

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Connect America Fund—Alaska Plan)	WC Docket No. 16-271
)	
The Uniendo a Puerto Rico Fund and the Connect USVI Fund)	WC Docket No. 18-143
)	
Rural Digital Opportunity Fund)	WC Docket No. 19-126
)	
The Rural Digital Opportunity Fund Auction (Auction 904))	AU Docket No. 20-34

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

NTCA—The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments discussing the response to the Public Notice² issued by the Federal Communications Commission’s (“Commission”) Wireline Competition Bureau (“WCB”) in the above-captioned proceedings. The Public Notice seeks comment on using the data included in the Broadband Serviceable Location (“BSL”) Fabric (“Fabric”) to “update and verify compliance with certain High-Cost program support recipients’ deployment obligations.”³

¹ NTCA represents approximately 850 rural local exchange carriers (“RLECs”). All of NTCA’s members are voice and broadband providers, and many of its members provide wireless, video, and other competitive services to their communities.

² *Wireline Competition Bureau Seeks Comment on Leveraging the Broadband Serviceable Location Fabric for High-Cost Support Mechanism Deployment Obligations*, WC Docket Nos. 10-90, 16-271, 18-143, 19-126, AU Docket No. 20-34, Public Notice, DA 24-77 (rel. Jan. 25, 2024) (“Public Notice”).

³ *Id.*, ¶ 1.

As an initial matter, the record does not support tying compliance with high-cost support deployment obligations to the Fabric at this time, as the data therein continue to be “moving targets.” As NTCA noted,⁴ inaccuracies in the Fabric persist, including missing or additional locations as well as locations that are placed at geographic coordinates neither consistent with where the provider with decades of presence in a community knows a BSL to be and/or with prior High Cost Universal Broadband portal (“HUBB”) reports. Even as work to reconcile these two data sets is underway (and that includes NTCA members’ participation in the bulk Fabric challenge process), much of this must be done on a manual, location-by-location basis that takes months for resolution – and this process all too often fails to provide any explanation for the disposition of any such challenges. Indeed, even as providers await the results of location challenges, they often find new errors in new Fabric releases that then trigger the need for even more challenges. In short, while it represents a fundamental improvement over prior mapping efforts to be sure and may someday provide greater reliability still, the Fabric is not yet in a settled place where it can be relied upon as an authoritative source for tracking deployment compliance. This is especially true in the case of programs that launched years before the Fabric was anything more than a conceptual aim.

NTCA members are not alone in confronting this problem. The Rural Electric Cooperatives Providing Broadband (“RECPB”) discuss similar experiences, noting that, “[e]ach iteration of the Fabric brings a new set of challenges for RECPB members – mainly trying to identify BSLs, which are constantly changing and never truly reflective of the BSLs on the

⁴ Comments of NTCA–The Rural Broadband Association (“NTCA”), WC Docket No. 10-90, et al., (fil. Mar. 15, 2024), pp. 2-5.

ground.”⁵ The Coalition of RDOF Winners also point to discrepancies between the facts on the ground as they know them and Fabric data.⁶ The Alaska Telecom Association (“ATA”) discusses at length the continuing need for its members to resolve inaccuracies in the Fabric as well.⁷ Given the continuing difficulty that providers face in reconciling the “facts on the ground” with the Fabric (including time-consuming and prolonged challenge process efforts still needed to do so), the location data found therein cannot be viewed as sufficiently settled for purposes of verifying compliance with High-Cost USF support buildout obligations.

In addition, even once the Fabric is in a more settled state, its use to verify compliance with High-Cost USF buildout obligations should only be in the context of newly created support programs that are launched *after* the creation of the Fabric (such as the Enhanced ACAM mechanism⁸) and therefore proceed from assumptions and deployment calculations based upon its use. As NTCA noted in initial comments, Enhanced ACAM buildout obligations are unique in that they alone were specifically determined by reference to the National Broadband Map in the first instance⁹ – ACAM 1 and 2 and Alaska Plan recipients’ buildout obligations were not.

⁵ Comments of the Rural Electric Cooperatives Providing Broadband (“RECPB”), WC Docket No. 10-90, et al., (fil. Mar. 15, 2024), p. 4 (emphasis added).

⁶ Comments of the Coalition of RDOF Winners (“RDOF Winners”), WC Docket No. 10-90, et al., (fil. Mar. 15, 2024), pp. 11-12.

⁷ Comments of the Alaska Telecom Association (“ATA”), WC Docket No. 10-90, et al., (fil. Mar. 15, 2024), pp 7-10.

⁸ *Connect America Fund*, WC Docket No. 10-90, et. al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23-60 (rel. Jul. 24, 2023) (“*Enhanced ACAM Order*”).

⁹ NTCA, p. 4 (citing *Enhanced ACAM Order*, ¶ 40). And even for Enhanced ACAM electors, the landscape is hardly settled when it comes to final deployment obligations and corresponding support adjustments due to corrections that are still being processed and implemented in the Fabric and availability data to reflect the landscape as of the date of their elections. *Enhanced ACAM Order*, ¶ 34.

Moreover, these latter groups of support recipients have been working towards compliance with obligations mandated before the Fabric was even established while reporting all along into the HUBB and commensurate with its reporting processes. For these providers, a shift now to using the Fabric to verify compliance with High-Cost USF buildout obligations would mean reconciliation for every one of those voluminous existing HUBB locations with the Fabric. Yet neither the Public Notice nor the record in response identifies any reason why such a complicated undertaking is necessary for ensuring effective use of USF resources.

With respect to the Public Notice inquiry on the Alaska Plan, the record does not support shifting these providers' buildout obligations from a specific number of locations to 100% coverage. In comments, ATA points first to the intent of the Alaska Plan for "flexibility" in the determination of deployment obligations – as ATA notes, "the specific commitments represent what each provider deemed to be achievable given the timeline, the amount of funding, and their unique geographic and network circumstance."¹⁰ Yet, a shift to 100% coverage would be the polar opposite of "flexibility." In addition, the *Alaska Plan Order* never intended such a result. As NTCA noted,¹¹ the *Alaska Plan Order* merely intended to grant the WCB the authority to address "circumstances that did not exist at the time the performance plans were adopted,"¹² and nothing therein indicates the delegation of authority to adopt what would, in effect, be a wholesale rewrite of buildout obligations based upon nothing more than the "changed circumstance" of a new broadband map. ATA discusses at length as well the numerous logistical

¹⁰ ATA, p. 5.

¹¹ NTCA, p. 7.

¹² *Connect America Fund*, WC Docket No. 10-90, et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 16-115 (rel. Aug. 31, 2016) ("*Alaska Plan Order*"), ¶ 63.

challenges that would make such a material change to these providers' buildout obligations nearly impossible to achieve by 2026.¹³ Moreover, the Commission already has an open proceeding examining the future of High-Cost support in Alaska,¹⁴ and it can therein consider *prospective* reforms that could amend buildout obligations and timelines for completion that reflect the difficulties of network construction in Alaska to which ATA points.

Turning to additional proposals made in response to the Public Notice, NTCA urges the WCB to reject the proposal for upward adjustments to RDOF support made by the RECPB.¹⁵ To be sure, some upward support adjustments may be appropriate for High-Cost support recipients that discover a material difference between total locations in a service area and initial deployment obligations.¹⁶ Yet, RECPB's proposal represents a grab for a massive windfall – for RDOF awardees that bid the per-location cost below the “reserve price” in the auction, setting the adjusted support level at the reserve price would mean receiving support likely far in excess of the final auction price that reflected what the winning bidder deemed as necessary to serve the area in question. This would reward auction awardees that chose to bid below the reserve price and now regret it, and indeed the proposal is tantamount to an untimely filed Petition for

¹³ ATA, pp. 10-11.

¹⁴ *Connect America Fund*, WC Docket No. 10-90, et al., Notice of Proposed Rulemaking and Report and Order, FCC 23-87, (rel. Oct. 20, 2023).

¹⁵ RECPB, pp. 10-11 (arguing for “additional funding for every location that exceeds the RDOF funding recipient's original eligible location requirement at the pro rata RDOF auction reserve price for that Census Block Group.”).

¹⁶ As NTCA noted in initial comments, to the extent a more settled Fabric is used for ACAM 1 and 2 “downward” support adjustments these should be *voluntary*. ACAM I and II support recipients with more than enough locations within their support census blocks to fulfill their buildout obligations should not be required to undertake the difficult kind of reconciliation process referenced in the Public Notice with no recognizable benefit for doing so. In addition, these should not be on a *pro rata* basis as this proposal necessarily assumes that all locations are equally costly to serve. NTCA, pp. 6-7.

Reconsideration of the RDOF auction rules seeking a subsidy amount far in excess of what the Commission originally intended. The Public Notice proposal for additional funding on a pro rata basis for additional locations above 35%¹⁷ is far more reasonable and better aligns with the realistic need to address increased location counts by providing an appropriate level of incremental support without rewarding risky auction tactics or providing a life preserver to providers who now believe they bid poorly.

Finally, NTCA joins Irby¹⁸ in urging the Commission to release RDOF awardees from their letter of credit requirements upon verification that final buildout milestones have been achieved. As the Public Notice states, there is no need for a letter of credit to ensure that support recipients use an award of public funds for the purposes for which it was intended once those purposes have been satisfied in the form of completed deployment.¹⁹

Respectfully submitted,



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¹⁷ Public Notice, ¶ 22. *See also*, Comments of NCTA – The Internet & Television Association (“NCTA”), WC Docket No. 10-90, et al., (fil. Mar. 15, 2024), pp. 5-6.

¹⁸ Comments of Stuart C. Irby Company LLC dba Irby Utilities, 4-County Fiber, LLC dba FASTnet, Aeneas Communications, LLC, Clay County Connect, Inc. and TEPA Connect LLC (hereinafter collectively referred to as Irby), WC Docket No. 10-90, et al., (fil. Mar. 15, 2024), p. 3.

¹⁹ Public Notice, ¶ 13.