



**John J. Heitmann**

Kelley Drye & Warren LLP  
Washington Harbour, Suite 400  
3050 K Street, NW  
Washington, DC 20007

Tel: (202) 342-8544

Fax: (202) 342-8451

jheitmann@kelleydrye.com

June 9, 2021

**By ECFS**

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

Re: **Notice of Oral *Ex Parte* Presentation, WC Docket No. 11-42**

Dear Ms. Dortch:

On Monday, June 7, 2021, the undersigned counsel on behalf of the National Lifeline Association (NaLA) met (via phone) with Nicholas Page and Ryan Palmer of the Wireline Competition Bureau (WCB) to discuss the NaLA Petition for Rulemaking filed on April 19, 2021.<sup>1</sup> In the meeting, we urged the Commission to expeditiously release a Public Notice seeking comment on the Petition for Rulemaking so that others can comment on it and the Commission can build a record to take the necessary actions to transition the Lifeline program into a program that is post-Emergency Broadband Benefit (EBB) ready. We explained in the meeting that the Commission should not work in a linear fashion, but rather consider important improvements to the Lifeline program now so that those improvements can be in place when the EBB funding runs out. The discussion was consistent with the advocacy in the Petition for Rulemaking and the attached summary, which focuses on the growing consensus that the Lifeline reimbursement must be substantially increased.

---

<sup>1</sup> See National Lifeline Association Petition for Rulemaking, RM-\_\_\_\_\_ (Apr. 19, 2021) (Petition for Rulemaking).

Marlene Dortch  
June 9, 2021  
Page 2

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.<sup>2</sup>

Respectfully submitted,



John J. Heitmann  
Joshua Guyan  
Kelley Drye & Warren LLP  
3050 K Street, NW, Suite 400  
Washington, DC 20007  
(202) 342-8400

*Counsel to the National Lifeline Association*

Enclosure

cc: Nicholas Page  
Ryan Palmer

---

<sup>2</sup> 47 C.F.R. § 1.1206(b).



## NaLA Lifeline Petition for Rulemaking *Now Is the Time to Make Lifeline Post-EBB Ready*

**Make Lifeline Post-EBB Ready.** The FCC must take action now to get the Lifeline program ready for the end of the Emergency Broadband Benefit (EBB) Program.

- **Lifeline Needs to Make More Broadband Affordable.** The Lifeline reimbursement of \$9.25 per month is woefully inadequate to provide affordable access to the level of broadband needed today as the nation emerges from the pandemic with remote learning, telework and telehealth becoming enduring aspects of societal and economic shifts created in response to the crisis.
- **EBB Program Elements Need to Be Incorporated into Lifeline.** The record on the State of the Lifeline Marketplace Report Public Notice reflects that there are important lessons to learn from the EBB Program for a revitalized Lifeline program. It is in that spirit that NaLA filed its **Petition for Rulemaking** on April 19, 2021, encouraging the FCC to act quickly make a Lifeline a suitable successor to the EBB Program.
- **Job 1: Increase Lifeline’s Service Support Amount.** Make the EBB service support amount permanent by raising the Lifeline support amount by \$50 to make larger broadband allotments affordable for Lifeline eligible consumers.
  - To create downward pressure on the necessary support amount over time, the Commission should:
    - Approve compliance plans and federal ETC petitions, and encourage states to also approve long-pending ETC applications – this would facilitate an influx of providers and spur competition, which will drive improved service offerings and more retail price competition.
    - Reinstate the one-year port freeze for Lifeline broadband services – this would drive down churn, lowering the costs of maintaining robust service offers.
  - To meet the Commission’s statutory goals, Lifeline needs to grow and participation levels must increase dramatically. The Commission should act to stabilize USF funding for Lifeline. Sources of supplemental funding should be explored, but Lifeline should not be dependent on discretionary spending subject to the annual congressional appropriations process.
- **Eliminate or Adjust Lifeline’s One-Per-Household (OPH) rule.** The OPH rule does not meet the needs of low-income households with multiple learners and users for multiple lines of broadband connectivity. At a minimum, the OPH rule should be adjusted to effectively leverage synergies between Lifeline and the E-Rate and Rural Healthcare Programs.
- **Reduce Regulatory Uncertainty and Burdens.** The Lifeline program suffers from regulatory uncertainty and burdens that make it difficult for service providers to attract capital and implement successful business models. Reducing regulatory uncertainty and burdens will lead to greater participation by providers and eligible consumers.
  - **Eliminate or Reform the Lifeline Minimum Service Standards (MSS) Rule.** The mobile broadband MSS rule should be eliminated or revised so that any MSS serve as a true minimum designed to guard against outlier service offerings. The Commission finally and without delay must address the flawed mobile broadband MSS formula and the pending petitions for reconsideration.
  - **Eliminate the Non-Usage Rule.** The Commission should eliminate the non-usage rule or refine it and reverse decisions imposing significant costs on Lifeline providers by allowing them to claim reimbursement for providing discounted services to subscribers in any non-usage cure period.
  - **Rationalize Lifeline Auditing and Enforcement.** The Commission should ensure accountability through Lifeline audits with definitive closing dates based on representative samples, and a safe harbor from Commission enforcement for Lifeline eligibility determinations made by the National

Verifier, state administrators, or other third parties similar to the safe harbor for the EBB Program, to encourage provider participation.

- **Withdraw Harmful Proposals.** The Commission should provide regulatory certainty by withdrawing previous Commission proposals that would harm the Lifeline program, including proposals to: (1) ban wireless resellers; (2) require resellers to pass through all Lifeline support to underlying carriers; (3) impose a Lifeline maximum discount/minimum charge; (4) prohibit distribution of free handsets to eligible Lifeline subscribers; and (5) restrict the types of data usage that would constitute qualifying usage under the Lifeline program.
- **Increase Lifeline Competition by More Effectively Administering ETC Designations – Not through Vouchers.** The Commission should increase competition by approving Lifeline ETC applications and compliance plans that have languished with the Commission for years, encourage states to approve pending ETC applications expeditiously by adopting shot clocks for decisions by the Bureau on delegated authority and for the states, and facilitate Lifeline provider transactions with reasonable decision deadlines where appropriate.
  - Although the Commission should streamline and improve the compliance plan and ETC processes, it should not eliminate the ETC requirement or transition to providing Lifeline benefits via vouchers because:
    - the ETC requirement is statutory;
    - states perform an important gatekeeping and monitoring role; and
    - vouchers would increase risks of consumer fraud and undermine the Commission’s reform efforts since 2012, impose enormous administrative costs on the Lifeline program and increase churn rates that would disincentivize providers from offering up-front value to consumers (e.g., discounted connected devices).
- **Fix the National Verifier.** The Commission should take steps to improve the National Verifier so that it does not continue to act as barrier to participation by eligible consumers.
  - **Application Programming Interface (API).** The FCC should fix the National Verifier Lifeline API to enable the document transmission functionality and other solutions that could help mitigate the 68% abandonment rate for consumers going through the manual verification process.
  - **State Database Access.** The FCC should redouble efforts to secure access to more state SNAP databases, and in the meantime should work with USAC on a solution that would allow for consumers to demonstrate eligibility using an EBT cards plus a SNAP transaction receipt.
- **Promote Lifeline Transparency.** The Commission should promote transparency through implementation of a public USAC dashboard displaying key Lifeline enrollment and de-enrollment metrics along with data regarding the timeliness and expense of National Verifier eligibility verification methods.
- **Reinstate Lifeline Voice Support.** Consistent with the record since 2016, once again the record on the State of the Lifeline Marketplace Public Notice reflects unanimous support for retaining or reinstating full Lifeline support for voice service and no stakeholder has argued for its phase-out. As Acting Chairwoman Rosenworcel said recently – “We’ve become a nation that calls like never before...We are craving a human voice.”