

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Alaska Connect Fund	)	WC Docket No. 23-328
	)	
Universal Service Reform – Mobility Fund	)	WC Docket No. 10-208
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	
Telecommunications Carriers Eligible to Receive Universal Service Support	)	WC Docket No. 09-197
	)	

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

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby files these Comments in response to the Notice of Proposed Rulemaking released October 20, 2023 in the above-captioned proceedings.<sup>2</sup> In the petition for rulemaking that helped to initiate the instant proceedings, the Alaska Telecom Association (“ATA”) put forward a compelling case to build upon and sustain the work of the Alaska Plan and related high-cost universal service fund (“USF”) mechanisms that have made significant inroads in connecting tens of thousands of locations in the State and keeping connected many more.<sup>3</sup> NTCA supports prompt action by the Federal Communications

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

<sup>2</sup> *Connect America Fund, et al.*, WC Docket Nos. 10-90, *et al.*, Notice of Proposed Rulemaking and Report and Order (rel. Oct. 20, 2023) (“NPRM”).

<sup>3</sup> Petition for Expedited Rulemaking of ATA, WC Docket Nos. 10-90, *et al.* (filed Jan. 4, 2023) (“ATA Petition”).

Commission (the “Commission”) in these proceedings to implement an Alaska Connect Fund (“ACF”) that will ensure the ongoing provision of high-quality, reliable, and affordable voice and broadband services in deeply rural and remote Alaska and help stimulate deployment and upgrading of service for those locations still in need of improved connectivity.

**I. A HARMONIZED, STATE-SPECIFIC APPROACH TO PROMOTING UNIVERSAL SERVICE IN ALASKA IS SOUND POLICY, SHOULD BUILD UPON THE SUCCESS OF PRIOR USF PROGRAMS, AND SHOULD LEVERAGE EXISTING NETWORKS AND PROVIDERS TO THE GREATEST EXTENT POSSIBLE.**

Too often in the past, well-intended efforts to promote the much-needed deployment of broadband to unserved areas have suffered from two critical conceptual flaws: (1) the desire to remake policies and programs from scratch in lieu of learning from, building upon, and adjusting as needed based upon what has worked well previously; and (2) a focus almost entirely and exclusively on *getting* services to areas such that *keeping* services available and affordable is neglected or even overlooked altogether. Fortunately, in the 2018 reforms of the Alternative Connect America Cost Model (“ACAM”) and Connect America Fund-Broadband Loop Support (“CAF-BLS”),<sup>4</sup> and more recently in the 2023 offer of enhanced ACAM support,<sup>5</sup> the Commission largely sought to avoid these missteps and looked instead to leverage proven programs, proven providers, and existing networks – and as a result, it can reasonably expect to realize on a more rapid and widespread basis the advancement and sustainability of universal service that builds upon the substantial progress already made by recipients of this support in the past.

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<sup>4</sup> *Connect America Fund, et al.*, WC Docket Nos. 10-90, *et al.*, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893 (2018) (“2018 USF Order”).

<sup>5</sup> *Connect America Fund, et al.*, WC Docket Nos. 10-90, *et al.*, Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (rel. July 24, 2023) (“Enhanced ACAM Order, NPRM, and NOI”).

The Commission should adopt this same perspective when it comes to creating the ACF. Rather than inventing experimental and complicated new initiatives from whole cloth with little sense of their effectiveness, it should take stock of what has already worked within Alaska – such as the levels of deployment already realized pursuant to the Alaska Plan and Connect America Fund (“CAF”) Phase II frozen support and the reasonable comparability of rates ensured only as a result of this support – and consider surgical updates and adjustments based upon where the existing USF programs may no longer be keeping pace with consumer demands or the costs of network deployment and service delivery. Through such an approach, especially in rural and remote Alaska where the difficulties are unique, both the Commission and Alaskan consumers and businesses will be best assured of fulfillment of the ongoing and evolving statutory mission of universal service without disruption or delay.

In its petition to initiate this rulemaking, ATA highlighted the substantial progress already made leveraging Alaska Plan and CAF Phase II support to connect Alaskans with fixed service, noting that “more than 70,000 locations were upgraded or newly deployed – in many cases with better speeds than originally committed.”<sup>6</sup> The NPRM in turn indicated further progress had been made even since the filing of the ATA Petition, noting that more than 88,000 Alaskan locations had better connectivity through high-cost USF support as of the end of 2022.<sup>7</sup> The same is true with respect to mobile broadband, as the ATA Petition noted a 250% increase in 4G LTE access in the State over 5 years.<sup>8</sup> At the same time, as the NPRM explains, additional deployment is necessary to keep pace with consumer demand and to meet the statutory obligation to promote

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<sup>6</sup> ATA Petition, at 7.

<sup>7</sup> NPRM, at n. 64.

<sup>8</sup> ATA Petition, at 8.

“reasonable comparability” of services; specifically the NPRM identifies 27% of broadband-serviceable units in the State as still lacking 100/20 Mbps fixed broadband service.<sup>9</sup> Putting these various figures together, it becomes readily apparent that significant progress has been made – and, to the greatest extent possible, it would be prudent and efficient (as it has been under prior programs like ACAM and CAF-BLS) to leverage existing networks and proven providers to close the remaining divide.

Relatedly, the Commission inquires as to which providers should be eligible for ACF support.<sup>10</sup> NTCA supports the position expressed in the ATA Petition, which suggested that all current Alaska Plan recipients and current ACAM recipients should be afforded the opportunity to receive ACF support.<sup>11</sup> Under the theory that it would be efficient to encourage more high-cost USF recipients to elect high-cost support on a voluntary basis under unified programs where possible and practicable, NTCA further supports providing Alaska Communications Systems (“ACS”) the opportunity to participate in the ACF program. By structuring the ACF in this manner, the Commission would enable movement toward a single program that applies across wide swaths of the most rural and remote State in the nation and that has been tailored to meet the bespoke challenges of serving these areas. Moreover, as in the context of enhanced ACAM offers, it is logical to extend ACF support only to existing recipients to start (but to ask more of them in doing so as discussed in Section III, *infra*); if the Commission recently concluded that “areas funded by ACAM carriers present distinct challenges to competitive entry” such that “[w]e are not

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<sup>9</sup> NPRM, at ¶ 20.

<sup>10</sup> *Id.* at ¶ 31.

<sup>11</sup> ATA Petition, at 22.

persuaded that it would be an efficient use of funds” to open that program,<sup>12</sup> Alaska presents an even starker case of challenging distance and density. To the extent that subsequent initiatives such as the Broadband Equity, Access, and Deployment program present circumstances in the future in which another provider has effectively become the new “provider of last resort” in an area, the Commission can visit at that time whether and to what degree high-cost USF support is warranted to meet the statutory mandates for universal service in that area – and it even has a proceeding already open to do so.<sup>13</sup> But for purposes of the ACF specifically, this program should build upon the existing high-cost USF initiatives where “incumbent service providers have existing long-term commitments” and seek to leverage these providers, the networks they already have in place, and the progress they have already made pursuant to these commitments – all while not forgetting or overlooking the fact that the reasonable comparability in price and quality of services offered over the deployments already made in many cases will turn upon the continued availability of support.<sup>14</sup>

As a matter of law and good public policy, the Commission should not waver when it comes to requiring recipients of ACF (and all other high-cost USF support, for that matter) to be eligible telecommunications carriers (“ETCs”).<sup>15</sup> The plain language of Section 254 of the Communications Act of 1934, as amended (the “Act”), mandates that only entities designated as ETCs pursuant to Section 214 of the Act receive federal USF support, and directs that such support

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<sup>12</sup> Enhanced ACAM Order, NPRM, and NOI, at ¶ 96.

<sup>13</sup> *Id.* at ¶¶ 154-182.

<sup>14</sup> *See id.* at ¶ 74 (recognizing the significance of continued support to maintain service and cover ongoing operational and depreciation costs associated with deployed locations).

<sup>15</sup> *See* NPRM, at ¶32.

be used in connection with the offering of supported telecommunications services.<sup>16</sup> In turn, voice telephony (and not broadband) is in fact the “supported telecommunications service.”<sup>17</sup> Section 214(e)(1), moreover, indicates that only a telecommunications carrier (“TC”) – defined elsewhere in the statute as a provider of a telecommunications service (“TS”) (a term also defined in the statute)<sup>18</sup> – can be designated as an ETC.<sup>19</sup> Put another way and in more simple and formulaic terms, the Act is unmistakably clear that: (1) to receive USF, an entity must be an ETC; (2) to be an ETC, an entity must be a TC; and (3) to be a TC, an entity must offer a TS. Sidestepping these statutory provisions is unnecessary as a practical matter because no party has demonstrated they present an unreasonable barrier to receipt of support in the past under any program,<sup>20</sup> and as a policy matter, ETC designation plays a critical role in ensuring proper review of providers’ ability to perform as promised and ongoing validation of their continuing ability to do so.

Finally, the NPRM asks how to determine the areas that will be eligible for ACF support, acknowledging again essentially as it does so that “Alaska is different” and that an approach that looks at individual serviceable locations may not make sense in a State where villages and communities are so far from one another.<sup>21</sup> Given the vast nature of the areas to be served in

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<sup>16</sup> 47 U.S.C. §§ 254(e) and (c)(1).

<sup>17</sup> *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692 (2011), at ¶¶ 77-79.

<sup>18</sup> 47 U.S.C. § 153(51) and (53).

<sup>19</sup> *Id.* at § 214(e)(1).

<sup>20</sup> *See Rural Digital Opportunity Fund, et al.*, WC Docket No. 19-126, *et al.*, Report and Order, 35 FCC Rcd 686, 7233 (2020), at ¶ 81 (confirming ETC obligations apply in the context of the most recent USF auction).

<sup>21</sup> *See NPRM*, at ¶¶ 24-25.

Alaska, NTCA submits that a location-by-location look at eligibility would be inefficient for the Commission and for providers alike – it is of course the case in *all* geographies that networks are built to serve *areas* rather than *locations*, but the geography of Alaska presents a uniquely compelling circumstance. For this reason, and because such a structure would once again build upon the work of existing programs, the Commission should start from the premise of offering study area-wide support as it does in the case of CAF-BLS and the various ACAM programs.

**II. A HIGH-COST UNIVERSAL SERVICE SUPPORT BUDGET FOR ALASKA THAT HAS BEEN FROZEN FOR MORE THAN A DECADE CANNOT SUPPORT THE DELIVERY OF RELIABLE VOICE AND BETTER-PERFORMING BROADBAND SERVICES AT REASONABLY COMPARABLE RATES.**

The current budgets for the various high-cost USF programs in Alaska were set when the goals for broadband delivery were far lower than what consumers demand today, and they are based upon the kinds of costs that were or would have been incurred many years ago to build and operate a broadband-capable network at this lower level of capability. More specifically, the Alaska Plan budget was set in 2016 using a frozen level of support from 2011 that was derived from 2009 reported costs.<sup>22</sup> For ACS, the CAF Phase II program distributes a frozen amount equal to its 2016 level of support.<sup>23</sup> These support levels are in desperate need of updating based upon factors ranging from the greater level of investment needed to upgrade networks to meet current demand to inflationary pressures that, even if perhaps abating currently, have not been reflected *at all* over the past 10 to 15 years in the current levels of support.<sup>24</sup>

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<sup>22</sup> *Connect America Fund, et al.*, WC Docket Nos. 10-90, *et al.*, Order, 31 FCC Rcd 10139, 10143 (2016), at ¶ 9.

<sup>23</sup> *Connect America Fund, et al.*, WC Docket Nos. 10-90, *et al.*, Order, 31 FCC Rcd 12086, 12092 (2016), at ¶ 22.

<sup>24</sup> *See* ATA Petition, at 17.

NTCA therefore supports recalibrating the “baseline” level of support available under the ACF to reflect inflation since the time the Alaska Plan and frozen CAF Phase II budgets were initially set. This is consistent with the approach the Commission has taken in other USF contexts – including not only the high-cost program, but also E-Rate<sup>25</sup> – to ensure these initiatives can better keep pace with an evolving mission of universal service. In addition, the Commission should thereafter apply an annual inflationary factor to the ACF as it does for other high-cost USF programs<sup>26</sup> for the same reasons, especially given that new deployment under the programs is likely to be required over a series of years into the future. Moreover, for purposes of clarification, it will be essential to ensure that the ACF budget reflects all of the support that “comes into” this new initiative from the existing programs; in other words, it will not be enough by itself to recalibrate the Alaska Plan budget alone, but rather the ACF budget should be appropriately reset to reflect whatever participation comes from prior recipients of the Alaska Plan, CAF Phase II, and ACAM in Alaska.

It must also be remembered in considering the appropriate budget that universal service is not fulfilled simply when a network is built. When it comes to universal service debates, some tend to draw the facile conclusion that once the network is complete, the need for USF support dissipates. Others may understand that there is some need for ongoing support for maintenance, but they miss the critical role that high-cost USF support plays in keeping services affordable (especially in extremely high-cost areas like much of Alaska) and in helping with “replacement

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<sup>25</sup> See, e.g., *Modernizing the E-rate Program for Schools and Libraries, et al.*, WC Docket No. 13-184, *et al.*, Second Report and Order, 29 FCC Rcd 15538, 15569-87 (2014), at ¶¶ 77-118 (adjusting the E-Rate budget cap because it was “virtually unchanged” for over a decade, other than a few years of inflationary increases).

<sup>26</sup> See, e.g., 2018 USF Order, 33 FCC Rcd at 11920-21, ¶¶ 88-89.



capital” that goes beyond normal maintenance to keep pace with evolving consumer demands over time. To be certain, this does not mean that USF programs necessarily must look and operate precisely as they might have before when areas were unserved, but it does mean that one cannot simply conclude the mission of universal service is achieved – or that no budget is needed because the higher costs of delivering services in rural America magically disappear – once a network is built. The Act charges the Commission with ensuring that “[q]uality *services* should be available at just, reasonable, and affordable rates” and that all Americans “have access to telecommunications and information *services*” that are reasonably comparable in price and quality to those available in urban areas.<sup>27</sup> Nothing in these statutory directives offers any indication that promoting and advancing the mission of universal service is a one-time act, and to the contrary, they make clear that the Commission’s USF mechanisms cannot neglect to provide ongoing support sufficient to achieve these aims going forward.

### **III. PUBLIC INTEREST AND RELATED OBLIGATIONS SHOULD BE UPDATED AS WELL, BUT STILL REFLECT THE UNIQUE CHALLENGES OF SERVING ALASKA.**

Given increasing consumer demand generally for reliable and higher-performing broadband services,<sup>28</sup> the Commission should condition the award of ACF support upon the expanded delivery of services consistent with such expectations. Because of the variability of geography, terrain, climate, and middle mile access in Alaska, however, the Commission should, as it did under the Alaska Plan, develop these performance plans and the applicability of related

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<sup>27</sup> 47 U.S.C. § 254(b) (emphasis added).

<sup>28</sup> Enhanced ACAM Order, NPRM, and NOI, at ¶ 38; *see also* Comments of NTCA, GN Docket No. 22-270 (filed Dec. 1, 2023), at 3-7 (discussing generally the need for broadband performance objectives that are based upon and anticipate evolving consumer demand).

obligations through review and approval of individual ETC submissions rather than attempting to craft a formulaic set of “one-size-fits-all” deployment obligations.<sup>29</sup>

#### IV. CONCLUSION

For the foregoing reasons, the Commission should implement the ACF program consistent with the recommendations herein.

Respectfully submitted,



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<sup>29</sup> See NPRM, at ¶¶ 42-49; see also ATA Petition, at 19-21.