



March 7, 2016

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: WC Docket No. 11-42, Lifeline and Link Up Reform and Modernization

Dear Ms. Dortch:

On Thursday, March 3, 2016, the undersigned and Brian Ford on behalf of NTCA–The Rural Broadband Association (“NTCA”),¹ along with Patricia Cave, Derrick Owens, and Gerry Duffy on behalf of WTA – Advocates for Rural Broadband (“WTA”),² met with Trent Harkrader, Wireline Competition Bureau Associate Bureau Chief, Ryan Palmer, Chief of the Telecommunications Access Policy Division (“TAPD”), Jay Schwarz, TAPD Acting Deputy Division Chief, Garnet Hanley, TAPD Special Counsel, and Charles Eberle with TAPD. The parties discussed the Further Notice of Proposed Rulemaking (“FNPRM”) released by the Federal Communications Commission (“Commission”) in the Universal Service Fund (“USF”) Lifeline proceeding in June 2015.³

NTCA and WTA stated that should the Commission designate broadband Internet access as a Lifeline supported service, any minimum service standards applicable to Lifeline providers must

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers (“RLECs”). All of NTCA’s members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities.

² WTA – Advocates for Rural Broadband is a national trade association representing more than 300 rural telecommunications providers offering voice, broadband and video services in rural America. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities

³ Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. Jun. 22, 2015) (“Further Notice”).

be centered on the concept of consumer choice. Specifically, any minimum broadband speed standards should not inadvertently force consumers to choose between a broadband service that is unaffordable (even with the program discount) or no broadband at all. Merely as an example, a 10/1 Mbps minimum speed standard – should one be adopted – should not preclude a Lifeline subscriber from making the affirmative choice to purchase a 4/1 Mbps broadband service that is more affordable for that individual low income consumer, or for that matter, to purchase a higher speed if that consumer chooses and is able to do so. We also emphasized that providers should not be compelled to develop Lifeline-specific service options; rather, the program should focus on providing qualifying low-income consumers with more affordable access to the variety of service options that providers make available generally. The associations further noted that separate Lifeline-specific service options would require RLECs to modify their billing systems and would impose additional costs and administrative burdens, in addition to interfering with the ability for Lifeline subscribers to choose the service or bundle of services available to any other consumer that fits their unique needs and budget.

The parties then discussed the need for coordination between the RLEC high-cost program and the Lifeline program, particularly as modernization of these programs is concurrently underway. As the Commission is well aware, the affordability of services is predicated upon the availability of networks over which those services can be offered – and both affordability and availability are particularly unique challenges in rural areas where distance and density, among other things, make the costs of deploying and operating networks materially higher than they are in urban areas. Thus, any minimum speed service standards that may be adopted in the Lifeline proceeding must match RLECs' current ability to provide service in high-cost areas. Moreover, any minimum speed standards adopted in the Lifeline program must be consistent with any buildout obligations adopted in the High Cost Program, and cannot foist buildout and availability obligations on carriers operating in high-cost areas that the Commission declined to adopt in the context of high-cost program modernization.

NTCA and WTA further observed that the Commission must take explicit stock of the interconnected nature of the Lifeline and High-Cost programs. More specifically, the purpose of the High-Cost program is to ensure that rates in rural areas are “reasonably comparable” to those in urban areas – as called for by Section 254 of the Communications Act of 1934, as amended. As intended by Congress, the High-Cost program effectively aims to “normalize” for the difference in rates that would otherwise arise between rural and urban areas absent the program's existence. Once “normalized,” this only means (at least in theory) that the rates for services between rural and urban areas are “reasonably comparable.” It does not mean that low-income Americans in rural areas can then actually afford to procure such services. This is where the Lifeline program becomes important to fill that incremental adoption gap. However, failure of the High-Cost program to in fact ensure the baseline availability of “reasonably comparable” rates for such service due to limits or budget controls (or other factors) will necessarily frustrate, if not completely undermine, the workings of the Lifeline program in rural areas. Put another way, if support available under or structural issues within the High-Cost program only enables the offering of voice or broadband services to consumers at rates that remain far in excess of those available in urban areas, there is no reasonable amount of “Lifeline discount” that will somehow make those services affordable for the rural poor. Thus, the success of the

Commission's effort to improve broadband adoption amongst low income rural Americans in RLEC service areas is contingent upon on a continued effort to ensure that the High Cost program as a baseline meets the "reasonable comparability" goals of the Communications Act.

NTCA and WTA also noted that the concepts of consumer choice and public safety should compel the Commission to ensure that all Lifeline providers continue to make available to consumers a high-quality, standalone, facilities-based voice product that is capable of reaching public safety officials. A number of rural consumers – and the elderly in particular – continue to rely on a voice service as their primary method of staying in contact with friends, family, medical professionals and emergency services. Moreover, because the Lifeline program is ultimately aimed at "affordability," requiring a low income subscriber who wants voice service to depend only on an over-the-top ("OTT") voice product that requires the procurement of broadband as a predicate – rather than a separate, standalone voice offering – would seem to run counter to the purpose of the program, which is to provide a literal lifeline for low-income consumers. Requiring the purchase of a broadband connection and then an OTT voice product on top of that in an effective "bundle" may be simply unaffordable for a number of low income consumers.

Finally, NTCA and WTA stated that the Commission must hold faithful in all respects to the carefully designed statutory provisions (and its own precedent and rules) with respect to the Eligible Telecommunications Carrier ("ETC") designation process rather than engaging in so-called "streamlining" that fails to fully consider support recipients' qualifications, experience or commitment to universal service. A program concerned about accountability in the use of finite USF resources should not be handing out "fast passes" to receive such support. Rather, the obligations that attach to designation as an ETC and the receipt of ratepayer dollars ensure that such funds will be used to provide all Americans, regardless of where they live or work, with access to high-quality basic and advanced communications services. Moreover, failure to adhere to statutory ETC provisions or a move to enable non-ETCs to receive Lifeline USF support could lead to a race to the bottom in terms of the quality of service that low income consumers can expect, and could interfere with the ability for state regulators to fulfill their own consumer protection responsibilities.

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 – Policy

cc: Trent Harkrader
Ryan Palmer
Jay Schwarz
Garnet Hanley
Charles Eberle