

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Telecommunications Carriers Eligible to Receive Universal Service Support)	WC Docket No., 09-197
)	
Time Warner Cable, Inc.)	
)	
Petition for Forbearance)	

**REPLY COMMENTS OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (“NTCA”)¹ submits these reply comments in response to the above referenced Federal Communications Commission’s (“Commission”) Public Notice seeking comment on the Petition for Forbearance of Time Warner Cable (“Petition”). In its Petition, Time Warner Cable (“TWC”) asks the Commission for forbearance with respect to Section 214(e)(5) of the Act and Section 54.207 with respect to TWC’s pending and future applications for limited designation as an eligible telecommunications carrier (“ETC”) to participate in the Lifeline program.

NTCA joins the New York State Telecommunications Association, Inc. (“NYSTA”) in recommending that the Commission deny TWC’s request. NTCA is supportive of a responsible and effective Lifeline program, demonstrating that most recently by having worked with member

¹ NTCA is an industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents nearly 600 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

companies to participate in the Commission’s broadband lifeline pilot program. But TWC has failed to make the requisite showing for the Commission to determine that forbearance is appropriate in this instance and how its request for relief would further the Commission’s universal service objectives.

As an initial matter, TWC has not demonstrated that it has standing under 47 U.S.C. § 160 to make the filing. Section 160 of the Communications Act of 1934, as amended (the “Act”) states that forbearance is available to “a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications service, in any or some of its of their geographic markets. . .”² In its Petition, TWC describes itself to be a “leading facilities-based provider of competitive voice services”³ It offers VoIP services.⁴ TWC does not claim or attempt to make any demonstration that it is a “telecommunications carrier,” offers “telecommunications service,” or is any part of a “class of telecommunications carriers.” Nor has the Commission classified interconnected VoIP providers as telecommunications carriers or determined that VoIP services are telecommunications services (although it could certainly take the opportunity to do so now, as that would help both clarify the instant Petition and address numerous broader legal and regulatory questions).

While TWC references a subsidiary that holds itself out as a telecommunications carrier, the parent company filed the instant request for forbearance; the subsidiary did not. It is

² 47 U.S.C. §160(a).

³ Petition p. 2.

⁴ Petition p. 3.

inappropriate for TWC to seek blanket relief as it neither qualifies for nor offers the specificity and detail required for a grant of forbearance.⁵

Further, TWC has not demonstrated that its subsidiaries may be included in a similarly situated class of providers. There is no suggestion of what the class would be. To the extent TWC subsidiaries are eligible for forbearance, NTCA agrees with NYSTA that evidence is necessary to demonstrate that each is individually qualified to seek ETC designation.

In support of TWC's assertion that TWC and its Subsidiaries' charges, practices, classification, or regulations "are just and reasonable and not unjustly or unreasonably discriminatory," TWC relies on the Commission's NTCH/Cricket⁶ and the Virgin Mobile Orders.⁷ But TWC offers no information with respect to its practices and no detail regarding its Lifeline service rates and how they will be just, reasonable and non-discriminatory. Additionally, the NTCH/Cricket and Virgin Mobile were wireless providers, such that the state commissions would have no authority regarding their rates. By contrast, the TWC subsidiaries operating in New York are presumably subject to the NY PSC's jurisdiction regarding its intrastate telecommunications service offerings. Thus, the facts are not comparable and should not be considered as support for TWC's request for forbearance.

⁵ See, *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance under Section 10 of the Communications Act of 1934, as amended*, Report and Order, WC Docket No 07-267, @ \$ FCC Rcd 9543, 9551 ¶ 13. (2009).

⁶ *NTCH, Inc. Petition for Forbearance from 47 U.S.C. ¶214(e)(5) and 47 C.F.R. ¶54.209(b), Cricket Communications, Inc. Petition for Forbearance*, Order, WC Docket No 09-197, 26 FCC Rcd 13723 (2011).

⁷ *Virgin Mobile USA, L.P., Petition for Forbearance from 47 U.S.C. 214(e)(1)(A), et. al.*, Order, CC Docket 96-45 24 FCC Rcd 2281(2009).

In short, TWC has not made a sufficient showing to support its request for forbearance and the Petition should therefore be denied.

Respectfully submitted,



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