Reply to Comments of NTCH linked at <https://www.fcc.gov/ecfs/filing/101241379530866>

The conditions to end forbearance from the "facilities only" requirement of Section 214( e )(1)(A) of the Communications Act do not exist. The three elements set forth in 47 U.S.C. Section 160(a) are

(1) enforcement of such regulation or provisions is not necessary to ensure that charges, practices, classifications or regulations by, for or in connection with that telecommunications carrier or telecommunications service are just, reasonable and are not unjustly or unreasonably non-discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers;

(3) Forbearance from applying such regulation or provision is consistent with the public interest.

Comment:

(1)While there is some concern over regulatory compliance which I do not address, the basic charges of all Lifeline suppliers are the same, that is the $9.25 subsidy. Add-ons do vary but the customer must weigh these against other policies. If some prices such as the cost of additional data are considered unreasonable, regulations applying to all ETCs should be developed to specify the maximum add-on prices. I have never known of the underlying carrier being hidden from the end user, but TracFone has been willing to switch service from one carrier to another to get better service. I have found the customer service offered by Assurance Wireless (facility-based) to be very limited but have no reason to believe that any non-facility based ETC is better.

(2),(3) Enforcement of the regulation is harmful to consumers, hence forbearance is in the public interest because non-facility ETC’s offer valuable flexibility to the consumer. My example is Assurance Wireless (part of the facility owner Sprint Communications) vs Access Wireless Lifeline (using Sprint facilities). The former insists that the customer use a badly performing phone supplied by Assurance Wireless while the later allows the customer to use any phone capable of performing on the Sprint facilities. There is also a concern that facility based ETCs may not offer Lifeline in their service area, so a non Facility based ETC is the only choice.