

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

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90
)

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

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Public Notice released in the above-captioned proceeding.² In the Public Notice, the Wireline Competition Bureau (the “Bureau”) seeks comment regarding the request by Arvig Enterprises, Inc. (“Arvig”) and Rural Communications Holdings Corporation (“BEVCOMM”) (collectively “the Companies”) to review the treatment of Midcontinent Communications (“Midco”) as an unsubsidized competitor in the areas in which the Companies elected Enhanced Alternative Connect America Cost Model (“Enhanced A-CAM”) support.³

The Companies provide voice and broadband services in Minnesota and Wisconsin, and they elected the Enhanced A-CAM offers after examining the feasibility of deploying 100/20 Mbps broadband service to all of the locations in their respective Enhanced A-CAM support

¹ NTCA is an association representing 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.

² *Wireline Competition Bureau Seeks Comment on Arvig and BEVCOMM Filing That Enhanced A-CAM Support Offers Were Incorrect Because Midco Was Classified as An Unsubsidized Competitor*, WC Docket No. 10-90, Public Notice (rel. Aug. 14, 2024).

³ See Comments of Arvig Enterprises, Inc. and Rural Communications Holding Corporation, WC Docket No. 10-90 (filed Jul. 16, 2024) (“Arvig/BEVCOMM Comments”).

areas. Upon further investigation and examination, however, it has become clear that those offers were reduced based upon an incorrect presumption that Midco offered voice service to locations in Arvig and BEVCOMM’s respective service areas and thus constituted an unsubsidized competitor.⁴ The Companies have challenged this conclusion pursuant to the Public Notice allowing parties with “concerns about an unsubsidized competitor’s usage or the provision of voice service” to file comments.⁵ Consistent with the rules of the Federal Communications Commission (the “Commission”) and applicable precedent, the Bureau should find that Midco is not an unsubsidized competitor in this case because Midco does not offer voice services in the areas in question as demonstrated by the Companies in their comments.

The Commission defines an unsubsidized competitor as “a facilities-based provider of residential fixed voice and broadband service that does not receive high-cost support.”⁶ The Commission has also consistently determined that a competitive offering will not be considered a substitute for a supported service unless a consumer is able to procure voice and broadband services on a standalone basis, without requirement to purchase a bundle to obtain either.⁷ The Companies’ comments demonstrate not only that Midco does not provide standalone voice

⁴ *Id.* at 2-3.

⁵ *Wireline Competition Bureau Announces Enhanced Alternative Connect America Cost Model Support Amounts Offered to Rate-of-Return Carriers to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, 38 FCC Rcd 7828, 7835 (2023) (“Offer Public Notice”).

⁶ 47 C.F.R. § 54.5.

⁷ *See, e.g.*, Offer Public Notice, 38 FCC Rcd at 7836; *Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 7211 (2013); *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 et al., 26 FCC Rcd 17663 (2011); *see also* Petition for Reconsideration and/or Clarification of NTCA, WC Docket No. 10-90 *et al.* (filed Sep. 15, 2023) (“NTCA Petition”), at 5 and n. 14.

service in the Companies' service areas, but further that, even if Midco might report offering voice service elsewhere in the relevant states on Forms 477, a more detailed examination confirms that it does not offer any voice service over its fixed wireless network within the specific census tracts or to the specific locations at issue in the Companies' Enhanced A-CAM offers.⁸ Based upon this showing, Midco does not qualify as an unsubsidized competitor in these areas for purposes of Enhanced A-CAM support, and the Companies' support should be adjusted accordingly.

Although this definitional finding provides conclusive and independent basis for disregarding Midco as an unsubsidized competitor and adjusting the Companies' support, NTCA takes this opportunity to reassert as well that a provider should not qualify as an "unsubsidized competitor" in the first instance if its offering makes direct use of equipment that was deployed because of, and is explicitly supported by, universal service subsidy.⁹ Even where a provider may report the ability to serve an area, that provider is not "unsubsidized" as defined by the Commission's rules if the provider has used high-cost universal service fund ("USF") support to deploy and operate the network in question. While the USF support may have been intended to enable service in another area, such as a neighboring "price cap carrier" area for which Connect America Fund Phase II or Rural Digital Opportunity Fund auction support was won, that does not change the status of the underlying network and provided service as subsidized. Indeed, the

⁸ Arvig/BEVCOMM Comments, at 6-7 and Attachments A and B; *see also Ex Parte* Letter from John Kuykendall, JSI, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90 (filed Aug. 20, 2024).

⁹ *See* NTCA Petition, at 11 and n. 23; *Ex Parte* Letter from Benjamin Dickens, Blooston, Mordofsky, Dickens, & Prendergast, LLP, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90 (filed June 26, 2024).

network deployed and the services being provided would not be available but for the provision of such USF support. Moreover, precisely because the Commission does *not* subsidize multiple providers in the same high-cost area generally, the term “unsubsidized” competitor would have no meaning if not applied in circumstances such as those described in this paragraph; logically, such a fact pattern would offer the only circumstance in which the term “unsubsidized” could apply and be consistent with Commission precedent. The Commission should therefore act promptly on the request for clarification in the NTCA Petition on this point as well.

Arvig and BEVCOMM have demonstrated through ample evidence that Midco does not satisfy the definition of an unsubsidized competitor due to its lack of a voice offering over its fixed wireless network to the locations for which the Companies otherwise would have received Enhanced A-CAM support, and the Companies’ support should therefore be adjusted accordingly. Moreover, as an independent matter, NTCA renews its request for the Commission to address the NTCA Petition by clarifying that only those companies that provide voice and data on a standalone basis without leveraging high-cost USF support will qualify as an unsubsidized competitor.

Respectfully submitted,



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