R. § 69.104(j)-(k).

⁹³⁸ Recommended Decision, 12 FCC Rcd at 303.

⁹³⁹ Recommended Decision, 12 FCC Rcd at 303.

⁹⁴⁰ Recommended Decision, 12 FCC Rcd at 303.

Specifically, we find, as suggested in part by Benton and Edgemont,⁹⁴¹ that the default Lifeline eligibility standard in non-participating states will be participation in Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance or Section 8,⁹⁴² or Low Income Home Energy Assistance Program (LIHEAP). While Benton and Edgemont suggest that Lifeline eligibility be based on participation in one of these programs by *any* member of a household, we find that, in the interest of administrative ease and avoiding fraud, waste, and abuse, the named subscriber to the local telecommunications service must participate in one of these assistance programs to qualify for Lifeline. We specifically decline to base eligibility solely on a program, such as Aid to Families with Dependent Children (AFDC), that will be altered significantly by the recently-enacted welfare reform law,⁹⁴³ as Catholic Conference observes.⁹⁴⁴ Because we agree with the Joint Board, however, that individuals who are eligible for assistance from low-income assistance programs also should be eligible for Lifeline, participation in at least one of the programs mentioned above shall be the federal eligibility standard applied in states that do not participate in Lifeline. We conclude that basing Lifeline eligibility on participation in any of these low-income assistance programs will achieve our goal of wide Lifeline participation by low-income consumers, because the eligibility criteria for several of these programs vary. Therefore, basing Lifeline eligibility on participation in any of these programs will reach more low-income consumers than basing Lifeline eligibility solely on one of the programs. We further conclude that if participation in Medicaid, food stamps, SSI, public housing assistance or Section 8, or LIHEAP becomes an unworkable standard, as evidenced, for instance, by a disproportionately low number of Lifeline consumers in states where such a standard is used, the Commission shall revise the standard.

375. Catholic Conference is concerned that, if "eligibility for Lifeline [is] contingent upon participation in low-income assistance programs," as it contends the Joint Board recommended, this standard would reduce significantly the number of consumers qualifying for Lifeline because of the newly enacted federal welfare reform law.⁹⁴⁵ We clarify, however, that the Joint Board's recommendation, which we adopt, requires states to base eligibility on income or factors directly related to income and merely *suggests* using participation in a low-

⁹⁴¹ Letter from Ellis Jacobs, Edgemont, and Kevin Taglang, Benton, to William F. Caton, FCC, dated February 21, 1997 (Benton and Edgemont Feb. 21 *ex parte*).

⁹⁴² Section 8 is a federal housing assistance program administered by the Department of Housing and Urban Development.

⁹⁴³ The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193 (1996).

⁹⁴⁴ Catholic Conference comments at 9-10.

⁹⁴⁵ Catholic Conference comments at 9-10.

income assistance program as the criterion.⁹⁴⁶ Thus, states may choose their eligibility criteria as long as those criteria measure income or factors directly related to income. We have no reason to conclude, at this time, that states will not take the required steps to reconcile Lifeline qualification with changes in welfare laws. As discussed above, we have tied the default Lifeline qualification standards (which will apply in states that do not provide intrastate funds) to programs that commenters believe to be unaffected or minimally affected by the new welfare legislation. We will, however, continue to monitor the situation and may make further changes in the future if it appears that changes to other programs unduly limit Lifeline eligibility.

376. Although we could require, pursuant to our Title II authority, that Lifeline customers' qualifications be verified,⁹⁴⁷ we conclude that we should delay implementing the Joint Board's recommendation to require such verification, because the history of federal-state comity in administering the Lifeline program justifies allowing states to determine whether to verify eligibility. We agree with the Universal Service Alliance⁹⁴⁸ that states providing matching intrastate Lifeline support should continue to have the discretion to determine the appropriateness of verification of Lifeline customers' qualification for the program. Because these states are generating support from the intrastate jurisdiction, they have an incentive to control fraud, waste, and abuse of the support mechanism. California, for example, allows customers to self-certify their eligibility for Lifeline because studies indicate that the cost of verifying eligibility would exceed losses resulting from fraud and abuse.⁹⁴⁹ Because states that are generating matching intrastate support have a strong interest in controlling the size of the support mechanism, we do not find at this time that imposing stricter federal verification requirements is necessary to ensure that the size of the support mechanisms remains at reasonable levels.⁹⁵⁰ We will revisit this conclusion, however, to ensure the sustainability and predictability of the sizing of the support mechanisms. In light of these conclusions, we find it no longer necessary to reduce the level of Lifeline support in states that choose not to

⁹⁴⁶ Recommended Decision, 12 FCC Rcd at 303.

⁹⁴⁷ Indeed, we currently require such verification as a condition for receiving a waiver of the entire SLC (as opposed to merely half). See 47 C.F.R. § 69.104(j)-(l).

⁹⁴⁸ Universal Service Alliance comments at 14.

⁹⁴⁹ Letter from Jack Leutza, California Public Utilities Commission, to William F. Caton, FCC, dated January 28, 1997 (California PUC January 28 *ex parte*). We observe that the California PUC recently directed its staff to consider a verification program if doing so would substantially increase the amount of federal funding received. See California PUC comments at 11. See also Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643, Order 96-10-066 (Cal. PUC Oct. 25, 1996) at 236-37.

⁹⁵⁰ AT&T comments at 17. See also USTA comments at 33 (arguing that the Commission should prohibit states from allowing customer self-certification.)

require that consumer qualification be verified. California PUC urges continuation of this two-tiered structure, but only as an alternative to a verification requirement based on 150% of the poverty line.⁹⁵¹

377. With respect to verification in states in which the federal default qualification criteria apply, we will require carriers to obtain customers' signatures on a document certifying under penalty of perjury that the customer is receiving benefits from one of the programs included in the default standard,⁹⁵² identifying the program or programs from which the customer receives benefits, and agreeing to notify the carrier if the customer ceases to participate in such program or programs.

378. Although we generally defer to the states to establish Lifeline eligibility criteria, we encourage states to adopt Lifeline administrative procedures, including eligibility verification procedures, that are as efficient as possible. We observe, for example, that New York, among other states, has substantially cut Lifeline overhead by mandating the exchange of computer files between social service agencies, which administer participation in the other public assistance programs that constitute Lifeline eligibility, and the state's LECs.⁹⁵³ Thus, Lifeline enrollment in New York is automatic. As CPI suggests, automatic enrollment might further justify the increased federal support amount, because more low-income consumers would benefit from Lifeline.⁹⁵⁴ We note also that automatic enrollment could comport with competitive neutrality if all eligible telecommunications providers can have access to the same information indicating which consumers are eligible for Lifeline. We conclude that the public interest is best served by minimizing overhead expenses, and encourage state innovation in this area to better serve low-income consumers.

d. Link Up

379. We agree with the Joint Board⁹⁵⁵ that the Link Up funding mechanisms should be removed from the jurisdictional separations rules and that the program should be funded through equitable and non-discriminatory contributions from all interstate telecommunications

⁹⁵¹ California PUC comments at 13.

⁹⁵² As discussed *supra*, the default Lifeline eligibility criteria apply in states that choose to have no intrastate support for Lifeline. The default criteria are participation in Medicaid, food stamps, SSI, federal public housing assistance or Section 8, or LIHEAP.

⁹⁵³ New York DPS January 28 *ex parte* at 1.

⁹⁵⁴ CPI comments at 4, n.3.

⁹⁵⁵ Recommended Decision, 12 FCC Rcd at 304.

carriers.⁹⁵⁶ Funding the program through contributions from all interstate carriers will allow for explicit and competitively neutral support mechanisms. Commenters addressing this point generally agree with this approach.⁹⁵⁷

380. We also adopt the Joint Board's recommendation⁹⁵⁸ that we amend our Link Up program so that any eligible telecommunications carrier may draw support from the new Link Up support mechanism if that carrier offers to qualifying low-income consumers a reduction of its service connection charges equal to one half of the carrier's customary connection charge or \$30.00, whichever is less.⁹⁵⁹ Support shall be available only for the primary residential connection.⁹⁶⁰ When the carrier offers eligible customers a deferred payment plan for connection charges, we agree with the Joint Board that we should preserve the current rule providing support to reimburse carriers for waiving interest on the deferred charges. In the absence of evidence that increasing the level of Link Up support for connecting each eligible customer would significantly promote universal service goals, we will maintain the present level of support for Link Up, as the Joint Board recommended.⁹⁶¹ To ensure that the opportunity for carrier participation is competitively neutral, we adopt the Joint Board's recommendation⁹⁶² to eliminate the requirement that the commencement-of-service charges eligible for support be filed in a state tariff.⁹⁶³

381. For the sake of administrative simplicity, we revise our rules to require that the same qualification requirements that apply to Lifeline in each state, including its verification standards, also shall apply to Link Up in that state. This step will advance administrative simplicity while states assess their approaches to universal service and while we seek further recommendations from the Joint Board.⁹⁶⁴ We further observe that this rule will change nothing in the majority of states, which already use the same eligibility criteria

⁹⁵⁶ See *infra* section XIII for a discussion of how carriers will recover their contributions.

⁹⁵⁷ See, e.g., CNMI comments at 30; GSA comments at 7-8; Ohio PUC comments at 12.

⁹⁵⁸ Recommended Decision, 12 FCC Rcd at 304.

⁹⁵⁹ Recommended Decision, 12 FCC Rcd at 304.

⁹⁶⁰ Recommended Decision, 12 FCC Rcd at 304.

⁹⁶¹ Cf., e.g., Edgemont comments at 2; New Jersey Advocate comments at 6.

⁹⁶² Recommended Decision, 12 FCC Rcd at 304.

⁹⁶³ See 47 C.F.R. § 36.711(d).

⁹⁶⁴ In the Recommended Decision, the Joint Board recommended that states should continue to establish means-tested Link Up qualification criteria.

for both programs.⁹⁶⁵ This change, however, will base states' ability to set Link Up eligibility criteria on whether they participate in Lifeline. Accordingly, we eliminate the requirement that states verify Link Up customers' qualifications for the program and instead rely on the states to determine whether the costs of verification outweigh the potential for fraud, waste, and abuse. Because only those states generating intrastate Lifeline support will make this determination, they will have an independent incentive to control fraud, waste, and abuse. In states that do not participate in Lifeline, the federal default Lifeline qualifications also will apply to Link Up.

382. We also adopt the Joint Board's recommendation⁹⁶⁶ that states shall be prohibited from restricting the number of service connections per year for which low-income consumers who relocate can receive Link Up support. Commenters observe that this rule is vital for migrant farmworkers and low-income individuals who have difficulty maintaining a permanent residence,⁹⁶⁷ and we agree that this rule will help ensure that consumers in all regions of the nation have access to affordable telecommunications services⁹⁶⁸ and that rates for such services are reasonable.⁹⁶⁹

D. Services Included in Lifeline and Link Up

1. Background

383. The Joint Board recommended⁹⁷⁰ that low-income consumers should have access to the same services designated for support for rural, insular, and high cost areas.⁹⁷¹ The Joint Board also recommended that support should be provided for toll-limitation services to the extent a carrier possesses the capability of providing such services. Toll-limitation services include both toll blocking, which prevents the placement of all long distance calls for which the subscriber would be charged, and toll control, which limits the toll charges a

⁹⁶⁵ See *FCC Monitoring Report*, tbl. 2.4.

⁹⁶⁶ Recommended Decision, 12 FCC Rcd at 304.

⁹⁶⁷ Catholic Conference comments at 8-9; Edgemont comments at 16-18. See also Robert J. Lock comments at 16-18.

⁹⁶⁸ See 47 U.S.C. § 254(b)

⁹⁶⁹ See 47 U.S.C. §§ 154(i), 201, 205.

⁹⁷⁰ Recommended Decision, 12 FCC Rcd at 284.

⁹⁷¹ Those services are: single-party service; voice grade access to the public switched telephone network; DTMF or its functional digital equivalent; access to emergency services; access to interexchange service; access to directory assistance; and access to operator services.

subscriber can incur during a billing period to a preset amount.⁹⁷² The Joint Board recommended that carriers without such capability be required to add the capability to provide at least toll blocking in any switch upgrades. The Joint Board recommended that carriers offering toll limitation receive support based on the incremental cost of providing such service. The Joint Board also recommended⁹⁷³ that the Commission prohibit carriers receiving universal service support for providing Lifeline service from disconnecting such service for non-payment of toll charges.⁹⁷⁴ The Joint Board further recommended that the Commission adopt a national rule prohibiting telecommunications carriers from requiring consumers participating in any state's Lifeline program to pay service deposits in order to initiate service if those consumers voluntarily elect to receive toll blocking.⁹⁷⁵

2. Discussion

384. Services for Low-Income Consumers. We agree with the Joint Board that we should ensure, through universal service support mechanisms, that low-income consumers have access to certain services. The current Lifeline program does not require that low-income consumers receive a particular level of telecommunications services. Thus, heeding the specific recommendation of the Joint Board and a majority of commenters,⁹⁷⁶ we amend the Lifeline program to provide that Lifeline service must include the following services: single-party service; voice grade access to the public switched telephone network; DTMF or its functional digital equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll-limitation services, as

⁹⁷² NPRM at para. 54. Throughout this Order, we will use the term "toll limitation" to refer to both services generically, and the terms "toll control" and "toll blocking" when discussing the respective services specifically.

⁹⁷³ Recommended Decision, 12 FCC Rcd at 286.

⁹⁷⁴ The Joint Board recommended, however, that the Commission permit state utilities regulators to grant an otherwise eligible telecommunications carrier a limited waiver of this requirement if the carrier can establish that: (1) it would incur substantial costs in complying with such a requirement; (2) it offers toll-limitations services to its Lifeline subscribers at no charge; and (3) telephone subscribership among low-income consumers in the carrier's service area is at least as high as the national subscribership level for low-income consumers. Pursuant to the Joint Board's recommendation, the waiver would terminate after two years, at which time the carrier could reapply for the waiver.

⁹⁷⁵ Recommended Decision, 12 FCC Rcd at 305.

⁹⁷⁶ See, e.g., Catholic Conference comments at 9; Citizens Utilities comments at 30; NCTA comments at 15-16; United Church of Christ comments at 2-4; Washington UTC comments at 11.

discussed in section IV above.⁹⁷⁷ In determining the specific services to be provided to low-income consumers, we adopt the Joint Board's reasoning that section 254(b)(3) calls for access to services for "[c]onsumers in all regions of the Nation, including low-income consumers"⁹⁷⁸ and that universal service principles may not be realized if low-income support is provided for service inferior to those supported for other subscribers. As discussed above, all these services, with the exception of toll limitation, also will be supported by universal service support mechanisms for rural, insular, and high cost areas, and we therefore find that low-income consumers should receive support for these services.

385. We further agree with the Joint Board's recommendation⁹⁷⁹ and many commenters' suggestions⁹⁸⁰ that Lifeline consumers also should receive, without charge, toll-limitation services. As the Joint Board observed, studies demonstrate that a primary reason subscribers lose access to telecommunications services is failure to pay long distance bills.⁹⁸¹ Because voluntary toll blocking allows customers to block toll calls, and toll control allows customers to limit in advance their toll usage per month or billing cycle, these services assist customers in avoiding involuntary termination of their access to telecommunications services. The Joint Board concluded, however, that low-income consumers may not be able to afford voluntary toll-limitation services in a number of jurisdictions.⁹⁸² Therefore, like the Joint Board, we are confident that providing voluntary toll limitation without charge to low-income consumers, should encourage subscribership among low-income consumers. Our conclusion is based, in part, on the success of toll limitation in states such as Pennsylvania, which boasts one of the nation's highest subscribership rates.⁹⁸³ Customers of Bell Atlantic-Pennsylvania may receive toll limitation without charge when initiating telephone service or when, after toll service has been terminated for non-payment, they pay all outstanding charges and request

⁹⁷⁷ See *supra* section IV, Definition of Universal Service, and *infra* para 62. We note that for a few services, including toll-limitation services, we have established a period of time during which eligible telecommunications carriers will be permitted to upgrade their switches to provide these services.

⁹⁷⁸ Recommended Decision, 12 FCC Rcd at 284 (*citing* 47 U.S.C. § 254(b)(3)).

⁹⁷⁹ Recommended Decision, 12 FCC Rcd at 285.

⁹⁸⁰ See, e.g., California PUC comments at 10; Catholic Conference comments at 9; CNMI comments at 31; DC OPC comments at 1; Florida PSC comments at 4; GSA comments at 8-9; MFS comments at 27; NASUCA comments at 9; Ohio PUC comments at 8; Public Advocate comments at 2; SBC comments at 7; TURN comments at 2; WorldCom comments at 23; AT&T reply comments at 19; Georgia PSC reply comments at 2.

⁹⁸¹ Recommended Decision, 12 FCC Rcd at 285.

⁹⁸² Recommended Decision, 12 FCC Rcd at 285.

⁹⁸³ See *Subscribership Notice*, 10 FCC Rcd at 13007.

such service.⁹⁸⁴ Furthermore, we find that toll-limitation services are "essential to education, public health or public safety"⁹⁸⁵ and "consistent with the public interest, convenience, and necessity"⁹⁸⁶ for low-income consumers in that they maximize the opportunity of those consumers to remain connected to the telecommunications network.

386. We also adopt the Joint Board's recommendation that carriers providing voluntary toll limitation should be compensated from universal service support mechanisms for the incremental cost of providing toll-limitation services.⁹⁸⁷ We disagree with PacTel's proposal that carriers should receive support for their lost revenues in providing toll-limitation services (defined as the amount customers normally would pay for the service).⁹⁸⁸ We find that recovery of the incremental costs of toll-limitation services is adequate cost recovery that does not place an unreasonable burden on the support mechanisms. By definition, incremental costs include the costs that carriers otherwise would not incur if they did not provide toll-limitation service to a given customer, and carriers will be compensated for their costs in providing such service.⁹⁸⁹ Because low-income consumers may otherwise be unlikely to purchase toll-limitation services,⁹⁹⁰ we do not find it is necessary to support the full retail charge for toll-limitation services the carrier would charge other consumers. We therefore also conclude that universal service support should not contribute to the service's joint and common costs. As discussed below, we require that Lifeline subscribers receive toll-limitation services without charge.

387. PacTel also urges the Commission to "allow carriers to devise specific solutions targeted at their own customers, rather than dictating a regulatory approach." PacTel asserts that studies indicate that consumers prefer to limit rather than to block their toll calls, and the Commission's rules should preserve carriers' flexibility to decide which services to offer.⁹⁹¹ We emphasize that Lifeline consumers' acceptance of toll blocking is voluntary, and that Lifeline consumers are free to select toll control, which limits rather than

⁹⁸⁴ See *Subscriber Notice*, 10 FCC Rcd at 13007.

⁹⁸⁵ 47 U.S.C. § 254(c)(1)(A).

⁹⁸⁶ 47 U.S.C. § 254(c)(1)(D).

⁹⁸⁷ Recommended Decision, 12 FCC Rcd at 285.

⁹⁸⁸ PacTel comments at 30-31.

⁹⁸⁹ For this reason, it is unclear to us what "start-up costs" PacTel is concerned will go uncompensated. See PacTel comments at 30-31.

⁹⁹⁰ Recommended Decision, 12 FCC Rcd at 285.

⁹⁹¹ PacTel comments at 34.

prevents consumers' ability to place toll calls from carriers providing such a service. Both toll blocking and toll control are forms of toll-limitation service that would be supported by federal universal service mechanisms.

388. As explained in section IV, however, we will authorize state commissions to grant carriers that are technically incapable of providing toll-limitation services a period of time during which they may receive universal service support for serving Lifeline consumers while they complete upgrading their switches so that they can offer such services.⁹⁹² The Joint Board observed that most carriers currently are capable of providing toll-blocking service,⁹⁹³ and some carriers are capable of providing toll control.⁹⁹⁴ Eligible telecommunications carriers with deployed switches that are incapable of providing toll-limitation services, however, shall not be required to provide such services to customers served by those switches until those switches are upgraded. We adopt the Joint Board's recommendation, however, that, when they make any switch upgrades, eligible telecommunications carriers currently incapable of providing toll-limitation services must add the capability to their switches to provide at least toll blocking in any switch upgrades (but Lifeline support in excess of the incremental cost of providing toll blocking shall not be provided for such switch upgrades).⁹⁹⁵ This is not an exception to eligible telecommunications carriers' general obligation to provide toll-limitation services; rather, it is a transitional mechanism to allow eligible telecommunications carriers a reasonable time in which to replace existing equipment that technically prevents the provision of the service.

389. We concur with the Joint Board that support should not be provided for toll-limitation services for consumers other than low-income consumers.⁹⁹⁶ Subscriberhip levels fall well below the national average only among low-income consumers, and, as the Joint Board observed, a principal reason for this disparity appears to be service termination due to

⁹⁹² Recommended Decision, 12 FCC Rcd at 285.

⁹⁹³ For example, the Joint Board identified the following carriers as offering toll blocking: Ameritech, Bell Atlantic, BellSouth, GTE, NYNEX, Pacific Telesis Group, and Southwestern Bell Telephone Company. Recommended Decision, 12 FCC Rcd at 285 n.1284.

⁹⁹⁴ The Joint Board identified the following carriers as offering toll control: Bell Atlantic-Pennsylvania; Denver and Ephrata Telephone and Telegraph Company; Pacific Telesis; and Southwestern Bell Telephone Company. See Recommended Decision, 12 FCC Rcd at 285 n.1284. Pacific Telesis points out that the Joint Board incorrectly identified it as offering toll control. PacTel comments at 30 n.44. We observe that some commenters discussed the difficulty of providing toll control for LECs who do not rate long distance calls. See, e.g., Ameritech comments at 16; California Dept. of Consumer Affairs comments at 42; California Dept. of Consumer Affairs reply comments at 12.

⁹⁹⁵ See Recommended Decision, 12 FCC Rcd at 285-286.

⁹⁹⁶ Recommended Decision, 12 FCC Rcd at 286. *But see* New Jersey Advocate comments at 5-6.

failure to pay toll charges.⁹⁹⁷ Therefore, we adopt the Joint Board's recommendation that, to the extent carriers are capable of providing them, toll-limitation services should be supported only for low-income consumers at this time.

390. No Disconnection of Local Service for Non-Payment of Toll Charges. We also adopt the Joint Board's recommendation and reasoning that we should prohibit eligible telecommunications carriers from disconnecting Lifeline service for non-payment of toll charges.⁹⁹⁸ As the NPRM⁹⁹⁹ and the Joint Board¹⁰⁰⁰ both noted, studies suggest that disconnection for non-payment of toll charges is a significant cause of low subscribership rates among low-income consumers.¹⁰⁰¹ For this reason, many commenters supported the Joint Board's proposal.¹⁰⁰² Furthermore, the no-disconnect rule advances the principles of section 254 that "quality services should be available at just, reasonable, and affordable rates"¹⁰⁰³ and that access to telecommunications services should be provided to "consumers in

⁹⁹⁷ Recommended Decision, 12 FCC Rcd at 286.

⁹⁹⁸ Recommended Decision, 12 FCC Rcd at 286. This decision should not be construed to affect the ability of the states to implement a rule prohibiting disconnection of local service for non-payment of toll charges for non-Lifeline customers.

⁹⁹⁹ NPRM at para. 56 (*citing Subscribership Notice*, 10 FCC Rcd at 13005-06). We are not persuaded by the statistics that MCI offers in an attempt to show that a no-disconnect rule is not effective in increasing subscribership. MCI comments at 12-13. There is no statistical significance in the difference between Pennsylvania's penetration increase (2.2 percent) and the nationwide average increase (2.5 percent) (Pennsylvania has had a no-disconnect rule since 1985), nor is there any showing that penetration in other states was not inhibited by the disconnection of local service for non-payment of toll charges. *See id.*

¹⁰⁰⁰ Recommended Decision, 12 FCC Rcd at 286.

¹⁰⁰¹ *See, e.g.*, "Affordability of Telephone Service - A Survey of Customers and Non-Customers," Field Research Corporation, 1993, vol. 1, at S-7 (*California Affordability Study*); Mueller and Schement, *Universal Service from the Bottom Up: A Profile of Telecommunications Access in Camden, New Jersey* Rutgers University Project on Information Policy (1995); MTS and WATS Market Structure; Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board; Establishment of a Program to Monitor the Impact of Joint Board Decision, *Second Study and Report*, CC Docket Nos. 78-72, 80-286, 87-339, FCC 89J-3 (1989) at 15, (study conducted by Regional Bell Holding Companies and the GTE Telephone Operating Companies, Inc., at the request of the CC Docket No. 80-286 Joint Board and showing that the inability to control long distance usage is a major cause of disconnection of telephone service).

¹⁰⁰² *See, e.g.*, Catholic Conference comments at 8; CNMI comments at 31-32; Edgemont comments at 2; GSA comments at 7-8; NASUCA comments at 10; New Jersey Advocate comments at 6; Ohio PUC comments at 9; Public Advocates comments at 2; Telco comments at 12; TURN comments at 2; West Virginia Consumer Advocate comments at 6; WorldCom comments at 24; Chicago reply comments at 7-8; CPI reply comments at 17, 19.

¹⁰⁰³ 47 U.S.C. § 254(b)(1).

all regions of the nation, including low-income consumers."¹⁰⁰⁴ We therefore believe that such a rule is within the ambit of our authority in section 254. We further find, consistent with these principles, that an eligible telecommunications carrier may not deny a Lifeline consumer's request for re-establishment of local service on the basis that the consumer was previously disconnected for non-payment of toll charges.

391. We also find that our adoption of a no-disconnect rule will make the market for billing and collection of toll charges more competitively neutral.¹⁰⁰⁵ Currently, the ILEC is the only toll charge collection agent that can offer the penalty of disconnecting a customer's *local* telephone service for non-payment of other charges. ILECs have maintained this special prerogative, although the interstate long distance market and the local exchange markets legally have been separated for over a decade, and interstate billing and collection activities have been deregulated since 1986.¹⁰⁰⁶ Because the practice of disconnecting local service for non-payment of toll charges essentially is a vestige of the monopoly era, we find our rule prohibiting that practice will further advance the pro-competitive, deregulatory goals of the 1996 Act.

392. Contrary to DC OPC suggestion,¹⁰⁰⁷ we agree with several commenters¹⁰⁰⁸ and limit the federal rule to Lifeline subscribers at this time, because only low-income consumers experience dramatically lower subscribership levels that can be attributed to toll charges.¹⁰⁰⁹ If we subsequently find that subscribership levels among non-Lifeline subscribers begin to decrease, we will consider whether this rule should apply to all consumers. In the interest of comity, however, we leave to the states' discretion whether such a rule should apply to other consumers at this time.

393. We further conclude that carriers offering Lifeline service must apply partial payments received from Lifeline consumers first to local service charges and then to toll charges, in keeping with our goal of maintaining low-income consumers' access to local telecommunications services. We find that this rule furthers the principle in section 254 that access to telecommunications services should be provided to "consumers in all regions of the

¹⁰⁰⁴ 47 U.S.C. § 254(b)(3).

¹⁰⁰⁵ See Ohio PUC comments at 9.

¹⁰⁰⁶ Detariffing of Billing and Collection Services, *Report and Order*, CC Docket No. 85-88, 102 FCC 2d 1150 (1986), *recon. denied*, 1 FCC Rcd 445 (1986).

¹⁰⁰⁷ DC OPC comments at 4.

¹⁰⁰⁸ See, e.g., WorldCom comments at 24; Telco reply comments at 8; TRA reply comments at 15.

¹⁰⁰⁹ *Subscribership Notice*, 10 FCC Rcd at 13009.

nation, including low-income consumers"¹⁰¹⁰ and is within our authority in section 1 to make communications services available to as many people as possible.¹⁰¹¹ Whether a Lifeline consumer's long distance and local service providers are the same or different entities shall not affect the application of this rule. While a carrier providing both local and long distance service to the same consumer must be able to distinguish between the services' respective charges to comply with our rule, we find that any administrative burden this initially may cause is outweighed by the benefit of maintaining Lifeline consumers' access to local telecommunications services.

394. We also do not condition the rule prohibiting disconnection of local service for non-payment of toll charges on the consumer's agreement to accept toll-limitation services. Proponents of this condition essentially argue that without this condition carriers will experience higher levels of uncollectible toll expenses.¹⁰¹² We are not convinced that toll limitation is necessary, however, because toll-service providers already have available the functional equivalent of toll limitation. That is, we observe that our rule prohibiting disconnection of Lifeline service will not prevent toll-service providers from discontinuing *toll* service to customers, including Lifeline customers, who fail to pay their bills. Although this may have been impossible with the switching technology used in the past, it is achievable now.¹⁰¹³ In virtually all cases, IXCs receive calling party information with each call routed to them and could refuse to complete calls from subscriber connections with arrearages. As to existing unpaid amounts (as to which toll limitation is irrelevant), because the rule does not affect toll carriers' ability to collect their bills using all the methods available to any other creditor, we disagree with both ACTA, which argues without further elaboration that the no-disconnect rule would be "constitutionally suspect,"¹⁰¹⁴ and GTE, which asserts that it would force carriers to cross-subsidize uncollectible toll bills with revenues obtained from other toll

¹⁰¹⁰ 47 U.S.C. § 254(b)(3).

¹⁰¹¹ 47 U.S.C. § 151.

¹⁰¹² See, e.g., MCI comments at 12; PacTel comments at 32; USTA comments at 33; TRA reply comments at 15-16.

¹⁰¹³ See *Subscribership Notice*, 10 FCC Rcd at 13009 (tentatively concluding that current switching technology does not provide a technical barrier to selective blocking of long distance calls) and *Disconnection of Basic Local Exchange Service for the Nonpayment of Charges Associated with Services Other Than Basic Local Exchange Service*, Finding and Order, Case No. 95-790-TP-COI, Ohio PUC (June 12, 1996) (concurring with Commission's tentative conclusion in *Subscribership Notice* that current switching technology is capable of selectively blocking calls). We also note that the record in this proceeding does not indicate that current switching technology is incapable of allowing carriers to selectively block long distance calls.

¹⁰¹⁴ ACTA reply comments at 4.

bills.¹⁰¹⁵ We also are confident that, where legally permissible, the toll-services industry will find ways of sharing information to protect itself against any consumers that might seek to exploit the rule by regularly switching carriers after incurring substantial charges. Further, we expect, as did the Joint Board, that a rule prohibiting eligible telecommunications carriers from disconnecting Lifeline subscribers' local service for non-payment of toll charges should create an incentive for carriers to offer low-income consumers services to manage their toll expenditures, further reducing the potential of uncollectible charges.¹⁰¹⁶

395. For similar reasons, we disagree with commenters arguing that carriers' market-driven initiatives can achieve the same effect as a no-disconnect rule.¹⁰¹⁷ We conclude that the overall approach that we take here will provide carriers with adequate flexibility to initiate market-driven solutions for attracting and maintaining low-income subscribers. We acknowledge the initiatives that PacTel has taken, as described in its comments,¹⁰¹⁸ but find that a federal no-disconnect rule will best meet our objective of assisting low-income consumers in maintaining access to local telecommunications services and fostering competitive telecommunications markets.

396. Despite the benefits of a no-disconnect rule for Lifeline consumers, we agree with the Joint Board that state utilities regulators should have the ability, in the first instance, to grant carriers a limited waiver of the requirement under limited, special circumstances. Accordingly, we adopt the Joint Board's recommendation that carriers may file waiver requests with their state commissions. To obtain a waiver, the carrier must make a three-pronged showing. First, the carrier must show that it would incur substantial costs in complying with such a requirement. Such costs could relate to burdens associated with technical or administrative issues, for example. For example, some carriers providing both local and long distance service to the same consumer may find it particularly burdensome to distinguish between local and long distance charges. Second, the carrier must demonstrate that it offers toll-limitation services to its Lifeline subscribers. We find that, if a carrier is permitted by its state commission to disconnect local service for non-payment of toll bills, its Lifeline consumers should at least be able to control their toll bills through toll limitation. Third, the carrier must show that telephone subscribership among low-income consumers in its service area in the state from which it seeks the waiver, is at least as high as the national subscribership level for low-income consumers. Carriers must make this showing because, we conclude, applying a no-disconnect policy to carriers serving areas with subscribership levels

¹⁰¹⁵ GTE comments at 85-86.

¹⁰¹⁶ See Recommended Decision, 12 FCC Rcd at 286; TRA reply comments at 15.

¹⁰¹⁷ See, e.g., GTE comments at 85-86; PacTel comments at 33.

¹⁰¹⁸ PacTel comments at 31-33.

below the national average will help to improve such particularly low subscribership levels.¹⁰¹⁹ This waiver standard is therefore extremely limited, and a carrier must meet a heavy burden to obtain a waiver.¹⁰²⁰ Furthermore, such waivers should be for no more than two years, but they may be renewed.¹⁰²¹ If a party believes that a state commission has made an incorrect decision regarding a waiver request, or if a state commission does not make a decision regarding a waiver request within 30 days of its submission, such party may file an appeal with the Commission.¹⁰²² The party must file the appeal with the Commission within 30 days of either the state commission's decision or the date on which the state commission should have rendered its decision. Furthermore, a state commission choosing not to act on waiver requests promptly should refer any such requests to the Commission.

397. We decline to adopt PacTel's proposals to relax the waiver requirements for the no-disconnect rule. PacTel asserts that carriers like itself, which offer an "equivalent to" toll limitation, should be exempt from the no-disconnect rule.¹⁰²³ PacTel offers toll blocking without charge for no more than six months to consumers who either are on the verge of being disconnected for non-payment and wish to retain basic local service, or have been disconnected and must accept toll blocking as a substitute for paying outstanding balances or

¹⁰¹⁹ Recommended Decision, 12 FCC Rcd at 287.

¹⁰²⁰ See 47 C.F.R. § 1.3. (providing that a waiver of the Commission's rules may be granted for good cause shown). See also *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (providing that the Commission may exercise its discretion to waive a rule when particular facts would make strict compliance inconsistent with the public interest, and the party seeking the waiver demonstrates that the rule is unjust as applied to the party given the unique circumstances of the situation; a waiver is thus appropriate only if special circumstances warrant a deviation from the general rule and such deviation will better serve the public interest than adherence to the general rule); *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (explaining that "[t]he very essence of a waiver is the assumed validity of the general rule . . .").

¹⁰²¹ See Recommended Decision, 12 FCC Rcd at 287.

¹⁰²² We conclude that, in allowing states to grant waivers of the no-disconnect rule, we have not unlawfully delegated our authority to state commissions. In determining whether an agency has unlawfully delegated its statutory authority, courts generally first consider whether there has been a "delegation" and look to three factors in making this determination: (1) whether the agency has established specific standards to be followed by the other entity; (2) whether the agency has retained supervisory power over the actions of the other entity; and (3) whether the agency's actions are consistent with its statutory mandate. See *National Ass'n of Psychiatric Treatment Centers for Children v. Mendez*, 857 F. Supp 85 (D.D.C. 1994); *United States v. Matherson*, 367 F. Supp. 779 (E.D.N.Y. 1973), *aff'd mem.*, 493 F.2d 1399 (2d Cir. 1974); *Assiniboine and Sioux Tribes v. Board of Oil & Gas Conservation*, 792 F.2d 782 (9th Cir. 1986). We find that, based on these three factors, the Commission has not impermissibly delegated its authority in allowing states to grant waivers of the no-disconnect rule.

¹⁰²³ PacTel comments at 36.

a deposit in order to be reconnected. PacTel also offers toll blocking, for \$2.00 per month, with no time restriction.¹⁰²⁴ We agree with the Joint Board that carriers must offer Lifeline customers toll limitation without charge and without time restrictions in order to meet the second prong of the waiver requirement. We conclude that providing Lifeline customers with toll limitation will increase subscribership among low-income consumers. Furthermore, as discussed above, we find that such waivers should be rare, given our conclusion that a no-disconnect rule will assist low-income subscribers in maintaining access to telecommunications services. We therefore also reject PacTel's proposal to modify the third requirement so that a carrier could obtain a waiver as long as the difference between the national subscribership level and the level in the carrier's service area is no more than three percentage points.

398. Prohibition on Service Deposits. Pursuant to the Joint Board's recommendation and many commenters' urging,¹⁰²⁵ we adopt a rule prohibiting eligible telecommunications carriers from requiring a Lifeline subscriber to pay service deposits in order to initiate service if the subscriber voluntarily elects to receive toll blocking.¹⁰²⁶ We find that eliminating service deposits for Lifeline customers upon their acceptance of toll blocking is consistent with section 254(b) and within our general authority under sections 1, 4(i), 201, and 205 of the Act. Section 201 of the Act gives the Commission authority to regulate common carriers' rates and service offerings, and section 1 directs that the Commission's regulations provide as many people as possible with the ability to obtain telecommunications services at reasonable rates. We find that, because carriers' high service deposits deter subscribership among low-income consumers,¹⁰²⁷ it is within our authority to prohibit carriers from charging service deposits for Lifeline consumers who accept toll blocking. Research suggests that carriers often require customers to pay high service deposits in order to initiate service, particularly when customers have had their service disconnected previously.¹⁰²⁸ Therefore, we prohibit eligible telecommunications carriers from requiring Lifeline service subscribers to pay service deposits in order to initiate service if the subscriber voluntarily chooses to receive toll blocking. As we have stated, universal service support shall be provided so that toll blocking is made available to all Lifeline consumers at no additional charge. During the period of time when carriers incapable of providing toll-limitation services are permitted to upgrade their

¹⁰²⁴ PacTel comments at 30, n.44.

¹⁰²⁵ See, e.g., CNMI comments at 33; DC OPC comments at 1, 3-4; NASUCA comments at 10; New Jersey Advocate comments at 6; SBC comments at 7; TURN comments at 2; Catholic Conference reply comments at 8-9; Georgia PSC reply comments at 20.

¹⁰²⁶ Recommended Decision, 12 FCC Rcd at 305.

¹⁰²⁷ See Recommended Decision, 12 FCC Rcd at 305; NPRM at para. 56.

¹⁰²⁸ NPRM at para. 56 (citing *Subscribership Notice*, 10 FCC Rcd at 13005-06).

switches to become capable of providing such services, however, Lifeline subscribers may be required to pay service deposits.

399. Edgemont and Ohio PUC suggest that Lifeline consumers should receive the benefits of not having to pay service deposits even if they do not accept toll blocking.¹⁰²⁹ We believe that toll blocking should be required, however, because it will significantly reduce the risk of uncollectible toll bills, as DC OPC points out.¹⁰³⁰ Because carriers charge service deposits primarily to guard against uncollectible toll charges,¹⁰³¹ we are requiring consumers to accept toll blocking (which bars the placement of toll calls) in order to benefit from a rule prohibiting service deposits. We emphasize, however, that Lifeline consumers will not be required to accept toll blocking in order to benefit from our rule prohibiting disconnection of local service for non-payment of toll charges, because of the distinct nature of local and long distance service. That is, consumers should not be required to accept toll blocking, which controls long distance charges, in order to retain their local telecommunications service.

400. We disagree with commenters arguing that a rule prohibiting service deposits for Lifeline customers who elect to receive toll blocking will interfere with carriers' legitimate need to protect themselves against uncollectible charges. For example, USTA asserts that "[d]eposit requirements are necessary to protect companies from offering unlimited credit to persons that have demonstrated they cannot or will not handle previously incurred charges."¹⁰³² Neither LECs nor IXC's are required to offer any customer "unlimited credit," however, and our action in this proceeding does not affect any carrier's ability to discontinue providing service to a customer, including a Lifeline customer, who does not pay for the service that carrier has provided.¹⁰³³ Additionally, as the Joint Board reasoned,¹⁰³⁴ consumers' ability to benefit from a rule prohibiting the collection of service deposits is made conditional on their accepting toll blocking, which further protects carriers. USTA argues that "[t]oll blocking may prevent an unpaid balance from increasing, but it provides no incentive for customers to pay outstanding balances."¹⁰³⁵ We have been presented with no evidence,

¹⁰²⁹ Edgemont comments at 2; Ohio PUC comments at 12.

¹⁰³⁰ DC OPC comments at 3.

¹⁰³¹ In most cases, IXC's sell their accounts receivable to ILEC's for billing and collection.

¹⁰³² USTA comments at 33-34.

¹⁰³³ Our rule prohibiting the disconnection of Lifeline service for non-payment of toll charges does not affect this ability. That rule only prohibits carriers from disconnecting *local* Lifeline service as a result of the customer's failure to pay for *toll* charges.

¹⁰³⁴ Recommended Decision, 12 FCC Rcd at 305.

¹⁰³⁵ USTA comments at 33-34.

however, to suggest that a carrier would be less likely to charge service deposits to customers with bad payment histories who have paid their arrearages than to such customers who have not. Thus, it is unclear why allowing carriers to charge service deposits would provide customers with any more incentive to pay outstanding balances.

401. In addition, carriers may protect themselves against consumers' failure to pay local charges by requesting advance payments in the amount of one month's charges, as most ILECs currently do. We would consider an advance-payment requirement exceeding one month to be an improper deposit requirement, however. That is, while carriers could charge one month's advance payment, they may take action against consumers only after such charges have been incurred (through disconnection or collection efforts, for example). Assessing charges on consumers before any overdue payments are owed could make access to telecommunications services prohibitively expensive for low-income consumers.

402. GTE maintains that, if service deposits are reduced or eliminated, LECs should be reimbursed for such reduction because the 1996 Act requires that universal service support should be explicit.¹⁰³⁶ We find, however, that eliminating service deposits will not create an implicit subsidy. As the Joint Board pointed out, service deposits primarily guard against the risk of non-payment of toll charges, which many ILECs bill to customers on behalf of IXCs.¹⁰³⁷ Carriers will be protected against nonpayment for services rendered by the customer's election to receive toll blocking, a precondition to the customer's avoiding a service deposit requirement. Ameritech argues that a service deposit prohibition may be inappropriate in jurisdictions with usage-based local rates.¹⁰³⁸ We are confident, however, that carriers in these jurisdictions will find ways to protect themselves against arrearages, such as through pre-payment and usage-limitation programs.

403. Other Services. In response to the NPRM, some commenters suggest that low-income consumers should receive free access to information about telephone service and that compensation for providing such information should come from support mechanisms.¹⁰³⁹ These commenters appear to be concerned that low-income consumers will be unable to place calls to gain telephone service information if the calls otherwise would be an in-region toll call, or if the state's Lifeline program allows only a limited number of free calls. Similarly, NAD suggests that universal service support mechanisms should provide support so that TTY

¹⁰³⁶ GTE comments at 87-88.

¹⁰³⁷ See Recommended Decision, 12 FCC Rcd at 305.

¹⁰³⁸ Ameritech comments at 16-17.

¹⁰³⁹ See, e.g., CNMI NPRM comments at 19-20; Edgemont NPRM comments at 12; Michigan Consumer Federation NPRM comments at 20.

users can make free relay calls to numbers providing LEC service information.¹⁰⁴⁰ We agree with the Joint Board's recommendation that the states are able to determine, pursuant to section 254(f), whether to require carriers to provide Lifeline customers with free access to information about telephone service.¹⁰⁴¹ The states are most familiar with the number of consumers in their respective states affected by charges for these calls and may impose such a requirement on carriers pursuant to section 254(f) through state universal service support mechanisms. Additionally, we find that the record on free access to telephone service information does not adequately explain how to support access to such information in a competitively neutral way, so that consumers are assured access to such information from all eligible service providers. We agree with the Joint Board that the same concerns militate against providing federal support for low-income consumers with disabilities making relay calls to gain access to LEC service information.¹⁰⁴²

404. We concur with the Joint Board that, given the present structure of residential interexchange rates, the record does not support providing universal service support for usage of interexchange and advanced services for low-income consumers.¹⁰⁴³ We will, however, continue to monitor the interexchange services market to determine whether additional measures are necessary for low-income consumers. We therefore reject Urban League's argument that we provide additional support to ensure that low-income consumers have access to advanced services through telecommunications connections with fax and modem capability.¹⁰⁴⁴ We observe that Lifeline services will be provided by telecommunications carriers that have been certified as eligible for universal service support pursuant to section 214(e). Such carriers will be obligated to provide certain services, including access to interexchange service, to consumers in rural, insular, and high cost areas, and we decline to specify a different level of service for low-income consumers. We also conclude that the steps we take to enable low-income consumers to have access to Lifeline service will increase their ability to obtain advanced services. That is, advanced services generally are obtained through local or interexchange service, and Lifeline service includes access to both. Furthermore, as the Joint Board noted, it is unclear whether providing support for advanced services is necessary at this time.¹⁰⁴⁵ If only low-income consumers lack access to such

¹⁰⁴⁰ NAD NPRM reply comments at 22.

¹⁰⁴¹ Recommended Decision, 12 FCC Rcd at 287.

¹⁰⁴² Recommended Decision, 12 FCC Rcd at 287.

¹⁰⁴³ Recommended Decision, 12 FCC Rcd at 288.

¹⁰⁴⁴ Urban League Comments at 9. *See also* Nat'l Black Caucus comments at 19 (underserved communities should have access to advanced services).

¹⁰⁴⁵ Recommended Decision, 12 FCC Rcd at 288.

services in the future, impeding the achievement of universal service goals, we will revisit this issue.

405. Some commenters disagree with the Joint Board's recommendation that issues relating to special-needs equipment for consumers with disabilities should not be addressed in this proceeding because Congress provided for disabled individuals' access to telecommunications services separately in section 255.¹⁰⁴⁶ We agree with the Joint Board, however, that these matters are best addressed in a proceeding to implement section 255.¹⁰⁴⁷ We observe that we have taken a first step toward the implementation of section 255 with the release of a *Notice of Inquiry* on September 19, 1996 and January 14, 1997.¹⁰⁴⁸ Some parties argue, however, that the section 255 proceeding will not address their concerns about the need for subsidies for specialized customer premises equipment for persons with disabilities, toll-charge parity for TTY users, or subsidies for telecommuting costs for homebound individuals with disabilities.¹⁰⁴⁹ We find, however, that, if Congress had intended to include such support mechanisms within the ambit of section 254, it would have done so in a more explicit manner. Congress specifically identified other categories of users for whom support should be provided pursuant to section 254, such as low-income consumers, consumers in rural, insular, and high cost areas, schools and libraries, and rural health care providers.¹⁰⁵⁰ Similarly, Congress clearly addressed access by disabled individuals in section 255.¹⁰⁵¹ Neither the text nor the legislative history of section 254 indicates that Congress intended for us to create new support mechanisms targeted specifically to individuals with disabilities. We observe, however, that individuals with disabilities will receive support through the programs we adopt today to the extent that they fall within the supported categories that Congress specified in section 254.

¹⁰⁴⁶ See, e.g., NAD comments at 2-5; United Cerebral Palsy Ass'n comments at 3-6; Universal Service Alliance comments at 5-7; Consumer Action reply comments at 3-4 (arguing that consumers with disabilities are among the poorest in the nation).

¹⁰⁴⁷ Recommended Decision, 12 FCC Rcd at 288.

¹⁰⁴⁸ Implementation of Section 255 of the Telecommunications Act of 1996, Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, *Notice of Inquiry*, WT Docket No. 96-198, FCC 96-382 (rel. Sept. 19, 1996); Telecommunications Relay Services, the Americans with Disabilities Act of 1990, and the Telecommunications Act of 1996, *Notice of Inquiry*, CC Docket No. 90-571, FCC 97-7 (rel. Jan. 14, 1997).

¹⁰⁴⁹ See NAD comments at 2-5; United Cerebral Palsy Ass'n comments at 5; National Telecommuting Institute, Inc. *ex parte*. See also Universal Service Alliance comments at 7.

¹⁰⁵⁰ See 47 U.S.C. § 254(b)(3), (6).

¹⁰⁵¹ 47 U.S.C. § 255.

406. Some commenters argue that support should be available to ensure that low-income consumers who lack access to residential service nevertheless have access to telecommunications services.¹⁰⁵² These commenters advocate support for voice mail or other non-residential services for homeless individuals or, alternatively, for community-based groups that provide such services. We adopt the Joint Board's recommendation, however, and conclude that, in the interest of comity and in recognition of their ability to assess the needs of their particular low-income population, states could elect to target their low-income universal service programs to such groups. Federal Lifeline and Link Up programs, however, were designed to make residential service more affordable for low-income consumers, and we decline to change the basic structure of our programs at this time.

407. We generally agree with commenters that argue that low-income subscribership levels might increase if there were more information available to low-income consumers about the existence of assistance programs.¹⁰⁵³ We agree with the Joint Board, however, that the states are in a better position than the Commission to supply such information, particularly given the flexibility states have to target low-income universal service programs to the particular needs of their residents. Furthermore, while we conclude that support from federal universal service support mechanisms will not be given to carriers distributing such information, we note that eligible telecommunications carriers will be required to advertise the availability of, and charges for, Lifeline pursuant to their obligations under section 214(e)(1).¹⁰⁵⁴

E. Implementation of Revised Lifeline and Link Up Programs

408. Although we find that the changes to Lifeline and Link Up we now adopt will make both programs consistent with the Act and our objective of increasing subscribership among low-income consumers, we find that the public interest would not be served by disrupting the existing Lifeline and Link Up services that ILECs currently offer in most areas of the country. We therefore must select a date on which the current Lifeline and Link Up programs will terminate and the new programs begin.

409. Because the new universal service support mechanisms must be in place in order to fund the revised Lifeline and Link Up programs, we conclude that the new Lifeline

¹⁰⁵² See, e.g., Alliance for Community Media comments at 8-9; Catholic Conference comments at 7; Public Advocates comments at 4-7.

¹⁰⁵³ See, e.g., Florida PSC comments at 4; Benton reply comments at 3-5.

¹⁰⁵⁴ 47 U.S.C. § 214(e)(1) provides that eligible telecommunications carriers shall, throughout their service areas, advertise the availability of, and charges for, the services supported by federal universal service support mechanisms.

and Link Up funding mechanisms will commence on January 1, 1998. Additionally, support for toll limitation for Lifeline subscribers shall begin at that same time, because support for this service also should come from the new support mechanisms.