



June 16, 2023

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:

NTCA-The Rural Broadband Association (“NTCA”) submits this correspondence to provide further details on previously proposed updates to the Connect America Fund-Broadband Loop Support (“CAF-BLS”) mechanism and the Alternative Connect America Cost Model (“A-CAM”).¹

An important element of these updates will be effective coordination of the CAF-BLS/HCLS and A-CAM proposals with the existing and upcoming grant programs, and NTCA therefore urges the Commission to move forward with reforms as promptly as possible with that interest in mind. NTCA further acknowledges that, as part of such effective coordination, the Commission will want to make determinations as to appropriate levels of universal service support based upon the existing provision of service by qualified unsubsidized competitors or enforceable deployment commitments made pursuant to other broadband funding programs. To achieve such coordination in a reasonable manner that ensures the objectives of universal service are in fact fulfilled at any given location, building again upon proposals previously submitted in the record and rules previously adopted by the Commission, NTCA recommends the following process and definitions for such determinations going forward:

¹ See, e.g., *Ex Parte* Letter from Michael R. Romano, Executive Vice President, NTCA, to Marlene H. Dortch, Secretary, Federal Communications Commission (the “Commission”), WC Docket No. 10-90, *et al.* (filed May 26, 2023); *Ex Parte* Letter from Michael R. Romano, Executive Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, *et al.* (filed Dec. 5, 2022); *Ex Parte* Letter from Michael R. Romano, Executive Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, *et al.* (filed Oct. 14, 2022); Reply Comments of NTCA, WC Docket No. 10-90, *et al.* (filed Aug. 1, 2022); Comments of NTCA, WC Docket No. 10-90, *et al.* (filed July 18, 2022).

1. **Starting Point:** The process of determining which areas are served by qualified unsubsidized competitors or are subject to enforceable federal commitments would be guided to start by the Commission’s National Broadband Map (“NBM”) and Broadband Funding Map (“BFM”), respectively. Because these maps – especially the NBM – do not, however, offer a complete picture of where truly *universal* service is available and assured, additional definitions and processes will be needed to ensure that service would not merely be available to *any single location* in a given area but also to *everyone* in that area were universal service support to be reduced or eliminated for that area.

2. **Preliminary Definition of Qualified Unsubsidized Competitor:** Thus, a more focused review should turn first upon what constitutes a qualified unsubsidized competitor as shown on the NBM. For purposes of consistency and relative ease of administration, and to reflect the realistic current capabilities of networks on a technology neutral basis, NTCA proposes that such a competitor be preliminarily defined as follows:
 - Any unaffiliated provider reporting the use of technology codes 40 (Coaxial Cable/Hybrid Fiber-Coax); 50 (Optical Carrier/Fiber to the Premises); and 71 (Licensed Terrestrial Fixed Wireless) to serve a given location at 100/20 Mbps or better in its most recent Broadband Data Collection (“BDC”) reports.

 - By contrast, a provider reporting the use of technology codes 10 (Copper Wire); 60 (Geostationary Satellite); 61 (Non-geostationary Satellite); 70 (Unlicensed Terrestrial Fixed Wireless); 72 (Licensed-by-Rule Terrestrial Fixed Wireless); and 0 (Other) to serve a given location on its BDC reports would *not* be deemed a qualified unsubsidized competitor due to a lack of consistent and widespread reporting of capability to deliver 100/20 Mbps on a reliable basis to *every* location in a given area.

3. **Confirmation as Qualified Unsubsidized Competitor:** Where it has been preliminarily determined that a qualified unsubsidized competitor has reported coverage on its BDC report at locations where support would otherwise be provided, a process is needed to confirm that capability given the scope of the BDC. NTCA recommends that the Commission provide notice to each would-be competitor of the pending support offer and specify the BDC locations subject to those offers. To confirm qualified competition in fact exists at each such location, within 30 days of the transmittal of such notice, the competitor would be required to submit an officer’s certification that may be subject to review and audit attesting that the competitor:
 - Offers voice telephony (via any technology) on a standalone basis (*i.e.*, not only as part of a bundle with broadband service) to each location claimed as served on the BDC;

 - Offers voice and broadband services at rates consistent with the Commission’s reasonable comparability benchmarks;

- Offers 100/20 Mbps or better broadband with a minimum monthly usage allowance of 600 GB to each location claimed as served on the BDC;
 - For technology code 40 specifically, uses a DOCSIS 3.0 or better system to serve each location claimed as served on the BDC; and
 - For technology code 71 specifically:
 - Uses point-to-multipoint architecture for rural residential service delivery to each location claimed as served on the BDC;
 - Uses an oversubscription ratio of 4:1 or less for any sector or beam to deliver service to each location claimed as served on the BDC; and
 - Identifies the licensed spectrum capacity held for the geography in which the claimed-served BDC location sits.
4. **Consequences of Confirmed Qualified Unsubsidized Competition or Enforceable Commitments:** For those locations where an appropriate process confirms universal service can be achieved through the efforts of other providers, the following adjustments would be made:
- A-CAM: For each such location, the costs eligible for support at that location would be reduced by the average model-identified percentage of costs of the model nodes for that location as a reflection of avoided costs of service. As others have indicated, this formula is estimated to reduce model-defined eligible costs at affected locations by 40%.²
 - CAF-BLS: At the same time that the Commission seeks subsequent comment on updated CAF-BLS service level commitments/deployment obligations to take effect on January 1, 2024 (when the current obligations come due), the Commission should consider reinstatement of the disaggregation rules adopted for the CAF-BLS mechanism in 2016, but with targeted updates where appropriate, such as measures to reflect the migration in geographic reporting of broadband coverage from Form 477 to the BDC and reasonable challenge processes.

This kind of process and adoption of reasonable definitions would provide a sound, streamlined, and straightforward means to ensure *universal* service by confirming where a would-be competitor is in fact capable of (or otherwise committed to) serving each location in rural geographies. This process recognizes that, while the BDC offers a useful starting point for such determinations, the BDC does not purport to capture the capability to deliver universal service – the BDC demonstrates rather that a provider could serve *any* location but not that a provider could serve *every* location in a given geography if all customers were to order such service from the unsubsidized competitor in that area. Where such qualified competition and commitments are then confirmed, this process provides a simple means of calculating adjustments in support for such locations using the Commission’s model, prior rules, and BDC-based information.

² See *Ex Parte* Letter from Genevieve Morelli, ACAM Broadband Coalition, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90, *et al.* (filed June 14, 2023).

Marlene H. Dortch

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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: Ted Burmeister
Jesse Jachman
Michael Janson
Katie King
William Layton
Eric Ralph
Stephen Wang
Suzanne Yelen