

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

In the Matter of)
)
Reasonable Comparable Benchmark for) WC Docket No. 10-90
Broadband Service)

**COMMENTS
of
NTCA – THE RURAL BROADBAND ASSOCIATION;
WTA – ADVOCATES FOR RURAL BROADBAND;
EASTERN RURAL TELECOM ASSOCIATION; and the
NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc.**

NTCA – The Rural Broadband Association (NTCA), WTA – Advocates for Rural Broadband (WTA), Eastern Rural Telecom Association (ERTA), and the National Exchange Carrier Association, Inc. (NECA) (the Rural Associations)¹ hereby submit these comments in response to the *Public Notice*² released by the Wireline Competition Bureau on June 30, 2014 in the above-captioned proceeding.

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities. WTA is a national trade association that represents more than 250 rural telecommunications carriers providing voice, video and data services. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities. ERTA is a trade association representing rural community based telecommunications service companies operating in states east of the Mississippi river. NECA is responsible for preparation of interstate access tariffs and administration of related revenue pools, and collection of certain high-cost loop data. *See generally*, 47 C.F.R. §§ 69.600 *et seq.*; *MTS and WATS Market Structure*, CC Docket No.78-72, Phase I, Third Report and Order, 93 FCC 2d 241 (1983).

² *Wireline Competition Bureau Announces Posting of Broadband Data from Urban rate Survey and Seeks Comment on Calculation of Reasonable Comparability Benchmark for Broadband Services*, Public Notice, WC Docket No. 10-90, DA 14-944 (rel. June 30, 2014) (*Public Notice*).

The Bureau seeks comment on a specific methodology for calculating a reasonable comparability benchmark for fixed broadband services. This is a significant issue for the rural rate-of-return carriers (RLECs) represented by the Rural Associations. As discussed in prior comments on the Commission's recent *Further Notice of Proposed Rulemaking* in this proceeding,³ RLECs have significant concerns that CAF support for broadband services may not be sufficient to enable them to offer such services at reasonably comparable rates. To the extent adoption of any "reasonably comparable" rate benchmarks for broadband services might impact support levels for RLECs, these companies may find themselves in a "revenue squeeze" that would prevent them from providing comparable broadband services to consumers located in high-cost areas. This concern is heightened given current uncertainty about the availability and sufficiency of Connect America Fund (CAF) support for data-only broadband lines in RLEC service areas.⁴

The Bureau should accordingly proceed with caution in developing reasonable comparability benchmarks for application in areas served by RLECs. Considering the specific proposals set forth in the *Public Notice*, the Rural Associations agree that the proposed weighted linear regression analysis plus two standard deviations method described therein would be superior to other methods discussed by the Bureau. The Rural Associations believe, however,

³ *Connect America Fund*, WC Docket No. 10-90, *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208, *ETC Annual Reports and Certifications*, WC Docket No. 14-58, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (rel. June 10, 2014) (*FNPRM*).

⁴ See Comments of NTCA, WTA, ERTA, NECA, *et al.*, WC Docket No. 10-90, *et al.*, at 72-74 (filed Aug. 8, 2014) (Rural Associations).

that the Commission should consider using a wider range of data to calculate the benchmark, as doing so would improve its statistical accuracy.

Since the Commission is currently contemplating raising broadband speed requirements to a 10/1 Mbps standard, however, the Bureau should consider the benefits of separating the data into two subsets, so as to run two separate regression analyses for two distinct service tiers, and thus be prepared for any speed requirement revision. Doing so would more accurately reflect the characteristics of these two differentiated products in rural markets, as discussed below, and may avoid the need to revise the regression analysis in the not-too-distant future.

I. BACKGROUND

In the *USF/ICC Transformation Order*, the Commission directed the Wireline Competition and Wireless Telecommunications Bureaus to conduct a survey of residential urban rates for fixed voice, fixed broadband, mobile voice, and mobile broadband services, and to develop a specific methodology for defining a reasonable range of urban broadband rates to be used to deem rural broadband rates “reasonably comparable” to urban rates.⁵ In April 2013, the Bureaus adopted an Order setting the form and content for a survey of urban rates for fixed voice and broadband residential services.⁶

The Wireline Competition Bureau initiated the survey in December 2013 and collected the rates offered by providers of fixed services identified using FCC Form 477 data in 500 urban

⁵ *Connect America Fund*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) ¶¶ 113-114 (*USF/ICC Transformation Order*). As a condition of receiving CAF support, recipients must offer voice and broadband services in supported areas at rates that are reasonably comparable to rates for similar services in urban areas. Note, the Commission has already announced the reasonably comparable voice service benchmark of \$20.46 based on this survey data. *Wireline Competition Bureau Announces Results of Urban Rate Survey for Voice Services; Seeks Comment on Petition for Extension of Time to Comply with New Rate Floor*, WC Docket No. 10-90, Public Notice, DA 14-384 (rel. Mar. 20, 2014).

⁶ *Connect America Fund*, WC Docket No. 10-90, Order, 28 FCC Rcd. 4242 (2013).

census tracts. The instant *Public Notice* indicates the Bureau collected 2,105 monthly rates for broadband service in urban areas, and the reported download speeds ranged from .5 Mbps to 20,480 Mbps, while the upload speeds ranged from 1.125 Mbps to 1,024 Mbps. In addition to varying speeds, the service offerings differed as to usage allowances, if one applied.⁷

The Bureau now proposes to use a weighted linear regression model to calculate the average urban broadband service rate. The Bureau explains this methodology would result in a broadband benchmark that ranges from \$68.48 to \$71.84 for services meeting the Commission's current broadband performance standard of 4 Mbps downstream/1 Mbps upstream, with the specific benchmark depending on the associated usage allowance.⁸ The Staff Report attached to the *Public Notice* discusses three potential methods for determining the average urban rate using the data collected in the survey: a simple rate statistics for specified subsamples;⁹ an average rate for offerings meeting a minimum level of service;¹⁰ and a regression analysis.¹¹ The Staff Report also presents the average plus two standard deviations for each approach, thus showing a potential reasonable comparability benchmark for broadband service under each approach.¹² For illustrative purposes, the Staff Report also presents the relevant calculations if the minimum performance obligations were raised to 10 Mbps, as proposed recently by the Commission.¹³

⁷ *Public Notice* at 2, see also attach. *Wireline Competition Bureau Staff Report, Possible Methodologies for Establishing Reasonably Comparable Broadband Rates for Fixed Services*, at 4 (*Staff Report*).

⁸ The Bureau also posted the fixed broadband services data collected in the 2013 urban rate survey, and explanatory notes regarding the data, on the Commission's website at <http://www.fcc.gov/encyclopedia/urban-rate-survey-data>.

⁹ *Staff Report* at 5.

¹⁰ *Id.* at 7.

¹¹ *Id.* at 8.

¹² See *Public Notice* at 2-3.

¹³ *Id.* at 3.

The Bureau notes although the weighted linear regression model analysis is more complex than the other methods identified in the Staff Report, regression analysis is better suited to take into account differences in speed and usage allowance among the service offerings in the sample.¹⁴ The Bureau further proposes to use a subsample of data points to develop the regression; specifically, those data points with download speeds less than or equal to 15 Mbps.¹⁵ It proposes to adopt a separate benchmark for services with differing usage levels, by evaluating the regression results at specific speeds and usage levels.¹⁶ Thus, the reasonable comparability benchmark for a high-cost recipient offering a 4 Mbps/1 Mbps/100 GB usage service would be \$68.48; if that high-cost recipient chose to meet the Commission's broadband performance obligations with a 4 Mbps/1 Mbps/unlimited usage offering, its reasonable comparability benchmark would be \$71.84.

II. DISCUSSION

The Rural Associations welcome the opportunity to review and comment on the specific methodology for calculating the reasonable comparability benchmark for fixed broadband services, and the opportunity to review the data collected and used in the Bureau's calculation.

This is a matter of significant concern for RLECs. The Commission's June 10, 2014 FNPRM proposed to require all ETCs receiving CAF support to certify they offer broadband services meeting the Commission's performance standards at rates that are reasonably comparable to offerings of comparable services in urban areas as a condition of receiving CAF support. The Commission also proposed that RLECs should submit certifications, explaining

¹⁴ *Id.* at 3.

¹⁵ *Id.*

¹⁶ *Id.*

that these carriers are already required to provide broadband service upon reasonable request as a condition of their support.¹⁷

The broadband benchmark rate will also be used by the Bureau when determining whether an “unsubsidized” competitor is providing broadband service that meets the Commission’s service performance and rate requirements within a price cap census block or throughout an RLEC study area.¹⁸ The result of such a finding could potentially be the loss of all high-cost USF support for that census block or study area.

As discussed in comments submitted in response to the Commission’s FNPRM,¹⁹ the Rural Associations do not necessarily object to requirements that ETCs certify that the pricing of at least one of their broadband service plans is no more than the applicable reasonable comparability benchmark. Indeed, the Rural Associations have long supported services and rates in rural areas that are “reasonably comparable” to those available in urban areas, and continue to do so.

However, the Rural Associations are concerned with the potential for a future “revenue squeeze” between broadband rate ceilings and high-cost support limitations. As intercarrier compensation (ICC) rates transition to bill-and-keep and costs recoverable through CAF-ICC support are reduced by five percent (5.0%) annually, customer broadband rates and high-cost USF support will become the predominant revenue streams for virtually all RLECs. To the extent that customer broadband rates are capped at certain levels, RLECs will need sufficient high-cost support to repay their loans and cover operating expenses. If high-cost support is limited, however, RLECs will need to make up the difference with consumer revenues, and thus

¹⁷ FNPRM ¶¶ 311-316.

¹⁸ See *Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd. 15060 (2013).

¹⁹ See Rural Associations at 71-80.

may be forced to exceed Commission-prescribed rate ceilings in order to remain viable. This is of particular concern given the fact that the Commission has not yet adopted a CAF broadband support mechanism for RLECs, and customers are increasingly requesting standalone broadband services with the expectation that rates for such services will be comparable to those available in urban areas. It will be impossible for RLECs operating in high-cost areas to provide broadband services at “reasonably comparable” rates unless and until the Commission establishes a mechanism that provides sufficient and predictable support, as required by section 254 of the Communications Act.²⁰

Considering that many broadband services are unregulated, and providers are not required to post rates, it is also extremely difficult to say with certainty what a “reasonably comparable rate” might be.²¹ Thus, it is essential that the Bureau proceed with extreme caution in developing any rate comparability benchmarks.

In this light, the Rural Associations have reviewed both the fixed broadband services data collected in the 2013 urban rate survey, and explanatory notes regarding the data, as well as the three potential methods proposed by the Bureau for determining the average urban rate using the data collected in the survey.²² The Rural Associations agree the linear weighted regression analysis method plus two standard deviations proposed in the *Public Notice* is superior to the other methods presented.

The use of only one regression to evaluate two differentiated services is only reasonable, however, if a more complex model is used to capture the differences; or if the proposed

²⁰ See 47 U.S.C. § 254(b). See also Rural Associations at 13.

²¹ Most broadband services are sold in bundles along with other services, and standalone pricing is therefore difficult to ascertain with any degree of accuracy.

²² *Public Notice* at 3, *Staff Report*.

regression model is used to generate two different sets of regression results based on two different subsamples of data that each include similar services. If the Bureau chooses to retain the proposed model structure and run a single regression, the Rural Associations believe the subset of data chosen by the Bureau is too narrow. The Bureau should utilize a wider range of data if it decides to employ a single regression. For example, using a range of speeds from 2 to 40 Mbps to estimate the regression model would result in a better model fit (46% R squared) and would produce a higher benchmark for 4/1 Mbps service (about \$9 higher). This range of speeds would also satisfy the criteria that guided the Bureau in its current choice of the subsample.

Longer term, however, it appears that use of one subsample of data, for use in one regression analysis, may be inadequate given the Commission is currently contemplating raising the broadband speed requirement to 10/1 Mbps. Commenters in this proceeding have expressed numerous concerns with the Commission's proposal to increase the broadband speed requirement to a 10/1 Mbps level, and have made clear the deployment of 10/1 Mbps service in most cases will take a number of years.²³ Broadband services with different speeds have different network costs, particularly in high-cost and insular areas.²⁴ While most RLECs employ hybrid fiber-copper distribution facilities and have been gradually extending the fiber portion of their plant further into their networks to allow them to provide higher-speed digital subscriber line (DSL) services to customers at greater distances from their central offices, a number of RLECs will have to extend their fiber lines and reconfigure their electronic terminals in order to offer 10 Mbps DSL services to more distant customers. These types of challenges, combined

²³ *E.g.*, Rural Associations at 28-30; Alaska Rural Coalition at 2-3; AT&T at 44; CenturyLink at 20-21; Windstream at 2-3; ITTA at 10-11; USTelecom at 4; WISPA at 4.

²⁴ *See* Rural Associations at 25-33.

with the high cost of middle mile transport, can significantly increase the incremental cost of a broadband service.

Separating the data to reflect more accurately differences between a 4/1 Mbps service tier and a 10/1 Mbps service tier would likely produce more accurate benchmarks for each. These services are differentiated products, and any subsamples of data used for regression modeling should be chosen to capture such differences. A more reasonable subsample than that currently proposed to calculate the 4/1 Mbps benchmark, for example, would include a range of speeds between 2 - 8 Mbps services that would exclude higher tier services. Such a subsample would produce a benchmark for 4/1 Mbps service that is a bit higher than the Bureau's proposal (e.g., \$74, or about \$2 higher than proposed). Similarly, a regression using 8 - 25 Mbps services would more accurately estimate a benchmark rate for a 10/1 Mbps service while retaining a similar level of statistical accuracy.²⁵

III. CONCLUSION

RLECs support the principal that services and rates in rural areas should be reasonably comparable to those available in urban areas. But RLECs operating in high-cost areas are extremely concerned about being expected to provide broadband services at rates that are reasonably comparable to urban rates when the Commission has not yet established a specific CAF mechanism for data-only broadband services. Absent sufficient support, revenues available from other sources, such as ICC, will likely be insufficient to enable the provision of broadband service at benchmarked rates.

The Rural Associations generally agree the regression analysis method plus two standard deviations proposed in the Public Notice is superior to the other methods presented. For the

²⁵ *Staff Report* at 11.

reasons discussed above, however, the Bureau should consider separating the data into two subsets, so as to run two separate regression analyses for two distinct service tiers, and thus be prepared for any speed requirement revisions. Doing so would more accurately reflect the characteristics of these two differentiated products and avoid the need to revise the regression model in the not-too-distant future. Should the Bureau decide to run only a single regression for both benchmarks, a wider range of data should be incorporated.

Respectfully submitted,

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August 20, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Rural Associations' Comments was served this 20th day of August, 2014 by electronic filing and e-mail to the persons listed below.

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