



February 11, 2019

Notice of Ex Parte

Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: *Connect America Fund: Performance Measures for
Connect America High-Cost Universal Service
Support Recipients***
Docket No. 10-90; DA 17-1085

Dear Ms. Dortch:

On February 8, 2019, Michael Romano and the undersigned on behalf of NTCA–The Rural Broadband Association (NTCA), Evelyn Jerden of LICT Corporation, Robert Johnstone of Range Companies, and Sara Cole and Robert DeBroux of TDS Telecom (collectively, the NTCA parties) met via telephone with Suzanne Yelen, Cha-Chi Fan, Alec MacDonell, Sue McNeil, Cathy Zima, Rodger Woock and Stephen Wang of the Commission to discuss the above-captioned proceeding. NTCA reiterated its support for ultimate implementation of performance measurement obligations to confirm the successful deployment of broadband networks that meet robust capability targets associated with high-cost support. However, and as explained by NTCA and the operating companies that joined the call, the processes by which these obligations are being implemented present concerns. These include, but are not limited to, the development and availability of testing-compatible equipment and the random selection of testing locations. In addition to the concerns discussed during the call, NTCA preserves its positions as stated in its pending Application for Review.

Testing-Compatible Equipment

As noted in prior NTCA filings,¹ the market for equipment necessary to perform the tasks required by the *Performance Measurements Order*² is nascent, with few options currently available and standards for reporting still pending both reconsideration and further development. Moreover, even as vendors may be developing compatible equipment, the deployment of such equipment, whether as a separate “white box,” modem with built-in capability or a software-based solution, will implicate both financial and customer service issues.

¹ See, [Comments](#) of NTCA (Dec. 6, 2017); [Application for Review](#) of NTCA (Sep. 19, 2018).

² *Connect America Fund: Order*, Docket No. 10-90, DA 18-710 (2018).

Unlike locations served by large, national carriers, rural subscribers served by the nearly 850 NTCA members will almost certainly draw upon different technology offered by numerous firms. Even a single holding company of numerous rural local exchange carriers (RLECs) may deploy different network platforms in each of its locally-operated markets. Therefore, the timeline for implementation of performance measurement obligations must account for sufficient time to enable the development of a suitable variety of solutions that allow rural operators reasonable choices in the marketplace. Moreover, solutions must be designed *and* fully vetted before they can be deployed with confidence by the rural carriers. The imperative to ensure thorough development of these solutions is amplified by the dependence of high-cost support on successful testing results. The prospect of risking high-cost support when products may be rushed to market to meet regulatory deadlines must encourage calibration of those deadlines with marketplace conditions.

Even when technology is developed, customer service-oriented issues must be addressed. The deployment of “white boxes” must contemplate the realistic expectation that some, if not many, customers will resist the deployment of an internet measurement device in their home. While companies and the Commission can offer assurances that the devices measure technical performance only rather than an accounting of internet activity, prevalent privacy concerns may cause customers to decline participation. Modems and other equipment that enable performance testing without the addition of an external device raise other concerns if customers decline to purchase or lease upgraded equipment.

Therefore, USF recipients that are subject to the testing obligations should be accorded both the opportunity to select from a variety of testing technologies and a reasonable period of time thereafter within which to implement them. Accordingly, the effective date of implementation should be deferred until a reasonable selection of solutions is developed and available from among a variety of vendors, and has then been market-tested sufficiently, taking into account also the work required to deploy such solutions in the required locations. To the extent that these solutions may include (i) modems and routers with “built-in” testing capabilities, (ii) “white boxes,” and (iii) software-based solutions, a “reasonable selection” would include multiple choices from each category.

Temporary Upgrades to Subscriber Locations

The NTCA parties also discussed the requirement to upgrade locations if there are fewer subscribers to a tier of service than the minimum number of testing locations. The NTCA parties explained that even if a network is capable of providing the level of supported service, in the absence of an actual subscription a period of time may be necessary to either install and/or activate electronics or purchase additional backhaul capacity. These steps do not mean that the provider has not deployed a capable network; rather, it means that the network is capable but that some steps may be necessary to exploit the full capabilities. Those measures, however, may require multiple steps; the NTCA parties explained that temporary upgrades to networks may implicate significant technical steps. These are in addition to the customer service implications of cycling subscribers through higher and lower levels of service, as explained previously by NTCA.³

Identification and Selection of Randomly Selected Test Locations

The NTCA parties addressed yet-to-be-developed processes for identifying customer locations and then selecting random test locations from among them. As described by the NTCA parties,

³ See, [Application for Review](#) of NTCA at n.21 and accompanying text (Sep. 19, 2018).

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locally-operated providers may use a variety of methods by which customers are identified; certain of these may be tied into existing software and billing systems. Moreover, and more critically, these fields are not currently part of the HUBB. Accordingly, the creation of a new, universal customer identifier *and* the addition of a field to accommodate that identifier in the HUBB will implicate time, costs and potential coordination with numerous operator systems across the country. This, too, argues for a sufficient period in which the customer identifier can be defined and accommodated into operator systems.

Recommendations

The NTCA parties recommend that implementation of performance measurement obligations and the design of protocols necessary to implement them be coordinated fully with carrier and vendor milestones. This coordination should ensure that implementation of the performance measurement obligations moves forward in a manner that is economically and administratively efficient while enabling accurate and reliable assurances that high-cost recipients are deploying networks in a manner consistent with their obligations.

In summary, as a matter of process, implementation should be delayed until: (1) standards and systems for performance testing are finalized (including final disposition of petitions for reconsideration and applications for review and final establishment of HUBB portal changes and other reporting systems); (2) vendors have had the opportunity to design a variety of solutions that conform to the finalized standards and offer options for deployment to smaller operators (*i.e.*, rather than effectively requiring all smaller operators to deploy new customer premises equipment); and (3) each carrier has had a reasonable chance or “on-ramp” to “test the testing” through a grace period following its own deployment, during which time that carrier can ensure its selected testing solution is calibrated to produce accurate and reliable results consistent with the expectations and demands of the program. NTCA further recommends that, some time within coming months, the Commission consider conducting a public workshop – much as it has in many other contexts involving technical programs and new processes – regarding the implementation of performance testing obligations to ensure effective communication with affected stakeholders and a common understanding and articulation of open questions and concerns.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed with ECFS.

Respectfully submitted,

/s/ Joshua Seidemann
Joshua Seidemann
Vice President of Policy

cc: Suzanne Yelen Cha-Chi Fan
Alec MacDonell Sue McNeil
Cathy Zima Rodger Woock
Stephen Wang