Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
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

REPLY COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

As demonstrated in the initial comments on the further notice proposing to reform the universal service Lifeline program for low-income consumers,[1] there is broad consensus that the Lifeline program should support broadband as well as voice service, and that eligible consumers should have maximum flexibility in choosing services that meet their needs. To provide eligible Lifeline subscribers the widest possible array of services from which to choose, the Commission should encourage service providers to participate by removing barriers to entry for Lifeline, such as the requirement that Lifeline service providers must be eligible telecommunications carriers (ETCs).

I. ELIMINATING THE ETC REQUIREMENT WILL ENCOURAGE PROVIDER PARTICIPATION AND SERVICE AVAILABILITY FOR LIFELINE SUBSCRIBERS

As we stated in our initial comments, the Commission should increase the range of services available to eligible Lifeline customers by encouraging robust service provider participation in the program, and to do so the Commission should allow all providers, not solely

[1] *Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, 09-197, and 10-90, Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 7818 (2015) (*2015 Lifeline Reform FNPRM*).

ETCs, to participate.[2] As commenters noted, the ETC designation requirement has served as a deterrent for service providers to participate in the Lifeline program.[3] AT&T states, "Existing eligibility requirements and ongoing obligations associated with being an ETC discourage, and in some cases outright prevent, a wide range of service providers from participating in the Lifeline program."[4] Therefore, eliminating the ETC designation requirement would achieve the Commission's goal of "facilitat[ing] broader participation in the Lifeline program and encourag[ing] competition with most robust service offerings in the Lifeline market."[5]

II. LEGAL BASES FOR ELIMINATING THE LIFELINE ETC REQUIREMENT

As the Commission recognized in the further notice, it has the legal authority to provide Lifeline support to non-ETCs.[6] As discussed in the further notice, the Commission could choose to reverse its earlier decision to require providers to become ETCs before receiving Lifeline support.[7] Many commenters express support in the record for the Commission to take such an approach.[8]

The Commission also could eliminate the ETC requirement for Lifeline providers by the use of forbearance authority.[9] Pursuant to this authority, the Commission may forbear from applying statutes and regulations provided that three criteria are met: first, if the provision at

---

[2] Comments of the National Cable & Telecommunications Association, WC Docket Nos. 11-42, 09-197, 10-90, at 4-5 (Aug. 31, 2015) (NCTA Comments).

[3] Comments of Comcast Corporation, WC Docket Nos. 11-42, 09-197, 10-90, at 9 (Aug. 31, 2015) (Comcast Comments); Comments of Cox Communications, Inc., WC Docket Nos. 11-42, 09-197, 10-90, at 8 (Aug. 31, 2015) (Cox Comments); Comments of Public Knowledge, WC Docket Nos. 11-42, 09-197, 10-90, at 27 (Aug. 31, 2015) (Public Knowledge Comments).

[4] Comments of AT&T, WC Docket Nos. 11-42, 09-197, 10-90, at 27 (Aug. 31, 2015) (AT&T Comments).

[5] *2015 Lifeline Reform FNPRM*, 30 FCC Rcd at 7862, ¶121.

[6] *Id.* at 7867, ¶135.

[7] *Id.* at 7868, ¶137.

[8] *See, e.g.*, AT&T Comments at 32-33; Comcast Comments at 10-11; Cox Comments at 9-10; NCTA Comments at 4-5; Public Knowledge Comments at 28.

[9] 47 U.S.C. §160(a).

issue is "not necessary to ensure" that "charges, practices, [and] classifications . . . are just and reasonable and not unjustly or unreasonably discriminatory;" second, if the provision at issue is "not necessary for the protection of consumers;" and third, if forbearance is "consistent with the public interest."[10]

Each of the criteria is met here. The ETC requirement is "not necessary to ensure" that "charges, practices, and classifications are just and reasonable and not unjustly or unreasonably discriminatory." In fact, forbearing from the requirement would allow more providers to participate in the program, thus promoting additional entrants in the Lifeline marketplace and increasing consumer choice. The Commission previously has found these factors to be relevant in the first prong of the forbearance analysis.[11] Similarly, the ETC requirement for Lifeline support is not "necessary for the protection of consumers;" no such requirement exists for service providers participating in the federal universal service E-rate or rural health care programs and the Commission is able to ensure that consumers are protected in these programs. And finally, allowing new entrants into the Lifeline marketplace serves the public interest by encouraging providers to participate in the program, particularly if those providers currently are deterred by onerous ETC designation process requirements, thereby furthering the statutory goal of providing low-income consumers with increased access to advanced services.[12]

---

[10] 47 U.S.C. §160(a)(1)-(3).

[11] *Federal-State Joint Board on Universal Service, Telecommunications Carriers Eligible for Universal Service Support, i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, Order, 25 FCC Rcd 8784, 8787, ¶ 9 (2010) (finding these factors relevant to assessing whether "charges, practices, and classifications are just and reasonable and not unjustly or unreasonably discriminatory").

[12] 47 U.S.C. §254(b)(3).

CONCLUSION

To ensure the broadest array of services are available to eligible Lifeline subscribers, the Commission should take the steps discussed above to increase the number of providers participating in the Lifeline program.

Respectfully submitted,

/s/ Steven F. Morris

Steven F. Morris
Jennifer K. McKee
National Cable & Telecommunications Association
25 Massachusetts Avenue, N.W. – Suite 100
Washington, D.C. 20001-1431

September 30, 2015