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VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

**Re: *Ex Parte* Presentation of ACA Connects—America's Communications Association;
Emergency Broadband Benefit Program, WC Docket No. 20-445**

Dear Ms. Dortch:

On January 8, 2021, Ross Lieberman of ACA Connects—America's Communications Association ("ACA Connects") and I met by teleconference with Trent Harkrader, Jodie Griffin, Jessica Campbell and Eric Wu of the Federal Communications Commission ("Commission") Wireline Competition Bureau to discuss the Public Notice issued in the above-captioned proceeding.¹ The Public Notice seeks comment on the Commission's implementation of the Emergency Broadband Benefit Program ("EBBP") established under the Consolidated Appropriations Act, 2021 ("Appropriations Act").²

As we explained in the meeting, ACA Connects represents small and medium-sized providers that offer robust, reliable, broadband services in the markets they serve. For most member companies, in the areas they serve, they are the provider of wireline broadband service that delivers the highest speeds and performance available to consumers, including to households eligible for the emergency broadband benefit. In most cases, they are the only fixed provider offering a broadband speed offering of at least 25/3 Mbps. ACA Connects members are thus well-qualified to participate and to contribute to the success of the EBBP. Their services would make a particularly compelling option for eligible households that desire a robust fixed, wireline service that can support videoconferencing applications used for remote learning or telehealth.

ACA Connects members are eager to participate in EBBP. As smaller, local providers, they view the program as a great opportunity to help those in their communities that have been

¹ See *Wireline Competition Bureau Seeks Comment on the Emergency Broadband Connectivity Fund Assistance*, Public Notice, DA 21-6 (rel. Jan. 4, 2021).

² See Consolidated Appropriations Act, 2021, H.R. 133, div. N, tit. IX, § 904 (2020).

hit hardest by the COVID-19 pandemic. That said, given the likely short duration of the program, many will find it difficult to justify incurring the upfront costs and administrative burden necessary to participate if they feel they will be operating from the start at a disadvantage in their ability to compete for eligible households. In particular, the many ACA Connects members that are not Eligible Telecommunications Carriers (“ETCs”) and have no experience with Lifeline are likely to stay on the sidelines if the rules do not create a level playing field and a common starting point for all participating providers.

With these concerns in mind, we provided some initial recommendations in the meeting.

Maximize Consumer Choice in Selecting Broadband Benefits

In the meeting, we explained that promoting consumer choice should be a key principle when implementing the EBBP. The Commission should further that principle by adopting rules that encourage broad participation from providers, which will maximize the range of service options available to customers through the program. Every eligible household should have its choice of broadband service that best meets its needs, whether in terms of speed, mobility, customer service or other criteria the household deems important. If consumer have more options, that will also drive competition among providers to identify and to market their services to eligible households, which should enable more households to take advantage of the benefit.

To achieve these goals, ACA Connects recommends that the Commission set a single date on which all participating providers, including non-ETCs that have timely applied for Commission approval to participate,³ can begin offering benefits that are eligible for reimbursement. This approach will promote consumer choice by ensuring that eligible households are able to survey all options available to them before selecting the broadband benefit that best meets their needs.⁴

Of course, ACA Connects recognizes the benefit of launching the program quickly. Extraneous delays would be inconsistent with the purpose and spirit of the program. Accordingly, to get emergency benefits to consumers as soon as possible, the Commission

³ See *id.* at § 904(a)(12) (providing that ETCs may qualify as “participating providers” by right, but non-ETCs must meet requirements established by the Commission and obtain Commission approval); § 904(d)(2) (providing that a non-ETC is entitled to automatic Commission approval, but only if it has “an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse”).

⁴ To further educate and empower consumers, the Commission could publish the start date of the program and provide a comprehensive list of participating providers eligible to participate in the program at its start. Such a published list would also help consumers avoid invalid offers made before the program’s start date and deceptive offers from providers that are not participating providers. The Commission could add to the list over time if additional providers apply and are approved on a rolling basis.

should streamline the steps that non-ETCs must complete in order to participate from the same start date as ETCs. In the meeting, we offered the following suggestions along these lines:

- First, the Commission should immediately direct USAC to grant any requesting non-ETC provider prompt access to the multiple Lifeline databases, including the National Lifeline Accountability Database and National Verifier, that the Public Notice contemplates participating providers will need to use. Immediate access will give these providers and their staff an opportunity to familiarize themselves with these databases and to address any operational challenges or concerns before the program begins. Immediate access will also help providers decide whether they will use the National Verifier to verify household eligibility or seek to use other options that the Appropriations Act makes available.⁵ In addition to simply providing access, USAC should make available tutorials and other guidance to help non-ETCs get up to speed quickly on the use of these databases, and it should have staff available to answer any questions.⁶ Early access to the Lifeline databases, and assistance from USAC on using them, will be especially helpful to smaller providers and encourage their participation in EBBP.
- Also, rather than require non-ETCs to submit evidence that they have developed compliance plans to guard against waste, fraud, and abuse,⁷ the Commission should adopt a “safe harbor” or model compliance plan that providers can opt into. The policy rationale for having a compliance plan is clear, but we are concerned that the requirement to develop such a plan could impose significant burdens on smaller broadband providers that would dampen their participation, especially if there is any uncertainty what elements a plan would need to include to pass muster.⁸ As we observed in the meeting, streamlining this aspect of the approval process for non-ETCs could greatly expedite the process overall, in part by relieving Commission staff of the burden of reviewing individualized plans. In addition, the Commission should create a streamlined process for review and approval of “alternative verification processes” prior to the start of the program for participating providers that choose that verification method. Finally, ACA Connects noted that the Commission should consider providing a “fast tracked” approval process for small, rural fixed wireline providers that are not ETCs. Such providers will be disproportionately burdened by any upfront costs associated with the program, yet in many areas, they may be the only viable option for consumers who want a robust wireline service.

⁵ See § 904(b)(2).

⁶ ACA Connects recognizes that the USAC website includes some instructional videos and other documents on using the databases, but these resources are no substitute for operators having access to the database itself for purposes of familiarizing themselves on how it works and training their staff for using the databases on the first day that the program begins.

⁷ See Public Notice at 4-5.

⁸ If the Commission were to require a participating provider to modify its proposed compliance plan before granting approval, that would only delay the approval process further.

Provide Flexibility to Accommodate Existing Programs

During the COVID-19 pandemic, some ACA Connects members are offering programs that provide discounted broadband service to low-income households or to specific populations, such as schoolchildren.⁹ The rules implementing EBBP should be designed to take advantage of these existing programs to the greatest extent possible.

Along these lines, ACA Connects suggested that the Commission allow participating providers to continue to provide service under the terms of existing low-income broadband programs, even though the eligibility criteria for such programs may be narrower than that of EBBP. For instance, some providers have programs tailored to school children that leverage existing relationships with school districts and rely on schools to verify eligibility. Providers that offer targeted programs of this kind should be able to participate in EBBP without taking on the administrative burden and risk necessary to provide the benefit based on any and all of the statutory eligibility criteria. This flexibility could encourage some degree of participation in EBBP from providers that might otherwise find it impractical to participate at all, to the benefit of eligible households that are within the population served by a provider's existing program.

Ensure a Smooth Transition Off the EBBP

The EBBP is designed as a temporary program with limited funds. As ACA Connects explained in the meeting, we encourage the Commission to provide updates no less than every two weeks on the number of households receiving the benefit and the amount of money that remains available in the fund. Knowing this information will assist participating providers with long term planning and budgeting, as well as transitioning customers off the benefit if the funds are exhausted before the end of the emergency period. In this regard, providers should have the flexibility to discontinue the benefit in advance of the Commission announcing the end of the program.

⁹ See, e.g., RCN, Internet First, <https://www.rcn.com/internet-first/> (last visited Jan. 12, 2021); Mediacom, Connect2Compete, <https://mediacomc2c.com/> (last visited Jan. 12, 2021).

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules. Please address to the undersigned any questions regarding this filing.

Sincerely,



Brian Hurley

Cc: Trent Harkrader
Jodie Griffin
Jessica Campbell
Eric Wu