



October 29, 2015

*Ex Parte Notice*

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**RE: *Connect America Fund, WC Docket No. 10-90***

Dear Ms. Dortch:

On Tuesday, October 27, 2015, the undersigned on behalf of NTCA-The Rural Broadband Association, Tony Veach of Bennet & Bennet, PLLC, Kelley Wells of Panhandle Telephone Cooperative, Inc. (“PTCI”) (via telephone), Douglas Meredith of JSI, Inc. (via telephone), and Kim Harber and Dave Beier of Madison Telephone Company (via telephone) (collectively, the “Rate-of-Return Representatives”) met with the following individuals from the Wireline Competition Bureau: Carol Matthey, Alex Minard, Suzanne Yelen, Katie King, Steven Rosenberg, and Talmadge Cox.

The Rate-of-Return Representatives, along with Chad Duval of Moss Adams LLP also held a meeting on October 27, 2015, with Amy Bender, legal advisor to Commissioner O’Rielly, and Rebekah Goodheart, legal advisor to Commissioner Clyburn. On Wednesday, October 28, 2015, the aforementioned Rate-of-Return Representatives, absent Kim Harber, along with Chad Duval of Moss Adams LLP (via telephone) met with Stephanie Weiner, advisor to FCC Chairman Tom Wheeler, and Carol Matthey.

In all three meetings, as part of an ongoing broader dialogue with respect to the accuracy of the Alternative Connect America Cost Model (“A-CAM”), the Rate-of-Return Representatives discussed a number of concerns with the way the A-CAM identifies the purported presence of unsubsidized competition in rate-of-return service areas.

First, the Rate-of-Return Representatives explained their understanding of how the A-CAM determines the presence of “unsubsidized competition” in census blocks located within rate-of-return incumbent local exchange carrier (“RLEC”) service areas for purposes of eliminating high-cost support in those blocks. Specifically, the A-CAM relies on FCC Form 477 data to determine the existence of providers of fixed voice and broadband services that meet certain

characteristics. It appears this information is drawn “mechanically” from FCC Forms 477 in a way that does not accurately capture the presence of competitive operations in RLEC study areas. As one example, there are instances in which the A-CAM incorrectly classifies an RLEC’s or an RLEC affiliate’s voice and/or broadband services as services that are being provided by an unsubsidized competitor, even if these services are in fact used and provided in furtherance of the RLEC’s eligible telecommunications carrier (“ETC”) obligations.

This process as used to identify unsubsidized competition produces negative consequences with respect to the determination of annual support amounts for certain companies, and due to existing high-cost budget constraints, potentially skews the overall view of support determinations for all carriers. Perhaps just as troubling, the result of this process, if not addressed prior to any potential implementation, could be to penalize technology choices and generally discourage rural carriers from taking actions that the Commission has recently encouraged such as using innovative means to reach consumers located in high-cost areas.

The Rate-of-Return Representatives identified two specific scenarios where the A-CAM’s mechanical process for determining unsubsidized competition may be most problematic. These scenarios concern the use of an “alternative technology” such as fixed wireless or cable network to provide broadband service. Any rate-of-return ILEC that utilizes multiple broadband technologies to deploy service could be affected by either scenario.

In “scenario one,” the A-CAM incorrectly classifies voice and broadband services provided directly by the RLEC itself using an “alternative technology” as services that are being provided by an unsubsidized competitor. The Rate-of-Return Representatives explained how this scenario negatively impacts the A-CAM’s support calculations for certain RLEC study areas, including PTCI for example. For a number of reasons, PTCI provides voice and broadband service to over 900 customers that are located outside of towns or population centers using fixed wireless technology. The A-CAM incorrectly classifies this fixed wireless service as a service that is being provided by an unsubsidized competitor, thereby declaring a large portion of PTCI’s service area ineligible for support.

In “scenario two,” the A-CAM incorrectly identifies service provided by the RLEC’s affiliate using an “alternative technology” as service provided by an unsubsidized competitor. For example, many RLECs utilize affiliates in some form or fashion to deliver broadband services to their customers. In Madison Telephone’s case, a cable network owned by the company’s affiliate is used to deliver broadband services to a portion of the RLEC’s customers in select census blocks. It was further noted that Madison’s affiliate does not provide voice service over that same network. However, the A-CAM incorrectly classifies this cable broadband service as a service that is being provided by an unsubsidized competitor. Affiliates can be used by RLECs to provide broadband service in fulfillment of ETC obligations.

The Rate-of-Return Representatives then discussed how many RLECs utilize more than one type of technology and more than one type of corporate structure to deliver voice and broadband services in furtherance of their ETC obligations throughout parts of their service areas, and how multiple platforms are often deployed within the same census block. A number of factors are considered when choosing which technology to use, such as presence of existing infrastructure, total last-mile costs, and level of service requested by a subscriber. The Rate-of-Return Representatives also discussed that additional equipment and upgrades can be required to enable a cable modem network, for example, to provide carrier-grade voice services. These upgrades would, include central office switching equipment and upgrades to all outside plant node configurations located throughout the service territory.

After having discussed these scenarios, the Rate-of-Return Representatives discussed possible ways to address each scenario, so that the process of determining the presence of unsubsidized competition can be made more accurate. First, in cases where an RLEC provides service directly to customers using an alternative technology, use of information in the Forms 477 themselves (either cross-reference to FCC Registration Numbers or Study Area Codes) could allow the Commission to detect that the company using the alternative technology is also a high-cost support recipient, and therefore confirm *a priori* that the company is not an unsubsidized competitor.

Second, in cases where an RLEC affiliate is providing broadband service using an alternative technology, the A-CAM could associate that service with the parent RLEC based again upon cross-reference to FCC Registration Numbers, and therefore declare that the RLEC affiliate is not an unsubsidized competitor. Specifically, in order to report voice and broadband services provided by it and its affiliates, many RLECs file a consolidated FCC Form 477 with a common FCC Registration Number. The Rate-of-Return Representatives submit that any affiliate providing broadband services in the RLEC study area and reporting under its parent RLEC's consolidated FCC Form 477 should be presumed to be providing service in furtherance of ETC obligations. Situations in which an RLEC affiliate may be providing service in furtherance of ETC obligations, but then reports broadband service independently from its RLEC parent, also need to be addressed.

Finally, fixing the problems with the A-CAM's internal process for identifying the presence of unsubsidized competition is preferable to reliance only upon an otherwise much-needed "challenge process." For the model election process to have the most integrity, it is important that the amounts of support reflected from the A-CAM be based upon as accurate information as possible. If it is known that the problems discussed above and during the meetings exist but offers of model-based support are made without addressing these concerns, it would call into question the accuracy of those offers. The same is true with respect to existing support as well, with resolution of questions regarding the accuracy of competitive presence data being a clear and necessary prerequisite to implementation of any policies with respect to unsubsidized competition.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,  
/s/ Michael R. Romano  
Michael R. Romano  
Senior Vice President – Policy

cc: Stephanie Weiner  
Amy Bender  
Rebekah Goodheart  
Carol Matthey  
Alex Minard  
Suzanne Yelen  
Katie King  
Steven Rosenberg  
Talmadge Cox