

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

In the Matter of)
)
Emergency Broadband Connectivity Fund) WC Docket No. 20-445
Assistance)
)

**REPLY COMMENTS
OF
WTA – ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”) hereby submits its reply comments regarding the Public Notice (*Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*), WC Docket No. 20-445, DA 21-6, released January 4, 2021.

The initial round of comments on January 25, 2021, indicated broad support for the Emergency Broadband Connectivity Fund (“EBCF”) program, but an equally broad range of views and proposals regarding the way to implement it. Rather than analyzing and critiquing the variety of initial comments, WTA believes that it would be more efficient and effective first to establish the primary goals of the program and then to develop an implementation plan that addresses these goals as well as the statutory requirements and the conditions on the ground as feasibly as possible.

A. GOALS

WTA observes that the EBCF program appears to have the following three predominant goals:

1. The EBCF services and discounts need to be made available and distributed as soon as possible to respond to substantial and immediate broadband service needs. The COVID-19 pandemic and quarantines and closures have now been in effect for almost a year, and it is not clear when they will end. There is sizable and pressing need right now for low-income households to have affordable access to broadband services in order to enable their members to work, shop, participate in school and attend telemedicine appointments from the safety of their homes.
2. The EBCF discounts need to be limited to those low-income households that are not able to afford the needed broadband services without them in order to enable the initial or ultimate EBCF budget to last for most or all of the remaining duration of the COVID pandemic. Even if Congress appropriates additional funds, there is an inherent trade-off

between the number of households that will receive EBCF discounts and the number of months the EBCF funding will remain available. Given the present uncertainties regarding the effectiveness of vaccines and the impact of viral mutations, a program that provides discounts to a large number of needy and less needy households for three months may not be as effective as one that provides discounts for the neediest households for six months or the duration of the quarantines.

3. The EBCF discounts need to be determined and distributed in a manner that minimizes waste, fraud and abuse. Unfortunately, widespread tragedies and well-intentioned programs bring out not only the best in some people but also the worst in others. As shown by recent robocall scams as well as past self-certification abuses, there are always some unscrupulous people who will try to take advantage and unfairly “profit” from situations such as the COVID pandemic. Effective protections against waste, fraud and abuse need to be designed, adopted and implemented.

WTA believes that these are the three primary goals of the EBCF program, and therefore the criteria against which EBCF implementing rules and procedures should be measured and refined. If the Commission believes otherwise, it can revise these goals, or add additional ones.

B. STEP 1: LIFELINE CUSTOMERS

Based upon the stated goals, the first step that the Commission should take is to authorize current Lifeline service providers that elect to participate in the EBCF program to offer their existing Lifeline customers the opportunity to obtain the EBCF discounts. This can be accomplished very expeditiously – by giving Lifeline broadband customers the EBCF discount on their existing service unless they opt-out, and by giving Lifeline voice-only customers the ability to opt into the broadband service of their choice. This opt-out/opt-in process can result in the distribution of EBCF discounts within one month or less – except in situations where substantial construction or installation is necessary to add broadband service capabilities to an existing voice-only service. The main advantages are that the customers receiving EBCF discounts have already been investigated and determined to be eligible for Lifeline support, and that the Lifeline service provider is already an Eligible Telecommunications Carrier (“ETC”) and has been subject to the Lifeline rules and procedures, including those designed to prevent waste, fraud and abuse.

As indicated in WTA’s initial comments, there are some rural telephone companies and other service providers that offer Lifeline and other voice services as ETCs and broadband services

via subsidiaries or commonly owned affiliates that are not ETCs. WTA proposed therein that the Commission provide expedited or virtual ETC status for EBCF purposes to broadband service providers that are under common ownership and management with existing ETCs and Lifeline service providers if the organization has a good record of ETC and Lifeline compliance.

Existing Lifeline service providers would have to file the Commission's contemplated notice of their election to participate in the EBCF program, and would have to offer the EBCF discount opportunity to their existing Lifeline customers if they elect EBCF participation. Lifeline voice-only customers would be able to elect the connected device option and the broadband speed tier that meets their service and financial needs. When the Commission adopts eligibility standards for the other Consolidated Appropriations Act ("CAA") statutory criteria, the participating service providers would also have to offer and advertise those EBCF options.

The clear advantage of this First Step is that the Commission can implement EBCF discounts virtually immediately to substantial numbers of low-income households that have already been determined to be eligible for Lifeline support and that are served by existing carriers subject to existing Lifeline rules and with readily ascertainable records of compliance. In other words, this step gets EBCF benefits out expeditiously to needy low-income households using existing and tested distribution and compliance mechanisms that entail minimal risks of waste, fraud and abuse.

B. STEP 2: PELL GRANTS

The CAA's Pell Grant criterion is the second easiest to determine and implement. It is readily ascertainable whether a student in a household has received a Pell Grant for the relevant school year. If a student has received a grant, the only other critical question is whether the household is already qualified to receive EBCF discounts as a Lifeline recipient. That is also readily ascertainable. Hence, the general Pell Grant eligibility criterion should be able to be adopted and implemented almost as rapidly as the Step 1 Lifeline criterion.

Where a Pell Grant-eligible household desires to obtain its discounted EBCF service from an existing ETC that has elected to participate in the EBCF program, the relevant connected device and broadband service discounts should be rapidly available. However, if the desired service provider is not an ETC, it must be required to apply for and obtain ETC designation under the applicable state or federal rules and procedures. Such designation must require demonstration of appropriate legal, technical and financial qualifications. It must also entail acceptance of the same regulatory obligations and responsibilities as other ETCs, and demonstration of the adoption and implementation of internal procedures and controls to prevent waste, fraud and abuse.

C. STEP 3: FREE AND REDUCED-PRICE SCHOOL MEALS

The CAA's school breakfast and lunch criteria are much more complicated and problematical to implement. No one doubts that there are households whose children receive free or reduced-price school meals that need EBCF discounts to obtain critically important broadband service. However, among other things, the Department of Agriculture's Community Eligibility Provision ("CEP") has expanded school meal programs to include many children from households that do not urgently need EBCF discounts to afford broadband service. The problem is that, if thousands or millions of upper, middle or not-so-low-income households qualify for EBCF discounts via school meal programs, the limited initial or ultimate budget for the EBCF program is likely to result in a shortened duration of the EBCF program for truly needy low-income households.

WTA understands that one of the reasons for the CEP expansion of school meal programs was not to stigmatize children from low-income households. That is an honorable purpose. However, when the policy is taken out of the school meal line and used to determine EBCF eligibility, it is likely to have adverse consequences by providing EBCF broadband discounts to households that do not need them and by shortening the EBCF discount period for households that cannot afford broadband service without them.

WTA believes that the school meal eligibility criterion needs to include a household income cap that limits eligibility to needy low-income households. The determination of an appropriate cap is likely to take some time, but is necessary to maximize the length of the EBCF program for truly needy low-income households and to avoid waste, fraud and abuse.

When an appropriate household income cap is determined and implemented, all other procedures remain the same. A household is eligible for EBCF discounts under the school meal criterion only if it is not eligible under the Lifeline or Pell Grant criteria, and the household's service provider must be an ETC or obtain ETC designation under the same rules and requirements as other ETCs. Non-ETCs intending to offer EBCF discounts on the basis of the school meal program criterion can be applying for ETC status while the school meal cap is being determined.

D. STEP 4: SUBSTANTIAL LOSS OF INCOME

The “substantial loss of income since February 29, 2020” is the most difficult of the CAA criteria to implement reasonably and equitably. What is an eligible “substantial loss of income”? How many of these circumstances would qualify: (a) from \$1 million income in 2019 to \$400 thousand income in 2020; (b) from \$100 thousand income in 2019 to \$60 thousand income in 2020; (c) from \$50 thousand income in 2019 to \$15 thousand income in 2020? Does it matter whether the dollar amount of income loss was suffered by households in areas such as San Francisco, Toledo or rural Kentucky where the cost of living differs substantially? And how does a household demonstrate a “substantial loss of income” during 2020 -- by presenting its income tax returns for 2019 and 2020; by showing its unemployment applications and unemployment compensation receipts during 2020; by submitting a bankruptcy petition for its small business; or by some other method?

This criterion is well intended, but poses a major problem for the Commission and the industry in determining how to fairly and equitably implement it. It is WTA’s impression that very many households in all parts of the country and in all income classes believe that they suffered “substantial losses” of income during 2020.

It is likely to require a lengthy time period for the Commission to determine a reasonable and equitable way to implement this criterion, and a relatively long additional period to determine individual household eligibility once the implementation rules are adopted. However, by following the proposed stepped approach, critical and substantial support can be provided under the other CAA eligibility criteria while “substantial loss of income” definitions and rules and waste, fraud and abuse protections are being developed.

E. CONCLUSION

WTA reiterates the support of its members for the EBCF program, its concerns regarding the duration of the program and the possibility of it ending abruptly when the current appropriation is exhausted, the need for timely advance warnings by the Commission and the Universal Service Administrative Company when the EBCF program and funding are ending, and the efficiencies of following existing Lifeline rules and procedures as much as possible. It advocates the four-step implementation approach detailed herein as an effective and efficient way to begin distributing needed EBCF discounts as rapidly as practicable, to target them as much as possible to the neediest households that otherwise are having a great deal of difficulty affording essential broadband services, and to minimize waste, fraud and abuse.

Respectfully submitted,
WTA – ADVOCATES FOR RURAL BROADBAND

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