



May 26, 2022

***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 Tuesday, May 24, 2022, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> spoke with the following Federal Communications Commission (“Commission”) staff: Rashann Duvall, Assistant Chief of the Wireline Competition Bureau’s Telecommunications Access Policy Division and Jessica Campbell, the Team Lead for the Commission’s Affordable Connectivity Program (“ACP”). The parties discussed issues raised in a Petition for Waiver filed by NTCA with respect to the ACP’s “non-usage” provisions that require providers to track the broadband usage of subscribers enrolled in the program and that are not assessed any monthly charges after the application of the subsidy to their bill.<sup>2</sup>

NTCA reiterated its support for promoting program integrity through a usage requirement for ACP enrollees, but also pointed to the substantial complexities and costs faced by operators attempting to comply with the rule. NTCA emphasized that compliance with the rule will prove particularly burdensome for its approximately 100 member companies that serve Tribal consumers. This is because the \$75 Tribal ACP discount translates to a large enough number of subscribers subject to the rule to necessitate use by providers of “automated” processes in order to comply with the rule – and, these operators do not have this capability today. The expense involved is not only extensive but also out of proportion to the benefits associated with the rule considering that these companies can comply with the non-usage rule adopted for the Emergency

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<sup>1</sup> 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.

<sup>2</sup> Petition for Waiver, NTCA – The Rural Broadband Association, WC Docket Nos. 21-450, 20-445 (fil. May 13, 2022) (“*Petition*”). In its *Petition*, NTCA seeks a modification (or, in the alternative, an effective date of September 15, 2022) with respect only to the “uniform rolling 30-day.” The waiver is sought for “small” broadband Internet access service providers that apply a \$75 per month ACP benefit to the bills of qualifying Tribal consumers and thus resulting in no out-of-pocket payment from such consumers. The waiver is also sought for the Lifeline non-usage rules to the extent that an eligible Tribal consumer also applies that program’s subsidy to the same broadband service discounted by the ACP.

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Broadband Benefit Program (“EBB”), thereby ensuring that supported services to low-income subscribers do not go unused. NTCA also noted that the expense notwithstanding, the vendor solutions that operators subject to the rule can turn to will not be available by the June 14 deadline, and that the 90-day extension the *Petition* seeks as an alternative was based on expected availability as articulated by the vendors.

NTCA also emphasized that its *Petition* only seeks a waiver of the “uniform, rolling 30-day basis” of the non-usage rule at issue. More specifically, NTCA merely asks that the Commission allow small entities serving Tribal consumers to monitor usage via the rule that was applicable to the EBB program. Pursuant to that rule, which operators can comply with now, usage reports can be generated with hardware and software in existence and in use today. Participating providers subject to the relief requested would compare usage reports to their ACP/Lifeline “snapshot” reports on the 1<sup>st</sup> of the month<sup>3</sup> and generate 15-day “cure” notices to those subscribers that have not utilized their service during the previous month. Those failing to cure would be de-enrolled from the ACP/Lifeline programs.

Finally, NTCA clarified that its waiver is sought retroactive to January 1, 2022 to the extent that the Lifeline non-usage provision was applicable to subscribers enrolled in either or both the Lifeline or ACP programs since that date.

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/ Brian Ford

Brian Ford

Vice President – Federal Regulatory

NTCA-The Rural Broadband Association

cc: Jessica Campbell  
Rashann Duvall

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<sup>3</sup> To the extent the 1<sup>st</sup> of the month falls on a weekend, this process would take place on the next business day.