

**Before the
Federal Communications Commission
Washington, DC 20230**

In the Matter of)	
)	
Protecting Against National Security)	WC Docket No. 18-89
Threats to the Communications Supply)	
Chain Through FCC Programs)	

**COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

I. INTRODUCTION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Third Further Notice of Proposed Rulemaking issued by the Federal Communications Commission (“Commission”) in the above-referenced proceeding.² In the *Notice*, the Commission seeks comment on proposed rules that would govern providers’ eligibility for reimbursement funds (“Reimbursement Program”) to replace equipment or services deemed a threat to national security in accordance with the Consolidated Appropriations Act, 2021 (“CAA”). In particular, the Commission seeks comment on proposed rules that would

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers and broadband providers, and many provide fixed and mobile wireless, video and other competitive services in rural America as well.

² *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, Third Further Notice of Proposed Rulemaking, WC Docket No. 18-89 (Feb. 22, 2021) (“*Notice*”).

increase the size of providers eligible for the Reimbursement Program and prioritize reimbursement funding based on a provider's size or the equipment's location.

NTCA supports the Commission's proposal to revise the equipment and services subject to removal and reimbursement, consistent with the CAA, to encompass *all* equipment and services produced or provided by entities identified on the Commission's Covered List. NTCA further supports the Commission's proposal to prioritize reimbursement to providers with 2,000,000 or fewer subscribers pursuant to the CAA.

II. ADOPTING RULES THAT PROVIDE FOR THE REMOVAL AND REIMBURSEMENT OF ALL EQUIPMENT AND SERVICES CONTAINED ON THE COVERED LIST WILL PROVIDE CLARITY AND CONSISTENCY.

The Commission seeks comment regarding its finding in the *Notice* that the CAA appears to amend the equipment and services eligible for the Reimbursement Program by including all equipment and services identified on the Covered List rather than only equipment and services that met requirements previously identified by the Commission.³ NTCA supports the Commission's conclusion. As the Commission described in the *Notice*, this revised eligibility for reimbursement funds eliminates the incongruity created by the Commission's prior rules and the Secure Networks Act wherein the scope of equipment and services that eligible telecommunications carriers ("ETCs") were required to remove and replace exceeded the equipment and services eligible for reimbursement. These same ETCs who are quite conceivably most in need of reimbursement funding due to the high cost of providing service to their communities not only were not eligible for reimbursement of all equipment and services included in the Covered List, but also risked losing universal service funding if the covered

³ *Notice* at ¶ 13.

equipment and services were not replaced. This additional financial burden would have presented a potentially unsurmountable challenge for providers who rely on universal service support to provide and sustain essential communications services to their communities. Accordingly, the CAA’s elimination of this distinction provides much needed equity and clarity to all providers.

Adopting rules that allow for affected providers to be eligible for reimbursement for removing and replacing all covered equipment, rather than only certain types of equipment, further eliminates the concern raised earlier in this proceeding that limiting the scope of equipment eligible for reimbursement runs the risk of funds being used to purchase equipment that may be unable to “talk to” existing equipment due to differences in manufacturers or technical parameters.⁴

III. PRIORITIZING REIMBURSEMENT FUNDS FOR SMALL PROVIDERS IS CONSISTENT WITH THE CAA AND THE COMMISSION’S DETERMINATION REGARDING THE AMOUNT OF FUNDING NEEDED.

The Commission seeks comment in the *Public Notice* on its proposal to adopt the prioritization scheme for the Reimbursement Fund consistent with CAA. Specifically, the Commission proposes to “first allocate funds to approved applications with 2 million or fewer customers.”⁵ NTCA supports this prioritization scheme as consistent with the CAA as well as the Secure and Trusted Communications Networks Act of 2019 (“Secure Networks Act”), which provides for providers of advanced communication services with 2,000,000 or fewer customers

⁴ See RWB Coalition Comments, WC Docket No. 18-89 (Feb. 3, 2020), p. 15; Comments of USTelecom, WC Docket No. 18-89 (Feb. 3, 2020), p. 14.

⁵ *Notice* at ¶ 23.

to receive reimbursement for the cost of removing and replacing covered equipment.⁶ This is also consistent with the method used by the Commission in determining the amount of funds that would likely be needed to reimburse providers for the cost of removing and replacing covered equipment. Specifically, the Commission concluded in response to the data request in this docket that carriers reported a cost of approximately “\$1.837 billion to remove and replace Huawei and ZTE equipment in their networks.”⁷ Out of this amount, the Commission deducted the amounts identified by “educational entities that have not yet shown that they are ‘providers of advanced communications’ [and] providers that appear to have more than 2,000,000 customers,” leaving a total cost of “approximately \$1.618 billion to remove and replace” Huawei and ZTE equipment.⁸

ETCs must receive funding that matches the full scope of equipment and services that must be replaced, which is to say funding that covers the cost of removing and replacing all covered equipment and services contained in the Covered List. After all, if any covered equipment remains in the ETC’s network, the provider will be forced to either find a way to finance the cost of replacing any covered equipment or services not reimbursed or risk losing eligibility for universal service funds,⁹ an outcome that ultimately hurts the communities served by these small providers. Smaller providers already operate on razor thin margins; adding the

⁶ See Secure Networks Act § 4(b).

⁷ Wireline Competition Bureau and Office of Economics Analytics Release Results from Supply Chain Security Information Collection, *Public Notice*, WC Docket 18-89 (Sep. 4, 2020).

⁸ *Id.* at p. 2.

⁹ See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, WC Docket No. 18-89 (Dec. 11, 2020) at ¶ 21 (“we obligate ETCs receiving USF support to remove covered equipment and services throughout their entire network....”).

financial cost of replacing existing equipment outside of its normal upgrade cycle or losing universal service funding would be a crushing burden.

IV. CONCLUSION

NTCA supports the Commission's proposal to adopt rules governing the removal and replacement of equipment and services deemed a threat to national security to provide consistency among all providers. NTCA further encourages the Commission to prioritize providers with 2,000,000 or fewer subscribers, as such prioritization not only is consistent with the Secure Networks Act but also is the basis used by the Commission to identify the amount of funding needed to reimburse providers for removing and replacing covered equipment and services. Any different outcome would be contrary to actions taken by Congress and the Commission to date when allocating funding for this purpose and likely allow insufficient funding to reimburse the providers that formed the basis for identifying the funding needed, thereby causing significant financial hardship for smaller providers.

Respectfully submitted,



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