

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

In re

Q LINK WIRELESS LLC

Application for Designation as an Eligible
Telecommunications For Purposes of Receiving
Federal Universal Service Funds Pursuant to Section
214(e)(2) of the Telecommunications Act of 1996

ICC Docket No. 12-0095

**Q LINK WIRELESS LLC’S REPLY IN SUPPORT OF ITS MOTION TO STRIKE
PORTIONS OF STAFF’S OPENING BRIEF APPENDIX AND
UNVERIFIED STATEMENTS**

Q LINK Wireless, LLC (“Q LINK”) hereby replies in support of its Motion To Strike Staff’s Opening Brief Appendix and Unverified Statements in its Opening Brief that are not Part of the Evidentiary Record (Q LINK’s “Motion to Strike”). In further support of the Motion to Strike and in response to the Response by the Staff of the Illinois Commerce Commission (“Staff”), Q LINK states as follows:

ARGUMENT

Staff’s remarkable Response presents an unjustified, *post hoc* explanation for Staff’s flagrant attempt to ignore the fact that the evidentiary record in this matter was marked “heard and taken” and closed as of March 18, 2014. Submission of new evidence after that date, in the form of appendices and other references in its post-hearing Initial Brief, flouts Commission’s rules and practice, prejudices Q LINK, and ignores Illinois rules of evidence. Furthermore, in its attempt to justify the introduction of new evidence *45 days after the evidentiary record was closed*, Staff’s Response (1) discards Q LINK’s confidentiality designation yet again, and (2) admits that the information at issue is, in fact, new evidence provided with no foundation.

Consequently, the Commission must strike each and every portion of Staff's Initial Brief that references and relies on Staff's submission of new evidence, and grant Q LINK's Motion to Strike. Further, the Commission should admonish Staff for its outrageous conduct in ignoring Commission evidentiary procedures and divulging confidential information.

A. Staff's Arguments that Staff's New Evidence is not Sufficiently Identified is Baseless.

Staff's Response initially raises several supposed procedural concerns with Q LINK's Motion to Strike. None have any merit.

First, Staff's Response incorrectly describes the relief sought in the Motion to Strike. Staff argues that, "Specifically, Q Link seeks to strike Staff's IB Appendices ... and pages 58, 65-65, 94-97, 99-100, 103-104 and 106, *which Q Link alleges reference and rely upon the Appendices.*" (Response, pg. 2) (emphasis added). That misconstrues Q LINK's request, which seeks to strike both the Appendices and certain pages in Staff's Initial Brief that attempt to introduce new evidence (regardless of whether the Brief references also rely on the Appendices). *See* Motion to Strike, ¶ 11 & Conclusion. Paragraph 11 of the Motion to Strike concisely identifies which portions of Staff's Brief are improper new evidence, and Attachment A reiterates this point.

However, Staff argues that the Motion to Strike does not "precisely identify the language." (Response, 2 & fn. 3). But, a movant does not need to quote the exact language to be stricken in the motion, as Staff argues. Response, 3. And, in any case, Paragraph 11 of the Motion to Strike precisely identifies Staff's new evidentiary submission and the Appendices that are at issue in the Motion to Strike.

Second, the authority relied upon by Staff for its position, Section 2-615 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-615, does not support Staff's legal conclusion.

Response, 3. Section 2-615 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-615, states that “All objections to pleadings shall be raised by motion. The motion shall point out specifically the defects complained of, and shall ask for appropriate relief...”

Section 2-615 does not require Q LINK to quote the material it seeks to strike. The Motion to Strike “point[s] out specifically the defect complained of” because it plainly describes the defect as Staff’s attempt to introduce evidence into the record after the evidentiary record was closed. Motion to Strike, ¶¶ 2-6, 9-11. In addition, the Motion to Strike plainly “ask[s] for appropriate relief.” The Motion to Strike requests that each instance where Staff introduces new evidence be stricken, and clearly identifies where each instance is located in Staff’s filing. Motion to Strike, ¶11. Moreover, Section 2-615 applies only to pre-trial pleadings, not post-hearing briefs. “The purpose of requiring defects in the pleadings be attacked by motion ... is to point out the defects in the pleadings so *that the complainant will have an opportunity to cure them before trial.*” *Knox College v. Celotex Corp.*, 88 Ill. 2d 407, 422 (1981).

Third, Staff argues that some of its references are mere court records. Response, 3, fn. 3. That’s incorrect. In its Initial Brief, Staff cites to a “Chapter 7 bankruptcy” by name but Staff’s use of “Chapter 7 bankruptcy” case name – without a confidential designation – improperly divulges Q LINK’s confidential information. Q LINK attached as CONFIDENTIAL Exhibit 2.3 three contracts demonstrating that Q LINK currently offers wholesale wireless service to carriers nationwide. Q LINK Surrebuttal, Q LINK Exhibit 2.0, 21:674-675. By publicly divulging the name of one of the three contract carriers in its Initial Brief, in its “Appendices,” and now in its Response, Staff is ignoring its own duties to prevent the dissemination of confidential information it receives, a violation of state law. Furthermore, Staff’s one reference to an uncited Chapter 7 case is the sole “court record” Staff cites to in the new evidence. This single reference

does not save Staff's position with respect the tens pages of new evidence Staff attempts to introduce through evidence.

Staff presents no justification to rely on new evidence weeks after the close of the evidentiary record in this proceeding, and Staff's inapposite legal argument does not bar the relief sought in the Motion to Strike.

B. Staff's New Evidence Proffer after the Evidentiary Record is Closed is Improper and should not be Permitted.

Staff's Response also implicitly acknowledges that its proffer of new information is "new evidence." In Illinois law, "[r]elevant evidence" is defined as evidence having any tendency to make the existence of any fact that is of consequence to the termination of the action more probable or less probable than it would be without the evidence." *In re H.H.*, 2014 IL App (4th) 120908-U, 2014 WL 1698 1158 (Ill. 4th Dist. Apr. 23, 2014), *citing* Ill. R. Evid. 401.

Here, there can be no dispute that the information identified in the Motion to Strike is "new evidence" proffered after the close of the evidentiary record. Indeed, Staff admits that this information was introduced in its Initial Brief to "discredit" or "contest" evidence previously entered into the evidentiary record by Q LINK. Thus:

- The Response argues that Appendices 1.1 and 1.2 (and related Initial Brief arguments) were introduced to "discredit the concrete evidence Q Link presented to support its assertions of its purported provisions of whole services and, in particular, its purported provisions of wholesale services to federal universal service fund contributors." Response, 4.
- The Response argues that Appendices 2.1 and 2.2 (and related Initial Brief arguments) were introduced because "Q Link provided in its testimony incomplete and inaccurate descriptions of Illinois ETCs' Lifeline services and improper comparisons of its own Lifeline services with those of Illinois ETCs." Response, 5. Further, the Response plainly states that "Staff's IB Appendices 2.1 and 2.2 are responsive to Q Link Ex. 2.0," an exhibit in the evidentiary record. Response, 6.
- The Response argues that Appendices 3.1 and 3.2 (and related Initial Brief arguments) were introduced because they "refute Q Link's assertions that it fixed the ETC state

dropdown menu problem on its website immediate after it was made aware of its in July 2013 and reinforce Staff's testimony that Q Link has doggedly failed to fix its website problem..." Response, 5. Further, the Response argues that the Appendices in "Staff IB respond[] specifically to Q Link's claims that its website problem was fixed." Response, 7.

Each of these references expressly admit that the information was introduced to make the existence of a fact more probable or less probable than it would be without the evidence. Staff's new information therefore falls squarely within the definition of "evidence."

Hoping to escape this inevitable conclusion, Staff argues that the information is mere "authority" and resorts to the Illinois rules on appellate briefing. *See* Response, 5, *citing* Illinois Supreme Court Rule 341(h)(7) (Appellant's Brief). Beyond the fact that this rule does not apply to pre-trial judgment briefing, or to the Commission's proceedings, (indeed, the rule expressly applies solely to appeals briefing by its own terms), the rule does not stand for the proposition that one side can enter new evidence into the record merely through including a reference to it in its brief. On the contrary, Ill. S. Ct. R. 341 provides that evidence not properly cited to the evidentiary record from the proceeding below, should be stricken. *Compare Werenska v. Sawa's Old Warsaw Inc.*, 2012 IL App (1st) 111671-U, 2012 6957377 (Ill. 1st Dist. Sept. 28, 2012) (holding that defendant's brief on appeal did not technically comply with Ill. S. Ct. R. 341(h)(7) "because it lacked proper citations to the record in the argument section," but did contain the citations in the statement of facts).

Arguing in the alternative, Staff argues either that the Commission's relaxed evidentiary admission standards permit this new evidence (Response, 5), or that Q LINK raised the factual controversy during the proceedings (*id.* at 6-8). Neither argument has merit.

First, Section 610(b) of the Commission's Rules of Practice expressly applies the rules of civil cases in the circuit court of the State of Illinois, but uses "reasonably prudent persons"

standard for evidentiary *admissibility before the close of the evidentiary record*. Here, Staff proffers new evidence *after the close of evidentiary record*, without permitting Q LINK an opportunity to object (which is expressly permitted by Section 610(b)) or test the accuracy of the new information.

Second, Staff's argument that Q LINK raised certain factual issues *before the close of evidence* does not justify Staff waiting until after the close of evidence to contest Q LINK's evidence. Staff had ample opportunity to introduce this new evidence at the evidentiary hearing in this matter, but chose not to. Indeed, Staff laid no foundation as to who generated its new information, when it was generated and how it was generated. Further, Q LINK has not had an opportunity to contest, test, or cross examine Staff's new evidence, and is given no opportunity to respond with additional factual evidence. Moreover, Staff's baseless accusations that Q LINK's evidence as "outright inconsistencies and falsehoods" is simply false – and frankly, if Staff is given the opportunity to malign Q LINK with baseless accusations in what amount to a Staff "Surrebuttal Testimony," Q LINK should be given an opportunity to respond through its own testimony.

And, if the Commission were to permit this new evidence, it would be fundamentally unfair to Q LINK as "[f]indings must be based on evidence presented in the case, with an opportunity to all parties to know of the evidence to be submitted or considered, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal, and nothing can be treated as evidence which is not introduced as such." *Chicago & E.I. Ry. Co. v. Illinois Commerce Comm'n*, 173 N.E. 380, 383 (1930). Here, Staff is attempting to introduce and

analyze new facts in its Initial Brief, while not permitting Q LINK to respond or test the reliability of those facts.¹

Lastly, striking the Staff's new evidence is the appropriate remedy.² Staff willfully chose not to examine Q LINK's witness during the evidentiary hearing or raise this new evidence until 45 days after the close of the evidentiary record. Staff's Response provides no justification for this delay, or excuse for the prejudice that Q LINK will experience if it is not given an opportunity to respond to Staff's new evidence. Staff's conduct can only be described as gamesmanship in its attempt to deny Q LINK an opportunity to rebut Staff's new evidence.

CONCLUSION

The Commission should grant Q LINK's Motion to Strike and admonish Staff for its outrageous conduct in ignoring Commission evidentiary procedures and divulging confidential information.

July 3, 2014

Respectfully submitted,

Q LINK WIRELESS LLC

/s/ Henry T. Kelly

Henry T. Kelly
Michael R. Dover
Kelley Drye & Warren, LLP
333 West Wacker Drive, Suite 2600
Chicago, Illinois 60606
HKelly@kelleydrye.com
MDover@kelleydrye.com
(312) 857-7070
(312) 857-7095 facsimile

¹ Incredibly, Staff makes the duplicitous argument that Q LINK waited to file its Motion to Strike because "it has no response to Staff's rebuttal of its assertions." Response, 10. That is a derogatory and false statement. If the Commission denies the Motion to Strike, it must allow Q LINK an opportunity to respond to Staff's unfounded accusations through testimony.

² The Response cites to *People v. DeRoseet*, 237 Ill. app. 3d 315, 325 (1925) to argue that striking a brief is a harsh sanction. Again, however, the Response misreads the procedural posture of this case. The *DeRosset* holding concerns a post-judgment appellate brief, not a pre-judgment trial brief.

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APPENDIX AND UNVERIFIED STATEMENTS IN ITS OPENING BRIEF
THAT ARE NOT PART OF THE EVIDENTIARY RECORD**

ATTACHMENT A

Paragraph 11 of the Motion to Strike lays out – in clear language – which pages and which appendices are subject to the Motion to Strike. Since Staff’s Response ignores this paragraph from the Motion to Strike, Q LINK will reiterate which portions of Staff’s Initial Brief attempts to rely on new evidence:

- **PAGE 58 OF STAFF’S OPENING BRIEF, DISCUSSING STAFF’S PURPORTED VISIT TO THE [HTTP://QLINKPREPAID.COM/](http://qlinkprepaid.com/) WEBSITE AFTER THE EVIDENTIARY RECORD WAS CLOSED.**³

Staff’s New Evidence in Staff’s Initial Brief: “Moreover, the toll free customer service line, 1-855 754 6543, listed on this alternative website, which Mr. Asad claims solely offers non-Lifeline services, is the same as one of the two toll free customer service lines that Q Link uses for its Lifeline customers. Staff Ex. 2.0 at 32; <http://qlinkprepaid.com> (accessed April 2, 2014).”

- **PAGE 64 AND 65, AND APPENDICES 1.1 AND 1.2, PURPORTING TO PROVIDING INFORMATION ABOUT Q LINK’S WHOLE[SALE] CUSTOMERS.**

Staff’s New Evidence in Staff Initial Brief:⁴ “The public records refute such claims. According to the court and FCC records, *XXXXXXXXXX[...]XXXXX* filed for Chapter 7 bankruptcy on January 22, 2008; no longer active as of this date. *In re LataOne, Inc.*, Case No. 07-20089 (C.D. CA 2007); Appendix. 1.1. According to the California Secretary of State’s record (the state in which *XXXXXXXXX* main business address is located), *XXXXXXXXX* has not filed any annual report with the State of California since 2008 and its corporate status in California has been “suspended.” Appendix 1.1. According to the FCC’s database, *XXXXXXXXX* has not reported any revenue, and thus has not been a FUSF contributor, since 2008, in particular, since Q Link’s incorporation in August 2011. *Id.*

According to New York State Department of State’s record, *XXX[...]XXXXXXXXXX* does not exist under the laws of the State of New York: *XXXXXX* corporate entity was dissolved more than a year ago on April 3, 2013. Appendix 1.2. According to the FCC’s database, *XXXXX* has not reported any revenue, and thus has not been a FUSF contributor, since 2010, in particular, since Q Link’s incorporation in August 2011. *Id.*

³ The bullet points recited herein are quotes from Q LINK’s Motion to Strike, ¶ 11.

⁴ The public version is cited here. For clarity, both the confidential and public versions should be stricken as new evidence introduced after the evidentiary record was closed.

Therefore, the court, FCC and state public records refute and thus discredit the “concrete evidence” Q Link presented to support its claim (that it provides wholesale services to FUSF contributors and its wholesale services are wireless services) and, thus, its claim.”

Staff’s New Evidence in the Appendices 1.1:⁵ A screenshot purporting to be from the FCC Form 499 Filer Database and also a “Results Detail” screenshot from the California Secretary of State.

Staff’s New Evidence in the Appendices 1.2: A screenshot purporting to be from the FCC Form 499 Filer Database and also an “Entity Information” screenshot from the New York State Department of State, Division of Corporations.

- **PAGE 74 OF STAFF’S OPENING BRIEF, PURPORTING TO PROVIDE ADDITIONAL INFORMATION ABOUT LIFELINE SERVICES FROM USAC.**

Staff’s New Evidence in Staff’s Initial Brief: “According to the Universal Service Administration Corporation’s (“USAC’s”) Reports and database, Q Link received \$37,555 federal Lifeline support for Lifeline service provided in 2012, \$3,178 of which was paid out to it in 2012 and \$34,377 of which was paid out to it in 2013. <http://www.usac.org/li/tools/disbursements/default.aspx> (SPIN: 143036544); USAC 2nd Quarter 2014 FCC Reports - LI05... Its USF revenue for 2012 is \$37,633.

- **PAGES 94 THROUGH 97, 99 THROUGH 100 OF STAFF’S OPENING BRIEF, AND APPENDICES 2.1 AND 2.2, PURPORTING TO PROVIDE INFORMATION ABOUT CURRENT ETC DESIGNEES IN ILLINOIS.**

Staff’s New Evidence in Staff’s Initial Brief: Q Link omits key information in its description of Lifeline options offered by ETCs in Illinois. For example, Q Link describes Cellular Properties’ Lifeline plan by the monthly rate of \$18.64 (after Lifeline discount) (“[Cellular Properties] [o]ffers a \$18.64 after discount) Lifeline Plan”): while highlighting the fact that Cellular Properties charges for directory assistance calls, Q Link omits a key fact that Cellular Properties’ Lifeline plan is offered with unlimited usage. Appendix 2.1; Q Link Ex. 2.0 at 28 and fn.110 <http://cellular1.net/plandetails.asp?plan=lifeline> (April 9, 2014). Q Link describes Illinois Valley Cellular’s (“IVC’s”) Lifeline plan also by the monthly rate of \$8.70 (“[IVC] [o]ffers a \$8.70 (after discount) Lifeline Plan”): while highlighting the fact the IVC charges customers an activation charge, it omits a key fact that IVC’s Lifeline plan is offered with unlimited usage. <http://www.ivcel.com/plans/c/other/lifeline-calling-plan/> (April 9, 2014); Q Link Ex. 2.0 at 28 and fn. 110; Appendix 2.1. Identifying the price of a product without identifying the specifics of

⁵ Q LINK also notes that Staff’s Initial Brief and Appendices 1.1 and 1.2 breaches the confidentiality of the carriers identified by Q LINK.

the product does not allow for meaningful comparison. For example, identifying the monthly rate of a Lifeline plan without identifying the number of minutes included in the plan does not provide for meaningful comparison.

Regarding Cricket Communications, Inc. (“Cricket”), Q Link notes that Cricket offers a Cricket Lifeline Credit of \$10 (= \$9.25 federal Lifeline support plus \$0.75 carrier discount). <http://www.mycricket.com/community/cell-phone-news/illinois-cricket-lifeline-credit> (April 9, 2014); Q Link Ex. 2.0 at 28 and fn. 110. But, Q Link claims that Cricket’s customers “must activate a non-Lifeline account [with Cricket in order] to apply for Lifeline” and “minute plans and rates not listed [on Cricket website].” Q Link Ex. 2.0 at 28. Q Link is misleading and wrong in the claim that a Cricket Lifeline customer must become a Cricket non-Lifeline customer first (i.e., must open a “non-Lifeline account”) before it may become Cricket’s Lifeline customers. Cricket’s website cited by Q Link does not use the phrase “non-Lifeline account” or require a prospective Lifeline customer to become a non-Lifeline customer first before it may become a Lifeline customer. <http://www.mycricket.com/community/cell-phone-news/illinois-cricket-lifeline-credit> (April 9, 2014); Q Link Ex. 2.0 at 28 and fn. 110; Appendix 2.1. What Cricket’s website states is that a customer must have a Cricket account before it can apply the Cricket Lifeline Credit of \$10.00 to the monthly rate of the service plan selected by the customer. This makes sense; otherwise, where and how would Cricket apply the \$10 Cricket Lifeline Credit. Cricket’s practice is in line with wireline ETCs, which also apply the Lifeline discount to the monthly rate of the service selected by their Lifeline customers. Requiring a customer to have an account before a carrier applies the Lifeline discount to the monthly rate of the service selected by the customer does not constitute forcing or requiring the customer to become a non-Lifeline customer first or to open a non-Lifeline account before the customer may enroll in the carrier’s Lifeline program. Q Link’s assertion that Cricket requires a Lifeline customer to be a non-Lifeline customer (i.e., to open “a non-Lifeline account”) before permitting [sic] the customer to enroll in its Lifeline program is wrong and misleading.

Q Link also erroneously claims that Cricket does not list its “minute plans and rates” on the website cited by Q Link (<http://www.mycricket.com>). Contrary to the claim, the website shows that Cricket offers five wireless plans with unlimited usage at monthly rates (before Lifeline discount) of \$35, \$45, \$50, \$60 and \$70, respectively. <http://www.mycricket.com/cell-phone-plans#basic-plans>; <http://www.mycricket.com/cell-phone-plans#smartphone-plans> (April 8, 2014); Appendix 2.1. With a Cricket Lifeline Credit of \$10.00, the monthly rates (after Lifeline discount) are \$25, \$35, \$40, \$50, and \$60, respectively. Clearly, Q Link’s claim that Cricket website does not list its wireless plans is erroneous. Q Link’s representation of Tracfone’s wireless Lifeline plans is incomplete and erroneous. It repeatedly asserts that it should be deemed to produce public interest benefits because it offers international calling and no-additional-charge directory assistance calling. But, according to Tracfone’s website cited by Q Link, Tracfone also offers international calling and no-additional-charge directory assistance calling. <https://www.safelinkwireless.com/Enrollment/Safelink/en/Public/WelcomeCenter.html>; Appendix 2.2. While claiming such unsupported services are important to Illinois low income consumers and should be considered for the Illinois consumer benefit evaluation, Q Link leaves out such unsupported services from its description of Tracfone’s wireless Lifeline plans when it presents Tracfone’s wireless Lifeline plans for comparison with its own proposed Lifeline plans. Moreover, Q Link describes Tracfone’s 125-Minute Plan and 250-Minute Plan as including “no long distance.” Q Link Ex. 2.0 at 28. This is incorrect and refuted by Tracfone’s website cited by Q Link. <https://www.safelinkwireless.com/Enrollment/Safelink/en/Public/WelcomeCenter.html>

(March 16, 2014); Appendix 2.2. Therefore, Q Link's representation of Tracfone prepaid wireless Lifeline plans, made for the purpose of comparison with its own proposed Lifeline plans, is both incomplete and incorrect.

In the attempt to argue that its proposed free Lifeline plans are better than free Lifeline plans of some ETCs in Illinois, Q Link compares its additional charge for directory assistance call of \$0 with the additional charge assessed by PlatinumTel, which is \$0.50 (the equivalent of 10 voice minutes) without taking into account other key differences between its Lifeline plans and that of PlatinumTel. <http://www.carewireless.com/about>; Appendix 2.2. Based upon this, Q Link claims that it offers a benefit of no additional charge for directory assistance call that is not offered by PlatinumTel. Q Link's comparison and conclusion are misleading because they ignore other crucial differences between Q Link's proposed free Lifeline plans and PlatinumTel's free Lifeline plan. In particular, they ignore the fact that Q Link provides 250 (or fewer) voice minutes in its free Lifeline plans, while PlatinumTel provides 300 voice minutes in its free Lifeline plan. Unless a customer makes five or more directory assistance calls each month, PlatinumTel's Lifeline plan would be a better option for the customer (compared to Q Link's 250-Minute Plan); the additional voice minutes included in PlatinumTel's free Lifeline plan would more than offset the "advantage" of Q Link's "no additional charge." Q Link has provided no evidence that there is any demand, let alone a demand for five or more directory assistance calls each month, among Illinois low income consumers. As a result, it has not shown that its free Lifeline plan with no additional charge for directory assistance calls would represent a better option than PlatinumTel's free Lifeline plan with 300 minutes and \$0.5 for directory assistance call.

Staff's New Evidence in the Appendices 2.1: Screenshots purporting to be from the website of "Cellular One of East Central Illinois".

Staff's New Evidence in the Appendices 2.2: Screenshots purporting to be from the websites of "Illinois Valley Cellular," "Cricket," "CareWireless," "Lifewireless," "SafeLink Wireless," and "YourTel Wireless."

- **PAGES 103 AND 104 OF STAFF'S OPENING BRIEF, PURPORTING TO PROVIDE ILLINOIS TELEPHONE PENETRATION RATES.**

Staff's New Evidence in Staff's Initial Brief:

According to US Census Bureau estimates, there are approximately 4,836,972 households in Illinois. <http://www.census.gov/prod/cen2010/briefs/c2010br-14.pdf>, Table 4 titled "Households and Families for the United States, Regions, States, and for Puerto Rico: 2000 and 2010." According to the FCC, approximately 95.8% of Illinois households have telephone service. <http://transition.fcc.gov/wcb/iatd/monitor.html>, December 2013 Monitoring Report, Table 3.8 titled "Household Telephone Penetration by State and Income, 2013." Thus, there are

approximately 203,153 households in Illinois without telephone service and 4,633,819 households in Illinois with telephone service. However, not all the 203,153 Illinois households without telephone service qualify for Lifeline support, because household telephone penetration is less than 100% across all income categories in Illinois. *Id.* Therefore, the telephone penetration of low income households in Illinois exceeds 86%; in fact, according to FCC, telephone penetration of households in Illinois exceeds 90% across all income groups. *Id.*

Clearly, the telephone penetration of low income households in Illinois, which exceeds 90%, is very different from the Lifeline penetration of low income households in Illinois, which is, according to Q Link, 46%.

- **PAGE 106 OF STAFF’S OPENING BRIEF, AND APPENDIX 3.1 AND 3.2, PURPORTING TO PROVIDE INFORMATION ABOUT STAFF’S APRIL 29, 2014 REVIEW OF Q LINK’S WEBSITE.**

Staff’s New Evidence in Staff’s Initial Brief: In fact, the “download application” webpage remains disabled and consumers remain unable to access the “download application” webpage as of April 29, 2014.⁹ Appendix 3.1; Appendix 3.2; Staff Ex. 2.15a-b. Therefore, Q Link’s claim that it fixed the “dropdown menu” problem was untrue on July 31, 2013 when it made the claim; it was untrue on August 20, 2013; and it remains untrue as of April 29, 2014: denying consumers access to the “download application” webpage does not qualify as fixing the “dropdown menu” problem on this webpage.

Staff’s New Evidence in the Appendices 3.1: Screenshots purporting to be from the website of Q LINK.

Staff’s New Evidence in the Appendices 2.2: Screenshots purporting to be from the website of Q LINK.