

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

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

COMMENTS OF THE CALIFORNIA EMERGING TECHNOLOGY FUND

Sunne Wright McPeak
President and CEO
Susan E. Walters
Senior Vice President
California Emerging Technology Fund
Mailing Address
P.O. Box 5897
Concord, California 94524
Office Address
2151 Salvio Street, Suite 252
Concord, California 94520
Telephone: (415) 744-2383
sunne.mcpeak@cetfund.org
susan.walters@cetfund.org

Rachelle Chong
Special Counsel to CETF
Law Office of Rachelle Chong
345 West Portal Avenue, Suite 110
San Francisco, California 94127
Telephone: (415) 735-0378
rachelle@chonglaw.net

January 25, 2021

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

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

COMMENTS OF THE CALIFORNIA EMERGING TECHNOLOGY FUND

Pursuant to Section 1.419 of the Commission’s Rules, the California Emerging Technology Fund (“CETF”) hereby timely files comments on the FCC’s Public Notice, dated January 4, 2021, entitled “Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance,” in WC Docket No. 20-445 (hereinafter “Public Notice”). This Public Notice seeks to implement the Emergency Broadband Benefit Plan (“EBB”) approved in Section 904 of Division N of the Consolidated Appropriations Act, 2021 (“Act”), signed by the President on December 27, 2020.

Background. Established in 2006, CETF is a non-profit organization dedicated to its mission of closing the Digital Divide in California. CETF was directed to be established by the California Public Utilities Commission (“CPUC”) as a public benefit resulting from mergers in 2005 of AT&T/SBC Communications and Verizon Communications/MCI. CETF routinely provides recommendations to the CPUC and this Commission on issues relating to broadband, affordable broadband offers, and corporate consolidations involving Internet Service Providers (“providers”). As to the latter, CETF generally recommends that providers seeking to consolidate offer public benefits to their consumers relating to improved broadband

infrastructure, affordable broadband offers and other Digital Inclusion strategies. CETF is the only non-state agency member of the California Broadband Council,¹ due to its unique role in promoting broadband and its deep broadband infrastructure and adoption expertise in the state. CETF has worked tirelessly to increase broadband infrastructure and adoption programs in communities that need them.²

California has the highest population and poverty rates of all the states and tends to have higher unemployment than most states. California focused early in 2006 on Digital Divide issues, but there is still much to be done in our vast state, in terms of broadband infrastructure improvement and adoption among low-income and other disadvantaged communities.

The Emergency Broadband Benefit program provides a ray of hope because it will provide an essential service – broadband – to needy households in our state, whether it is because the occupants are low-income, disadvantaged, disabled, of advanced age, or are suffering from unemployment or from being displaced due to a natural disaster such as wildfires or floods. The COVID-19 pandemic has laid bare the stark reality that broadband has become an essential service like electricity and water. Those on the wrong side of the Digital Divide are deeply disadvantaged without broadband access. As a result, CETF is heartened by the EBB program proposal and provides these comments in the spirit to improve it, based on CETF’s experience since 2006 as to Digital Divide issues.

General Issues: (1) Prioritization of the Fund for Those Unconnected to Broadband at Home. At the outset, while \$3.2 billion sounds like significant amount of funding, in fact,

¹ The [California Broadband Council](#) was established by Senate Bill 1462 to promote broadband deployment in unserved and underserved areas of the state as defined by the CPUC, and broadband adoption throughout the state.

² Please see the [CETF website](#) for details of its comprehensive Digital Divide work: <https://www.cetfund.org/>

given the estimated 21 million to 42 million of unconnected households in the nation,³ EBB funding may in fact only last less than a year, given it covers both monthly access fees up to \$50/household and discounted devices. *As a result, CETF strongly recommends that half of the fund (50%) be reserved for households that are unconnected to the Internet at home.* These households should be prioritized over those who already have access and devices but may be obtaining it through an affordable broadband offer. CETF is concerned that providers will first contact its existing customer base of low-income customers (e.g., Lifeline or customers taking its low-income Internet plan) with the EBB offer, and the most needy – the unconnected households – will not have access to the benefits of the EBB fund because they did not find out about it early enough. Thus, as an overarching matter, CETF recommends that EBB funds be earmarked for unconnected households and these households should be prioritized first, with remaining funds granted thereafter for those with existing broadband service but otherwise eligible under the EBB criteria.

(2) Require a Provider Match Funding. CETF recommends that a goal be set to make the EBB funding last until the end of 2021. With a time-based goal, the FCC should consider requiring a provider to match any EBB funds it receives from the program for a customer. So, for example, if a provider receives \$50 towards Customer A, the provider would match it with \$50 of value and deliver to Customer A a retail rate plan that is of \$100 in normal retail value as of an April 1, 2020 rate plan. Alternatively, the provider could opt to provide two months of service for that payment. One benefit of the matching requirement is to provide the participant with a broadband plan with faster speed and possibly no data caps.

³ <https://broadbandnow.com/research/fcc-underestimates-unserved-by-50-percent>

(3) Prioritize Providers That Work Cooperatively with States on Digital Divide

Issues. CETF further recommends that providers who are working cooperatively with state authorities on Digital Divide issues be prioritized for EBB participation. By “working cooperatively,” CETF means:

(1) giving priority consideration to coordinated plans submitted by state broadband authorities or state public utility agencies; and,

(2) giving priority consideration to providers that are working with the state public utilities agency or other state broadband authority to bring broadband infrastructure to all the population, providing affordable offers for low-income households and small businesses, and providing digital adoption training to those who cannot afford it.

Such civic-minded providers should be rewarded for their voluntary efforts to bring Internet to all and work with such state authorities.

CETF’s Detailed Comments Following the Order in the Public Notice:

Participating Providers. CETF agrees with the Public Notice that to participate in the EBB Program, a provider should affirmatively elect to participate, and either be designated an Eligible Telecommunications Carrier (“ETC”) or be approved to the FCC to participate. As to the ETC designation, CETF is concerned whether the ETC designation process will serve as a barrier to smaller Internet service providers who are not familiar with FCC processes or the ETC designation for the Lifeline program. Further, CETF is concerned that an ETC requirement may discourage certain national cable broadband companies that have declined in the past to obtain ETC status to participate in the Lifeline program. CETF recommends straightforward

applications that do not require ETC designation unless it is deemed absolutely necessary.⁴ In order to reach as many unconnected households, the goal should be to have broadband participation by providers that cover a broad geographic area of every state and Tribal land. However, CETF acknowledges many small providers serve specific areas and may be the only broadband provider for that area. They should be encouraged to participate in the EBB program also.

As to providers who do not have an ETC designation yet but want to participate, the FCC (or USAC, if it is designated as the EBB administrator) should have a simple application and approval process to allow these non-ETC providers to participate. This is a short-term program and it is in the public interest to have as many providers participate to reach as many unconnected households as possible. The Act itself provided guidance for an expedited process which results in “automatic approval.”⁵ The elements of this automatic approval are: (1) broadband provider with an established program as of April 1, 2020 that is widely available; (2) offers Internet service offerings to eligible households; (3) maintains verification processes that are sufficient to avoid fraud, waste and abuse.” *Id.* In light of this Congressional guidance, the approvals should heed these three elements and be quickly approved. CETF recommends that “automatic approval” not include applications by providers that are incomplete, lack certification, have been rejected by a state or the FCC for participation in the Lifeline program, or otherwise do not meet requirements of the Act or of the FCC for program participation.

As one example of worthy organizations that are not ETCs are nonprofit community resellers like Human IT and PCs for People, which resell fixed wireless services from Mobile

⁴ CETF is aware that many providers do not offer Lifeline and are not ETCs. Imposing ETC obligations on providers may be a deterrent to participation to the EBB program.

⁵ Act, H.R. 113, Div. N, tit. IX, Section 904(d)(2).

Beacon and Mobile Citizen. Such nonprofit community resellers provide very low cost, fixed wireless Internet service to thousands of low-income households across the United States. CETF supports the approval of nonprofit community resellers which are established in the marketplace and deliver a quality Internet service at very low cost to low-income consumers.

Provider Application. A standard universal provider application should be developed by the FCC that is simple and can be easily uploaded to the administrator. The FCC should consider making the provider applications public for transparency for consumers, school districts, and federal and state agencies. The provider application should include what is listed at the last paragraph of page 2 of the Public Notice, but as to the description of the Internet service offerings for which it plans to seek reimbursement, *CETF strongly recommends that the rate plans offered and approved by the FCC should not cost the household more than \$10 to \$20 per month.* This affordable broadband rate (\$10-\$20) has been found by CETF in focus groups to be considered affordable by low-income households in California.

Further, the provider application should not just ask if the provider will provide devices as part of its EBB Program but should seek additional information as to the device to ensure it meets the Act's requirements of being a laptop, desktop computer or tablet. *CETF recommends that the provider application require a detailed description of the device(s) to be offered to ensure such device has a keyboard for data input,⁶ and will connect to the public Internet, and is not a "walled garden" device that is restricted to one provider's service and cannot reach the public Internet.* Also, the application should request the retail price of the device that will be charged to eligible customers to ensure it is between \$10 and \$50 consistent with the Act's requirement.

⁶ CETF is pleased to see that the Act prohibits a mobile smartphone device to be a device. Students may not write term papers or perform research on a mobile phone.

In addition, the application should ask in what geographic areas⁷ the provider intends to offer the EBB and whether it is an ETC already. The goal for the program should be for coverage of all areas of a state, and not just urban/suburban areas. There are many eligible households in rural, remote, and Tribal areas.

The application should also ask how many customers the provider had by each proposed rate plan on December 1, 2020 and if applicable, on the state and federal Lifeline broadband programs. This will indicate to the FCC whether the provider is a mature Internet service provider, or a startup company without expertise in serving eligible consumers.

Further, CETF recommends that the provider submit a required marketing plan describing how it intends to advertise the EBB program to eligible households, including the use of trusted messengers such as community-based organizations, schools, libraries, and civic organizations. Will the provider use media that is directed to these eligible populations, and will it use in-language and in-culture marketing materials? The FCC should make clear that it expects the provider to advertise to currently unconnected households, and not just use EBB funds for Lifeline or current affordable offer subscribers.

CETF recommends that the provider indicate what counties in each state the provider wishes to serve and provide the percent of participation in the Supplemental Nutrition Assistance Program (“SNAP”)⁸ in order to provide some sense of the number of eligible households in those counties. This easily available, public data will provide information to the FCC and USAC as to the low-income areas most in need. The SNAP data is easily available by Congressional

⁷ The geographic designation by the provider should include state, county and community names which will help anchor institutions and others promote the service.

⁸ This data is available at <https://frac.org/snap-county-map/snap-counties.html>

District, State, County, Metro area or community at this website: <https://frac.org/maps/snap-cd/snap-congress.html>.

CETF agrees with the Public Notice that providers should not be paid for EBB service to provide service to areas it did not serve as of December 1, 2020, the date of the Act. The focus by providers should be in serving all eligible households in existing service areas, and not on trying to expand its service area to obtain more EBB payments.

USAC should be directed to process the provider applications within 14-21 days. Also, CETF refers back to its general recommendation that providers should be prioritized who cooperate with their state authorities on Digital Divide broadband issues.

Definition of “an Internet Service Offering.” CETF agrees that only broadband providers offered Internet service as of December 1, 2020 should be allowed to participate in the EBB program.

Standard Rate. As to the definition of standard rate, CETF does not believe any offer that requires a contract term should be allowed. Because there are limited funds for the EBB, CETF is concerned that consumers will be trapped in a long-term contract, and then when the EBB program runs out of funds, the customer must pay the full cost of the “standard rate.” Given that the average cost of low-end retail broadband plans ranges from \$45-\$75 depending on the region of the country, the imposition of the standard rate after the EBB would prove difficult for an eligible household.

Further, CETF recommends that the FCC require that there not be any credit checks, or additional charges for routers or modems in the program in order to obtain Internet connectivity under the standard rate. While the Act is properly technology neutral, it is important that the standard rate plan speeds and data caps allow the household to perform modern applications

required during a shelter-in-place regime. These applications include distance learning, video conferencing, telework, and telehealth. Thus, when the FCC defines the “standard rate,” it should ensure that such plans provide adequate upload/download speeds, latency and jitter for modern applications.

For data allowances for distance learning. CETF notes that Kajeet, an Internet provider to 185 schools and school districts in California, reported that in May 2020, it saw increased data usage of 860 MB per month, and high usage accounts with 6 GB per month.⁹ The FCC should ensure EBB plans provide adequate data for distance learning for students.

As to bandwidth requirements for distance learning, CETF refers to the Corporation for Education Network Initiatives (“CENIC”) report entitled “Perspectives from CENIC: What Home Broadband Requirements Are Necessary for Students (and Families) during COVID-19 and Beyond” dated June 14, 2020 (“CENIC Report”).¹⁰ This CENIC report provides up-to-date bandwidth requirements for Zoom, Google Hangouts and Skype, three of the most popular video applications being used for distance learning in the pandemic.

CETF highlights an important finding in the CENIC Report, at page 2:

“Overall, one in four K-12 households in California do not have a desktop or laptop computer and a high-speed Internet connection. These households (25% of all households) were already significantly disadvantaged pre-COVID and will continue to be post-COVID; COVID only exacerbates and illuminates inequities. This represents about 870,000 families whose child or children are likely to fall behind in educational attainment during the COVID-19 crisis. If households with mobile broadband service are included, the share of households lacking resources for distance learning falls to 17%, which represents about 610,000 families. “

⁹ This provider uses filtering (CIPA and non-educational uses) to dramatically reduce usage; K-12 students are not allowed to access popular mobile sites like Facebook, Instagram, Netflix, TikTok, and SnapChat.

¹⁰ <https://cenic.org/blog/perspectives-from-cenic-home-broadband-requirements-what-is-necessary-for-students-and-families-during-covid-19-and-beyond>

Similarly, Hernan Galperin of the Annenberg Research Network on International Communication at the University of Southern California found that “about 1 in 4 families with school – age children in L.A. County lack the technology resources for distance learning. This represents approximately 250,000 families whose children are likely to fall behind in educational attainment during the crisis.”¹¹

On speeds, the CENIC Report at page 3 reviewed current benchmarks for what is defined as “broadband” and concluded that both the FCC benchmark speed (25 megabits per second (“Mbps.”) download/3 Mbps. upload) and California PUC/California Assembly Bill 1665 broadband speed standard (6 Mbps. download/1 Mbps. upload) are inadequate for remote learning, not to mention the other demands of users in the family. At pages 4-5 of the CENIC report, CENIC further observes that upload speeds, network latency, packet loss and data caps can serve as a barrier, as well as speed. Data caps can be a serious barrier to usage. When a user hits the data cap limit, providers may charge overage fees, slow data speeds, and even in some cases disconnect the subscriber.

The foregoing observations and statistics must be considered by the FCC, to ensure that any “standard rate” plan proposed by a provider for the EBB program will in fact meet the current needs of the eligible consumer, and not relegate them to a second-rate, low-speed broadband plan, with inadequate data caps, poor latency, or packet loss. *CETF cannot overstate the importance of providing a quality standard rate plan that is adequate to the household to perform necessary applications such as distance learning, telework, and telehealth/telemedicine applications.*

¹¹ Hernan Galperin, COVID-19 and the Distance Learning Gap, USC Annenberg Research Network on International Communications, April 16, 2020 at p. 1.

As to eligible Internet service offerings, CETF agrees with the Public Notice that the Act contemplates retail Internet service offerings offered by an eligible provider as of December 1, 2020 to be made available. CETF has concerns that providers may apply the \$50 EBB benefit towards an existing low-cost offer (\$20/month or less) which has slow speeds and data caps that are inadequate for the household's cumulative data needs during the pandemic (as noted above). Again, the EBB should be used to provide a quality broadband rate plan, and not a second-class broadband plan with substandard speeds and data caps below 6 GB.

How to Submit the Standard Rate. CETF recommends each provider provide a clear list of the standard rate plan it proposes to serve EBB eligible customers, which includes type of technology, monthly plan price, advertised speed, data cap, latency, packet loss information, and whether there are any additional charges for the associated equipment such as a modem, router, etc. Installation fees should be waived, no credit checks performed, no penalty for past failure to pay or return equipment and no mandatory waiting period required. This may mean some providers "Standard Terms and Conditions" will not apply for EBB.

CETF agrees with the Public Notice that the provider should be required to show that a certain number or percentage of non-EBB subscribers subscribed to the proposed Standard Rate prior to the EBB law passage, to avoid providers offering a new substandard plan to EBB participants. For efficiency, providers should be encouraged to offer one standard rate plan across each state for ease of marketing.

Further, given the popularity of bundles which offer Internet, voice, and video services, CETF recommends that participants be able to apply the EBB benefit to a bundle in which the Internet portion, if it were to stand alone, would cost \$50 or more.

CETF agrees requiring an FCC Registration Number and a Service Provider Identification Number is not a burdensome requirement prior to filing an election notice.

Timelines for Accepting Provider Elections. CETF suggests that providers who submit a marketing plan that focuses on enrolling unconnected households be given a priority window to file elections first, followed by a general window for providers with an offer Internet at home, followed by providers not willing to target outreach to unconnected eligible households. This will provide an incentive for providers to make extra efforts to sign up unconnected households to reduce the Digital Divide.

As to the question on how to notify a provider of the decision on its application, a simple email from USAC to the provider should notify them that they are approved to offer an EBB plan. CETF suggests a USAC or FCC website that lists all provider applications, whether it is pending, approved or denied, the areas to be served, and links to the provider website locations for their approved rate plan.

Lifeline National Eligibility Verifier Issues. CETF supports the Public Notice's process for how a participating provider may access the Lifeline National Eligibility Verifier (National Verifier) and National Lifeline Accountability Database ("Database") for the purpose of determining if a household is eligible as a Lifeline subscriber. Having such providers have their agents and representatives register with the Representative Accountability Database makes sense. Providers can decide they want to comply with federal laws on privacy, data security and breach notification by so registering.

CETF agrees that once USAC has verified a provider's election notice, USAC should expeditiously process and prioritize registrations from such providers within 14-21 days and give access to the Lifeline databases.

Designating Broadband Providers Where They Are Not Eligible Telecom Carriers.

As to broadband providers who are not ETCs already, the Act sets forth an expedited process to approve such providers to participate in the EBB: so-called “automatic approval” if the broadband provider 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.”¹² The Public Notice asks for comment on these Act elements for implementation.

CETF supports the proposed requirements in the Public Notice that the provider make the EBB benefit available across all its service areas in each of the states in which it is approved to participate.¹³ To do otherwise, allows the provider to cherry pick where it wants to offer the EBB. Given the goal is broad availability of the EBB for any eligible households, this requirement makes perfect sense. CETF further agrees with the second requirement that the providers adopt a plan to combat waste, fraud, and abuse and that such compliance plan be approved before the provider begins program participation.¹⁴ In order to facilitate and expedite approvals, CETF recommends that the FCC draft a straightforward standard compliance plan to which providers may opt in.

CETF recommends that providers only be approved if they offer an affordable broadband rate to consumers in their service areas, where the consumer pays no more than \$20/month, with no additional charges except regulatory surcharges and taxes. (More information is provided later in these comments on this issue.)

¹² Act, Section 904(d)(2)(B).

¹³ Public Notice, at 4.

¹⁴ Public Notice, at 4.

CETF further recommends that providers submit a required marketing and promotion plan that includes promoting the EBB plan on its public website along with its other retail plans (not relegating it to a secondary webpage buried deep in its website). The plan needs to specify details for paid advertising and promoting the plan using trusted community-based groups, schools, libraries, religious groups, civic entities. The strategies should be clear by market segment: unconnected, underconnected,¹⁵ and existing eligible customers.

CETF agrees with the Public Notice proposal that providers who propose to serve their entire service area with the EBB receive priority on processing. CETF opposes automatic approval, unless the provider proves it meets the Act's qualifications, all FCC requirements for providers in its implementing decisions, and only if the provider's consumers will receive a rate plan at \$20 or less per month out of pocket.

CETF opposes automatic approval prior to verification of provider eligibility because it means more work should the approval have to be revoked with negative impacts on the provider's customers. Without question, the FCC should verify that an applicant provider qualifies before any EBB payments are made to such provider.

The Act is clear that the broadband rate plan proposed by the provider had to exist as of April 1, 2020, and was widely available to eligible customers, so providers should include in their applications clear proof that the plan existed on April 1, 2020, and that it was widely available to eligible customers. CETF suggests the provider given information as to how many retail customers were on the plan to USAC, to prove it was a viable plan.

CETF urges a focus on providing clear eligibility criteria for such rate plans, preferably from public web pages of the provider or published rate plans at the state public utility. CETF

¹⁵ By "underconnected," CETF means those consumers who have access to the Internet only via a smartphone.

supports the language in the Public Notice suggesting the FCC pay particular attention to programs that target groups vulnerable during the pandemic, such as low-income households, rural, remote, Tribal lands, communities of color, students, veterans, and the newly unemployed. CETF would add to these groups the following: persons with disabilities, senior citizens, immigrants, migrant workers, people without homes, and limited-English speaking communities.

CETF favors delegation of authority to the Wireline Competition Bureau to review, approve and deny provider applications subject to specific FCC guidelines, in order to facilitate approvals. CETF favors a specific deadline to act on applications, such as 14–21 days.

As to whether to accept applications on a rolling basis, CETF supports this in order to bring service as quickly as possible to eligible consumers.

As to how to inform the provider of the EBB approval, CETF suggests an email to the provider with the approval. For public transparency, CETF recommends the Wireline Competition Bureau or USAC post all approved EBB broadband providers on a public website, with the approved rate plan with eligibility details for transparency, and the effective date of approval as mentioned above.

CETF recommends that any broadband provider that has been banned or suspended from state or federal Lifeline programs not be eligible to be an EBB provider.

Tracking and Verifying Household Eligibility. First, CETF commends Congress and the FCC on making clear that a household eligible for the Lifeline program is not disqualified from participating in the EBB pursuant to Section 904(e) of the Act, and “may receive both benefits either on the same or different services.”¹⁶ In footnote 32 of the Public Notice,¹⁷ the FCC sets forth that if a household is applying its Lifeline benefit and the EBB benefit to the same

¹⁶ Public Notice, at 6 (citing Section 904(e)).

¹⁷ Public Notice, at 6.

broadband service, the household is limited to receiving the total price of the service or the combined maximum Lifeline and EBB, whichever is lower. CETF supports this recommendation, which gives the household the maximum benefit under both programs.

As to tracking eligibility of households and to prevent duplicative support, CETF supports having a requirement that participating providers track enrollments of eligible households in EBB program through the Database, assuming the database can accommodate having two providers in the subscriber record. The provider application can help this process if the applicant supplies information on whether they or their economic unit are an existing Lifeline customer.

CETF cautions the FCC and USAC to not be too strict when there are two subscribers in one household for EBB. There are many circumstances where multiple generations of a family, or extended family, are residing together in one household (especially during the recession), and only allowing one EBB benefit per household is too narrow a rule. CETF generally supports the use of the “household” definition provided in the Lifeline rule 47 CFR Section 54.40(h) cited in footnote 34 of the Public Notice, but agrees that a subscriber should be able to certify that no other person in the subscriber’s “economic unit” as defined in Section 54.400(h)¹⁸ is receiving an EBB benefit, if there is more than one claim in the household, defined as any individual or group of individuals who are living together at the same address as one economic unit. CETF objects to an overly strict one-EBB-benefit-per-address because this rule is too rigid for current situations where there may be many persons, related or not, living together. Given the economic recession caused by the pandemic, many people have had to find less expensive housing which may include sharing a household with another adult or family. The FCC EBB rules should be

¹⁸ An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household.

more accommodating instead of overly strict as a result. Also, this is a short-term benefit to help people stay connected and not a permanent program.

As to the question as to whether more than one connected device may be provided, CETF recommends that there are many circumstances where more than one device is acceptable in one household. Where there are multiple “economic units” (e.g., two families sharing a house, a family renting out a room to an unrelated third party) or two seniors and their married child and family), CETF supports more than one connected device.

CETF supports the Public Notice statement that “Participating providers may not disqualify a household because a ‘member of the household has any past or present arrearages with a broadband provider.’”¹⁹ CETF would add that this should also be extended to a ban on disqualifying a household if it failed to return equipment such as a router or modem (including cable box).

As to verification of eligibility for households, CETF is pleased about the broader criteria set forth in the Act as compared to the current, very narrow Lifeline criteria, demonstrating Congress’ clear intention for a broader distribution of EBB benefits. CETF recommends that state Lifeline criteria (if broader than federal Lifeline criteria) should be included for that state. For example, for California LifeLine program, the eligibility is significantly broader than for the current federal Lifeline program. In addition to an income-based eligibility, a household qualifies for California LifeLine if one person in the households is enrolled in any of these programs:²⁰

- Medicaid/Medi-Cal
- Low Income Home Energy Assistance Program (LIHEAP)
- Supplemental Security Income (SSI)

¹⁹ Public Notice, at 7.

²⁰ <https://www.cpuc.ca.gov/General.aspx?id=2752>

- Federal Public Housing Assistance or Section 8
- CalFresh, Food Stamps or Supplemental Nutrition Assistance Program (SNAP)
- Women, Infants and Children Program (WIC)
- National School Lunch Program (NSLP)
- Temporary Assistance for Needy Families (TANF)
 1. California Work Opportunity and Responsibility to Kids (CalWORKs)
 2. Stanislaus County Work Opportunity and Responsibility to Kids (StanWORKs)
 3. Welfare-to-Work (WTW)
 4. Greater Avenues for Independence (GAIN)
- Tribal TANF
- Bureau of Indian Affairs General Assistance
- Head Start Income Eligible (Tribal Only)
- Food Distribution Program on Indian Reservations
- Federal Veterans and Survivors Pension Benefit Program

The Public Notice raises an important issue for schools participating in the USDA Community Eligibility Provision which allows high poverty schools and districts to serve breakfast and lunch at no cost to the student and without requiring individual applications and approval. CETF supports inclusion of all those households of such students in the EBB. CETF recommends that a comprehensive list of these schools be obtained from USDA and any student enrolled at these schools for school years 2019 or 2020 be automatically qualified for EBB by all providers. All the family would need to show is a student identification card (ID) or enrollment proof for such schools. Bear in mind that many schools have been closed since about mid-March 2020 due to the pandemic shelter-in-place requirements, and thus student IDs or enrollment letters may not have been issued for the Spring 2020 and Fall 2021 school year therefore IDs from the school year 2019-2020 should be acceptable.

As to providers using their own alternative verification process, CETF agrees the provider must describe in detail its verification process to ensure the Act's eligibility provisions are adhered to, and to keep evidence of eligibility on file for at least five years as proof. This

eligibility may be shown by program enrollment evidence, school district verification that a student attends a qualifying school, or evidence of enrollment in a state or federal Lifeline program, etc.

Covered Services and Devices. First as to what “broadband Internet access service” should be offered by providers to EBB subscribers, CETF has concerns that broadband providers will provide slow speeds to EBB subscribers that are inadequate for current needs in the pandemic. For example, some providers offer low-cost packages with slow speeds and low data caps. CETF does not want these providers to obtain a \$50 EBB credit for a customer for such a low-quality service package. Given the needs of households during the pandemic for distance learning, telework and telehealth applications, these slow speed and low data cap plans do not serve the needs of consumers at this time. CETF recommends that the FCC ensure that the EBB plan received by an eligible consumer have adequate speeds, data, and latency to meet current needs of the entire household.

CETF recommends that the FCC facilitate the ability of K-12 school districts or schools that serve predominantly low-income households to obtain automatic approval for each student in the school district. Schools in the USDA Community Eligibility Provision (CEP)²¹ list for 2020-2021 should have their student households automatically qualify. The student’s household need only show the student is enrolled in a CEP school to be declared eligible by USAC guidelines. Further, CEP schools should be automatically listed with USAC and the information accessible to providers to check while on the phone with a household attending a CEP school.

²¹ <https://www.fns.usda.gov/cn/community-eligibility-provision> See “Eligibility and Participation in CEP” links

This will expedite the application process for the households when a student goes to that CEP school.

CETF strongly concurs with the Public Notice finding that connected devices provided through the EBB program “should be expected to support video conferencing platforms and other software essential to ensure full participation in online learning.”²² This important minimum requirement is critically important, not only for online learning but for telehealth/telemedicine and telework applications.

As to the appropriate “connected device” definition,²³ CETF recommends that any laptop, desktop computer or tablet paid for by the EBB program have these key characteristics: (1) the device has a keyboard for data input; (2) the device screen is of adequate size (e.g. at least 7 inches or larger) to perform homework or research online; (3) such devices are Internet-enabled to reach the public Internet and not “walled garden” devices that are not designed for the public Internet; and (4) the device supports video conferencing platforms and software necessary for such platforms. CETF suggests the connected device not be required to comply with the Children’s Internet Protection Act (“CIPA”) standards²⁴ in general at the point of purchase so parents are able to use it. If the device is used in school the District will have rules the parents will need to comply with related to CIPA.

Finally, CETF is pleased that the Act’s definitions of “connected device” specifically excludes smartphones, which are inadequate for an equitable education, particularly for research

²² Public Notice at 9.

²³ Public Notice, at 8.

²⁴ CIPA is a federal law that addresses Congress’ concern about exposing school children to offensive content on the Internet.

or writing term papers. Having providers provide laptops, tablets, and desktop computers to eligible households at discounted rates will enhance Digital Equity.

CETF supports an annual provider certification and a certification with each reimbursement request, under penalty of perjury, that (1) the rate is not more than the standard rate; (2) the household will not be charged if the standard rate is less than or equal to the broadband benefit and will not be charged more than the difference; (3) there will be no early termination fee; and (4) no mandatory waiting period to obtain or change a service plan. CETF also would require in this provider certification that there is no installation fee and no fee for a router or modem charged to the household, and no credit checks or disqualification due to past arrearages or failure to return equipment.

CETF also recommends the FCC order consumer practices by providers relating to the EBB. For example, CETF recommends that providers should be required to commit to the EBB price for up to twelve months for eligible households. No contract terms should be allowed. There should be no penalties for dropping EBB service at any time. There should be no additional fees for modems, routers, or installation. There should be explicit disclosure of the number of devices that can simultaneously connect to the broadband Internet access service at one time. Providers should not be allowed to bill the new EBB customer for the full amount of the rate plan and then provide a refund only after the provider has been reimbursed by USAC. Providers should not restrict their offers to only the affordable offer or charge customers for upgrading or downgrading from existing plans.

CETF strongly recommends that any participating provider in the EBB program be required to give at least two notices that the program is ending beginning 30 days in advance of

the end of the EBB program so that participants are not hit by an unexpected full retail rate bill after the EBB program ends. EBB households should be able to easily terminate from the program and should be able to immediately transfer to another option including the provider's affordable offer without any change or new installation fee.

Reimbursement. CETF supports the proposed reimbursement system using the Lifeline Claims System as administered by USAC. The FCC should indicate what information is required for payment as to service and devices, and ensure USAC acts swiftly (e.g., 30 days) to approve claims that meet the requirements. If a certified claim does not meet the requirements, 30 days should be given for the provider to add any missing information USAC needs. Provider claims that do not meet the requirements should have once chance to remedy any shortfall, and then be dismissed. USAC must meet the timeframes set for it as well.

CETF supports the requirement that providers keep additional information relating to the connected device provided through the EBB program for a defined period of time. The provider should certify that the household received the device and made a financial contribution between \$10 and \$50 in compliance with the Act's requirements. Further, the provider should be required to retain documentation proving that the household made a financial contribution towards the cost of the connected device as well as the amount paid. CETF adds that details about the devices should be provided including retail value, provider cost, a brief description of the type (e.g., laptop, desktop computer or tablet), screen size, and a description of how it meets the minimum system requirements set for such devices (e.g., Internet-enabled, has minimum requirements to perform video conferencing and support the software for such applications).

Benefits for Tribal Lands. CETF supports the Act’s additional benefit of \$75 for broadband Internet access service accorded to eligible households on Tribal lands, always among the communities most in need of modern Internet service.

On eligibility CETF recommends that the FCC rely on a household’s participation in Tribal-specific assistance programs to determine eligibility. In addition, CETF recommends that the FCC adopt the definition used in the Universal Service Program for eligibility of residents of Tribal lands:

47 C.F.R. § 54.400(e)

(e) *Eligible resident of Tribal lands.* An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in [paragraph \(a\)](#) of this section, living on Tribal lands. For purposes of this subpart, “Tribal lands” include any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the [Alaska Native Claims Settlement Act \(85 Stat. 688\)](#); Indian allotments; Hawaiian Home Lands - areas held in trust for Native Hawaiians by the [state](#) of Hawaii, pursuant to the [Hawaiian Homes Commission Act, 1920](#) July 9, 1921, [42 Stat. 108](#), *et. seq.*, as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in [§ 54.412](#).

This Section 54.400(e) definition is the most appropriate for EBB program use because it is designating eligible residents of Tribal lands for a federal benefit program similar to Lifeline. CETF does not recommend using Tribal land definitions that have been used for spectrum licensing such as the Rural 2.5 GHz Rural Tribal Window. The Rural 2.5 GHz Tribal window had to do with opportunities for Tribes to obtain EBS licenses on Tribal lands that are located in rural areas.

Finally, CETF recommends that providers seeking to provide EBB program benefits on Tribal Lands be prioritized first for provider approval and reimbursement.

Promoting Awareness. CETF strongly recommends requiring providers who wish to participate in the EBB program to promote awareness of the program not only to its existing customers (e.g., Lifeline and any affordable offer customers) but also to unconnected customers in their service areas as well. The reason is that one of key purposes of the EBB is to connected persons who are unconnected at home, and thus, CETF recommends reserving at least half of the funds for this specific purpose and ensuring that providers promote the program to persons not connected to home-based Internet. CETF recommends that providers be required to promote the EBB program on their main rate plan page of their website, any low-income oriented webpage, and to provide “tags” on its website to direct consumers looking for low-cost Internet plans to pages promoting the EBB. Further, as part of its EBB application, providers should be required to provide a detailed marketing plan outlining its commitments (both marketing and financial commitments) to advertise to all eligible communities, including in-language and in-culture. Absent such a requirement, CETF is concerned that providers will not perform the harder work of outreach to unconnected or underconnected households. The EBB program is a unique way to close the Digital Divide in this nation, and CETF believes every provider should do its part to bring all the households in its service area online.

CETF supports the Public Notice’s suggestion that the FCC and USAC take steps to publicize the program (especially to federal Lifeline subscribers) to supplement provider outreach. The FCC and USAC should establish a website that explains the program, its benefits, and allows a potential participant to input his or her zip code or address and find available

participating providers.²⁵ USAC should issue a simple standard consumer EBB application form to facilitate processing.

Also, CETF recommends that the FCC or USAC hire an ad agency to develop advertisements and collateral about the EBB program and develop a marketing plan for the target eligible communities. This can be paid for out of the 2% administrative budget allowed by the Act.

Current federal Lifeline providers should also be required to promote the EBB program. This promotion by Lifeline providers does not detract from their subscribers as EBB subscription does not disqualify a participant from their Lifeline benefit.

State public utility agencies should also be asked to promote the EBB program on their low-income program pages, and to request utilities in their states to add links to the FCC or USAC EBB websites to their low-income oriented webpages.

The FCC should also ask the USDA to promote the EBB program to its SNAP participants and ask the U.S. Department of Education to promote the EBB program to Pell Grant recipients. Additionally, the FCC can ask Congressional offices to notify their constituents.

²⁵ See for example, <https://www.everyoneon.org/> and http://www.internetforallnow.org/get_affordable_internet_today as sample websites for affordable broadband offers.

CETF further recommends that school districts and libraries²⁶ be requested to promote the EBB to their student body and users. These entities are trusted messengers and can send FCC-approved information to students, parents, teachers, and library users.

Any federal, state, or municipal group that works with eligible participants should be encouraged to distribute promotional information about the EBB. Civic organizations also should be encouraged to promote the program, as well as organizations that work with children, such as after school groups, youth organizations, and organizations that assist foster youth.

Finally, as a public service, television and radio broadcasters should be encouraged to run FCC approved public service announcements about the program.

Finally, CETF pledges to the FCC that it will promote the EBB program in California through its website and community-based partners.

Auditing. CETF supports auditing providers to ensure all requirements are met, to avoid waste, fraud, and abuse. Benefit and device documentation for participating providers should be retained for three years to ensure audits may be undertaken.

CETF also suggests the FCC gather data from the participating providers on how much data is being used by EBB participants in order to get a sense of what the current needs are for

²⁶ CETF acknowledges that many libraries are closed during the pandemic, but many libraries have online lending capabilities and have emails of their patrons. Libraries can email its patrons to let them know about the EBB and can post information on the library website.

such families. This data could be provided through the FCC's 706 Broadband Deployment Report.²⁷

Enforcement. CETF supports the FCC establishing administrative forfeitures and other penalties on program participants who violate the program rules and requirements. Further, CETF recommends providers who have previously been found to violate state and federal Lifeline program rules be made ineligible for EBB program participation.

As to the Act's safe harbor provision stating the FCC may not enforce a violation of section 904 if the provider shows it in good faith relied on information provided to such provider by a participant in making its verification, CETF believes this should be construed in a practical manner. If a participant forged his or her eligibility documentation, the provider should not be held responsible. If the provider failed to obtain the eligibility evidence or failed to obtain the required payment towards the device, the provider should not be absolved of these negligent actions.

USAC. CETF supports the Act's authority to use USAC's services to implement the EBB. Given the time urgency of program implementation, CETF agrees that using USAC's processes makes sense for tasks such as approving providers, determining household eligibility, using the National Verifier, Database, Representative Accountability Database, and Lifeline Claims System for provider reimbursements, and using call centers for program support, outreach, and conducting program audits. USAC should be reimbursed for its costs in performing these functions within the Act's 2% caps. However, USAC should be directed to continue administering its usual E-Rate and rural health care programs and to not fall behind in

²⁷ <https://www.fcc.gov/reports-research/reports/broadband-progress-reports>

those duties. CETF urges the FCC to direct USAC undertake its EBB program duties with transparency as a catchphrase, so both providers and households have visibility into their applications, eligibility determinations, and reimbursements.

CETF appreciates being given this opportunity by the Act to comment on the FCC's Public Notice, which CETF acknowledges was produced in a short period of time.

Respectfully submitted,

/s/ Sunne Wright McPeak

Sunne Wright McPeak
President and CEO

/s/ Susan Walters

Susan Walters
Senior Vice President
California Emerging Technology Fund

Mailing Address

P.O. Box 5897
Concord, California 94524

Office Address

2151 Salvio Street, Suite 252
Concord, California 94520
Telephone: (415) 744-2383

sunne.mcpeak@cetfund.org
susan.walters@cetfund.org

/s/ Rachelle Chong

Rachelle Chong
Special Counsel to California Emerging
Technology Fund

Law Office of Rachelle Chong
345 West Portal Avenue, Suite 110
San Francisco, California 94127
Telephone: (415) 735-0378

rachelle@chonglaw.net

January 25, 2021