January 11, 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, Federal-State Joint Board on Universal Service Lifeline and Link Up Reform and Modernization

Dear Ms. Dortch:

On Thursday, January 7, 2016, the undersigned on behalf of NTCA–The Rural Broadband Association ("NTCA"), Patricia Cave with WTA – Advocates for Rural Broadband, and Tanea Foglia with John Staurulakis, Inc. (the "Rural Representatives")[1] 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, Christian Hoefly and Nathan Eagan with TAPD. The parties discussed a pending Petition for Reconsideration with respect to the *Second Report and Order*[2] released by the Commission in the Universal Service Fund ("USF") Lifeline proceeding in June 2015. The parties further discussed issues related to the Further Notice of Proposed Rulemaking ("FNPRM") also released in June 2015.

[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. 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. JSI is a telecommunications consulting firm offering a full spectrum of regulatory, financial and operational services to over 275 primarily rural independent telecommunications providers in 45 states and the U.S. territory of Guam.

[2] 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) ("*Second Report and Order*" or "*Order on Reconsideration*" or "*FNPRM*").

The Rural Representatives first reiterated their support for reconsideration of the "Snapshot Rule"[3] adopted by the *Second Report and Order* in June 2015 which requires eligible telecommunications carriers ("ETCs") to report their number of Lifeline subscribers as of the first of each month for the purpose of FCC Form 497. As the Rural Representatives previously discussed in their response[4] to a Petition for Reconsideration[5] filed with respect to the Snapshot Rule, the newly adopted "first of the month" requirement will result in a number of situations where RLEC ETCs provide Lifeline benefits to eligible low-income consumers without receiving reimbursement for such service. It could also result in discrepancies between the number of Lifeline customers RLEC ETCs report on FCC Form 497 and the number of customers receiving Lifeline discounted service on carriers' billing dates.[6]

The Rural Representatives provided one example of such problems created by the Snapshot Rule. A number of the Rural Representatives' members and clients pre-bill their subscribers and provide the Lifeline discount on customers' bills mailed around the first of the month, bills that are typically generated by their automated billing systems on the 24th or 25th of the month. In such a scenario, customers that drop service or are de-enrolled in Lifeline after the bill is generated but before the first of the next month (a seven or eight day period at the end of the month) will not appear on RLEC ETCs' Form 497 filings on the first of the month despite having received service for approximately three-quarters of a month and having been given the full discount by the ETC. This results in the RLEC ETC providing a discount for which they are not reimbursed by the Lifeline program. Moreover, regardless of whether the provider is reimbursed for the Subscriber Line Charge ("SLC") and the Local Service Charge, the RLEC ETC will still have to remit the amount to the National Exchange Carrier Association ("NECA") as a result of providing service during at least some portion of the month.[7]

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3 *Id.*, Appendix B Final Rules: 47 C.F.R. § 54.407(a).

4 Comments of JSI, NTCA, and WTA, WC Docket No. 11-42 (fil. Sep. 28, 2015).

5 Wireless ETC Petitioners' Petition for Reconsideration, WC Docket Nos. 11-42, 09-197, 10-90 (fil. Aug. 13, 2015).

6 Such discrepancies will be most pronounced during the annual re-certification process, during which up to 40 percent of an ETC's Lifeline subscribers may be de-enrolled due to failure to re-certify eligibility.

7 RLECs must demonstrate to NECA that they collected the $6.50 SLC from all customers in order to properly calculate its Interstate Common Line Support ("ICLS"). For example: If an RLEC has two customers, one of whom is a Lifeline customer, its books would reflect $13 (6.50 x 2) of end user revenue with a credit of $6.50 to the same account for a net of $6.50. The company would report $13 in End User SLC revenue to NECA since they are collecting $6.50 from NECA and $6.50 from USAC. This is significant because RLEC's ICLS revenue is equivalent to their Common Line Revenue Requirement - End User SLC revenue - FUSC - Other Common Line Charges. If the RLEC does not report the $6.50 from USAC, they will be overpaid in ICLS as the associated access line for the Lifeline customer makes the Common Line Revenue requirement higher. If the RLEC were not reimbursed from USAC for providing the Lifeline credit, and does not collect the amount from the end user since the credit has already been applied to the customer's bill, then the RLEC would have to impute the cost internally.

In addition, because most RLEC ETCs rely on their billing system-generated reports to populate FCC Form 497, they will now need to manually compile data – or undertake costly changes to automated billing systems – to complete FCC Form 497 in a manner that accounts for the above described discrepancies[8] between the number of subscribers as of the date bills are generated and the first of the month. Resolving such discrepancies manually is a significant strain on RLEC ETCs' limited staff resources; on average, these small entities have fewer than 25 employees, including customer service representatives, plant engineers and technicians, and the office personnel with the responsibility of maintaining compliance with the Lifeline program.

To eliminate the need for costly billing system changes or the use of burdensome manual processes, as proposed in comments in September 2015, the Commission should allow RLEC ETCs to take a "snapshot" of their number of subscribers as of their carrier-specific billing dates. This would not impose a significant burden on the Universal Service Administrative Company ("USAC"), as the total number of RLECs' customers receiving Lifeline discounted services is small in comparison to the total number of Lifeline subscribers nationwide. It would, however, go a long way toward reducing the burden on small carriers,[9] as it would allow them to use their billing systems to populate Form 497 and would eliminate the need for billing system changes or manual procedures that strain their small staffs. It would also ensure that RLEC Lifeline providers are properly reimbursed "based on the number of actual qualifying low-income consumers [they] serve"[10] during a given month.

The Rural Representatives then discussed their members' desire for a more efficient Lifeline eligibility verification process. Specifically, as the Commission correctly noted in the June 2015 FNPRM, the process of confirming potential subscribers' eligibility for Lifeline benefits is extremely burdensome for Lifeline providers.[11] The Rural Representatives continue to believe that a "coordinated enrollment" process that leverages existing state eligibility databases is the best path to a more efficient eligibility verification process. Coordinated enrollment and the use of existing state-based eligibility databases would eliminate provider participation in the

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8 Resolving such discrepancies is necessary for the purposes of USAC audits and Low Income payment quality assurance ("PQA") reviews companies are required to respond to each year, which requires them to tie subscriber-billing information to subscribers reported on a past 497. The response that, "it comes out in the wash" would not be a satisfactory response to a finding during an audit or PQA.

9 RLEC ETCs make up approximately 44 percent of all ETCs participating in the Lifeline program. As facilities-based providers, Lifeline is but only one component of their business operations. Many RLECs allocate their scarce resources administering voice, broadband, and cable services to customers within their service territories. Indeed, unlike prepaid wireless ETCs whose subscriber base may be 100 percent Lifeline customers, Lifeline customers comprise only a small percentage of RLECs' subscribers, sometimes as little as one percent. However, the fact that only a small percentage of their customers are enrolled in Lifeline does not diminish the burden of the Snapshot Rule. Even if they only serve a few dozen Lifeline subscribers, they must still go through their billing records manually to account for the discrepancies discussed herein to ensure that their Form 497 filings are accurate and in compliance with Commission rules.

10 47 C.F.R. § 54.407(a).

11 *FNPRM*, ¶ 63.

eligibility verification and program enrollment process and would eliminate the need for burdensome document retention requirements,[12] as providers would no longer be required to review such documents under this approach.

With respect to the FNPRM proposal to use a third-party verifier, the Rural Representatives noted that customers typically view their local service provider as the first point of contact when initiating new voice or broadband service or, in the case of existing subscribers, when inquiring as to their eligibility for a Lifeline discount. Use of third-party verifier would require a change in consumer behavior, that is, requiring contact with the third-party – an entity with which most if not all consumers will have little to no familiarity – in the first instance. As community-based providers that view excellent customer service as a method by which they differentiate themselves from competitors, RLEC ETCs are understandably concerned about the prospect of having to "turn away" subscribers and redirect them to an anonymous third-party entity. Moreover, a number of RLEC ETCs' customers are elderly and in need of additional assistance with completing the process of applying for Lifeline discounted service.

Thus, should the Commission utilize a third-party entity in states in which coordinated enrollment is not an option, it should permit – *but not require* – ETCs to collect and upload subscribers' eligibility documents to a secure website operated by the third-party entity that would then initiate and complete the eligibility verification process. To be clear, ETCs in this instance would merely be collecting documents and uploading them for the customers; they would not be verifying their authenticity nor confirming subscribers' eligibility for Lifeline in any way. This would simply be a case of RLECs providing an extra dose of customer service should they so choose to offer that service to their customers. Ultimately, this would be far less burdensome to ETCs than the current process but would also solve the customer service issues noted above.[13]

Regardless of the approach chosen by the Commission to reform the eligibility verification process, the Rural Representatives strongly believe that any administrative functions of the program should continue to be paid for by the USF general fund. It would be unduly burdensome and fundamentally unfair for providers with few, if any, Lifeline subscribers to pay for an eligibility verification system that would be of great benefit to providers with many (and potentially all of their customers) being Lifeline subscribers.

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[12] *Order on Recon*, ¶¶ 224-237.

[13] The use of a third-party verifier would also eliminate the need for the burdensome document retention rules adopted by the Order of Reconsideration in this proceeding in June, 2015. *See, Id.* Under this approach, whether or not RLECs choose to assist their customers in getting the documents to the verifier, they would not be performing any verification task at all, rather, the third-party verifier would perform the task that is today performed by the provider. Should the Commission adopt such an approach, it should relieve providers of any and all document retention responsibilities. Continuing to require providers to retain such documents would run counter to one of the main goals of creating a third-party verifier, that is, to relieve the administrative burden on providers. Eliminating document retention obligations would also protect consumer privacy by limiting the number of places that sensitive documentation such as Social Security cards and tax returns would be stored.

The Rural Representatives then stated that the Commission must hold faithful in all respects to the carefully designed statutory provisions (and its own precedent and rules as to the ETC designation process) and avoid "fast-pass" ETC designations in the name of so-called "streamlining" that fail to fully consider support recipients' qualifications, experience or commitment to universal service. The obligations that attach to designation as an ETC and the receipt of ratepayer dollars ensure that such funds are used to provide all Americans, regardless of where they live or work, access to high-quality basic and advanced communications services and makes recipients of universal service dollars accountable to ratepayers for the use of these funds. Moreover, the assertion that obtaining ETC designation is too burdensome should be summarily rejected. Carriers unwilling to make a demonstration that they are financially and technically capable of providing high quality service and that they can do so reliably and can serve as a *literal lifeline* to certain populations are free to provide service wherever they choose but without the public dollars that attach to ETC designation. Finally, the Rural Representatives noted that there is no demonstrated shortage of Lifeline providers nor is there any evidence that "streamlining" the process and increasing the *quantity* of Lifeline providers will lead to an increase in *quality* competition and *quality* Lifeline products being made available to low income consumers. Quite the contrary, fast-pass ETC designation processes are likely a race to the bottom in terms of the quality of service that low income consumers can expect.

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 J. Ford*
Brian J. Ford
Senior Regulatory Counsel

cc: Trent Harkrader
Ryan Palmer
Jay Schwarz
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