

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

**In the Matter of:** )  
 )  
**Emergency Broadband Benefit Program** ) **WC Docket No. 20-445**  
 )

**To: The Commission**

**COMMENTS OF  
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

The National Rural Electric Cooperative Association (“NRECA”) hereby submits these Comments in response to the Public Notice requesting comment on implementation of the Emergency Broadband Benefit Program (“the Program”),<sup>1</sup> consistent with the requirements of the Consolidated Appropriations Act, 2021.<sup>2</sup>

**INTRODUCTION**

NRECA is the national service organization for more than 900 not-for-profit rural electric cooperatives that provide electric energy to approximately 42 million people in 48 states or approximately 12 percent of electric customers, including 327 of the nation’s 353 “persistent poverty counties” (93%). Of the 42 million Americans served by cooperatives, an estimated 4 million live in persistent poverty counties. Rural electric cooperatives serve 88% of the counties of the United States. Rural electric cooperatives were formed to provide safe, reliable electric service to their member-owners at the lowest reasonable cost. Rural electric cooperatives are dedicated to improving the communities in which they serve; management and staff of rural

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, WC Docket No. 20-445, Public Notice (Jan. 4, 2021) (“Public Notice”).

<sup>2</sup> Consolidated Appropriations Act, 2021,<sup>2</sup> H.R. 133, div. N, tit. IX, § 904(b)(1) (2020) (“the Act”).

electric cooperatives are active in rural economic development efforts. Electric cooperatives are private, not-for-profit entities that are owned and governed by the members to whom they deliver electricity. Electric cooperatives are democratically governed and operate according to the seven Cooperative Principles.<sup>3</sup>

NRECA and its members are intensely interested in the deployment of advanced telecommunications capabilities within the rural communities and areas in which electric cooperatives provide electric service. Over 150 NRECA members provide fixed broadband service today, deploying fiber-based, fixed wireless or combined fiber and fixed wireless technologies. Forty-two (42) rural electric cooperatives participated in the Connect America Phase II auction, with thirty-two co-ops securing winning bids in fifteen states worth \$254,720,764.50 over ten years to bring broadband to 86,716 locations. Due in part to recently enacted state laws lifting restrictions on electric cooperatives' authorized lines of business, more electric cooperatives participated in the RDOF Phase I auction.

Prior to adoption of the Act, NRECA members took meaningful steps to support rural area households to remain connected to the Internet during the first wave of the COVID-19 pandemic. NRECA member broadband providers not only maintained broadband service to customers despite lack of payment, waived late fees because of economic distress, and opened Wi-Fi hotspots to those in need, but went a step further in increasing customers' Internet speeds without charge.<sup>4</sup> These steps were undertaken despite substantial increases in unpaid electric

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<sup>3</sup> The seven Cooperative Principles are: Voluntary and Open Membership, Democratic Member Control, Members' Economic Participation, Autonomy and Independence, Education, Training, and Information, Cooperation Among Cooperatives, and Concern for Community.

<sup>4</sup> See Cathy Cash, *Co-op Broadband Providers Pledge to Sustain Low-Income Service as Pandemic Hardships Increase*, NRECA, <https://www.electric.coop/co-op-broadband-providers-pledge-to-sustain-low-income-service-coronavirus-pandemic-hardships-increase/> (Mar. 25, 2020).

service invoices.<sup>5</sup> NRECA applauds the Commission’s timely release of the Public Notice, looking to implement the Fund in an expeditious manner as provided under the Act.

### COMMENTS

NRECA supports establishing three options by which service providers may verify whether a household is eligible to participate: (1) rely on the National Verifier and the National Lifeline Accountability Database, (2) rely on a school to verify participation in the free and reduced price lunch program or the school breakfast program, or (3) use the provider’s eligibility verification process if such process is approved by the Commission. (Public Notice, pp. 7-8). The Commission should confirm that one process for determining household eligibility is reliance on one or more official documents that confirm the current income information of the wage earners in a household, consistent with the approach taken last year regarding eligibility for the Lifeline program.<sup>6</sup> NRECA also requests that the options be reasonably defined so that compliance is not a burden or challenge for service providers to implement.

NRECA believes the Commission should manage the Fund to promote fixed broadband Internet access services as the \$50.00 per month support, \$75.00 per month in Tribal areas, allows. Fixed broadband service can support more devices in low income households as opposed to mobile broadband offerings. This is clearly the case for the low-income households in the 327 of the nation’s 353 “persistent poverty counties” (93%) located within electric cooperatives’ electric service territories. To reasonably meet residential broadband connectivity requirements “to support video conferencing platforms and other software essential to ensure full

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<sup>5</sup> See generally Erin Kelly, *Co-op Voices: The Expanding Financial Toll of the COVID-19 Pandemic*, NRECA, <https://www.electric.coop/covid-19-co-op-voices-expanding-financial-toll-of-pandemic/> (May 18, 2020) (noting that the percentage of Coast Electric Power Association members that pay their bills on time fell from 90% to 50% by May 5).

<sup>6</sup> Lifeline Link Up Reform and Modernization, WC Docket No. 11-42, Order, DA 20-462 (WCB June 30, 2020). See also, NRECA’s proposed definition of “household.” *Infra*, pp.6-7.

participation in online learning” during the pandemic (Public Notice, pp. 9), the Program funds should only be dispersed for fixed broadband services that meet or, preferably, exceed the current 25/3 Mbps fixed broadband service benchmark. For avoidance of doubt, NRECA would support a minimum higher performance tier, such as 100/20 Mbps, or a baseline symmetrical tier, such as 75/75 Mbps, as these speeds can better support concurrent use of multiple devices within a household.

For broadband service providers that are not eligible telecommunications carriers in areas in which they wish to provide service under the Program, NRECA supports the straightforward six-point notice these service providers must submit to establish eligibility to participate in the Program (Public Notice, pp. 2-3). To confirm that a service provider offered broadband service on or before December 1, 2020, the Commission could require the service provider to include in the six-point notice a reference to its Form 477 Report filed on or about September 1, 2020. This would capture a substantial majority of existing broadband service providers. Requests to participate by services providers claiming to have initiated fixed broadband service between September 1 and December 1, 2020, could be evaluated on a case-by-case basis by the Commission staff or the Universal Service Administrative Company (USAC).

The requirements that an interested provider supply its FRN and Service Provider Identification Number (SPIN) are reasonable means for the Commission and USAC to identify the provider and track its involvement in the Program. However, the Commission must recognize that some broadband providers that do not offer interconnected VoIP, telecommunications or telecommunications services may not currently possess a SPIN, but the process for obtaining a SPIN is not unduly burdensome.

A more challenging matter raised by the Commission pertains to how it should interpret the requirement that the pricing for Program-supported broadband services be at the “standard rate” for the services. The Public Notice inquires whether the Commission should require documentation that a certain number or percentage of the providers’ subscribers purchased service at that rate prior to enactment of the Program, and proposes that if the provider’s standard rates are uniform across the areas it serves, the provider should submit supporting documentation for those rates and raises concerns over promotional rates. (Public Notice, p. 3).

The challenge with a “standard rate” is that a broadband service provider’s rates are typically tied to performance tiers (downstream/upstream speeds) and usage allowance caps, if any. Some service providers also offer Internet access service as part of a bundle of services—wireline voice, linear video programming, and Internet access. Promotional pricing and bundled pricing typically have minimum term commitments and impose shortfall penalties for discontinuing service prior to expiration of the term. Smartly, the Act prohibits participating services providers from imposing early termination penalties. (Public Notice, p. 9).

As the Notice suggests, multiple pricing rules and principles could be considered in establishing a standard rate. For ease of administration and achieving an outcome consistent with the purpose of the Act, NRECA recommends the standard rate, including other standard terms and conditions less early termination penalties, reflect the service provider’s best available rate for residential service (promotional, bundled or standalone) per performance tier, defined as the download and upload speed combinations, plus any data usage caps, if applicable, offered on or before December 1, 2020. Published price lists or a service provider’s internal pricing schedules may be used to verify these “standard rates.” NRECA supports the condition that the

service provider’s reimbursement “not exceed the standard rate for the applicable service tier (or \$100 for a connected device.)” (Public Notice, p. 9).<sup>7</sup>

The Commission proposes that any broadband provider seeking to participate must make the Emergency Broadband Benefit available in all service areas in each of the states in which it is approved to participate. (Public Notice, p. 4). This is reasonable. The requirement that standard rates apply on a state-specific basis, as opposed to local market, strikes a reasonable balance that is readily auditable. Service providers that have established different pricing for their respective service tiers for different markets in a state should be allowed to select their “standard rate” for their available service tiers. NRECA believes these service providers will be mindful of the purpose of the Act in selecting their standard rates.

Since the Consolidated Appropriations Act does not define “eligible households,” the Commission seeks comment on using the definition of “household” provided in its Lifeline rules for purposes of administering the Emergency Broadband Benefit Program. (Public Notice, p. 6). NRECA recommends this proposal be refined as the USAC definition could prove problematic. USAC’s explanation of a “household” under the Lifeline program states that individuals residing at the same premise that do not share housing expenses are each a “household” and eligible for a Lifeline discount.<sup>8</sup> The Lifeline approach may work for mobile services, but it is less than optimal for fixed broadband services. NRECA recommends the concept of location—a physical address, including a residential unit in an apartment complex—as applied in the CAF II and RDOF Phase I auctions should constitute a “household” under the Program. It will capture standalone, semi-detached and multi-family residential living environments. From the

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<sup>7</sup> NRECA supports the other proposed elements of the proposed service provider certifications, but because the Program is intended to meet relatively near-term, pandemic-related broadband requirements, additional certification requirements would not promote the public interest (Public Notice, pp. 9-10).

<sup>8</sup> See <https://www.lifelinesupport.org/do-i-qualify/what-is-a-household/>.

perspective of either trying to determine whether individuals at a premise are or are not sharing expenses or the possibility of providing multiple fixed broadband connections to a single premise, the concept of location relied upon in the CAF II and RDOF Phase I auctions is preferable.

The Public Notice tracks the Act's three avenues by which broadband services providers establish eligibility to participate in the Program: (i) be designated as an ETC in the state(s) in which it elects to participate in the Program and provide service (Public Notice, p. 4); (ii) submit an application with the Commission satisfying five criteria (Public Notice, p. 5); or (iii) as of April 1, 2020, have an established COVID-19 program to provide broadband for low-income individuals. (Public Notice, p. 5). NRECA understands existing ETCs must elect to participate in the program. For administrative convenience, it appears processing requests to participate on a first-come, first-served basis is the most straightforward, though notices of existing ETCs to participate should be deemed granted upon submission.

NRECA supports implementing one of the two requirements for all services providers interested in participating in the program. (Public Notice, p. 4). The requirement that a participant commit to provide service in each of its service areas throughout a state is reasonable. In many areas within a state, there are often only one or two fixed broadband providers offering true highspeed Internet access. The Commission's goal should be to maximize the availability of service in all states. Thus, requiring state-wide coverage supports meeting essential broadband requirements in the very near term and should be adopted. On the other hand, having to develop a program to combat waste, fraud and abuse based on the Lifeline program drafted for non-facilities-based wireless carriers will not encourage participation. Billing records and verified lists of participating customers should be more than adequate. The potential for abuse that arose

under the Lifeline program arose in principal part from entities that relied on Lifeline as a core element of their business plans. Participation in the Program is not central to the business plans of facilities-based fixed broadband service providers. NRECA supports the interest and goal of minimizing waste, fraud and abuse, but the more straightforward, auditable approach recommended by NRECA is more appropriately tailored to address the potential for waste, fraud and abuse in the Program.

NRECA appreciates the Commission's interest in promoting awareness of the Program. (Public Notice, pp. 10-11). NRECA reasonably believes its members that are broadband service providers will promote the Program aggressively. We recommend that the Commission develop online presentations and, possibly, conduct webinars explaining the major elements of the program and core compliance obligations for the benefit of service providers. Such an educational program would be comparable to those developed by FCC staff in advance of the CAF II and RDOF Phase I auctions. These targeted educational programs will maximize informed participation by all broadband service providers. Also, to minimize the burden on participating providers, USAC or FCC staff could draft concise, model language for notices to eligible households. Finally, to enable the transition from the Program, participating broadband service providers should be given advance notice, preferably at least 120 days, of the Program's conclusion.

## **CONCLUSIONS**

The Public Notice sets out a series of meaningful questions and requests for comment on major elements of the Emergency Broadband Benefit Program. NRECA is particularly sensitive to the challenges faced by rural communities lacking high speed Internet access and how these challenges have been magnified during the COVID-19 pandemic. Our Comments urge the



Commission to adopt proposals to ensure the Program is implemented timely and with appropriate safeguards to maximize participation for broadband service providers operating throughout the country.

Respectfully submitted,  
**National Rural Electric Cooperative Association**

        /s/        

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