



May 12, 2022

***Ex Parte Notice***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street, NE  
Washington, DC 20554

**RE: *Connect America Fund, WC Docket No. 10-90; ETC Annual Reports and Certifications, WC Docket No. 14-58; Telecommunications Carriers Eligible to Receive Universal Service Support, WC Docket No. 09-197; Connect America Fund – Alaska Plan, WC Docket No. 16-271; Expanding Broadband Service Through the ACAM Program, RM-11868***

Dear Ms. Dortch:

On Wednesday, May 11, 2022, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”) spoke with Ramesh Nagarajan, wireline legal advisor to Chairwoman Jessica Rosenworcel, regarding the draft Notice of Proposed Rulemaking (“NPRM”) released in the above-referenced proceedings and being considered for a vote at the May open meeting of the Federal Communications Commission (the “Commission”). In the meeting, NTCA expressed support for moving forward with the NPRM, while also providing thoughts on three specific issues discussed further below.

***Recognizing the Ultimate Goals of Universal Service***

Although the Commission’s universal service fund (“USF”) programs such as Alternative Connect America Cost Model (“ACAM”) support are critical linchpins in enabling deployment of broadband-capable networks, these programs generally do not themselves *finance* networks and the goals and effects of USF are in fact much broader and farther reaching than mere deployment alone. Instead, the mission of universal service as articulated by underlying law is to ensure that quality services are available at just, reasonable, and affordable rates and more specifically that services in rural and urban areas alike are reasonably comparable in price and quality. 47 U.S.C. §§ 254(b)(1) and (3). Thus, while a focus on the deployment that ACAM and other USF programs can enable is of course important, it is equally important to acknowledge that the work of these programs is hardly complete once networks are built and customers are initially connected.

The Commission has repeatedly made such explicit acknowledgements, ranging from its determination in 2018 that ongoing ACAM support should be provided in areas where fiber has already been deployed to its more recent observation in the Future of Universal Service Notice of Inquiry that USF supports “both the initial construction *and the ongoing operational expenses*” incurred by providers in high-cost areas. *See Connect America Fund, et al., WC Docket No. 10-90, et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893, 11907 (2018), at ¶ 45; Report on the Future of the Universal Service Fund, WC Docket No. 21-476, Notice of Inquiry (rel. Dec. 15, 2021), at ¶ 30 (emphasis added).*

NTCA encouraged the Commission to frame its review of potential extension and enhancement of ACAM support against this statutory backdrop and consistent with these prior findings. In particular, even as in certain places the NPRM appears to acknowledge the broader goals of universal service and the importance of sustainability, in other places the NPRM appears to suggest that the mission of universal service might be accomplished – and thus no further USF support is needed – simply because a network capable of delivering certain speeds has been built. Such assertions overlook the fact (again recognized elsewhere in the NPRM) that providers in many cases needed to obtain loans to finance the construction of USF-supported networks and that the ongoing mission of delivering quality services at affordable rates in many high-cost areas is not accomplished merely by the construction of a network.

For these reasons, NTCA recommended the following changes to paragraph 44 of the NPRM to ensure consistency within the NPRM itself and with the Commission’s prior findings with respect to the proper scope of USF support:

*The Coalition proposes to add census blocks that were ineligible for A-CAM I because they were FTTP-served by the incumbent or an affiliate. In the 2016 Rate-of-Return Reform Order, the Commission excluded from eligibility for A-CAM I census blocks that were FTTP-served in order to prioritize model support to those areas that were then unserved. In the December 2018 Rate-of-Return Reform Order, however, the Commission made such census blocks eligible for A-CAM II, concluding that their inclusion would “promote more and higher speed deployment to location in those census blocks that do not currently have 25/3 Mbps or better service” while recognizing that areas with partially or fully deployed fiber to the premises may still require high-cost support to maintain existing service. ~~Nonetheless, we recognize that it may not be cost-effective to provide support for census blocks where the A-CAM carrier is already offering service of at least 100/20 Mbps. As a result of this decision, we have successfully promoted and supported higher-speed deployments. For example, ~~We~~ we note that A-CAM carriers have already reported deployment of 100/20 Mbps or faster service to over 347,000 eligible locations. Thirty-three A-CAM carriers have deployed at least 100/20 Mbps service to at least 90% of the eligible locations in their service areas. ~~We therefore propose to use the post-Fabric broadband deployment maps to exclude from eligibility for Enhanced A-CAM any census block to which an A-CAM carrier has already deployed 100/20 Mbps or faster to service to all locations in the block. We seek comment on this proposal and how it would be best put into operation. One possibility would be for the Enhanced A-CAM offer to simply exclude locations in ineligible census blocks, which would no longer be eligible for ACAM support if a carrier elected the offer, and support for those locations would cease upon authorization of Enhanced A-CAM. However~~Consistent with the reasoning of the December 2018 Rate-of-Return Reform Order and the broader mission of universal service, we recognize that an A-CAM provider reporting 100/20 Mbps or faster service for certain locations may require continued support for those locations, particularly if the provider relied on loans to fund deployment under the terms of the existing A-CAM programs and/or because the ongoing costs of delivering quality services at affordable rates require such support. We therefore seek comment on how to address the need for ongoing support in areas served by A-CAM I and A-CAM II recipients. Another option would be for the Enhanced A-CAM offers to include fully deployed census blocks, but only at the current A-CAM I or A-CAM II funding levels. We seek comment on these options.~~*

**Addressing Common Questions Across USF Programs**

Earlier this week, the Commission released an order waiving the budget control mechanism that would have cut support for recipients of Connect America Fund Broadband Loop Support (“CAF-BLS”) and/or High Cost Loop Support (“HCLS”) by nearly 14.3% for the twelve month period starting July 1, 2022. *Connect America Fund*, WC Docket No. 10-90, Order (rel. May 10, 2022). NTCA expressed gratitude for the Commission’s unanimous grant of such relief and observed that this order not only addressed the immediate crisis posed by the budget control but also highlighted the need for a broader conversation about longer-term adjustments to the CAF-BLS and HCLS support mechanisms. The Commission itself noted that it plans “to consider CAF-BLS deployment obligations in light of changing speed needs and funding necessary to support deployment that will apply beginning in 2024,” citing specifically to the instant NPRM for such consideration. *Id.* at ¶ 12 and n. 31.

NTCA concurs with this suggestion by the Commission in the waiver order that the instant proceeding represents a good forum in which to initiate review of updates to the service level commitments for CAF-BLS and HCLS and the support needed to achieve and sustain those commitments. As NTCA noted in recent advocacy, the questions presented on these issues with respect to CAF-BLS and HCLS will to a significant degree resemble those to be considered in the NPRM for ACAM, and it would be more efficient for all parties involved and for the Commission itself to consider such questions at the same time rather than in separate, sequential, and siloed proceedings – especially to the extent that there is a desire to better align and harmonize various commitments and timelines across programs. *See Ex Parte* Letter from Michael R. Romano, Sr. Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90 (filed Apr. 12, 2022), at 2.

Consistent with this logic and the Commission’s own indication in this week’s waiver order, NTCA recommended the following changes to paragraph 55 of the NPRM:

*We note that providers receiving CAF BLS support are subject to mandatory deployment obligations to deploy broadband service of at least 25/3 Mbps to a carrier-specific number of locations by the end of 2023. ~~We plan to initiate a separate proceeding to consider the deployment obligations and funding levels for such providers that will apply beginning in 2024. However, in preparation for this proceeding, we~~In considering how to update these commitments going forward, much as in the case of changes to the A-CAM program described above, we need to consider questions such as the level of services to be delivered and the level of support necessary to do so. We therefore seek comment on whether we should align as closely as possible the deployment obligations and required timeframes for deployment for CAF BLS carriers with any Enhanced A-CAM plan adopted by the Commission, as well as comment on the level of support that would be required to achieve and sustain such level of services. We note that such alignment would ensure similar deployment in areas served by carriers receiving support from an Enhanced A-CAM Plan and those receiving support from CAF BLS. In addition, such alignment would ease administration of the programs by minimizing the number of interim and final milestones in high-cost programs.*

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**Consistency in the Treatment of ACAM I and II Recipients**

Finally, NTCA highlighted the need for potential clarification in the NPRM with respect to certain proposed treatment of ACAM I and ACAM II recipients. Specifically, in paragraph 45, the Commission seeks comment on whether unsubsidized competition in areas served by ACAM I recipients should be determined by reference to the provision of 100/20 Mbps service – but in paragraph 46, the NPRM appears to suggest that the same determination for ACAM II recipients would perhaps be made by reference to only 25/3 Mbps service. Given that one of the predicates for this proceeding is an increasing interest in Congress and across agencies for promoting the availability of at least 100/20 Mbps service, it would make no sense to retain a 25/3 benchmark for identifying unsubsidized competition in the context of ACAM II. For consistency's sake among these programs and in light of this broader interest, NTCA recommends striking paragraph 46 and simply asking in paragraph 45 whether competitive overlap should be reassessed and, if so, whether reassessment of eligibility of areas for support under *both ACAM I and ACAM II* should be measured based upon the verified provision of 100/20 Mbps by an unsubsidized competitor.

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 Romano

Michael Romano  
Senior Vice President –  
Industry Affairs and Business Development

cc: Ramesh Nagarajan