

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

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

**REPLY
of the
NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc.,
NTCA–The Rural Broadband Association,
WESTERN TELECOMMUNICATIONS ALLIANCE, and
EASTERN RURAL TELECOM ASSOCIATION**

Comments filed in response to the Wireline Competition Bureau’s January 17, 2013 *Public Notice*¹ in this proceeding make clear it would be premature, at best, for the Commission to implement the Remote Areas Fund (RAF) as proposed in the Commission’s *Further Notice*.

In comments, the Rural Associations expressed significant concern regarding the Commission’s proposal to use the National Broadband Map (NBM) to determine eligible extreme high-cost areas.² The Rural Associations also suggested that in lieu of establishing a nationwide system of “portable consumer subsidies” for persons living in extremely high cost areas, the Commission work with state regulators to develop one or more pilot programs for the RAF.³ If, however, the Commission decides to move forward with the RAF on a nationwide basis, it should issue a second FNPRM setting forth its full rationale for pursuing the portable

¹ *Wireline Competition Bureau Seeks Further Comment on Issues Regarding the Design of the Remote Areas Fund*, Public Notice, WC Docket No. 10-90, DA 13-69 (rel. Jan. 17, 2013) (*Public Notice*).

² Rural Associations at 4-6.

³ *Id.* at 7.

consumer subsidy approach, and specific proposed rules to govern such a program so that the implications and potential benefits of such a program can be more fully assessed and vetted.⁴ Given that the RAF could represent a paradigm shift in the way in which support is administered for networks and services available in high-cost areas, it warrants careful consideration (*e.g.*, in the form of a pilot or trial) and certainly deserves to be something more than an “afterthought” in the process of tackling other thorny universal service questions.

Commenters broadly agree that the Commission should not move forward “full speed ahead” with the RAF program at this time. USTelecom, for example, suggests it would be more beneficial for the Commission to focus on modifying Phase I of the Connect America Fund (CAF) program and to expeditiously implement Phase II of the CAF.⁵ USTelecom expresses significant concerns that distributing RAF support to unserved locations without regard for whether such locations are in fact extremely high-cost would likely divert funding toward areas that might subsequently be found eligible for CAF support.⁶ The Alaska Rural Coalition similarly points out that carriers actually involved in providing service to remote, Tribal, and other high-cost unserved areas have identified numerous instances where the NBM overstates and understates coverage.⁷

Even commenters supporting implementation of the RAF appear to recognize the NBM’s limitations. ViaSat, for example, suggests that the NBM might provide a useful “first cut” at identifying areas that do not currently have access to broadband service, but acknowledges that NBM data would need to be supplemented in order to determine whether areas identified as

⁴ *Id.* at 9-10.

⁵ USTelecom at 3.

⁶ *Id.* at 4.

⁷ ARC at 17.

“served” actually have service meeting the Commission’s performance requirements, and whether such areas include “bypassed” households or small geographic areas lacking service.⁸ Dish Network likewise recognizes the NBM is not a reliable means of identifying unserved customers due to accuracy problems. (“It shows that broadband is available in some areas where it is not, and shows no broadband where it is available.”)⁹

The comments also make clear the RAF should not be implemented as a “portable consumer subsidy” mechanism. As the Rural Associations explained, a system of portable consumer subsidies raises numerous questions regarding the amounts that should be provided, what permissible uses would be for such subsidies, whether such subsidies would result in stranded investments as technology changes, and numerous other problems.¹⁰ Providing payments or vouchers directly to individual subscribers would likely be extremely unwieldy and costly from an administrative point of view and prone to waste, fraud and abuse.¹¹ The Commission’s commitment to a “data-driven” process necessitates a more prudent and thoughtful approach to the RAF, including, but not limited, to an assessment of its implications on other aspects of the high-cost program.

Among the commenters, only providers such as ViaSat and Dish appear enthusiastic about the proposed RAF mechanism, which is understandable given the prospect of a new \$100

⁸ ViaSat at 7-8.

⁹ Dish Network at 3, *citing* Comments of USTelecom, ITTA and ABC Coalition, WC Docket No. 10-90 (filed Jan. 28, 2013) at 8; Comments of NCTA at 9. Dish Network’s proposed solution for NBM problems is to rely on data from the CAF Phase II model for price cap areas, and on unspecified cost data for supposedly capable of identifying relatively costly portions of RLEC territories. So far as the Rural Associations are aware, however, no such data exists.

¹⁰ Rural Associations at 10-13.

¹¹ The Rural Associations suggested in this regard that the Commission’s Lifeline program offers a cautionary illustration of how difficult it can be to get consumer subsidy programs under control. *Id.* at 7, n.22.

million program seemingly designed specifically for satellite providers. In considering whether satellite and other alternative technologies would indeed meet Commission performance standards or consumer needs, however, the Commission should pay particular attention to comments such as those of the Alaska Rural Coalition regarding reliance on satellite coverage as a long-term replacement for middle mile terrestrial infrastructure.¹² The ARC expresses valid concerns that providing consumers with portable subsidies for satellite services will never provide Alaskans the reliability and speeds necessary to meet the Commission's universal service goals.¹³ Similarly, GCI points out that satellite-based broadband services are not universally available outside the more populated areas in Alaska.¹⁴

Without a clear means of accurately identifying extremely high cost areas on a nationwide basis, or clear technological solutions to the problem of deploying broadband in such areas, the Commission should proceed thoughtfully. In this regard, the Rural Associations continue to suggest the Commission develop pilot RAF programs at this time, in cooperation with state regulatory authorities who have the best proximity to "facts on the ground" and can provide significant insight as to where RAF funding would best be directed. Such programs may also give useful guidance as to whether alternative technologies such as satellite or unlicensed wireless indeed offer viable means of providing consumers in extremely high cost areas with comparable services, as their proponents assert, and allow the Commission to monitor *a priori* whether the RAF leads to "Lifeline-like" concerns with respect to inefficiency or duplication.¹⁵

¹² ARC at 23-28.

¹³ *Id.*

¹⁴ GCI at 3.

¹⁵ The Commission should also consider seriously the suggestion of the Blooston Rural Carriers (at 2) to the effect that, pending development of workable approaches to implement the RAF,

Given the expanding role of broadband in education, medicine, and public safety, the Commission must ensure that initiatives aimed at reaching remote areas offer the best solution for accommodating the array of consumers, industries and interests that rely increasingly on broadband.

Finally, if the Commission decides to move forward with the RAF as a nationwide portable consumer subsidy mechanism, it should do so in a measured way. The Rural Associations noted that, while the Bureau's *Public Notice* seems to focus exclusively on implementing the RAF as a portable consumer subsidy, the Commission itself has not yet decided to adopt this approach, nor has it analyzed or evaluated any of the alternative approaches identified in comments submitted in response to the earlier *Further Notice*.¹⁶ The Commission should accordingly issue a second *Further Notice of Proposed Rulemaking* in this proceeding setting forth the Commission's full rationale for pursuing the portable consumer subsidy approach to the RAF despite strong record evidence opposing this method. A second *Further Notice* would also permit the Commission to propose specific rule language governing the operations of such a portable subsidy program. Among other things, this would permit informed comment on potential technical problems prior to the program's initiation, and thus avoid substantial confusion and potentially costly errors as a new program of this magnitude is initially implemented.¹⁷

amounts allocated to the program be used to fund specific projects proposed by RLECs to extend service to remote areas.

¹⁶ Rural Associations at 10-11.

¹⁷ The Rural Associations also explained that availability of RAF support in extremely high cost areas provides no basis for adjusting support paid to RLECs under existing high-cost mechanisms, particularly those companies hard-hit by the per-line cap, as well as those affected by other limitations that cause significant shortfalls in USF funding for existing networks. In any event, proposals to integrate RAF funding mechanisms within existing USF and CAF would likewise require consideration of specific rule changes by the Commission.

CONCLUSION

The Commission should not implement the RAF as a portable consumer subsidy mechanism at this time. It should at most seek to develop one or more RAF pilot programs in cooperation with state commissions and other entities such as rural carriers who have detailed knowledge of localized conditions in remote areas. If the Commission does move forward with full implementation of the RAF, it should proceed by issuing a second *Further Notice of Proposed Rulemaking* specifying proposed rules for the program, with adequate time allowed for interested parties to provide input on consumer impacts and on the Commission's statutory universal service objectives.

Respectfully submitted,

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March 18, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Associations' Reply was served this 18th day of March 2013 by electronic filing and e-mail to the persons listed below.

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