

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support	)	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 A-CAM Program	)	RM-11868
	)	

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



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## EXECUTIVE SUMMARY

The initial comments filed in this proceeding demonstrate overwhelming support for several specific recommendations regarding how best to leverage high-cost universal service fund (“USF”) programs to deliver and sustain better and more affordable broadband services to millions of rural Americans. Rather than deferring its independent statutory mandate to preserve and advance universal service to other agencies’ future implementation of broadband grant programs, the Federal Communications Commission (“Commission”) should take now those steps necessary to ensure that essential high-cost USF programs already working to help deliver voice and broadband services can keep pace with consumer demand, that they enable the deployment of more robust networks, and that they sustain the delivery of higher-quality services at more affordable rates in rural areas. Specific steps supported by the majority of commenters in this regard include:

1. *Offering all recipients of A-CAM support, as well as interested CAF-BLS recipients, the opportunity to elect “enhanced” support, which would consist of receiving support pursuant to the revised formula and extended support term proposed by the A-CAM Broadband Coalition.*
2. *In exchange for this enhanced and extended support, requiring each electing A-CAM recipient to deliver materially higher 100/20 Mbps broadband speeds to at least 90% of eligible locations as recommended by the coalition.*
3. *Addressing concerns arising in recent years with respect to the CAF-BLS and HCLS support budget by recalibrating the annual budget at the current level of demand as a new baseline for support, restore the \$200 per-line cap to \$250 per month, and apply a forward-looking inflationary factor consistent with the Commission’s observation in its most recent budget waiver order.*
4. *In exchange for such support, requiring each CAF-BLS recipient to deliver higher 100/20 Mbps broadband speeds to at least 90% of locations in its study area. Given the magnitude of this leap in service level commitments, the Commission should also consider deferring application of the budget control for several years so that providers can ramp investments to fulfill these materially increased obligations on a study area-wide basis.*
5. *Releasing a Further Notice of Proposed Rulemaking seeking comment on other voluntary paths to fixed support for CAF-BLS recipients along the lines of those suggested herein.*

Although a handful of commenters urge the Commission to choose affirmatively to do nothing to improve and sustain the workings of its current USF programs pending the completion of new grant programs that are still in nascent stages of development, it is important to note that: (a) the Commission's statutory mandate to preserve and advance universal service is independent of any new authority conferred upon other agencies to administer such grant programs; (b) in the same law creating these programs, Congress specifically and expressly directed the Commission *not* to abdicate its statutory mission of universal service because of new grant programs; (c) the USF programs in fact aim to achieve very different and broader purposes than mere network construction; and (d) taking steps now to update and calibrate these critical USF programs would be more efficient and effective, allowing the development of new grant programs over the next several years to take place against the backdrop of these enhanced USF initiatives and helping to ensure that these grant funds can be better directed to areas in need.

Finally, the Commission asks several questions related more broadly to the administration of or other policy goals associated with the provision of USF support. The record reflects support for the Commission working with smaller providers to consider any tailored cybersecurity and supply chain risk management requirements and carefully designed efforts to promote adoption through expanded use of the Affordable Connectivity Program in deeply rural areas. There is no support, however, for modifying the existing performance and reporting measures otherwise with respect to the high-cost USF programs, with commenters highlighting the effectiveness of the current regime.

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

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby submits these Reply Comments in connection with the Notice of Proposed Rulemaking<sup>2</sup> released by the Federal Communications Commission (the “Commission”) in the above-captioned proceedings. The record compiled in response to the NPRM demonstrates overwhelming support for several detailed recommendations regarding how best to leverage high-cost universal service fund (“USF”) programs to deliver and sustain better and more affordable broadband services to millions of rural Americans. In lieu of deferring its independent statutory mandate to preserve and advance universal service to other agencies’ future implementation of broadband grant programs, the Commission should act now consistent with these recommendations to ensure that essential high-

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<sup>1</sup> NTCA represents approximately 850 independent, community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or are themselves engaged in the provision of such services.

<sup>2</sup> *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Notice of Proposed Rulemaking (rel. May 20, 2022) (“NPRM”).

cost USF programs keep pace with consumer demand, that they enable the deployment of more robust networks, and that they sustain the delivery of higher-quality services at more affordable rates in rural areas – all in a more efficient manner and in effective coordination with these new network construction grant programs that will be implemented at some point in the future.

**I. THERE IS OVERWHELMING SUPPORT FOR ACTING NOW TO ENHANCE, EXTEND, AND UPDATE CRITICAL USF MECHANISMS.**

**A. The Record Supports Enhancing and Extending the A-CAM Mechanism.**

The vast majority of commenters support the Commission moving forward promptly to: (i) provide enhanced support under the Alternative Connect America Model (“A-CAM”); (ii) increase the expected service level commitments in exchange for such enhanced support; (iii) extend the term of such support; and (iv) ensure ongoing support in areas following the deployment of networks that meet or exceed the baseline service level commitments. Commenters consistently described the ways in which enhancing and extending A-CAM support will upgrade and sustain networks, help keep services more affordable even as service levels increase, and minimize burdens on the Commission and providers alike through consistent reporting requirements and deadlines across support recipients and effective coordination with nascent grant programs still in the design phase.

Commenters describe how enhanced A-CAM support would benefit rural areas by delivering better services to wider geographies. The State and Regional Telecommunications Associations (“State Associations”), for instance, observe that the current A-CAM program, “which is tethered to broadband availability at 4/1, 10/1, and 25/3 is inadequate to deliver ... the speeds that are necessary to provide rural America with a workable broadband experience given current demands.”<sup>3</sup> The Iowa A-CAM Carriers, meanwhile, highlight that enhancing A-CAM

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<sup>3</sup> Comments of State Associations, WC Docket No. 10-90, *et al.*, (filed Jul. 18, 2022), at 6.

support would result in approximately 7,000 additional consumers being served in Iowa alone when compared to existing A-CAM requirements.<sup>4</sup> Notably, even the handful of commenters that disagree with providing enhanced A-CAM support acknowledge that the current level of support is insufficient to deliver speeds higher than 25/3 Mbps. But, rather than building upon a program that is working through entities that have already proven their commitment to serve large swaths of these areas however possible,<sup>5</sup> these few opponents of reform fall back instead simply to urging the Commission to pin all of its hopes and the ultimate fulfillment of the statutory mandates for universal service on the nascent Broadband Access, Equity, and Deployment (“BEAD”) program.<sup>6</sup> As discussed elsewhere in these comments, however, “waiting for BEAD” is not only contrary to Congress’ express direction but also fails to recognize the broader, distinct, and fundamental purposes of universal service programs – not only to help enable construction of quality communications networks, but also to maintain those networks and ensure the affordability and reliability of supported services atop them. This is precisely what enhanced A-CAM support would make possible, especially in the face of pressures that have made it more costly and challenging both to build networks and then to deliver services on an affordable and sustainable basis in rural America.<sup>7</sup>

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<sup>4</sup> Comments of Iowa A-CAM Carriers, WC Docket No. 10-90, *et al.*, (filed Jul. 18, 2022), at 4.

<sup>5</sup> *See, e.g.*, Comments of ACA Connects, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 9. (“A-CAM companies are experienced broadband providers with demonstrated deployment and operational capabilities and with financial wherewithal.”)

<sup>6</sup> *See, e.g.*, Comments of Windstream Services, LLC, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 2.

<sup>7</sup> *See* Comments of the Nebraska Rural Independent Companies (“NRIC”), WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 20-22 (discussing how the effects of inflation have affected the telecommunications marketplace, rural markets, and the costs of deploying and maintain networks in urging adoption of an inflationary adjustment).

Commenters also universally recognize that a 100/20 Mbps connection is necessary to utilize many of the Internet's most important capabilities. TDS Telecommunications LLC ("TDS"), for instance, points out that the current A-CAM funding level of 25/3 Mbps not only is insufficient for many uses of the Internet today but also falls far short of the broadband speeds identified by the White House and the Commission as necessary for individuals and businesses in every part of the country.<sup>8</sup> Thus, consumers residing in the areas designated for A-CAM support would benefit substantially from commitments to start work on delivering at least 100/20 Mbps across supported areas rather than hoping that providers will seek to deliver broadband years from now in self-selected parts of those areas once the multi-layered federal and state BEAD processes are created and completed and application windows are opened and awards are made. Indeed, as the Iowa A-CAM carriers note, the Commission already has proof of A-CAM carriers' commitment to delivering quality broadband service to their areas.<sup>9</sup>

Moreover, it is worth noting that a 100/20 Mbps speed requirement will likely necessitate fiber networks in these deeply rural markets to consistently deliver such levels of performance to customers regardless of distance, terrain, weather, or number of simultaneous users. According to NTCA's 2021 Broadband/Internet Survey, even as they have more to do to reach every customer, NTCA members have made greater progress than any in already advancing robust fiber networks into the most deeply rural parts of the country, with 97% of respondents already providing fiber to the home to at least some portion of their service area.<sup>10</sup> Thus, these members already have in

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<sup>8</sup> See Comments of TDS, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 3.

<sup>9</sup> See Iowa A-CAM Carriers' Comments at 4.

<sup>10</sup> NTCA, *Broadband/Internet Availability Survey Report*, (Dec. 2021), at 6, available at <https://www.ntca.org/sites/default/files/documents/2021-12/2021-broadband-survey-report-final-12-15-21.pdf>.



place facilities to deliver reliable 100/20 Mbps in many areas, and they can in turn leverage these networks to reach other areas still in need. Notably, these networks are also scalable, meaning they will be better positioned to keep pace with evolving demands over time and longer-term objectives that may be adopted going forward. The Commission should therefore leverage these networks and the successful programs that have enabled them to “finish the job” by reaching other areas and, just as importantly for the ultimate mission of universal service under the law, sustaining the delivery of high-quality and more affordable services in these areas after networks are built.

Furthermore, extending the support term makes sense not only for purposes of leveraging the investments the Commission and providers have already made in a collaborative manner, but also to allow the locations served using enhanced A-CAM support to be reflected as such in the maps that will be developed through the Commission’s Broadband Data Collection. Retaining existing broadband speed targets of only 25/3 Mbps or lower for some of these areas is likely to result in broadband grant funding being awarded in areas where USF funding has already been allocated instead of directing grant funds to areas still waiting for an answer to the digital divide and lacking any local provider committed to upgrade service there.<sup>11</sup> Indeed, building even further upon this premise that extending support will allow for greater reach and sustainability, NRIC recommends the Commission offer providers electing enhanced A-CAM support the option of committing to serve 100% of the eligible locations in their service areas at 100/20 Mbps in exchange for a longer term of enhanced A-CAM support.<sup>12</sup> Such an approach appropriately recognizes the longer-term nature of cost recovery especially in the most rural and remote areas,

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<sup>11</sup> See ACA Connects Comments at 13.

<sup>12</sup> NRIC Comments at 5.

and NTCA supports NRIC's proposal as a method of further promoting availability and sustainability of networks across wide swaths of rural America.

In discussing how to coordinate enhanced A-CAM commitments with new deployment maps still to come, most commenters observe that reopening of the determination of locations eligible for enhanced A-CAM support would be unnecessary and counterproductive. The A-CAM Broadband Coalition (the "A-CAM Coalition"), for example, explains that reevaluating locations eligible for enhanced A-CAM support "is unnecessary because few 100/20 Mbps locations that have not already been identified would be found to exist in ACAM company service areas."<sup>13</sup> Notably, the A-CAM Coalition describes "a review of Form 477 data for Coalition member companies located in Georgia and Nebraska found in both cases that less than 1% of the company's annual ACAM support is attributable to locations containing unsubsidized 100/20 Mbps competition."<sup>14</sup> NRIC concurs with this assessment, commenting that, "[a]s a practical matter, the logistics of accurately identifying the areas with existing 100/20 Mbps service commitments through other federal and state programs could significantly delay the Commission from making an offer of Enhanced A-CAM support...."<sup>15</sup>

Many commenters also recommend that locations already served by fiber should remain eligible for ongoing USF support. Indeed, this is consistent with Congress' universal service funding directives, as universal service funds are not intended to be for network deployment alone but rather, to help maintain networks as well and keep services offered over them more affordable.

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<sup>13</sup> Comments of the A-CAM Coalition, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 37.

<sup>14</sup> *Id.* at 38.

<sup>15</sup> NRIC Comments at 24; *see also* A-CAM Coalition Comments at 37 ("Implementation of the enhanced ACAM program would be delayed indefinitely ... if the Commission were to undertake a wholesale reassessment of location eligibility.").

As described by GTBA – Georgia’s Rural Telephone and Broadband Association, “[w]ithout capital and operating expense recovery options,” rural areas will be left with “higher prices ... or less availability of future services.”<sup>16</sup> Pineland Telephone Cooperative, Inc. (“Pineland”) also highlights that the Commission’s policy of excluding from ACAM-I support any census blocks that reportedly already had fiber blocked support for an entire area even if only one location in the block was served by fiber.<sup>17</sup> The result could not have been intended, leaving many residents and businesses in those areas without access to high-speed Internet. The Commission recognized this unintended and harmful consequence when establishing A-CAM II rules and rightly eliminated this restriction, finding specifically that “the model is an appropriate tool for determining high-cost support even when a carrier has fully deployed broadband service” and that “areas with partially or fully-deployed fiber-to-the-premises may still require high-cost support to maintain existing service.”<sup>18</sup> Accordingly, precluding enhanced A-CAM support in areas already served by fiber would harm consumers and contradict universal service mandates – including the Commission’s own prior interpretation of them – that properly focus on the ongoing delivery of reasonably comparable services at reasonably comparable rates.

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<sup>16</sup> Comments of GTBA, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 6.

<sup>17</sup> Comments of Pineland, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 3.

<sup>18</sup> *Connect America Fund*, WC Docket No. 10-90, *et al.*, Report and Order, Further Notice of Proposed Rulemaking and Order on Reconsideration, FCC 18-176 (rel. Dec. 13, 2018) (“2018 Rate-of-Return Reform Order”), at ¶¶ 40 and 45.

**B. The Commission Should Move Forward Promptly with USF Updates to Fulfill its Independent and Broader Statutory Mandate to Promote Universal Service as Part of a Coordinated Effort with Newer Grant-Focused Programs that are Still in Very Early Stages of Development.**

Against this backdrop of substantial support for specific proposals to enhance and extend the A-CAM mechanism – and to update Connect America Fund-Broadband Loop Support (“CAF-BLS”) as well as discussed further below – it is clear that such reforms should not be deferred or delayed until the BEAD program is implemented. The record affirms that updates to these USF programs are needed and warranted now, because they: (i) serve much broader policy purposes than deployment alone; (ii) can start work sooner than some of these grant programs to come; and (iii) will provide a solid foundation upon which the efforts of deployment-focused grant efforts can then build to reach other areas in need. Enhanced and extended A-CAM support and an updated CAF-BLS mechanism will in turn facilitate increased access to telehealth, distance learning and remote job training, telework and other critical benefits for rural spaces.<sup>19</sup> Importantly, acting to update these mechanisms now will also help with, rather than hinder, the workings of the BEAD program as it is finalized and implemented over the years to come, and undertaking USF reforms first will not only fulfill the Commission’s own independent statutory mandate but also enable more effective and efficient construction of these new grant programs aligned with the contours of well-settled USF mechanisms.

As a threshold matter, while grant programs like BEAD and USF programs like A-CAM and CAF-BLS both advance broadband access and must therefore be coordinated, it cannot be ignored or overlooked that they simply do not do the same things. Grant programs by definition address only capital investment – an essential piece of the broadband puzzle, to be sure, but only

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<sup>19</sup> NTCA’s Smart Rural Community<sup>SM</sup> initiative offers reports examining the impact of broadband-enabled efficiencies in agriculture, education, healthcare, and other sectors. To access this research, please visit [www.smartruralcommunity.org](http://www.smartruralcommunity.org).

a part of the problem ultimately to be solved. By contrast, the Commission’s USF programs provide ongoing support to *enable* use of capital to invest and recovery thereafter of costs associated with maintenance, network upgrades, and provision of reasonably comparable rates at reasonably comparable services among rural and urban areas. Put another way, despite the repeated attempts by some to mischaracterize the programs whether by design or misunderstanding, *USF support is not a grant*. As described by NRIC, “Universal service is properly used to defray both capital investment and operating expenses.”<sup>20</sup> Similar considerations are raised by companies serving some of the most difficult to reach areas in Tribal Nations; the National Tribal Telecommunications Association (“NTTA”) properly observes that USF is intended “to ensure ongoing operations, maintenance, and upgrades are supported, which, among other things, helps ensure universal broadband services are affordable,” and that “supporting the high cost of service is as or equally important to supporting the deployment of broadband capable networks.”<sup>21</sup> Even where high-cost support relieves certain affordability burdens borne of high cap-ex costs, “A-CAM has proven to be effective not only in initial deployment, but also providing essential support for ongoing maintenance of service.”<sup>22</sup>

Nonetheless, while they operate in different ways and look to achieve somewhat different aims, there is of course a need to coordinate among these different broadband-related programs – and acting now to update the critical USF mechanisms would be a prudent and more effective and efficient means of ensuring delivering of higher-quality and more affordable services across wide rural spaces than “waiting to see if BEAD might show up” in these areas. A-CAM enhancement

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<sup>20</sup> NRIC Comments at 19.

<sup>21</sup> Comments of NTTA, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 3.

<sup>22</sup> TDS Comments at 5.

and extension (and updating of CAF-BLS as well) would offer the benefit of requiring delivery of higher-performing services throughout the areas where support is distributed, thereby knowing that these areas are subject to an enforceable commitment and need not be addressed through BEAD grants. This, in turn, would enable the distribution of BEAD funding to other areas that do not benefit from the Commission’s high-cost USF support programs. As noted by the State Associations, “The sooner the FCC acts to adopt the Coalition’s proposal and update CAF BLS as well, the sooner the benefits of modern and enhanced broadband can start flowing to consumers.”<sup>23</sup> The A-CAM Coalition similarly highlights the numerous benefits of moving promptly on such reform, including the ability to start far sooner in advancing broadband than BEAD, enabling deployment at defined interim milestones, promoting the ability to reach broader geographic areas than would likely result from selectively drawn grant applications, and ultimately helping to keep services sustainable and rates affordable atop these higher-performing networks.<sup>24</sup> Iowa A-CAM providers warn against delay, observing that if the Commission does not “act quickly to update the A-CAM program, BEAD funding could easily be used to overbuild existing[] A-CAM subsidized networks.”<sup>25</sup> And, to the extent that parties advocating delay posit that declining necessary USF reforms will ultimately be the best route to rural broadband, TDS offers a succinct counter: “Put simply, adopting an enhanced A-CAM proposal before the end of the year is the surest way to bring broadband” to the affected areas.<sup>26</sup>

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<sup>23</sup> State Associations’ Comments at 3.

<sup>24</sup> A-CAM Coalition Comments at 18-22; *see also* NRIC Comments at 5-6; Comments of Home Telecom, WC Docket No. 10-90, *et al.* (filed July 18, 2022), at 9-10; ACA Connects at 8-10.

<sup>25</sup> Iowa A-CAM Carriers’ Comments at 5-6.

<sup>26</sup> TDS Comments at 2-3.

Just a handful of commenters suggest that the Commission should refuse to enhance or extend A-CAM, or to undertake any USF reforms at all, until such time as BEAD is implemented.<sup>27</sup> However, the reasons offered for doing so are contrary to the design and intent of Congress as explicitly stated in the Infrastructure Investment and Jobs Act (“IIJA”) that created the BEAD program itself. For example, NCTA contends that timely advancement of A-CAM would “would be a disservice to A-CAM communities because it deprives them of the possibility of receiving service that exceeds the performance levels proposed by the A-CAM recipients.”<sup>28</sup> And yet the processes recommended by those who support enhancement and extension of A-CAM would precisely *facilitate* increased broadband availability in those service areas – and in a manner that ensures delivery of a comparable level of services *across* those areas as a commitment for receiving such funds, rather than awaiting the final development of a grant program in each state and the submission and consideration of self-selected serving areas by applicants that could ultimately carve up unserved and underserved geographies in yet-to-be-determined ways, serving some portions while still leaving to-be-determined parts of these areas behind.

There is yet no firm timetable for the distribution of BEAD funding or even final creation of program rules – let alone the construction of networks to be supported by that program. It could therefore be several years before work might begin in earnest under that program. Depending on how rounds of BEAD funding are structured by the states, it is quite possible that “underserved” areas – those locations that can receive service levels of 25/3 Mbps or greater but less than 100/20 Mbps – might not see additional funding or better services for many years to come even if work

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<sup>27</sup> See Comments of INCOMPAS, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 3-7; Comments of Windstream, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 2; Comments of CTIA, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 5-7; Comments of NCTA, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 2-6.

<sup>28</sup> NCTA Comments at 5.

could commence in “unserved” areas somewhat sooner in the next several years. As the GTBA aptly notes, “The main reason for not attempting to synchronize the two programs is that the BEAD program is run by state and territorial authorities and offers no guarantee or coordination of timelines between these various jurisdictions.”<sup>29</sup> Moreover, it is not at all clear why, with a clear path before it to help serve more Americans now on a sustainable basis with better and more affordable broadband pursuant to an independent statutory mandate to this agency, the Commission would defer reform to await programs and awards that are likely years away in areas still to be determined. To the contrary, it would be far more efficient for the Commission to act now to update the mechanisms it oversees to compel results across entire rural areas, and then let the BEAD programs in each state work to complement the Commission’s USF efforts.

In the end, when it comes to the question of whether the Commission should defer its own mandate to promote universal service pending the implementation of BEAD or whether better coordination would be served by the Commission taking the lead on such questions, the A-CAM Coalition offers the following:

There is no justification for waiting to see how the other federal broadband funding programs perform before adopting changes to the A-CAM program. . . . The Commission should not forego the opportunity to make changes to its USF programs that would rapidly bring substantial benefits to unserved and underserved rural consumers based on the expectation of how other complex, yet-to-be-established, multi-jurisdictional programs will perform at some future date. To do so would be an abdication of one of the Commission’s “central missions [ ] to make available . . . to all the people of the United States . . . a rapid, efficient, Nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges.”<sup>30</sup>

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<sup>29</sup> GTBA Comments at 8.

<sup>30</sup> A-CAM Coalition Comments at 5-6 (internal citation omitted).



Congress itself could not have been clearer in the IJJA that the Commission should neither neglect nor defer the mission of universal service simply because new grant programs would be implemented over the years following enactment of that law. Instead, the IJJA states that the BEAD is meant to “supplement [and] not supplant”<sup>31</sup> other mechanisms; even more importantly, the law specifically instructs the Commission that in assessing the future of the USF it shall not “in any way reduce the congressional mandate for universal service,”<sup>32</sup> and the agency is in fact encouraged by the IJJA to consider “recommendations to expand the universal service goals for broadband.”<sup>33</sup> Although the Commission should coordinate of course with the new grant programs slated for implementation, as NTCA explained in its initial comments, “this certainly indicates that Congress did not intend for the Commission to abdicate its responsibility to fulfill the separate mandate for universal service during the pendency of other agencies implementing new grant programs.”<sup>34</sup>

Finally, it is at once curious and telling that those parties urging the Commission to hold in abeyance consideration of any further action to advance the statutory mission of universal service and to defer instead to a broadband grant program still in its nascent stages generally cannot demonstrate a robust and long-standing track record of success in delivering broadband services themselves in deeply rural areas. To be sure, some of these commenters represent a few entities that have recently started to edge into some carefully selected rural markets through recent funding initiatives, while others are entities that have themselves received USF support in the past but

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<sup>31</sup> IJJA at § 60102(l).

<sup>32</sup> *Id.* at § 60104(c)(3)(A).

<sup>33</sup> *Id.*

<sup>34</sup> Comments of NTCA, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 18.

appear to have deployed little more than the minimum required for having done so – leaving many of these same areas now in need of assistance through programs like BEAD. In short, these entities have had multiple opportunities in the past to “put their money where their mouths are” when it comes to helping to solve the digital divide in rural America, whether through stimulus programs over a decade ago, in the context of multiple loan and grant programs under the U.S. Department of Agriculture over the years, or more recently still in the form of grant programs under prior coronavirus relief legislation. Yet with a few exceptions, they have participated sporadically in such initiatives previously (again in carefully selected portions of study areas) or, in at least one case, they have used USF support largely to deliver little more than the bare minimum required by such programs in the past. Nonetheless, these commenters stand now before the Commission urging patience and professing that *this time* they are poised to use BEAD funds to do what has not been of substantial interest previously in other funding programs.

By contrast, community-based providers like those in NTCA’s membership have repeatedly leveraged such opportunities as they have arisen, representing a substantial level of the participation in programs like ReConnect and more recent state grant programs. Moreover, as demonstrated in prior filings,<sup>35</sup> NTCA members have been highly effective and responsible stewards of USF support to date, often exceeding minimum thresholds for performance despite serving the most deeply rural portions of the United States. It therefore rings hollow when a firm such as Windstream argues, “BEAD program incorporates a number of safeguards to ensure that providers are competent and that consumers receive the high-speed broadband services that have been promised.”<sup>36</sup> Such arguments overlook the facts that the Commission’s high-cost USF

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<sup>35</sup> See, e.g., Comments of NTCA, WC Docket No. 21-476 (filed Feb. 17, 2022) (describing the substantial efforts of NTCA members to deliver higher-speed services, far in excess of existing obligations, to many consumers in sparsely populated and deeply rural areas).

<sup>36</sup> Windstream Comments at 6.

programs already incorporate substantial accountability measures (*including several that NTIA itself mirrored in BEAD*) and that these USF programs, when leveraged by smaller rural providers (if not by larger regional or national operators), have tended to yield results that often surpass the bare minimums demanded by program requirements. It is against this backdrop that the requests for enhancement and extension of A-CAM and updating of CAF-BLS come – seeking to build upon and sustain the proven track record of these programs and to achieve more rapidly and more comprehensively the goals of ensuring that an evolving level of robust and affordable broadband will be available on a widespread basis across rural America.

**C. The Record Reflects Strong Support for Addressing Now as Well Those Issues That the Commission Initially Teed Up in 2018 Related to the Cost-Based USF Support Mechanisms.**

The NPRM highlights a number of significant issues related to CAF-BLS and High-Cost Loop Support (“HCLS”), including “questions regarding the level of services to be delivered, identifying eligible locations, and the level of support required.”<sup>37</sup> NTCA’s initial comments explained how, as a matter of process and substance, it makes sense for the Commission to act now to address these questions in tandem and alignment with A-CAM reforms rather than waiting to tackle them serially.<sup>38</sup> The record supports this more efficient approach.

As NTCA explained, the Commission has long contemplated processes to address these questions teed up in the NPRM. For example, in resetting the service levels expected of support recipients to 25/3 Mbps in 2018, the Commission established a five-year window for such performance.<sup>39</sup> With these obligations set to be fulfilled at the end of next year, they need to be

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<sup>37</sup> NPRM at ¶ 58.

<sup>38</sup> NTCA Comments at 32-38.

<sup>39</sup> 2018 Rate-of-Return Reform Order at ¶ 101.

reset to keep pace with consumer demand. In other words, the time is ripe, and the process is already contemplated, for updates to these service level commitments. Similarly, even as it recalibrated the budget in 2018, the Commission acknowledged that “it may be appropriate to revisit the budget [by 2024] to reevaluate whether any changes to the budget are appropriate.”<sup>40</sup> NTCA’s comments further highlighted how a series of circumstances since 2018 – including a global pandemic, accelerated demand for standalone broadband service, significant supply chain disruptions, and inflationary pressures, to count just a few that the Commission itself has identified in recent years<sup>41</sup> – make it such that holding off rigidly until next year to begin this work simply because that was the timeframe hoped for in 2018 would make little sense. Rather than addressing in separate and sequential proceedings the same performance-related and budgetary questions now being considered in the context of A-CAM enhancement, it is more efficient and effective for the Commission to address simultaneously these nearly identical issues, given that they are largely affected by the same factors, need comparable coordination with other programs, and are by and large subject to mirroring arguments.

Comments referencing the CAF-BLS and HCLS programs in this record support NTCA’s request to act upon much-needed reforms now. For example, the State Associations observe that coordinated reform of A-CAM and these cost-based support mechanisms “would provide for the most efficient use of limited federal resources” by leveraging existing networks previously supported by USF, preventing duplication, and involving the use of programs with proven track records and effective oversight requirements.<sup>42</sup> Referencing the Commission’s 2018 observations

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<sup>40</sup> *Id.* at ¶ 97.

<sup>41</sup> *Connect America Fund*, WC Docket No. 10-90, Order (rel. May 10, 2022), at ¶¶ 8-10.

<sup>42</sup> State Associations’ Comments at 2-3.

and pointing to the Commission’s more recent waiver orders as justification, the State Associations make substantive recommendations for CAF-BLS and HCLS updates similar to those suggested by NTCA, focusing specifically on recalibrating the existing budget and establishing new service level commitments that generally match those adopted for an enhanced A-CAM mechanism.<sup>43</sup> WTA likewise urges the Commission to take steps to update the cost-based mechanisms; while WTA indicates that this could occur within this proceeding or on a “concurrent, parallel track,”<sup>44</sup> there is no need or reason for the Commission to await tackling reforms of CAF-BLS and HCLS through a separate proceeding. As noted above and in NTCA’s initial comments, the questions, the issues, the challenges, and the need for coordination are the same as between the mechanisms and holding off artificially from addressing them in tandem would be inefficient for all involved – both the parties that would file duplicative comments on the same matters and for the Commission itself in then needing to review and act upon almost-mirroring records. Deferring reforms on CAF-BLS and HCLS would also hinder effective coordination with other programs like BEAD, whereas acting now to implement changes that were identified as necessary in 2018 and more recently in several waiver orders would help the BEAD program focus its efforts on a more targeted basis in other areas where it is needed most, thereby mitigating the need for additional work by the Commission in the form of future “unwinding and re-making” of USF programs in areas where BEAD is awarded.

Against this backdrop, as matter of effective and efficient policymaking and to address issues long recognized within the CAF-BLS and HCLS mechanisms, the Commission should act now to adopt increased service level commitments and an updated budget consistent with NTCA’s initial comments. Specifically, the Commission should:

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<sup>43</sup> *Id.* at 6-7.

<sup>44</sup> Comments of WTA, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 14.

- (1) generally require each CAF-BLS recipient to deliver at least 100/20 Mbps to at least 90% of locations in the recipient’s study area, with milestones for such performance tracking to those adopted for enhanced A-CAM recipients;
- (2) recalibrate the annual current CAF-BLS/HCLS budget at the current level of demand as a new baseline for support, restore the \$200 per-line cap to \$250 per month, and thereafter apply a “forward-looking” inflationary factor as identified in the waiver order to the overall CAF-BLS/HCLS budget (with the potential to defer application of the renewed budget control for a period of time so that providers can ramp investment to meet the substantially increased commitments described above);
- (3) provide CAF-BLS/HCLS recipients with an opportunity as well to elect enhanced A-CAM support; and
- (4) seek comment in a further notice of proposed rulemaking on other voluntary methods of providing fixed support to CAF-BLS/HCLS recipients.

## **II. THE RECORD SUPPORTS RETAINING CURRENT PERFORMANCE AND REPORTING MEASURES.**

The Commission should retain the performance and reporting measures adopted for high-cost USF support recipients. As NTCA explained in its initial comments, “nothing in the record suggests that the structure of the testing and reporting regime as adopted by the Commission is in drastic need of revision or amendment.”<sup>45</sup> The A-CAM Coalition agrees with this assessment, stating “[t]he Coalition has identified no reason why the existing performance testing requirements would be inappropriate for use in the enhanced ACAM program and therefore endorses their application to companies participating in the enhanced ACAM program.”<sup>46</sup>

The only commenter to otherwise address the issue is the California Public Utilities Commission (“CPUC”), which suggests pre-test measurements of speed and latency at the start of the project and post-test measurements after construction is complete.<sup>47</sup> However, the CPUC

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<sup>45</sup> NTCA Comments at 28-29.

<sup>46</sup> A-CAM Coalition Comments at 51.

<sup>47</sup> Comments of the CPUC, WC Docket No. 10-90, *et al.* (filed Jul. 18, 2022), at 7.

offers no information or explanation as to why the current mechanism is inadequate or fails to promote accountability, nor does the CPUC argue that its proposed information collection is somehow superior to what is currently in place. Moreover, absent evidence of the current regime's failure to achieve the Commission's goals, changing the current testing and reporting regime would create additional work and create confusion without any counteracting benefit. In fact, in an effort to "promote consistency across federal agencies" the National Telecommunications Information Administration ("NTIA") largely mirrored the compliance standards and testing protocols currently used by the Commission.<sup>48</sup> It would be counterintuitive for the Commission to shift its protocols now, especially in the fact of a record that fails to justify it.

### **III. NTCA URGES THE COMMISSION TO WORK WITH INDUSTRY TO CREATE GUIDANCE ON ANY CYBERSECURITY OR SUPPLY CHAIN CERTIFICATION REQUIREMENTS.**

Commenters recognize the Commission's interest in cybersecurity and supply chain risk management.<sup>49</sup> NTIA's BEAD program currently has such requirements and NTCA supports consistency among federal agencies. However, it must be recognized that small companies lack the financial and personnel resources of their large counterparts. As WTA points out, "cybersecurity is becoming an increasing and very substantial cost" for smaller rural operators.<sup>50</sup> NTCA's members are small businesses with little "in house" cyber expertise and often struggle to train and retain qualified people. The public resources currently available are not tailored to the Commission's funding programs and may be overwhelming to small businesses, and the consultants who specialize in cyber and supply chain risk management may be out of financial

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<sup>48</sup> See Notice of Funding Opportunity, BEAD Program, NTIA, at 64.

<sup>49</sup> See, e.g., A-CAM Coalition Comments at 41.

<sup>50</sup> WTA Comments at 12.

reach. Therefore, to promote more secure broadband networks, any certification requirement must be accompanied by clear and precise guidelines and resources that enable rural providers to create the kinds of risk management plans contemplated by the Commission. NTCA encourages the Commission to engage with the industry to create guidelines that not only achieve the Commission's goals but are also workable for small providers.<sup>51</sup> NTCA also requests that the Commission coordinate with other governmental agencies, including NTIA, to create consistent guidelines and requirements among broadband programs as conflicting or competing requirements would create additional and unnecessary work and expense.

Small providers are taking the steps necessary to protect their networks. These efforts will be enhanced if there is consistency across federal agencies and if sufficient guidance and resources are made available to aid providers in tailoring strategies and mitigating risks.

#### **IV. THE AFFORDABLE CONNECTIVITY PLAN CAN BE LEVERAGED TO PROMOTE ADOPTION IN RURAL AREAS.**

Commenters generally express support for tying high-cost USF support to participation in the Affordable Connectivity Program ("ACP").<sup>52</sup> As the CPUC acknowledges, programs addressing availability do not necessarily address affordability and the affordability problem may be greater in rural and high-cost areas where broadband plans are usually more costly.<sup>53</sup> It makes sense to tie the availability of high-cost USF support to participation in the ACP program. The \$30 monthly subsidy could help narrow, if not overcome, the "rural affordability gap."

However, in doing so, NTCA believes it is essential that the Commission leverage the authority issued by the IIA, under which an "enhanced" ACP benefit of up to \$75 per month

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<sup>51</sup> NTCA suggests the Commission engage with the participants of CyberShare: The Small Broadband Provider ISAC to hear directly from providers about their challenges and successes in these respects.

<sup>52</sup> See, e.g., CPUC Comments at 8-13; A-CAM Coalition Comments at 40.

<sup>53</sup> CPUC Comments at 8.



would be available to households served by high-cost USF support recipients. As highlighted in NTCA’s initial comments,<sup>54</sup> the Commission’s rules benchmark the rates paid by rural consumers to be two standard deviations above comparable urban rates. Thus, absent a higher level of ACP subsidy, or “enhanced ACP,” the rate paid by rural low-income consumers will by definition and the Commission’s own high-cost program design always be more than that paid by urban low-income consumers. Enhanced ACP support, tied to enhanced A-CAM and other updated high-cost USF support, will help bridge the gap to make rates affordable to rural low-income consumers.

## V. CONCLUSION

For the foregoing reasons, NTCA recommends that the Commission act promptly to adopt reforms consistent with the recommendations set forth in NTCA’s initial comments.

Respectfully submitted,

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<sup>54</sup> NTCA Comments at 30-31.