



October 14, 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 A-CAM Program, RM-11868*

Dear Ms. Dortch:

On Wednesday, October 12, 2022, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”) spoke with Suzanne Yelen from the Wireline Competition Bureau regarding matters in the above-referenced proceedings.

By way of background, in its Notice of Proposed Rulemaking in these proceedings, the Federal Communications Commission (the “Commission”) sought comment both on a proposal to enhance and extend the Alternative Connect America Model (“A-CAM”) and what measures it might take to update Connect America Fund-Broadband Loop Support (“CAF-BLS”). *See Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Notice of Proposed Rulemaking (rel. May 20, 2022) (“NPRM”), at ¶¶ 23-58 (seeking comment on “the Enhanced A-CAM proposal and generally regarding how to leverage the existing, supported networks of A-CAM carriers to swiftly meet current legislative requirements and goals while avoiding duplicative support across programs and maximizing the efficient use of universal service funds,” and on “whether and how we should align the deployment obligations and required timeframes for deployment for CAF-BLS carriers with any Enhanced A-CAM plan [because] such alignment would ensure similar deployment . . . and ease administration of the programs”)

In response to these calls for comment on both programs in the NPRM, NTCA submitted a five-part plan into the record for reforms that should be undertaken to update the A-CAM and CAF-BLS mechanisms. *See Comments of NTCA, WC Docket No. 10-90, et al.* (filed July 18, 2022); Reply Comments of NTCA, WC Docket No. 10-90, *et al.* (filed Aug. 1, 2022). The detailed proposals set forth specifically in these filings, which were supported by many other parties in the record, can be summarized as follows:

1. *Offer 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, require each electing A-CAM recipient to deliver 100/20 Mbps broadband speeds to at least 90% of eligible locations as recommended by the coalition.*
3. *Address 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, require each CAF-BLS recipient to deliver 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 defer 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. *Release a Further Notice of Proposed Rulemaking seeking comment on other voluntary paths to fixed support for CAF-BLS recipients.*

As discussions in these dockets have evolved and as more details associated with broadband-focused programs at other agencies have become available, NTCA has considered potential modifications and refinements to the detailed proposals already discussed at length in the record. More specifically, NTCA suggests the following changes and enhancements to the existing proposals:

A-CAM and CAF-BLS Service Level Commitments

- *100% Objective* – In lieu of reaching at least 90% of eligible locations with 100/20 Mbps as previously proposed, NTCA suggests that the Commission provide an option for recipients of A-CAM and CAF-BLS support alike to elect to deliver at least 100/20 Mbps service to 100% of eligible locations in their study areas.
 - To help reach and continue to serve each and every eligible location, those A-CAM recipients that elect to do so would receive support for an additional period of time beyond that set forth in the original proposal and/or additional funding per year beyond that set forth in the original proposal. *See, e.g., Reply Comments of the Nebraska Rural Independent Companies, WC Docket No. 10-90, et al. (filed Aug. 1, 2022), at 2-5.*
 - To help reach and continue to serve each and every eligible location, those CAF-BLS recipients that elect to do so would be exempt from the effects of the budget control mechanism that otherwise applies to such operators for five years and would receive support up to a \$300 per line cap.

- *97% Objective* – NTCA further suggests increasing the “baseline proposal” to reach at least 90% of locations with at least 100/20 Mbps broadband in its prior filings with a revised objective of reaching 97% of eligible locations in the study area. This proposal strikes an appropriate balance between wanting to reach every customer and the fact that, in some cases, A-CAM or CAF-BLS support may not be sufficient to do so.
 - To help reach and continue to serve these additional locations, those A-CAM recipients that elect this option would receive enhanced and extended support at a level that enables and sustains such deployment.
 - To help reach and continue to serve these additional locations, those CAF-BLS recipients that elect this option would be exempt from the effects of the budget control mechanism that otherwise applies to such operators for three years.
 - The areas that would *not* be served by at least 100/20 Mbps broadband under this option would be determined using a Commission-approved methodology identifying the highest-cost portions of each study area. Providers would need to make best efforts to reach these remaining areas with 100/20 Mbps within a reasonable period of time.

- *Non-Electing Providers* –
 - Those A-CAM recipients that do not elect either the 100% or 97% objective would continue to receive A-CAM support pursuant to its current terms and would be required to complete their current service level commitments.
 - Those CAF-BLS recipients that do not elect either the 100% or 97% objective would continue to receive CAF-BLS support pursuant to its current terms. New service level commitments for such carriers would be developed by the end of 2023 as contemplated by the Commission in 2018.

Support Calculations

- *A-CAM* – NTCA continues to support the proposals previously discussed in the record for enhanced and extended support, but now including the further modifications suggested above for the 100% and 97% objectives.

- *CAF-BLS* – NTCA continues to support the proposals previously discussed in the record – that is, to recalibrate the budget control mechanism at the current level of demand, restore the \$200 per-line cap to \$250 per month, and apply a forward-looking inflationary factor – but now including the further modifications suggested above for the 100% and 97% objectives. For purposes of clarification, the budget control mechanism would be calculated going forward as if it applies to all CAF-BLS recipients despite some being exempt from it for a temporary period of time as noted above.

Performance Milestones

- NTCA continues to support the proposals previously discussed in the record for performance milestones for Enhanced A-CAM and CAF-BLS.
- In light of continuing work toward identifying serviceable locations and uncertainty associated with the process of doing so, the Commission should provide flexibility comparable to that provided in the Rural Digital Opportunity Fund with respect to determination of compliance with milestones and final performance metrics.

Use of New Broadband Data Collection (BDC) Maps

- The new BDC maps, following the completion of fabric and data challenges, would be used to determine where “qualifying competition” (as defined below) renders a location ineligible for future A-CAM or CAF-BLS support.
- “Qualifying competition” shall be defined as either: (a) the current provision by a would-be competitor of at least 100/20 Mbps reliable broadband service (as defined in the Infrastructure Act and the BEAD program) and voice telephony to a given location on a fixed and entirely unsubsidized basis; or (b) the provision of at least 100/20 Mbps reliable broadband service (as defined in the Infrastructure Act and the BEAD program) and voice telephony to a given location on a fixed basis pursuant to a grant awarded hereafter to the would-be competitor under the BEAD program. *See* BEAD Notice of Funding Opportunity at §§ I.C.(u) and n. 10. (Once an area subsequently becomes served pursuant to a BEAD grant under provision (b), support would only be reduced at such time as the services are in fact activated by the would-be competitor.)
- Processes shall be developed to disaggregate support in the event of a finding of qualifying competition. For A-CAM, this would involve use of the model to determine appropriate adjusted support levels; for CAF-BLS, the Commission should reinstate the disaggregation options that it adopted in 2016 but updated as noted above.

Further Migrations to Fixed Support and Other Considerations

- NTCA continues to support the proposal in the record to allow current CAF-BLS recipients to elect now to migrate to Enhanced A-CAM support.
- NTCA continues to support the proposal in the record for the Commission to initiate a further notice of proposed rulemaking that would enable current CAF-BLS to elect fixed support through an “incentive regulation” option.
- There must be continued consideration given to the unique challenges faced in deploying networks and delivering affordable high-quality services in Tribal areas in the form of adjusted factors for support and differentiated service level commitments and milestones.

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Building upon well-developed and well-supported proposals already in the current record, and leveraging existing programs that have proven highly effective at advancing broadband in rural areas to date, NTCA submits that the plan suggested herein for A-CAM and CAF-BLS updates provides a sound basis for moving forward with reform. These proposals will result in substantially improved broadband services for millions of rural Americans at levels at least equal to, if not in excess of, those anticipated under grant programs – which would, in turn, help these grant programs focus their own funding efforts on other areas in need. NTCA also observed how these critical universal service mechanisms further aid in *keeping* areas served and rates for broadband more affordable. We further highlight once again the importance of timely action on reform, both for purposes of effective coordination with other programs and because of the need in any event to address budget and service level commitment issues in the CAF-BLS program in coming months by operation of existing program rules. NTCA looks forward to continuing to work with the Commission to complete and enact such updates in coming weeks and months.

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

Executive Vice President

cc: Suzanne Yelen