



June 1, 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 31, 2022, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”)¹ spoke with the following Federal Communications Commission (“Commission”) staff: Ramesh Nagarajan, Wireline Legal Advisor to Chairwoman Jessica Rosenworcel and Trent Harkrader, Chief of the Wireline Competition Bureau. 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.²

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

¹ NTCA represents approximately 850 rural local exchange carriers (“RLECs”). All of NTCA’s members are voice and broadband providers, and many of its members provide wireless, video, and other competitive services to their communities.

² 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 1st of the month³ 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.

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: Ramesh Nagarajan
Trent Harkrader

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