

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Telecommunications Carriers Eligible for
Universal Service Support
Petitions for Designation as a Lifeline Broadband
Provider
WC Docket No. 09-197
WC Docket No. 11-42

ORDER

Adopted: January 18, 2017

Released: January 18, 2017

By the Acting Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) conditionally designates Applied Research Designs, Inc. (AR Designs), Kajeet Inc. (Kajeet), Liberty Cablevision of Puerto Rico, LLC (Liberty), Northland Cable Television, Inc. (Northland Cable), and Wabash Independent Networks, Inc. (WIN) (collectively, Petitioners) as Lifeline Broadband Providers (LBPs), eligible to receive Lifeline Broadband Internet Access Service (BIAS) support solely in the designated service areas described in each respective petition.

II. BACKGROUND

A. Requirements for LBP Designation

2. The Commission has established a framework for federally designating LBPs that will be eligible for reimbursement through the Lifeline program for qualifying BIAS provided to eligible low-

1 See Petition of Applied Research Designs, Inc. for Streamlined Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Nov. 30, 2016) (AR Designs Petition); Letter from James M. Smith, Counsel, AR Designs, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-197 (filed Jan. 11, 2017) (AR Designs Ex Parte); Petition of Kajeet, Inc. for Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Nov. 1, 2016) (Kajeet Petition); Petition of Kajeet Inc. for Streamlined Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Oct. 11, 2016); Letter from Patrick R. Halley, Counsel, Kajeet Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-197 (filed Dec. 14, 2016) (Kajeet Ex Parte); Petition of Liberty Cablevision of Puerto Rico, LLC for Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Dec. 8, 2016) (Liberty Petition); Letter from Danielle Frappier, Counsel, Liberty, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-197 (filed Jan. 11, 2017) (Liberty Ex Parte); Petition of Northland Cable Television, Inc. for Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Dec. 14, 2016) (Northland Cable Petition); Petition of Wabash Independent Networks, Inc. for Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Dec. 12, 2016) (WIN Petition). At this time, all completed petitions for LBP designation received since the effective date of the 2016 Lifeline Modernization Order and not addressed in this Order or any prior Lifeline Broadband Provider designation order remain pending. The Bureau continues to evaluate all such completed petitions carefully, and is maintaining a list online showing each LBP petition received and its processing status at https://www.fcc.gov/lifeline-broadband-provider-petitions-public-comment-periods (last visited Jan. 13, 2017).

income consumers.<sup>2</sup> A provider seeking designation as an LBP must meet the requirements for designation as an LBP established in section 214(e) of the Act and the accompanying sections of the Commission's rules, including: (1) a description of how the petitioner advertises the availability of the supported services and the charges therefor using media of general distribution; (2) a detailed description of the geographic service area for which it requests to be designated as an LBP from the Commission; and (3) a certification that neither the petitioner nor any party to the application is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.<sup>3</sup>

3. In addition, the Commission's rules require that in order to be designated as an LBP, an applicant must: (1) certify that it will comply with the service requirements applicable to the support that it receives, including any applicable minimum service standards;<sup>4</sup> (2) demonstrate its ability to remain functional in emergency situations;<sup>5</sup> (3) demonstrate that it will satisfy applicable consumer protection and service quality standards;<sup>6</sup> (4) demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of Part 54 of the Commission's rules;<sup>7</sup> and (5) describe the terms and conditions of the BIAS plans it will offer to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each plan.<sup>8</sup> Prior to designating an LBP pursuant to section 214(e)(6), the Bureau must determine whether such designation is in the public interest.<sup>9</sup>

## B. Petitions

4. *AR Designs Petition.* AR Designs filed its petition seeking designation as an LBP, eligible to receive universal service Lifeline BIAS support for its service area in Illinois—specifically, to provide Lifeline-supported BIAS in the mixed-income housing development of Oakwood Shores (ZIP codes 60653, 60615, and 60637).<sup>10</sup> AR Designs states that it is a fixed wireless internet service provider.<sup>11</sup> AR Designs provides last-mile BIAS delivery using digital microwave/millimeter wave technologies and a network partnership agreement with Windstream.<sup>12</sup> AR Designs' broadband offering will provide 300 Mbps/150 Mbps fixed BIAS service with no data limit at no cost to the consumer after

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<sup>2</sup> See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4040-68, paras. 217-89 (2016) (*2016 Lifeline Modernization Order*). Unless noted otherwise, all citations to the Lifeline program rules contained in this Order will refer to the rules as amended by the *2016 Lifeline Modernization Order*.

<sup>3</sup> See *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066-67, para. 283-84 (citing 47 U.S.C. § 214(e), 47 CFR §§ 1.2002, 54.201, 54.202).

<sup>4</sup> See 47 CFR § 54.202(a)(1)(i); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282; Wireline Competition Bureau Provides Guidance Regarding Designation as a Lifeline Broadband Provider and Lifeline Broadband Minimum Service Standards, Public Notice, DA 16-1118, para. 10 (2016) (*LBP Public Notice*).

<sup>5</sup> See 47 CFR § 54.202(a)(2); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282; *LBP Public Notice* at para. 10.

<sup>6</sup> See 47 CFR § 54.202(a)(3); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282; *LBP Public Notice* at para. 10.

<sup>7</sup> See 47 CFR § 54.202(a)(4); *LBP Public Notice*, at para. 10.

<sup>8</sup> See 47 CFR § 54.202(a)(6).

<sup>9</sup> See *2016 Lifeline Modernization Order* 31 FCC Rcd at 4066-67, para. 283-84 (citing 47 U.S.C. § 214, 47 CFR § 54.202).

<sup>10</sup> AR Designs Petition at 1-3.

<sup>11</sup> *Id.* at 9.

<sup>12</sup> *Id.*

applying the Lifeline discount.<sup>13</sup> AR Designs maintains that it satisfies all the statutory and regulatory requirements for designation as an LBP.<sup>14</sup>

5. *Kajeet Petition.* Kajeet filed its petition seeking designation as an LBP, eligible to receive universal service Lifeline BIAS support for the service areas as defined in its petition.<sup>15</sup> Kajeet states that it is a Delaware C Corporation and announced no other affiliated entities.<sup>16</sup> Kajeet stated it will utilize the operating divisions of Kajeet Education Division and Arterra Mobility Division to provision Lifeline-supported BIAS service.<sup>17</sup> Kajeet has been in operation since 2003, focusing on connectivity services in the K-12 BIAS education market since 2012.<sup>18</sup> Kajeet's Educational Broadband program provides service to 250 schools across 40 states for tens of thousands of students.<sup>19</sup> As a mobile virtual network operator (MVNO), Kajeet utilizes the networks of Verizon and Sprint to provision BIAS.<sup>20</sup> Kajeet will offer mobile BIAS plans of 6 GB of 4G LTE data per month to Lifeline-eligible participants in their Education Lifeline product through partnerships with member schools at no cost after the Lifeline discount.<sup>21</sup> The Educational Lifeline product offers carrier-certified SmartSpot devices, which are 4G LTE mobile hotspots that allow mobile BIAS access capable of connecting with all Wi-Fi enabled devices.<sup>22</sup> Kajeet's general Lifeline offering will provide 500 MB of 4G LTE data per month at no cost after the Lifeline discount with the purchase of a Kajeet SmartSpot device.<sup>23</sup> Kajeet maintains that it satisfies all the statutory and regulatory requirements for designation as an LBP.<sup>24</sup>

6. *Liberty Petition.* Liberty filed its petition seeking designation as an LBP, eligible to receive universal service Lifeline BIAS support for its service area in Puerto Rico.<sup>25</sup> Liberty is a facilities-based cable operator in Puerto Rico and is a subsidiary of Liberty Global, Inc.<sup>26</sup> Liberty currently offers video, BIAS, and digital telephony services.<sup>27</sup> Liberty's Lifeline offering will provide 10 Mbps/1 Mbps fixed BIAS with a 150 GB monthly data usage limit at a cost of \$29.99 to Lifeline eligible

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<sup>13</sup> *Id.* at 11; AR Designs Ex Parte.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> Kajeet Petition at 1, 12, Exhibit. Kajeet has defined its designated service area as all 50 states as well as the District of Columbia, Puerto Rico, and the United States Virgin Islands, exclusive of Tribal Lands.

<sup>16</sup> *Id.* at 2.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 6.

<sup>20</sup> *Id.* at 2, 12.

<sup>21</sup> *Id.* at 10; Kajeet Ex Parte at 1-2.

<sup>22</sup> Kajeet Petition at 2-3.

<sup>23</sup> *Id.*

<sup>24</sup> Kajeet Petition at 2, 6, 7.

<sup>25</sup> Liberty Petition at 1. Specifically, Liberty seeks designation to serve all ZIP codes in Puerto Rico except: 00775 (Culbera); 00606 (Maricao); and, 00765 (Vieques).

<sup>26</sup> *Id.* at 3. Liberty states that Liberty Global owns 60% of Liberty Cablevision of Puerto Rico.

<sup>27</sup> *Id.*

subscribers.<sup>28</sup> Liberty maintains that it satisfies all the statutory and regulatory requirements for designation as an LBP.<sup>29</sup>

7. *Northland Cable Petition.* Northland Cable filed its petition seeking designation as an LBP, eligible to receive universal service Lifeline BIAS support for the service area defined in its petition.<sup>30</sup> Northland Cable states that it is a facilities-based cable provider.<sup>31</sup> Northland Cable currently offers video, digital telephony service, and BIAS to 55,000 subscribers.<sup>32</sup> Northland Cable will apply the Lifeline discount for eligible subscribers to the fixed BIAS plans it currently offers to all subscribers.<sup>33</sup> For example, Northland Cable currently offers a fixed BIAS plan with no monthly usage limit at speeds of 12 Mbps/1 Mbps for \$29.99 per month.<sup>34</sup> Northland Cable maintains that it satisfies all the statutory and regulatory requirements for designation as an LBP.<sup>35</sup>

8. *WIN Petition.* WIN filed its petition seeking designation as an LBP, eligible to receive universal service Lifeline BIAS support for its service area in Illinois.<sup>36</sup> WIN states that it is a wholly-owned subsidiary of Wabash Telephone Cooperative, Inc. which serves nine exchanges in South Central Illinois.<sup>37</sup> WIN currently offers video and BIAS to 3,000 subscribers.<sup>38</sup> WIN will apply the Lifeline discount for eligible subscribers to the fixed BIAS plans it currently offers to all subscribers.<sup>39</sup> For example, WIN currently offers three fixed BIAS plans with no monthly usage limit: (1) 25 Mbps/1 Mbps for \$35 per month; (2) 50 Mbps/1 Mbps for \$55 per month; and, (3) 75 Mbps/10 Mbps for \$85 per month. WIN maintains that it satisfies all the statutory and regulatory requirements for designation as an LBP.<sup>40</sup>

### III. DISCUSSION

9. As discussed below, we find that the Petitioners have satisfied the Commission's requirements to be designated as LBPs, eligible only to receive Lifeline BIAS support pursuant to the terms of this Order, and there is no contradictory evidence available to us raising concern as to whether any of these Petitioners will fail to meet its obligations under the Act, Commission rules, this Order, and the representations and commitments made in each respective Petition. Pursuant to the LBP requirements and the Commission's authority to revoke designations in the case of non-compliance with the Act,

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<sup>28</sup> Liberty Ex Parte at 1-2. Liberty explains the monthly fee for the service will be \$45 reduced by the Lifeline benefit of \$9.25 and a company credit of \$5.76 resulting in a \$29.99 cost to eligible subscribers. *Id.*

<sup>29</sup> Liberty Petition at 2.

<sup>30</sup> Northland Cable Petition at 1-2, exhibit A. Northland Cable has defined its designated service area in the following 8 states: Alabama, California, Georgia, Idaho, North Carolina, South Carolina, Texas, and Washington. *Id.* at Exhibit A

<sup>31</sup> *Id.* at 2.

<sup>32</sup> *Id.* at 3, 6.

<sup>33</sup> *Id.* at 7.

<sup>34</sup> *Id.* at 7-8; see Northland, *High-Speed Internet Service*, <https://youmorthland.com/aliceville/internet/> (last visited Jan. 11, 2017).

<sup>35</sup> *Id.* at 2.

<sup>36</sup> WIN Petition at 1. Specifically, WIN seeks designation to serve 430 census blocks located in Illinois. *Id.* at 1, Attachment A.

<sup>37</sup> *Id.* at 2.

<sup>38</sup> *Id.* at 3, 6.

<sup>39</sup> *Id.* at 7.

<sup>40</sup> *Id.* at 2.

Commission rules, or the order granting designation,<sup>41</sup> Petitioners must comply with sections 214(e) and 254 of the Act, accompanying Commission's rules, and the representations and commitments made in their petitions, as set forth in this Order.

**A. Obligations of Federally Designated LBPs**

10. *Offering the Supported Services.* In the *2016 Lifeline Modernization Order*, the Commission determined that providers seeking designation as an LBP are not required to provide the supported service using their own facilities.<sup>42</sup> Accordingly, LBPs are able to offer Lifeline-supported BIAS using their own facilities or through the resale of another carrier's facilities.<sup>43</sup> Liberty, Northland Cable, and WIN certify they will offer Lifeline-supported BIAS through their own facilities.<sup>44</sup> AR Designs certifies that it will offer Lifeline-supported BIAS through a combination of its own facilities and the resale of another carrier's facilities.<sup>45</sup> Kajeet certifies it will offer Lifeline-supported BIAS through the resale of another carrier's facilities.<sup>46</sup>

11. *Compliance with Applicable Service Requirements.* Consistent with the Commission's rules,<sup>47</sup> Petitioners have certified that they will comply with all service requirements applicable to the support they receive, including any applicable minimum service standards.<sup>48</sup> This, coupled with the lack of any contrary evidence, persuades us that Petitioners have demonstrated their commitment to comply with the Commission's Lifeline rules.

12. *Ability to Remain Functional in Emergency Situations.* Applicants for LBP designation must demonstrate their ability to remain functional in emergency situations.<sup>49</sup> Petitioners state that they and their underlying carriers have the ability to remain functional in emergency situations, have back-up power sufficient to ensure full functionality in the event of a loss of power or network functionality, and operate using redundant servers, each with redundant data network and power.<sup>50</sup> We find that the Petitioners have demonstrated their ability to remain functional in emergency situations.

13. *Satisfaction of Applicable Consumer Protection and Service Quality Standards.* Applicants for LBP designation must demonstrate that they will satisfy applicable consumer protection and service quality standards.<sup>51</sup> AR Designs and Kajeet have committed to providing applicable consumer protection and service quality standards by committing to abide by the CTIA Consumer Code for Wireless Service, which the *2016 Lifeline Modernization Order* expressly recognizes as a means of

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<sup>41</sup> 47 U.S.C. § 214.

<sup>42</sup> *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066-67, para. 283 & n.739.

<sup>43</sup> *Id.*

<sup>44</sup> Liberty Petition at 2; WIN Petition at 2-3, 6-7; Northland Cable Petition at 2.

<sup>45</sup> AR Designs Petition at 9-10.

<sup>46</sup> Kajeet Petition at 11.

<sup>47</sup> 47 CFR §§ 54.202(a)(1)(i), 54.408(c); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282; *LBP Public Notice*, at para. 10.

<sup>48</sup> AR Designs Petition at 8; Kajeet Petition at 7; Liberty Petition at 4-5; Northland Cable Petition at 5-6; WIN Petition at 3-4.

<sup>49</sup> 47 CFR § 54.202(a)(2); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282; *LBP Public Notice*, at para. 10.

<sup>50</sup> AR Designs Petition at 7; Kajeet Petition at 7-8; Liberty Petition at 5; Northland Cable Petition at 6; WIN Petition at 4.

<sup>51</sup> 47 CFR § 54.202(a)(3); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066, para. 282; *LBP Public Notice* at para. 10.

meeting these standards.<sup>52</sup> Additionally, Liberty, Northland Cable, and WIN have committed to abiding by all applicable state and federal consumer protection and service quality standards, including specific obligations under the Communications Act and its implementing rules.<sup>53</sup> Accordingly, we find that the Petitioners have demonstrated they will satisfy the applicable consumer protection and service quality standards.

14. *Financial and Technical Capability.* Applicants for LBP designation must demonstrate that they are financially and technically capable of providing Lifeline-supported services.<sup>54</sup> AR Designs states that it has provided BIAS since 2004 and currently serves more than 1,800 subscribers.<sup>55</sup> Additionally, the company, in partnership with Windstream, has deployed a carrier-grade fixed wireless BIAS network.<sup>56</sup> Further, AR Designs have been vetted and certified by the State of Illinois as a Minority Business Enterprise and the National Minority Supplier Development Council.<sup>57</sup> These certifications demonstrate financial and technical capability of the company, and allow AR Designs to enter into contractual relationships with local governments.<sup>58</sup> AR Designs states that it serves over 1,000 non-Lifeline BIAS subscribers and has provided “uninterrupted, reliable Internet access service without the benefit of Lifeline funding” during a 12-year period.<sup>59</sup> As a result, we find that AR Designs has demonstrated that it is financially and technically capable of providing Lifeline-supported services.

15. Kajeet states that it was founded in 2003, and has provided student Internet connectivity over the past thirteen years.<sup>60</sup> Additionally, the company has focused on the K-12 broadband education market since 2012.<sup>61</sup> The company’s reliance on the network of its underlying carrier ensures the company is technically capable of providing Lifeline BIAS service.<sup>62</sup> Kajeet states that it serves as least 1,000 non-Lifeline BIAS customers, receiving substantial net income from its 250 school partnerships serving tens of thousands of students.<sup>63</sup> As a result, we find that Kajeet has demonstrated that it is financially and technically capable of providing Lifeline-supported service.

16. Liberty states that it has provided BIAS since 2001 and currently serves 323,400 BIAS subscribers.<sup>64</sup> Additionally, Liberty’s network consists of 3,000 miles of fiber and 8,900 miles of coaxial

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<sup>52</sup> 2016 Lifeline Modernization Order, 31 FCC Rcd at 4066, para. 282, n.732; AR Designs Petition at 8; Kajeet Petition at 8; CTIA, Consumer Code for Wireless Service, <http://www.ctia.org/policy-initiatives/voluntary-guidelines/consumer-code-for-wireless-service> (last visited Nov. 1, 2016). We note that this commitment includes adherence to any future versions of the CTIA Consumer Code for Wireless Service.

<sup>53</sup> Liberty Petition at 5-6; WIN Petition at 4; Northland Cable Petition at 5.

<sup>54</sup> 47 CFR § 54.202(a)(4); *LBP Public Notice* at para. 10.

<sup>55</sup> AR Designs Petition at 9-10.

<sup>56</sup> *Id.*; see *LBP Public Notice*, at para. 10.

<sup>57</sup> AR Designs Petition at 9-10.

<sup>58</sup> *Id.* at 10.

<sup>59</sup> AR Designs Petition at 8.

<sup>60</sup> Kajeet Petition at 2.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 9-10; see *LBP Public Notice*, at para. 10 (“...the petitioner’s arrangements to offer BIAS over another entity’s network.”).

<sup>63</sup> Kajeet Petition at 6.

<sup>64</sup> Liberty Petition at 6.

cable passing 1,085,800 homes and serving 789,200 revenue-generating units.<sup>65</sup> Liberty states the company has annually invested \$20 million to expand and increase network capacity and \$3 million in network and maintenance repairs.<sup>66</sup> As of September 30, 2016, Liberty had \$50.6 million of cash and equivalents. Liberty does not state any reliance on USF disbursements, and certifies that the operations of the company provide the “primary sources of liquidity.”<sup>67</sup> As a result, we find that Liberty has demonstrated that it is financially and technically capable of providing Lifeline-supported services.

17. Northland Cable has provided cable television and related telecommunication services since 1986.<sup>68</sup> Northland Cable states it has provided facilities-based BIAS service since 2002 in rural areas and smaller cities throughout its service territories in eight states.<sup>69</sup> Northland Cables provides BIAS to 55,000 subscribers, generating sufficient revenues to sustain its operations.<sup>70</sup> Northland Cable currently receives USF disbursements from the E-Rate and Rural Healthcare Programs.<sup>71</sup> Additionally, Northland Cable estimates that between 18% and 25% of its homes passed receive Supplemental Nutrition Assistance Program benefits and are therefore eligible to participate in the Lifeline program.<sup>72</sup> Northland Cable states its experience in providing telecommunication services to rural communities and prior experience with the USF make it uniquely qualified and prepared to offer Lifeline services.<sup>73</sup> As a result, we find that Northland Cable has demonstrated that it is financially and technically capable of providing Lifeline-supported services.

18. WIN has provided BIAS since 1995 and currently serves 3,000 subscribers.<sup>74</sup> In addition to twenty years of experience providing telecommunications services, WIN is a wholly-owned subsidiary of Wabash Telephone Cooperative, which has provided service for sixty-five years.<sup>75</sup> WIN operates its own facilities-based fiber and coaxial network.<sup>76</sup> WIN certifies that it does not rely on USF disbursements, and generates sufficient revenues to sustain its operations.<sup>77</sup> As a result, we find that WIN has demonstrated that it is financially and technically capable of providing Lifeline-supported services.

19. *Information Regarding the Terms and Conditions of Lifeline Plans.* Applicants for LBP designation must describe the terms and conditions of the BIAS plans it will offer to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each plan.<sup>78</sup> As summarized above in Section II.B, each petitioner has provided the required information in its petitions.<sup>79</sup> Accordingly, we find that the Petitioners adequately described

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<sup>65</sup> *Id.* Liberty explains that the revenue generating units consist of 323,400 BIAS subscribers, 260,600 video subscribers, and 205,200 fixed-line telephony subscribers. *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> Northland Cable Petition at 7.

<sup>69</sup> *Id.* at 3.

<sup>70</sup> *Id.* at 3, 7.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 3.

<sup>73</sup> *Id.* at 7.

<sup>74</sup> WIN Petition at 6.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> 47 CFR § 54.202(a)(6).

<sup>79</sup> *See supra* Section II.B. Petitions, paras. 4-8.

their service respective offerings.<sup>80</sup>

20. These service offerings provide subscribers with a choice of BIAS plans ranging in speeds, usage allotments, and additional services at multiple price points.<sup>81</sup> Importantly, the Petitioners offer plans that meet or exceed the Lifeline minimum service standards set forth in section 54.408 of the Commission's rules.<sup>82</sup> The Petitioners' commitments to offer service plans that meet, and in some cases exceed, the minimum service standards demonstrate the ability to offer qualifying Lifeline service plans. These commitments will increase the diversity in Lifeline service plans and allow subscribers increased choice in selecting a plan that meets their needs. Accordingly, we find that the Petitioners offer qualifying Lifeline service plans.<sup>83</sup>

21. *Advertising Supported Services.* Applicants for LBP designation must advertise the availability of the supported services and the charges in a manner reasonably designed to reach Lifeline-eligible subscribers and provide a description of how they will do so.<sup>84</sup> Additionally, Commission rules require ETCs to explain in their marketing materials that (1) Lifeline service is a government benefit, (2) the household must be eligible to receive the benefit, and (3) the household may receive no more than one benefit at a time from the program.<sup>85</sup> The Petitioners have committed to advertise the availability of the supported services using media of general distribution.<sup>86</sup> Petitioners have also committed to advertising and promoting the availability of Lifeline services in a manner reasonably designed to reach those likely to qualify for Lifeline.<sup>87</sup> We accordingly find that Petitioners have demonstrated their commitment to comply with the Commission rules regarding marketing of Lifeline service.

22. *Anti-Drug Abuse Act Certification.* Applicants for LBP designation must provide a certification that neither the Petitioner nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.<sup>88</sup> The Petitioners have each provided a certification consistent with the requirements of the Anti-Drug Abuse Act of 1988.<sup>89</sup> Petitioners' certifications satisfy the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001–1.2002 of the Commission's rules.

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<sup>80</sup> AR Designs Petition at 11; AR Designs Ex Parte at 1-2; Kajeet Petition at 3-5, 10; Kajeet Ex Parte at 1-2; Liberty Petition at 5-7; Northland Cable Petition at 7-8; WIN Petition at 7.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*; see also 47 CFR § 54.408.

<sup>83</sup> We note that each Petitioner must continue to comply with any future additions to or amendments of the Lifeline program rules unless it has relinquished its relevant designation(s) pursuant to section 214(e)(4) of the Act. For example, LBPs must continue to offer plans that include qualifying BIAS throughout their designated service areas even as the minimum service standards for qualifying BIAS are updated annually. 54 CFR § 54.408(c); *LBP Public Notice*, at para. 10.

<sup>84</sup> 47 U.S.C. § 214(e)(1)(B); 47 CFR §§ 54.201(d), 54.405(b); *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4093-94, paras. 362-65.

<sup>85</sup> 47 CFR § 54.405.

<sup>86</sup> AR Designs Petition at 12-13; Kajeet Petition at 11-12; Liberty Petition at 7-8; Northland Cable Petition at 8; WIN Petition at 4.

<sup>87</sup> *Id.*

<sup>88</sup> *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4066-67, para. 283-84; *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 12 FCC Rcd 22947, 22949, para. 5 (citing 47 CFR § 1.2002(a) and 21 U.S.C. § 862).

<sup>89</sup> AR Designs Petition at 15; Kajeet Petition at 14; Liberty Petition at 9; Northland Cable Petition at 10; WIN Petition at 11.



23. *Public Interest Analysis.* Prior to designating an LBP, the Bureau must determine whether such a designation is in the public interest.<sup>90</sup> Among other things, Petitioners maintain that granting their respective petitions for designation as LBPs is in the public interest because their service offerings will increase consumer choice and competition, provide customers higher quality services and lower prices, and provide consumers flexibility among plan options.<sup>91</sup> Based on the record before us, we find that Petitioners' service offerings are likely to provide a variety of benefits to Lifeline-eligible consumers, including increased consumer choice, affordable access to the Internet, qualifying BIAS plans, mobility, and strong protections against waste, fraud, and abuse.

24. In determining whether the Bureau should grant a petition for LBP designation, the Bureau should consider the unique "advantages and disadvantages of the applicant's service offerings."<sup>92</sup> The Petitioners certify that they will offer Lifeline subscribers a number of BIAS offerings, several of which exceed the Lifeline minimum service standards.<sup>93</sup> These commitments will increase the diversity in Lifeline service plans and allow subscribers increased choice in selecting a plan that meets their needs. The subscribers' ability to choose from a number of competitive service offerings from a single provider or across the Lifeline marketplace furthers the universal service goals of the program.

25. We also find it in the public interest to designate providers with offerings that will help combat waste, fraud, and abuse in the Lifeline program. The Bureau's review of the record before us revealed no pending significant enforcement matter, investigation, or other regulatory action concerning the named Petitioners' compliance with applicable Lifeline laws, rules, or other regulatory guidance.<sup>94</sup> As such, we find that the Petitioners' compliance history promotes the public interest by safeguarding the Fund from potential waste, fraud, and abuse.

26. *Designated Service Areas.* Based on the record before us, we conditionally designate the Petitioners in their requested service areas as described above<sup>95</sup> and specifically detailed in their petitions.<sup>96</sup> We condition these designations on the Petitioners providing the Universal Service Administrative Company (USAC) their service area descriptions in a reasonable format determined by USAC to enable appropriate administration of the Fund. Petitioners shall provide this information within

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<sup>90</sup> 47 U.S.C. § 214(e)(6); 47 CFR § 54.202(b).

<sup>91</sup> AR Designs Petition at 13-14; Kajeet Petition at 14-15; Liberty Petition at 9; Northland Cable Petition at 9-10; WIN Petition at 9-10.

<sup>92</sup> *Petition of Buffalo-Lake Erie Wireless Systems Co. LLC d/b/a Blue Wireless for Designation as a Low-Income Eligible Telecommunications Carrier in the State of New York et al.*, Order, 29 FCC Rcd 14393, 14396, para. 7 (2014); *Virgin Mobile USA, L.P. Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama et al.*, Order, 25 FCC Rcd 17797, 17799, 17804, paras. 6, 17 (2010); *TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al.*, Order, 23 FCC Rcd 6206, 6213 n.47 (2008).

<sup>93</sup> AR Designs Petition at 11; AR Designs Ex Parte at 1-2; Kajeet Petition at 3-5, 10; Kajeet Ex Parte at 1-2; Liberty Petition at 5-7; Northland Cable Petition at 7-8; WIN Petition at 7.

<sup>94</sup> The Bureau notes Kajeet has previously entered into a consent decree to resolve a prior notice of apparent liability concerning failure to contribute to the Universal Service Fund (USF), the Telecommunications Relay Service (TRS) fund, and Local Number Portability (LNP) cost recovery mechanism. *See In the Matter of Kajeet, Inc. and Kajeet/Airlink LLC*, Order and Consent Decree, 30 FCC Rcd 10608 (EB 2015). The Bureau is satisfied that the underlying violation, consent decree, and compliance plan have been sufficiently resolved and Kajeet has accepted responsibility for the alleged violations. At the time of designation, Kajeet has timely met its payment obligations and compliance filings. Accordingly, this now-resolved violation does not significantly impact Kajeet's ability to comply with the applicable Lifeline laws, rules, and regulatory requirements.

<sup>95</sup> *See supra* Section II.B (listing the requested states and territories).

<sup>96</sup> AR Designs Petition at 1; Kajeet Petition at 12-13, Exhibit; Liberty Petition at 1; Northland Cable Petition at 2, Exhibit A; WIN Petition at 7, Attachment A;

60 days of the release of this Order. Additionally, we condition this designation on the Petitioners filing a notice with the appropriate state Lifeline regulator that the Petitioners have received an LBP designation to operate within the state.

### **B. Regulatory Oversight**

27. Under section 254(e) of the Act, the Petitioners are required to use the specific universal service support it receives “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”<sup>97</sup> An LBP receiving Lifeline support uses that support as intended when it reduces the price of its BIAS offering by the amount of the Lifeline support for the eligible consumer.<sup>98</sup> In providing Lifeline services pursuant to the conditional LBP designations granted herein, the Petitioners must comply with the measures described in their filings and the Commission’s rules and orders. We find that reliance on the Petitioners’ commitments to meet these requirements are reasonable and consistent with the public interest and the Act.

28. Finally, we note that the Commission may institute an inquiry on its own motion to examine the Petitioners’ records and documentation to ensure that the universal service support they receive is being used for the purpose for which it was intended.<sup>99</sup> The Petitioners are required to provide such records and documentation to the Commission or USAC upon request. We further emphasize that, if the Petitioners fail to fulfill the requirements of the Act, the Commission’s rules, or the terms of this Order after they begin receiving universal service support, the Commission may exercise its authority to revoke the Petitioners’ LBP designation.<sup>100</sup> The Commission also may assess forfeitures for violations of Commission rules and orders,<sup>101</sup> and take other actions as appropriate to protect the Universal Service Fund from waste, fraud, and abuse.<sup>102</sup>

## **IV. ORDERING CLAUSES**

29. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in section 214(e)(6) of the Communications Act of 1934, 47 U.S.C. § 214(e)(6), and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission’s rules, 47 CFR §§ 0.91, 0.291, and *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947, 22947-48 (1997), Applied Research Designs, Inc., Kajeet Inc., Liberty Cablevision of Puerto Rico, LLC, Northland Cable Television, Inc., and Wabash Independent Networks, Inc. are designated Lifeline Broadband Providers, eligible only to receive Lifeline broadband Internet access service support in their designated service areas to the extent described in this Order.

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<sup>97</sup> 47 U.S.C. § 254(e).

<sup>98</sup> See generally *2016 Lifeline Modernization Order*, 31 FCC Rcd 3962 (adding BIAS as a supported service to the Lifeline program); *TracFone Forbearance Order*, 20 FCC Rcd at 15105, para. 26 (imposing a similar requirement on Lifeline-only ETCs).

<sup>99</sup> 47 U.S.C. §§ 220, 403; 47 CFR § 54.707.

<sup>100</sup> See *Federal-State Joint Board on Universal Service, Petitions for Reconsideration of Virginia Cellular, LLC and Highland Cellular, Inc. Designations as Eligible Telecommunications Carriers in the Commonwealth of Virginia*, Order on Reconsideration, 19 FCC Rcd 15383, 15385, para. 6 (2012) (citing *Federal-State Joint Board on Universal Service; Western Wireless Corp. Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, Declaratory Ruling, 15 FCC Rcd 15168, 15174, para. 15 (2000); 47 U.S.C. § 254(e)).

<sup>101</sup> See 47 U.S.C. § 503(b).

<sup>102</sup> See, e.g., *Total Call Mobile, Inc.*, Order Directing Temporary Hold of Payments, 31 FCC Rcd 7052 (WCB 2016).

30. IT IS FURTHER ORDERED that pursuant to section 1.102 of the Commission's rules, 47 CFR § 1.102, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Monteith  
Acting Chief  
Wireline Competition Bureau