



July 23, 2019

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: *Rural Digital Opportunity Fund, WC Docket No. 19-126; Connect America Fund, WC Docket No. 10-90; Establishing the Digital Opportunity Data Collection, WC Docket No. 19-195; Modernizing the FCC Form 477 Data Program, WC Docket No. 11-10*

Dear Ms. Dortch:

On Friday, July 19, 2019, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”), met with Randy Clarke, wireline legal advisor to Commissioner Geoffrey Starks, and Matt Tettelbach, a legal intern in Commissioner Starks’ office, to discuss matters in the above-referenced proceedings.

Rural Digital Opportunity Fund (“RDOF”). NTCA expressed support for the general thrust of the draft Notice of Proposed Rulemaking related to the establishment of rules for the RDOF auction (the “RDOF NPRM”), and applauded the interest of the Federal Communications Commission (the “Commission”) in proceeding as promptly as possible to distribute support for the deployment and operation of improved networks in those areas lacking access to 25/3 broadband. NTCA urged the Commission, however, to include commentary and ask questions in the RDOF NPRM that would help focus upon and foster discussion of the relative payback of networks capable of varying speeds and other performance metrics over the ten-year term of support, rather than promoting speeds and other performance characteristics that might look short-sighted by the end of that distribution term (if not sooner). In short, the Commission should be looking to promote efficiency by promoting investments in networks with capabilities that will outlast the initial term of support wherever possible.

NTCA also discussed the proposal in the RDOF NPRM to provide for *pro rata* adjustments of support where fewer locations are found to exist in supported areas than the model-generated buildout obligations depict; rather than making such a proposal, NTCA suggested the Commission should instead specifically ask whether alternatives to a *pro rata* adjustment are appropriate in light of basic network economics. *See, e.g.*, Comments of NTCA, WC Docket No. 10-90 (filed July 19, 2019) (explaining that costs associated with individual locations are neither incurred nor avoided on a *pro rata* basis as part of the overall cost of deploying a rural broadband network).

NTCA finally urged the Commission to ensure that RDOF auction resources will not be wasted – and that consumers in eligible areas will not be left unserved – through better technical vetting of network plans and bidder capabilities upfront. NTCA indicated that rather than seeking comment on sustaining the procedures from the prior auction or potentially requiring less technical and financial information upfront, the Commission should consider and ask in the RDOF NPRM about the relative costs and benefits of conducting more robust vetting of would-be bidders, including whether they have the operational experience, basic plans that indicate realistic assumptions about network reach and capabilities, and access to assets and resources such as spectrum necessary to carry out the deployments that should be required if they prevail in the auction. To be clear, NTCA does not seek the imposition of significant new burdens as part of any upfront review, but better technical screening in advance is important to fulfill the goals of the program and ultimately to deliver better broadband to rural Americans. *See, e.g., Ex Parte* Letter from Rebekah P. Goodheart, Jenner & Block, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90 (dated Nov. 21, 2017) (outlining measures that would help to validate capabilities to perform and deter speculative bids).

Mapping. NTCA next discussed service mapping, noting that it had previously advocated for an approach to improving maps comparable to many of the provisions set forth in the draft Report and Order and Second Notice of Proposed Rulemaking (“Mapping Item”) circulated for consideration at the Commission’s next open meeting. *See Ex Parte* Letter from Michael R. Romano, Sr. Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission (filed April 30, 2019). NTCA discussed, however, several aspects of the draft Mapping Item that could benefit from greater clarity or development.

First, NTCA encouraged the Commission to make clear that, in analogizing to a consumer complaint database, it is not proposing to treat crowdsourced reports precisely the same as general consumer complaints, necessitating a response to each and every report filed. NTCA discussed how crowdsourced information can certainly be useful in the aggregate to identify potential mapping flaws, but observed that individual reports could contain mistaken readings based upon anything from human error to aged devices or poor choices for location testing (or even testing on the wrong network in the case of WiFi or cellular signals). Moreover, attempting to reply to each such report could overwhelm providers – especially small businesses – without offering a corresponding benefit in terms of improved maps. Instead, NTCA suggested that the Commission should review and attempt to vet crowdsourced information, and only adjust maps and/or require provider responses to the extent that material trends develop in vetted information that indicate a systemic problem with a provider’s reporting in a given area.

Second, NTCA asked that the Commission clarify that crowdsourcing will be considered as a complement to, and will not be considered a substitute for, robust and meaningful evidentiary challenge processes that should be used in considering new awards of universal service support or the denial of universal service support. Although challenge processes may have been viewed by some as burdensome in the past, they provide an essential “sanity check” prior to changes in universal service support that would have a real effect on consumers in rural areas. Moreover, with all of the other improvements outlined and contemplated in the Mapping Item (including both

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greater granularity and reporting standards to improve accuracy), NTCA observed that the need for and scope of challenges should decrease considerably and thus reduce materially any burdens associated with such a process. *See Ex Parte* Letter from Michael R. Romano, Sr. Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, *et al.* (filed July 1, 2019).

Finally, NTCA encouraged the Commission to propose requiring reporting with respect to fixed voice service availability at the same level of granularity as would be compelled for broadband availability reporting. NTCA noted that today fixed voice availability is inexplicably reported only at a state level. *See* FCC Form 477 Local Telephone Competition & Broadband Reporting Instructions, at 12 (available at: <https://transition.fcc.gov/form477/477inst.pdf>). NTCA indicated that there is no clear reason for such a reporting structure, and that there is no logical policy basis for retaining reporting at that level for fixed voice while moving to more granular reporting levels for broadband. Indeed, it should be *easier* for providers to report on the binary nature of voice service being available or not in a given geography, as compared to reporting in more detail regarding what level of broadband may or may not be available in that same geography. NTCA therefore recommends that the Commission include within the Mapping Item an explicit proposal to require that providers report the availability of fixed voice service at the same level of granularity as they are required to report broadband service availability.

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 via ECFS.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

Senior Vice President –

Industry Affairs & Business Development

cc: Randy Clarke
Matt Tettelbach