

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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Rural Broadband Experiments	)	WC Docket No. 14-259

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

NTCA–The Rural Broadband Association (“NTCA”) hereby replies to Comments filed in response to a Public Notice issued by the Wireline Competition Bureau in the above-referenced proceedings related to letter of credit (“LoC”) requirements for purposes of Connect America Fund (“CAF”) Phase II.<sup>1</sup> Consistent with NTCA’s Emergency Petition that helped to initiate the current comment cycle,<sup>2</sup> the comments filed generally reflect a need for more tailored, thoughtful approaches to CAF Phase II LoC requirements than those currently imposed in the Rural Broadband Experiments (“RBEs”).

In its Emergency Petition, NTCA specifically sought a limited waiver of the requirement that recipients of support obtain a LoC from a “top 100” bank.<sup>3</sup> NTCA noted in the petition that, while it does not object generally to a requirement that RBE winners supply LoCs, a requirement to obtain LoCs specifically from “top 100 banks” is overly burdensome and impractical, if not impossible – particularly for smaller entities obtaining relatively smaller awards. In other filings

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment More Generally on Letter of Credit Proposals for Connect America Phase II Competitive Bidding Process*, WC Dockets No. 10-90 and 14-259, Public Notice (Wireline Com. Bur. Released Feb. 27, 2015).

<sup>2</sup> Emergency Petition of NTCA for Limited Waiver of Rural Broadband Experiments Letter of Credit Requirement, WC Dockets No. 10-90 and 14-259 (filed Feb. 3, 2015) (“Emergency Petition”).

<sup>3</sup> *Connect America Fund*, WC Docket No. 10-90, *ETC Annual Reports and Certifications*, WC Docket No. 14-58, Report and Order and Further Notice of Proposed Rulemaking (rel. July 14, 2014), at ¶¶ 54-61.

in these proceedings, NTCA has further indicated support for reasonable, but meaningful, accountability in the program, including requiring that all would-be support recipients comply with statutory provisions mandating distribution of support only to eligible telecommunications carriers that offer both voice and broadband to consumers<sup>4</sup> and holding fast to requirements governing the technical capabilities of both applicants and the systems/solutions they would propose to deploy, rather than assuming that certain technical systems will indeed provide quality voice and broadband services to consumers consistent with Eligible Telecommunications Carrier obligations or even granting waivers of such requirements that could undermine consumer experience.<sup>5</sup> Finally, NTCA has advocated consistently that a deeper look at the specific track records of individual would-be CAF recipients is just as (if not more) important than any LoC obligations, such that preference (or at least reasonable flexibility regarding waivers) should be afforded to those with a demonstrated history of actual performance in or near the areas they propose to serve, in lieu of accepting any applicant's blanket promises of ability to perform and credentials that provide little, if any, indication of actual ongoing operating experience in rural, high-cost areas.<sup>6</sup>

The comments filed in response to the immediate Public Notice support a thoughtful, tailored approach to LoC requirements and accountability in the manner advocated by NTCA. For

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<sup>4</sup> See, e.g., *Ex Parte* Letter from Michael R. Romano, Sr. Vice President – Policy, NTCA, to Marlene H. Dortch, Secretary, Federal Communications Commission (the “Commission”), WC Docket No. 10-90, *et al.* (filed Jan. 17, 2014).

<sup>5</sup> See, e.g., Comments of NTCA, WC Docket Nos. 10-90 and 14-259 (filed Jan. 14, 2015), at 2-3.

<sup>6</sup> See, e.g., *id.* at 2 (“Such a track record requires more than merely substituting the general professional or technical capabilities of management for audited financials showing the operations of the firm over the past several years. Instead, grant of any waiver should turn upon a much more specific showing that the applicant or its management is actually familiar with the area it intends to serve, that the applicant or its management has operated in or near that area (or in areas like it) for a sustained period in the past in connection with other efforts, and that the applicant or its management has in fact had the experience of delivering quality, reasonably affordable services to consumers in such areas over a longer period of time than just a year or two.”).

example, the National Rural Electric Cooperative Association (“NRECA”) highlights how the “top 100 bank” LoC requirement would undermine broad participation in universal service programs by many small businesses that are located in and focused upon serving rural areas and that tend to work with lenders other than national or big regional banks.<sup>7</sup> NRECA further notes that the duration of the LoC requirement should match potential risk of default without recovery, rather than persisting (and increasing) throughout the ten-year period of support.<sup>8</sup> This analysis is echoed by other commenters, who urge expanding (in a responsible way) the universe of financial institutions that may provide qualifying LoCs,<sup>9</sup> reducing the dollar amount of the LoCs required,<sup>10</sup> and/or tying the amount of funding perceived “at risk” to the amount of plant actually deployed using CAF funds rather than tying up millions of dollars for years in bank fees that could instead be used for broadband deployment.<sup>11</sup>

The record is therefore clear (and unanimous) that the LoC requirements utilized in the RBEs should be changed and should not be ported over as a simple matter to CAF Phase II competitive bidding if these programs are to have any chance at success. Instead, the record makes clear that a more tailored approach that broadens the base of financial institutions from which LoCs may be obtained and other discrete changes to the calculation and duration of the LoC requirements are warranted to strike a more reasonable balance between accountability and regulatory flexibility.

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<sup>7</sup> Comments of NRECA at 3-4.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> Comments of the National Rural Utilities Cooperative Finance Corporation at 2-9; Comments of the Wireless Internet Service Providers Association (“WISPA”) at 7-8.

<sup>10</sup> Comments of WISPA at 6.

<sup>11</sup> Comments of USTelecom at 1-3; *see also* Comments of CoBank at 2-3.

At the same time, even as it considers more properly tailored LoC requirements, NTCA reiterates its call for the Federal Communications Commission to engage in a case-by-case analysis of requests for relief from program requirements, and to continue otherwise to expect operational expertise and technical capability – and to keep top of mind the consumer experience – in evaluating any other potential changes to CAF Phase II requirements. There are many small businesses with decades-long histories of rural operations and substantial experience with federal regulatory and loan/grant programs that, while perhaps not being able to obtain LoCs from “top 100 banks” or to justify paying an increasing amount of bank fees for ten years in connection with such LoCs, have a demonstrated track record of delivering high-quality, affordable services in rural areas. The Commission should structure its CAF program – and the RBEs – to avoid unnecessary or even wasteful burdens that detract from the deployment and ongoing operation of voice- and broadband-capable networks, but it should at the same time strike a balance that ensures proper account of the relative experience of providers in building such networks and expects continued performance from them in offering both voice and broadband services for the benefit of consumers.

Respectfully Submitted,



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