



May 7, 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:

NTCA-The Rural Broadband Association (NTCA) hereby submits this letter as an *ex parte* presentation in the above-captioned proceeding. NTCA has participated actively in this proceeding since its inception¹ and maintains its support for performance measurement protocols to confirm the deployment of broadband networks that meet robust capability targets associated with high-cost support. However, since the *Performance Measurements Order*² was released, NTCA and its members (collectively, NTCA) have identified various issues that must be resolved before successful implementation of the rules can be achieved. On February 28, 2019, NTCA submitted a summary of technical issues that companies had either encountered or anticipated in planning for measurement testing. In this letter, NTCA shares additional issues, relating mostly to customer interaction and testing location selection, that have been identified as the companies engage in further preparation for the testing protocols.³

Establishment of HUBB Field

NTCA understands the Universal Service Administrative Company (USAC) is constructing a HUBB-based process by which test locations will be selected randomly from a provider's subscribers. NTCA suggests that the USAC-administered process may be improved by (1) time

¹ See, *Comments of NTCA–The Rural Broadband Association* (Dec. 6, 2017); *Application for Review* (Sep. 19, 2018); *Opposition to Petitions for Reconsideration* (Nov. 7, 2018), and various *ex parte* presentations in the docket.

² *Connect America Fund*, WC Docket No. 10-90, Order, DA 18-710 (rel. July 6, 2018) (*Performance Measurements Order*).

³ NTCA further specifies that this letter shall not be construed as waiving any rights or issues as have been noticed in its *Application for Review* or other pleadings.

and (2) offering providers an alternative selection process. In the first instance, it is clear that USAC has not yet acquired all of the specific information it needs through the designated customer location field in the HUBB.⁴ NTCA submits that the “Carrier Location ID” field in the HUBB, which is currently a voluntarily-completed field, should not be repurposed to support subscriber location information for purposes of performance measurement testing requirements. There are several hazards that could attend such repurposing.

In the first instance, the field is currently a voluntary field. As such, there is no uniform standard that defines the type of information that carriers might insert. The voluntary nature of the field may lend itself to numerous different uses by various carriers. Accordingly, values input to the field may vary from provider-to-provider. As importantly, if not more importantly, the varying use among carriers that currently complete the voluntary field could lead to costly and administratively burdensome internal impacts if the field were reassigned. By way of example, to the extent the field is used by a provider as an *internal* ID, recommissioning the field to a required input of a particular value would necessarily *decommission* its use by the provider to catalogue internal identification values. That seemingly “simple” change could disrupt numerous connections between the company’s HUBB reports and its internal systems. A cascading series of impacts could affect the provider’s ability to amend location filings in the future; lead to duplicate reports; disrupt auditing; and, ironically, hamper the very performance testing efforts intended to be furthered by a HUBB field. Specifically, carriers might currently use this voluntary field to track network builds; or, the field might currently be used as a complement to latitude/longitude measures; or, repurposing the field could eliminate a valuable key that enables providers to link the HUBB with internal systems. These impacts, however, can be avoided by methodically planning, defining and implementing a specialized field in the HUBB to serve performance measurement obligation requirements, rather than repurposing an existing field upon which many provider operations might currently rely.

The establishment of a new HUBB field, however, should also contemplate sufficient notice and guidance to the industry. Toward this end, NTCA suggests that past practice can inform current efforts. Comprehensive training was provided to carriers that are required to geocode in the HUBB. This training recognized the breadth of changes and contemplated the need to ensure that adequate notice and information was provided to affected parties. In similar vein, the “unique subscriber designator” field is a critical reporting element inasmuch as the high-cost support ultimately depends upon the outcomes of performance measurement testing. Accordingly, NTCA suggests that dedicated instruction *prior to implementation* of the performance measurement obligations. This will ensure that USAC has the information it needs to generate the random samples effectively.

⁴ It is NTCA’s understanding that current data gathering may repurposes the “Carrier Location ID” field, which “is available to for carriers to add their internal ID associated with a location.” However, according to USAC, this field may be left blank. See, High-Cost Universal Broadband (HUBB) Data Formatting Instructions, Universal Service Administrative Company, at 8 (<https://www.usac.org/res/documents/hc/pdf/tools/HUBBDataFormatting.pdf>).

Sufficient Calibration of Random Pool Size

Discussions with NTCA member companies have also revealed concerns about the amount of time providers will have between the provision of the randomly-selected sample pool and the commencement of tests. The Commission has recognized that some customers may require “inducements” to participate in the testing;⁵ moreover, the Commission has ordered that some locations may require upgrading in order to complete the desired sample pool size.⁶ Either of these processes contemplate additional time *beyond* the already-noticed need to obtain customer consent and deploy the appropriate customer premises equipment (CPE). In order to at least partially mitigate these concerns, NTCA recommends that USAC generate a pool of randomly-selected locations that *exceeds* the minimum requirement so that companies can quickly identify an alternative random location if an initial “draft pick” declines.⁷ Other reasons, as well, may serve as an automatic exclusion from the sample pool. By way of example, a customer may live on a fiber route that is capable of supporting 25/3 service and in fact is configured to provide 25/3 service. However, in some instances, a customer that subscribes to a lower level of service at that location might be using a modem that is designed to support that lower level of service, be it 4/1 or 10/3. While testing this location would not require an upgrade of the “outside line,” it would require an upgrade of CPE. In these instances, the customer may have leased or purchased the modem from the provider or from a third-party retailer. Upgrading the location would require providing, most probably at company expense, a new and improved modem, and then retrieving it after the test is over. In similar vein to NTCA’s opposition to mandatory service upgrades, NTCA also suggests that any location at which the CPE cannot support the testing should be eliminated automatically from the random sample pool.⁸

As an alternative to a USAC-administered process, NTCA suggests that companies also be afforded the option to design and implement individual random selection processes, supported by certifications that the process produces random sampling at a substantively equivalent level of randomization as the USAC process. Companies have lists of subscribers that correspond to supported locations. Companies know which customers have their equipment. The Commission permits companies to develop and implement their own testing systems;⁹ in similar vein, the companies can also be relied upon, if they so desire, to implement a random selection process that could be certified to be a valid alternative to a USAC-administered process. This option could afford administrative efficiencies to providers and relieve those entities from additional HUBB entry requirements.

⁵ *Order* at para. 40.

⁶ As presented in previous filings, NTCA opposes mandatory upgrading.

⁷ *Accord Ex Parte* filing of WTA-Advocates for Rural Broadband, at 3 (Apr. 17, 2019).

⁸ NTCA notes, however, that information would not necessarily be available to the provider if the customer is using CPE from a third-party source or retailer. Accordingly, initial location eligibility would rely upon the subscriber using currently suitable equipment that was sourced from the provider.

⁹ *Order* at para. 9.

Customer Inducements

The Commission recognized in the *Order* that company-provided inducements may be necessary to encourage customers to participate in testing. NTCA, in discussions with members, has identified additional concerns as the companies consider customer relation aspects of this directive. As has been described in previous NTCA filings, customers may be wary of participating in the testing, particularly when the testing requires the deployment of new or additional equipment at the customer premise which has the capability of “looking at” their internet. And, as NTCA has noted, the fact that the Commission suggested that “inducements” may be necessary to encourage customer participation evidences the Commission’s own recognition that customers may harbor concerns, notwithstanding assurances that the tests are intended to measure network performance *only*, rather than monitor user activity. Companies have also expressed concern that customer reluctance may increase proportional to the benefits offered as part of the inducements. Stated colloquially, “The sweeter the pot, the greater the suspicion.” NTCA member concerns are not unfounded. Pew Research indicates that concerns about consumer reluctance to accept government-mandated testing equipment in their homes is not mere conjecture: in 2018, 38% of U.S. adults were “very/somewhat concerned” about government surveillance of their email; 39% were “very/somewhat concerned” about surveillance of their search engines; and, 31% were “very/somewhat concerned” about government surveillance of their social media usage.¹⁰ Accordingly, the use of inducements could increase consumer reluctance to participate.

NTCA submits that consideration and resolution of these and other issues noticed previously to the Commission by NTCA will ensure that performance measurement testing can be effectuated in an administratively manageable manner, and a way that fosters consumer confidence and cooperation with the program.

Respectfully submitted,

/s/ Joshua Seidemann

Joshua Seidemann

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cc: Suzanne Yelen

¹⁰ Abigail Geiger, “How Americans Have Viewed Government Surveillance and Privacy Since Snowden Leaks,” FactTank, News in Numbers, Pew Research (Jun. 4, 2018) (<https://www.pewresearch.org/fact-tank/2018/06/04/how-americans-have-viewed-government-surveillance-and-privacy-since-snowden-leaks/>).