



December 2, 2021

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C., 20554

**RE: Affordable Connectivity Program
WC Docket No. 21-450**

**Emergency Broadband Benefit Program
WC Docket No. 20-445**

Dear Ms. Dortch:

On Wednesday December 1, the undersigned, as well as Brian Ford and Tamber Ray on behalf of NTCA–The Rural Broadband Association (“NTCA”)¹ met with Jessica Campbell, Christian Hoefly, Rashann Duvall, Eric Wu, Travis Hahn, Sherry Ross, Negheen Sanjar, Allison Baker and Jamile Kadre of the Wireline Competition Bureau, and Joanna Fister of the Office of Economics and Analytics, to discuss the Affordable Connectivity Program (“ACP”) and the Emergency Broadband Benefit (“EBB”) program. The parties discussed issues raised in the Public Notice² seeking comment on the establishment of the ACP as the successor to the existing EBB.

In light of the fact that December 31, 2021 is the effective date for both new ACP enrollments and the beginning of the 60-day transition of benefits for EBB recipients to the new program, NTCA discussed the challenges that its small company members will face in terms of significant billing and other system updates in the next several weeks. NTCA members will, for example, be required to make adjustments to billing systems and other internal processes (including training customer service representatives, updating website materials and other marketing materials currently tied to the EBB) in order to enable ACP subscribers to choose any “Internet offering” available to any other subscriber. Moreover, many NTCA members use third-party vendors for their billing systems, and adjustments to accommodate certain ACP provisions that will become effective on December 31, 2021 must be processed by these vendors. This will be further complicated if existing EBB subscribers entitled to retain their

¹ NTCA represents approximately 850 providers of high-quality voice and broadband services in the most rural parts of the United States. In addition to voice and broadband, many NTCA members provide wireless, video, and other advanced services in their communities.

² *Wireline Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program*, Public Notice, WC Docket No. 21-450, DA 21-1453 (rel. Nov. 18, 2021) (“Public Notice”).

benefit amount for the 60-day transition period³ are also allowed to switch that higher level of benefit to a different Internet service offering during the relatively brief transition period.

NTCA further noted that many of the changes to billing and other internal processes that relate to EBB/ACP enrollments are complicated by the fact that final ACP rules are likely to be issued *after* the December 31, 2021 effective date. Even as this gap is likely to last only a few short weeks, confusion and uncertainty as to what final rules the Commission might adopt could lead to providers inadvertently running afoul of ACP rules announced only after the program has already officially launched. NTCA therefore urged the Commission to clarify as soon as possible that providers can safely following existing EBB rules and processes and will not be penalized for practices that deviate slightly once the ACP's final rules are issued.

NTCA then discussed the Public Notice proposal to require existing EBB beneficiaries to give prior, affirmative “opt-in” consent to be enrolled in the ACP at the conclusion of the 60-day EBB-to-ACP transition period that will commence on December 31, 2021.⁴ NTCA noted that consumers often overlook notices of these kinds (whether delivered as bill inserts, via email, or any other communications method). Subscribers overlooking these notices and thus failing to give affirmative consent to enrollment in the ACP at the end of the 60-day transition period will be de-enrolled from the program, the consequence being the total loss of any subsidy they may need and likely anticipated even as they otherwise continue to subscribe to the service. While it is critical that these subscribers are made aware that their benefit can change when the transition to the ACP concludes, it is far more important that they are not de-enrolled and suddenly facing an inability to afford their broadband service due to the complete lapse of any subsidy. NTCA therefore proposed that this consent to be enrolled in the ACP at the conclusion of the 60-day transition be structured as an “opt-out” mechanism, under which subscribers enrolled in the EBB as of December 31, 2021 will be enrolled into the ACP as of March 2, 2022 absent a request otherwise directed to their provider.

NTCA also requested clarification of providers' responsibility to, in certain circumstances, reverify subscribers' eligibility for the ACP for subscribers enrolled in the period between December 31, 2021 and the issuance of final program rules.⁵ As an example, NTCA noted that the documentation needed for customers to demonstrate eligibility through the Special Supplemental Nutrition Program for Women, Infants, and Children (“WIC”) has not yet been established and, as a result, the method used by a provider to verify WIC eligibility could be different from the method adopted in the Commission's rules. NTCA noted that requiring the National Verifier to assume responsibility in this and similar circumstances would relieve the burden on small providers and ensure that no beneficiaries are de-enrolled because their eligibility for the ACP was determined based on documentation rules not yet issued by the Commission.

³ Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. (2021) (“Infrastructure Act”), div. F, tit. V, § 60502(b)(2).

⁴ Public Notice, ¶ 100.

⁵ *See, Id.*, ¶ 30.

Marlene H. Dortch

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Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ Michael Romano

Michael Romano

Senior Vice President – Industry Affairs
and Business Development

NTCA-The Rural Broadband Association

cc: Jessica Campbell
Christian Hoefly
Rashann Duvall
Eric Wu
Travis Hahn
Sherry Ross
Negheen Sanjar
Allison Baker
Jamile Kadre
Joanna Fister