Testimony of Deborah Collier

Citizens Against Government Waste

Before the Senate Commerce, Science, and Transportation Committee

"Addressing the Risk of Fraud, Waste, and Abuse in the FCC's Lifeline Program"

September 6, 2017

Mr. Chairman and members of the Committee. Thank you for the opportunity to speak to you today. My name is Deborah Collier, and I am the technology and telecommunications policy director for Citizens Against Government Waste, a nonpartisan, nonprofit organization dedicated to eliminating waste, fraud, and abuse in government. Citizens Against Government Waste has not received at any time any federal grant and we do not wish to receive any in the future.

Many Americans have heard of the "Obamaphones," made infamous by the viral 2012 video of a Cleveland woman touting the "free" Lifeline program.[1] However, few Americans realize is that Lifeline is part of the Low-Income support program, which was created in 1985 to provide subsidies for low-income households to obtain a telephone enabling them to communicate in emergencies. Following the enactment of the Telecommunications Act of 1996, the Low-Income support program became part of the Universal Service Fund (USF), which is administered by the Universal Service Administrative Company (USAC). Participation in the program is based on eligibility for

[1] Joshua Rhett Miller, "Viral Video Touting Free 'Obama Phone' puts spotlight on federal program, Fox News, September 29, 2012, http://www.foxnews.com/politics/2012/09/28/viral-video-touting-obama-phone-puts-spotlight-on-16-billion-federal-program.html.

one of the following federal or tribal assistance programs: Medicaid; Supplemental Nutrition Assistance Program (Food Stamps or SNAP); Supplemental Security Income; Federal Public Housing Assistance (Section 8); Bureau of Indian Affairs General Assistance; Tribally-Administered Temporary Assistance for Needy Families; Food Distribution Program on Indian Reservations; or Head Start (subject to income eligibility criteria).[2] Over the years, the Lifeline program has evolved from initially providing one landline telephone per household in need, to offering low-income, qualified subscribers a choice between a landline telephone, a wireless phone, or broadband internet service at a reduced cost (with a limit of one per household).

The USF is funded through fees on consumer telephone bills, and is used to support the following four programs: the Schools and Libraries program (also known as E-Rate); the High Cost program, which provides grants to build out telecommunications infrastructure in underserved or unserved areas of the country; the Rural Healthcare program, which provides telecommunications services, including broadband, to eligible health care providers; and, the Low-Income Support program, which includes Lifeline and Link-Up.

In October 2010, the Government Accountability Office (GAO) published a report on the Lifeline and Link-Up programs that showed a significant increase in demand for the program from 2008 to 2009, attributable in part to the increased availability of

[2] "How Lifeline Works," Lifeline Program Overview, Federal Communications Commission, viewed: July 31, 2017, https://www.fcc.gov/consumers/guides/lifeline-support-affordable-communications.

discounted wireless service for eligible individuals.[3] From 2005 to 2008, payments ranged from between $802 million to $823 million annually. However, in 2009, these payments increased to approximately $1 billion.[4]

GAO also revealed multiple instances of fraud and abuse within the program. For example, some recipients were using Craigslist to advertise the sale of Lifeline-subsidized phones and service. In other instances, Lifeline beneficiaries violated the one phone line restriction of the program by signing up for service from multiple carriers. On June 29, 2011, the FCC published final rules to address the fraud and eligibility issues highlighted in the GAO report, by restricting eligible low-income consumers to one Lifeline-supported service at a time and ordering that any subscriber receiving multiple benefits in violation of the rule must be removed from the program.[5]

In remarks before Third Way on January 9, 2012, then-FCC Chairman Julius Genachowski laid out plans to close loopholes in the program's eligibility requirements and strengthen cost controls to further reduce the amount of waste, fraud and abuse.[6] He also suggested expanding the Lifeline program choices to include broadband services,

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[3] "Telecommunications: Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program," U.S. Government Accountability Office, GAO-11-11, October 28, 2010, http://www.gao.gov/assets/320/312708.pdf.

[4] Ibid.

[5] "Federal Communications Commission, Lifeline and Link-up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link-up, Final Rule," Federal Register, Volume 76, Number 125, Federal Communications Commission, June 29, 2011, http://www.gpo.gov/fdsys/pkg/FR-2011-06-29/pdf/2011-16312.pdf.

[6] "FCC Chairman Genachowski Addresses Smart, Responsible Government and Reforms to Modernize the Lifeline Program for Broadband," Remarks before Third Way, Washington, D.C., January 9, 2012, http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0109/DOC-311894A1.pdf.

emphasizing that he believed the current service options were outdated by providing only telephone service.

On January 31, 2012, the FCC approved a report and order ("2012 Reform Order) to reform and modernize the Lifeline and Linkup programs.[7] The rulemaking set a savings target of $200 million for 2012; created the National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same subscriber; created an eligibility database; established a one-per-household rule applicable to all providers in the program; established clear goals and metrics to measure the program's performance and effectiveness; phased out support for certain services, such as toll limitations; and, established a uniform, interim flat rate of reimbursement.

The FCC also began a pilot program for a broadband initiative and proposed transforming the USF High Cost program into the Connect America Fund. According to the FCC, by July 31, 2012, the reforms had generated $43 million in savings, and were on track to save the USF fund a total of $200 million by the end of December 2012.

However, despite the efforts made at the FCC to rein in fraud and abuse within the Lifeline program, some companies offering Lifeline phone services, known as Eligible Telecommunications Carriers (ETCs), found ways to skirt around the agency's new verification system.

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[7] In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Lifeline and Link Up (WC Docket No. 03-109), Federal-State Joint Board on Universal Service (CC Docket No. 96-45), Advancing Broadband Availability Through Digital Literacy Training (WC Docket No. 12-23), Federal Communications Commission, Adopted January 31, 2012, Released February 6, 2012, https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1_Rcd.pdf.

On February 11, 2013, *The Wall Street Journal* reported that government spending on the Lifeline program had reached \$2.2 billion despite the efforts to reduce costs through stronger enforcement measures.[8] The article showed "that a large number of those who received the phones haven't proved they are eligible to receive them."

Lack of accountability in the Lifeline program was described by Charles C.W. Cooke in a March 11, 2013 *National Review* article.[9] Cooke noted that in response to an inquiry by Senator Claire McCaskill (D-Mo.), the FCC confessed that in the 15 years the program had been operational, the agency had yet to build a database of subscribers that could have helped companies avoid adding duplicate recipients to the rolls.[10]

On November 1, 2013, the FCC proposed imposing \$33 million in penalties against three Lifeline providers for seeking duplicate payments for ineligible subscribers.[11]

On February 13, 2015, FCC Commissioner Michael O'Rielly recommended further reforms of the Lifeline program, including a budget with a cap on spending.[12] Noting that GAO's 2010 report also highlighted the lack of a budget cap, Commissioner O'Rielly concluded, "setting a ceiling on reimbursements is a prudent step to protect

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[8] Spencer E. Ante, "Millions Improperly Claimed U.S. Phone Subsidies," *The Wall Street Journal*, February 11, 2013, https://www.wsj.com/news/articles/SB10001424127887323511804578296001368122888.
[9] Charles C.W. Cooke, "Life, Liberty, and a Free Phone," *National Review*, March 11, 2013, https://www.nationalreview.com/magazine/2013-02-19-2300/life-liberty-and-free-phone.
[10] Ibid.
[11] "FCC Proposes Nearly \$33 Million in Penalties Against Lifeline Providers That Sought Duplicate Payments for Ineligible Subscribers," Federal Communications Commission, Press Release, November 1, 2013, https://apps.fcc.gov/edocs_public/attachmatch/DOC-323852A1.pdf.
[12] Michael O'Rielly, Commissioner, "Sound Principles for Lifeline Reform," Federal Communications Commission, February 13, 2015, https://www.fcc.gov/news-events/blog/2015/02/13/sound-principles-lifeline-reform.

ratepayers. Dollars lost to fraud may be returned to the federal government, but not to ratepayers who have already footed the bill." He also recommended maintaining the existing reimbursement rate for broadband; limiting services eligible for support; prohibiting double dipping; improving the targeting of funding to those who really need it, tightening eligibility requirements; requiring a minimum contribution from beneficiaries; making carrier participation voluntary; implementing automatic safeguards against abuse; and, requiring document retention by providers to reduce abuse and fraud.[13]

On March 24, 2015, GAO released another report finding that many of the FCC's 2012 reforms were not working, and the agency needed to do more to address deficiencies within the Lifeline program.[14] GAO found that at its peak in 2012, the Lifeline program served about 18 million households following the introduction of prepaid wireless phone service. Following the 2012 Reform Order, that number was reduced to approximately 12 million households and disbursements in the program declined from $2.2 billion in 2012 to $1.7 billion in 2014 due to the elimination of many ineligible households. However, GAO determined that the FCC lacked an evaluation plan for the data it had gathered from its Lifeline broadband pilot program, and recommended the agency "conduct a program evaluation prior to determine the extent to which the Lifeline program is efficiently and effectively reaching its performance goals

[13] Ibid.
[14] "Telecommunications: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program," U.S. Government Accountability Office, GAO-15-335, March 24, 2015, http://www.gao.gov/assets/670/669209.pdf.

of ensuring the availability of voice service for low-income Americans while minimizing the contribution burden on consumers and businesses."[15]

On June 12, 2015, a *Consumer Reports (CR)* exposé revealed how easy it was to get around the restrictions imposed in the 2012 reforms.[16] *CR* investigators in Oklahoma and Indiana found that in some cases Lifeline plans were registered with forged signatures, assigned to vacant homes, or given to individuals with fake credentials. In Colorado, the *CR* investigators and a Denver news team found that salesmen "routinely accepted fake food stamp cards, including one with 'training card' on it and another clearly printed from an internet file."[17] While the FCC continued to fine carriers and vendors (more than $96 million by the time the *CR* report was filed), the violations continued.

On March 3, 2016, as the FCC considered further expansion of the Lifeline program, Commissioner O'Rielly again called on the agency to put Lifeline on a strict budget to halt its runaway spending to allow for proper alignment with other USF programs, and limit its costs to consumers.[18] Otherwise, Commissioner O'Rielly noted, "the FCC is preparing to expand the size and scope of the Lifeline Program without the necessary inclusion of a hard budget or financial constraints."[19]

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[15] Ibid.
[16] Chris Raymond, "FCC Lifeline Program has a Problem: This subsidized phone program for low-income Americans struggles with abuse," *Consumer Reports*, June 12, 2015, https://www.consumerreports.org/cro/news/2015/06/fcc-lifeline-program-problems/index.htm.
[17] Ibid.
[18] Michael O'Rielly, Commissioner, "Lifeline Reform: Add a Hard Budget," Federal Communications Commission, March 3, 2016, https://www.fcc.gov/news-events/blog/2016/03/03/lifeline-reform-add-hard-budget.
[19] Ibid.

Despite Commissioner O'Rielly's entreaties, on March 31, 2016, the FCC adopted another expansion of the Lifeline program by adding subsidized broadband internet service at the amount of $9.25 per month per eligible household, and increased the annual budget for Lifeline from $1.75 billion to $2.25 billion, without a spending limit or cap.[20] The decision also stripped the ability of states to designate ETCs to administer the USF, and gave that responsibility to the FCC. This provision runs contrary to Section 214 of the Communications Act of 1934, which gave that authority to the states. The FCC also established a National Verifier System to assist in ensuring that only qualified households can participate in the Lifeline program.

In statements prior to the March 31 meeting, Commissioner O'Rielly noted that an expansion of the Lifeline program to broadband internet would cost $750 million.[21] Commissioner Ajit Pai stated, "It's telling that the agency is already spending money in anticipation of getting a greater amount of revenue from the Universal Service Fund … That money is already being spent, and it has to come from somewhere. I would respectfully submit to you that ultimately, it's going to be in the form of a broadband tax."[22]

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[20] Third Report and Order, Further Report and Order, and Order on Reconsideration, In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Telecommunications Carriers Eligible for Universal Service Support (WC Docket No. 09-197), and Connect America Fund (WC Docket No. 10-90), Adopted March 31, 2016, Released April 27, 2016, Federal Communications Commission, https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf.
[21] "Statement of Commissioner Michael O'Rielly on Circulation of Lifeline Expansion Order," Federal Communications Commission, March 8, 2016, http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0308/DOC-338130A1.pdf.
[22] Rudy Takala, "FCC Commissioner: Expect a Broadband Internet Tax," *The Washington Examiner*, March 2, 2016, http://www.washingtonexaminer.com/fcc-commissioner-expect-a-broadband-internet-tax/article/2584747.

On April 7, 2016, the FCC announced it would impose a fine of more than $51 million on Total Call Mobile for overbilling the Lifeline program.[23] According to the FCC, Total Call Mobile had enrolled tens of thousands of duplicate and ineligible customers onto the Lifeline program, with 99.8 percent of Total Call Mobile's enrollment during the fourth quarter of 2014 overriding the NLAD third-party verification system designed to catch duplicate enrollments. Ultimately, Total Call Mobile resolved the enforcement action by settling on a fine of $30 million, after admitting its field agents engaged in "fraudulent practices," and the company lost its authorization to participate in the Lifeline program anywhere in the United States.[24]

Following the verification issues raised by the Total Call Mobile enforcement action, Commissioner Pai contacted the four states that do not utilize the NLAD verification program – California, ,[25] Oregon,[26] Texas,[27] and Vermont [28] – to ask them to review their own processes to prevent fraud.

On May 30, 2017, the GAO released its most recent report to Congress on Lifeline's verification system, detailing the continued need for reform and accountability

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[23] "FCC Charges Total Call Mobile with Overbilling the Lifeline Program, Plans $51 million Fine," Federal Communications Commission, April 7, 2016, https://apps.fcc.gov/edocs_public/attachmatch/DOC-338774A1.pdf.
[24] "Total Call Mobile to Pay $30 Million and End Lifeline Participation to Settle Fraud Investigations," Federal Communications Commission, December 22, 2016, https://apps.fcc.gov/edocs_public/attachmatch/DOC-342666A1.pdf.
[25] Letter from Federal Communications Commissioner Ajit Pai to Mr. Michael Picker, President, California Public Utilities Commission, July 5, 2016, https://apps.fcc.gov/edocs_public/attachmatch/DOC-340181A1.pdf.
[26] Letter from Federal Communications Commissioner Ajit Pai to Ms. Lisa Hardie, Chair, Public Utility Commission of Oregon, July 5, 2016, https://apps.fcc.gov/edocs_public/attachmatch/DOC-340182A1.pdf.
[27] Letter from Federal Communications Commissioner Ajit Pai to Ms. Donna L. Nelson, Chairman, Public Utility Commission of Texas, July 5, 2016, https://apps.fcc.gov/edocs_public/attachmatch/DOC-340181A1.pdf.
[28] Letter from Federal Communications Commissioner Ajit Pai to Mr. Christopher Recchia, Commissioner of the Vermont Public Service Department, July 5, 2016, https://apps.fcc.gov/edocs_public/attachmatch/DOC-340180A1.pdf.

within the Lifeline program.[29] GAO found that the NLAD system, created in 2012, is susceptible to risk of fraud, waste, and abuse, as companies have an incentive to enroll as many subscribers under the program as possible. GAO was unable to confirm 1.2 million individuals of the 3.5 million it reviewed, or 36 percent of the enrollees. As noted in a June 29, 2017 *Washington Post* article, "It is unclear how many ineligible subscribers may be in the remaining pool of 8.9 million subscribers GAO did not study."[30]

CAGW is concerned about the inability of the USAC to coordinate its database with the Social Security Death Master File, and other efforts to reduce vulnerabilities within the system to combat improper payments. GAO noted that the USAC currently uses a "pay-and-chase" model of oversight to check for any noncompliance or improper payments, rather than verifying eligibility for the program at the front end. Without verifying eligibility at the front end, further fraud and abuse of the program will continue.

CAGW supports GAO's recommendation that the USAC conform with GAO's Framework for Managing Fraud Risks in Federal Programs by conducting data matching to "verify key information, including self-reporting data and information necessary to determine eligibility, prior to enrollment to avoid the 'pay-and-chase' approach to risk management, which is typically a less cost-effective use of resources."[31] GAO also noted that states play a role in helping to verify eligibility, however, information sharing

[29] "Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program," U.S. Government Accountability Office, GAO-17-538, May 30, 2017, http://www.gao.gov/assets/690/684974.pdf.
[30] Brian Fung, "This low-cost phone and Internet program wastes millions in federal funding, auditors say," *The Washington Post*, June 29, 2017, https://www.washingtonpost.com/news/the-switch/wp/2017/06/29/critics-say-this-low-cost-phone-and-internet-program-is-riddled-with-waste-and-abuse-theyre-right/?utm_term=.17e3a76b9e30.
[31] GAO-17-538, p. 25.

between the states and the federal government will require data-sharing agreements to enable an automated eligibility confirmation process, which may be prohibited by some state privacy laws.[32]

On July 11, 2017, FCC Chairman Pai wrote to the USAC ordering it to take action to address the myriad of problems found in the GAO report, his own investigations, and those of the FCC Office of Inspector General. He called upon the USAC to address the deficiencies in the NLAD system; identify and refer oversubscribed addresses to NLAD; identify and ask eligible telecommunications carriers with unexplained discrepancies in subscribers to take action to remediate the issues; check the Social Security Death Master File each quarter to avoid recertifying individuals into the program who have passed away, and recover Lifeline payments associated with those deceased subscribers; identify and remediate new exact duplicate subscriber entries; and, create a registration of sales agents to help reduce fraudulent activities, such as inappropriate data manipulation.[33]

Continued fraud and abuse within the Lifeline program has continued despite efforts to reform the verification process in 2012 and again in 2015. If Congress intends for the Lifeline program to continue and be sustainable in the future, CAGW strongly recommends that the USAC be required to implement a front end verification process,

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[32] Ibid, p. 26.

[33] Letter from Federal Communications Commission Chairman Ajit Pai to Ms. Vickie Robinson, Acting Chief Executive Officer and General Counsel, Universal Service Administrative Company regarding his findings from his internal investigations, the FCC's Office of Inspector General Findings and the recent GAO report on waste, fraud, and abuse within the Lifeline Program, Federal Communications Commission, July 11, 2017, http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0711/DOC-345729A1.pdf.

and the FCC engage in more stringent enforcement actions against companies that actively register ineligible or duplicate recipients into the program, and skirt around the verification process.

I appreciate the committee's review of the Lifeline program, and hope that my testimony will help eliminate waste, fraud, and abuse.

Again, thank you for the opportunity to testify.

Deborah S. Collier
Director of Technology and Telecommunications Policy
Citizens Against Government Waste

Deborah S. Collier is the technology and telecommunications policy director for Citizens Against Government Waste (CAGW). She specializes in information technology (IT) and telecommunications policy including cloud computing, IT procurement, information security, data privacy, broadband spectrum allocations, network neutrality, cable industry issues, e-commerce, and emerging technologies.

Since joining CAGW in July 2011, Ms. Collier has authored numerous educational issue briefs; articles and blogs on technology and telecommunications policy, including three reports relating to cloud computing; and a report on the development of government mobile apps. In 2014, Ms. Collier joined with CAGW President Tom Schatz in co-authoring "Telecom Unplugged: Ushering in a New Digital Era." In November 2014, CAGW released a report she co-authored with Mr. Schatz entitled "Intellectual Property: Making It Personal." She has been a guest on radio and television news programs to discuss internet taxes, Title II reclassification of the internet, IT procurement reform, and other technology related issues.

Prior to her work at CAGW, Ms. Collier spent 24 years on Capitol Hill working in IT and legislative arenas. From 1986 to 1992, she worked for Rep. Clarence Miller (R-Ohio) as a caseworker, legislative aide, and system administrator. In 1993, she joined the staff of Rep. Steve Buyer (R-Ind.) as his director of information technology. From 2005 to 2010, she served on the House Committee on Veterans' Affairs as the Republican Legislative Director. Ms. Collier was a member of the House Systems Administrators Association, a congressional staff organization dedicated to improving information technology systems in Member offices, from 1989 until 2005; and served as the organization's president from 2002 to 2005.

Ms. Collier holds a Bachelor of Arts (AB) degree in History from Ohio University.